

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

**June 9, 2003
DoubleTree Hotel Crystal City
Arlington, Virginia**

Approved December 17, 2003

ATTENDANCE

Board Members

Lew Flagg, Maine DMR
Pat White, Maine Gov. Apte.
Senator Dennis Damon, Legislative Apte. (ME)
John Nelson, New Hampshire Fish & Game Dep.
G. Ritchie White, New Hampshire Gov. Apte.
Dennis Abbott, proxy for Rep. Blanchard
David Pierce, Massachusetts DMF
Bill Adler, Massachusetts Gov. Apte.
Vito Calomo, proxy for Representative Verga (MA)
David Borden, Rhode Island DEM
Gil Pope, Rhode Island Gov. Apte.
Jerry Carvalho, proxy for Rep. Naughton (RI)
Eric Smith, Connecticut DMR
Lance Stewart, Connecticut Gov. Apte.
Gordon Colvin, New York DEC
Pat Augustine, New York Gov. Apte.
Brian Culhane, proxy for Senator Johnson (NY)
Bruce Freeman, New Jersey DFG&W

Tom Fote, New Jersey Gov. Apte.
Roy Miller, Delaware DFW
Howard King, Maryland DNR
Bill Goldsborough, Maryland Gov. Apte.
Jack Travelstead, Virginia MRC
Richard Robbins, proxy for Catherine Davenport (VA)
Fentress Munden, **Chair**, North Carolina, DMF,
Damon Tatem, North Carolina Gov. Apte.
David Cupka, SC DNR, Gov. Apte.
Susan Shipman, GA DNR Coastal Resources
Representative Bob Lane, Legislative Apte. (GA)
Representative Mitch Needleman, Legislative Apte. (FL)
Kathy Barco, Florida Gov. Apte.
Harold Mears, NOAA Fisheries
Bill Cole, USFWS

Ex-Officio Members

Chris Batsavage, Technical Committee Chair

William McKeon, LEC Representative

ASMFC Staff

Bob Beal
Megan Gamble
Michael Howard, ASMFC

Vince O'Shea
Nancy Wallace
Brad Spear

Guests

George Lapointe, ME DMR
Preston Pate, NC DMF
Paul Diodati, MA DMF
Dan McKiernan, MA DMF
Paul Perra, NMFS
Jeffrey Marston, NH DFW
John Witzig, NMFS – NERO
Tom Meyer, NMFS
Sonja Fordham, The Ocean Conservancy
Coby Dolan, The Ocean Conservancy

Stetson Tinkham, US Department of State
Janice Plante, Commercial Fisheries News
Kelly Place, Coastal VA Waterman's Assoc.
Peter Burns, NMFS
Bob Ross, NMFS
Jim Armstrong, MAFMC
Anne Lange, NMFS
Steve Meyers, NMFS
Maury Osborn, ACCSP

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MOTIONS

1. Move to amend the Board's previous action setting the 2003 fishing year quota at 8.8M pounds by instead setting the quota at the level recommended by the Technical Committee (quota = 4.0 million pounds) and a trip limit up to 7,000 pounds.

Motion made by Mr. Goldsborough, second by Mr. Travelstead. Motion fails for lack of a two-thirds majority (10 in favor, 4 opposed, 2 null votes, no abstentions).

2. Substitute motion:

Move the Board adopt the Spiny Dogfish quota of 8.8 million pounds for May 2003 – April 2004 fishing year with 4.4 million pounds of the total being used for landings of dogfish bycatch in other fisheries. Both directed fishery and bycatch allocations will be divided with 57.9% (2.55 million pounds) being allocated to Massachusetts, New Hampshire, and Maine and 42.1% being allocated to Rhode Island through North Carolina. The directed fishery and bycatch allocation will be landed with trip limits up to 7,000 pounds.

Motion made by Dr. Pierce, second by Mr. Carvalho. Motion fails (3 in favor, 12 opposed, 1 null and no abstentions).

3. Move to amend the trip limit such that no more than 600 pounds shall be fish 80cm or greater.

Motion made by Mr. Smith, second by Mr. Colvin. Motion fails (4 in favor, 9 opposed, 3 abstentions).

4. Move to accept Option One to address regional quota overages.

Motion made by Mr. Augustine, second by Ms. Shipman. Motion passes (12 in favor, 1 opposed, 2 abstentions).

5. Move to reconsider the motion to amend the Board's previous action setting the 2003 fishing year quota at 8.8M pounds by instead setting the quota at the level recommended by the Technical Committee (quota = 4.0 million pounds) and a trip limit up to 7,000 pounds.

Motion made by Mr. Smith, second by Mr. Colvin. Motion withdrawn.

6. Move to postpone indefinitely.

Motion made by Mr. Adler, second by Mr. R. White. Motion fails (4 in favor, 11 opposed, 1 null, and no abstentions).

7. Move to amend so that the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, and Maryland limit dogfish landings in those states to 57.9% of the annual quota (5,095,200 pounds) for the fishing year May 1, 2003 to April 30, 2004 and the states from Virginia south agree to limit landings in those states to 42.1% of the annual quota (3,704,800 pounds). The trip limits for this fishing year shall be up to 7,000 pounds.

Motion by Mr. Munden, second by Mr. Robins. Motion fails for lack of a two-thirds majority (4 in favor, 9 opposed, and 2 abstentions).

**ATLANTIC STATES MARINE FISHERIES
COMMISSION**

**SPINY DOGFISH AND COASTAL SHARK
MANAGEMENT BOARD**

DoubleTree Hotel Crystal City
Arlington, Virginia
June 10, 2003

The meeting of the Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Room of the DoubleTree Hotel Crystal City, Arlington, Virginia, on Tuesday, June 10, 2003, and was called to order at 2:35 o'clock p.m. by Chairman Red Munden.

WELCOME & INTRODUCTIONS

CHAIRMAN RED MUNDEN: All members of the board, please take your seats at the table. I'd like to start the meeting of the Spiny Dogfish and Coastal Shark Management Board. Looking around the table, I see we do have a quorum so we'll dispense with the roll call.

Bob Beal has advised me that he will be passing around a sign-up sheet so please sign up when that comes by, so we'll know who was in attendance at the meeting. I'd like to welcome you to this meeting of the Spiny Dogfish Board.

I'm Red Munden, the chairman of the board. I represent North Carolina as Preston Pate's proxy for the spiny dogfish on the ASMFC. We have two hours to discuss spiny dogfish issues, and the first thing I would like to do is to ask for approval of the agenda.

BOARD CONSENT

CHAIRMAN MUNDEN: Megan sent out an agenda and other information to the board members. If you do not have that, then contact staff. I ask for approval of the agenda. Mr. Augustine, you're moving for approval of the agenda?

MR. PATRICK AUGUSTINE: Yes.

CHAIRMAN MUNDEN: Okay, thank you. There is one item that —

MR. AUGUSTINE: Thank you, Mr. Chairman.

May I move it, please.

CHAIRMAN MUNDEN: There is one item that has been brought to my attention, and that is a letter from the North Carolina Marine Fisheries Commission, asking us to revisit one of the action items that we took at our February meeting.

If there is no objection from the board, I would add that under other business. It will be the last thing that we will discuss at today's meeting. Any other items that board member would like to have added to the agenda? Seeing none, the agenda is approved.

You should all have received the proceedings from our February 25th meeting. Any additions or changes to the proceedings? Do we have a motion to approve? Motion by Pat Augustine, seconded by Bill Adler. Proceedings are approved.

PUBLIC COMMENT

CHAIRMAN MUNDEN: The next thing on our agenda is actually an item for public comment. We do not have any specific time constraints associated with that item, but I'll ask if there are public comments at this time. Sonya Fordham, would you please come forward, identify yourself for the record.

MS. SONJA V. FORDHAM: Thank you, Mr. Chairman. Sonja Fordham, the Ocean Conservancy. I appreciate the opportunity to comment today on some spiny dogfish issues. I also speak today on behalf of the National Audubon Society and the Environmental Defense Fund.

All of you should have received some version of a copy of our group comments on the quota and trip limit issue for dogfish signed by the aforementioned organizations, as well as the Natural Resources Defense Council, the National Aquarium in Baltimore, the Shark Research Institute of Virginia, the Florida Program for Shark Research, the Mount Marine Lab, and Defenders of Wildlife and the Wildlife Conservation Society.

I'd like to take this opportunity to review the main points of the comments, and I may wish to speak up as you debate what we think is a very crucial matter.

Please also note that you should be receiving copies of letters with similar requests from the IUCN, the World Conservation Union Shark Specialist Group and the American Elasmobranch Society, which is the world's preeminent scientific organization of

scientists dedicated to shark's, skates rays and chimeras.

So, this pretty much assures you that every shark scientist in the world will support you if you decide to lower your quotas, as we hope. As most of you are aware, we remain deeply concerned about the dismal status of spiny dogfish.

You may recall that we have been strong supporters of your relatively new Spiny Dogfish Fishery Management Plan. I have addressed you many times on this topic. It does seem that our arguments have never been more straightforward as they will be today.

There are many complicating components. I urge you to keep in mind, as you debate this issue, two key factors that remain central to the debate; the target of the fishery and the biology of the beast. Neither one shows any indication of changing in the near future.

Any fishery that you allow will target the largest females left, and spiny dogfish remain one of the slowest growing, most biologically vulnerably species within your purview. To recap, the directed fishery has led to severe depletion of the mature females and ongoing recruitment failure that is worse than scientists predicted.

Preliminary data being funneled into next week's stock assessment indicates a 75 percent decline in the spawning stock biomass and a seventh straight year of virtual absence of pups.

Surely, the only responsible course of action under such a scenario is to protect rather than target reproductive females. As such, ending the directed fishery remains essential to reversing the decline and rebuilding the population to fishable levels.

Indeed, this clear need and the acceptance that management should be consistent throughout the range of the species form the basis of the federally compatible Dogfish FMP that you adopted last fall.

We were therefore frankly shocked to learn about your decision in February to more than double the dogfish quota and increase the trip limits by an order of magnitude, a decision that runs counter to clear scientific advice and also the goals of your new FMP.

This also undermines rebuilding of the entire population, has related consequences for negotiations with Canada, protected species programs and confidence in the ASMFC process. We are hopeful

that you will revisit this troubling decision today.

