

**PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SPINY DOGFISH AND COASTAL SHARKS MANAGEMENT BOARD**

**November 1, 2005
Mariott Seaview Resort & Spa
Galloway, New Jersey**

Approved February 20, 2006

ATTENDANCE

Board Members

George Lapointe, Maine DMR
Dennis Damon, Maine Leg. Apte.
Pat White, Maine Gov. Apte
John Nelson, New Hampshire Fish & Game Dep.
G. Ritchie White, New Hampshire Gov. Apte.
David Pierce, Massachusetts DMF
William Adler, Massachusetts, Gov. Apte.
Mark Gibson, Rhode Island DEM
Eric Smith, Connecticut DMR
Gordon Colvin, New York DEC
Brian Culhane, New York Leg. Apte.
Pat Augustine, **CHAIR**, New York Gov. Apte.
Bruce Freeman, New Jersey DFG&W
Erling Berg, New Jersey Gov. Apte.
Ed Goldman, proxy for Assemblyman Smith (NJ)
Bernie Pankowski, proxy for Sen. Venables (DE)

Howard King, Maryland DNR
Bruno Vasta, Maryland Gov. Apte.
Russell Dize, Proxy for Senator Colburn (MD)
Jack Travelstead, VMRC
Ernest J. Bowden, Jr., VMRC
Fentress Munden, North Carolina DMF
Damon Tatem, North Carolina Gov. Apte.
Robert Boyles, Jr., South Carolina DNR
John Frampton, South Carolina DNR
Malcom Rhodes, South Carolina Gov. Apte.
Spud Woodward, GA DNR Coastal Resources
John Duren, Georgia Gov. Apte.
Mitch Needleman, for Catherine Davenport, VA Gov.
Apte.
Harold Mears, NMFS
Wilson Laney, USFWS

ASMFC Staff

Bob Beal
Ruth Christiansen

Vince O'Shea
Lydia Munger

Ad Hoc Members

Chris Batsavage, TC Chair
Jim Hanlon, LEC

Guests

Bob Ross, NMFS
Kyle Schick, VA PRFC
John Merriner, NCAA/NMFS/SEFSC
Sean McKeon, NC Fisheries Association
Tom McCloy, NJ Div. F&W
Megan Gamble, NMFS
Sonja Fordham, Ocean Conservancy
Louis Daniel, NC DMF
Russell Dodge, The Cumberland Reminder
Bill Goldsborough, Chesapeake Bay Foundation
Gregory DiDomenico, GSSA
Kelly V. Place, VA Leg. Proxy/VMRC
Dan Furlong, MAFMC
Patricia Kurkul, NOAA Fisheries
Larissa Graham, Virginia Tech grad student
Michael Celestino, NJ Fish & Wildlife
Jamie Geiger, USFWS

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**ATLANTIC STATES MARINE
FISHERIES COMMISSION
64th ANNUAL MEETING**

**SPINY DOGFISH AND COASTAL
SHARKS MANAGEMENT BOARD**

**Marriott Seaview Resort & Spa
Galloway, New Jersey**

November 1, 2005

The meeting of the Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Salon C of the Marriott Seaview Resort and Spa, Galloway, New Jersey, on Tuesday, November 1, 2005, and was called to order at 1:00 o'clock, a.m., by Chairman Patrick Augustine.

**WELCOME/CALL TO ORDER
BOARD CONSENT**

CHAIRMAN PATRICK AUGUSTINE: Good afternoon, ladies and gentlemen. Welcome to the Spiny Dogfish and Coastal Shark Management Board. If you would please review the agenda. Note are there any changes, corrections, deletions? Seeing none, the **agenda is approved**.

I'll have you review the proceedings of the August 18, 2005, board meeting. I hope you have done that already. We would entertain a motion if there are no corrections, additions or changes.

Seeing no motion, are there any objections? Seeing no objections, **the proceedings are approved**. Are there any public comments at this time? Ms. Fordham. We have a microphone up here for you, please.

PUBLIC COMMENT

MS. SONJA FORDHAM: Thank you, Mr. Chairman. Sonja Fordham, the Ocean Conservancy. I believe you are receiving a copy of a letter that we have sent in from a variety of conservation and scientific organizations about spiny dogfish.

And we're basically reminding the board that the stock is still in a precarious state and we're strongly urging adoption of the scientific advice for no more than two million pound bycatch cap and status quo trip limits. We reserve the -- we hope to have the opportunity to speak on a motion if other issues come up. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Ms. Fordham. Your letter has been noted and will be entered into the record. Jim.

MR. JAMES FLETCHER: Six questions I'd like the committee to consider. James Fletcher, United National Fishermen's Association. Question Number 1, can conservation equivalency be applied to dogfish? I've been told it cannot.

Question Number 2, does Article I, the prevention of physical waste in the ASMFC Compact still apply? Question Number 3, should ASMFC consider allowing the utilization of male dogfish that are currently dying as a bycatch?

Question Number 4, should ASMFC use the best scientific estimate that between 14 and 26 million pounds of dogfish will be discarded? Question Number 5, is the dogfish rebuilding plan based solely on female dogfish biomass?

Question Number 6, is the F rate based on female dogfish mortality? And Question Number 7, does any part of the dogfish

management plan suggest that a male-only fishery would harm the recovery of the female biomass?

And, Question Number 8, what is the percentage in the current biomass of male to female dogfish? Question Number 9, is it possible that the dogfish rebuilding plan is causing a decline in the weakfish rebuilding schedule? If you all will give me some answers to those I'll appreciate it. Thank you.

CHAIRMAN AUGUSTINE: Mr. Fletcher, if you would make that list available to us we'll address them. If we have that list we would address them one-by-one as quickly as we can or through the process. Many of those questions will be answered by the technical committee.

Quite a few of those will be answered by the technical committee; others will require staff or Bob Beal to address. We'll do them right now. Let's get them out of the way. Question Number 1, can conservation equivalency be applied to dogfish? Bob Beal. Yes or no? Not here.

Okay, we'll hold that one until he arrives. The second question, does Article I, the prevention of physical waste, still apply to ASMFC? Mr. Nelson.

DR. JOHN I. NELSON, JR.: Point of order, Mr. Chairman.

CHAIRMAN AUGUSTINE: Yes.

MR. NELSON: We do have the agenda and I think that there are various items that will be addressed throughout that agenda. I'm always of the opinion that the public comment prior to the agenda items are for other items to be brought to the attention of the board for future consideration.

And, quite frankly, I think that's how we should proceed. Whatever we can answer certainly during the course of our discussions on the agenda items I think is very appropriate. But I think we ought to stick to the agenda at this particular point.

CHAIRMAN AUGUSTINE: Excellent point and I'm glad you mentioned it, Dr. Nelson. So with no further ado we'll set this aside and those questions that are addressed throughout the meeting we'll so note. And the ones that remain we'll address them later in the meeting. Thank you.

Any further public comment? Seeing none, we'll move on to Item 4, review and consideration for approval of Draft Addendum I to the Spiny Dogfish FMP, multi-year specification process. And that's going to be you, Ruth, please.

REVIEW AND CONSIDERATION FOR APPROVAL ADDENDUM 1 TO THE SPINY DOGFISH FMP

MS. RUTH CHRISTIANSEN: All right, thank you, Mr. Chairman. Today, like was just said, we are going to review Draft Addendum I and review the public comment that was received on the draft addendum in hopes that we can approve the addendum today.

So just to review very briefly, as part of the current spiny dogfish management program specification of commercial quotas and trip limits are conducted every year and apply only to the following fishing year.

It is thought that this annual process creates a heavy administrative burden and makes it difficult for industry to set long-term business plans and goals. Addendum I modifies the current FMP so that within a

given year total allowable landings for spiny dogfish can be specified up to five years.

Addendum I is intended to improve management by streamlining the regulatory processes involved in specifying quotas and trip limits and by allowing fishermen to establish more effective business plans while also maintaining consistency with the original FMP.

There are three management options under consideration in this addendum. The first option is to maintain the status quo which would maintain the annual specification process. Option 2 would allow for multi-year management measures without the requirement for annual review.

And Option 3, which is the board preferred option from our last meeting, would allow for multi-year management measures with annual review. There was one public hearing held in Massachusetts for Addendum I. Unfortunately zero members of the public were in attendance.

But I did get some good feedback from the participants that were there. And in general it was felt that the daily trip limit for spiny dogfish should be modified so that the annual four million pound quota can be met, increasing the daily trip limits would still allow spiny dogfish to be considered a bycatch fishery.

Participants felt that the business plans are unable to be made by people in the industry because the daily trip limits are so low. And they felt that it was not the annual specification process which prevents industry from setting long-term business plans and goals, which is what is stated in the addendum.

It was stated that current daily trip limits for

spiny dogfish result in discard rates that are higher than the annual four million pound quota. And concern was raised over continuation of the joint specification setting process.

Specifically, there was concern about what would happen to this process if the Mid-Atlantic Council and the New England Council implement multi-year measures without the requirement for annual review if the commission adopts the option that requires annual review.

The public hearing participants felt that the management board should give consideration to a modified Option Number 3 for Addendum I. This would allow for multi-year management measures with an annual review.

However, the four million pound quota should remain static from year to year and instead daily trip limits should be modified or could be modified if necessary on an annual basis based on review of fishery performance every year.

For written comments received on Addendum I there were only two comments. In general both comments indicated that dogfish are extremely numerous. Being voracious predators they are likely having a negative impact on more valuable species such as striped bass, groundfish, herring and menhaden.

Their high abundance makes hook and line fishing very difficult. Both comments received felt that the current fishing limits for spiny are too restrictive and more liberal fishing limits should be set. And one of the comments did give support for Option Number 3 in Addendum 1. And so I'm going to pause there.

CHAIRMAN AUGUSTINE: Are there any questions or comments from the board on the public comments that were made? Seeing none we'll move right on to the next item and Chris Batsavage would you please give us our presentation from the technical committee on your report and recommendations.

DR. DAVID PIERCE: Mr. Chairman, excuse me.

CHAIRMAN AUGUSTINE: I'm sorry, Dr. Pierce.

DR. PIERCE: Just a question regarding the agenda. I thought we were going to act on this addendum now. I had a motion to make.

CHAIRMAN AUGUSTINE: We can act on it now. She may have more information, Ruth.

DR. PIERCE: I thought that the technical committee report was specific to the specifications that we would be setting consistent with the decisions we would make relative to this addendum. Am I correct?

