

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

Wentworth by the Sea
New Castle, New Hampshire
November 9, 2004

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The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Wentworth Ballroom of the Wentworth by the Sea, New Castle, New Hampshire, on Tuesday, November 9, 2004, and was called to order at 2:10 o'clock p.m. by Chairman Patten D. White.

CHAIRMAN PATTEN D. WHITE: Okay, we're going to begin the lobster board meeting. Welcome, everybody, to New Castle, Lobster Headquarters of New Hampshire. I'd like to start right in on the agenda. Are there any changes to the agenda? I know we have one from New Jersey under other business, which we'll take up.

We will also have an AP report under other business. Are there any other changes to the agenda? Seeing none, the agenda is approved.

Proceedings, approval of the proceedings from the August 2004 meeting. Are there any additions or deletions from that?

MR. GEORGE R. LAPOINTE: Mr. Chairman.

CHAIRMAN WHITE: Yes, George.

MR. LAPOINTE: I always hate reading what I said, but I did. On Page 7, on the right hand column it says, "MR. LAPOINTE: Again, this is still braiding the world." I think that's supposed to be "brave new world kind of stuff", which doesn't make a whole lot more sense, but it makes more sense than braiding the world. So if we could make that change, I would appreciate it.

CHAIRMAN WHITE: Okay, duly noted and than you very much for that correction. Any other corrections or deletions? Seeing none, the proceedings are approved.

We will have public comment as usual throughout the proceedings, but is there anybody in the audience that would like to make public comment at this point? Anybody want to make public comment? Seeing none, we will go right on to the law enforcement report. Joe Lynch, you're on.

MR. JOSEPH LYNCH: Thank you, Mr. Chairman. I appreciate the opportunity to address the lobster board on the views of the law enforcement committee on this issue of zero tolerance v-notching.

Just to summarize how we got where we are, a request was made to the law enforcement committee from the lobster board to clarify and comment on some issues of concern to them regarding the v-notch zero tolerance in Area 1.

Number 1, they wanted to know or you wanted to know if the current zero tolerance v-notch definition is enforceable. Number 2, you wanted to know if the v-notch law was being interpreted consistently. Number 3, you asked us to compare the enforceability of zero tolerance v-notching with a standard that would include a minimum depth v-notch.

We held a conference call on October 5th to discuss these issues. The participants were Joe Fessenden from Maine, Jim Hamlin from Massachusetts, Jeff Marsden from New Hampshire, Kurt Blanchard from Rhode Island, Todd Dubois from the National Marine Fisheries Service, myself and our law enforcement coordinator, Mike Howard.

These were people who all had a good hands-on feel and good experience with lobster enforcement. Representing North Carolina, I don't have a lot of that experience, although I did spend some time in New York.

After a good deal of discussion, we arrived at the following conclusions. Regarding Issue

Number 1; the current zero tolerance v-notch definition is enforceable. Regarding Number 2, the v-notch statutes in each state in Area 1 are sufficiently consistent to provide uniform enforcement.

However, some inconsistencies may occur as a result of officers exercising good judgment and discretion, but it's not the policy or intent of any member state to allow the statute to be violated.

In the final analysis, on a close call on a case that may be "iffy", as long as the officer uses good discretion, it's up to the local courts to make the determination. Consistency of regulations in all areas on size or v-notch would improve enforcement.

On the third issue, zero tolerance is easily enforced. A one-quarter inch standard is also enforceable, but not quite to the degree that zero tolerance is enforceable. Because, once the lobster sheds and the v-notch gets smaller, it becomes more difficult to measure in the field environment; but they're both enforceable.

Basically, the consensus was the discretion is real important. Good judgment is important in any type of law enforcement, including this zero tolerance v-notching. I see it as discretion versus consistency. We need them both.

Based on this conversation, based on this conference call, we drafted a letter. The letter was sent to the full committee for comment, the full law enforcement committee. After that it was sent here to the lobster board. I believe you have a copy of it. At any rate, that's sort of a synopsis, and I would be glad to clarify or discuss or answer any questions you might have.

CHAIRMAN WHITE: Thank you very much, Joe. Any questions for Joe? Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Since you said that the zero is enforceable and it does require a little bit of discretion, and you also said that the quarter inch is enforceable, then would not an eighth or a sixteenth, which you can fit a gauge into, like you can with a quarter, wouldn't that also be

enforceable?

MR. LYNCH: They're all enforceable; it's a matter of degree. The easiest and most consistent to enforce would be, in our opinion, the zero tolerance. Certainly, an eighth inch or a sixteenth inch could be enforceable, but very difficult because when you're out on a pitching boat and trying to put a gauge into a notch, the smaller it is, the more difficult it becomes.

You may end up with more inconsistency there. So, sure, they're all enforceable, but it's a matter of degree. The zero tolerance is by far the most enforceable. Second would be something like the quarter inch or so. It goes down from there, from the quarter inch down.

MR. ADLER: If I may, Mr. Chairman, I differ with you on the zero tolerance, with some of the indentations that I've seen on the sides of the flipper and the bottom of the flipper really cause quite a bit of consternation when fishermen want to do the right thing, but they know darned well it isn't or wasn't a v.

And, if you're looking at how close on a pitching ocean this little indentation somewhere on that flipper versus an actual v, that is quite problematic in the real world out there. So I'm basically differing with you on that particular thing but, you know, you have your position and I have mine. Thank you.

MR. LYNCH: Thank you, sir. If I may respond, that's where you get to the issue of discretion. The officers are trained in how to read law, how to enforce law. And using good discretion and good judgment, they look at a flipper with an irregular mark or something that might be a v and might not, that's where they've got to make a tough decision.

But if they choose to cite someone for that and it may be miniscule, they're the ones, the officer, that's going to have to go to court and prove beyond a reasonable doubt.

So, when in doubt, the officer generally, at least a good officer is generally going to give the benefit of the doubt to the fishermen, unless the

officer is convinced that this is notched. So that's what I was talking about when I'm talking about discretion and good judgment. Thank you.

MR. ADLER: And, Mr. Chairman --

CHAIRMAN WHITE: Well, I'd like also to make one comment, Bill, too, because I think I was mistaken in thinking that the zero tolerance v-notching law was fairly uniform among states, but how it is written evidently is not.

In Maine we have it between the horns and I understand you don't in Massachusetts, which is why some of the discrepancy occurs in the notching on the sides, if I'm not mistaken. Is that right, Joe?

MR. LYNCH: It's my understanding -- and I'm going to defer to my coordinator here, but I believe all three, New Hampshire and Maine and Massachusetts, have basically the same law.

Yes, it is my understanding that they are consistent, and that in fact it says no v-notch or if there is a mutilation of that flipper that could have concealed a v-notch, then it could be a violation. I think all three of them say that.

CHAIRMAN WHITE: Thank you, Joe. Joe Fessenden, you had a comment?

COLONEL JOSEPH FESSENDEN: Just to clarify, we have a policy in the state that kind of does a little bit more defining what a v-notch is, and part of that policy we don't include any type of marks on the side of the flippers. So, that may be different in Massachusetts.

We don't have that. That policy was given out to law enforcement. They're aware of that, so it's something you may want to consider in Massachusetts to resolve that issue because we've got that.

MR. ADLER: All right, so that's a policy of not looking at the sides; is that what you're saying?

COLONEL FESSENDEN: We don't include the sides; that's correct.

MR. ADLER: Okay, but that's a policy, not a written regulation; right?

COLONEL FESSENDEN: That's correct.

MR. ADLER: Okay, and, if I may, discretion will be the law enforcement officer is what you've been saying, and our concern is the discretion of the fisherman who is trying to do the right thing, and he's arguing with himself, even without the law enforcement guy there, as to the word "discretion."

He wants to do the right thing but he doesn't want to be taken to the cleaners over the thing. So, I'm looking at discretion from the other side, too. Thank you.

CHAIRMAN WHITE: Mike Howard, you had a comment.

MR. MICHAEL HOWARD: Mike Howard, chairman of the law enforcement committee's assistant. I'm the coordinator. Joe Fessenden and I talked at lunch, too.

One thing we're going to try and do is get those states involved in the Area 1, Gulf of Maine, and some other areas to have some joint training between officers where we work together to remove as much differences between states in the way boardings and enforcement are affected, and to make sure that all of us are training officers in the same way. And the discussion, there is no way to take away discretion.

Discretion should be minimized as much as possible for officers. It should be clear, as clear to the fishermen as it is to everybody else. But, the committee just cannot find anything clearer than zero tolerance or a quarter inch, and in both cases there are going to be situations.

I would ask you to look and see are there significant problems with this, have there been significant problems with this; and if there are, could we have a few examples that we could take back to that individual state to assess it, because we can't find within that context significant problems of where it was a minute

violation on the bottom of a flipper that a person was cited or warned in an intense way.

So, we're interested in looking for ways to make it more consistent while not taking -- there is no way to take away officer discretion. Thank you, Mr. Chairman.

CHAIRMAN WHITE: Thank you, Mike, and I think that's a real positive move. Joe, have you anything else?

MR. LYNCH: No, sir, I appreciate the opportunity to address the subject.

CHAIRMAN WHITE: If there are no further comments or questions, that ends our law enforcement report, and I'll move right on to the plan review team report. Carrie Selberg.

