

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

**Radisson Hotel Old Town  
Alexandria, Virginia  
May 7, 2007**

Approved August 13, 2007

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## **ATTENDANCE**

### **Board Members**

Terry Stockwell, ME, proxy for Lapointe (AA)  
Pat White, ME (GA), Chair  
Dennis Damon, ME (LA)  
John Nelson, NH, (AA)  
Rep. Dennis Abbott, NH (LA)  
David Pierce, MA, proxy for Diodati, (AA)  
William Adler, MA (GA)

Vito Calomo, MA, proxy for Rep. Verga (LA)  
Mark Gibson, RI (AA)  
Eric Smith, CT (AA)  
Pat Augustine, NY (GA)  
Peter Himchak, NJ DFW, proxy for D. Chanda (AC)  
Erling Berg, NJ (GA)  
Dick Herb, NJ, proxy for Asm. Fisher (LA)

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

### **Ex-Officio Members**

Dr. Matt Cieri, ME DMR

David Ellenton, Cape Seafoods, Inc.

### **Staff**

Vince O'Shea  
Robert Beal

Chris Vonderweidt  
Nichola Meserve

### **Guests**

Russell Dize  
Bruno Vasta  
Gerald Morrison  
David Turner  
Jonathan Pinkerton, NOAA  
Janice Plante, Commercial Fisheries News  
Greg DiDomenico, Garden State Seafood Assn.  
John Tulik, MA Environ. Police

Dan McKiernan, MA DMF  
Jeff Kaelin, Oceanspray Partnership  
Amy Kenney  
Stephen W. Heins, NYS DEC  
Mark Alexander, CT DEP  
Dave Simpson, CT DEP  
Jim Kendall, New Bedford Seafood Consulting  
Douglas Grout, NH Fish & Game

The meeting of the Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, on Monday, May 7, 2007, and was called to order at 1:00 o'clock, p.m., by Chairman Eric Smith.

### CALL TO ORDER

CHAIRMAN ERIC SMITH: Okay, now if you will take your seat we will get started. This is the May meeting of the Atlantic Herring Section. The agenda is on that back table to my left. For those who are interested, there are seven voting members of the section, Maine through New Jersey.

And we have adopted a new public comment policy which we're starting to phase in now at this meeting. And it's essentially we'll have our public comment period, as I mentioned a minute ago. People who want to speak at that time sign in. I mentioned that.

The new part is to the extent that we can do so and organize and get our business done in an economical way, we're going to refrain from taking public comment on things that have gone out to hearing and that have come back and we're ready to take an action on because the public comment period was where those comments were supposed to be contributed.

If we make a change, if there is a motion to amend something, that opens it for discussion, including the public, consistent with our allocation of time and how many people want to speak and what other business we have to conduct. So, keep that in mind. Having said that, I'm not certain that anything on this agenda today falls in the realm of things that have been out to public comment and we're talking a final action.

### APPROVAL OF AGENDA

So, that's a round-about way of saying that time permitting I will allow public comment on each of the agenda items if we can do so. Okay, the, having said that, is there a motion to approve the agenda or are there items people would like to add? Dennis Abbott.

REPRESENTATIVE DENNIS ABBOTT: **Motion to approve.**

CHAIRMAN SMITH: Motion to approve the agenda. Seconded by Bruno Vasta. Any

disagreement? Seeing none the agenda is approved. Public comment period for items not on the agenda, anybody in the audience? Jeff Kaelin.

### PUBLIC COMMENT

MR. JEFF KAELIN: Thank you, Mr. Chairman. I sent a letter to Chris the other day. I think you have it in front of you. It's just a, this is just an FYI for the Atlantic Herring Section and later for the council committee. And it discusses the language in the Letter of Authorization to Carry Herring. Under the new amendment you have to have an open access permit and an LOA. And these comments are being, were filed on behalf of the Ocean Spray Partnership.

We have a fishing vessel that we have used as a carrier in the past. We didn't have an LOA. We do now. And when we looked at the language it is very restrictive in that you must use that vessel only to carry herring. And there is a seven-day minimum period under which you have to operate.

In other words, it restricts a boat from carrying herring one day and menhaden another day, for example, which is part of our business plan. This is a little bit of an analysis around the comments on this issue that came from the language that was published on March 12<sup>th</sup> by the agency. And we hope that Pat Kurkul can administratively create some more flexibility in the language of the LOA.

That's the advice that we received from the permit office and from the policy office at the region was to write this letter and see if administratively they can't create a little more flexibility. It was one of these issues that the amendment didn't really address, although there were some comments around this issue in the public comment portion of this action. And I want to say one more thing.

I don't want to take up much time because I know you have a big agenda but this is a situation right now if you have a carrier you can only carry herring. If you're a limited access herring vessel, you can take any species that you can land. Those boats can also act as carriers so it gets a little complicated.

Now we have kind of a double standard in the use of carriers, whether it's a dedicated carrier or it's a limited access boat acting as a carrier. And we raised this issue just to create the maximum amount of flexibility for our business. So I'll leave it there unless there is any questions. I appreciate the time to bring this to your attention.

CHAIRMAN SMITH: Thank you, Jeff. Other members of the public wishing to speak? Okay, seeing none the next agenda item is the 2006 fishery management plan review.

## **2006 FISHERY MANAGEMENT PLAN**

### **REVIEW**

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. So, when the report was mailed to you guys on the CD it didn't include two things because the plan development team had not yet received them. We asked New York for their landings and they got them to us so I'm going to include information in this presentation that wasn't on the CD.

And, also, the Massachusetts compliance report I got about 15 minutes ago. And I looked through it and it looks okay; however, the plan development team is going to have to go back and, you know, analyze it a little bit further before making recommendations to you guys so just keep that in mind. And I'll try to address that as we go through this presentation.

So, the status of the fisheries management plan, this review was regulated by the regulations under Amendment 1. Now, Amendment 2 becomes active or became active January 1<sup>st</sup> of 2007 so states are now required to implement the regulations consistent with Amendment 2 provisions. And I'll go into that a little bit further ahead in both the meeting and this presentation.

And then the Federal Amendment 1, the Final Rule, was published March 12<sup>th</sup>, 2007. And we'll talk about that a little bit more in detail. So the landings, our fishing mortality rate is well below the target and threshold and the majority of landings are U.S. landings.

And this is just a summary of the, what each state's preliminary landings are. And keep in mind, Massachusetts landings are not included and the New York landings are new. They weren't included on the compliance report. And also these are preliminary landings so you know you've got to take them as that.

The status of the assessment, there has been no new information since the 2006 Transboundary Resource Assessment Committee report. You guys are probably aware of it. There was a copy on the CD. However, for those of you who were at the Maine

Fisherman's Forum, Bill Overholtz presented a new multispecies model which is going through peer review right now.