I just want to run through those briefly. First, we are deeply concerned that the ASMFC technical review process was circumvented by the submission of a quota proposal for your consideration before it was reviewed by the ASMFC Dogfish Technical Committee.

There was also no warning to the public that such a major policy shift would be considered in February so close after the adoption of your FMP.

The technical committee was only able to review the proposal after the fact and, as you should hear today, has since rejected it and reaffirmed its original recommendations for low limits that mirror those in federal waters.

The quota increase has also served to derail negotiations with Canada regarding this trans-boundary stock. As you will recall, you called on the National Marine Fisheries Service to negotiate with Canada to bring their growing dogfish fishery in line with scientific advice.

A bilateral meeting was then set up. However, the U.S. government was, frankly, put in a difficult and embarrassing situation at this meeting as they had to end their dogfish presentation with the news that the commission had doubled the quota.

The Canadian fishermen in the meeting reacted by requesting a comparable doubling of their quota, and the Canadian fishery managers told us flat out that the United States had a real jurisdictional problem, and they were obviously hesitant to engage in joint management if plans could be undermined by the states.

We left the meeting without any commitment for cooperation on this stock. It's clear to us that getting our own house in order is the first essential step to getting these negotiations back on track and, furthermore, increased state quotas risk similar action by Canada, thereby amplifying the pending increase in mortality on the shared stock.

There are other serious international consequences to this action having to do with tarnishing our record on the world stage and the credibility issues associated with the world's leading proponent of global shark conservation initiatives knowingly depleting the world's most abundant shark.

I know a representative from the State Department is

here today. Perhaps he will elaborate on these problems. As you know or you will hear, the state-federal quota discrepancy also further complicates matters by increasing the risk of entanglement for protected species off North Carolina.

I think you will hear about that later, but the Atlantic Bottlenose Dolphin Take Reduction Team is concerned that the higher fishing effort in state waters will lead to increased entanglement of protected bottlenose dolphins as well as loggerhead sea turtles which are threatened under the ESA.

We are also sincerely concerned about what this action means to the credibility of the entire ASMFC process and the public's confidence in the system. We feel the public deserves some assurance that technical proposals presented here will be properly vetted through the ASMFC technical committees before you vote on them.

Naturally, we believe the public's interest is best served when you vote in line with the scientific advice, but at the very least such crucial, far-reaching policy decisions should be made in line with the management plans and the goals that you have already adopted.

Finally, as you know, we were extremely pleased, after a thorough debate and the years of work by your staff and the Dogfish Board, that the ASMFC made the difficult yet necessary decision to mirror federal dogfish rebuilding efforts by adopting an FMP that discourages the directed fishery through low fishing mortality targets.

Indeed, you have made the tough decisions. You have a sound, science-based dogfish rebuilding plan that provides the essential protection needed to rebuild this severely damaged population.

You are also fortunate to have a highly competent dogfish technical team at your disposal. We urge you to heed the advice of your experts and uphold the principles of your plan.

Specifically, we ask that you reconsider your February decision and correct this serious misstep by immediately adopting 2003 dogfish catch limits in line with the advice of the ASMFC Dogfish Technical Committee and the ASMFC Dogfish FMP.

That is an annual quota is no more than 4 million pounds and trip limits of no more than 600 and 300 pounds for the two quota periods. We would like to respectfully request a roll call vote on all of the

activities, and we thank you for your time.

CHAIRMAN MUNDEN: Thank you for your comments, Sonja. Will you provide copies of your comments to the staff for inclusion in the record. Other public comments? Is there anyone else that would like to address the board? Bill.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. I was not here for the February meeting, and I don't know how you want to handle this particular issue, but all I know about how the discussion went and the decision was made is what is reflected in the minutes, and I know there is a lot more to it than that.

But from what I have read and what I understand, it appears to me that this board has made a mistake, and even that this commission has a bit of a black eye over this decision, so I would like to make a motion when it's appropriate — at the chair's recommendation — that we give reconsideration to this matter.

CHAIRMAN MUNDEN: Thank you, Bill. What I would like to do is to go through the agenda. We have a couple of other items that we need to cover, and then I intend to provide guidance to the board relative to bringing the issues back up that we voted on at our February meeting. And at that point, then I will be glad to recognize you for a motion.

If there are no other comments from the public, then we will close the public comment period and we will move on to the agenda. The next thing we have is an update on the U.S./ Canadian information session on spiny dogfish by Megan.

**UPDATE ON THE CANADIAN/US
INFORMATION SESSION ON SPINY
DOGFISH**

MS. MEGAN E. GAMBLE: Well, I wanted to provide the board with an update on this meeting because at the last board meeting the board expressed a desire to have the commission actively participate in the Canada/U.S. information session on spiny dogfish.

The need for this information session arose from a U.S./Canada Steering Committee meeting during which the U.S. expressed concern about the different management approaches for dogfish in light of the population status.

I attended the information session on behalf of the

commission, and this meeting was held on April 4, 2003, in Dartmouth, Nova Scotia.

The purpose of this meeting was to create a forum for Canadian and U.S. scientists, policy individuals, and industry representatives to get together to exchange data, knowledge and general understandings about spiny dogfish biology, the fishery and management.

The meeting was intended to be a first step in the process to work towards a more integrated management of spiny dogfish. There were about six presentations from both Canada and the U.S. The topics ranged from biology and life history to the management of spiny dogfish.

The meeting was also well attended by Canadian industry and allowed for an open discussion between all of the participants. Some important points that I learned during this meeting were; first, the Canadians would not actively participate in the U.S. stock assessment this year, but they would provide data to incorporate into this assessment.

The Canadians are currently focusing their effort on collecting data and information over the next four years. In five years the data will be reviewed and the stock assessment will be considered. The ultimate goal is to have a track or a trans-boundary assessment in about five years.

At the time of the meeting, Canada's intent was to maintain the same quotas, that is their community and their research quotas, with no effort increase in the fishery, but the Minister wasn't expected to release those regulations for the 2003-2004 fishing year until May 1st. I haven't seen anything since May 1st on what their regulations are.

The Canadian representatives and industry representatives had a lot of questions concerning the recent developments in the U.S. management of spiny dogfish and were interested in knowing if this would influence the Canadian measures for dogfish.

Their response was that the quotas were originally capped at 2,500 metric tons not because of U.S. management activities but because of indications from the Canadian surveys on the dogfish stock status.

The chairperson of this meeting is putting together some proceedings. Those are still in draft form and are being distributed among the workshop participants; and when I do have a final version, I'd be happy to share that with the rest of the board.

CHAIRMAN MUNDEN: Questions of Megan?

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman. Megan, maybe I misheard what you said. How long is it going to take to get a joint track assessment from the Canadians? I hope you didn't say five years.

MS. GAMBLE: We were told that they plan to collect more data over the next four years, and then in five years they'd be able to entertain the idea of a joint stock assessment.

MR. BORDEN: You know, for the life of me -- and to put it in perspective, I'm the chairman of the Trans-Boundary Management and Guidance Committee for the New England Council, so I've been very actively involved in the negotiations with the Canadians on the ground fish stocks -- it's just inconceivable to me that it's going to take five years to do a joint assessment.

I just don't understand what the technical issues are there that they can't expedite that because, I mean, from my perspective, that is going to be a major impediment in terms of moving forward with dogfish conservation.

We've got to have a common understanding of what the stock status is, and then we've got to have some kind of sharing agreement ultimately and a common fishing mortality strategy in order to make sure that one country doesn't increase their landings.

The other problem that I would note, while I have the mike, is that in part of the ground fish discussions it's been repeatedly stated by the Canadian industry that there has been a very large increase in abundance in Canadian waters and, therefore, their dead discards have increased very substantially, which simply freezing the catches and landings where they are aren't going to address a major source of mortality on a population.

I just want to voice those reservations and anything we can do to expedite a joint assessment, I think we should ask for that assessment to be done much sooner rather than later.

CHAIRMAN MUNDEN: Other questions of Megan? Bruce Freeman.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. Megan, relative to the meeting, was there any explanation by the Canadians as to how they set

their existing quota if they don't have any stock assessment?

MS. GAMBLE: My understanding is that they capped their quota at the 2000 level, so it was just the landings they had for the year 2000, they just capped them off at that level.

MR. FREEMAN: There was no discussion, though, prior to 2000 how they limited or didn't limit the fishery, is essentially allowed to catch whatever they wanted to and that's where it ended up at 2000?

MS. GAMBLE: My understanding is that they did not limit it prior to then. In fact, the Canadian Dogfish Fishery is even newer than the U.S. Dogfish Fishery, and so caps on this fishery wasn't needed until just a few years ago.

MR. FREEMAN: So it was free floating until that time?

MS. GAMBLE: Correct.

CHAIRMAN MUNDEN: Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman, just a footnote. Part of their quota-setting season involves what's called "establishing joint project agreements" or JPAs that are equivalent to what we do with some fisheries here in the U.S. through what's called "research set asides."

These are essentially cooperative agreements with the industry to try to enhance and build up their database in terms of being able to establish a time series of data, one purpose of which would be in fact to move forward with the United States to do a joint stock assessment.

The good news, in the absence of having this type of formal assessment until five years from now, is in fact they are now formally contributing information into the stock assessment process and the dialogues have been essentially established for both management and scientific aspects of the dogfish fishery.

There is a working group and on the U.S. side those representatives include Hannah Goodale and center representative Paul Rago to continue the exchange of information both on joint management concerns and joint stock assessment concerns. Thank you.

CHAIRMAN MUNDEN: Mr. Borden, I will recognize you again.

MR. DAVID V.D. BORDEN: I mean, in terms of the stock assessment, I would like our staff or the center staff to somehow write down on a piece of paper why we can't expedite some joint assessment.

I mean, our stock assessment is based on a swept area of biomass assessments. That's the way we do it. And the Canadians routinely do their own groundfish surveys, so I'm sure collecting the dogfish information is part of those surveys. I don't understand what the impediment is to moving forward with a combined assessment, and maybe Megan can answer that question.

MS. GAMBLE: Well, I can certainly look into it further, but I think that part of it had to do with timing. This information session took place in April and the stock assessment group met in May. The Canadians just weren't ready and didn't have the information together to actually go through our peer review process or create that trans-boundary resource committee.