MS. CARRIE SELBERG: I am going to go through the FMP review, which was included in a packet that has a title on front saying, "Additional Meeting Materials." It was mailed to the board last week. It's also on the back table in that packet full of other materials.

For the FMP review, I am not going to step through in detail the first section, because Section 2, status of the stocks, we didn't update this from last year, because we're waiting for the new stock assessment to come out. As soon as the new stock assessment comes out, we will update the FMP review next year to reflect that, but as of right now it's the same advice you saw last year.

Many other sections, Section 3, status of the fishery, that just includes the most recent landings information that has come in. Status of assessment advice, again, this is something that will be updated once the new stock assessment comes out.

Status of management measures and issues, Section 6, simply just includes the addendums that were passed last year. I'm going to go ahead and jump all the way to Section 8, which is the recommendations and issues section. This is the section that has been modified from previous FMP reviews.

All right, our first recommendation from the plan review team, with the pending release of the new stock assessment and the possibility of new reference points, there may be a need for changes to the management program for American lobster.

The plan review team recommends that the commission conduct a socio-economic assessment of the lobster fishery to serve as a baseline for these management decisions. That's our first recommendation.

Our second is that the plan review team believes the ability to judge the success or failure of management measures on a management area versus stock unit basis is critical, and we know the technical committee has looked into this in the past. We recommend that they explore this further, especially in light of the stock assessment coming out next year.

Our third recommendation is actually we are voicing a concern rather than a recommendation. The plan review team is concerned about the ability of the lobster management program to respond to changing stock conditions and believe this issue should be explored further.

A specific example is this is looking back on Area 2 and the stock decline and how the lobster management program responded to that, we think that there are some lessons to be learned there, and we should look at how the program responded to those stock declines and see if there is modifications that should be made based on our experiences with that situation.

And, finally, this is a long-standing recommendation from the plan review team, and it simply says that the PRT recommends that states implement logbook programs, and that continues to be a recommendation of the plan review team. So those are our four recommendations and I'd be happy to answer any questions.

CHAIRMAN WHITE: Are there any questions for Carrie? No questions for Carrie? Good job. I need a motion to approve the FMP. Oh, do

you have a question or do you want to make a motion?

MR. LAPOINTE: I am going to make a motion to approve the 2004 plan review team for American lobster.

CHAIRMAN WHITE: Do we have a second? Second, Dennis Abbott. Are there any objections to approval? No objections, motion approved. Bob Glenn, stock assessment update.

MR. ROBERT GLENN: Thank you, Mr. Chair. I would like to give the board an update on the work that the technical committee, the Lobster Stock Assessment Subcommittee and the Lobster Model Development Subcommittee has been doing over the last several months.

We've been working steadily on the lobster assessment. Recent progress includes we've hammered down the majority of all the biological and input parameters, including sexual maturity, fecundity.

Everything is pretty much going well. One outstanding thing that we're going to be working on at an upcoming meeting is we're looking at working on lobster growth. Two members of our committee are working on developing a new way of looking at the growth information that we have, and that should be finalized at this upcoming meeting.

The lobster database has been making steady progress. At this point all the landings data and all of the sea sampling and port sampling information, the biological data, have been loaded into the database.

The TC has been working on accessing and running queries on that data. And, we are about halfway through our gap-filling process. At this upcoming meeting, a majority of the agenda next week is going to focus on completing the gap-filling process relative to assigning biological information to landings.

As I said, we expect to complete that as this upcoming meeting or soon thereafter. The other big accomplishment that we've had recently is

our lobster modeling subcommittee has completed its work on developing models for this upcoming assessment.

These models have been presented to an independent review panel last month. The review panel went really well. The ASMFC did an excellent job at assembling a panel of experts, like none I've ever seen, and over three days this panel went through each -- had a presentation on each model and went through it with a fine-toothed comb.

We expect to have a report from that review panel coming out sometime around Thanksgiving, and then it will be distributed to the various committees and to the lobster board.

And from that, that panel is giving terms of reference which included to review the adequacy and effectiveness of each model, to make short- and long-term recommendations to improve each model, to outline the pros and cons of each approach, and to recommend specifically the most appropriate model or models for the upcoming stock assessment.

Early recommendations coming from that panel is that one of our largest problems that the assessment faces is the availability and the resolution of our current data collection. They pointed out early on in the process that in and above modeling concerns and techniques, that data issues are a very large problem, and especially our landings information does not have a lot of resolution.

I expect in the upcoming meetings for the TC to put together a report outlining that and to present it to this board in the near future. And, finally, just to give you a sense of the time line, again, steady progress is being made.

We're getting pretty close to being at the point where we're going to start to actually do some model runs and get results, so we're hoping that by the end of this year we're expecting to choose our models based on a review of the information from that independent review panel, complete our database work and complete the input parameter discussions. The technical committees

are working towards completion in spring of 2005 with a review shortly thereafter.

CHAIRMAN WHITE: Thank you, Bob. Questions for Bob? George.

MR. LAPOINTE: Thank you, Mr. Chairman, and thanks, Bob. If you complete by spring of 2005 with a peer review shortly thereafter, we can anticipate that it will be available for the board discussion in August? I mean, based on the current schedule?

MS. SELBERG: That would be our expectation, yes.

CHAIRMAN WHITE: Harry.

MR. HARRY MEARS: Bob, during the last year a lot of emphasis has been placed upon development of the lobster database that benefited about two years ago from some seed money from ACCSP.

Do you see the database as one that's easily to be fed and self-sustained or is it more of an ad hoc database that is populated on a need basis? In other words, is the intent, now that it's constructed or available, that it will be the best information available at any one point in time or it's not that way at all?

MR. GLENN: Yes, I think it's going to be more of a -- well, the expectation is that the database will be updated with biological and landings information from the state on an annual basis.

That was put into the recommendations in the development of the database early on. If we follow that framework, it will make the job of the technical committee much easier to give assessment advice or status of the stock advice on a much shorter time scale than it would be if we were to use it on an ad hoc basis and only populate the database when needed.

Carrie you can correct me if I'm wrong, but I believe the intention is to have that database populated with updated information on an annual basis.

CHAIRMAN WHITE: Carrie is nodding yes.

Does that answer your question, Harry? Any other questions? Yes, Mark.

MR. MARK GIBSON: Bob, you touched a little briefly on the growth increments and a lot of information has crossed my desk where people are indicating possible changes in mortality rates, reductions in growth increments, changes in the intermolt period, those kind of things.

Could you just give a little more detail on how the technical committee is addressing that information? I ask for the benefit of the Rhode Island industry, some of whom are here in the audience, because they're very concerned about what they're seeing in the water. They've hired independent experts to look at some of this stuff, and we want to be sure that it's being considered.

MR. GLENN: The technical committee has been concerned with that. In general all the lobster modeling work that we do is very sensitive to how we estimate growth. Because of that, we viewed growth with a lot of scrutiny.

The technical committee members have taken it upon themselves to make sure that we've collected any updated information where we can -- or data rather that we can develop growth increment from.

Specifically, there has been a lot of interest in tagging studies that have been done in Rhode Island through URI, as well as in Long Island Sound through both the Millstone Plant and Connecticut DEP.

Our technical committee members have been looking at that and looking at what looks like to be a trend in changing growth increment -- that the growth increment has decreased and possibly the rate of molting has decreased in the southern New England stocks.

So that updated information is currently being considered. It is being reviewed. It will likely, pending review by the technical committee, will be included in this assessment. In addition to that, other information that we have not used in

the past in the Gulf of Maine is being added to the information we've used.

There is tagging information for the state of Maine that is a fairly small data set, but nonetheless we view it as valuable information that we're going to be incorporating into looking at the growth increments and molt probabilities in the Gulf of Maine. So all that updated information is currently being considered and most likely will be integrated into the upcoming assessment.

CHAIRMAN WHITE: Other questions for Bob? No other questions? Ritchie White.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. If we're through on that issue, could I ask a question to go back to the PRT report?

CHAIRMAN WHITE: Sure, go ahead.

MR. WHITE: Thank you. By adoption of the report, does that mean that we are going forward with the recommendations in the report?

MS. SELBERG: No, it simply adopts the report as the FMP review for the year. But unless we hear specifically from the board that you would like action on one of the recommendations, they just simply stand as plan review team recommendations.

MR. WHITE: Yes, I think we should be discussing going forward on some of those.

CHAIRMAN WHITE: All right, pick the topic, Ritchie.

MR. WHITE: I think Number 3, for sure, is an important topic we may be looking at in the future, so I'd like to see us take the next step on that.

CHAIRMAN WHITE: Are you talking about the logbook?

MR. WHITE: No, Number 3 on recommendations and issues.

MS. SELBERG: Basically, the plan review

team wanted to raise this issue to the board because it's a concern of ours. We did not come forward with a specific recommendation. It was simply raising this as a specific concern.

If it's something you'd like the plan review team to delve into further, we could do that. If the board has a specific recommendation on something we could do, we're certainly open to hearing that. At this point, we just put on the table it was a concern we had.

CHAIRMAN WHITE: Comments to this point, George?

MR. LAPOINTE: Yes, thank you, Mr. Chairman. Ritch brings up a good point. How the management program responds is largely a function of the members of this board and not the technical committee and whatnot, it strikes me when we get into tough conditions, because we are the people who are responsible for implementing the management programs and suffering the consequences thereafter.

