

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
SHAD AND RIVER HERRING MANAGEMENT BOARD**

**Atlantic Sands Hotel  
Rehoboth Beach, Delaware  
October 23, 2008**

**Approved February 4, 2009**

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1. **Approval of Agenda by Consent** (Page 1)
2. **Approval of Proceedings of August 21, 2008** by Consent (Page 1)
3. **Move that the ASMFC Shad and River Herring Board approve Virginia's proposal for the bycatch allowance of shad** (Page 10). Motion by William Adler; second by A.C. Carpenter. Motion carried (Page 10).
4. **Move that the board accept the 2007 FMP Review and approve de minimis status for the 2008 Commercial and Recreational American Shad Fishery for Maine, New Hampshire and Massachusetts** (Page 12). Motion by Douglas Grout; second by William Adler. Motion carried (Page 13).
5. **Motion to adjourn by consent** (Page 13).

## **ATTENDANCE**

### **Board Members**

Terry Stockwell, ME, proxy for G. Lapointe (AA)  
Pat White, ME (GA)  
Doug Grout, NH (AA)  
G. Ritchie White, NH (GA)  
William Adler, MA (GA)  
Vito Calomo, MA, proxy for Rep. Verga (LA)  
David Simpson, CT (AA)  
James Gilmore, NY (AA)  
Pat Augustine, NY (GA)  
Erling Berg, NJ (GA)  
Gil Ewing, NJ, proxy for Asm. D. Fisher (LA)  
Eugene Kray, PA (GA)  
Roy Miller, DE, proxy for P. Emory (AA)  
Bernard Pankowski, DE, proxy for Sen. Venables (LA)  
Tom O'Connell, MD (AA)

Bill Goldsborough, MD (GA)  
Russell Dize, MD, proxy for Sen. Colburn (LA)  
Jack Travelstead, VA, proxy for S. Bowman (AA)  
Michelle Duval, NC, proxy for L. Daniel (AA)  
Bill Cole, NC (GA)  
John Frampton, SC (AA)  
Robert Boyles, SC (LA)  
Malcolm Rhodes, SC (GA)  
Spud Woodward, GA (AA)  
John Duran, GA (LA)  
A.C. Carpenter, PRFC  
Steve Meyers, NMFS  
Jaime Geiger, USFWS  
Leroy Young, PA FBC

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

### **Ex-Officio Members**

Bob Sadzinski, Technical Committee Chair

### **Staff**

Vince O'Shea

Bob Beal

### **Guests**

Dr. Matt Cieri, ME DMR  
Craig Shirey, DE F & W

Bill Sharp, FL FWC  
Peter Himchak, NJ DFW

The Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Swan Ballroom of the Atlantic Sands Hotel, Rehoboth Beach, Delaware, October 23, 2008, and was called to order at 10:25 o'clock a.m. by Chairman Paul Diodati.

### **CALL TO ORDER**

CHAIRMAN PAUL DIODATI: Good morning. We're going to start the Shad and River Herring Management Board. My name is Paul Diodati. I'll be chairing the board this morning.

### **APPROVAL OF AGENDA**

We have a short time, but the agenda is also short. Is there board consent for approval of the agenda? Any changes? Okay, no changes, the agenda is so approved.

### **APPROVAL OF PROCEEDINGS**

We have the proceedings on the diskette from the last meeting. Is there consent from the board to approve the proceedings from the last meeting? Seeing no discourse with that, we'll approve those.

### **PUBLIC COMMENT**

We'll go to the public to see if there is any comment, any general comment that you'd like to make. I think there will be opportunity as we move through the agenda to talk about any specific issues. Anybody in the public?

MR. TOM MENCI: Good morning. My name is Tom Menci. I'm from the Cape Cod Commercial Hook Fishermen's Association. I appreciate the opportunity to speak to the commission this morning. First, we'd like to commend the commission for recognizing the urgent need for changes in river herring management and for pursuing this important amendment, including efforts to protect and restore critical habitat and migrational corridors.

Of particular concern for us is the river herring bycatch and incidental catch in high-volume at-sea fisheries. We strongly believe that this amendment should include provisions mandating that all river herring bycatch be measured and controlled in real time with pounds per trip limits and bycatch caps verified through shoreside monitoring programs, and that all river herring bycatch be reported by the states to this commission.

We also recommend that the commission urge NMFS to increase and improve observer coverage in small mesh fisheries sufficient to allow for fishery-wide extrapolation and subsequent calculation of total river herring bycatch with acceptable levels of precision. Finally, we believe that a coast-wide stock assessment should be completed as soon as possible to determine the nature and extent of river herring population declines. Again, we appreciate your ongoing efforts on these issues and urge you to take action now to preserve this resource. Thank you very much.

CHAIRMAN DIODATI: Will you be providing that as written comment for the draft amendment that's going out for public hearing?

MR. MENCI: We will have written comments to provide at a later time, yes.

CHAIRMAN DIODATI: Okay, thank you. Anyone else from the public? Well, to that specific issue there has been a lot of concern about river herring declines and possible reasons for the decline and certainly the potential for bycatch in at-sea fisheries. We have Dr. Matt Cieri here from Maine DMR, who has been working to quantify some of the bycatch issues in the various fisheries the gentleman refers to and other fisheries as well. Matt has a presentation today. I hope we have some questions for Matt.

### **RIVER HERRING BYCATCH REPORT**

DR. MATT CIERI: My name is Matt Cieri from the Maine Department of Marine Resources. Okay, this presentation was sort of spawned out of some work that I did with Gary Nelson and Mike Armstrong, both from Massachusetts DMF. There has been some recent concern dealing with bycatch of river herring in the Atlantic Herring Fishery in particular.

I've given this presentation a number of times over the last probably six months with some initial estimates given to the PDT for Atlantic herring on the council level, as well as the data workshop for the River Herring Assessment Data Workshop. It has become a little bit more refined and there is actually a white paper on the New England Fishery Management Council Website that goes over in excruciating detail for those of you interested in the estimates of river herring removals in the directed Atlantic Herring Fishery.

This work is still ongoing as we add years of data. From both portside and observer coverage, we should be able to hopefully get some better estimates as time

goes by. There has been a lot of recent concern about bycatch of river herring in the directed Atlantic Herring Fishery, particularly the single and paired mid-water trawl fishery.