MR. BORDEN: I'll just be very brief, Mr. Chairman. I understand that, but I'm looking ahead. And, if we're saying we're not going to get a combined assessment done for five years, somebody has got to explain why that is because it – what are they going to collect in the next five years that they don't already have? That's what I need to know.

MS. GAMBLE: The other piece to that in terms of timing is that our assessments are done on a five-year schedule, and so the next opportunity for the U.S. side to do a peer review of our stock assessment is in five years, and I think it was just trying to coordinate with the process we already have in place.

MR. BORDEN: But that's an issue of priorities. If dogfish conservation is a priority of the National Marine Fisheries Service, then instead of doing an assessment five years from now, we should do it next year or two years from now.

MS. GAMBLE: Maybe what we could do is forward this issue to the Northeast Coordinating Council. I think that they're the body that usually addresses the schedules for stock assessments.

UPDATE ON THE BOTTLENOSE TRT RECOMMENDATIONS

CHAIRMAN MUNDEN: Other questions of Megan? The next agenda item is an update on the Bottlenose Dolphin Take Reduction Team

recommendations. If you look through the information that Megan passed out, it's in the document dated June 10, 2003, and on the bottom it says "not included on the briefing CD."

I would ask you to shuffle through your documents and papers and try to locate that one, and I will give you a very brief update on the Bottlenose Dolphin Take Reduction Team.

One of my collateral duties with the North Carolina Division of Marine Fisheries is to serve on several take reduction teams, the bottlenose dolphin team being one. Our first meeting was held in November 2001, and we met five times between November 2001 and May of 2002.

The team came to consensus on its recommendations to National Marine Fisheries Service that would protect bottlenose dolphins and reduce the take levels below the PBR, which is a potential biological removal level.

The National Marine Fisheries Service looked at our recommendations, and then they came back during the fall of 2002 and basically said, "Your recommendations are good but they didn't quite go far enough; you need to do more."

So the team was reconvened in April of 2003, and this was our sixth meeting. The objectives or the goals that were identified to the team members for this sixth meeting is that they wanted us to recommend actions that were quantifiable measures for the summer Northern North Carolina management unit. These are the bottlenose dolphins that are found off the coast of North Carolina from April through October.

They also wanted us to clarify some of our recommendations; and of more importance to this board is the third charge was to address new fisheries management plans for spiny dogfish and also striped bass and incorporate them into the Bottlenose Dolphin Take Reduction Plan.

I think it's very important -- if you look at this document on Page 10, there is a list of the take reduction team members. Dave Cupka serves on the team along with me, Tina Berger, and a number of state representatives, managers, representatives of environmental organizations, and fishermen.

The first take reduction team meeting that I attended I was overwhelmed by the fact that you had about 40 people sitting in a room with very diverse interests.

The guidelines and the ground rules for the take reduction teams are that no recommendations go forward to NMFS unless there is consensus so everyone has to agree.

But, amazingly, the process works and we did come to consensus at our meeting again in April and made recommendations to NMFS. And very briefly I will point out to you what the recommendations were for spiny dogfish.

If you look on Page 3, you'll see the Spiny Dogfish Management Plan, and the team expressed its concern for changes in effort as a result of the Atlantic States Marine Fisheries Commission setting the quota for spiny dogfish at an 8.8 million pound level for the current fishing year.

The take reduction team, by consensus, recommended for the winter mixed stock fishery or the winter mixed stock management unit -- and the bottlenose dolphin are classified by various management units -- that there be no overnight sets of gillnets that measure from 5 to 7 inch mesh. That's on the top of Page 4.

The winter mixed stock management unit occurs off the coast of North Carolina from November 1st to November 30th. And so the recommendation that came out of the team is that there be no overnight sets of gillnets that are classified as a "medium mesh" or 5 to 7 inch stretch mesh.

I won't bore you with the other details of the take reduction team recommendations other than the fact that we hope to see a proposed rule published by the latter part of the summer by the National Marine Fisheries Service.

As I understand it, there will be approximately a 30- to 60-day comment period. We expect it will be 60 days, and that will run into the fall. And, then once NMFS has an opportunity to review the public comments, then they will respond with a final rule sometime the latter part of 2003, maybe in 2004.

At that point in time, all of the recommendations that the take reduction team recommended at its meeting in May of 2002 and the most recent meeting, April of 2003, will be incorporated into the take reduction plan.

Of course, they have to meet the NMFS muster and review to make sure that they go far enough to protect bottlenose dolphins. Are there any questions on the Bottlenose Dolphin Take Reduction Team?

Dr. Pierce.

DR. DAVID PIERCE: Just a clarification, Mr. Chairman. The winter mixed stock management unit, there is some seasonality to that? I think you mentioned November 1 through the 30th. The recommendation is that the ban on the setting of gillnets overnight would only occur in November?

CHAIRMAN MUNDEN: That's correct, and that's because during the winter the bottlenose dolphins that normally are found from Chesapeake Bay north move down and winter off the coast of North Carolina so you have very few bottlenose dolphin from the Chesapeake Bay north during the winter.

And, incidentally, these dates coincide with the winter harvest period for spiny dogfish and the summer harvest period for spiny dogfish that are in both the federal plan and the ASMFC plan. But, they are really based on the migration of the dolphin rather than the two dogfish plans. Other questions or comments on bottlenose dolphins?

One thing that I will do, because we do have a protected species committee that has recently been formed for ASMFC, that we will make sure that the final recommendations go to the protected resources committee. I'll ask staff to ensure that we make sure that the protected resources committee has a chance to review the proposed rule during the comment period.

TECHNICAL COMMITTEE REPORT

CHAIRMAN MUNDEN: Our next agenda item is a report by the technical committee, but prior to going into that report by Chris Batsavage, I would like to share some information with you, and that is after our meeting in February I was approached by several members of the board, and they were concerned by the action that was taken by the board.

Several people indicated that we should reconsider the action that was taken by the board relative to the quota. But no one came forward and say, you know, let's go back and revisit that issue so, therefore, it does not appear on the agenda.

After talking with Vince O'Shea, I asked him to research this for me and provide some guidance as to how we should handle this should anyone ask to revisit the issue of the quota setting relative to spiny dogfish.

Vince sent me an e-mail. I reviewed it and I asked the staff to send it out to all of the board members. If you have not received that e-mail, then I'm sure the board members can provide you with a copy. But, in essence, since this is not a published agenda item, if a board member would like to bring it up — and this can be anyone sitting on the board — it will require a two-thirds vote to either amend the action that was taken in February or to rescind it.

We cannot reconsider because you can only reconsider a motion at the same meeting. Now the two-thirds majority is two-thirds of all the board members, not just the board members sitting around the table.

So if you have a state that's not represented, then that still is figured in the percentage when you come up with the two-thirds majority. We have 16 board members, so if, indeed, a motion is made, it will require 11 affirmative votes to change the action that we took at our February meeting.

And with that, I will move into the presentation by Chris Batsavage, and he is going to give us a summary of the technical committee meeting that was held in April and an update on the latest stock assessment.

MR. CHRIS BATSAVAGE: Okay, thank you. The technical committee met on April 23rd to reexamine Dr. Rago's and Dr. Pierce's quota determination methods that I presented to you at the last meeting.

In reexamining the methods, the technical committee identified assumptions in each method, evaluated to see if the fishing mortality rate of 0.03 could be achieved, reviewed landings and discard data, discussed characteristics of the current fishery, and then, finally, recommended a quota for the 2003-2004 fishing year.

In addition to presenting the results of the technical committee, I'm also going to present some of the 2003 spring survey data and trends that was presented to us by Dr. Rago at our latest meeting on May 28th.

Okay, as I mentioned before, these are the same methods that I presented at the last board meeting, so I'll just briefly describe the methods for both Dr. Pierce and Dr. Rago and identify the assumptions used in each method.

For Dr. Pierce's method, he took a fishing mortality

rate of 0.03 and multiplied it by the exploitable biomass, which was estimated from the 2000-2002 three-year moving average. That came up with an estimate of 10.37 million pounds, which was reduced down to 8.8 million pounds.

His method assumes no discards in a directed fishery and does not account for discards in other fisheries. For Dr. Rago's method, he uses a projection model where fishing mortality is estimated from the total removals from the population, which is landings and discards. The fishing mortality rate estimates lag behind the removals.

Basically when there are abrupt changes in the fishing mortality rate, the estimated F rate may not reflect what is currently going on.

The projection method also assumes that natural mortality is assumed. Because the projected removals in this method include discards, a rescaling factor was applied to determine rebuilding quota.

Okay, to compare the two methods briefly, they both use biomass estimates obtained from the Northeast Fisheries Science Center Spring Survey. They both apply the same fishery mortality rate of 0.03. The main difference is how discards are treated.

Dr. Rago applies a rescaling factor to account for discards. Dr. Pierce's method does not account for discards. Okay, we were also presented discard data, both from Dr. Pierce and from Dr. Rago.

This is the discard data Dr. Pierce presented. He alluded to this at the last board meeting on February 25th. He presented this to the technical committee in greater detail at our May or April 23rd meeting.

This data comes from at-sea observer trips on boats targeting spiny dogfish in 2002. This was three gillnet boats and six longline boats.

Now the 2000 and 2001 data was not presented because of changes in the fishery. Specifically, there was a minimum size in Massachusetts in 2000 and 2001. There was no minimum size in 2002.

Discard estimates from both gears were pooled because fishing occurred at the same times and locations. The discard rate estimates from this data came out to 2 percent by weight and about 3.5 percent by number.

These estimates were revised from the presentation Dr. Pierce gave at the last board meeting where he estimated them at 9 to 15 percent. I think that was by

numbers — yes, this is by weight. It's a more accurate way of doing it.

And, the gillnet discards appeared much higher than the longline discards. The percent observer coverage was unknown. However, it was brought to the attention of the technical committee that approximately 60 to 70 percent of the boats actively participating in this fishery were longline boats and the remaining 30 to 40 percent were gillnet boats.

This data assumes that discard estimates from the observed trips reflect the discard rates of this entire directed fishery. And, the discard mortality was unknown; however, it appears low due to the short soak times and shallow water.