Working in conjunction with the technical committee and the industry, I would recommend that -- I mean, we can have the plan review team and anybody else bring recommendations forward, but that it be -- you know, we devote some time at our next board meeting to it because it's not a ten-minute discussion.

You know, we've got the experience in putting the whole plan together. Who would have think six years later we were still working on Addendum VI to Amendment 3, and we're not done with that yet.

So if we do it -- and I think it's a good idea -- it would be that we would seek advice of the advisors, seek advice of basically anybody who sends them in and then we start that discussion at a future meeting.

CHAIRMAN WHITE: Is that what you -- does that address what you're trying?

MR. WHITE: Yes, I think in advance of that, the PRT could maybe look at how the board responded to the Area 2 situation, go back and look at the history of that a little bit and try to

condense that.

CHAIRMAN WHITE: Yes, they certainly can do that, and I think they've done a good part of that already. Is there another part of that that you want to go over or is that it for now?

MR. WHITE: Well, I think all four recommendations are important, and I was kind of hoping that this might open up discussion. I kind of thought that we were going forward with all those, and then I started to think, well, maybe we weren't and that's why I brought this up.

CHAIRMAN WHITE: You have the mike, Ritchie.

MR. WHITE: Well, I guess I would recommend that we go ahead with all four.

CHAIRMAN WHITE: Can we do this one at a time, though? Do you want to make a motion on that or have a discussion on each issue?

MR. WHITE: Well, I was interested in hearing some discussion if other people thought that these were important enough to go forward with at this time, to use our resources or not.

CHAIRMAN WHITE: Okay, well, speaking of resources then, on Item Number 1, moving forward with the socio-economic analysis, no easy task.

MR. WHITE: Well, again, if we have the resources and the ability to do that, let's go forward, but if that's going to take away from something else, then --

CHAIRMAN WHITE: Excuse me, the resources, it will take a definite time commitment and financial commitment. Without recommendation from this board, Ritchie, nothing will go forward other than it just being a recommendation from the advisory board. I need further discussion from the board or it doesn't go any further. George.

MR. LAPOINTE: Generally our management programs, it doesn't matter whether they're state, federal or interstate, don't spend as much

time on socio-economic work as they do on the nuts and bolts, the traditional management measures, so I like the idea of moving forward.

Clearly, I'm biased about lobster because it's so important in the state of Maine. I don't mind using that for a template. If we do that, we should use the Committee on Economics and Social Sciences.

I don't think this is a small endeavor. I mean, to look at it well throughout the resource, regionally, in the state of Maine, it would be a lot of work as well. I think it would be a huge endeavor.

I think it's worth doing and we'd have to prioritize it in the context of all our other needs, but I think that we're not the right people to know what that is. So the Committee on Economics and Social Sciences, can we rev that up if we need to?

MS. SELBERG: There are two options. You have a commission Committee on Economics and Social Sciences. You also have a Lobster Socio-economic Subcommittee, which is part of the larger Lobster Technical Committee process.

So you already have a group of lobster-specific folks, and then you also have the commission-wide Committee on Economics and Social Sciences.

MR. LAPOINTE: I would recommend we use the smaller, at first, so I would recommend the Lobster Subcommittee be used if we could get them -- I expect staff to tell me if we can't -- get them together, along with the plan review team, to come back to us.

It may then have to go to a bigger group because, again, I think this could be a very -- it could be huge. I know by study groups somebody could turn it into the Manhattan Project, and I don't think we want that, either. But, there is a balance that needs to be struck, so I would recommend the small group come back to us and then we can figure out where to go next.

CHAIRMAN WHITE: So are you both comfortable then with making a recommendation to the Lobster Subcommittee that they come forward in as timely a manner as possible and make recommendations of what this would entail?

MR. LAPOINTE: Yes.

CHAIRMAN WHITE: Okay, Item Number 2, Ritchie.

MR. WHITE: What about the tack of asking the PRT to look at 2, 3, and 4 and come back to us with specific recommendations, that we're interested in proceeding on these, but can you be more specific as to exactly how you'd proceed and what the resources might be to proceed?

MS. SELBERG: For Number 2, our recommendation is pretty specific. It's to ask the technical committee to look into this further. Number 3, you've already given some advice on Number 3.

And Number 4, the PRT recommends that states implement logbook programs. I'd need a little more feedback from the board on what you'd like back from us. You know, what more advice would you like from us to help you with these discussions?

MR. WHITE: I guess what states presently have the logbooks, you know, if that's going to take legislation, rulemaking of each state. In other words, what would be the exact process that would be needed for the states to provide this information.

And I guess if you need a motion, I guess **I'd make a motion on Number 2 that we do send that issue to the technical committee.**

CHAIRMAN WHITE: Is there a second to that motion? Mark Gibson. As far as Number 4 goes, Ritchie, clarify for me, if you would, do you want a report back to this board as to what the status of each state is with a logbook at the current time?

MR. WHITE: Yes, I think if we get more

details on that, then maybe we can decide whether it makes sense to -- if we look at the difficulties of implementing this throughout all the states, then we can decide, you know, look at it and say, gee, does this make sense or not.

CHAIRMAN WHITE: Okay, no problem, that can be done. Any other issues on that? Are there any objections to the motion? George.

MR. LAPOINTE: A concern. The technical committee and work; we have been trying not to bind the technical committee with extra work so that they in fact do not get diverted from the assessment. I want to be sure that this doesn't do that.

I mean, that it's a manageable task and that it doesn't grow into a task that's so big that our August 2004 review becomes October 2005 rather, et cetera. Can I get Bob or Carrie's idea about how much time it might take. To put it more directly, will this slow down the assessment process?

MS. GLENN: It could slow down the assessment process if we were to assign us to complete this task immediately, if you assign it a higher priority than completing the assessment. If it's secondary to completing the assessment, then it's something that we could complete thereafter.

MR. WHITE: The intent is that it would be secondary.

MR. DANIEL J. McKIERNAN: Bob, will the technical committee be reporting out on data holes such as lack of catch reports or logs? That will be part of your report, anyway, won't it?

MR. GLENN: Actually, it's my intention for the TC to provide a report looking at data limitations and holes probably at the next board meeting.

MR. --: I think that should suffice.

CHAIRMAN WHITE: Gil, did you have a question?

MR. GIL POPE: Thank you, Mr. Chairman. The other thing that might be helpful is to separate as much of the science versus the policy decisions in some of these four -- or at least the three, the socio-economic and the area versus stock area.

There's both scientific information and also policy recommendations in there as to the direction that you're going, so it would be nice to weed those out. It would probably make his job a lot easier. Thank you.

CHAIRMAN WHITE: Good point. Harry.

MR. MEARS: Mr. Chairman, I have a problem with Recommendation 2. I totally agree it's important, but we go through this every two years. The technical committee in fact comes to us about the difficulty of matching effectiveness or evaluating effectiveness of management measures for management areas that are not applicable to stock areas.

Basically they tell us as long as we have the management area program, it's going to be very difficult for the technical committee to give you what you're asking for. Here we are once again kind of on our multi-year basis going back to the technical committee to once again give us that perspective back. I just look at this as an endless do-loop.

CHAIRMAN WHITE: Mark Gibson.

MR. GIBSON: I agree with Harry in part. This is a very frustrating part of the Lobster Amendment 3 that the management areas don't comport with the stock areas. The only reason I am interested in this is because I believe that the technical committee had some input from the modeling peer review group on this problem.

I was there for that day when they commented on the problems that this would cause, so I'm thinking the technical committee may be able to follow up on the discussion of the modeling peer reviewers and funnel some of that feedback back to the board. It may buttress what the technical committee has been saying and maybe point us in the direction of a solution.

CHAIRMAN WHITE: Thank you. George.

MR. LAPOINTE: I mean, to that end, if that's what they're dis-cussing is the area distribution, unless this board is willing to do away with our seven areas and shrink it down to the three or four we do as assessments, let's not do it.

We made the decision years ago, when I was an ASMFC staff member, to use area management. We made the decision to go to distinct areas that were separate from the assessment areas. Those were all conscious decisions.

The implication is that if we don't like that from a technical perspective and it makes it too messy, we have to switch back. I, for one, if this is an inherent part of, you know, the discussion - you know, I mean after hearing the discussion, I'll vote against it because I'm not willing to give up the area management system we have.

CHAIRMAN WHITE: Do you want to comment on that, Bob? Any other comments? Eric.

MR. SMITH: Well, I find myself in the interesting position of agreeing with Harry and Mark and George. Harry is right, we have asked this question and got the answer before. The technical committee has said, as Mark points out, it makes life more difficult for them trying to evaluate effectiveness.

We as a board, though, in the past have said we respect that that's a difficulty for you, but we have decided to manage on the basis of the management areas. Now as long as it doesn't get in the way of the assessment, I kind of think it would be healthy to see what the peer reviewers say and see what the technical committee does with that.

They may come forth with a different argument that can convince George and me and several others to manage on the basis of stock areas. I doubt it, but it could happen. We're getting a peer review out of this. You know, I think all things should be on the table to be considered.

The question is whether this is a little premature or not, and I don't know the answer to that. I mean, Bob hasn't, you know, said that there's a huge problem with starting to do it now as long as it doesn't get in the way of the assessment.