There has been a recent ASMFC management action to reduce overall mortality on river herring through various sources. To look at these sorts of problems of bycatch, there are sort of two tools that we have available to us. One is the observer coverage from the National Marine Fisheries Service, and the other is a portside bycatch project, which you guys probably heard a little bit about yesterday during the ACCSP meeting yesterday.

Just to give you an overview, the observer project of the National Marine Fisheries Service, they put an observer on board and they're looking for bycatch and marine mammal interactions at sea. This is where you put a person on the boat, and they go out with the boat to document bycatch as well as other things.

Up until about 2004 there was really no expenditure of effort in the Atlantic Herring Fishery. There were other priorities at that particular time. It was expanded in 2004 because of questions dealing with haddock bycatch in the Atlantic Herring Fishery, particularly the mid-water trawl fishery operating off Georges Bank.

It has since declined due to a lack of funding. As we all know, funding has been getting tighter and tighter, and the result has been that there have been less directed trips observed in the Atlantic Herring Fishery. There are also a number of challenges when you put an at-sea observer on a high-volume fishery vessel. These vessels are not like groundfish vessels. They don't sort their catch. In general they tend to pump directly from a cod end into a hold.

Maybe there might be some grading system, maybe there's not, but requires a different set of protocols in order to document the bycatch, particularly when you're talking about tons of Atlantic herring and very similar sized individuals of other species.

The portside sampling project has been going on since about 2001, and it started off as a commercial catch sampling for Atlantic herring basically to grab samples for aging as well as maturity and growth. It was expanded in 2002 to include mackerel and it continued with other sampling including things such as menhaden and dogfish and a few others.

In 2004 we got an ACCSP grant to expand it up to doing portside bycatch which replaced this time on the pumping-out process. I'll get to that a little bit later. It's funded largely by ACCSP. I do a little bit of work – I'm not funded by ACCSP and I do most of the analysis. For the message for the observer, basically what I did was I extracted the observer trips in which there were target herring trips for the year.

The range is between North Carolina and Maine. However, there were no observed trips for purse seines in 2006 in the directed Atlantic Herring Fishery. Here we're talking about the sampler being present from the pumping of the cod end into the hold as on-board activities. They document the bycatch.

What they do is they sub-sample that pumping process. If I remember correctly from Amy's presentation and my work with her – Amy Van Atten from the Observer Program – they're basically sub-sampling usually ten orange baskets per haul taken at different spaces throughout the pumping-out process. Then they take all the stuff that's not Atlantic herring and weigh, measure, take biological samples, and then they stuff all this data into a central database which I query from Maine DMR.

We take a different tact with the portside bycatch; again, targeted trips by gear type. Our principal gear types in the Atlantic Herring Fishery tend to be bottom trawl, purse seines and then single and pair mid-water trawls. The range is again Maine through New Jersey is where the sampler goes. The sampler is present actually at offloading.

What he is actually looking at is the pumping-off process of the boat. The observer documents is basically what goes from the net to the hold, and James, my employee, documents what goes from the hold into a processing facility. We document bycatch by lot, and usually between 20 and 40,000 pounds on a conveyor belt is considered a lot. That may or may not be the total catch from a particular trip.

For example, a lot might be the entire catch from a particular trip in a particular area or it might be some sub-portion of that. Just like the observer, he weighs, measures and takes biological samples for each species that is not Atlantic herring. In many cases he also picks up a commercial catch sampling for both herring or mackerel depending on the target trip.

He then records the lot weight that he examined, as well as the statistical area fished, gear type and month. We do not identify a vessel during this

process as this is a voluntary project with the industry. With all this information, you sort of have to extract it and compile it for analysis. How I defined a directed Atlantic herring trip was those trips that actually landed or kept more than 2,000 pounds.

Two thousand pounds in the Atlantic Herring Fishery is considered the incidental trip limit and which you need special permits above that. It ends up getting combined with the portside – the portside and observer projects end up getting combined. One of the things that we did was take a look at 18 trips in which there was both an observer and a portside sampler on the same trip for the same catch event.

Then we did a statistical test called the Paired Wilcox Sign Rank Test to look at whether or not the observer was seeing the same thing as the portside bycatch person. That analysis indicated that in fact they are. Their estimates were very, very similar. However, there is only a low sample size, 18, and so the power of that test leaves a lot of room for doubt as to whether or not the observer and the portside person are seeing roughly the same river herring bycatch.

For our dataset of combined observer and portside project trips observed, we then stratify everything by year, area, gear type and quarter. Here are gear types of single and pair mid-water trawls, purse seines; and with the observed data only bottom trawls. We defined a number of different areas in which we stratify all this data by.

This includes eastern Gulf of Maine, western Gulf of Maine, Georges Bank, Cape Cod and then the southern New England area, and we'll get into that in a second. We then used a ratio estimation analysis, basically pounds of river herring discarded per pound of Atlantic herring kept. Then you propagate the area through the analysis.

Again, these are our stratified areas, and they include eastern Gulf of Maine 512 and 511; western Gulf of Maine; the Georges Bank/Cape Cod area, and one important thing to note is that the back side of Cape Cod, just east of Cape Cod, lies within the Cape Cod/Georges Bank area; and then southern New England.

When we take a look at some of the percentage coverage that this combined dataset has, we can see that there is actually some decent coverage for certain areas by gear type by quarter. The ones in red here are cells in which we had greater than 33 percent coverage by trip. So for the three years that we

actually looked at data, 2005, 2006 and 2007, we do have the number of observer trips, the percentage of those trips covered in terms of number of trips and the discard estimate as well as the coefficient of variation.

For coefficient of variation, think of it as plus or minus, for example, in 2005 60 percent, just to get a way of looking at it. Now, note some of the strata have really good coverage up here, and some of that good coverage is misleading. It might be because there were very few directed trips; so if you have observed trips on only four trips, then it's a hundred percent.

Getting into the data a little bit, here we percentage of occurrence of trips categorized and expresses the percentage of Atlantic herring landings. The way to read this is we have the percentage occurrence here on the Y axis and the percentage of river herring landed over here on the X. For example, 70 percent of the trips analyzed in this database had no river herring interactions at all.