And that looks at predatory fish needs, ecosystem needs and marine mammal and other ecosystem needs so it might be something that the TRAC would use in the future when setting the total allowable catch for the different areas or the overall biomass.

And in the future a 2009 TRAC is likely. These things are scheduled every three years. However, it will depend on the funding so, you know, there is never any guarantee. But 2009 is the timeline. So the management measures under Amendment 1 for 2006 included spawning restrictions.

There was a 20 percent allowance for spawned herring. That's gonadal Stages 4 and 5. Landings are prohibited after the total allowable catch of an area is taken so this at the time is Area 3 and Area 1A. Dealers must report weekly. Days out is a primary management or the primary effort control measure. There is a vessel size limit 165 feet and a prohibition on direct mealing.

Now going through state compliance, all the states who have submitted their reports met the requirements. Massachusetts' report wasn't in by the time this was prepared. It looks okay, but we need to go through it so just keep that in mind. Moving on to de minimis, New York is the only state which requested de minimis status.

They submitted their landings after the initial FMP review upon our request and it's a little bit tricky but basically de minimis takes the average of the last two years of catch and if it's less than 1 percent then they meet the requirements for de minimis and they don't have to enact herring regulations.

So taking the 2006 preliminary New York landings, plugging them into the 2005 landings, because they're finalized and we don't have Massachusetts', who is a major contributor to the overall landings, so we got 1.1 percent coastwide catch by doing that which is more than 1 percent but if you look at the last two years, in 2005 New York was .02 percent.

So this averages to .56 percent for the past two years. So there is a little bit of inaccuracy here as far as we're taking the 2005 or 2006 number and plugging it into 2005 landings and it's also a preliminary number. However, it's .56. It's not very close to 1 percent.

So, based on that the plan development team recommends granting New York de minimis status and, as we talked to New York, if they continue, if this year's landings are as significant as last year's, they will not meet the requirements for de minimis in the future but, you know, we'll cross that bridge when we come to it.

So now looking at the future, starting in 2007, January 1<sup>st</sup>, Amendment 2 and Technical Amendment 1 became law. So under this states now meet and agree upon which days they want to take out just based on a meeting and discussing the topic. Before and it was a percentage, 50 percent you would take two days out; 75 percent you would take three days out.

Now they say whatever works best for Massachusetts, New Hampshire and Maine. There are now zero tolerance spawning closures. There was a little disagreement about this in the past but now you are not allowed to fish during the spawning closures and these happen in August in September.

As far as states just kind of looking ahead to the future and saying our state is going to be compliant with this, right now New Hampshire is compliant. Their regulations already have a no-fishing. Massachusetts is going through the process and it will, I believe, be the end of this month when they will have regulations in place.

And Maine is waiting to see what the section recommends for east of Cutler so that they can change both regulations at the same time, maximizing efficiency. So it looks like everybody is going to be fine. The spawning closures don't happen until August and September so they have a little bit of time to enact those.

There are also new provisions for the fixed gear fishermen in Maine so it's broken down east of Cutler and west of Cutler. And the idea here is that the Area 1A total allowable catch is often landed before the fish move inshore making themselves available to the fixed gear fishermen. So for east of Cutler there are no regulations. They are completely exempt of any closures. It's a very insignificant fishery.

I think it averages around 25 metric tons a year. The maximum that they've had, I believe, is 100 metric tons. And then for west of cutler it's a bit more significant of a fishery so it's included in Area 1A total allowable landings and they just set aside 500 metric tons until November 1<sup>st</sup> at which point it will

be put back into the total allowable landings or the bycatch allowance, depending on where the fishery is at.

So, in summary, New Jersey, New York, Connecticut, Rhode Island, New Hampshire, and Maine all meet the compliance requirements. Massachusetts' status, it looks good, but, you know, we need to go through the report a little bit more thoroughly than I was able to earlier today. And the plan development team recommends granting New York de minimis status. Thank you.

CHAIRMAN SMITH: Thanks, Chris. Questions. Terry.

MR. TERRY STOCKWELL: Yes, thank you, Mr. Chair. I just want clarification to Chris' presentation. The State of Maine has gone through their rulemaking to adopt a no fishing and spawning closures. And we anticipate it will be adopted and signed into regulations within a couple of weeks.

CHAIRMAN SMITH: Thank you. Is there a motion on New York's de minimis status? Pat Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. **I so move that New York be granted de minimis status for 2007.**

MR. VITO CALOMO: Second.

CHAIRMAN SMITH: Motion made by Pat Augustine; seconded by Vito Calomo. Any discussion on the motion? Any disagreement? Without objection, then, New York will be de minimis for the year.

## **INCONSISTENCIES BETWEEN FEDERAL AMENDMENT 1 AND ASMFC AMENDMENT 2**

Okay, the next item is Item 5, inconsistencies between Federal Amendment 1 and ASMFC Amendment 2. And this is the east of Cutler fixed gear provision. Chris is going to summarize that for us.

MR. VONDERWEIDT: Thank you, Mr. Chairman. So I'm just going to begin this by kind of going through Federal Amendment 1 which was, the Final Rule was published March 12<sup>th</sup> of this year and our Amendment 1 which the states were required to implement January 1<sup>st</sup> of this year and then I'm going to move on to the east of Cutler at which point further

discussion may be required.

So to start with what changed with both of these – and they were developed jointly so a lot of it is similar. There is a few inconsistencies but the management boundaries were changed and they, it results in a larger area covered by Area 3. And the changes were based on the 2003 TRAC and they aim to better reflect spawning distributions, minimize reporting requirements between Area 1B and 3 and better reflect the distribution of herring populations.

Both of these have a three-year harvest specification setting process with the flexibility to adjust annually. There is a 5 percent total allowable catch set-aside so once 95 percent has been harvested in an area it's closed but there is still a 2,000 pound bycatch allowance. And then it allows for up to a 3 percent research set-aside.

So close but not identical is the west of Cutler fixed gear fishery which I mentioned in my previous presentation. The only difference is that we are at 500 metric tons. We stick with that number and the New England Fisheries Management Council can set specifications up to 500 metric tons.

The difference is there is a new purse seine only Area 1A regulation in federal waters and from June 1<sup>st</sup> to September 30<sup>th</sup> so basically this cuts out any mid-water trawling so most of those boats are going to rig up for purse seining so some people say that this is going to increase the fishing pressure in 1A. It will be interesting to see what happens.

What, in ASMFC Amendment 2 the days-out provision is our primary effort controls and stipulates that the days must be consecutive. You're not allowed to land from the area so that means it essentially closes the area because boats can't bring it in so even if they caught it in federal water the herring won't keep for more than two days so it's essentially an area closure for those days.