And if that's the signal we get from the technical committee chair, then I think the motion is okay. But by voting for it, it doesn't mean that I'm prejudging a decision that -- regardless of what they say, then I will, you know, make my decision on managing by areas differently than we have in the past. So, as a manager I come down where George is on it, but I think we ought to get the advice and hear what they have to say.

CHAIRMAN WHITE: Bob.

MR. GLENN: In general it would be fairly straightforward for the technical committee to respond and to provide better detail to outline what the problem is, as we have in the past, and it would be fairly simple to dust off some old stuff that we have done and kind of bring that back to the forefront for the board, and with that include the additional input that the model review panel had to this specific issue.

The difficult part would be relative to any type of recommendations that we would have to resolve that. I don't think we'd be prepared to do that at this time, but we could certainly outline it.

CHAIRMAN WHITE: Any other comments?

MR. LAPOINTE: Following up on Eric and Bob's discussion, I suspect that following the assessment, there will be not one but a bucket load of recommendations that the technical committee needs to assess, judge, whatever.

And this will -- the issue of stock versus management area designation I think will be one of many. I mean, it strikes me we're going to have the job to do anyway at that point, and we'll have to look at all those recommendations and their relative importance in moving forward. I'm going to vote against still just because I think that's the time to consider it, with all the

other issues that may come up.

CHAIRMAN WHITE: Thank you. Any other new comments? Otherwise, we'll put it to a vote. All those in favor, raise their right hand. Okay, take that back, have a minute for a caucus. Eric.

MR. SMITH: Sort of a procedural question. I mean, I hate that this kind of discussion gets bogged down in future parliamentary procedure. If we vote no on this, does that mean, after we get the assessment and we want to consider something like this, somebody is going to throw up the 60 percent rule or will it be new business after the assessment, and it's just a majority vote?

CHAIRMAN WHITE: I think that's George's point, and I think it would all be brought up after that. I don't think this kills that opportunity, Eric.

(Whereupon, a caucus was held.)

CHAIRMAN WHITE: Everybody ready? Okay, all those in favor please, raise their right hand; opposed; abstentions; null votes. **Five to three, the motion carries.**

I'd like Carrie to give us a brief introduction into the discussion on Area 2, and we'll go from there.

MS. SELBERG: Okay, I'm going to start with a little bit of background information, but then we're going to move to draft Addendum VI. Draft Addendum VI is also in that same packet, the FMP review was in, which says, "Additional Briefing Materials" on the front. You got it in your mailing last week. It's on the back table.

Okay, just to review, Addendum IV was passed last December of -- I apologize, this slide is wrong, it passed December of 2003. After Addendum IV passed, the transferability subcommittee was formed to outline an implementation plan.

That transferability subcommittee, as they were working on the implementation plan, raised

several concerns with the Area 2 effort control plan. This past August the board discussed these concerns, and those are included in detail in previous reports, that they fall under two main headings.

One is that not all the jurisdictions are able to implement the plan as it is written in Addendum IV. The second concern is that further analysis showed that it was ineffective at controlling trap growth over current levels.

At the August board meeting, the board passed a motion for the states with Area 2 permit holders and the Area 2 LCMT to develop a new effort control plan by this meeting, November 2004. You'll notice that you don't have a new effort control plan in front of you right now.

So since the August board meeting, a couple things have happened. One, the Area 2 LCMT met in October 2004. A new effort control plan has not been developed for this meeting, and there are two things that have come up since then.

One, there was a lot of concern expressed with developing a new plan in such a short time frame, getting the states and the LCMT to agree on a new effort control plan by this November, the more we looked into it, the less feasible it became.

Also, the states expressed an interest in waiting for the results from the new stock assessment prior to finalizing the new effort control plan, interested in developing a framework for the effort control plan, but waiting to put the final details out because we are so close to the stock assessment coming out, wait until that stock assessment came out.

So, what you have in front of you is Draft Addendum VI. What Draft Addendum VI does is withdraws the Area 2 effort control plan in Addendum IV. The reason we would need an addendum to do that is it is currently scheduled to go in place by July 1st of 2005.

Because we don't have something to put in its place, we need to withdraw Addendum IV prior

to that date. It keeps two components: The no new permits for Area 2 after December 1st -- it's 2003 in your document, not 2005 -- and the eligibility period.

That concludes a little bit of background on Area 2 effort control plan and where we are today. You have a draft addendum in front of you for discussion. I'd be happy to answer any questions. I know that the folks from Massachusetts and Rhode Island are also available to answer questions, especially on how we got to where we are today.

CHAIRMAN WHITE: Let's focus on it one at a time. Any questions for Carrie initially? Yes, Eric.

MR. SMITH: Carrie, could you please clarify the dates. Your last slide had no new permits after December 1, 2005. The document says no new area permits after December 31, 2003.

MS. SELBERG: The slide is incorrect; your document is correct.

MR. SMITH: The document is correct?

MS. SELBERG: The document is correct.

CHAIRMAN WHITE: Let's start with you, Mark. Questions for Mark Gibson or comments? Mark, do you want to make a comment first?

MR. GIBSON: Yes. I hadn't gotten home more than -- I'd only been home one day after the August board meeting before I had to go up to the director's office and explain to him why he had all these calls from angry lobster fishermen and so on.

I think the general sense was by the Rhode Island industry, it felt that they'd essentially had the rug pulled out from underneath them, that they'd spent some time with this effort control plan, and then the board unfairly, you know, tanked the plan.

So, I mean, I stand by the criticism that we made in the plan. I think there was significant flaws in

it in terms of the over-qualification of effort and so forth. I think I agree with industry that they wouldn't have had meaningful -- time for meaningful input into a November product.

So, what we're trying to do is establish a bit more time for industry to have some meaningful input into a revised effort control plan to address the board's concerns, as well knowing that this major stock assessment is going to be coming forward, allowing a window of time so that when the results of that come to the fore, the details of this effort control plan, which we would envision working on between now and the time the assessment information comes to the fore, we would be able to hang the details on it, which would be reflective of the new F estimates, potentially reference points and so on.

So we're looking for an avenue to give the industry more time to have meaningful input and address the board's concerns about their initial offering as well as be able to take advantage of the revised reference points and potentially fishing mortality rates that come out of the coast-wide assessment.

CHAIRMAN WHITE: Dan, do you have additional comments you'd like to make?

MR. McKIERNAN: Yes, I just want the board to know we estimate that in the last five years, the number of traps in Area 2 has declined by about 50 percent, so the challenge for us is to try to capitalize on this so-called conservation or the reduced fishing that the industry wants credit for yet at the same time prevent growth back to these higher numbers.

So when we sit down with the industry to talk about what the targets should be, you know, it's imperative that we be able to tell them that the current level of fishing effort or something close to the current level is really what we're trying to accomplish.

Every effort control plan that they've put forward has been generous in terms of allocatable traps because, frankly, it's a very, very difficult thing for an industry group to get together and create a plan that is so draconian

that guys in the room are being kind of regulated out or phased out because of any of these rules.

Yet, if we're going to try to cap effort at a current level of traps, there has to be a drastic reduction from the numbers of traps that have been fished going back five years.

We estimate that about five years ago there was a quarter million traps being fished in Area 2; and today or most recent numbers from the end of 2003, that is about half of that, so it's about 120,000.

So, that's the kind of bounds that we need to go back into that meeting with the industry folks, just to give you that heads up.

If we go in there and say, well, we need to reduce traps. Well, to what? I mean, it's kind of a non-starter. We need goals.

Now, I agree with Mark that the next assessment, when it comes out, will give us kind of the benchmark, and that's kind of coming at the same time that we'll be I think putting this plan together. But unless we have a cap, it's going to create a huge amount of administrative burden. It may not be effective.

CHAIRMAN WHITE: Thank you. Now, questions of whoever? George.

MR. LAPOINTE: I have a question of Mark and Dan and then a motion, if that's appropriate. And the question is -- I understand their need for time to work with industry -- how much time, I mean, would you need to work this through without making it go on too long?

MR. GIBSON: I'll take a crack at that first. I think that we can -- we've already had the first LCMT meeting, explained to them the board's actions, the rationale, and we've already gotten from a sector of Rhode Island industry some counter proposals, thoughts as to how to improve the effort control plan.

Some of them are I think quite positive. They have embraced some of the ideas that we have been talking about and perhaps in a little different way and more of a conditional way, if something happens and we introduce a trap cap.

They've offered some ideas on additional bins to avoid the great disparity between 1 and 800, so there are some good ideas coming to the fore. It seems we could continue to work with them this year and over winter. The stock assessment provision advice to the board was going to be when, Carrie?

MS. SELBERG: We would hope that the stock assessment advice would be coming in August of next year.

MR. GIBSON: It seems to me a time line that brought an addendum to the table for board consideration at about the same time that the assessment advice was coming to the board, because we will have access, you know, to it prior to that and some insight into where things are going, that would seem to be a good convergence of time for me.

CHAIRMAN WHITE: I'll take questions first, George, if I can before your motion. Any other questions? George.

MR. LAPOINTE: This may raise some questions. Based on what we've heard from the states about the difficulties with not all jurisdictions being able to implement the proposal; and as Dan has said, a process that allows a substantial build up from the current number and with the concern for not having a clear direction if we do something else, I'm going to give the following motion.