Dr. Rago also presented some discard analysis. His discard data came from NMFS at-sea observer trips. He took discard-to-kept ratios which are estimated by species groups and gear groups for the directed fisheries and non-directed fisheries of spiny dogfish.

The trawl gillnet and dredge fisheries all showed similar declines in spiny dogfish discards over time. For these three gears combined, the discards decreased from approximately 1,500 pounds per trip in the late 1980s to approximately 200 pounds per trip in 2002.

The discard rates decreased as the population size decreased. However, smaller dogfish are now landed compared to the late 1980s and fewer days at sea are now available to fishermen. This has resulted in them trying to avoid dogfish in order to catch more valuable species.

The spiny dogfish discards are still dominated by the non-directed fisheries. Dr. Rago showed that the discards and landings have been similar in magnitude since 1997. This explains why he used rescaling factors that resulted in approximately half the projected removals in his model being classified as discards.

Okay, he also discussed pup production. Some of this is from the fishery management plan, but just kind of used as a term of reference. At a fishing mortality rate of 0.082, you expect to see 1.5 female pups per adult female to recruit to the spawning stock biomass.

With a fishing mortality rate greater than 0.11, the removals will occur faster than the stock can replace itself. We've seen very low biomass estimates of pups since 1997. This is most likely due to the high fishing mortality rates of the 1990s.

Another possibility could be some environmental changes may have redistributed the pups; something we talked about at the meeting. But, it's not real likely that the survey would miss them for this many years in a row after commonly catching pups for over 30 years.

And if pup production is actually greater than the survey estimates, then we'd expect to see a higher percentage of fish in the 50 to 60 centimeter size class now. This will be more evident when I present survey trends a little later.

Okay, some concerns of the technical committee. The discards in other fisheries are greater than or equal to the current landings. We've had low pup production since 1997.

For this 2003-2004 fishing season, as you all know, 58 percent of the quota is allocated to Massachusetts, New Hampshire and Maine and then 42 percent of the quota is allocated from Rhode Island to North Carolina.

It's a concern of the technical committee that directed effort could shift to state waters when federal waters close. There are trawl, gillnet and hook fisheries in these other states that discard spiny dogfish, so the technical committee could not assume the discards from fisheries in other states would be as low as they appear to be in Massachusetts.

Therefore, the technical committee recommends a 4 million pound quota for the 2003-2004 fishing year. It's unlikely a fishing mortality rate of 0.03 can be achieved with an 8.8 million pound quota, discards and Canadian landings. The committee believes that multiple years of harvest at this level could be potentially detrimental to stock rebuilding.

Okay, finally, I'm going to present some of the spring survey data and trends from our last meeting. The trends that we're going to look at are ones in total biomass, mature female biomass greater than 80 centimeters, intermediate-sized dogfish which are between 36 and 79 centimeters for both males and females, pup biomass and changes in length frequency distributions.

Okay, this first graph shows the total swept area biomass estimates for spiny dogfish, both sexes combined. For the following several graphs, the dots are annual biomass estimates and the line tracks the three-year moving average. Metric tons is on the Y axis and years on the X.

The 2003 estimate of approximately 469,000 metric tons is very close to last year's estimate. It appears the steep rate of decline and total biomass has leveled off the last few years.

Okay, this next graph shows the swept biomass estimate of mature females. The estimate for 2003 was approximately 64,000 metric tons. This is similar to the previous two years. This trend appears to remain stable now at the time series low, which is still well below the target level of 167,000 metric tons.

Okay, the next graph shows the female biomass between 36 and 79 centimeters. The biomass estimate for 2003 was 125,000 metric tons. It's real similar to last year's and, of course, the three-year mean is real similar to last year's as well.

This graph shows the male biomass in the same size class. Again, the biomass estimate was approximately 256,000 metric tons and is similar to the past couple of years.

I do want to point out, though, that the abundance estimate for the males in this size range is twice the estimate for the females. The current management efforts are focused on rebuilding the female component of this population.

All right, this graph shows the swept biomass of the pups, the dogfish less than 35 centimeters. The 2003 estimate increased slightly from 2002, but it's still at the time series low. This now makes seven straight years of historically low pup production.

It's really unknown whether the pup rates are due to low survivability or lower birth rates or a combination of the two. But the main point is, again, we've had poor pup production again in 2003.

Okay, this final graph shows changes in the length frequency distributions over time. The blue line is the length frequencies from 1985 to '88. The red line is from '95 to '97, and the green line is 2001 to 2003.

In 1985 to '88 we had a fairly even distribution of fish in all size classes with a fairly high number of large adults and pups. In 1995 to '97 we had fewer large adults and pups and a kind of bi-modal abundance of 50 to 60 centimeter and 70 to 85 centimeter dogfish.

But by 2001 to 2003, we had very few dogfish less than 60 centimeters and a continued decline of the

large adults, with the majority of the population between about 65 and 80 centimeters.

So, as I mentioned before, if pup production is actually higher than our survey estimates indicate, we should be seeing some more dogfish in this 50 to 60 centimeter size range by now.

Okay, just to summarize the survey data and trends, again, the status is similar to 2002. The mature female biomass appears to have stabilized but at the time series low. We had historically low pup production for the seventh consecutive year.

And, a small portion of the dogfish, less than 60 centimeters, are evidence of poor pup production. The spiny dogfish stock assessment will be reviewed at the upcoming stock assessment workshop next week. That concludes my report.

CHAIRMAN MUNDEN: Thank you, Chris. Questions of Chris? Dr. Pierce.

DR. PIERCE: Not so much questions but clarifications. I need to highlight a couple of points to make sure that indeed I have properly interpreted some of the information that was presented to us.

Indeed, a lot was presented and it's a lot of *deja vu* because much of this has been presented before except for the 2003 updates, spring updates, which we appreciate, which are all preliminary in nature, I suspect, because the assessment itself will be done next week, I think, you said.

The SARC is being held next week, so we stand to gain quite a bit from what comes out of that group of scientists when they discuss the draft work that has been done by those who have the greatest knowledge about dogfish assessments; Dr. Rago being one.

Chris, I think you indicated that right now, for both sexes, the biomass is approximately 500,000 metric tons. That's 1.1 billion pounds -- with a "b" -- billion pounds. I believe that you indicated from the figure that the mature female biomass is close to 100,000.

I was eye-balling it so I may be off with that, but that equates to about 220 million pounds. And on the intermediate size dogfish, that was about 150,000 metric tons, and that's about 331 million pounds.

So, correct me if I'm wrong, but I think those are pretty much the numbers that we're dealing with right now as estimates of what the biomass happens

to be for all sexes combined, of course, for the mature females that we're focusing on, and rightfully so, and the intermediate-sized dogfish that certainly play a large role in what's available for harvest because the fishery is also fishing on dogfish from 70 to 80 centimeters and not just 80 and up. So, are my numbers just about correct? I didn't want to misstate anything.

MR. BATSAVAGE: Yes, they're pretty correct. I don't have the equivalencies for pounds but, yes, when you combine the males and females from 36 to 79 centimeters, it comes out to 381-382 thousand metric tons so I think that would be -- I can't do the math in my head, but I think it's going to be come close to what you said as far as the poundage.

You know, the females, again, were at 64.5 thousand metric tons so it's a little bit below -- quite a fair amount below 100,000 metric tons at this point.

DR. PIERCE: Okay, thank you. I guess a point I wanted to make -- another point I wanted to make was that it's extremely important, when looking at those figures which you provided, that one pays attention to what's on the Y axis, because they're in thousands of metric tons, and you can be deceived by looking at the figure because sometimes it looks as if biomass is extremely low because it's close to the X axis; but, when you look at the Y axis, it's thousands of metric tons so it adds up relatively quickly.

Of course, the pup index is still relatively low, and that's difficult to understand. The technical committee, from what I gather, was not in a position to comment to any great extent regarding why that seems to be the case, why we still have this low number of pups; although, I think -- maybe it was after the meeting, I'm not sure.

Megan can correct me on this because she and I guess you were involved with some of the dogfish assessment work down at the Center. But, the expectations, the expected number of pups being produced for the large female biomass that we have out there is not as we thought.

For some reason the numbers of pups that should be generated are not being generated. There's a number of explanations for that that I can offer up now, but I won't. But, there are explanations for that.

And then finally I just want to make one other point, and that is that all board members were sent, from my office, some commentary, some lengthy commentary. I apologize for that, but I had no choice in light of the

fact that we were convening again today regarding the technical committee report that Chris has just provided.

I wanted to make sure that I had an opportunity to expand on a couple of points that the technical committee referenced, as well as clarify a few points that might have still been a little bit unclear.

Chris has already highlighted one of those points, and that was that at the last board meeting I indicated that the discard in our directed fishery for dogfish in Massachusetts waters was around 9 percent, up to 12 percent, but actually I did make a mistake.

I excluded some information when I did those calculations. But what's more important, I did not convert it to weight, which is the way you're supposed to do it; so when you convert it to weight, the discard is approximately 2 percent.

So, that just highlighted, again, for the benefit of the technical committee, the fact that the discarding in our waters, the directed fishery for dogfish had extremely low levels.

Regarding one other point, Chris -- and, again, correct me if I'm wrong -- I think that the technical committee looked at Dr. Rago's information regarding discard in the directed fisheries, all fisheries, over the years 1988 through 2002, and that there was a noted, a very marked decline in the estimated -- and it's a gross estimate; that's all we can do -- there's a marked decline in the amount of discards occurring in the different fisheries that are prosecuted in Mid-Atlantic and New England, not just for dogs, but these other fisheries, and it dropped from something like 50,000 metric tons back in the 1990s down to approximately 4,000 metric tons in 2002.

So, that was information that was provided at the technical committee meeting. I don't think you highlighted it. Maybe I missed it, but I don't think you highlighted it.

It should be highlighted since it gets to the heart of one of the important issues, and that is discards occurring in other fisheries, what's happening right now at least in terms of where we were when there was a large-scale directed fishery towards dogfish prior to the council plan.

We're no longer at that level of discards, assumed 50,000-40,000 metric tons, a phenomenal amount of discards. We've now dropped it down to at perhaps

around 4-4,000 metric tons. At least that's what the estimate is.