We also have the spawning closures which now are zero tolerance with no landings allowance at all and then the east of Cutler provision which was in the original Federal Amendment 1. However they did not pass it because it wasn't consistent with National Standard 1 of the Magnuson-Stevens Act; however, our Amendment 2 stipulates that east of Cutler fishermen have to report through IVR which is a voice recognition system.

And the idea here is that you've got real time landings requirement so you can close the fishery

when you get close to the total allowable landings. But that doesn't necessarily, it's not necessarily 100 percent appropriate for the east of Cutler fishermen. Basically we need to know the landings at the end of the year and say is this fishery more significant than 25 metric tons in a 50,000 metric ton fishery.

If it becomes as such we could amend our regulations to regulate it more. But, by doing this we allow these fishermen a crack at the herring before, if they haven't moved onshore before the Area 1A total allowable landings have been harvested. And Maine can give us those landings annually. And so I'm not sure if Mr. Stockwell wants to comment on that now but it, that's kind of the major inconsistency issue between our Amendment 2 and Federal Amendment 1.

CHAIRMAN SMITH: Okay, thanks, Chris. Are there questions on Chris' presentation and comments? Terry.

MR. STOCKWELL: Yes, thank you, Mr. Chair. Chris did an excellent summary of the Downeast fishery. As he alluded, it's been insignificant, a cultural and historical fishery of weirs and stop seines. Given that we're consistent with the commission's Amendment 2 I would make a motion that we remain inconsistent with the feds and keep the east of Cutler fixed gear fishery as proposed.

CHAIRMAN SMITH: Could I ask you to word that motion slightly differently.

MR. STOCKWELL: Yes.

CHAIRMAN SMITH: I would rather not be flying in the face of our federal friends.

MR. STOCKWELL: Let me wordsmith it and get back to you.

CHAIRMAN SMITH: Thank you. John Nelson.

MR. JOHN I. NELSON, JR.: Just a point of order, Mr. Chairman, do we need a motion to be inconsistent? I think if we, if our plan remains as it is, it is what it is. And we all recognize that there is a difference at certain points between the federal plan and our plan. I'm not sure you need a motion. And I'd leave that to the chair to judge that. I don't think we need a motion to highlight any of the differences.

CHAIRMAN SMITH: Yes, there is two approaches. It sounds like the mover of the motion likes Mr. Nelson's suggestion because in fact we don't, if

we're not changing anything we don't have to have a motion. The only reason for a motion is if you want the record clear that we debated this and we could also say the chairman notes there is no motion and then that means the two plans just ride the way they are. So, no motion?

MR. STOCKWELL: I defer to my esteemed colleague from New Hampshire.

CHAIRMAN SMITH: Yes. Now, does everybody agree with that strategy? I don't want to race through this. Vito.

MR. CALOMO: Thank you, Mr. Chairman. I do understand what we're doing. I just, just enlighten me, please, would this allow 25 metric tons east of Cutler?

CHAIRMAN SMITH: No, my understanding is it means the east of Cutler fishery catches what it catches. Historically, the recent past, that's been the level of the fishery. Our amendment didn't have a separate quota in there for the east of Cutler fisheries. The danger, the risk, if you will, is all of a sudden next year the fish all show up on mass east of Cutler.

And in the last 20 year I think maybe it's maybe never happened and it's hasn't. It's a fishery that rarely occurs anymore and it's a fishery that rarely catches a lot of fish when it does. I think what Chris commented on is over average, over a time it looks like 25 metric tons. Do you know what the range of that is? Okay. How big has it ever been in the last 20 years?

DR. MATTHEW CIERI: Matt Cieri, Maine DMR, last year it was 500 metric tons.

MR. CALOMO: And, Mr. Chairman, in the years that I fished, back in the '70s, it was up to 10,000 metric tons. I have a little problem to leave a door open where we are trying to conserve by all stretches of the imagination, Mr. Chairman, by eliminating mid-water trawlers from a fishery, by taking days out of the sea. I strongly supported, as you can recall, a closure on spawned fish so there will be fish in 1A for the future, even though the scientific background doesn't support it.

So I'm a little concerned at this time that – I'm not trying to eliminate a fishery for a, you know, small boats that fish with the weirs but I've also been around to know that there is a possibility that if the reductions continue by the feds in 1A from 60 to 55, from 55 to 45, from 45 thereon, so on and down the

stroke, that it could possibly end up being a fishery that may be enjoyed only by Cutler and immature fish. And I don't mind them joining the fishery and I think they should be able to fish but they also should play by the rules. Thank you, Mr. Chairman.

CHAIRMAN SMITH: Thank you. I guess the issue is we all have to do a risk assessment in our own mind and decide how likely it is that the fishery in the '70s which might have taken 10,000 tons once in a while, does that fishery still exist? Is it capable of existing in that way?

The discussions I've had is that it's a culturally-significant fishery but it's kind of like pound nets in Long Island Sound. You don't see many of them any more. They're labor-intensive. It's a fishery that's probably on the decline on its own. So the individual risk assessment we all have to do is how likely is it that the concern you have will upset the TAC-managed fishery in 1A? That's for anyone, yes.

MR. CALOMO: Thank you, Mr. Chairman. I am, I feel for the fishermen of Cutler because it's a community fishery. I fished up that way once. But I also hear the word "are they capable of" and they are capable of. If the fish show up in that area, like they did in history has shown, they are capable of taking a heck of a lot of fish.

Have they in the past 20 years? No. Can it happen again, capability? Yes. Just like fish can, the whole herring biomass can end up in the Gulf of Maine at one time and it did. That's, I'm just a little leery. I just want to feel safe in there somewhere saying that we can readjust or something. I'm just not so sure, Mr. Chairman.

CHAIRMAN SMITH: Are you satisfied if we know that when we're doing our specification review each year – and, again, we're doing that once a year, even though we set them on a three-year basis – if the fishery performs in a way that we didn't anticipate we can account for that in the following year? Does that satisfy you? I mean it basically is about as responsive as we can be short of real-time monitoring and quota managed fisheries where you shut them down tomorrow because you caught the limit today, because it's a late-in-the-year fishery.

MR. CALOMO: I understand. That would make me feel much better.

CHAIRMAN SMITH: Okay.

MR. CALOMO: I just, my major concern – because

I've been a herring fisherman, Mr. Chairman, my major concern is that, again, we are closing a fishery down during spawning time. Are we allowing them to fish during spawning time, to kill juvenile fish as they have done through history when Massachusetts and New Hampshire has closed spawning fisheries?

I was part of that. I closed. I could not fish. I volunteered to close. Okay, it wasn't three months. It wasn't two months. It started off with 12 days and this guy was tagging fish on my boat free of charge. He ate, too, but that's all right. But I'm just, I'm concerned, Mr. Chairman. I'm concerned that we're saving the mothers and killing the babies. I'm concerned.