MS. CHRISTIANSEN: Yes, let me go ahead. Yes, just give us a second. We actually, I had the presentation split a little bit but I can go ahead and finish off. I've just a couple more slides and then we can go ahead and act on the addendum if that's what you would like.

CHAIRMAN AUGUSTINE: Go ahead.

MS. CHRISTIANSEN: I just wanted to remind everyone that the New England and Mid-Atlantic Fishery Management Councils submitted Framework 1 to the Federal FMP for spiny dogfish which does allow for

multi-management measures without the annual review requirement.

And at their meeting in October the Mid-Atlantic Council set the following specifications for spiny dogfish: a two million pound incidental catch cap was adopted which is down from the four million pound quota from previous years.

A 600 pound daily trip limit was adopted for both Periods 1 and 2, and this is a slight increase for the Period 2 quota which had been previously set at 300 pounds. And the council also approved the catch cap and trip limits for three years which covers the '06-'07, '07-'08, and '08-'09 fishing years.

CHAIRMAN AUGUSTINE: Any questions now? Dr. Pierce, were you going to make a motion, please?

DR. PIERCE: All right, well, we've heard the limited public hearing comment. We've had certainly a great deal of time to consider these three options regarding the addendum so I would **move that the board adopt preferred Option Number 3, allow for multi-year management measures with annual review.**

CHAIRMAN AUGUSTINE: Do we have a second? Mr. Munden. Discussion, board members. Gordon.

MR. GORDON C. COLVIN: Not really discussion. I have a question. This would be, as I understand it this would be a different option than what the councils have recommended for the framework and what would the practical affect of that difference be in implementation?

CHAIRMAN AUGUSTINE: Ruth.

MS. CHRISTIANSEN: I don't know if I

have a very good answer for that. It's a very good question which was brought up at the public hearing. Since it's a joint specification process and they don't have a requirement to meet annually and we do adopt that requirement I don't really know. I think Bob may have a better answer for that.

MR. ROBERT E. BEAL: I think the simple answer is the responsibility for the annual review will fall completely on the ASMFC technical committee.

CHAIRMAN AUGUSTINE: Mr. Colvin.

MR. COLVIN: Mr. Chairman, I would have some difficulty seeing the entire workload associated with annual review descend upon the commission and its technical committee and staff. If the councils are going the other direction, I suggest we do so, too. And I would like to offer a substitute motion to adopt the proposed addendum with Option 2.

CHAIRMAN AUGUSTINE: Thank you. Do we have a second? Jack Travelstead. Discussion on the motion. Dr. Pierce.

DR. PIERCE: Well, I would oppose the motion to substitute since after a prolonged debate this board did at its last meeting decide to go with Number 3 as preferred.

Timing be the way it is, the Mid-Atlantic Council met first and decided to go with Number 2. Is that to be the sole determination as to why we go with Number 2 as a substitute, because the Mid-Atlantic Council opts to go in that direction? That's not a convincing argument for me to shift off of our preferred alternative.

Frankly, I don't think it will be a burden on our technical committee since it would seem

to me that in light of the relationship our technical committee has with the Northeast Fisheries Science Center that information required to assist us with any annual review could be provided.

The annual review is wise. It makes a lot of sense in light of the direction in which the Mid-Atlantic Council and the New England Council are heading, that is ecosystem based management. And we all know how dogfish fits in with the ecosystem, or at least I think we do.

Hence, to me it -- and we know what dogfish is doing, I think we do. We know what dogfish is causing in terms of problems for commercial and recreational fisheries at this time. Some comments we received, especially from the recreational fishery, clearly makes that point loud and clear.

Consequently I think it makes a lot of sense to go with the annual review that I don't think is going to be that burdensome. And, frankly, I can't recall whether the New England Council has acted on this yet.

The New England Council has a dogfish, dogfish on its agenda for its meeting coming up later this month. At that time you know the New England Council will make decisions relative to dogfish. So I don't think it's, this has been resolved yet by the New England Council.

Maybe the Mid has already taken a position but not New England. So I would say that we go with Number 3, we do not go with the substitute and then the New England Council will have to make a choice between following the path of the Mid-Atlantic Council or going with the ASMFC.

CHAIRMAN AUGUSTINE: Okay, comments in favor of the substitute motion.

Any other comments from board members in favor of the substitute motion? Dr. Nelson followed by Mr. Freeman.

DR. NELSON: Thank you, Mr. Chairman. I guess much of this choice revolves, between two and three revolve around really whether or not the information, the scientific information on the stock conditions and the, how the fishing mortality is, what the fishing mortality is, is that information going to be available from the science center?

And does staff have a sense of whether or not that type of information is available on a routine basis at a certain time of the year and would continue to be even if they did, if the federal system went on to the no annual review?

CHAIRMAN AUGUSTINE: Mr. Beal.

MR. BEAL: You know the survey indices that are used and the landings information is available every year. But I'm not sure if the Northeast Science Center would actually go through the computation each year of the estimating biomass and fishing mortality rates from the previous year's fishery so I'm not sure.

CHAIRMAN AUGUSTINE: Thank you. Next, Mr. Freeman.

MR. BRUCE FREEMAN: It's my recollection that the measures that the Mid-Atlantic approved were multi-year specifications that would either be reviewed annually or not reviewed annually. And the one that was submitted to the service happened to be one without the annual review.

Perhaps Red could help us on this, whether in fact the council could essentially request a review. I just can't recall what the actual

wording of the motion made by the council was. But perhaps he could help us out.

CHAIRMAN AUGUSTINE: Mr. Smith, would you hold one second, please and let Mr. Munden answer that question.

MR. RED MUNDEN: Thank you, Mr. Chairman. My memory is probably not any better than Bruce's on this issue but the option that the Mid-Atlantic Council approved and recommended to the National Marine Fisheries Service does not require an annual review but that is an option.

If more current data come in that indicates that the status of the stock has changed then we can conduct an annual review. So it's an option we have available to us.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Mr. Smith.

MR. ERIC SMITH: Thank you. As was pointed out by my colleague from across the body of water that shall go unnamed, this is a day for New York and Connecticut to throw things across the table at each other.

I oppose the motion to substitute. I might stand corrected after a year or so if we find we just can't get the information so that our technical group can look the condition over on an annual review.

But to start out with this and just say we're going to set specifications or management measures for three years and we're not going to even consider how effective those measures are being towards meeting our objective, I'm not sure that's the place I want to be at the outset here.

So I'm not too concerned about the annual review, a year's worth of history or two might prove me different, but I'm going to

oppose the motion to substitute or amend, whichever it is, substitute, and go with the main motion. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Smith. Any further comments for or against the motion, the substitute motion? Mr. Colvin, please.

MR. COLVIN: First of all, with respect to the, you know, I'm offering this motion primarily out of consideration of workload, period. And you know right now the way things work with the Mid-Atlantic Council and the commission both looking at this stuff every year it's bad enough.

And it's difficult that we're doing it at different times. We ought to be doing it together like we do with some other things. But what I don't want to see is the Mid-Atlantic Council walk away from the workload for three to five years and it be left with the commission. That's the focus of the motion.

Now, the question has been raised, well, won't the data be available anyway? I don't know. But I sat at the Mid-Atlantic Council meeting in South Hampton and I watched Dr. Rago and others provide a pretty impressive amount of information and analysis.

And the truth is, I find it hard to imagine them doing that if the federal regulations don't compel it. I really do. You know they're trying to prioritize their workload just like everybody else.

So you know if the Mid-Atlantic Council had ended up somewhere else, that would be different. But I don't want to see us saddled with this workload unilaterally here. With respect to the position of the New England Council, perhaps that's yet to be specified.

But, quite frankly, it doesn't influence my thinking at all because they don't share in this workload. They just don't. This is between the Mid-Atlantic Council and the commission staff. And I just don't think we ought to take this on unless the Mid-Atlantic Council is with us.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Mr. Beal.

MR. BEAL: Thank you, Mr. Chairman, just a quick comment. Red alluded to it in his comments. The difference between Option Number 2 and Option Number 3 is that Option 3 requires the annual review. Option Number 2 doesn't preclude an annual review.

If there is new information available and the board for some reason wants the technical committee to dig into that information, there is nothing that prevents, you know, a board from tasking its technical committee to do work at any time, for that matter. But you know it's the requirement versus the -- you know, nothing prevents an annual review in Option Number 2.

CHAIRMAN AUGUSTINE: Thank you, Mr. Beal. Based on that further clarification, the difference between Option 2 and 3, do any board members have any discussion or comments on that? Mr. Smith.

MR. SMITH: I appreciate that interpretation. My problem, though, is Option 2 says, "allow for multi-year management measures without annual review." Back in this document somewhere, I think it was our preferred, there was an option somewhere that said, "with or without".

I mean and that's really what Bob is talking

about. I want to keep the option open, too. And maybe the board at some time would say, no, we're not going to do it this year. We don't have the need to do it.

But the language, the pure language of the title of Option 2 is, it seems to me, iron clad. You will accept whatever number of years you want for your management measures but you won't do an annual review and that troubles me.

CHAIRMAN AUGUSTINE: Other comments from the board. Mr. Freeman.

MR. FREEMAN: It seems like we're confusing these. I understand the arguments but I'm just reading Option 2 and what it indicates, that very first sentence, that you don't have to do an annual review; you're not required to do one.

But then the second sentence is if adjustments in measures are needed then you could do the review. And so although – - I think perhaps the difficulty is the wording of Option 2 says “without annual review” but then the text goes on to say you can do it.

So it may well be it's just we need to change the wording if that can be done. So, I think the arguments are valid and Gordon's argument I think is good. We're not going to task our technical committee to do the work that has been done through the center through Paul Rago.

It's just, it's going to be overwhelming. But if we do have information indicating indeed some changes should be made or could be made, and that information is available, certainly we could go back and re-examine whether we wanted to make any changes.

It would be an option up to us. It doesn't

compel us but I see that word “with and without” is the troubling word in both of these options and yet the text seems to explain what could happen or what would happen.

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Mr. Beal, did you want to respond to that before we have? To try to further clarify, would the change of a word or two significantly change the meaning or would it just clarify this “with or without” that we're wrestling with right now to move this process forward?

MR. BEAL: Well, I think we can -- you know obviously the board has the ability to change the wording of that. But I think if you change the wording that says “without an annual” to “without the requirement of an annual review” it may, that may satisfy Eric. I'm not sure. I can't put words in his mouth.

CHAIRMAN AUGUSTINE: Mr. Smith, do you want to respond?