I understand that next week the assessment scientists, through the SARC, will take a closer look at the discard information because it does need close scrutiny. I suspect we'll get some better estimates, if at all possible, of discards in other fisheries which are, of course, are of concern to all of us.

CHAIRMAN MUNDEN: Thank you, Dr. Pierce. Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. I've got to say to David Cupka, I'm not going to sing "Who let the dogs out." I promise you I will not.

Mr. Chairman, I think some statements were made prior to this meeting. I'm just trying to figure where they came from, Mr. Chairman, because I just heard the technical committee give a report here, and I'm kind of beside myself to say that I am not a doctor nor do I have a PhD.

I do represent three generations of fishing captains in my family, but most of all I'm trying to make common sense out of what we're trying to do here. A billion pounds, a billion, with a "b" -- sometimes my Italian tongue don't quite say "b", so I want to make sure I say a billion pounds of estimated total biomass of dogfish.

Two hundred million pounds of females estimated in the biomass. Yet, I heard we're going to derail the rebuilding process by 4 million pounds of harvest of dogfish that are probably being discarded dead that we will turn into revenues for all our ailing fishing fleet.

I just ask my brother board members and my sister board members here to use a little common sense, for I'd be the first one amongst you to stop fishing if I felt that we would catch the last species of its kind.

Yes, I believe today in all the world that we have the ability to catch the last one, but we're not trying to do that. In fact, what we're trying to do is rebuild every species to the highest number of all times, which I feel is an impossibility. Predator-prey relations just don't work.

But I want to go back to the dogfish here and talk a little about this, Mr. Chairman, before we make another mistake that I feel that we're going down that road to.

Mr. Chairman, I heard so much today about how the Canadian's assessment is different than ours or they feel there isn't as much. Well, I don't know how much you Americans here want to rely upon the voice of the Canadians in anything they've done recently; especially not back us U.S. American troops in a war against terrorism. I'm not so sure that they make great decisions for us.

I'm just trying to wonder about the talk that goes around where the Canadians may be transferring at sea to the Cubans some dogfish. I don't know, they have Cuban fishermen up there transferring at sea of whiting and maybe the bycatch of dogfish that don't get recorded. That's what I hear; I'm not so sure. That's just hearsay, though.

But, Mr. Chairman, my common sense and not my marine biology takes place here. And, again, I say a billion pounds of the biomass; 200 million pounds and we're worried about 4 million pounds of fish to keep our fishermen going.

I'm not talking about to rape the sea. I'm talking about common sense. I'm talking about turning discards into landings. I appreciate this opportunity to speak, Mr. Chairman. Thank you.

CHAIRMAN MUNDEN: Thank you for your comments. Other questions of Chris? David Borden.

MR. BORDEN: Thank you, Mr. Chairman. Chris, relative to the pup production, given the size of the female population, if we were seeing pup production similar to what we've seen historically, what level of pup production would we be seeing right now? I know it's zero or close to zero.

MR. BATSAVAGE: Looking back at estimates in the past kind of as a comparison, 0.27 metric tons was the estimate for 2003; 2002, it was 0.12 metric tons. The highest estimate that I see in front of me here, in 1994 was 9.82.

It's a couple orders of magnitude higher. And there was commonly estimates found anywhere between 3 and 8 metric tons, I mean, a fair amount higher than - or a thousand metric tons, I'm sorry -- a lot higher than what we see right now.

MR. BORDEN: But I guess what I'm trying to get at is with a female population the way it currently exists, what would you predict the pup production should be if we were getting a similar type of production from those adult females?

MR. BATSAVAGE: I couldn't give an actual, tangible number. You know, Dr. Rago mentioned that their models indicate it should be higher. What he did point out to the technical committee on several occasions is that you don't really have compensatory reproduction with dogfish like you do other species.

It's really a function of the body size and, of course, the number of fish that are mature. The smaller mature females are going to produce less pups than the larger mature females.

And since we're not seeing, you know, a large number of the largest females anymore, we're not getting the pup production that we were getting ten-fifteen years ago when those fish were available. So, until we see some larger females get into the adult population, it doesn't look like we're going to have the pup production like we had ten-fifteen years ago.

CHAIRMAN MUNDEN: Other questions of Chris? Lewis Flagg.

MR. LEWIS FLAGG: Thank you, Mr. Chairman, and thank you, Chris, for that excellent presentation. It was very good, and I got a lot of out of it.

One of the questions I had, in one of the graphs it showed pretty high levels of abundance of dogfish, up 70-79 centimeter class, 70 centimeters and over, and I was just wondering, with respect to an 8.8 million pound quota, what percent of the total biomass of dogfish 70 centimeters and greater would that represent?

MR. BATSAVAGE: You mean what percent of 8.8 million pounds would be in that 70 to 79 centimeters?

MR. FLAGG: Yes, 8.8 million, what percentage of the biomass above 70 centimeters would that represent in terms of removal, percentage removal?

MR. BATSAVAGE: As far as percent of the total biomass, I don't know, but percent of the fishery I think Dr. Pierce indicated that in 2002 -- you can correct me if I'm wrong, Dr. Pierce -- that approximately 40 percent of the dogfish landed in the Massachusetts directed fishery were in that size range.

But as far as what percentage that's going to be out of the big chunk, I don't know. It will be small. But

really, you know, the point the technical committee is trying to make is we're trying to get those intermediate-sized fish into the adult spawning stock biomass.

And, if we can get them into the larger size, in that size range, the better, you know, in order for increasing the pup production right now.

MR. FLAGG: And that range for the mature adult females is 80 centimeters plus; is that correct?

MR. BATSAVAGE: That's correct.

CHAIRMAN MUNDEN: To that point, Dr. Pierce.

DR. PEIRCE: Yes, to that point. In the presentation I gave to the board at our last meeting, I described the amount coming out -- what 8.8 would represent from the dogfish biomass 70 centimeters and up, and it was approximately 1/2 of 1 percent.

CHAIRMAN MUNDEN: Bill Goldsborough, do you wish to speak?

MR. GOLDSBOROUGH: Yes, thank you, Mr. Chairman. Chris, the record of the last meeting reflects that the technical committee recommended a four million pound quota. Is that still the case?

DR. BATSAVAGE: Yes, we still recommend that quota.

CHAIRMAN MUNDEN: Dr. Pierce.

DR. PIERCE: Just a clarification, Chris. It's four million pounds as a bycatch quota, correct, because the landing limits would still apply, the 600 or 300? You're not recommending, I don't think -- the technical committee, that is, is not recommending a directed fishery for four million pounds. I just want to make sure we're all working with the same understanding here, that there is also another recommendation made at the last board meeting from the technical committee, and now being repeated by the technical committee again, and that is the bycatch fishery, the federal approach.

MR. BATSAVAGE: Yes, we're still recommending the bycatch trip limits as we did in the previous meeting.

CHAIRMAN MUNDEN: Lewis.

MR. FLAGG: Thank you, just another quick

question. In terms of the eight-point; if we used an 8.8 million pound quota, what would be the total removal of dogfish from the population after you calculate in discards, discard mortalities from other fisheries and the Canadian quota? Do you have an idea of what that total figure might be in terms of total mortality on the stock?

MR. BATSAVAGE: We're quickly doing some back-of-the-envelope calculations here.

CHAIRMAN MUNDEN: Lewis, we don't have an exact answer for you, but I did attend the technical committee meeting and Dr. Rago indicated that landings and discards are about equal now.

And, also recently we've heard that Canadian landings are approaching U.S. landings. So if you add up those three, I would say it would range a minimum of 12 million pounds on up as high as 20 million pounds. Dr. Pierce, do you have a better answer?

DR. PIERCE: Well, not so much a better answer, but a reflection on what was mentioned by David Borden earlier on in that interchange between him and Megan. That is that there is no real significant involvement from the Canadians right now with regard to what is the status of the stock in their waters.

They have some information, of course. There is a need for a better assessment. So, it's hard to really answer your question, Lew, because of the fact that we don't have a full-blown assessment embracing what the Canadians know about the fishery, and that would be the nature of their landings as well as their trawl survey information that I assume would be used like ours to calculate swept area biomasses.

Plus, they don't know what's, I'm sure, being discarded in the fisheries that are occurring in their waters, other fisheries, not those for dogfish. So, there is a tremendous amount of uncertainty there relative to discards and whatever else may be happening inside Canadian waters.

CHAIRMAN MUNDEN: I had a hand over here. Was it Gil? Did you raise your hand?

MR. GIL POPE: Yes, just real calculations. The 8.8 is about 12/1000 of a percent I think or something like that. It's really getting really fine here.

And to get it down to such fine percents kind of throws it off a little bit because we are talking about

billions and billions or a billion pounds and stuff like that; so, to try to get it down that fine in percents, it seems like we're -- I don't think we can do that that accurately in fishery science yet.

CHAIRMAN MUNDEN: Thank you. Other questions of Chris? Susan Shipman.

MS. SUSAN SHIPMAN: A question I had had to do with the NMFS discard or observer estimates; what was the distribution of that observer coverage?

Does it take in more of the southern part of the fishery? Do you have any idea what the percent coverage of that observer coverage is; the types of fisheries? Is that more than non-directed fisheries? Can you characterize that a little bit more for us?

DR. BATSAVAGE: I don't have the exact percent observer coverage. And as far as how much was directed versus non-directed, I think most of the observer trips were non-directed just because, you know, just the nature of the at-sea observer program, and there is more non-directed fisheries going on. But I don't have the exact numbers in front of me.

MS. GAMBLE: I'm not going to provide any more clarification than that, just to tell you that the discard estimates, it's a brand new thing for us and Dr. Rago has just worked those out this year, actually, and that's being vetted through the SAW/SARC process.

So, when the technical committee got to look at the discard estimates, he hadn't fully worked out the whole process of estimating those numbers, so we'll have a lot more information on how those estimates were derived after the SARC. And it wasn't really clear -- it wasn't fully explained at the technical committee because he was still working on it at that time.

MS. SHIPMAN: But can you give me an idea of the number of trips and did it run from north to south? I mean, do we have any idea of what the distribution of the observer trips was?

MS. GAMBLE: We'll look into that, Susan, and see if we have something here, and maybe we can get an answer a little bit later.

CHAIRMAN MUNDEN: Susan, we'll come back to you if we can find that information. David Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman.