Roughly 25 had greater than zero but then 2.5 percent of the landed Atlantic herring was river herring. Then you can see how that goes out from there. Now that's one thing to keep in mind as we're talking about a high-volume Atlantic herring fishery. Two percent might seem like not a whole lot of fish of river herring, but when you're talking catch events that are between 10 and 100 metric tons, that can end up being fairly significant, and we'll get into that a little bit later.

The interesting thing is the data itself suggests that there are a lot of zero trips in which there is no interactions with river herring at all, and that confounds the analysis immensely. For the scientists in the room it's basically a binomial distribution and it requires a lot more effort in trying to do some analysis for this, because it's non-normal.

When we look at the estimate of river herring bycatch by gear type – now, again, we have this from 2005 through 2007 – with the errors and the means, this is basically – if you expanded your estimates to the Atlantic herring catch by gear type, you can look at the actual removals of river herring by gear type from that estimate. For example, in 2005 pair trawls removed roughly around 250,000 pounds, plus or minus somewhere around 40 percent. You can see in 2006 the same thing.

Where we have bottom trawls, around 5,000 pounds; pair trawls at like two; and single mid-water trawls at

about a hundred. Then in 2007, again, a lot more river herring seems to have been caught. The interesting thing to note is, first off, as we bump up our estimates, our error goes up by quite a bit. Our coefficient of variation increased with our means, which has implications.

The other thing to keep in mind is that bottom trawls and single mid-water trawls are roughly equal in 2007 in their estimated removal of river herring, with pair trawls coming in a little bit lower. When we look at when this bycatch might be happening, it's pretty clear as to the pattern of when it might be happening.

As you can see for 2005 most of it happened in Quarter 1, the white bar; and Quarter 4, the blue bar. Similarly for 2006 most of it is in Quarter 1, and then by 2007 almost all of your estimate is in Quarter 1. Basically, this is happening during the winter months for all intents and purposes. If we look at the area in which this sort of occurs, again you see some stark differences.

In 2005 they're roughly the same, occurring in the western Gulf of Maine, the area of Cape Ann and Jeffries Ledge. Southern New England is the area around Block Island, as well as the area just east of Cape Cod and Georges Bank. I have got a couple of more slides for this particular thing. In 2006 it seems to occur mostly in the Southern New England area; and then as we move over for 2007 in some of our estimates, the predominant removals occur in the east of Cape Cod, as well as Southern New England.

Getting down to the nitty-gritty and taking a look at some GIS plots, as some of my co-authors did, if we look at the river herring bycatch by gear type, 2005-2007 – note this is only for the observer data because the portside data only records down the statistical area – we can a good picture as to where this sort of bycatch is occurring.

January through March in Quarter 1 is happening east of Cape Cod, in the area right near the mouth of the Narragansett/Block Island area, as well as sporadically offshore off of New Jersey and a little bit south of Long Island. Now, note that there are some fairly large events in here. However, you move five or six nautical miles or ten nautical miles away and catches in that same area are occurring with no river herring.

That seems to be the case in a lot of this where you have a particular catch event, but other observed events close by in both time and area don't have any river herring interactions at all. That tends to make

the error estimation within this analysis much, much higher. If we look at it for Quarter 2, you can see that there is very little interaction. What interaction is occurring is occurring in the Gulf of Maine, in the some offshore ledges and banks there.

By Quarter 3 there is very little interaction at all except for a little bit off of Cape Ann and fairly close to Jeffries Ledge, but by October through December much more interactions off of Cape Ann with river herring, the area east of Cape Cod and again occurring in the area near Block Island and south of Nantucket.

Some overall conclusions; if you look at the bycatch in terms of weight of Atlantic herring landed, it's pretty low. We're talking somewhere about a hundredth of percent to maybe 2 percent on some individual trips. Some are a little bit higher. They can be up fairly high, but there are a lot zeroes in which there are no interactions occurring.

But when you actually scale up the overall removals, it's roughly equal to what is removed as far as river herring from the entire commercial catch coastwide. I mean, in some cases we're talking around 750,000 pounds. The estimates, however, are highly variable. Because of low observer coverage as well as the nature of the distribution of the data, we're looking at roughly yearly estimates between 70,000 pounds and almost 2.5 million.

When you start looking at things in smaller and smaller increments by gear type, by month, by area fished, your estimates start approaching a hundred percent, so you could be talking 50,000 pounds plus or minus a hundred percent. The variability among years is pretty disconcerting. When you look at some of these estimates back here, for example, by gear type, purse seines in 2007 through the estimate caught more river herring bycatch than was caught by single mid-water trawls, pair mid-water trawls and bottom trawls the previous year.

There is a high degree of variability associated with it. However, if you take a look at 2007 – and I'm sure people are asking why is 2007 so high? It wasn't because there were more observed trips. In fact, there were less observed trips. This increase cut across all gear types for many of the observations that were found, and so this seems to be a real event. However, statistically if you compared 2006 and 2007, because of your low sample size you wouldn't get a significant difference.

The coverage is limited. It's not as bad as we first thought, but if you look back here, many of these cells have over a third coverage. If you look at both the portside and the observer coverage, for example, in total number of trips in 2005 roughly a quarter of the trips were observed.

However, those estimates have recently gone down for a number of funding issues – 14 percent by 2006 and last year less than 10 percent. You can see some generalities when it comes to river herring bycatch in the directed Atlantic Herring Fishery. Much of the discards seem to occur in Quarters 1 and 4, particularly Quarter 1, in the area from just east of Cape Cod, down through Nantucket, and the area off New Jersey and south of Long Island. Some things that you might want to consider is that the variability in some of these estimates are very high, and in fact are probably underestimates given the nature of the data itself.

The variability is more than likely higher than what I've shown here; again, because we're not sure we're not sure we're actually capturing the error effectively. The estimates and differences among years are difficult to deal with. There is a big difference 2005 and 2007 and so in many cases it's probably best to just make some generality assumptions as to the level of bycatch.

Seventy percent of the trips that we saw had no encounters of river herring at all, and 25 had a fairly small amount, between zero and 2.5 percent. Given that distribution it makes the need for adequate coverage even more acute. Because you're trying to capture a rare event with a non-distribution, you've got to bump up your sample size more.