MR. SMITH: Frankly, I'm trying to mentally embrace the nuance of that.

CHAIRMAN AUGUSTINE: Why don't you mentally work with that and Mr. Colvin we'll call on you. (Laughter) But we'll get back to you, Mr. Smith.

MR. COLVIN: I just was going to point out that the title for the option is “allow for” not “require” multi-year management measures. It seems to me that by virtue of the title, and Mr. Freeman reads the text the same as I do is, that it enables us to proceed in a certain way. It doesn't obligate us to. And I think that is consistent with what the Mid-Atlantic Council did in its framework.

CHAIRMAN AUGUSTINE: Dr. Pierce, response.

DR. PIERCE: Well, the language of Option 2 says that we would get potentially an annual review, we would not be required to have an annual review of updated information. I would suggest that the only way you're going to get updated information is if you do an annual review.

So let's not pretend that there is going to be information there that will spark us to do an annual review. The incentive must be there at the get-go to do the annual review, to look at information, to update that information, and this is not just about dogfish as well.

But there are some ecosystem considerations that I'm really high on, in particular the interaction between sea herring and dogfish. I think that it's wise for us to require it.

It also sends a message to the industry, recreational as well as commercial, that we're serious about this, that we're not abandoning or setting aside their concerns with a "maybe" as a possibility of our taking a look at fresh concerns that continuously arise as witnessed by I'm sure most of us having been e-mailed repetitively and contacted in other ways repetitively to "do something" about dogfish.

CHAIRMAN AUGUSTINE: Thank you. Mr. Mears.

MR. HARRY MEARS: I would support the substitute motion and I think Mr. Freeman made a compelling case that the present wording and the way this option has been explained all along certainly does not prevent a review at any time, annually or whenever new information is available.

And I think this motion is especially supportable for two primary reasons, one is for constancy with the recent action by the

Mid-Atlantic Council and, secondly, this is the reason multi-year specs are even being considered for species such as this.

We've heard time and time again we're dealing with a resource that is going to take multi years to recover and that it's really not anticipated that measures are going to drastically fluctuate from year to year.

And I think, frankly, there is not a need to require the review because that budget can be used better in other fashion, as Mr. Colvin indicated. So once again I don't really see there is any basis for fear or apprehension over the substitute motion. And it certainly would not prevent the annual review if new information came to light that would provide sufficient basis to do so. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears. Any further comments from the board on the substitute motion? Seeing none I would go to the public. Ms. Fordham.

MS. FORDHAM: Thank you, Mr. Chairman. Sonja Fordham, the Ocean Conservancy. Most importantly for clarification, what the Mid-Atlantic Council -- NMFS can correct me if I'm wrong but I understand that the Mid-Atlantic Council just proposed multi-year specifications but that the process that allows that to happen is already near complete or complete through the NMFS, through a framework process that is with NMFS now or already approved. So, it's not just the Mid-Atlantic Council. It's already, that process is already set.

We did not participate in the public hearing for this frankly because I don't have strong feelings. I can always go another dogfish meeting. But at the last meeting, ASMFC meeting, we did support Alternative 2.

We do believe it allows for annual review, that it's appropriate for such a long-lived species and the status of that species is not likely to change dramatically from year to year. And as you will hear in a minute, you're not meeting your fishery mortality targets so if anything you're likely to get bad news so we support the substitute motion. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Ms. Fordham. Any further comments from the board? Are we ready to vote? Do we need a caucus on the substitute motion? Mr. Munden. Thank you. Thirty-second caucus.

Are we ready to vote? This is on the substitute motion. Joe, do we need to read it? You have it. Okay. All in favor of the substitute motion, please raise your right hand and we'll count; eleven in favor, thank you; opposed, same sign; four; abstentions, same sign; one; null votes; none. The motion carries. It becomes the new motion.

Are we ready to vote on the new motion? All in favor of the motion as it has been read, it now becomes the motion, right hand for those in favor of; twelve; thank you; those opposed, same sign; two; null votes; same sign; zero; abstentions; zero. The motion carries.

I'm sorry, one. Oh, you are abstained. You are abstaining. One abstention. (Laughter) The motion carries. Okay, do we need further comments on Draft Addendum I? I believe that's all we have to approve on Draft Addendum I. Bob, do we need a motion to go to the ISFMP Board or does it just automatically go there?

MR. BEAL: No, addenda do not need to be forwarded to the full commission.

CHAIRMAN AUGUSTINE: Fine. Thank you. We'll move forward then. Thank you for that. Are we ready for the technical committee report? Chris Batsavage, are you? Okay, take the floor. Thank you.

TECHNICAL COMMITTEE REPORT AND RECOMMENDATIONS

DR. CHRIS BATSAVAGE: Thank you, Mr. Chairman. The Spiny Dogfish Technical Committee met with the Mid-Atlantic Council's Spiny Dogfish Monitoring Committee on September 22nd to set specifications for the 2006-2007 fishing year.

The objectives of the meeting were to review the current stock status information and recommend an annual quota and trip limits for the upcoming fishing year. The committee was also asked to review the possibility of a male-only fishery.

The first thing the technical committee reviewed was the 2004 landings data. U.S. commercial landings continued to decrease in 2004 with only 980 metric tons or about two million pounds landed.

Port sampling revealed that about 99 percent of the spiny dogfish landed were females, which is consistent with the past several years. Canadian landings increased in 2004 compared to 2003 with 2,336 metric tons or about 5 million pounds landed in 2004.

Recreational landings of dogfish in 2004 were estimated at 3,325 metric tons or about 7.3 million pounds, using total numbers of spiny dogfish estimated from the MRFSS survey and the average weight from the latest stock assessment.

Few dogfish are sampled by the MRFSS survey because dogfish are not targeted

recreationally. Many more dogfish are released than they are kept. The average weight from the stock assessment was used instead of the average weight from the MRFSS survey because the few dogfish sampled may not reflect the recreational catch.

And as in the stock assessment, the recreational discard mortality was assumed to be 100 percent. Estimates of dead discards significantly increased in 2004 with estimates as high as over 13,000 metric tons or in the neighborhood of 29 million pounds.

Dead discard estimates were in the range of 6,000 to 7,000 metric tons in 2003. Much of the estimated commercial discard was from the mid-water trawl fishery for Atlantic herring.

Mortality estimates for the three main gears that discard spiny dogfish are 75 percent for gillnets, 50 percent for trawls, and 25 percent for commercial hook and line. However, research on discard mortality of spiny dogfish could provide more precise estimates for future assessments.

This graph shows a comparison of dead discards to landings from 1988 to 2004. Dead discards are indicated by the blue line and landings are the red line. Dead discards were at a relatively constant level from 2001 to 2003 and were on about the same level as total landings at that time, before increasing in 2004.

The total removals of dogfish in 2004 -- and this is landings and dead discards -- was as high as 19,926 metric tons or just about 44 million pounds. This slide shows how the removals were distributed among the commercial and recreational landings as well as discards. And as you could see, dead discards made up the highest

proportion of those removals.

The following graphs show the results from the 2005 Northeast Fishery Science Center's Spring Trawl Survey. This graph shows the total stock biomass estimate of spiny dogfish. This is males and females of all sizes.

The three-year moving average of total stock biomass has decreased from 388,767 metric tons in 2002 to 2004 to 378,667 metric tons in 2003 to 2005. This graph shows the estimate of spawning stock biomass. And this is females greater or equal to 80 centimeters.

The spawning stock biomass continues to decrease from 60,033 metric tons in 2002 to 2004 to 53,567 metric tons in 2003 to 2005. This graph shows the biomass estimates for intermediate sized dogfish. These are both the males and females, 36 to 79 centimeters in length.

The overall abundance of intermediate size dogfish remains high and it was at 303,133 metric tons in 2003 to 2005. And this contributes significantly to the total population. Dogfish in general remain rather abundant, but the population is mostly composed of smaller, immature fish.

Okay, this next graph shows just the biomass estimate of the intermediate size females. These immature females show a fairly sharp decline in abundance compared to the overall abundance of dogfish from 36 to 79 centimeters.

The 36 to 79 centimeter males that were in the previous graph include older, mature fish which is why the declining trend for males in this size class is not as pronounced as it is with the females.

The decline in trend of the intermediate size dogfish is attributed to seven years of low pup production. Okay, these two graphs show the trends in length frequency distributions for male and female spiny dogfish over the years.

The red line in both graphs show the length frequency distributions for 2003 to 2005 and the other lines on the graph go back as far as 1988 to 1990 for comparison. The male distribution hasn't changed much over the years except there are fewer animals less than 65 centimeters now.

The female distribution is now mostly composed of about 70 to 80 centimeter fish with significant decreases of both the intermediate size fish and dogfish over 80 centimeters. Okay, this graph shows the biomass estimates of pups and these are dogfish less than 36 centimeters.

The pup abundance in 2004 increased for the first time in eight years, possibly showing evidence of improved recruitment. Two thousand five also showed a higher abundance than the seven years of historically low pup production.

The pup abundance estimates increased from 653 metric tons in 2002 to 2004 to 840 metric tons in 2003 to 2005. However, pup production remains low indicating that the directed fishery on the mature females had a negative impact on recruitment.

In an attempt to explain the high abundance of dogfish recently encountered by commercial and recreational fishermen, inshore and offshore trawl survey sites were compared. This graph shows the percent of the population found in the inshore stations. Males are the dotted blue line and females are the solid red line.

The spring survey shows a greater proportion of males than females in the inshore area since 2000. Historically the proportion of the population in inshore waters in the spring is relatively small, roughly 5 percent; however, since 2002 the average proportion has been more like 12 percent. More research is needed to explain the shift in the population's distribution.

As I mentioned earlier, the technical committee was asked to discuss the feasibility of a male-only dogfish fishery. Spiny dogfish school by both sex and size, resulting in single sex and mixed sex schools.

Tows from the spring survey were analyzed to see the proportion of tows that only caught male dogfish. Male-only schools are not as common as the mix and female-only schools. The technical committee was concerned about the discards of females that could occur in a male-only fishery.

The technical committee was also concerned about the potentially large amount of male dogfish landed because male dogfish have also shown a decreasing trend in abundance from low recruitment. However, the technical committee could support an experimental fishery for male dogfish that has minimal discards of female dogfish.

Spawning stock biomass remains well below the rebuilding target and dead discards are increasing, especially from the mid-water trawl fishery for Atlantic herring. The four million pound harvest cap currently in place is designed to discourage targeting mature females.