I don't have an answer for Susan, but I think it's important to note that because of the groundfish litigation, the National Marine Fisheries Service is going to double or triple the number of observer trips this coming year. That will include significant increases in the number of trips in the Mid-Atlantic area.

CHAIRMAN MUNDEN: Thank you. Other questions of Chris?

MR. BATSAVAGE: Thanks. I don't have the full answer for you. The total number of observer trips that Dr. Rago looked at was 9,504. The trips were dredge, gillnet, hook, shrimp trawl fisheries and then one classified as "other." They were mostly -- two thirds of the trips that occurred were gillnet trips.

A little of 2,000 of the 9,500 trips were trawl fishery trips. But as far as how they were distributed along the Atlantic Coast, I'm not sure. I know they did include Mid-Atlantic Coast and New England, but we weren't given any more specific information than that.

MS. SHIPMAN: Do they include North Carolina/ are there observer trips from North Carolina?

DR. BATSAVAGE: Yes, there is.

CHAIRMAN MUNDEN: Other questions of Chris? Vito.

MR. CALOMO: I can't reference where I read this recently, but I was going to ask Chris if there was a possibility that he could clarify something for me. It says that dogfish that are caught on hook-and-line sports fishermen, hook-and-line people, the fish that are released 100 percent die, 100 percent mortality, 100 percent mortality.

Yet, we use the same process many times to tag fish that we retain or receive back after a year that have been in the ocean. And knowing the dogfish as I do know it, it's actually a pretty hearty fish. I'm just trying to figure out where that ever came from and, you know, the mortality rate on that seems to be askew. I wonder if you could help me there.

MR. BATSAVAGE: Yes, I think --

MR. CALOMO: Again, it's my common sense but I'm not a doctor.

MR. BATSAVAGE: I think the recreational

mortality rate was first used by NMFS in the '90s, and I think Dr. Rago mentioned that they want to kind of look at the recreational hook-and- release mortality in a little more detail.

They're not real sure on that number. Its probably less than 100 percent. And you're correct as far as getting tag returns from dogfish caught in a variety of different gears. That has shown that they do survive the ordeal, at least a percentage of them do. But as far as what a real number is and exactly how that number came about for the recreational fishery, I'm not really sure.

MR. CALOMO: And, excuse me, just a follow up. Then you have a question about the mortality of that fishery, though; you question that, though?

MR. BATSAVAGE: Yes, from a technical perspective in the recreational fishery, yes, I do question that.

MR. CALOMO: I appreciate that answer. That helps clear a lot of fog that's in front of me at this time. I thank you very much.

CHAIRMAN MUNDEN: Vito, if I may elaborate a little bit of what Chris just said, those of us who were involved with the development of the Mid-Atlantic/New England Council Fisheries management plan question the numbers that NMFS was using for mortality of discards.

And based on limited information they had on the recreational fishery, they made the assumption that 100 percent of the spiny dogfish taken on hook and line died. At that time, these were mostly recreational fishermen because I don't believe you had a lot of the longline fishermen fishing activities like you have currently in New England.

They also assumed that 75 percent of the dogfish taken in gillnets died, taken and released, and 50 percent of the dogfish taken in trawls. The members of the joint committee questioned that, and basically they said we don't have any better information and that was all used in the stock assessment.

But, Dr. Rago is now looking at the information that's available and we think we'll have more current information and better information with the stock assessment that's going to be coming up shortly. Gil Pope and then I have Tom Fote.

MR. POPE: Yes, just real quick, sir, thank you very much. I rod and reel commercially fish and I

caught, when I was fluke fishing, probably about over 200, maybe between 200 and 300, and I don't think I saw too many floating, if any, that I can remember. So just as an aside, it's probably a lot lower than what they say.

CHAIRMAN MUNDEN: Mr. Fote.

MR. THOMAS FOTE: I mean, I had problems when we had 25 percent hook-and-release mortality in the summer flounder and the same thing with weakfish when we had a 25 percent hook and release mortality.

But if you're telling me this is using 100 percent hook-and- release mortality in dogfish, I'm really questioning that number.

I mean, there is a lot of -- I've caught more than 200 dogfish in the years that I spent bluefishing, probably a few thousand dogfish because a lot of times you caught more dogfish than you caught bluefish back in the '80s and early '90s and even the '70s.

I think if we're going to use a figure, using 100 percent is way out of line. I mean, I just can't imagine a figure like that. And it just does not lend credibility to the stock assessment when we do something like that. I mean, to say that we're using 100 percent hook-and-release mortality on dogfish is -- I've said enough.

CHAIRMAN MUNDEN: Susan Shipman.

MS. SHIPMAN: I think the bigger question is what proportion of the F is attributed to the recreational fishery? I mean, if it's miniscule, throwing in 100 percent mortality may not be weighting that outcome very much, and I have no idea what that is.

MS. GAMBLE: Right, I just pulled up the FMP. Table 1 in the FMP shows the landings for various aspects of the dogfish fishery. And just in 2001, MRFSS records that there was 61,765 pounds from the recreational fishery.

And that's compared to the U.S. commercial harvest of about 5 million pounds. I can say that we added a couple more years from the MRFSS survey, and recreational harvest of dogfish is on the rise.

CHAIRMAN MUNDEN: Harry Mears.

MR. MEARS: Thank you, Mr. Chairman. I have a question for Chris, and it's probably an unfair

question, but when we set out on a stock rebuilding program, as I remember correctly, there was a lot of dialogue between the policy level, the council level, the commission level and the technical committee that established a stock rebuilding regime to arrive at a rebuilt stock in a period of somewhere in the vicinity of 18 to 22 years.

And at that point in fact, as I also recall, there was a level of quota that was identified, 4 million pounds, that was in fact an effort to convert what would otherwise be discards into some degree of landings and yet not have a directed fishery.

The question I have is given your comments today about what seems or what is very evident in looking at what is going on in the stock relative to a continued decline in pup abundance and some factors that are preventing the growth of dogfish into an age range that would be in accordance with the stock rebuilding program that we started, has there been any discussion or reflection amongst the technical committee that the initial assumptions that established a regime to rebuild the stock in x number of years, that certain assumptions at the beginning in fact may not be the same today, to give some assurance that there would have in fact been an increase in pup abundance that would have been in fact an increasing in older ranges to give some continued type of consensus that we were on a program to rebuild the resource?

So I guess to reiterate that, is there an increasing apprehension or is it premature to even ask that question that in fact even the recommended quota of the 4 million pounds will in fact help us to be on a reasonable path to rebuild the resource in the time period that we established when the management program began?

MR. BATSAVAGE: I'll defer to Megan on this one.

MS. GAMBLE: Our FMP states our rebuilding period as "the time necessary to rebuild to the target." We didn't set a specified period of time. The 18 years that you are referring to were some projections that Paul ran when we were implementing or developing the FMP.

Those projections have since been revised, but we were asked not to provide them here because they have not been vetted through the SAW/SARC process, and Paul has used a new methodology to calculate them.

I would like to remind the board that those projections are dependent upon pups entering into the fishery; and if they do not, then those projections are going to fail.

CHAIRMAN MUNDEN: Jim Armstrong with the Mid-Atlantic Council, come forward, please.

MR. JIM ARMSTRONG: I just wanted to respond to your question there, Harry, because the fishery management process for spiny dogfish started back in the late '90s, even though the FMP for the commission was only recently approved.

And, the rebuilding process that characterized the federal plan instituted a one-year exit fishery from 1999 to 2001 followed by a reduction in fishing mortality to F of 0.03 in the next four years.

And the expectation under that rebuilding schedule was that the spiny dogfish spawning stock biomass would be 90 percent of BMSY in 2003.

So, just relative to that rebuilding schedule, I think currently spawning stock biomass relative to BMSY, the SSB target, is about 37 percent, so that's about how far we are off on the federal trajectory.

CHAIRMAN MUNDEN: Thank you, Jim. Other questions of Chris? Bruce Freeman.

MR. FREEMAN: In the technical committee report, you indicated that the recommendation of the committee was the 4 million pound bycatch amount. Could you elaborate more on the reasoning for that? And was there any consideration given of a risk between the 4 million as opposed to the 8 million? Is that some of your analysis?

MR. BATSAVAGE: Instead of really looking at a risk, it was more looking at the time involved of bringing the population back to where we want it to be. And, at 8.8 million pounds it's going to take longer, if it happens at all.

We came up with -- the 4 million pound quota is basically what Dr. Rago's projection model shows can be taken and still keep on our rebuilding schedule considering the discards that are occurring in other fisheries.

So, I mean, that's probably about as best as I can answer, but we didn't look at any kind of risk analysis between the 4 and the 8.8 in terms of what you're talking about.

MR. FREEMAN: Red, I would like to make a comment at least relative to this issue, and I don't want to cut short the technical questions that are being addressed, but I do have concerns relative to this entire issue I'd like to express. So, I don't know -- if there's additional technical questioning, I'll just hold on that issue.

CHAIRMAN MUNDEN: We need to move on and if you have any other questions or any other concerns that have not been addressed by Chris, I will allow for a couple more questions. But if not, I would like to get back to the agenda.

Now, one of the things that I will point out to the board is that the handout that I mentioned earlier that had the information in it about the Bottlenose Dolphin Take Reduction Team has a list of the technical committee members attached to it.

So at the very back of that handout -- this is one that was not included in the briefing book -- has a list of the technical committee members.

So, when you have a chance, I would ask you to look through that because the technical committee members have met twice within the past three months, and they do a very thorough job and a very good job of looking at information that is made available to them.

With that, I will go to Bill Goldsborough because I promised him earlier that I would recognize him, and then he wants to make a motion.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. **Reflecting the advice of the Executive Director, I move to amend this board's previous action setting the 2003 fishing year quota and trip limits by instead setting the quota and trip limits at the levels recommended by the technical committee.**

MR. JACK TRAVELSTEAD: **Second.**

CHAIRMAN MUNDEN: Second by Jack Travelstead. Before we open the floor up to discussion, again I will remind all the board members that it would take a two-thirds vote of the board members in the affirmative to pass this motion. Yes, Mr. Travelstead.