However, the time and areas in which you find interactions are pretty consistent, particularly the areas in Southern New England off of Cape Cod usually in the winter or late fall. The relatively high estimates of bottom trawls which only were landing in some cases just above 2,000 pounds of Atlantic herring suggests that all small mesh gears may be capable of taking river herring as part of their operations.

This is my usual plea for money. This project not only looks at bycatch but it also looks at mackerel samples and Atlantic herring samples. There is a real need for this sort of long-term funding approach for the portside. Many people believe that the portside project compliments the observer project in a number of ways.

The portside observer is able to document very large volumes of catches and go through each individual species in a very timely manner. It's also much more cost effective. Typically the observer program runs at about \$1,300 a day, if I'm not mistaken; and for the portside it usually runs about a hundred bucks a trip. With that, I'm done, and I'll take whatever questions you want.

## **DISCUSSION OF RIVER HERRING BYCATCH REPORT**

**CHAIRMAN DIODATI:** Good presentation, Matt, thank you. I think the board will be glad to know that late last night ACCSP did some fancy footwork to push additional funding towards this project, so it will be continuing under the ACCSP funding. I'm glad that we did that. Before I go to the board – and I imagine we're going to have some questions here – I have a few myself, Matt.

You mentioned Amy Van Atten's work as well, and I think that Amy is the National Marine Fisheries Service counterpart that is responsible for the at-sea observer program. In your opinion is your work at this point the best available information that's been done? Is it combined with all of Amy's and is it as robust as we can make it or is there another dataset out there that we haven't included yet?

**DR. CIERI:** This is about all you're going to get, unfortunately. It is combined with a lot of the observer database. In fact, Amy helped me do a lot of the work for some of the queries as well as give me some background on how the observer project runs. This combines everything that we know to date between 2005 and 2007 on river herring bycatch.

**CHAIRMAN DIODATI:** The 2007 spike in landings; wasn't there a change in the Atlantic Herring Regulations that reduced fishing opportunities in the western Gulf of Maine and that may have caused more fishing for herring in general to take place perhaps in the areas that you identified are more problematic? Do you recall that; was there a regulatory change?

**DR. CIERI:** There certainly was a regulatory change. The fishing activity in basically Area 2, or the area in Southern New England, was roughly about the same in 2007, so it was roughly about the same number of trips with the same amount of herring that was landed.

CHAIRMAN DIODATI: And do you how much at-sea observer coverage there is currently in these fisheries?

DR. CIERI: It's really, really hard to say. Of course, the year is not over yet. My guess is that recently, within the last couple of weeks – I've sort of estimated off the back of the envelope, but about 50 percent since the fleet moved out to Georges Bank, but in other cases it's hard to know. A lot of that data for the observer stuff won't be in the database for another six or eight months.

CHAIRMAN DIODATI: Given that, although a lot of work has been done here, it seems that – you know, one concern is that the sample sizes still remain small relative to the scale of these fisheries. Do you think you could be thinking about perhaps making a recommendation of what needs to be increased at some point? Not to put you on the spot now, but –

DR. CIERI: Yes, that work is actually done by the Atlantic Herring PDT for the council. We're trying to come up with estimates of if you want, for example, a 20 or 25 percentage coefficient of variations how many trips do you have to have observed in some of those time areas south, so we're doing that work on the council side.

CHAIRMAN DIODATI: And I think as board members we should be thinking about if there are any recommendations that we want to send to counterpart management entities, either at the council or the National Marine Fisheries Service, to increase coverage of this type of sampling. Maybe a letter would be appropriate from this board. With that, I'm going to open it up. Go ahead, Bob.

MR. ROBERT E. BEAL: Just to follow up on a point you just made about this board commenting to the New England Council, the New England Council has request out right now or an opportunity available through December 5<sup>th</sup> where they're seeking recommendations or ideas on monitoring to be included in Amendment IV or considered for inclusion in Amendment IV that they're working on for their Atlantic Herring Fishery. If this board does want to comment, we can craft a letter and send that forward to the New England Council for consideration.

CHAIRMAN DIODATI: I think, Matt, we'll be depending on your help with a recommendation for the board to add comment to.

MR. G. RITCHIE WHITE: Matt, could you put the slide back up that showed five, six and seven by gear type? It seems like the bottom trawl, in 2007 the CV is quite a lot lower; any sense of why that is?

DR. CIERI: Yes, good coverage, believe it or not. The one thing to keep in mind – and I think I forgot to mention it – usually for the Atlantic Herring Fishery bottom trawls make up a very small proportion of the catch. It's somewhere around a thousand to maybe 2,000 tons. In 2007 it was bumped up to between 7 and 8,000 tons, so there is a significant increase in effort in the small mesh bottom trawl fleet in Southern New England.

CHAIRMAN DIODATI: I have one additional question. In your work, Matt, you're focused on river herring in terms of this bycatch sampling, but your samplers must see other species as well; so when we look at a report like this and you focus on river herring, do you have other information in the database about other things?

DR. CIERI: Yes, absolutely. We have estimates of – I mean, I could redo this analysis for any species.

CHAIRMAN DIODATI: All right. Jim.

MR. JAMES GILMORE: Matt, at the Mid-Atlantic Council meeting about two months ago Amy Van Atten had done a presentation on squid, mackerel and butterfish and indicated that there was I guess some difficulty with the observer program in terms of cooperation. Are you aware if that occurred for this fishery and this observer program; and if it did, was that maybe affecting some of the data or some of the variability?

DR. CIERI: If you're referring to the portside project, no. I mean, James has been working on this for a while. The guys trust him. For the most part he's allowed in the plants and he does a lot of work. If you mean for the actual at-sea observers, the truth of the matter is I don't know. That's a question for Amy. I can tell you that the herring fleet in general has been very accommodating to both the observers and the portside people.

MR. VITO CALOMO: On this graph here, the bottom trawl, is that like squid, whiting, shrimp, butterfish bottom trawl; is that what we're talking about?

DR. CIERI: Yes, that's a good question. I haven't really explored the bottom trawl. All I know is that they were small mesh bottom trawls that were

targeting other species. I don't know what species they were targeting in general. I defined a trip as somebody who landed more than 2,000 pounds of herring.