That would be that we add a section under 2.0 of Addendum VI, which states, "By the August 2005 board meeting, all jurisdictions" -- I have this written so I'll give it to you in a minute if you're not keeping up -- "all jurisdictions with Area 2 permit holders and the Area 2 LCMT will develop a new effort

control plan which caps effort at or near current levels with the potential to adjust the levels based on the new upcoming assessment that all jurisdictions, state and federal, are capable of implementing."

CHAIRMAN WHITE: A second to that motion. Mark Gibson. Discussion on the motion? Okay, discussions on the motion. I'm waiting for the motion to be finished on the board, thank you.

MR. LAPONITE: Did we get a second?

CHAIRMAN WHITE: Yes, Mark Gibson.

MR. LAPOINTE: I mean, we've discussed today about the difficulty of assessing management areas when we have different stock assessment areas. We struggle, all of us, with trying to put things in place that take into account industry input, LCMT input, the needs of other states.

We do things and we've certainly done them in the state of Maine where you say I think I can do that; I want to do that, and it turns out that it doesn't work out like you planned because this is big stuff.

And we have heard from Massachusetts and Rhode Island, and I believe the federal services and the other states just about how difficult this has been. And what I tried to do here was recognize the difficulties they've encountered and trying to give them time to do something that will work.

And, importantly, giving them time to take into account a very short amount of time, the new stock assessment because if they put something together that was based on the current stock assessment and then they had to make changes immediately to that, that wouldn't make any sense, either, Mr. Chairman. That's why I put the motion forward.

CHAIRMAN WHITE: I appreciate that. Dan and then John.

MR. McKIERNAN: I just want to report back from the LCMT meeting. What we heard from the fishermen, as the meeting progressed and after the meeting, was that they were very concerned about the gauge increase.

Now I know that's not on the table, but I just want to let you know that going into this discussion with them, it's something we're going to be hearing, that there's a feeling among the industry that the four-step gauge increase that was passed last December wasn't necessary to address the stated problem, which was to keep the fishery to a TAL.

And so what I'm wondering is can the board consider giving me guidance as I deal with the fishermen from Massachusetts, and I know some of the fishermen from Rhode Island, how an effort control plan like this could be developed in maybe a package that might negate the need for a gauge increase, because I think it might be a show stopper.

At least that's what has been kind of told me, you know, on the streets, that they're really concerned about the four gauges, the upcoming four gauge increases. Could I get discussion on that?

CHAIRMAN WHITE: Okay, to that point. George or Mark.

MR. GIBSON: Well, the existing gauge schedule is what it is. It's in motion and lacking any other action, it would take place. We've already done the four gauges which are consistent with the original F 10 computation, if you will, the 4/132nds that have gone up.

What I have told -- I am aware that this is potentially a show stopper with industry as well. That was the negotiating chip that they essentially put on the table at the first LCMT; we'll work hard with you on effort control, but you've got to show us some flexibility on the gauge.

And what I've told them is I didn't think this board at this meeting would be able to back away from a gauge scale that's already in place. I did tell them that I was certainly willing, when the stock assessment advice comes out, if there is compelling information that says we can stay at 3-3/8, we don't have to go beyond where we were, that I would find a way to deal with that.

So that's my view on gauges right now. I don't want to give them up right now, but I'm certainly open to the idea that when the stock assessment information comes to the fore, if 3-3/8 or whatever we're at is appropriate at that time, that we would find a way to, you know, to implement that and stay at that point.

CHAIRMAN WHITE: Thank you, Mark, that's a really good point. John, you were next.

MR. JOHN I. NELSON: Thanks, Mr. Chairman, just going back to the motion, a couple things. One is the last phrase that's up there, and that is that all jurisdictions are capable of implementing.

I guess I'm not clear on why that particular phrase is in there. Does that mean that we're conditioning the stock assessment outcome on only items that all jurisdictions can put in place; or are we really just trying to say we're assuming that whatever the outcome is, that effort controls will be put in place by all jurisdictions?

CHAIRMAN WHITE: George.

MR. LAPOINTE: If I may, that's a good question, John. And the intention was that the management measures be capable of being put in place, not that the assessment would be adjusted based on that. It was my understanding and from what Carrie said, that in fact some of the jurisdictions weren't capable of putting in what came forward under the current addendum.

It would be to make sure that when Addendum VI comes along -- yes, I think it would be Addendum VI -- that it would in fact have management measures that could be put in place

by the respective jurisdictions, irrespective of the stock assessment results.

CHAIRMAN WHITE: Does that answer your question, John?

MR. NELSON: Well, it probably is meant to be well intended, and I certainly try to take it that way, but I think that this conditions what management measures we could put in place. I'm not sure that we want to do that, at least at this stage.

CHAIRMAN WHITE: George, do you want to respond?

MR. LAPOINTE: With that concern, the maker of the motion would certainly be willing to take out that last part of the sentence with the understanding that as something came forward, the respective states and the federal government, if it was something they couldn't do, they would have to say that very clearly, so that in fact we didn't raise expectations and then have to, you know, to come back again at the same issue.

MR. NELSON: Yes, and I appreciate that. You know, I'm happy to address that at that particular time. The other thing that I'm just wondering is, again, defining what we mean by "which caps effort at or near current levels", and was that like last year's level or was it a three-year average or a three-year best of the last three years? Is there a sense that there's flexibility of addressing that, George, from that standpoint, or was it last year's levels?

MR. LAPOINTE: At or near is a reflection of the fact that we don't have an exact number. You know, I think Dan mentioned a quarter million.

MR. McKIERNAN: Well, I think the traps have declined by 50 percent from about a quarter million down to about 120. That wouldn't include the New York or Connecticut traps in Area 2, but it's about a 50 percent decline in five years, so I don't know what George was thinking about.

MR. LAPOINTE: Well, it was, I mean, at the

current level so I'll just use 125 for purposes of discussion. The near is because as this goes forward, you know, if we've declined 50 percent and they put together a program that raises it from 125 to 130, I think we should allow them that flexibility. Do we want it to go back up to a quarter million? I think not.

MR. NELSON: Okay, I think, again, it's providing a certain amount of flexibility to deal with this, and I'm comfortable with that. So I take it the last phrases are out of the -- that last phrase is out of the motion, Mr. Chairman?

CHAIRMAN WHITE: That was my question back to George; is it all right to --

MR. LAPOINTE: I offered that. Mr. Gibson, as the seconder, I'm just -- can we do that by friendly amendment?

CHAIRMAN WHITE: Mark, are you comfortable with that?

MR. GIBSON: That's okay.

CHAIRMAN WHITE: Joe, for the record then we're going to remove the last -- it's gone. Everett.

MR. EVERETT A. PETRONIO, JR.: Thank you, Mr. Chairman. I have some of the same concerns regarding a previous clause when we start talking about "will develop a new effort control plan." I think we should be coming forward with a new control plan, but I'm not sure that I'm comfortable with "which caps effort at or near current levels."

I think I would prefer to see it say something to the effect of "will develop a new effort control plan with the potential to adjust the levels based on the outcome of the upcoming stock assessment."

I think that's why we're all waiting to hear what the stock assessment says. I think that we should come forward with a plan based on what it actually puts -- what we find out. Thank you.

CHAIRMAN WHITE: Do you want to make that as an amendment to the motion?

MR. PETRONIO: If the maker would accept it as a friendly amendment, I would offer that.

MR. LAPOINTE: The maker would not.

CHAIRMAN WHITE: It's up to you, Everett, then.

MR. PETRONIO: Could I make an alternate motion, then?

CHAIRMAN WHITE: Yes.

MR. PETRONIO: Okay, I'd like to make an alternate motion that says that basically is going to say the same thing, just removing that clause, if it's easier for Toni to do it that way or I can dictate it off, whatever works.

CHAIRMAN WHITE: Hold on, we'll put something up and see if you approve of it, Everett. Any other comments while we're waiting. I will get to the audience, fear not. Yes, excuse me, do we have a second to the amended motion? Any second to the amended motion?

MR. ADLER: I'll second it.

CHAIRMAN WHITE: Seconded by Bill Adler. Okay, comments now on the amended motion? Harry.

MR. MEARS: Mr. Chairman, just to clarify, is the intent here to approve a public hearing document that will be accompanied by a public information document, or what is the outcome of what we're voting on right now?

MS. SELBERG: If this motion in either form were to pass, it would be added to Section 2 of the draft addendum you have in front of you. If the board, after that, approves this addendum to go to public hearing, then, yes, the addendum

that you see in front of you with any additional phrases the board decides or not decides to add would be added and would go to public hearing this winter.

MR. MEARS: I guess the only follow up I would have then is are we working toward options to put in the public hearing document or are we just trying to really firm up what this recommendation or what this draft section of the addendum would in fact recommend?

MS. SELBERG: This addendum would not add any additional options. This new effort control plan that's being discussed in this motion would go into another subsequent addendum.

CHAIRMAN WHITE: I have George and then Bill.

MR. LAPOINTE: I'm going to -- the motion to amend I oppose. One of the thing I thought we needed to do was to give more clear direction to folks in Area 2 jurisdictions, industry, the federal government.

We've been working on an effort control plan, components of it, for quite some time; and so if you remove "caps effort at or near current levels", it strikes me we go right back to where we were before, with adding on nine months, and so I'm going to vote against this. I'm going to caucus my other members to vote against this motion to amend.

CHAIRMAN WHITE: Bill Adler.