MR. TRAVELSTEAD: A couple of points on the two-third majority voting issue, and I don't know if anybody shares these concerns or not but I want to raise them. I assume the commission has

procedurally always agreed to use Robert's Rules of Order.

I don't think that's debatable; I think that's understood. But, I think perhaps more important than that is that those rules are consistently and evenly applied. I'm just not familiar in the past, and maybe my memory is just failing, where we have required a two-thirds vote to overturn a prior decision of a board.

I just wonder if you or the staff could give me some insurance that in fact we have used that procedure in other cases where we've overturned.

The second point I'd like to raise, in your memo you point out that since no one has specifically provided notice of intent to amend any specific action, that the intended action has, therefore, not been specifically included on the agenda, and that's what requires the two-thirds vote.

But, looking at the agenda under Item 6 -- and I wasn't at the last meeting so I'm at a little bit of a disadvantage -- under Item 6 it shows "board charge: reevaluation of the annual specification analysis."

That would certainly lead me to believe that the board specifically asked the technical committee to look at this again and that I think one could assume, then, that the board would reconsider their actions that they took at the last meeting. It seems to me that meets the test of a prior notice and that in doing so you don't need the two-thirds majority.

CHAIRMAN MUNDEN: I'll go to Gordon and then Gil Pope.

MR. GORDON C. COLVIN: Thank you, Mr. Chairman. I guess I need to speak in support of the comment that Jack Travelstead just offered and add to the parliamentary dilemma that we face, just pointing out that there has been communication within this management program subsequent to our last board meeting, and the task to the technical committee to review and the invitation to the Commonwealth to participate in the review of the basis, the respective basis for Dr. Pierce and Dr. Rago's analyses was known to the board.

It seems to me that with that knowledge that board members certainly, myself included, came here with an expectation that there would be a discussion and prospective action on the issue at this meeting.

So I, too, was a little surprised when I saw the

chairman's memo and the parliamentary assessment by the commission's executive director. I wonder whether the issue that Jack Travelstead has raised couldn't be addressed directly here as to whether or not — are we on two-thirds simply because this wasn't included as a specific decision item on the agenda or are we on two-thirds because that's what we believe Robert's Rules requires in any event to amend or reconsider the action that we took at the last meeting? That's what I was a little unclear on.

CHAIRMAN MUNDEN: Gordon, my interpretation of the information that was provided by Vince — and he did provide me with a copy of Robert's Rules most recent version — would indicate that since this was not an item that was specifically requested by a board member and not on the agenda, that it would take a two-thirds majority of all the board members. If you would hold one second, Vince, would you like to comment on that or do you feel comfortable with what I had said?

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Well, thank you, Mr. Chairman, I agree. I feel comfortable with what you said, but just a nuance here, and the advice that I gave was based on noticing the intent to take action; that is, the intent to make the motion to amend or rescind the previous decision.

I think it's clear and I think it's important to clarify it's not necessarily to say that we're going to have a discussion about the TAC or a report from the technical committee about the TAC or receive an analysis from the technical committee about the TAC.

I admit all of those things were discussed and had been noticed. But, the advice I'm giving out of Robert's is that the intended action to amend or rescind, to make that motion by a specific member of the board needs to be noticed.

And the safest way to notice is at the previous meeting or at the call of the next meeting, and Robert's describes that as a written communication to the secretary, in this case the executive director, and it would be with a request to distribute it with the call for the meeting, i.e., the agenda.

And that did not occur and that was the reason for my advice to the chairman. If I could just for a second, Mr. Chairman, I can also tell you that while I sense that one side of the room is somewhat concerned with that advice, I can tell you there is another half of the room that is concerned that the issue of a spiny dogfish board was even included at this meeting, at

this June meeting week, and there is some questions about the propriety of scheduling this board, itself, and providing an opportunity for this discussion.

So, you know, frankly, I'm going to walk out of here with 16 knives in my back. I want to make that clear to everybody. I'm comfortable doing that but just so you know. Thank you very much.

CHAIRMAN MUNDEN: Thank you, Vince. I have Pat Augustine and then Dave Borden.

MR. AUGUSTINE: Thank you, Mr. Chairman. Just a point of information, it would be two-thirds vote of the board as opposed to two-thirds vote of the commission states, because Pennsylvania doesn't participate?

CHAIRMAN MUNDEN: That's correct. Roberts is very clear and there are 16 voting members, so two-thirds of 16 would be 11 affirmative votes. Dave Borden.

MR. BORDEN: Mr. Chairman, you recognized Gil Pope actually before me, and I'd like to go after him. Thank you.

CHAIRMAN MUNDEN: Okay, Gil and then David.

MR. POPE: Okay, thank you. The only thing that I disagree with, Jack, is you stated that the board wanted to reconsider this. I don't think that the board actually called to reconsider this question.

Maybe a few people in the outside of the audience or maybe a few board members did want to reconsider this. Maybe I misunderstood the way you put that, but you said that the board wanted to reconsider it and I don't think that is right. Thank you.

CHAIRMAN MUNDEN: To that point, Jack.

MR. TRAVELSTEAD: Yes, I wasn't even here so I don't know what the board did, other than reading the minutes. No, my comment was to the agenda, and that it says that there was a charge from the board to the technical committee to reevaluate the information.

And as a member of the board, looking at that on the agenda, I assumed that meant that the board would in fact talk about and reconsider the vote that was taken at the last meeting.

That's all I meant, and my interpretation may be

wrong, but it seemed to me that met the test of a prior notice because it's on the agenda in that fashion. It's not specific as Vince has pointed out, but it certainly could be understood to mean that by people in the public and others.

CHAIRMAN MUNDEN: I have Dave Borden and then Dave Pierce.

MR. BORDEN: Thank you, Mr. Chairman, not speaking pro or con of the motion, I am, I would say, fairly deeply troubled by the whole process here and not because of dogfish management. I'm troubled by the process in the context of the type of precedent that this sets for the commission.

I mean, my specific concern is, if I'm understanding the process we're going through, at any point, after going through a normal fishery management process and a normal APA process where we take something out to public hearing, we bring it to a final conclusion and vote, and then at any point after that any member of the board can essentially bring up the same issue at a subsequent board meeting and get reconsideration of the action.

I'm not sure we necessarily want to set that precedent. I'm not saying this in the context of trying to stop this vote. We're all prepared to vote on the motion. I'm just very concerned about the precedent it sets.

I can see people walking out of here on sea bass issues, scup issues, striped bass issues, and all of a sudden the next meeting we're going to be right back at it asking to overturn the actions of a particular vote. Do our rules specifically specify that we can do this; our operating rules of the commission?

CHAIRMAN MUNDEN: I would have to defer to the executive director or Bob Beal. I'm not familiar with the operating rules.

MR. ROBERT E. BEAL: Well, I think the dogfish decision is set up by -- you know, in the fishery management plan that was just approved by the commission, in there it includes the annual specification-setting process.

There is not a hard quota in that plan, so we're not really hanging a decision that is in a document. You are considering changing a decision that was made as part of an annual specification-setting process; not a fishing mortality rate on striped bass or, you know, something that's hardwired into a fishery management plan.

So, there is a little bit of a gray area. It's a nuance between changing something that's in a fishery management plan and changing something that's part of an annual specification-setting process I think is the difference, and the thing that will prevent the revisitation of a lot of the previous decisions made by management boards.

CHAIRMAN MUNDEN: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. I think there is sort of another issue here, and that is the commission sort of always had this situation. The situation is that a board or a body may make a decision that it subsequently realizes was based on incorrect information or wrong information and there needs to be a mechanism to deal with that.

At the same time, there needs to be a mechanism to allow the body to continue to go forward without letting the, if you will, disgruntled minority tie people up in knots.

I think the two-thirds rule, the intent of that two-thirds rule is it sets the bar for change, but it sets a high bar so if there was a logical reason for an error, the body should be able to recognize that.

Now, if we get into the business where somebody is going to go at the next meeting and say, "I want a notice and intent to amend a previous action to bring it to a simple majority," as maybe is being implied here, you know, meetings are called at by the executive director with the approval of the chairman, the chairman of the commission.

So, if it subsequently turns out that that's a tactic that people start to use, I think the commission always has the option by -- it would require a two-thirds vote -- to specifically address that and put some rules in to address that if it becomes a common problem.

But somebody asked for a question of the history here. I've been here fourteen months and you haven't had the problem yet. This is the first time you've had it.

Quite frankly, I think the advice and the guidance that you're getting out of Roberts sort of balances both sides. Remember, there are folks who were on the prevailing side here that also have an interest in how this comes down. Thank you, Mr. Chairman.

CHAIRMAN MUNDEN: I have Dave Pierce,

Jack Travelstead and Bruce Freeman.

DR. PIERCE: Mr. Chairman, if you would like, I'll pull up my laptop and give the presentation that I gave at the last meeting because this is déjà vu.

CHAIRMAN MUNDEN: Request denied.

DR. PIERCE: I'm only kidding. I'm only kidding, but many people at the table here today weren't at the last meeting so they weren't privy to that presentation that apparently convinced the majority of the board members to go with the 8.8.

Now, I did send you all the presentation. You have copies of that so you've had an opportunity to look at it. The big question at the last board meeting — and this was reflected in the charge to the technical committee — was the discard information that the Division of Marine Fisheries provided to the board accurate.

There wasn't a review by the technical committee. The technical committee was given the charge to review it. That was the information that possibly was incorrect or wrong, as referred to by the executive director.

That's what the technical committee was really charged to do, take a look at that information and is it correct? Is there a problem with it?

And then how does it affect the quota calculations that were provided by the technical committee at its previous meeting and now, of course, are just being reiterated. There's nothing new here, it's just a reiteration of all the recommendations made by the technical committee about a month ago.

The technical committee has met and they have concluded that the discard information, the bycatch and discard information in our small-scale fishery is not a problem.

I mean, they did raise some questions, which I answered in the commentary that I provided to all of you, regarding the coverage of the fleet, the discard by weight versus number and all of that.

I'm not going to get into it. So, that issue has been dealt with. This indeed is a troubling meeting, and I'm one of the many I think that objected to the fact that this meeting was called for more than just looking at that information regarding discard that occurs or doesn't occur in our small-scale directed fishery in Massachusetts waters.