Commercial landings were much lower than the harvest cap in fishing years where these management measures were in place. So the technical committee thought it was

appropriate to consider a more reasonable cap.

So for the 2006-2007 fishing year the technical committee recommends a maximum bycatch quota of two million pounds to be divided between the two harvest periods in accordance with the interstate FMP.

And this would break down to about 1.16 million pounds in Period 1 and 842,000 pounds in Period 2. The committee recommends possession limits of 600 pounds in Period 1 which is May 1st to October 31st and 300 pounds in Period 2, November 1st to April 30th.

The committee recommended multi-year specifications for this bycatch quota and trip limits for the next two fishing years, that would be 2007 and 2008 and '08 and '09 with provision that no significant changes to the stock occurs during this time.

Other recommendations by the technical committee were to consider a bycatch cap of spiny dogfish on any fishery with significant spiny dogfish discards and to allow an experimental fishery for male spiny dogfish that is prosecuted in a manner that would not threaten the recovery of the female spawning stock biomass. And that concludes the technical committee report.

CHAIRMAN AUGUSTINE: Thank you, Chris, A very good report. Mr. Lapointe then Dr. Gibson, then Dr. Pierce, then Mr. Munden.

MR. GEORGE LAPOINTE: Can you go back to I think it's the third slide back where we talk about commercial landings are much lower than the harvest cap and so we are lowering, you're proposing lowering the cap because we didn't reach it. Help me out

with the logic because I'm not there.

CHAIRMAN AUGUSTINE: Chris, would you help with that, please.

DR. BATSAVAGE: Basically the four million pound quota was designed as a cap and you know wasn't intended to reach that cap. And as with the current management measures in place they were only landing about 1.5-1.6 million pounds under current fishing conditions.

So this is more protection for the spawning stock biomass. We recommended a two million pound cap since it is still above where the landings are currently being prosecuted and, again, you still allow maybe a little extra protection for the spawning stock biomass.

CHAIRMAN AUGUSTINE: Thank you. Dr. Gibson and then Dr. Pierce and then Mr. Munden.

DR. MARK GIBSON: If you could return to the slide of the pup production time series. Yes, that's the one. I note in here that the values in 2004 and 2005 while not reaching very high levels at least have reached levels that have occurred in the time series before and they're quite a bit higher than the seven consecutive or six years of failed production.

But I also noted that female spawning biomass is at best flat and still going down. I'm wondering, what spawning years do those pups map into? Are they age zero or are they age one or what?

CHAIRMAN AUGUSTINE: Chris.

DR. BATSAVAGE: Yes, I believe they are age zero, age one. They're roughly 36 centimeters. Yes, they're age zero because

they're roughly 36 centimeters or 24 to 36 centimeters when they're born.

DR. GIBSON: That being the case, does the technical committee have any reservations now about the influence of low spawning biomass on pup production? The relationship seems to be changing and I'm just wondering what their thoughts are on that.

CHAIRMAN AUGUSTINE: Chris.

DR. BATSAVAGE: Well, yes, I mean there is certainly concern with you know the low spawning stock biomass. And when we did the stock assessment in 2003 we looked at you know the pup production for the females and basically what we found is the larger females produce more pups and larger pups.

So when the population was basically, the spawning stock biomass was basically made of younger, smaller females, you had fewer pups being produced and they were smaller pups. And it is possible that there may have been some increased predation on these smaller pups that, you know, helped contribute to the low pup production for seven years.

DR. GIBSON: You're missing my point. It appears that the pup production per unit spawning biomass has increased in the past two years significantly because those two cohorts are significantly greater than they were for seven years but from the same amount of female biomass.

That's the question I'm getting at. Where is that coming from? We heard for several years now very low female SSB, small pups and that's why we've got a problem with pup production. Something seems to be changing here. Now, it hasn't gone back to

the former high levels but those are values that have been seen in the time series before.

CHAIRMAN AUGUSTINE: Chris, do you want to try that?

DR. BATSAVAGE: Yes. Actually we haven't discussed specifically this increase. Yes, we're encouraged by it but as far as why it happened, why it's happening now versus why it didn't happen seven years ago, we don't know yet. And, yes, I mean it's comparable to what we've seen in the time series before but it's also lower than some estimates we've had in the past years.

CHAIRMAN AUGUSTINE: Thank you. Dr. Pierce, Mr. Munden, Mr. Freeman.

DR. PIERCE: Yes, a benchmark assessment is scheduled for next year regarding dogfish. Perhaps at that time some further investigation can be done relative to this because, as Mark said, I also had a similar question and that's already been addressed so I won't get into it.

It just suggests the spawning stock biomass of females, large females, is higher than what we think it might be -- still far from where it needs to be but higher than where we think it might be.

I should point out, as well, for the benefit of the technical committee and the board that the data provided in this report regarding landings of spiny dogfish I suspect are on the low side.

I have checked with the processors in Massachusetts regarding the landings of spiny dogfish to see what those landings have been relative to what apparently is in the database. And they've expressed great shock that despite the fact that they're accurately reporting it to the SAFIS system

the numbers don't reflect what they have been landing.

Again, I only raise it because Chris has indicated that the two million pounds of landings had a heavy influence or a strong influence on the recommendation from the technical committee. And it appears that certainly recently this existing fishing gear in Massachusetts, anyways, we've landed the percent share that is appropriate for the season that we draw on.

So, the database as far as I'm concerned relative to overall landings is still not, hasn't quite shake out yet. Now, Chris, a question. The technical committee has recommended that there be bycatch caps in other fisheries.

Did the technical committee really delve into this and actually provide us with information that we could use to pursue such a strategy since it's easy to say "bycatch caps in other fisheries" but to go in that direction is an entirely different animal. So did the committee delve into that at all?

CHAIRMAN AUGUSTINE: Chris.

DR. BATSAVAGE: We didn't get into specifics on that. We talked about what has been done in other fisheries before but as to come up with a strategy to do that, no we haven't discussed that yet.

CHAIRMAN AUGUSTINE: Thank you. A follow up? Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. Chris, the technical committee recommended that research set asides be used to investigate the feasibility of male-only fisheries.

I know specifically that the federal plan does not have a provision for research set asides

in the dogfish fishery. And maybe Ruth would be the one to address this but my recollection is that the ASMFC plan does not have a provision for research set asides. Am I correct?

CHAIRMAN AUGUSTINE: Ruth.

MS. CHRISTIANSEN: No, the plan doesn't have that.

MR. MUNDEN: So neither plan has a provision for research set asides. And also the technical committee made reference to an experimental fishing permit which is an option through National Marine Fisheries Service but not through ASMFC.

CHAIRMAN AUGUSTINE: Clear point. Mr. Freeman.

MR. FREEMAN: Thank you. Chris, in your report in two different locations you gave the hooking mortality in the commercial fishery as 50 percent and then in another location in the report the hooking mortality in the recreational was 100 percent and I'm just curious how those numbers were determined.

DR. BATSAVAGE: Well, they're the same assumed mortality rates that were used in the last assessment. And a lot of it is just, you know, for the recreational fishery it's kind of anecdotal evidence of how dogfish are treated when they're landed, being deep hooked and being out of the water for a long time and mishandled.

We haven't, we don't have any new data for mortality estimates so we didn't want to -- Dr. Rago gives a range of estimates for mortality. You know we're still assuming 100 percent but until we have more data and you know do another assessment we really don't have any justification just to change

that number right now.

MR. FREEMAN: Well, it's somewhat disturbing. I don't go out and try to catch dogfish but I do occasionally catch them. And I can tell you from my own experience they're released very rapidly back to the water and they swim away and there is no indication there is any mortality.

Now, I don't know what it is but I know it's not 100 percent. And it may be worthwhile to question, to have the MRFSS question anglers who do catch them because I think we need perhaps a more realistic determination of what that is.

One other point, in our particular location off New Jersey we've been continually getting reports over the last several years of increased numbers of dogfish, particularly pregnant females. And it just seems to be totally contrary to what the stock assessment has indicated.

But I know in the presentation that Paul Rago gave, and it is indicated in your numbers there as well, is that there is an increased abundance of large females in the inshore waters. And in many instances we're finding that they're becoming more and more common, in some instances equaling more than 50 percent of the catch, not 5 percent, not even 12 percent.

And I, it's kind of interesting that this is occurring, no one seems to know why but our own experience is it's much greater than 12 percent. And we're also finding, which is very peculiar, increase abundance on a time scale.

Normally we would expect to see them off our coast and this is usually within 10 miles of shore or so between November and April and we're seeing them now very commonly

from October to July and in some instances year-around.

And these are reflected in the recreational harvest which we had not seen. So, at a time when the stock is at very low abundance at least the inshore fishermen are finding just the diametrically opposed situation.

We're finding more spiny dogfish over a longer period of time, more large females. These are mature females. And it's just very, very perplexing to both the commercial and recreational fishermen who are seeing these occurrences when at the same time we're telling them the stock needs to be rebuilt.

It's almost these people just find it unbelievable. And we need to understand that a little better because the credibility of many of our fishermen is just going down, not going up.

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Mr. White.

MR. PATTEN D. WHITE: Kind of a two-part question to Chris if I could. In your presentation you said that ninety-something-six percent of the landings were female which to me is very understandable because that's the only thing there is a market for.

Nobody is going to land males. So that kind of information to me a little bit skewed. But, relative to that, you didn't give the percent of female landings in the Canadian landings. Do you know if that was a similar breakdown with most of the landings up there female also?

CHAIRMAN AUGUSTINE: Chris.

MR. WHITE: And I've got a second part to that.

DR. BATSAVAGE: We're jogging our memory real quick here on this.

MR. WHITE: It was on one of your slides.

DR. BATSAVAGE: Yes, I'm just trying to remember. I think the majority of the Canadian landings are female. The exact percentage I can't remember.

MR. WHITE: The exact percentage is really irrelevant, Chris. I mean it's the same type of trend because of what the market is requiring, as I would understand it.

DR. BATSAVAGE: Yes, so it's going to be a majority female, exactly the, the exact breakdown I'm not sure. I think they may encounter some male fish in certain parts of Canada.

CHAIRMAN AUGUSTINE: Thank you. The second question.

MR. WHITE The other half of my question is, I guess generically we're talking about the possibility of an experimental fishery for males only. You explained -- and I missed part of your slide -- that sometimes females separate out but the males don't.

So I missed something there because obviously the females separate out then the males must be separate. Why couldn't we have two different TACs to encourage a male fishery as opposed to discouraging a female fishery?