That is something that we can delve into the database a little bit if people would like to, is to sort of categorize those small mesh bottom trawls, what they told the observer they were targeting and how much Atlantic herring they landed.

MR. CALOMO: Mr. Chairman, in your estimate, being with the alewives and river herring for years, shad and stuff, has the decline of river herring and shad and others like that been going on for ten years, twenty years or at least thirty years or better of decline?

CHAIRMAN DIODATI: You're asking me, Vito?

MR. CALOMO: Yes, sir.

CHAIRMAN DIODATI: Yes, the decline I think in previous presentations of the technical committee has been observed for perhaps the past decade at least; an ongoing situation, yes.

MR. CALOMO: And other than the foreign nationals being here, this resurgence of mid-water trawlers or pair trawlers or whatever the case may be, purse seiners, I think are only five years old, about?

CHAIRMAN DIODATI: I don't know.

DR. CIERI: Mid 1990's, so roughly about ten years.

MR. CALOMO: Ten years; I don't think so. I think more like maybe 2000, 2001.

CHAIRMAN DIODATI: Or 2002.

MR. CALOMO: Or 2002; I think so, so let's just use 2002. That's six years ago, so for 24 years prior to that this fish has been disappearing, and now we're seeing this white line is showing equal to what we think are mid-water trawlers or pair trawlers of some kind of trawlers here; and the white line that I know consists of shrimp, whiting, squid fishery, scup fishery, butterfish fishery, so they all seem to have some kind of bycatch.

It seems like whatever observations you make are pretty equal here. I just know that when I purse seined in 1978, '79, into the eighties there, that no one paid too much attention to blueback herring and stuff like that. There were times that I'd land a

million pounds for a week of this species back in the seventies for the reduction plants.

Also, when I went purse seining in the Gulf of Maine, I never went to South New England or Georges, I purse seined because I didn't have a large vessel, which is about 87 feet long, 80-odd feet long, that I would purse seine in the Gulf of Maine predominantly for Atlantic herring, that I would have nights that I would have maybe 35 or 40 percent of my trip could be some kind of blueback or alewives at that time.

You know, we were not aware that there was a problem with this fishery. We caught them as part of our fishery. No one stepped up to say that we were destroying something that we shouldn't have at that time. It looks like that everybody is to blame for what is happening with the alewives besides the humans that have dammed up every estuary that they possibly can go up and the pollution that's taking place.

I guess we're all at fault here so we need to work together to remedy the situation to bring back these alewives. I know in Massachusetts, my state of Massachusetts, we have prohibited the landing of this species. I guess we've all got to do our part. Thank you, Mr. Chairman.

MR. A.C. CARPENTER: Well, now that I know that it was Vito's fault, I'll move on to another question. In the sampling I think you said you were recording the length of these things. Is there some kind of breakout as to how many are mature and how many are immature or kind of seasonality you see to that?

DR. CIERI: In general, clupeids tend to school by size, so it's amazingly interesting to find that the river herring that you catch as bycatch are usually about the size as the Atlantic herring that you're catching at the same time. We can get that kind of information broken out by size and whether or not they're adults or juveniles. From my own look at the database, they're pretty much adults, because they were pretty much targeting adult Atlantic herring, so they're roughly about that size.

CHAIRMAN DIODATI: Terry.

MR. TERRY STOCKWELL: For the benefit of those who aren't familiar with the development of Amendment IV that Bob is referring to, the Herring Committee is working on the development of this amendment that is going to focus on monitoring and on the implementation and ACLs and AMs. We have

had the opportunity to see this presentation before and we had considerable discussion.

Two motions came forward which I think will be helpful for this board to know about, one of which was very specific for the New England Council to collaborate with the Mid-Atlantic Council and the commission towards addressing bycatch issues. The second was an incorporation of time and area closures specifically of the Cape. There was additional discussion about looking at the area off of Gloucester, but we ran out of time. The Herring Committee is meeting again in another month.

CHAIRMAN DIODATI: Thank you, Terry. Before I go to the audience, I think that it's important – I think we all recognize that the fisheries that were sampled dockside were fisheries that were taking place perhaps offshore or certainly out of the waters of all of our states, so we're going to have to look towards other appropriate venues to manage perhaps; either that or staff is going to have to help us build in appropriate rules in the next amendment that are reasonably able to address this from a state's perspective given that this is a state plan.

Is there anyone in the audience that would like to ask questions or comment on the report that Dr. Cieri has just presented? Go ahead, sir.

MR. TOM MENCI: Again, my name is Tom Menci. I'm from the Cape Cod Commercial Hook Fishermen's Association. I just want to thank Dr. Cieri for the presentation. Despite the huge variance and the low sample size and subsequent low statistical power, particularly when you're breaking things down by year and quarters, I think the takeaway from these data is that there is a substantial problem.

We're seeing that in the small mesh fisheries. They are interacting with river herring at sea. We don't really know how big – and I think Dr. Cieri would agree, we really don't have a good sense of how large this problem is. We know it's substantial and it could be that there are catastrophic bycatch events occurring with a high degree of spatial and temporal variation there.

There are a lot of zeroes, but those events that do catch river herring can be substantial. It's true that the council is working on Amendment IV and that they're considering time/area closures and a bunch of measures regarding river herring bycatch. I would just point out that amendment might not be implemented, might not be on line until around 2011.

I think this problem deserves and merits more immediate action. It deserves a response from this commission. We support a two-year period during which we'd have a goal of a hundred percent coverage to get an idea of what exactly we're looking at. As the chairman pointed out, this is the best available data, but there isn't enough of it. We support a two-year hundred percent coverage goal to really get at what exactly we're looking at so we can address issues like time/area closures and bycatch caps. Thank you very much.

MR. GREG DiDOMENICO: Mr. Chairman, my name is Greg DiDomenico. I work for the Garden State Seafood Association, but briefly I want to make some comments on behalf of some of fisherman and some of the – well, some of the harvesters and some of processors engaged in this fishery from Gloucester, from New Jersey, Cape Seafoods, Lawton's, Norpel. We, throughout this entire process, have been approaching this in a way just to really find out what the problem is, what is the extent of the bycatch.