MR. ADLER: Thank you. I was thinking back more to what Harry was trying to explain here, and Carrie I think did. The idea is that most -- this addendum in general, on its own, stops a couple of things that are in Addendum IV. It stops them so that this added time that's needed to develop this better trap plan can take place.

Am I correct in that thinking, that this is all this addendum does is it more or less just puts those things on hold rather than keeps the clock ticking, so that they can come up with a plan?

CHAIRMAN WHITE: That's correct.

MS. SELBERG: Correct.

MR. POPE: Thank you. Plus, we just passed something that says “respond to changing conditions” and this is what -- that’s what this is all about in my mind is to respond to changing conditions, whatever the new stock assessment is going to be. It is what it is. So, we’re looking for time and that’s what this is about. Thank you.

CHAIRMAN WHITE: Mark.

MR. GIBSON: My delegation may very well vote for this amendment, but I have to oppose it for the following reason. I mean, industry has come to this board and documented attrition. They passed out documentation for attrition.

They have asked both Dan and I to take account of attrition, consider what’s happening in the industry. I don’t know how we do that if we take this clause out, because if we’re recognizing that attrition has taken place, it’s happening for a not too pleasant reason, business has been lost and so on because of the downturn, but it would just seem to me to be irresponsible to take that clause out and essentially stymie us from taking advantage of the attrition that has to build a better industry and resource for the future.

CHAIRMAN WHITE: Thank you, Mark. Harry.

MR. MEARS: I agree with the comments of George Lapointe. I think not to have those words would be taking a very major step backward especially for an area where just a short while ago we were talking about emergency action for a declining stock.

I think by looking at ways that would even allow an increase in effort would just not be an acceptable way to go for future management.

CHAIRMAN WHITE: Thank you, Harry. Everett, go ahead.

MR. PETRONIO: The purpose of the motion is

certainly not to be irresponsible. It is only to take advantage of some good science that we have coming down the road. I don’t think any of us can predict what that’s going to say.

I certainly don’t wish to see overfishing occur. I don’t think industry or anyone else does. We’re simply looking for the flexibility to address whatever the stock assessment says once we have it. Thank you.

CHAIRMAN WHITE: Okay, unless there are any new comments, I’d like to go to the audience. In the interest of time, they’re welcome to address both the motion and the amendment because we are getting late on time.

MR. MIKE MARCHETT?: Mike Marchetti, president of the Rhode Island Lobstermen’s Association. I’ll keep it brief. Plain and simply, we need time to develop a plan properly. It took an awful lot of haggling to get to where we were.

We want to avoid the “haste makes waste” scenarios that we think we actually kind of got led into as we went down the road here. We are working on modifications and/or fire walls, possibly, to go with some of what has been discussed here.

Fire wall examples that we’ve tossed about, just examples, will be, say, a 100,000 pot floor to help support the industry in the case that things get so bad the industry can’t support itself, not just the stock.

We don’t want to see our industry end up like Connecticut’s unfortunately happened to. We also acknowledge that we should have a ceiling. We threw out 200,000 pots as an upper ceiling for discussion points. We needed to work from somewhere.

DEM and DEP couldn’t really give us anything and we all basically -- the discussions more or less fell apart at the LCMTs over that. But anyhow we want to take advantage of the current reduced effort to some degree and work from there, obviously.

And certainly we want to move forward with the draft addendum as you have it here. We need NMFS to certainly put a cap on everything. We can't be continually trying to cut ourselves down when it's still wide open at the other end on the Area 2 permits. That's a must to get started, anyways.

And we would really -- we'd really need the gauge increases to be pulled off the table for the time being or at the very least added to the LCMT discussion with the plan modifications. That's one of those things that we feel is a must.

We can't have Rhode Island being the largest gauge on the East Coast -- hell, the world. You know, we're catching the largest lobster as it is, pretty much, and we're happy to stay at 3-3/8, quite frankly.

We think we're actually making out for it, but we don't want to get pushed up at this time. We haven't been given consideration really for the vent increases. We'd like to hold that and avoid this hasty situation and do things that make sense. We want to do it right. Thank you.

CHAIRMAN WHITE: Any other comments from the audience? Back to the board. We're going to vote on the amended motion. Okay, take one minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN WHITE: Okay, I'll read in the amended motion by Everett.

Move to amend the motion to delete "which caps effort at or near current levels." Those in favor, please raise their right hand; those opposed; abstain; null votes. The motion fails. Back to the main motion.

Is there a need for a caucus on the main motion?

I'm hearing nos. All right, I'll read the main motion:

Move to add under Section 2.0 of Addendum

VI which states by August 2005 board

meeting all jurisdictions with Area 2 permit

holders and the Area 2 LCMT will develop a

new effort control plan which caps effort at

or near current levels with the potential to

adjust the levels based on the outcome of the

upcoming stock assessment.

All those in favor of the motion raise their

right hands; those opposed; abstentions; null

votes. The motion passes.

Okay, now back to Harry's point. We need to have a motion to approve the addendum to go forward to public hearing. Bill.

MR. ADLER: All right, I'll make a motion to take Addendum VI to public hearing.

CHAIRMAN WHITE: Thank you. Second, George Lapointe. Do you need a caucus? Any further discussion? No need to caucus. All those in favor, raise their right hand; those opposed; abstentions; null votes. The motion passes. Addendum VI will go to public hearing.

MR. LAPOINTE: At what schedule, Mr. Chairman, or more appropriately to Carrie, I guess, at what schedule will it go to public hearing?

MS. SELBERG: Our goal will be to bring back this addendum for approval for the February board meeting, so we'll be doing public hearings in the December/January time frame. I'll be contacting states seeing if they're interested in having public hearings and will release the details of open public comment period and hearings soon.

CHAIRMAN WHITE: The next agenda item is the Long Island Sound lobster health update, and, Gordon, are you going to start off with that?

MR. GORDON C. COLVIN: Thank you, Mr. Chairman. I'm elected to do this. I'll be looking to Eric to contribute as I go along or perhaps at the end. What I want to do is kind of give the board a rundown on what happened with the research program that was conducted in Long Island Sound.

I'm going to give you kind of a presentation and an overview of conclusions to date, although they are far from final of our research program, and then report to you on behalf of the Long Island Sound Lobster Health Steering Committee a recommendation for the consideration of the board in the future.

Before I begin, let me just kind of set the background a little bit. Recall that in the late summer and autumn of 1999, there was a significant die-off of American lobsters in Long Island Sound.

That led to a call by the governors of New York and Connecticut for the declaration of a natural resource disaster, a fishery disaster, with respect to the Long Island Sound lobster resource.

U.S. Commerce Secretary Dailey did declare a disaster early in the following year. And subsequent to that -- as a result of that, there were successful efforts in congress to undertake a special appropriation of funds in support of the lobster fishery disaster, which included funds both for economic assistance to the industry and to conduct a program of research and monitoring that addressed the causes and sought to understand what happened to the lobsters in the sound.

That appropriation was made into the NOAA budget and was assigned by NOAA for administration purposes to the National Marine Fisheries Service for administration. The service administered the program with the two states for economic assistance, but needed a larger partnership to administer the research and monitoring program.

After some discussion, it was suggested that ASMFC American Lobster Management Board could create a subcommittee of the board that would become a steering committee to oversee and administer the program of research and monitoring.

The board did approve the creation of the steering committee, which I am reporting back to the board on behalf of the steering committee today. The steering committee was initially chaired by Dr. Tony Calabrese of the NMFS Milford Lab. Subsequent to Tony's retirement, it has been chaired by Dr. Emory Anderson of the National Sea Grant Program.

Members of the steering committee included the directors of the Sea Grant programs in New York and Connecticut, myself and initially Ernie Beckwith, now Eric Smith from Connecticut DEP, Mark Tedesco of the EPA/Long Island Sound Program office, Carrie Selberg of ASMFC, Harry Mears of National Marine Fisheries Service, two representatives of the industry, Joe Fink from the New York Lobster industry and Nick Crismale of Connecticut, who is with us today.

I think that's the entire steering committee. Have I left somebody out? Lisa Kline initially of ASMFC and more recently Carrie, that's right.

The committee initially agreed to assign the administrative responsibility for handling the research program to the Sea Grant programs in the two states as that is something that Sea Grant programs do, so the program to conduct the research, to solicit research proposals, to have those proposals peer reviewed and to undertake the final selection process and the payment

process was handled on behalf of the steering committee by the New York and Connecticut Sea Grant Program.

I should also point out that the Connecticut DEP contributed I think another million dollars to the research funds available in the federal appropriation to assist in carrying out the work.

It is important to note that the research program was essentially parsed into several different subject areas, areas dealing with lobster infectious diseases and parasites; lobster physiology and health indicators; pesticides, monitoring, and physical/chemical effects, environmental effects.

More than 65 investigators at 30 research institutions and agencies nationwide were involved in more than 20 individually funded research projects. This was a very substantial research program, and it was initially capitalized in 2000, and the research projects all needed earlier this year.

I just want to take a couple of minutes to talk about some of the successes and things yet to be done in the research program. One of the things we found at the initial conference and gathering of experts on this problem was that we didn't have much established science at the outset of the program that enabled us to characterize what constitutes a healthy lobster or an unhealthy lobster on the basis of its physiology, internal chemistry and so forth.