CHAIRMAN AUGUSTINE: Chris.

DR. BATSAVAGE: Basically with dogfish you'll see they'll school by size and by sex. And basically you know the size has a lot to do with it. You know you've got the same

size class of dogfish, like say between 50 and 80 centimeters.

You're going to have a lot of males and females and you'll have them mix together like that. And you know the males don't grow as large as the females so you'll find schools of just large, mature females, 90 centimeters or so.

But there are some schools of male dogfish, male only dogfish, found out there as the Northeast Fisheries Science Center Trawl data has show. However, out of all the tows that they've analyzed it's very few.

Kind of maybe 5 percent of the tows with dogfish were just male only groups of fish. So they do exist, just in very small percentages to the rest of the population.

CHAIRMAN AUGUSTINE: Thank you. Mr. Adler, Dr. Pierce, Mr. Munden and Dr. Nelson.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. With the proposal there to drop the TAC from four to two and we have a waste of 29 million dead discards out there, do you think, don't you think that the dead discard number will continue to go up if you make it even more restrictive, especially since there is an increasing number of dogfish all over the place?

CHAIRMAN AUGUSTINE: Chris.

MR. ADLER: Do you think that that would go up, the 29 million will continue to rise?

DR. BATSAVAGE: Look like a lot of the discard, well, there has always been a high discard component with dogfish and other fisheries and this latest increase appears to be coming from a relatively new fishery in

the Northeast.

As far as dropping the four million down to two million and turning landings into discards, now according to the landings data provided to us I don't think that would necessarily happen because the four million pounds has not been reached in the last couple of years.

But, that really doesn't address, you know, the overall bycatch problem that we're having in other fisheries and, you know, that's something that is pretty difficult to deal with.

CHAIRMAN AUGUSTINE: Thank you. Dr. Pierce.

DR. PIERCE: In the interest of time I'll cut this short. I suspect that at the upcoming benchmark assessment there will be some discussions about new information relative to dogfish mortality.

And either at this board meeting or at the New England Council meeting I did highlight work done by the New England Aquarium not too long ago. And that work has revealed that the mortality of otter-caught dogfish is somewhere from 6 percent to 25 percent.

And with regard to the high mortality caused by recreational fishing, if I recall correctly, recreational fishermen have been portrayed as individuals who have turned wildly insane when catching a dogfish and they have slammed the heads of the dogfish against the transom and done ungodly things to the creatures. That's the way it has been characterized.

Now, I don't hold to that because recreational fishermen are not of that mind. They are conservation minded and would

not do such a thing. But that, believe it or not, I believe is the logic for that high 100 percent mortality consideration.

CHAIRMAN AUGUSTINE: Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. Chris, you indicated that the dead discards were estimated to be between 13 and 29 million pounds. That was for 2004. Is that correct?

DR. BATSAVAGE: Yes.

MR. MUNDEN: And I believe for 2003 we were looking at estimated discards of somewhere between 12 and 20 million pounds.

DR. BATSAVAGE: Yes.

MR. MUNDEN: Now, my recollection again is that Dr. Rago indicated that a relatively new fishery for river herring has developed and they are now factoring in the estimated discards from that fishery and that's why the discards went up from a high of about 20 million pounds last year to 29 million pounds this year, maximum amount that we estimate.

But I also believe that Dr. Rago indicated they only had a small number of observed trips on this Atlantic herring fishery, something like nine trips or something like that.

DR. BATSAVAGE: Yes, that's right. They had nine.

MR. MUNDEN: But the point I want to make is that we still have discards of somewhere between a low of 13 million pounds, a high of 29 million pounds, that are going over the side.

DR. BATSAVAGE: Yes, that's right. And with the low sample number of observer trips on the mid-water trawl boats, we couldn't really make any hard recommendations on what to do regarding bycatch because of the variability in that data. But, you know, like you said, the bycatch estimates are still pretty high based on what we've seen.

CHAIRMAN AUGUSTINE: Good, thank you. And the last comment from Dr. Nelson as we have to move along and make our selection for our specifications for 2006-2007. Dr. Nelson.

DR. NELSON: Well, thank you, Mr. Chairman. But since this will be my first time to speak I can ask a couple questions then, right? (Laughter)

CHAIRMAN AUGUSTINE: No. (Laughter)

DR. NELSON: One or two phrased in there. Okay, then I'll phrase it as a statement. So preliminary estimates suggest that overfishing is not occurring in 2004.

DR. BATSAVAGE: Actually at our technical committee meeting we weren't provided fishing mortality estimates at that time, basically due to the variability of the discard estimates. However, I think Dr. Rago may have presented that data at the Mid-Atlantic Council meeting after we met.

DR. NELSON: And I'm reading out of what we have as our report here and that says that the preliminary estimates estimate, suggest that overfishing was not occurring in 2004.

So my question goes back to what George originally brought up and that is, if that is

so, then the only reason you're suggesting to drop the four million to two million is because the landings haven't reached two million; and, therefore, it makes a little more sense to try to squeeze it down a little more and make sure it doesn't exceed two million as far as landings. Does that basically capture that sense?

CHAIRMAN AUGUSTINE: Chris.

DR. BATSAVAGE: That was one of the main reasons for that, you know to get the cap down to where the landings currently are right now and you know not allow any more fish to be landed that already is occurring.

DR. NELSON: I guess I think that is problematic, though, because obviously the industry isn't landing, at least the United States industry is not landing. Certainly it looks like the Canadians is where maybe more attention should be focused since they've doubled their landings.

But I just find it problematic to arbitrarily drop a number when we don't have any scientific facts to base that on. If we saw overfishing was occurring then that's something that we, you know, we are supposed to act based on science. But I think we need to keep that in mind as we have our discussions. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Dr. Nelson. Any further comments? I'd like to have a motion if someone would so want to move. Oh, I'm sorry, Mr. Goldman.

MR. EDWARD GOLDMAN: Thank you, Mr. Chairman. Not to belabor the point but I'm really disturbed by this recreational discard thing. As a quick comment I'd just like to point out that I think we really need

to go back and figure this mortality out just due to the fact that at this meeting we're giving out 300 de-hookers courtesy of Aquatic Release Conservation Company so right there that just shoots your number. Thank you.

FISHERY SPECIFICATIONS FOR 2006/2007 FISHING YEAR

CHAIRMAN AUGUSTINE: Thank you. Dr. Pierce.

DR. PIERCE: Are you looking for a motion, Mr. Chairman?

CHAIRMAN AUGUSTINE: Yes, I am.

DR. PIERCE: Okay, I'm prepared to make one but before I do that I have some prefacing remarks to serve as the basis for my motion. And I'll be as brief as I can possibly be, Mr. Chairman, because I realize we have more important sharks to get on to.

We now have a quota interpreted as a bycatch cap of four million pounds. There is no longer a directed fishery in the EEZ and any small-scale fishing in state waters, notably in Massachusetts waters, maybe North Carolina as well, has ended and that has occurred because of ASMFC decisions.

So this has led to fewer processors, just two in New Bedford that right now purchase from 25 to 30 small vessels that land dogfish as legitimate bycatch in Chatham and Gloucester, in those 600 and 300 pound increments. Let me stress that. They're landed as legitimate bycatch.

This bycatch amount is keeping these processors in business with regard to dogfish because bycatch is so common and so unavoidable that a tractor trailer can actually be put on the different docks, notably in

Gloucester and in Chatham so that enough can be landed as bycatch to fill the tractor trailer, therefore it can be processed.

So processors can actually anticipate depending upon the weather a daily supply of dogfish; therefore, they can plan accordingly. Now, in Massachusetts -- and here is the important point I want to make and I've already noted it but I have to highlight it again -- in Massachusetts I've been told by the processors that they have been landing about 300,000 pounds per month.

The federal landings figures don't match up with what processors say they are buying and what they are reporting and that is, of course, disturbing. There needs to be a match. I spoke with one processor today and he said absolutely he is reporting accurately.

I know the man very well and I believe what he says. And he doesn't understand why the record doesn't reflect what he's buying as bycatch. He said that at 30 cents a pound and 600 pounds per day, assume five days of fishing per day of bycatch landings, that's \$900 for a five-day week and that's very important for a lot of small boats.

That helps defray the increased costs of fuel that they're being forced to incur. Now we have a recommendation from the technical committee to reduce this bycatch cap to two million pounds. And I can't support that recommendation for a number of reasons.

Number 1, dogfish biomass is still very high, high at about 400,000 metric tons for both sexes and all sizes, although admittedly the spawning stock biomass for large females needs to be rebuilt.

Number 2, we can expect continued bycatch

to be high. Number 3, there is no directed fishery for dogfish. Number 4, commercial fishermen cannot avoid dogfish in part because of groundfish regulations in our area that force fishermen to fish in areas and at times in order to avoid groundfish, but they counter dogfish in large numbers.

So it makes little sense to reduce the cap. The cap is there to accommodate unavoidable bycatch that should be landed and not thrown back, presumably with the high mortality; that's the assumption now. That assumption may change after the benchmark assessment and new data are reviewed.

With biomass anticipated to increase, and I think that's what we should anticipate, especially for the larger females, and I think that's notable because of the increased pup production that we see, the season should not, we should not drop it down to two million.

We have no way to anticipate bycatch, especially in the mackerel fishery, in the squid fishery, in the sea herring fisheries. Dogfish are not targeted in these fisheries.

No one in their right mind in those fisheries would try to target dogfish or to go to where dogfish is found because they're net damaging creatures. They cause extensive damage to nets and it's an expensive repair.

So dogfish cannot be avoided. For sea herring, the reason why dogfish is caught with sea herring on occasion is the fact that dogfish are voracious predators of sea herring.

I believe that at the technical committee meeting Dr. Rago provided some additional information regarding dogfish predation on sea herring and he noted that according to

the Northeast Fisheries Science Center in 1992, 100,000 metric tons of herring were consumed by dogfish alone.

In 2002 he said about 50,000 metric tons were consumed. For those of us in the New England area who are concerned about sea herring and the fishery for sea herring, that's a concern. Also, why should we reduce the cap by half, a bycatch cap by half, when the Canadians continue to land five million pounds?

And my understanding is they're going up to 5.5 million pounds scheduled for next year. And then, finally, from a personal perspective, I have to highlight this, I object to the reduction because I've carefully studied the dogfish assessment for quite a few years.

And I as a New England Fishery Management Council member and as a former member of the Dogfish Committee have formally requested answers to many assessment questions that I have asked.