I'm also concerned that I don't want to wipe out a community that depends on this fishery if it ever did come back, even though their canneries are all gone and so on and so forth. But it is a fishery, just like all the communities that go from Maine to Florida are fisheries and I'm very much in favor of preserving them. Thank you for the time.

CHAIRMAN SMITH: Chris and Matt have been doing the math as we've been talking and the average over the last 7 years has been 125 metric tons. Okay, so it's up and down.

MR. CALOMO: That would be fine with me.

CHAIRMAN SMITH: Well, we will need either agreement with we'll monitor it on an annual basis and respond in the following year, that's one approach, or a motion from someone if they want to do something differently. When we do that we'll see what the motion is like but that really does open it up for debate to consider alternatives to what is in the plan.

MR. CALOMO: Again, Mr. Chairman, I don't mean to dominate but I'm in favor, I'm in favor is that the section – the section, and I live by the section because I was taught that the section, once they vote that is the law, that is that we don't have to come back to the full commission or a board or the – yes, the commission, unlike the council has committees. So I'm in favor of supporting what was already passed by the section.

CHAIRMAN SMITH: And I think unless there is objection we will make sure that in our annual review that we look particularly at this issue, look at the level of the fishery, see how the fish performed. And if we need to make an adjustment we will do that probably by an addendum for the subsequent year. Is

everybody comfortable with that? Bob Beal.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman, just one quick comment. One of the provisions in the Amendment Number 2 is that the individuals participating in this fishery will report through the IVR system. And I think if, you know, if there is recognition around this table that that, you know, Maine right now doesn't have the necessary infrastructure to have an IVR system just for this fishery.

And I think recognition by the section that you know that it's going to be more of an annual review than a, you know, kind of current quota-monitoring type review, then that provision in the plan could be adjusted through the next addendum or something else.

But I think it probably needs some recognition around the table that there is an IVR requirement that Maine probably won't be able to implement just for this relatively small fishery. But you know the next amendment we can make that, in my opinion, anyway, minor change to the management.

CHAIRMAN SMITH: But there will be monitoring as the fishery goes on through the fall.

MR. BEAL: Yes.

CHAIRMAN SMITH: Right. Okay, Terry.

MR. STOCKWELL: Yes, thank you, Mr. Chair, a follow up to Bob's statement about IVRs. We have requested the agency for use of their IVR system and we're hoping to be online with them later this year.

CHAIRMAN SMITH: Okay, so are we in agreement? Then no motion necessary. We'll watch it carefully towards the end of each year and act accordingly in the subsequent year. Okay, thank you. I'm going to note, call it a little preference for the – what do chairmen call it? – personal privilege, I guess.

A couple of gentlemen came from Downeast Maine to talk on this subject. I will note that my view is we've resolved it to their satisfaction, probably no need to comment. But that was a long trip so if you wanted to add anything to this.

MR. DAVID TURNER: My name is David Turner. I'm chairman of the Downeast Fixed Gear Association. Mr. Morrison and I, the committee had a meeting and voted to send us down here. It's a long

ways for us to come but it was a very concerning issue for our fishery. And I'm not going to take any more of your time. We appreciate the action that you've taken. I think it's the right one and we will be around next year if there are issues that need to be discussed on this allocation issue. Thank you very much.

## **STATE AND FEDERAL TAC SPECIFICATIONS 2008-09**

CHAIRMAN SMITH: Thank you. That concludes Agenda Item 5. Item 6 is inconsistencies between state and federal TAC specifications, Chris Vonderweidt.

MR. VONDERWEIDT: Thank you, Mr. Chairman. This is fairly straight-forward. As you may all remember, the section met in October. And this is in response to the New England Fishery Management Council reducing the Area 1A total allowable catch from 60,000 metric tons to 50,000 metric tons.

We responded by lowering our quota to 50,000 metric tons to be consistent with them. Earlier they further reduced the Area 1A quota to 45,000 metric tons and increased the Area 3 total allowable catch by 60,000 metric tons. In the report they cite three reasons. Number 1 is concentration of herring harvest in the Gulf of Maine.

Number 2 is the strong retrospective pattern and stock assessment that underestimated fishing mortality and overestimated biomass. Number 3 is that the plan development team risk assessment tool for evaluating total allowable catch alternatives showed a slightly improved chance of producing exploitation rates that are more consistent with Fmsy than the 1A, for the 1A stock component with a 45,000 metric ton Area 1A total allowable catch. So our total allowable catch for 2008 and 2009 is different than the federal specifications.

CHAIRMAN SMITH: Thank you. David Pierce.

DR. DAVID PIERCE: Just a clarification, the New England Council's specification was the 50,000 metric tons for the current year and then the next two years. But the National Marine Fisheries Service after its own review of the situation decided to drop it to 45,000 next year and the year after. So it was not a New England Fishery Management Council position, that is to move it to 45,000, that was the service's view.

CHAIRMAN SMITH: Thank you for that clarification, David. John Nelson.

MR. NELSON: Thank you, Mr. Chairman. And as I understand it, at our discussion at the council after the federal modification to what had been proposed by the council, to the 45 in Area 1A and the increase in Area 3, that there was still going to be a review during, towards the end of this year, to look at the specs and further assess whether or not there should be any modification to what was proposed out there.

That's how I recall it. Others who were there certainly can chip in and see if I'm recalling it correctly. So, if that's the case, Mr. Chairman, is it, it would seem as if we could wait until the council and the feds have hashed this over one more time for '08-'09 and see what changes, if any, they've made. And then we obviously could change or remain, whatever we decided to do, in the early part of next year.

So rather than, you know, feel like a yo-yo, maybe we ought to wait on that and then we could do the yo-yo thing early next year. The reason I say "early next year" is because January through May I don't think there is any difference in the 5,000 metric tons, for example, in 1A that's authorized by both specs so there shouldn't be any real issue out there at that particular time.

CHAIRMAN SMITH: I'm compelled to note for the record that Mr. Nelson does not want to be considered a yo-yo.

MR. NELSON: Any more than usual.

CHAIRMAN SMITH: Any more than usual. Thank you. Actually, I think you make a good suggestion, that maybe this is a "wait and see." The other reason that leads me in that direction is federal permit holders, regardless of where they fish, are going to be bound by the federal quota.

And even when we decided as a section not to address limited access, one of the reasons was it's pretty hard to conduct a major fishery that is only in non-federally permitted vessels. So, it's not likely that this is going to create a racehorse type of a fishing opportunity and we have some time to look at how it transpires.

We have time to see how the summer fishery goes with the mid-water trawl issue the way it was published in the Federal Register. So there is some value to what you suggested. Is there any disagreement with that approach? Okay, seeing none

we will just – Terry.