So one of the major points of focus of the initial work was to develop physiological and health indicators of lobster health and stress levels. This was successfully done, and a number of such characteristics were developed which were essential and which were later used in funded experiments to enable us to determine the effects on lobster health of different kinds of stressors, including environmental stressors such as temperature, toxics, both toxic metals, pesticides, and of infectious agents.

Two new lobster diseases were described in the course of this work paramoebiasis and epizootic shell disease. Associated work that built off of

this, but was not funded under the program, described yet a third new lobster disease, calcinosis which occurred in 2002.

One of the things that we were successful in funding was work to determine the sensitivity of lobsters to pesticides, both larvae and adult lobsters, in determining lethal and sub-lethal effects levels for three pesticides in widespread use.

We'll talk more about that in a few minutes, but supporting that work was a new work done by some of our researchers that substantially improved the current environmental chemistry of the pyrethroid pesticides, enabling their detection in the environment at concentration levels far below those that had ever been documented before, which then enabled us to do monitoring work and toxicology work that we had never been able to do prior to that time.

Some of the things that we were a little less successful in, as many of you know, paramoeba infection was initially part of the diagnosis that emerged in the 1999-2000 period. To date we have not yet succeeded in developing an isolated culture of the paramoeba organism, and that resulted in our inability to complete certain experiments we wanted to complete, including the verification of coxpostulates with respect to the paramoeba.

We are also, as I implied a minute ago, not yet complete in developing answers to all of the questions with respect to pesticides, and more about that in a few minutes.

In May of 2004 we convened a meeting of the principal investigators and members of the research teams for all the research projects to compare notes with each other and begin the process of developing answers to the key question of what happened in 1999.

Many of the questions that were on the table at that time were addressed by the researchers at that time and in their subsequent discussion and collaborations over the balance of the summer.

The researchers developed an analogy to a

perfect storm of environmental conditions that resulted in pushing the environmental conditions in Western Long Island Sound far out of equilibrium with the environment and which subjected the lobsters to a sustained and increasingly hostile environmental conditions during that summer and fall, a result of which the lobsters immune systems were overwhelmed and were unable to compensate for the conditions and the stress that they experienced, leading to mortality.

Early signs of trouble became evident, particularly as a result of the monitoring program and kind of hind-casting of the information that we had had going into this, showing that lobster population increased particularly in the western most parts of the Sound to extremely high abundance and extremely heavy densities, which promoted the stress of interactions in extremely dense populations.

There were localized lobster mortality events in the extreme western Sound in 1997 and 1998, which were documented, particularly in shallower waters. Catches of lobsters in the Stanford/Greenwich areas were largely non-existent in the fall of '98 and the spring of '99, which tended to verify the mortality that occurred in that area.

There were notable numbers of dead and dying lobsters in traps reported beginning in the first half of September of 1999. Dealers also reported seemingly healthy lobsters dying within one to two days of being landed and sold to them in their holding tanks.

Reports were also received that in addition to lobsters, blue crabs, rock crabs, spider crabs, sea urchins, and starfish were observed dead and dying. Lobstermen indicated it was often difficult to distinguish between healthy and sick lobsters except that some lobsters were limp and lethargic.

The first indicator of stress that our researchers have documented was higher than average water temperatures during an extended period of time in 1999 and in subsequent years. Bottom water

temperatures were 1 to 2 degrees Celsius warmer than the average for a sustained period from 1998 to 1999. This trend continued through the summer.

It should be pointed out that this was generally teed up by higher than average winter water conditions rather than summer temperatures. It was the warm winters that had the greatest affect on maintaining and sustaining high water temperatures throughout the year, going into the summer and fall.

Bottom water temperatures exceeded the threshold temperature which has been determined again through this research program to be in the vicinity of 20 degrees Celsius for a total of 83 degree days.

Deep water temperatures were more than 21 degrees by late summer. Water temperatures in shallow waters exceeded 23 degrees Celsius. In addition to the high water temperatures noted earlier, the population of lobsters in the Western Sound was dense, and it became further concentrated as lobsters moved to deeper waters to find cooler water in 1999.

In addition to all this, the conditions in 1999 took place in that part of the Sound which has been exposed to hypoxic conditions in the bottom waters for a number of years now. Hypoxic conditions formed in the Western Sound for about 50 days in 1999, which is not an unusually severe year for hypoxia in the Western Sound, more like an average year.

The worse period was in the first week in August. Hypoxic conditions were dissipated by August 21st by a meteorological event that we'll talk about. There were also some unusual weather systems that affected the Sound in 1999.

In August the water column was stratified by both temperature and salinity, as it normally is, and the bottom water below the stratification layer was hypoxic. However, on August 29th the entire region was affected by the remnants of Hurricane Dennis which brought very strong winds and turned the Sound over and broke down the density stratification.

This happened very rapidly, such that the lobsters on the bottom, which were already in extremely warm hypoxic water, were also subjected to an increase of water temperature by a further 2 degrees Fahrenheit in a period of only six hours.

I think most people are aware of what can happen to animals that are already at temperature stress levels being subjected to a very rapid increase in temperature and can appreciate the physiological affects on the animals that they might well experience in a metabolic stress.

There is also some indication that increase in temperature, along with bottom sediment chemistry that we'll talk about, may have affected the mobilization of some metals and the toxicity of metals extant in the sediment of the Sound.

Later Tropical Storm Floyd passed through on September 16th dropping more than 3 inches of rain which restratified the Sound, this time primarily on the basis of density resulting from the fresh water affects.

But the bottom line is that the deeper water layers once again became isolated from the surface through additional stratification. At this point we also became concerned about the prospective release of toxics from sediments in the sub-pycnocline areas.

There were indications from sediment chemistry and sediment monitoring that was done that there were substantial seasonal fluxes of ammonia and sulfides from the bottom sediments into the water column, particularly in the late summer and going into the early fall.

All of these things, -- you know, the point of these arrows is that every one of these succeeding issues is increasing the physiological stress levels on the lobsters.

Experiments done in the Milford Lab of the National Marine Fisheries Service indicated that lobsters exposed to the combination of

conditions in terms of water temperature, low dissolved oxygen, sulfide and ammonia levels that existed in the Sound were themselves capable of producing mortality in the experimental lobsters, without any further sources of stress, so that the snowball affect of all of these things is believed to have been sufficient to explain the mortality on its own.

The driving force, the thing that was behind it to the greatest degree is believed to be the sustained, above-average water temperatures, temperatures that exceeded the 20 degrees Celsius level that has been shown in laboratory experiments to substantially stress lobsters and produce the physiological indicators of severe stress.

There were other factors that also came into affect, and the next one that needs a little bit of discussion is the prospective role of pesticides.

The other thing that was unique about 1999 is that it was the year in which the West Nile Virus first made its appearance, causing human illness problems and a number of deaths in the greater New York Metropolitan area, particularly in New York City.

As a consequence of that, the role of pesticides was determined at the outset by the steering committee to be something that needed to be investigated. At this point we're still not sure. I think it's fair to say that the discussion about the role of pesticides is one that continues.

We did fund several experiments to determine the effects levels and the lethal levels of concentrations of three of the four pesticides in primary use: methoprene, malathion, and resmethrin.

The fourth pesticide in larger use at the time is the other pyrethroid pesticide, sumethrin, and I'll come back to that, but we did not have any research to date that did bioassays with sumethrin.

The result of our work has established effects levels for these three pesticides, both LC-50 mortality levels, as well as effect levels on lobster physiology that are likely to be

significant in their health.

The other thing that we also did was to attempt to model the prospective concentrations of these pesticides that could have occurred in Long Island Sound as a result of pesticide loads applied to that area from application records and as affected by metabolic breakdown rates of the pesticides and their distribution and dilution through the water.

There were two modeling efforts that were funded to attempt to do that independently. The models were completed only just prior to the final conference at which all of these reports were made public.

There has been some question raised about some of the assumptions in those models that is going to lead to, first, an effort by the authors of the models to completely document in writing through technical reports the models, and there will be some discussion of the input parameters and modeling techniques with stakeholders and a variety of people.

The steering committee, your steering committee did assemble a pesticide working group consisting of experts in the state agencies and research community to help us put together the scope and to select contractors to do this modeling work.

That pesticide working group will be sitting down with some of the people who have raised questions about the models and try to sort out all of this.

The other thing is that one of the things that the models did suggest, that if one of the pesticides was most problematic, it could have been sumethrin, which is the one that we didn't use in our bioassay experiments. One of the recommendations that has been made is that there ought to be an effort to get some bioassay work done with lobsters and lobster larvae with sumethrin.

The effects levels we used were for coming to some conclusions were essentially the -- as a proxy we used the resmethrin effects levels,

which is obviously something that we'd like to come back to and visit.

I guess what takes us to is that we think that much of the cause of the mortality was an outgrowth of primarily of the elevated water temperatures in the Sound affecting a variety of other environmental stressors, possibly exacerbated by infection with paramoebas and the role of pesticides as a contributor to the stress that the lobsters experienced is still being evaluated.

We do know that all life stages of lobsters were affected and the abundance of lobsters in Long Island Sound, particularly in the western third of the Sound, is severely depressed at this time, and there is a great deal of information that characterized that that I haven't really gone into.

Now, the other thing I'll say is that this has been kind of a rushed effort to bring you to the conclusion of what was done for Long Island Sound. This was the subject of a symposium about three weeks ago that was held in Stony Brook, at which there were fairly detailed syntheses of each of the major research areas presented.