And after two years of my questions not being answered, with my not having a response, I'm still perplexed by some of the assessment findings that are internally inconsistent. I won't get into that here. We haven't time.

So until those questions are answered I really can't support a reduction, especially of a bycatch cap of dogfish unavoidably caught in other fisheries. There is no directed fishery for dogfish. No one directs on dogfish. There is every incentive to avoid dogfish.

So I will end by just reiterating my reasons why I don't support a reduction. Bycatch is probably close to four million pounds or at least in Massachusetts because the seasonal

share of that four million pounds that we've established, that seasonal share of fish that are caught up on our neck of the woods, is going to be taken certainly in this fishing year.

So, it is being taken. It is not being left in the ocean. It is bycatch that is being landed not wasted. Dogfish biomass continues to be around 400,000 metric tons. That's 882 million pounds with much of that dogfish being of greater than 80 centimeters.

And, again, we still have to get a better situation for the large females. We can expect the dogfish bycatch to continue to remain high. There is no directed fishery for dogfish. Commercial fishermen cannot avoid dogfish.

So, let them continue to land that bycatch and accrue some financial benefit plus retain some of the fresh fish market, the processors specifically, some of that fresh fish market, a little bit of the frozen fish market, although they've lost just about all that market to the Canadians.

So with all of that said, Mr. Chairman, I would **move that the board retain the four million pound bycatch cap for the next fishing year.**

CHAIRMAN AUGUSTINE: Do I have a second? Mr. Munden. Discussion by the board. Mr. Travelstead, Mr. Mears.

MR. JACK TRAVELSTEAD: Thank you, Mr. Chairman. I'd like to speak against the motion. I have some very serious — I think Dr. Pierce laid out some interesting arguments. I have some serious concerns about the status of the dogfish resource.

I think we have to give great deference to our technical committee. They are the

experts. They have laid out what I believe to be the best available science.

And although the report before us says that the preliminary estimates suggest that overfishing is not occurring in 2004, it goes on to say in the very same sentence that fishing mortality may be about twice as high as anticipated, twice as high as the fishing mortality rate target under present levels of regulation.

And while those are preliminary numbers and we'll know a lot more after the full benchmark assessment is done, I think we have to take that fact into consideration and listen to what our technical committee is telling us.

Based on that I would like to offer a substitute motion to adopt the two million pound quota as recommended by the technical committee.

CHAIRMAN AUGUSTINE: Do we have a second to that motion? The substitute motion, do we have a second to the substitute motion? Mr. Mears. Mr. Mears, your turn to discuss.

MR. MEARS: Thank you, Mr. Chairman. I would support Mr. Travelstead's remarks. I think there is some misconception in terms of the basis for the recommendation or the rationale or the importance of the two million pound quota and it's not simply to realign a cap to a level of harvest that did not reach a previous cap in past years.

The fact is that the original rebuilding schedule was predicated upon female biomass reaching a certain target in 2003. That level of spawning stock biomass did not occur which triggered a current rebuilding F of .03.

A harvest greater than two million pounds would not allow that rebuilding target to be met, hence the importance of the current substitute motion which is on the table to be consistent with the level of harvest that was currently recommended by the Mid-Atlantic Council. Again, the primary reason being of its importance to meeting the rebuilding schedule for dogfish. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears. Dr. Pierce to that substitute motion, then Mr. Colvin.

DR. PIERCE: Right, to the substitute. Again I have to emphasize that the chair of the technical committee indicated that the primary reason for this particular recommendation is landings of two million pounds. That's what the landings were.

And I've highlighted that that's not the case, that at least in Massachusetts we had, starting May 1 of 2005 through the end of October we're projecting 300,000 pounds or so per month. That brings us up to close to two million pounds.

And that's about the seasonal allocation out of the four million. So that is the primary reason. The reason is not valid because of the landings that we are incurring right now, bycatch, not going over the side dead or alive, not going over the side, being landed and some economic benefit is being accrued from that.

That's the purpose of the bycatch cap, to prevent waste. Let's not reduce the cap down to some lower number that would then force fishermen in Massachusetts and elsewhere to discard anything above the two million pounds because we've arbitrarily dropped it down to two million pounds if the substitute passes.

CHAIRMAN AUGUSTINE: Thank you for that clarification. And I'm remiss because I did not call on Mr. Hanlon who is with the law enforcement group and he would like to at least make some comments before I get to Mr. Colvin.

MR. JAMES HANLON: Thank you very much, Mr. Chairman. James Hanlon. I represent the Law Enforcement Committee. I just wanted to go on record for the Law Enforcement Committee stating that we have a concern about a male only fishery.

I just want to point out that although it is enforceable it is very difficult to enforce a fishery of that nature. And it's very manpower intensive. And we would prefer that we, that you not go that route.

CHAIRMAN AUGUSTINE: Thank you for that information, Mr. Hanlon. It will be very helpful to us. Mr. Colvin and then Mr. Munden.

MR. COLVIN: Just briefly, Mr. Chairman, this substitute motion is consistent with the Mid-Atlantic Council's recommendation and for the reasons given by Mr. Travelstead and Mr. Mears I'll support the substitute motion.

CHAIRMAN AUGUSTINE: Thank you. Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. I do not support the substitute motion. This substitute motion is inconsistent with the recommendation from the joint Mid-Atlantic/New England Council Spiny Dogfish Committee, which I chair.

That committee recommended a four million pound quota, bycatch allowance, I'm sorry, for the upcoming fishing year. The Mid-Atlantic Council rejected that. But the

reason that I supported a four million pound bycatch cap for the upcoming fishing year is:

Number 1, we have discards somewhere between 13 and 29 million pounds going over the side; Number 2, Dr. Pierce has pointed out that Massachusetts' harvests approximately two million pounds.

If we set the bycatch allowance at two million pounds, that will be harvested by the New England states and when the fish move into the Mid-Atlantic and southern waters there will be no fish available for our fishermen to fish on and every fish that they take will have to be discarded.

So I do not support this motion and I encourage everyone to vote down Mr. Travelstead's motion and let's go forward with a bycatch allowance that will allow some of these fish to be utilized.

CHAIRMAN AUGUSTINE: Thank you for that information. One more comment from the board in favor of? Seeing none we'll go to the audience. Oh, I'm sorry, Mr. Freeman and then Mr. Fletcher.

MR. FREEMAN: Just a question.

CHAIRMAN AUGUSTINE: Yes.

MR. FREEMAN: We've gotten into this years ago and I would direct my question towards Harry. If we have the commission with a different quota than the council, and this should, and as Gordon had indicated the position of the council was two million, how will the service deal with this difference? If in fact the four million is supported by the commission and two million by the council?

CHAIRMAN AUGUSTINE: Mr. Mears.

MR. MEARS: In many aspects it's a rhetorical question, essentially train wrecks occur. But more importantly, the basis for the substitute motion is very crucial biologically to the rebuilding of the resource and I think that should be the overriding factor in this case, as much as consistency with the Mid-Atlantic Council.

CHAIRMAN AUGUSTINE: Thank you. Seeing no other board hands raised up I'll go to the audience. Mr. Fletcher, please come up, and Ms. Fordham, to the substitute motion, please.

MR. FLETCHER: My question is, how can this board believe that we are using the best scientific information available and proposing to put a two million pound target or whatever you want to, on the board when the monitoring committee received a question -- and since I wrote the question and spent about an hour trying to figure out how to "dumb it down" so it could not be misinterpreted, I want you to read the question.

One, will you please address the landing of male dogfish bycatch from other fisheries. The second one is, address the bycatch reduction of allowing male dogfish to be landed from a gillnet fishery such as croaker, weakfish and cod.

Now, if you have a monitoring committee that takes those two questions, that specifically says "male" and "bycatch" and brings it into a targeted fishery, how could you even begin to take a recommendation from them that you allow two million pounds simply because the fish weren't landed last year?

The point being, the four million pounds is better than nothing. But you had a group there that took a specific letter and went off

in left field and never addressed the male landing of bycatch fishery. And then you have 13 to 26 million pounds being wasted.

And when I read the articles that say “and by the prevention of physical waste of fishery from any cause” and then the newer, politically correct, “and by the avoidance of physical waste from fisheries for any cause” I don’t see how anybody could vote for this two million pounds. Thank you.

CHAIRMAN AUGUSTINE: Thank you.

MS. FORDHAM: Thank you, Mr. Chairman. Sonja Fordham, the Ocean Conservancy. I want to reiterate what has been said about the fishing mortality targets not being met and there being no rebuilding in the mature females.

We believe that if you stray from the technical advice that you’re risking another problematic disconnect between state and federal dogfish measures and you will increase scrutiny on the effectiveness of your plan and your commitment to technical advice from a wide range of organizations.

And this would all be for fish that if current fishery conditions persist may well not be landed. So we urge support of the substitute motion. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Ms. Fordham. All right, are we ready to vote on this? Do we need a caucus? And we do. A minute for caucus. Are we ready for the vote? Joe, do you need the motion re-read. Okay, the substitute motion.

All in favor of the motion, please raise your right hand; I’m sorry, in favor of the substitute motion, raise your right hand, please; four in favor; opposed, same sign; seven; null; zero; abstentions -- I was

having a senior moment -- any abstentions; three abstentions. The motion fails.

Back to the original motion. Do you need to caucus on the original motion? No, okay, all in favor of the original motion, please raise your right hand; eight, thank you; opposed, same sign; five; null votes; none; abstentions; three.

Gordon said there are two. There are only two of you. The motion -- three. Who is the third one? Robert was late. Three. The motion carries. Okay, next. We need a motion for daily trip limit. Do I have a motion? Red Munden, sir.

MR. MUNDEN: Thank you, Mr. Chairman. I move that the trip limits for both harvest periods for the upcoming fishing year be 600 pounds.

CHAIRMAN AUGUSTINE: Do I have a second? Dr. Pierce. Discussion on the motion by the board.

MR. SMITH: If I may, Mr. Chairman.

CHAIRMAN AUGUSTINE: Mr. Smith.

MR. SMITH: Could somebody remind me what the Mid-Atlantic Council recommendation on this point was. Six and six?

CHAIRMAN AUGUSTINE: Six and six.

MR. MUNDEN: Correction, Mr. Chairman, six and three.

CHAIRMAN AUGUSTINE: Oh, they did go to six and three. I’m sorry. I stand corrected

MR. MUNDEN: The Mid-Atlantic was six and three. The joint committee

recommended six and six.