MR. STOCKWELL: No disagreement just a follow-up when you're done.

CHAIRMAN SMITH: So – who? Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I just wanted to, in the paperwork I have here it says the TAC for 2007-2009 and up here it said 2008-2009. Could there be a clarification? Is it for 2008-2009 even though the Federal Register says 2007-2009?

CHAIRMAN SMITH: The Federal Register is a three-year spec. The first year is 50,000. Right? The next two are 45.

MR. ADLER: Okay.

CHAIRMAN SMITH: Chris is only showing the deviation between the two.

MR. ADLER: Okay.

## **2007 DAYS OUT SPECIFICATIONS**

CHAIRMAN SMITH: Thank you. Okay, so without objection we'll wait and see on this one. All right? Okay, Number 7, Item 7 on the agenda, the days-out specification. Matt Cieri is going to give us a presentation on that.

DR. CIERI: All right, for those of you who don't know me, my name is Matt Cieri with Maine Department of Marine Resources and I've been working on a days-out model that we've been using for some analysis for the past probably about six-seven years. Basically I'll just give you some background.

Since we implemented the TACs by area with the Amendment 1 to the AMFC plan we've been using a sort of days-out scenario. This sort of days-out scenario basically gives the boats the weekend, Friday-Saturday or Saturday-Sunday, off. In a way it's sort of limiting the catch and extending the inshore Gulf of Maine season.

It's primarily an effort control. And it also doesn't control the actual act of fishing. It controls the landings. So it goes in almost as a landings prohibition among the states. Initially within the first amendment it was designed to do two days out at 50 percent, three days out at 75 percent of the TAC and

then four days out at 90 percent and then the fishery closes when it's projected to reach 95 percent to allow for that 5 percent bycatch.

A lot of industry members and even some of the state agencies and the federal government found this sort of unworkable. Things changed up very, very often. You were publishing notices constantly. And in many cases by the time you got to four days out the fishery was done within the next couple of days, anyway.

And so what I was using was a catch and effort model to go through and see if maybe we can sort of give the industry some stability as well as our regulators and to see whether or not we could use two days out earlier-on in the season before the 50 percent mark or three days out to sort of extend this catch.

But while we've been doing this model for the last probably about five years unfortunately for 2007 things are going to dramatically change, as Chris has sort of outlined. And we need to change the model in order to account for this. The model basically looks at catch by week by boat within the 1A area on an average from 2000 to 2006.

We made some significant changes which I'll get to in a minute. And then we examined a number of different options including two days out starting April 1<sup>st</sup>, three days out starting April 1<sup>st</sup>, two days out starting April 1<sup>st</sup> going to three days out September 1<sup>st</sup>, and then two days out June 1<sup>st</sup>, going to three days out at 50 percent. And this was finally what was approved by the member states.

We used three different efficiency schemes because, remember, some of our boats are transitioning from mid-water trawl gear to purse seine gear with the purse seine fixed-only area in Area 1A. Not to bore you with the details but the current model assumes that mid-water trawling and purse seining occur together in the 1A area January through the end of May and that at October 1<sup>st</sup> through December 31<sup>st</sup> again we have a mixture of both purse seining and mid-water trawling.

There is a ban in place in Area 1A for mid-water trawling as per the Federal Register and that runs from June 1<sup>st</sup> to September 30<sup>th</sup>. The model assumes that most but not all the vessels that are currently in the fleet will switch over to purse seining during that June 1<sup>st</sup> through September 30<sup>th</sup> timeframe.

The vessels that do rig over will fish exclusively in

1A in the inshore Gulf of Maine. In the past many times the boats would, you know, put on mid-water trawl gear and if the fish weren't available in 1A they would go out to Area 3 or to Area 2 which are farther offshore.

That when these new vessels that have switched between mid-water trawling and purse seining, that when they first switch over for at least this first year they'll experience sort of a high of base or 75 percent or a low efficiency, meaning that if you compare them to their average for the last few years they'll either catch the same thing they were catching all along, they'll catch a little bit less or they'll catch about half less than they normally would.

As you might be all familiar with, the certain days out that you take out of the fishery doesn't seem to affect the catch rates. And that sort of analysis is presented in Amendment 2. And, also, the model assumes that fishing during that spawning time will be completely eliminated so there will be no fishing activity at all in the spawning area closures.

But there is a lot of things this sort of model can't even begin to account for. One is that there is a lot of variability associated with catch and effort, you know, the decision to go fishing or not go fishing or how much to go fishing for. It can't account for increases or decreases in the catch due to changes in availability, if the herring happen to be within a particular area.

It doesn't account for changes in market conditions affecting effort or the changes in the weather – I'm not a weatherman – or a change in shifting of effort from open spawning areas to closed – I'm sorry, from closed spawning areas to open spawning areas. And it also can't account for changes in the increased usage of carriers, for example, affecting the 1A effort as well as catch as well as changes due to the U.S.A.P. that's going on in Georges Bank.

The results are fairly consistent. As you can see here in the top table, on average the fishery in 1A closes at about November 14<sup>th</sup> or with a median of about November 19<sup>th</sup> but it has closed as early as last year which is October 21<sup>st</sup> and as late in 2002 in December 1<sup>st</sup> – I'm sorry, 2005 at December 2<sup>nd</sup>.

So I went through and looked at a number of different of these low base and high efficiencies under all these different scenarios, with this last one, down here, being the one that is chosen. And under the Period 2 fishery for, I'm sorry, for 50,000 metric tons the fishery ends. Under a low scheme or

efficiency the fishery never ends; it never actually reaches its quota. Under a base it ends at about December the 8<sup>th</sup> and under a high at about November the 3<sup>rd</sup>.

If we look at average and projected catch using this model, the first thing you will start to notice is that the projected catch here in the white is a whole lot less than the average catch over the same timeframe. And that's because of the lowering of the 1A quota. Now this projected catch is based on what was agreed to in New Hampshire, two days out starting June 1<sup>st</sup> and three days out at 50 percent. So in general the fishery closes here which is just at about November.

If we start to break down things and look at what has happened in the past, the average catch in different seasons over the projected catch which is going to happen this year, we look at different timeframes, January through May in which the purse seiners can operate in 1A, June through September in which they cannot, and then back to October through the end of the year, again this is where mid-water trawls can actually prosecute the 1A fishery, and if we look at along here the average catch during that timeframe in both terms of metric tonnage as well as percent of that 1A fishery, this is the projected catch.

And to remind everyone that we're under a 5,000 metric ton quota, January 1<sup>st</sup> to June 1<sup>st</sup>. And then again here is the projected catch by timeframe for 1A. And here it is as far as percentages. One thing that you do see is this change, about an 8 percent shift from historical to the projected catch from June through September through October through December. So you're shifting 8 percent of the fishery from June through September later in the year which roughly equals about 3,700 metric tons.