Whether it's insignificant or significant at this point, I don't think anybody can really tell. All we're really asking for is the data to be fleshed out. For these issues to be properly vetted by scientists and by yourselves, I think Matt's work is excellent. I think we're looking forward over the next couple of years to determine really what the problem is. I can also tell you that the idea of a hundred percent observer coverage we believe is certainly unfair, and we do not support that at this time. Thank you.

CHAIRMAN DIODATI: Anyone else in the audience? Okay, Matt, I've heard requests for a hundred percent in coverage over and over for the past year or so relative to these fisheries. I guess what I'd like to ask you on behalf of the board, is it possible for you to put together a proposal for an expanded sampling program with a cost estimate that might be conducted for two years, and that would include what you have now, which is a combination of at-sea and dockside sampling. Can you tell us what that would cost? Working with perhaps some of my staff and folks at the National Marine Fisheries Service, is that an appropriate task for you?

DR. CIERI: We've already started that process on the council side. We've been in the process of trying to work some of the managers and figure out what bycatch they're to document, what areas, what level of observer coverage, what level of bycatch, portside bycatch would be needed to achieve those goals.

So within very short order, probably within the next probably three or four months, we'll get some preliminary information. Some of that preliminary information is already out on different levels of different confidence intervals and what kind of a level that would be. So that is already available currently.

MR. CALOMO: First I want to apologize, I was out of the room, about this hundred percent coverage. What I'm asking is when you say a hundred percent coverage – of course, this is not a sea herring committee meeting or board meeting. This is the river herring. When you say a hundred percent coverage, are we talking about like the squid processors at sea where they process their fish at sea and throw the discards overboard or the bycatch overboard?

Are we talking about every shrimp boat; are we talking about every whiting fishery boat; are we talking about squid boat; are we talking about scup boat; are we talking about every butterfish boat; are we talking about every vessel that has a small mesh aboard; is that what we're talking about?

CHAIRMAN DIODATI: Well, Vito, what I'm asking Matt and other researchers to do is to come back to the board at a future date with their own proposal of what they think would be required to give us a statistically adequate estimate of river herring discards in our fisheries; so, no particular fishery at this point. I'll leave that up to Matt.

I think he has done some excellent work here that provides the basis for him to scale up where the work needs to be done. We'll see that in the future. Of course, we hear requests for 100 percent coverage. I think those requests are usually pointed at the mid-water trawl fishery, and that's not particularly what I'm asking for.

MR. CALOMO: So just for my own clarification, then, we're talking about throughout the range, fair and equal?

CHAIRMAN DIODATI: Yes, whatever is needed.

MR. CALOMO: Yes, and I just want to add I think the graphs are very good. I think Matt has done an excellent job on recording this and continues to do an excellent job. We appreciate it and thank you very much, Mr. Chairman.

MR. R. WHITE: Mr. Chairman, could I ask a question of the last member of the audience that gave us a statement?

CHAIRMAN DIODATI: The gentleman from New Jersey?

MR. R. WHITE: Yes.

CHAIRMAN DIODATI: If he doesn't mind. Greg.

MR. R. WHITE: You made the comment that you're in favor of getting all the data needed to find out what this issue is, but then you said you were opposed to a hundred percent coverage and you felt that's unfair. Would you elaborate on that; in other words, is there a financial issue with a hundred percent coverage? You have to pay for it or what is the negative impact if there was a hundred percent coverage?

MR. DiDOMENICO: Well, I would have to say that the immediate objection is that particular coverage, that level of coverage is not supported scientifically and it's not applied to any other fishery.

#### **VIRGINIA SHAD BYCATCH PROPOSAL**

CHAIRMAN DIODATI: Anyone else from the board for the last time on this issue because I want to stay with the time allotted us? The next item is a proposal from the Commonwealth of Virginia. Okay, Mr. Travelstead are you ready?

MR. JACK TRAVELSTEAD: Thank you, Mr. Chairman. I'm not sure if it's appropriate to hear from the technical committee first on this or not, but I'll be glad to brief the board on the proposal. This is the fourth year in a row now of a request from Virginia for a very small limited bycatch of American shad in our rivers.

Each of the previous proposals have been approved in some form by the board. This year we're asking simply for status quo approval of what we had last year. The number of permittees and the number of fish that are taken in this fishery appear to be getting smaller mostly because a lot of the fishermen are dropping out because of the economy.

I think last year we were down from 38 permits to 19; total number of fish taken has dropped from 271 to 166 fish. We're not talking about a huge fishery by any means. We have modified this proposal over the course of the past three years. We no longer allow any bycatch to occur on the spawning grounds. This is a fishery that is downstream of the spawning

grounds. The vessels are required to have permits from the agency. They are limited ten shad per vessel per day.

They must show evidence of participating in other fisheries by having other directed species on board to qualify to take the shad. There is a phone-in requirement where they phone in daily to report their catches as well as their normal monthly reports to us. It seems to be working well. It's all designed simply to convert what would be dead discards to a marketable product. I'll leave it at that unless there are questions.

CHAIRMAN DIODATI: Any questions for Virginia on this? Go right ahead.

MR. LEROY YOUNG: I think I recall seeing in the proposal that you plan to evaluate how many of those fish are hatchery origin versus wild, and my question is has that been done? Is that in Virginia's Shad Report? I'm curious about that.

MR. TRAVELSTEAD: It is done every year. I think it's in the VIMS Report that is attached to our report. I can't quote the numbers to you, but there are some occasional hatchery fish that do show up.

CHAIRMAN DIODATI: Any other questions? Okay, before we entertain any motions on this, we do have our chairman of the technical committee here. Bob, did you want to give your review?

MR. ROBERT SADZINSKI: Mr. Chairman, the technical committee recommends approval of this proposal after a lengthy discussion. Thank you.

CHAIRMAN DIODATI: A short report, thank you. I'll entertain a motion. Mr. Adler.

MR. WILLIAM A. ADLER: I'll make a motion that the ASMFC Shad and River Herring Board approve Virginia's proposal for the bycatch allowance of shad. Is that appropriate?

CHAIRMAN DIODATI: Yes, it is. Is there a second? Seconded by A.C. Carpenter. Any discussion on the motion? Vito.