I noticed on the back table there's some copies of Commercial Fisheries News that has Janice's excellent article that summarizes the symposium.

There is no way I can sit here or any of us can sit here in this short time and relate to you the very comprehensive presentations made by all the synthesis presenters who themselves were trying to jam together the work of a very large research team.

I would encourage anyone who is interested to follow up directly through the Sea Grant organizations in the two states who can provide you with access to much greater information.

As I said, I think the conclusion of this research program represents the beginning, not the end, and we do have a recommendation on where we go from here. Before I get into that, though, I want to ask Eric and then any of the other

steering committee members if they would like to add.

MR. SMITH: Just very briefly, I want to reinforce a point that Gordon had in there. As you can imagine the members of the affected public in all of this, and by that I mean licensed fishermen, have had a devastating thing happen to them and a lot of them have very strong views on what happened.

And because I know from the symposium and from subsequent discussions how concerned they still are over all of this, I wanted to reinforce this point. Pesticides remain a very, very real concern in their minds, but I see it as two reasons.

One of them is some folks are -- they will always believe it was predominantly a pesticide event, and they have an unshakeable conviction on this and you just have to respect it.

In effect, almost any other reason that is suggested for it or combination of factors is going to be tested in their mind against the litmus test that they believe it was pesticides. We'll respect that.

The other is that some feel the pesticide loading data that Gordon talked about principally from malathion was with an error -- it was in error and they've requested that this be reviewed.

As Gordon pointed out, the steering committee recently charged the pesticide working group with going back, meeting with the fishermen and the modelers, looking again at the loading data to make sure beyond all doubt that what they used for loading into the model for malathion was the correct values.

And once that activity gets done, we're either going to know it was correct data and move ahead from that ground or we're going to realize that something needs to be changed and then potentially the model has to be rerun. So we've committed to doing that. Thank you.

CHAIRMAN WHITE: Eric or Gordon, I understand you have a recommendation to make.

MR. COLVIN: I do. Before I do that, I want to just ask if any of the other steering committee members, Carrie, Harry, or Nick want to add to what we've discussed at all today.

CHAIRMAN WHITE: Nick, do you want to make a comment now or during the public comment? Use the mike, would you please, and give your name so he can have it on record.

MR. NICK CRISMALE: Nick Crismale, Connecticut Lobstermen's Association. I pretty much support what Gordon and Eric said concerning the results. As they indicated, the industry is still concerned about the pesticide, the role of pesticides in the mortalities.

There is some concern and some questions we have about the pesticide loading information that was used in the model. I'm not challenging the mechanics of the model; however, we are challenging the information that was supplied and the source.

We have information to indicate that the pesticide loading was approximately five fold. That's still to be determined, that information put into the model, what the results would be. Hopefully we can resolve this within the next month or so; and if not produce information to support the pesticide's role in here, at least put our minds at ease.

But, one thing I'd like to bring out is that you can take a lot of research and put it in a controlled environment and do things to animals in a controlled situation, but that week period when these lobsters died was devastating -- to see healthy lobsters in traps and on the bottom dead in the mass numbers that we saw them.

It had to be from a monumental event other than we feel dissolved oxygen, hypoxia, so on. So in our estimation, we talk about paramoeba and the different things that happened to the lobsters, dissolved oxygen and so on, that have occurred in the past in Long Island Sound, but the one remaining thing that the industry feels is different was the pesticides that were used during that period, keeping in mind that these

pesticides are used to compromise or eradicate an animal that is consistent in the environment that the lobsters are in, mosquitoes and lobsters.

I do appreciate Eric and Gordon and everybody on the steering committee's effort. And it was a big effort, a major effort, I think one that the whole lobster resource throughout the whole northeast will receive a value from. Thank you.

CHAIRMAN WHITE: Nick, we all appreciate your participation in this program. And in the interest of time, because we're really behind now, unless somebody has something different to add, we'll take Nick's comment as a summary from the group. Is that all right? Thank you. You have a recommendation, Gordon.

MR. COLVIN: I do, Mr. Chairman. I think a document has been distributed to board members which constitute the recommendation of the Lobster Health Steering Committee. The steering committee did hold a meeting by conference call about a week ago and authorized Eric and myself to present this recommendation to the board.

In the interest of time I will not read it. I will convey the recommendation to the board in effect that a steering committee be maintained to focus on lobster health issues, that its membership be expanded.

There is a recommended charge to such a committee. Mr. Chairman, I don't know if a motion is necessary to do this or if it's within the purview of the chair to act on this recommendation, but I'd be pleased to offer a motion if you believe it's necessary.

CHAIRMAN WHITE: Unless anybody has any objections, the chair is very much encouraged by this and would like to get other participants. Unless there's any objections, we'll consider the recommendation done. The next agenda item is —

MR. COLVIN: One last thing, Mr. Chairman. Let me just thank you personally. I want to thank Chairman White for making the trip down to Long Island to participate in our symposium

at the end of the program.

We were very glad to have you there, and it was evidence of the importance that this board and this commission placed on the resource and what we were doing to have you there. Thank you.

CHAIRMAN WHITE: Well, I appreciate the invitation. It was certainly an eye-opener to some of us from away. I hope to be involved in it in the future. Carrie, do you want to go with the next agenda item or New Jersey?

MS. SELBERG: In the packet that you received last week, the additional meeting materials packet, there is a proposal from the state of New Jersey to revise their lobster regulations, and there is a cover memo that explains that.

NOAA Fisheries has recently implemented a history-based system for Areas 3, 4, and 5. And, while NOAA is in the process of implementing the program, New Jersey put in place their own lobster permit program.

Now that the federal system is in place, they would like to revise their permitting system to ensure consistency between the state and the federal programs, so you have that proposal in front of you.

Our staff has reviewed the proposal, and representatives from NOAA Fisheries have reviewed the proposal as well. We had a couple of clarifications that we've discussed with Bruce.

One is that we just wanted to make sure -- New Jersey had a cap of 117,000 lobster traps that they weren't to exceed, and we just wanted to make sure that this doesn't imply that NOAA Fisheries is now responsible for staying under that cap.

They have a different history-based system that has already been approved by this board and gone forward. We discussed that with New Jersey, and that was their intent. That was our only comment. Besides that, we were comfortable with the proposal to revise New Jersey's lobster regulations.

CHAIRMAN WHITE: Any questions by either Carrie or Bruce? George.

MR. LAPOINTE: I'm thinking about our Charter. I mean, this should go to the plan review team to look at changes in regulations in state plans, or is it okay for a staff review?

MS. SELBERG: We had review by NOAA Fisheries and staff on this.

MR. LAPOINTE: I'm not asking what you did; I'm asking what the Charter says. I apologize for --

MS. SELBERG: I'm not sure.

MR. LAPOINTE: In the interest of time, I want staff to look at the Charter. It strikes me that if this passes muster and it makes consistent the state and federal regulations, it's a good thing and we should support it.

And because of that, if we need to, I'll offer a motion to approve these changes. I would like -- if the Charter says the PRT look at it as well and come back just to make sure that in fact we're doing things the way we said we will do them.

MR. ROBERT E. BEAL: I don't believe there necessarily is a requirement for the PRT to review all potential changes. It's usually set up actually in management plans with the specifics for review. I think, if my memory serves, in the lobster plan, there is simply a note that any changes need to be forwarded to the management board and approved by the management board. I don't think there's a formal review process included in the plan or the charter for this type of proposal.

MR. LAPOINTE: Then I would make a motion that we approve the changes being proposed by New Jersey.

CHAIRMAN WHITE: We have a motion. Is

there a second? Second, Bruce Freeman. Bill, comments on the motion?

MR. ADLER: Yes, is this a conservation equivalency? I don't know whether this fits in. Is this a conservation equivalency thing or is it? What is it? It's just a change of what?

MS. SELBERG: Bruce, do you want to comment or would you like me to?

MR. BRUCE FREEMAN: Let me just try. Quickly, Bill, this is simply a change to simplify an existing system. Recall several years ago New Jersey requested some changes that it would like to make and asked for conservation equivalency, and that was provided with the stipulation that we didn't increase our trap numbers in excess of 117,000.

The reason for that is that we allowed some mobile gear fishermen to receive traps in lieu of their catches, historical catches. And that then involved us coming to the board asking for this special consideration, which was given us.

Because of the way the system has now developed, the federal system has come into play looking at historical catches, which the board asked for that to occur a number of years ago. It allows us now to simplify our system.

Quite frankly, those people who were given trap allocations based upon mobile gear catches now will be eliminated because the federal system does not recognize those people. So what we're really trying to do is simplify this system.

Our system allows for more pots than the federal system. Almost all our fishermen require federal permits, so in order to avoid confusion between federal regulations being somewhat different than state regulations, we are modifying our state regulations to allow the federal regulations to preempt all our state regulations. Thank you.

CHAIRMAN WHITE: Thank you, Bruce. I think George is satisfied with that answer. He is. Any further comments on this motion? **All those in favor, raise their right hand; all those**

opposed; abstentions; null votes. The motion passes.

In the interest of time, John Sorlein is here, but the AP did not meet. They intend to meet and will have a report to us at the early February meeting. So, with nothing else, I would entertain a motion to adjourn because we're 15 minutes late.

(Whereupon, the meeting was adjourned at 4:15 o'clock p.m., November 9, 2004.)

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