Part of that shift is due to the fact that we actually have to put in a split TAC from January through June. And part of that has to do with the days-out scheme that has been suggested by the member states. And a good chunk of that is because of the spawning closures and the affect that we think they're going to have, as well as the days-out scheme.

Just to point out a few things is people will notice that I used 4,700, I'm sorry, 47,000, metric tons here. And that's from a 50,000 metric ton TAC minus 5 percent for the bycatch minus 50 – I'm sorry, 500 metric tons for the fixed gear west of Cutler, Maine. That 500 metric tons will be added back into the fishery only if the fishery is still open on November 1<sup>st</sup>. If the fishery is closed by November 1<sup>st</sup> that will not get added back in.

So there was some sort of general agreement about the days out and the days-out scheme at that meeting in New Hampshire, going for two days at June 1<sup>st</sup> to three days at 50 percent. We also agreed to meet up just at about when we hit that 50 percent mark and we went to three days to re-run the model and see the effects that three days would have.

There is a suggestion that there might be some other action that's taken if the catch seems like it's going to not, if 15,000 metric tons isn't going to be available after October 1<sup>st</sup>. Some people like that idea; some people didn't like that idea. When you actually sit down and take a look at the model, the projection indicates that about 50 percent mark will occur sometime at about mid-August.

So we'll go for two days up until mid-August and then transition into three days. But it really depends on how the fishery is going to be run this year. If you do so, you will find out that you will actually hit that magic 15,000 left in the fishery right at about October 1<sup>st</sup> under a moderate or under a base efficiency.

And a couple of final thoughts, or more than a few, we really have absolutely no idea how this fishery is going to respond this year. The fishery has gone through a huge transition in changes in gear type as well as a limited entry program and this change in the spawning tolerance. The model was really designed to test relative differences in management options – two days out, three days out; start it in April, start it in June, start it in July.

It may or may not be a good predictor as to what is going to happen. Some years the model is a really good predictor and other years it's not. I totally wouldn't "bet the farm on it" if I were you, that this model is going to be accurate within a couple of weeks. The model has also not been reviewed by the PDT or the TC. This is something I cooked up on my own.

One thing that you might wish to consider through all of this is that there is the whole mixing rate issue when it comes to the 1A fishery. As you may remember, between January and April and between August and the end of December all the fish that come out of 1A are considered to be inshore component fish.

During that May through July period there is some sort of mixing ratio that goes on in the inshore Gulf of Maine, whether it's 10 percent Gulf of Maine fish and 90 percent Georges Bank fish or the other way

around we really don't know. One sort of caveat I would put in for all of this is that when you push catches later and later in the season you end up taking more inshore component fish out of the inshore stock.

And so you might end up undoing some of the benefits from, that you would normally have from lowering a TAC. And in the risk assessment that was done by the PDT for herring this sort of extension of the season and possibly increasing an inshore Gulf of Maine removals wasn't accounted for. And that's it.

CHAIRMAN SMITH: Okay, thank you, Matt. Any questions for Matt? Pat White.

MR. PATTEN D. WHITE: I guess I have a couple questions about the assumptions on it, Matt, and as you say, and I appreciate it, that we don't want to "bet the farm on it" I think at the last meeting we had with the section we discussed how a lot of the boats that do switch over to purse seining would stay in it and stay in the inshore fishery which was more easy to predict than what we've or what I've heard later in that a couple of the major boats are now rigging so that they can do both.

And I don't know, I didn't get a sense in your projections here if we are somewhat accounting for, 1, increased pressure in 1A and, 2, the ability of at least a couple of the bigger boats to switch almost overnight from seining to mid-water trawling and going outside of 1A.

DR. CIERI: That one I would sort of field to Dave over there. My understanding is that a boat simply can't rig overnight, that it's a process that might take a few days. And you know three days of downtime while you re-rig over is a significant cost that you can't go fishing and so you would probably only do it if you knew there was, for an absolute certainty, that there weren't any fish around. But I'll let Dave handle that one.

MR. DAVE ELLENTON: Dave Ellenton, industry panel chairman. That really depends on the vessel, you know. If someone is going to change over from one gear type to another gear type it's quite likely they're going to change over in the days out, on the days out which probably means a weekend change over. But the number of times they change over are going to be minimum. You know, they'll make every effort with the gear type that pertains. If there's fishing on there, they'll stay as purse seiners. That's my opinion.

CHAIRMAN SMITH: Thank you, David. Other

questions. Vito.

MR. CALOMO: Thank you, Mr. Chairman. Matt, I see you have quite an array of figures here and thoughts and as usual you have come out with some sort of a plan, scheme. It sounds pretty good except for the variables that are about to take place.

When you say people are rigging over for purse seine, that's true, some are. But you can't take the same weight from a purse seiners that's 45 feet versus 110 footer. You can't give them the same weight. Even though they're purse seining, they can't fish the same weather. They've got to transfer fish. There is a big variable there.

My major concern again is we voted as a section, I believe in Durham, we ran a good meeting, participants were all there, we made a decision then and it seems like that we want to change the field somewhat. And the other thing, you show a 15,000 metric tons or 14.7 to be left at the end of the year.

That's really not a true figure because – let me use the 15,000 tons. We have to allow for 2,000 pounds per every fishing vessel that can catch a bycatch of 2,000 pounds. And I think that comes out to another 2,500. Therefore, we're really, in reality it's 12,500 at the end of the season less the 500 from Cutler and now we're down to about 12,000, roughly.

And if we go over, I'm not so sure where we are. That's why I think, you know, we kind of resolved the issue with a very good meeting in New Hampshire. And I'm not so sure where we're going here. Thank you, Mr. Chairman.

CHAIRMAN SMITH: Go ahead, Matt.

DR. CIERI: Yes, I took that bycatch, the bycatch and the set-aside for the purse seine, for the fixed gear west of Cutler, I took that into account in figuring out the 15,000 metric tons leftover. I don't believe for a second that a boat that can, that has traditionally been a mid-water trawler can catch the same amount of fish if it rigs over as a purse seiner that's why I put in the different efficiency schemes.

Whether it's on average 50 percent, same captain with a mid-water trawler goes out with a purse seine, he catches 50 percent less than he did, normally, or 75 or 100. I based everything on the base run which was saying pretty much, you know, you're going to catch 75 percent of what you would have caught with a mid-water trawler. So that's how I sort of figured some of that stuff out. But it also goes down as low

as 50 percent.

MR. CALOMO: Mr. Chairman, may I?

CHAIRMAN SMITH: Yes.