MR. CALOMO: How strange this is that one of us is supporting and one may not support. I think in the Commonwealth of Massachusetts, unlike the Commonwealth of Virginia, I'd say that we have a zero possession bycatch of shad. I think one of our vessels recently got fined about \$5,000 for having some shad aboard. I'd have a hard time supporting

this where my own state of Massachusetts is fining vessels \$5,000 for possession of shad. I can't support this.

CHAIRMAN DIODATI: Any other comments on the motion or discussion? Why don't we take two minutes to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN DIODATI: Are we ready to vote? All in favor, raise your right hand; opposed, same sign; null votes; abstentions. The motion passes 17 in favor; 1 null. Okay, the next item on the agenda, Toni Kerns is going to give a presentation that reviews the FMP for Shad and River Herring for 2007. She will introduce Kate who is here today, a new plan coordinator with ASMFC.

## **2007 FMP REVIEW OF SHAD AND RIVER HERRING**

MS. TONI KERNS: Thank you, Mr. Chairman. Sitting to my right is Kate Taylor. She is the new coordinator for shad and river herring. If you haven't met her, I encourage you to do so. I want to thank Kate for her work on this presentation. Staff is currently passing out a copy of the 2007 FMP Review.

The status of the stock has not changed since the 2007 benchmark. Shad stocks are currently at all-time lows and do not appear to be recovering. The status of hickory shad, blueback herring and alewife is currently unknown. On this slide you have a graph of the National Marine Fisheries Service landings reported for the Atlantic coast. On American shad, the 2007 reported pounds was 776,316.

The American shad commercial fisheries 2007 landings are about 800,000 pounds, which is a 24 percent increase from 2006. North Carolina and South Carolina accounted for about 70 percent of the commercial harvest. The Ocean Intercept Fishery closed in 2005. In 2007 there were 4,562 pounds recorded. This is 0.55 percent of the coast-wide directed harvest for shad, which is a decrease from 2006 where 2 percent of the coast-wide directed harvest was reported.

There were no reported landings for the bycatch from Maine, New Hampshire, Massachusetts, Pennsylvania, the District of Columbia and Florida. The recreational harvest for American shad decreased 77 percent from 2006. We saw a change in where the majority of the landings were coming from. In 2007

a hundred percent of the recreational harvest came from the state of New York; whereas, in 2006 91 percent of the recreational harvest came from the Commonwealth of Massachusetts.

There was a 287 percent increase in the number of fish that were discarded from 2006 for recreational. The National Marine Fisheries Service reported landings for hickory shad along the Atlantic coast for 2007 was 53,000 pounds. The commercial fisheries from the state-reported landings was 58,000 pounds. The states of North Carolina, South Carolina and Georgia were the only states that had landings. North Carolina comprised 96 percent of those landings.

The total landings was an increase of 24,000 pounds from 2006. In the recreational fishery for hickory shad the 2007 reported fish harvested were about a hundred thousand pounds. Eighty-four percent of these were from the Commonwealth of Massachusetts and Connecticut. This was a 20 percent increase in the number of fish harvested from 2006.

For the discards of hickory shad in the recreational fishery, there was a 626 percent increase from 2006; 96 percent of those came from the state of Maryland. The National Marine Fisheries Service reported landings for river herring along the Atlantic coast was just under a million pounds. Of those, about 900,000 were alewife herring and about 20,000 were blueback herring.

For the river herring commercial fishery there was a 77 percent decrease in landings from 2006. The 2007 landings were about 300,000 pounds. The landings occurred in Maine, New Hampshire, New York, Delaware, the Potomac River Fishery Commission, North Carolina and South Carolina. There is a moratoria in the states of Massachusetts, Rhode Island, Connecticut and North Carolina.

The recreational harvest for 2007, we saw a 2,000 percent increase in the number of river herring that were harvested from 2006. The state of Maine composed 28 percent of that harvest and New Hampshire 72 percent of the harvest. They were the only two states that had reported harvest for river herring. Alewife herring composed 97 percent of that harvest.

For the number of fish discarded, there was a 60 percent decrease in the number of fish discarded in the river herring fishery. Alewife herring composed 74 percent of those discards. We currently still have stocking programs in Maine, Pennsylvania,

Delaware, Maryland, Virginia, and North Carolina, as well as the Fish and Wildlife Service.

American shad had a six million increase in the number of fish stocked from 2006 to about 22 million pounds. Hickory shad saw a four million decrease in the number of fish that were stocked from 2006, which was almost eight million pounds. Alewife stayed about the same at 90,000 thousand pounds.

For de minimis the requirements are that a state has less than 1 percent of the coast-wide landings for American Shad. The states of Maine and Massachusetts have requested de minimis status. Your report that was just passed out only states the Commonwealth of Massachusetts for de minimis status because the letter from Maine came after the report was compiled. Also, the state of New Hampshire asked for de minimis status.

All the states do meet de minimis status, and the PRT will add the state of Maine to the FMP Review. The plan review team reviewed the states' compliance reports to that of the FMP requirements and found the following inconsistencies. For the requirement of having a Harvest and Loss Table, the states of Rhode Island, Maryland, the District of Columbia, and Florida did not give us a Harvest and Loss Table, but the information that's within the Harvest and Loss Table was found within their compliance reports.

The PRT just requests that those states in future years please include the Harvest and Loss Table as required by the plan. The plan also requires that states report on their bycatch. There is a 5 percent bycatch reporting requirement. The states of Rhode Island, New York, Maryland and Delaware did not report on any bycatch.

The state of New York has made a request into the National Marine Fisheries Service asking for the data that's necessary to compute this calculation and waiting for information back from the National Marine Fisheries Service. The other states just do not have the data available to determine that estimate.

The PRT made a few recommendations. Any state that puts forward any bycatch allowance or a program, that a survey be implemented to effectively characterize the fishery in question and that monitoring should be done to assess any impacts on the stock. They also requested that states should incorporate the recommendation of the stock assessment into all their monitoring programs and assessments for the fishery.

The PRT requested that states include the most recent year of their creel survey in their annual reports; and if it's an off year, then states just include the number of fish harvested from the MRFSS survey. States are required to do a recreational creel survey every five years according to the FMP.

The plan review team also recommended that there be increased communication between the Shad and River Herring and Sturgeon Technical Committee to facilitate accurate reporting of the sturgeon bycatch that is required by Amendment 1 of the plan. Lastly, they recommended that in the absence of a fishery, states should report no fishery or no landings in their annual compliance reports so that the PRT can accurately complete the compliance review.