CHAIRMAN AUGUSTINE: I stand corrected. Further comments from the board. Yes, Mr. Smith, I already called on you.

MR. SMITH: Thank you, Mr. Chairman. I oppose this motion. I think it ought to remain with the trip limits of 600 and 300. Part of the reason I was discomforted over the drop in the cap was it's pretty obvious that there is some uncertainty about landings.

But it's also pretty obvious that the trip limits are controlling bycatch pretty well. If we get two or three more years and the landings still look lower then we may act differently but those trip limits that we have now seem to be doing what we had intended them to do so I would be very wary about changing them. Thank you.

CHAIRMAN AUGUSTINE: Thank you. I think we have misinformation. Mr. Munden, do you want to correct this?

CHAIRMAN AUGUSTINE: Thank you, Mr. Chairman. I, too, have senior moments occasionally. The Mid-Atlantic Council, I was reminded by Pat Kurkul that the Mid-Atlantic Council did approve, did recommend 600 pounds for both harvest periods. And while I have the speaker here may I address this motion?

CHAIRMAN AUGUSTINE: Please.

MR. MUNDEN: Okay, in spite of Mr. Smith's concerns, we feel in North Carolina that 600 pounds is appropriate. Three hundred pounds for the winter harvest period has not worked for North Carolina.

It's such a small quantity that the fishermen

won't even bother with them, won't land them as bycatch and they throw them over the side. Going way back in the history of the development of the FMP the trip limits that were established were arbitrary and I know that because I sat on the plan development team.

We looked at landings during the summer harvest period, the number of vessels that were participating in the fishery and said, okay, divide the quota that would be available by this number of vessels and it came out to 600 pounds for the winter fishery we have fewer vessels, dividing that into the harvest during that time period and we arbitrarily came up with 300.

So the Mid-Atlantic and southern areas have been hampered with a very, very small trip limit, possession limit, or whatever you want to call it for the whole time that the plan has been in place.

So I feel like that this brings equity to both harvest areas, both the New England and the Mid-Atlantic area so I support this motion and ask all of the council members to do so. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Chairman. Further comment from the board. Are we ready to vote? Do we need a caucus? Thirty-seconds. May we have your attention.

All those in favor of the motion, a show of hands, right hand only; eleven; thank you; opposed to the motion, same sign; one; null votes; none; abstentions; four. The motion carries. I think we have one last item which is possible multi-year specifications. Discussion. Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. I **move that the harvest**

specifications be for the 2006-2007 fishing year only.

CHAIRMAN AUGUSTINE: Thank you. Do I have a second to that? Dr. Pierce. Discussion by the board. Dr. Pierce.

DR. PIERCE: I would suggest that this is wise and that we wait for the benchmark assessment. We get a thorough assessment of spiny dogfish next year; hopefully my questions get answered. And we will then be in a position to determine if the specifications should be lowered or raised, kept the same, for the fishing year 2007 going into 2008.

CHAIRMAN AUGUSTINE: Further comments. Seeing none, is there any opposition? George Lapointe.

MR. GEORGE LAPOINTE: Didn't we just approve an addendum where we moved towards multiple? I mean, recognizing it, you know, it's improving the measures in it but isn't this inconsistent with the spirit of the addendum we're putting out to public comment?

CHAIRMAN AUGUSTINE: Bruce. No, Bob.

MR. BEAL: I mean, the board did just finalize an addendum that gave the board the authority if they chose it to implement multi-year specs. They're not required to do it but obviously the board was contemplating the need or the potential reduction in workload associated with multi-year specs.

CHAIRMAN AUGUSTINE: Mr. Lapointe.

MR. LAPOINTE: Thank you. That's what I thought.

CHAIRMAN AUGUSTINE: Mr. Munden and then Mr. Adler.

MR. MUNDEN: Thank you again, Mr. Chairman. Once again the joint committee recommended that the harvest specifications be for one year only. And their rationale was that we have a new stock assessment scheduled for June of 2006 and we'll be in a much better position to establish multi-year specs after having the benefit of that stock assessment.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Mr. Adler.

MR. ADLER: This is a little bit out of this range but it goes back to that addendum and it's only process. I didn't know if we had actually voted to approve the addendum. We approved the options in it but I didn't hear a motion to approve the addendum as written or as changed or whatever. Just come back to that later if you need to.

CHAIRMAN AUGUSTINE: Thank you, Mr. Adler. Any further comments from the board? From the public? Oh, Jim, help us. We're running out of time and you haven't gotten into coastal sharks yet.

MR. FLETCHER: A clarification, you just passed a motion of 600 pounds of dogfish. Will you or the commission explain to me why the plan is written for recovery of female biomass while the plan is targeting the F on females? Why the total plan is on females and you pass a motion that can close both sexes, please?

CHAIRMAN AUGUSTINE: I can't answer that question, Jim. I don't know who can. Mr. Beal? Mr. Mears, I thought you explained it very well, that the whole FMP was developed around a female-only

harvest. Mr. Lapointe, you were involved with that, would you help us.

MR. LAPOINTE: Well, a point of order. We're talking about the harvest specs and not what we just did, aren't we? I don't think the question was pertinent to the question before us right now.

CHAIRMAN AUGUSTINE: Thank you. I needed that clarification. The question is out of order, Mr. Fletcher. I'll see you after at the bar. (Laughter) Listen, this meeting gets very serious at times and we're getting late in the day and we do have a whole other FMP to go through.

I think this is one of the times that I've tried to take time to make sure everybody has had an opportunity to ask their questions. I've always been known to be very short, curt, sometimes not as courteous as I could be.

But we have a process to go through and rather offending anyone by not getting on the table to speak their peace I'd rather have the board remind me that we're dealing with either an amendment, addendum or a motion, whatever it happens to be.

So, please bear with me. And I did have a "senior" moment earlier today. (Laughter) So back to the motion. Any further discussion from the board? I see none. Audience, thank you very much for your participation.

Do you need a caucus? No caucus so may we have a vote. All in favor of the motion please raise your right hand; thank you, twelve; opposed, same sign; none; null; zero; any abstentions; four abstentions. Thank you. The motion carries.

I think we have accomplished our task relative to that. Are we ready to go into

coastal sharks? Coastal sharks. You have your document that -- we're going to get into Item 7, review committee membership, the technical committee, plan review team and the advisory panels. And Ruth is going to scold you all very badly right now so please listen to what she has to say. Ruth.

REVIEW OF COASTAL SHARKS COMMITTEE MEMBERSHIP

MS. CHRISTIANSEN: I'll try to be nice. I just want to draw everyone's attention to a memo that was sent out on September 8th requesting that the states, we are trying to gather membership for the Coastal Shark Technical Committee and Plan Development Team.

The technical committee was formed a while ago and I needed, I was looking for confirmation for the technical committee membership. And I only received confirmation from two states. So I'm going to assume that if you have nothing to add then the list that is on this memo is the accepted technical committee membership.

And we also need to form a plan development team and I received no names for that plan development team. And so we need to get the ball rolling so that we can you know stay on track.

CHAIRMAN AUGUSTINE: Dr. Pierce is going to help us.

DR. PIERCE: Well, just with regard to the technical committee, it was my understanding that we had already offered the services of our shark specialist, Greg Skomal, so please add Greg to your list. He has a wealth of experience dealing with coastal sharks. S-k-o-m-a-l.

CHAIRMAN AUGUSTINE: Thank you,

Megan.

MS. MEGAN GAMBLE: Megan Gamble from National Marine Fisheries Service. We have a number of people on this committee currently that we would like to discuss in-house and we'll get back to you with some new recommendations.

CHAIRMAN AUGUSTINE: Thank you very much. Comments from other board members. For your information we need six new additional members for the plan development team so please think seriously about if you can help us in that effort.

And the advisory panel, what are we doing there? Advisory panel, we're okay. All right, we'll move on to the development of the public information document. Oh, sorry. Tina, please.

MS. TINA BERGER: Hi, yes, regarding an advisory panel, we were hoping that we could get a couple of volunteers from the management board to meet with the Advisory Panel Oversight Committee to configure the Coastal Shark AP.

CHAIRMAN AUGUSTINE: Mr. Munden has raised his hand. Dr. Pierce has raised his hand. Is there anyone else? Is that you, Pat White? Did you put your hand up, Pat? Oh, okay, I guess he didn't. Ritchie White, you put your hand up? Oh, okay. Two enough, Tina? Thank you.

MR. MUNDEN: I don't want to be on a committee.

CHAIRMAN AUGUSTINE: Mr. Munden you have another one?

MR. MUNDEN: No, I don't want to be on a committee. I was trying to get recognized. (Laughter)

CHAIRMAN AUGUSTINE: Well, you were recognized. You're on a committee. (Laughter)

MR. MUNDEN: But not for the point that I wanted to make.

CHAIRMAN AUGUSTINE: Mr. Lapointe. Megan Gamble, are you on the committee?

MS. GAMBLE: I was just going to say that Highly Migratory Species already has a large Coastal Shark AP so I'm sure we can help figure out who might be appropriate so we can help there, too.

CHAIRMAN AUGUSTINE: Excellent. We appreciate that input. Yes, Mr. Munden, are you withdrawing?

MR. MUNDEN: Yes, thank you, Mr. Chairman. I just wanted to advise you that Dr. Louis Daniel will represent Preston Pate from the state of North Carolina on the Coastal Shark Management Board.

So I will be serving on the spiny dogfish portion of the board and Dr. Daniel will take over for North Carolina at this point and that I don't want to serve on the committee. (Laughter)

CHAIRMAN AUGUSTINE: We're going to miss you, Red. Thank you.

MR. MUNDEN: Thank you.

CHAIRMAN AUGUSTINE: Okay, moving on to the development of public information document. Ruth, would you do this, please. Would you pull out your document. She has made a very, very good effort.

As a matter of fact the document is so complete hopefully we're only going to have to address possible new options or take some of the options out. All the background information has been put together as though this were going to be considered a final document. But now we're looking for your input and review. So, Ruth, please.

DEVELOPMENT OF PUBLIC INFORMATION DOCUMENT

MS. CHRISTIANSEN: All right, thank you, Mr. Chairman. Yes, this document was put together to basically just help guide discussion about how the board wants a public information document to look in the anticipation that at the next board meeting we can approve a PID to go out to the public.

I'm going to try to be very quick here. The purpose of the PID is to inform the public of the commission's intent to gather information concerning the fishery for Atlantic coastal sharks and to provide an opportunity for the public to identify major issues and alternatives relative to the management of coastal sharks.