MR. CALOMO: Thank you again, Mr. Chairman. I don't care how we slice the dice, to be quite frank with you, our intent was to make sure that people that invested large amounts of money in shore-side facilities and in the other areas that need bait such as Massachusetts that depends on the mid-water trawl fishery for bait, that they are provided their bait. And there in New Hampshire they need bait, the same thing.

That's my intent was to at least have 15,000 metric tons, not just for the mid-water trawls but for everybody to enjoy at the end of September 1<sup>st</sup>. That opens it back up to the people that can't rig over who do not want to invest \$750,000 to rig over who may not even have the ability to go out and fish it because it is a different fishery. It's like day and night, even though they're catching the same fish. So, they could have a lot of problems fishing some of them boats. They're not designed to carry a purse seine. Thank you, Mr. Chairman.

CHAIRMAN SMITH: Thanks. A comment and then I want to talk a little bit about the process that we should be using here. If I understood Matt's presentation, and understanding the fact that all models are false to some degree or another, you know, they can give you some guidance but they're very seldom perfect, the model run for the option that he highlighted on the screen pretty much comes out with what you're looking for.

Things are going to change and we're not going to be able to anticipate them so the best you can do is project based on some reasonable assumptions and it seems to give you what you're looking for. That's just a comment to tie the two of you together. Now, the process question is, normally speaking the states get together somewhere in New England around the spring, they decide on the days-out strategy and that becomes, the section doesn't have to approve that. It just becomes the way things will operate.

On those rare occasions when there is a disagreement, either before there was an agreement and now there isn't or you can't agree at the first meeting, then, I believe it comes to the section to break the ties or to make the decision or to choose to send it back to the states to do it all over again to try and come to agreement.

So we have a couple of choices in front of us. We can slam our hand down today and say this is how it will be or we can say you three guys need to go back and work this thing out. The risk of, well, the risk of the former is we'll look like a bunch of Martinettes and we'll be making your decision for you and you don't want that.

The second risk is you run the risk if the section actually does have to weigh in on this because you go back at it and you can't decide again, that you're into August and that doesn't give states a lot of time to plan for what they actually need to do very soon after. So, I don't think you want to leave this until the next section meeting which will be the August meeting. The question is, particularly you three states, how are you comfortable trying to decide this?

MR. NELSON: Thank you, Mr. Chairman. Yes, let me give you my perspective on what I think we were doing here in arguing and that is we held our meeting, we had our days-out meeting, industry participated and the states had representation there.

As far as I'm concerned there was an agreement amongst all the states and endorsed by the industry on what to do for this year and that there were various caveats in there that, hey, you know, we get up to a certain amount, the 50 percent, if that's reached before a certain date we'd like to have the technical committee of one, you know, re-do it and then we would meet again in two weeks to see if there is something else that we needed to do.

And I think everyone has agreed on that and I'm not sure there is any disagreement at all out here, at least I'm not aware of any. We sent around an e-mail notifying folks as far as what we understood we were going to do, what was the obligations of the states, and what days we were all out and the timing and etc cetera, etc cetera.

So what I think we're going to over today is Matt is presenting to the rest of the section the uncertainties that he presented to us at our meeting. We fully understand that there is uncertainties. This year is probably going to be more uncertain than anything else and it won't have anything to do with whether his model is accurate or not. It will just be because this is a brand-new scenario with all kinds of variables in there.

The intent by all parties is to stretch this out as much as possible. And we are using some benchmarks to try to see how we're doing just because of the

uncertainties that are out there.

And I think that we all recognize that and we're all going to just make a good effort to do what we can to hit the various types of targets that we've said we were going to try to have, like the 15,000 metric tons available around October. Okay? If it's September 27<sup>th</sup>, you know, I don't think anyone is going to scream and holler.

But I think this is for, right now I think the item on here is for information to educate the rest of the section as far as what's been done, where we're at and the uncertainties that are out there. And I'm not sure that I know of any reluctance by any of the states to move ahead with the agreement that we had developed.

CHAIRMAN SMITH: Is there general agreement with that? There is? Okay. Question, Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. Matt, on one of your slides you said that you weren't sure whether maybe you would want to go back and review this with the PDT and the technical committee, or have you already done that? Was that – or did I miss a point here?

DR. CIERI: No, you missed the point, in general that it hasn't been reviewed. This is just something that I've done sort of a back-of-the-envelope sort of calculation to help out the members states.

MR. AUGUSTINE: A follow-on, Mr. Chairman.

CHAIRMAN SMITH: Yes.

MR. AUGUSTINE: Well, following on what Mr. Nelson said it seems like all the states are pretty much in concurrence. There are no arguments or concerns about what you have presented so far. Would it be appropriate with the possibility that there will be a meeting in August – there won't be?

CHAIRMAN SMITH: No. The discussion I heard before the meeting is there was disagreement. If there is no disagreement, then the section members affected had agreed on the strategy Matt had highlighted on the screen, there is no disagreement so they've made their decision. Okay? So, that was a miscommunication. Okay, Terry.

MR. STOCKWELL: Yes, thank you, Mr. Chair. I concur with John's and Vito's summary of the meeting. It was a little contentious at times. We argued and fought through what the proper amount

should be for a reserve so there is an opportunity for all. The great comfort to me right now is that we made an agreement between the three states and parties to get back together when we reached that 50 percent, address the issues.

Whether it's 15,000, 12,000, 14,000, the commitment is to share the resource and do what's right for the industry. We've got too many unknowns right now. And to try to predict where we're going to be in July, despite Matt's best work, is you know, you need a Ouiji board. And so I'm looking forward to seeing this through and getting back together likely in August to do whatever next steps we need to do.

CHAIRMAN SMITH: All right, so, then – Pat.

MR. AUGUSTINE: Mr. Chairman, I agree with what you're saying. But the real question is, do we know that the technical committee, if in fact they reviewed this, would there be any concern on their part? And as far as I'm concerned, Matt, you walk on water. You know, you're excellent in what you do and I know when I've worked with you, your work is right upfront, very thorough and you respond to all the questions that are asked around the table.

I just don't want a question coming up later on saying, hey, guys, you know, you didn't talk to me about it and the technical committee does not agree. Now, if the technical committee agrees with the folks that are being affected, that's fine. Then you have 100 percent and there is really no question that could possibly come up at a later date. And I would just like to have the record show that we're clear on it. And if you all feel that it's not important, then fine.

CHAIRMAN SMITH: Probably the simplest thing to do is for Matt to communicate now with the other members and have that talk. I would point out that if we didn't have the analysis that he had done, the states still would have done the same thing they always do which is get together, strategize and say, yes, two days here and three days there makes sense and they would have had no analysis. It would have been a little bit of dead reckoning. Most years it works okay. All right, thanks. John.