It also would be helpful for the upcoming river herring assessment. For instance, the state of Connecticut has a moratorium on river herring, but it's not specifically stated in the FMP review, so it would be helpful if they would just state that so there is no mistake or confusion by the PRT. Any questions on this report?

MR. CARPENTER: You were referring to numbers of 22 million stocked and you said "pounds"; is that actually the number of fry that were stocked?

MS. KERNS: I apologize, yes, they are fry.

CHAIRMAN DIODATI: Any other questions? Go ahead.

MS. MICHELLE DUVAL: Toni, just a quick question. I think you said something along the lines of 53,000 pounds of hickory shad for North Carolina, the highest level of commercial landings, and it sounds like that might be a 2006 number instead of 2007 because what I'm seeing in the compliance report is more like 35,000.

MS. KERNS: For recreational or commercial?

MS. DUVAL: Commercial. We can correct that later. I just wanted to check on it.

CHAIRMAN DIODATI: More questions? Jaime, go ahead.

DR. JAIME GEIGER: On Page 4 of the report, at the bottom it states, "In October of 2006 the management board suspended the requirement to monitor the recreational fishery." Mr. Chairman, could you refresh my memory and say what prompted us to waive that particular requirement?

CHAIRMAN DIODATI: Certainly. Toni, can you refresh our memory?

MS. KERNS: I'm going to ask Bob if he refresh our memory since I wasn't the coordinator for shad and river herring at that time.

MR. BEAL: Who is next? The Atlantic Coastal Act Plus-Up Funds, we had set aside \$175,000 for two years to develop a pilot study to sample recreational catch in river systems up and down the east coast or to recreate a template to do that. That project really never got off the ground. A lot of states were relying on that template before they developed their in-river sampling programs. Based on the fact that template never was developed, that money was reallocated to other projects. The board said since the states need some guidance and some financial assistance in order to be able to conduct this sampling, the board decided at that time to suspend the sampling program.

CHAIRMAN DIODATI: Any other questions? I have one. For the states requesting de minimis, do we need an action for that or is that just afforded by either they qualify or not?

MS. KERNS: We need a motion, right.

CHAIRMAN DIODATI: We will need a motion. Mr. Grout might have that motion.

MR. DOUGLAS GROUT: I'd like to move that the Shad and River Herring Board accept the plan review for 2008 and to grant de minimis status to the states of New Hampshire, Maine and Massachusetts.

CHAIRMAN DIODATI: Seconded by Mr. Adler. Discussion on that motion? Does any member of the public want to ask any questions about this review? This review was for the 2007 Year, and it's de minimis for 2008.

MR. GROUT: It sounds like a good friendly amendment. Dave.

MR. DAVID SIMPSON: If the motion could clarify de minimis for which species and potentially whether it's commercial and recreational, et cetera.

CHAIRMAN DIODATI: I think it was for the commercial fishery for American shad, but go ahead, Doug.

MR. GROUT: In the case of New Hampshire I thought it was for recreational and commercial or is that not the case? I'm not going to read my request.

CHAIRMAN DIODATI: Okay, de minimis will be for those three states for both fisheries, recreational and commercial, and the species is American shad. Ready for a vote on this. Go ahead, we want someone to read the motion for Joe. Doug.

MR. GROUT: Move that the board accept the 2007 FMP Review and approve de minimis status for the 2008 Commercial and Recreational American Shad Fishery for Maine, New Hampshire and Massachusetts.

CHAIRMAN DIODATI: I don't think there is a need to caucus on this, so I'm going to ask for hands. Everyone on favor, raise your right hand; opposed, same sign; abstentions; null votes. That motion passes with 17 for the motion.

## OTHER BUSINESS

Any other business to come before the board today?  
Jaime Geiger.

DR. GEIGER: Mr. Chairman, I did want to mention to the board that the Fish and Wildlife Service continues to provide fish passage engineering expertise to a variety of states. Certainly, fish passage becomes more and more important, and, certainly, identified in the coast-wide shad stock assessment fish is identified as one of those high-priority needs.

The Service is continually trying to provide this expertise. We currently have an advertisement out on the street to try to maintain this fish passage engineering expertise of about three people. That is our target level of effort in this particular scientific expertise. We are struggling to continue to try to provide this kind of support.

It's our intention, however, to try to keep this fish passage engineering expertise available to the states and keep it going. I'm hopeful to keep at least three fish passage engineers engaged in this effort. Thank you, Mr. Chairman.

CHAIRMAN DIODATI: Thank you, and the Commonwealth of Massachusetts is one that has taken full advantage of that resource; and anything we can do to help to continue with that collaboration, let us know.

MR. CRAIG SHIREY: Mr. Chairman, if we could go back to the issue regarding American shad on Page 4 of the review where it says, "In October of 2006 the management board suspended the requirement to monitor the recreational fishery," should we take that to mean that this is no longer a requirement as is listed in the table I believe of state requirements?

CHAIRMAN DIODATI: We're going to clarify that for you. Bob.

MR. BEAL: Craig is right, obviously. It's still included in the Table of Requirements and Compliance Criteria, but the board suspended that requirement indefinitely. I think at the time there was discussion that initiating an addendum and going through that entire process just to suspend one of the monitoring requirements probably wasn't worth the effort that was required to that.

I think the board agreed to include that in the next addendum and reconsider the issue as resources become available and templates become available for that type of sampling program. I think the new MRIP Program is also considering some sampling at some level, anyway, in some of the river systems. I think at this time it's probably suspended indefinitely until the board acts again.

CHAIRMAN DIODATI: Anything else? Wilson Laney in the back of the room.

DR. WILSON LANEY: Mr. Chairman, to that point, Bob and I had discussed earlier this morning I think a letter is going to come before the Policy Board that was drafted by the Striped Bass Technical Committee that addresses sampling of anadromous fish by the MRIP Program to the inland extent of where they occur, so that's something that may address this in part if the board decides to move on that letter.

## ADJOURN

CHAIRMAN DIODATI: Any other business? We are adjourned.

(Whereupon, the meeting was adjourned at 11:45 o'clock a.m., October 23, 2008)