And as a brief reminder to the board of the type of management we are currently dealing with when compared to current federal coastal shark fishery regulations: Maine, New Hampshire and Rhode Island lack commercial and recreational regulations; Massachusetts, Connecticut, New York, Maryland, and North Carolina have similar fishery regulations; New Jersey, Delaware, Virginia, South Carolina, Georgia and Florida have differing shark fishery regulations.

And again as another reminder this table presents a summary of the minimum number of shark species found off each state's coast,

including the number of federally-prohibited species.

So public comment is being sought on a series, it will be sought on a series of issues that may need to be addressed in the interstate FMP. So the issues that I have included here in the preliminary PID are intended to focus public comment and provide the board with the input necessary to develop a draft FMP.

So as I go through each of these four issues I just want the board to think about either what they would like to be kept, what they would like to be taken away, or what they would like emphasized more so that I can draft the public information document and, like I said, hopefully at the next management board meeting we can approve it to go out to the public.

So, Issue 1, that as it stands reads, "What are the appropriate management goals and objectives to be included in the interstate FMP?" Right now our main goal is to develop and implement an interstate fishery management program that is complementary with federal and international efforts to ensure self-sustaining coastal shark stocks.

There are six objectives in the preliminary PID now. They are: to prevent or end overfishing; to rebuild overfished fisheries and control components, all components of fishing mortality; to minimize bycatch; to provide necessary data for assessing stocks and managing the fisheries; to better coordinate state conservation and management; and to promote the protection of areas identified as important habitat.

Issue Number 2 focuses on whether federal shark regulations should be duplicated in state waters or whether states should be required to have complementary measures

only. Issue Number 3 focuses on what shark species or groups should be included in the interstate FMP.

And Issue Number 4 asks what other issues should the commission address through the interstate FMP and a preliminary list of some of those issues are: fishing gear types and effort controls; habitat and habitat areas of particular concern; potential interaction with protected species; international catch, trade, and the import and export of shark products; economic and social aspects of the coastal shark fishery; bycatch; permitting and tournaments; and continuing research and information needs.

And I want to draw the board's attention to the timeline that is found on Pages 19 and 20 of the preliminary document. This is about a year-and-a-half-two-year process and so it's important that we try to maintain, try to keep on track and so I have highlighted where we are at in the process with the stars. So thank you.

CHAIRMAN AUGUSTINE: Okay, questions from the board. Dr. Daniel.

DR. LOUIS DANIEL: Thank you, Mr. Chairman. I have several comments on the various aspects of the document but the first one that I'd like to address is in Table 4, Page 11, of the document.

I think that the dominant species that we're dealing with in the Atlantic in the commercial fishery are the sandbars and the black tips. But I think it's important to note the variability in these assessments.

And if you will look at sandbar sharks under fishing mortality rate, F2001, it ranges from .0001 to .7. And the assessment says that the stock can either not withstand any fishing pressure or it's under exploited.

And the basic conclusions in the assessment that was peer reviewed was that they're probably not overfished and not overfishing. That's the result.

So I think it's very important if the ASMFC is going to move forward in developing a coastal shark plan that we have someone vet that assessment and the peer review, not take it to a peer review but we at least need to have an independent ASMFC review of the science being used because I very much differ with NMFS on their interpretations of the assessment and I think they're wrong.

The other point that I think is very important is in the information that's in the issues. I think we need to look at one of the things that's not in the document and one of the impetus behind trying to have a complementary state-ASMFC plan was to try to get some protection in some of these state water, primary nursery areas or essential fish habitats.

Right now the only measure that has been implemented by NMFS to protect essential fish habitat has been the closure off of North Carolina. But in the document it states where Delaware Bay, Chesapeake Bay are some of these major EFH habitat areas of particular concern.

And I think it's a critical component of this plan to at least have language in there about how this plan could complement some of the measures in federal waters to protect the neonate, juvenile pupping areas and pregnant females.

CHAIRMAN AUGUSTINE: We'll accommodate that. And as far as Dr. Daniel's comment on the review of sandbar black tip sharks, do we have the capability of doing that? Review of the assessments

without going to a peer — you said without going to a peer review? Yes, Dr. Daniels, please speak to that point.

DR. DANIEL: There is a 2002 large coastal stock assessment on the Internet on the NMFS Website, HMS Website. And attached to that are three independent peer reviews of that assessment: one by Terry Quinn, one by Alverson and one by some guy from Hawaii or somewhere who runs a shark lab in Hawaii.

There is a lot of real concerning discussion by the peer reviewers on that assessment and there is a lot of inconsistencies from the assessment that was conducted by the National Marine Fisheries Service.

And I just think that it's critically important for us not to just take the NMFS interpretation of that information for granted and not have it vetted through our technical committee, whoever is going to serve on that for large crystal sharks, and the small coastal, spine tooth. But look at the numbers in Table 4. I mean if that doesn't indicate a need to have some kind of a review, I don't know what does.

CHAIRMAN AUGUSTINE: Thank you, Dr. Daniel. We made note of that.

MR. BEAL: Louis, are you asking for just recognition in this document that there is variability within the estimates on fishing mortality or are you asking for an additional opinion on where we are within that range, from .001 to .7?

DR. DANIEL: Yes, I mean there is no indication in anywhere where we are in that range. And the assessment says we could be underexploited or overexploited. And it has been basically a judgment call as to where we are in the assessment.

And I think that it's important for us not to just put out these tables with these wildly ranging variables and not have some estimate, some point estimate of the fishing mortality rate, some point of the biomass over Bmsy, some of these things.

And I think if we're going to go out to the public we need to have a document that we can explain. And I don't feel comfortable explaining what we've got right now from National Marine Fisheries Service.

Now, our technical committee may come back and say, hey, this is perfectly legit. But the reviewers that looked at it didn't feel that way. And I've been unsuccessful in 170-some days of getting answers to some of these questions.

And I just think it's very important that before we move forward that we have the answers to some of these questions. And I would feel comfortable if our technical committee reviewed it and just came back and addressed some of the concerns that were raised by the reviewers.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Mr. Beal.

MR. BEAL: You know, assuming we can get our technical committee membership squared away relatively quickly, you know we can get the input from those guys and see if they come back with a consensus statement or if they're as divergent as some of the reviewers may have been. But we can do that probably before the February meeting either via conference call or a meeting.

CHAIRMAN AUGUSTINE: Good. Megan Gamble.

MS. GAMBLE: Not specific to Louis' point but related to it, I just wanted to make sure that everyone is aware that large coastal sharks are currently undergoing a stock assessment which began actually this week. And ASMFC was invited to have participants from the states attend that meeting.

The process is very similar to the SARC process. It has been modified a little bit to accommodate some of the needs for sharks. But this is only one step in the process and there will be other points at which the commission representatives could get involved. So they're still invited to do that.

CHAIRMAN AUGUSTINE: Thank you for that information. Further comments from the board. Okay, Dr. Daniel.

DR. DANIEL: A question for Megan. Is that assessment a multi-species complex assessment or is it just for duskies? I know there is a dusky assessment going on right now that's a closed population model but then is there also an LCS complex assessment undergoing now?

CHAIRMAN AUGUSTINE: Megan.

MS. GAMBLE: That's correct.

DR. DANIEL: Okay.

CHAIRMAN AUGUSTINE: The answer was, "That's correct." Further comments from the board, Mr. Freeman.

MR. FREEMAN: Yes, I'd just like to remind the board and particularly the service that we raised a number of issues dealing with coastal sharks, especially on the recreational side, when the federal government first put regulations in place.

We made a number of comments which were never addressed by the agency and they essentially just went ahead and put in place what is in place at the present time. But we have concerns about providing historical catch information which is lacking.

The catch information here goes back only to 19- —I guess it is -- '98. It should go back much further than that. Also, it does not address the issue of retaining a quality product by recreational fishermen.

Under the present law it would require fishermen if they caught a shark for consumption in all likelihood the fish would be unusable by the time it arrived at the dock. There is no consideration of that.

And we feel that that certainly is an oversight. We had indicated this to the agency years ago. It is still not addressed and it's not addressed in this plan as well.

CHAIRMAN AUGUSTINE: Thank you for that point, Mr. Freeman. Further comments from around the table by the board. Can we assume that you like what you read and what you've heard? Well, then you ask some questions and raise some issues. Are there any other concerns? Dr. Nelson, please.

DR. NELSON: Thanks, Mr. Chairman. Granted, I was more interested in benthic ecology growing up, I never met a large-tooth shark that I would, really wanted to meet. But you know as I look down the list here of what occurs in New Hampshire waters: Number 1, I was very surprised at what is there and also what is not there.

And I just, I think we need to take a look at not just looking at what is the range of these species, which is how these things were

determined from what I can see, but you know, could we have something that's a little bit more definitive?

I mean, I doubt if we really have anything roaming through except for a few basking sharks in our state. Offshore I'm sure there are a few of these, although some of these are really, I didn't even know they existed.

So, I think we need to take a look at that table and refine it as much as possible to reflect what a state is supposedly being concerned about versus perhaps not being as concerned if there is not a presence or the range is not that far north, for example. It might be the tip of Gloucester or something but I still haven't taken over that far south.

CHAIRMAN AUGUSTINE: Thank you for those comments and we made note of that. Megan.

MS. GAMBLE: We noticed some of the same issues that John just brought up. And, Ruth, we have some additional sources of information that might help out in clarifying that table.

CHAIRMAN AUGUSTINE: Okay, so you'll get that from Megan. Any further comments from the board? What's your pleasure at this time? Go home? We can do that but I think we have an action to take. We think we have enough directions. Enough questions were asked, enough issues were raised so I think we can move forward to the next step. Mr. O'Shea.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. Just to sum up where we are, staff's understanding of this, there are certain key issues around the table that we've heard this afternoon that people would like to see in the PID.

And our intention would be for staff to try to capture that and then call back on those people informally and make sure that we've gotten a sense of what they want. So hopefully the next time you meet we won't have to go through all this. That's our interpretation of where we are in the process now.

CHAIRMAN AUGUSTINE: That's my understanding.

EXECUTIVE DIRECTOR O'SHEA: Thank you.

OTHER BUSINESS/ADJOURN

CHAIRMAN AUGUSTINE: Is there any other business to come before this board? Then we're going to adjourn. The meeting is adjourned. Thank you all for your participation and patience.

(Whereupon, the Spiny Dogfish and Coastal Shark Management Board meeting adjourned on Tuesday, November 1, 2005, at 3:08 o'clock, p.m.)

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