MR. NELSON: Yes, I don't, if the technical committee and Matt have the time to, you know, sit down and go over the analysis that he has come up with, you know, that's fine. And maybe that's the right thing to do but I would echo what you just said. He did this at our, he's been doing this for us just to try to give us some basic information on, you know, what might happen.

And we all understand that it is not a model that is, that he is going to be writing up and putting in the literature right away – probably he doesn't want to. But nevertheless we all recognize the limitations that, of the calculations that are done. And I think it's just helpful to all of us at those meetings to understand that, hey, there is a lot of uncertainty, this year even more so than anything else.

And I think our scheme to try to stretch this out – and when I say "our" it is the industry as well as the states looking at how shall we stretch this out, have a viable fishery, and get the most "bang for the buck" and satisfy as many of the markets that we can out there? That's what the intent is.

And it's not to say, oh, here is a great model let's, you know, make sure that this is what is used. Models are, as you know, tools for us to use and however perfect or imperfect they are we just need to know how imperfect they are and we'll make our judgments based on that.

CHAIRMAN SMITH: Good enough. Thank you. Good summary to the end of that issue. Without other comment on the days-out specification issue – Jeff, did you want to comment on that issue?

MR. KAELIN: Yes.

CHAIRMAN SMITH: Yes, sure.

MR. KAELIN: Thank you, Mr. Chairman. Jeff Kaelin, Portland, Maine. I guess I'm just a little unclear myself following Mr. Augustine's questions, are we going to go back in the middle of August and look at all of these issues, whether we should take the third day out, what the proper amount of set-aside should be and so forth?

Is that where we are here today because initially we were only going to go back and look at the three days? As Matt's presentation indicated there was disagreement among the industry as to what an appropriate amount of fish to set aside would be. And in that analysis we're putting a bigger percentage into the third quarter.

So as long as we're all in agreement that we're going to go back and look at all of the elements of this thing, then I understand it. But some people are shaking their head yes; some people are shaking their head no and that's my question. Is this a 15,000 ton set-aside after October 1<sup>st</sup>? If so, we continue to be opposed to that.

We think it's too much fish. We think there is a great likelihood it won't be taken. And we also think it's inappropriate to set fish aside for people who aren't willing to make the investment in going ahead and using the gear that the managers said is the appropriate gear to use in the summertime.

So, I wanted to put on the record that there is, in fact, apparently – there is tremendous disagreement about that 15,000 ton set-aside. Now, if the agreement is today that we're going to go back in August and take a look at it and reconsider it amongst the three states, then we feel it's appropriate to move forward.

Otherwise, we're going to continue to object to that large a set-aside. And in fact the percentages in the third quarter or the third period are larger than they've been historically, for some unknown reason in this analysis. And Mary Beth isn't here for her group but she feels exactly the same way. She got delayed twice today so I wanted to put that on the table because I'm confused right now as to where the section is. Thank you.

CHAIRMAN SMITH: John.

MR. NELSON: Well, thank you, Mr. Chairman. At least I understand where the confusion that you came up with occurred. And let me just make it very clear, the agreement that we have we hammered out at that meeting. Now I don't for one minute say that

So we will certainly have to address concerns that may arise through changes in the fishery that we don't expect, that is concerns that might be that the catch rate is still too high, higher than what it projected. We may have to revisit that, but that's just a wait-and-see sort of a thing. But the intent is to hopefully arrive at the scenario that is described in Table 3, the projected outcome as described by Matt with the 15,000 or so being available for catch October through December.

CHAIRMAN SMITH: Vito.

MR. CALOMO: Thank you, Mr. Chairman, I will be very short. I'll be the third, I think maybe the fourth person that agrees on the summation that John Nelson gave twice, three times, and the summation again that Dr. Pierce just gave. And I was there so I'll agree with myself. Thank you, Mr. Chairman. No one agreed 100 percent but the summation at the end of that meeting was that we were in agreement. Thank you, Mr. Chairman.

CHAIRMAN SMITH: Thank you. I have even

everyone wanted it exactly as it was hammered out, but the states all agreed to it. The industry said, let's try it and see what we can do to live with it.

It doesn't mean that they will embrace it and love it but that is what the agreement is that the states have put in place. I don't know what's going to happen when we get to the 50 percentile and what else we're going to do but that's why we were going to plan on those types of meetings and have discussions at that time.

The intent is to try to have fish available after October 1<sup>st</sup>. You've heard the amount that we're trying, that we have as a target. I don't know whether we're going to achieve that or not but we're certainly going to do whatever we can to make this year work as best we can and then we'll refine it from there. So, yes, there is disagreement out there but the states agreed on a plan and a process.

CHAIRMAN SMITH: Thank you. David and Vito.

DR. PIERCE: Just for the record, I echo what John said. You know, we had the meeting. There was disagreement. There will always be disagreement in terms of what the industry perspective is. There is no way to avoid that, obviously. But we had some good discussion and Matt, as always, was extremely helpful with his analyses and this was the decision that we made.

heard you disagree with yourself in the past, so we're in a good place here. Okay, Item 8 on the agenda is election of vice-chair and no one other than your chairman looks forward to that item more than your chairman so is there a motion for a nomination? Dennis Abbot.

## ELECTION OF VICE CHAIR

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. **I'd like to nominate the gentleman from Maine, Mr. Terry Stockwell, to be the vice-chairman –**

MR. P. WHITE: Second.

REPRESENTATIVE ABBOTT: **– of the Atlantic Herring Board.**

MR. CALOMO: I'll second it.

CHAIRMAN SMITH: Seconded by everybody in the room. Without objection, by acclamation. Thank

you. I believe you don't get to take over today. It's the January meeting, I think. These are, by the way, are very nice summaries. I don't know if you've looked through the summaries for the meetings now. They give you a lot of good information because it says that I'm done in August and Terry takes over then. So, that's what I like about this. Okay, is there other business? Other items of business the section wants to – Terry.

MR. STOCKWELL: Yes, thank you, Mr. Chair, related to our earlier discussion about the inconsistencies in the commission's and the federal TAC, I don't know whether or not you think it's appropriate for this section to ask the technical committee to request the results of the '06 trawl survey, the council's pelagic committee is currently preoccupied with a whiting amendment and if we're going to be looking at the appropriateness of the 45,000 or 50,000 ton TAC for next year we might want to know what the survey results are.

CHAIRMAN SMITH: The survey results for Atlantic herring for the '06 –

MR. STOCKWELL: The '06 fall trawl survey.

CHAIRMAN SMITH: The '06 trawl survey. So, Chris, could you chase that down?

MR. VONDERWEIDT: Sure.

### **ADJOURN**

CHAIRMAN SMITH: Other business? Seeing none, is there a motion to adjourn? So moved. We're adjourned. Thank you.

(Whereupon, the meeting adjourned at 2:20 o'clock p.m. on Monday, May 7, 2007.)

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