But I pulled back on my serious objections to this meeting only because I thought you needed to find out what the technical committee's perspective was on that.

Now this meeting today has been scheduled primarily because we've been asked and actually pressured to have another meeting to revisit the entire quota for this fishery in this coming fishing year.

Some board members were upset with that decision, and that's fine. Every board member is upset with one decision or another. I was upset yesterday with one that occurred, but I'm going to drop it.

So, we're here for that very reason, to take a look at the impact of that discard information that was provided to the board at the last meeting; is it wrong; is it right; does it affect the quota calculations? The answer is no.

The advice is still the same. The technical committee is advising 4 million pounds as a bycatch quota; that is, the 600 and 300 pound trip limits. It's not new advice. You've heard it before and I made my argument.

All the arguments pro and con regarding that particular recommendation from the technical committee were made. Now, for your information, the fishery was supposed to start on May 1. That's the way it began last year, and we did not start the fishery on May 1. We postponed it.

So, we postponed it until the middle of August, so there is now a very large contingent of fishermen, processors, expecting that the fishery will begin the middle of August, which is a better day or a better starting time for the dogfish fishery as opposed to May 1. So we held off on letting that fishery run on May 1.

So, the industry has been told and it's been well advertised that there will be a small-scale directed fishery coastwide and that it's divided up according to certain percentages consistent with the desires of the board made clear at the last meeting. So, now to revisit this issue with no real new information and to change that decision of the board to me just seems inappropriate.

CHAIRMAN MUNDEN: Chris, would you like to respond to Dr. Pierce's statements?

MR. BATSAVAGE: Yes, just a clarification as

far as the technical committee's conclusion of the Massachusetts discard data. Our conclusions were that it was only one year of data. We would have liked to have seen more years for trends.

But, there were some circumstances with previous years with the minimum size, which is why we didn't see that. But, at the same time, you know, the committee would have liked to have seen multiple years of data to see any kind of trends in the discard rates.

We had questions regarding the percent observed coverage in this fishery. With nine vessels sampled, we weren't sure of the number of boats. It was pointed out that they were fishing in the same area at the same time and the fishermen had the same fishing practices.

But, again, the committee would have felt more comfortable if we had an exact number of percent observer coverage. Another concern to the committee was that we really couldn't apply the discard rates from the Massachusetts directed fishery to a coast-wide directed fishery.

And essentially that's what this 2003 quota will do, is we'll have an open season in all the states. We just can't assume that the discard rates in other states will be as low as what it was in Massachusetts in 2002.

And, finally, just in state waters, we have some other non-directed fisheries that take place that catch spiny dogfish, and there was something that's part of the discards that we considered; and just putting all that together, we really didn't feel that an F of 0.03 could occur.

But, you know, I just wanted to clear up the technical committee's conclusions on the Massachusetts marine fisheries data.

CHAIRMAN MUNDEN: Thank you, Chris. I have Jack Travelstead, Bruce Freeman and Gordon Colvin and then Bob Goldstein. Jack passes. We have Bruce Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. I just want to go back and recall the position that we took at the February meeting. What I received from the discussion and presentation by Massachusetts was that their analysis on spiny dogfish concluded that an 8.8 million pound constant fishing strategy would arrive at about the same resource level as would the federal plan with a starting fishing at incidental fishery of 4 million pounds, and this would occur

approximately an 18-year period.

And there were a number of points made in that analysis, but from my standpoint that's one of the important messages that I received from that analysis. There were some questions at the time whether in fact the Massachusetts analysis had been reviewed by the technical committee.

And, if I recall, the indications were that it had not. Now, it's unclear to me, because I haven't reviewed the minutes of the meeting, whether as a result of that we asked that some review be done.

But, nevertheless, relative to the correspondence that we received from you, Red, that in fact that was to be done. The technical committee was going to review that and make a determination. I'm not certain whether that was done independent of what we had requested or whether it was part of the request at the board meeting.

Obviously, an important point, but from my standpoint the review has taken place and the conclusions aren't quite the same, and that certainly concerns at least myself relative to the vote that we made back in February.

I want to bring an additional point up. At the time, I don't recall any discussion relative to the issue with the dolphin take reduction.

Mr. Chairman, you made mention of that earlier on in the meeting today, but quite frankly that does have considerations that we need to be aware of because certainly in our own instance we don't want to have our traditional gillnet fishery now somehow jeopardized because of an increased potential spiny dogfish fishery during the spring or cold weather period.

And that wasn't a consideration that we made in the very beginning, but that certainly has some bearing on this vote here today. Those considerations are such that we could vote in favor of the motion.

I want to indicate, however, that as I understood the maker of the motion, he indicated that the motion would support the recommendation of the technical committee, which was really the 4 million pound quota.

In this motion we also have the trip limits, and, quite frankly, as another issue trip limits bother me in that in the original council plan the trip limits were meant to be an incidental take.

It was anticipated that those trip limits would allow for an incidental take. And as it turns out, it appears the only area where an incidental take can occur economically would be in Massachusetts.

The small amounts of catch per trip precludes any other area or almost any other area. Certainly, areas in the Middle Atlantic area making an incidental trip, there is absolutely no way economically these small amounts can be afforded to be shipped to the processor.

Now if they're allowed to be taken, I would certainly want those to be taken, if they can be used, and yet the way this motion reads and the way the original plan is it really precludes a great portion of that 4 million pounds from being taken.

I would ask for clarification whether in fact trip limits in this motion is appropriate. Was that the intent of the maker or was that somehow put in here?

MR. BATSAVAGE: Sorry, I misunderstood who you were referring to as far as directing the question. Yes, the technical committee recommended the 600 pound/300 pound trip limit at our January conference call, and we still recommend those trip limits now. It wasn't on the terms of reference but we haven't changed our mind on that.

MR. FREEMAN: All right. Well, the reason I questioned it, I'm looking at your report and the very last page, Page 3, it essentially indicated that the technical committee recommended a 4 million pound quota for the 2003-4 season.

That didn't include the trip limits, and so I don't want to confuse the issue, but I can support the motion, but, quite frankly, I do have grave concerns over the trip limits.

I have those in the council plan. It's my expectation, as the council goes through the process of amending the plan, that issue will be raised and hopefully rectified, but from a philosophical standpoint it allows for a catch to be made, but then essentially economically excludes that catch, and I just have problems with that.

CHAIRMAN MUNDEN: Board members, I have five individuals who asked to be recognized. I get the feeling that we've pretty well hashed this thing out, and I would ask you to make your comments brief.

Just so you will be prepared, I have Gordon Colvin, Bill Goldsborough, Dave Pierce, Bill Adler, and David Borden on the list. I'll start with Gordon.

MR. COLVIN: Thank you, Mr. Chairman, a couple of things. First, to come back to my last comment and the subsequent discussion, I want to say that I am personally completely satisfied by the explanation that we got from the executive director, and his reminder to all of us ultimately of the underlying wisdom of Robert's Rules I think is what carries the day for me.

And, I'm not going to be firing anything at your backside on the way out of the room, Vince. I appreciate the explanation. I think it does make sense. There's a lot of logic and common sense to it.

With respect to the motion, I just kind of want to indicate where I'm coming from on this. I need to back up to the last meeting for just a minute.

We voted in the negative on the motion at the last meeting, and one of the reasons -- and as Dr. Pierce pointed out, you know, you win some and you lose some and at the end of the day that's the way it goes.

And if the only thing that motivated our motion was the difference between 4 million and 8 million pounds, that probably would have been where we would have been happy leaving it, but the fact is that frankly we had some concerns.

I had some concerns about process issues and how that decision was arrived at that continued to concern me beyond the issue of the substance of the size of the quota that was decided on.

And in fact following the conclusion of the last meeting, members of the New York delegation were openly discussing among ourselves the merits of availing themselves of the commission's appeal process -- not because, again, of the actual decision with respect to the size of the quota but because of process issues that were involved in the board's decision.

Some of those issues were spoken to by other members of the board at that time and during the subsequent policy board meeting and in subsequent correspondence, as we all know. We did not -- and I'm glad that we didn't, because in the intervening time some very positive and constructive things were done by a number of members of the partnership.

I want to express appreciation to many of them. I

want to express appreciation to the executive director and the board chairman for trying to work out something, and the commission chairman, for trying to work out a process where this issue could be -- some of the concerns that we and others had expressed could be addressed in some fashion. And they have been, and I think to my satisfaction.

I want to express appreciation to the representatives of the Commonwealth of Massachusetts and the members of the technical committee for making themselves available to meet face to face to discuss, review these issues openly and candidly and make a recommendation to the board.

I want to express appreciation to the states of New Hampshire and the Commonwealth of Massachusetts because, quite frankly, I think that their deferral of implementation of the opening of the dogfish season at high trip limits is a very important and constructive factor in helping us arrive at a solution to this, whatever that solution may be at the end of the day today.

I do want to go on record as expressing appreciation for it. Where I am now I guess is where I was at the end of the last meeting, but I no longer have reservations about the process, and that's very important. I think the process issues are all completely resolved in my mind.

It boils down to this to me. It's a simple issue of two different approaches, two different technical approaches that have been laid on the table to calculate a quota that will result in not exceeding a target fishing mortality rate of 0.03.

And it seems to me that the weight of the evidence in that regard falls with the recommendation of the technical committee. I appreciate the candor and the value, the validity of every one's effort in assessing it.

And it just, to me, boils down to that simple judgment, and that's where I stand on the matter. I will vote for the motion. I hope that my colleagues from the state will join me and we'll see where this all ends up.

I think in terms of the process issues that caused us to consider a formal appeal to the commission, I think that the process that we've gotten to and the conduct of this meeting resolves that entirely in my mind. Thank you, Mr. Chairman.

CHAIRMAN MUNDEN: Thank you, Gordon.

I have Bill Goldsborough, followed by Dave Pierce, Bill Adler and Dave Borden.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. I, too, have concerns, but I'm concerned that we got to this point, but we're only human. And, fortunately, we have a strong, deliberative process that allows us, if necessary, to make adjustments if there are any miscues.

At the last meeting apparently the circumstances were such, the information provided was such that an effective plurality of the board members present were convinced to vote for the higher quota, and that's all well and good.

In the interim, the technical committee has in due diligence considered the dual analyses; one that supports the higher quota and the one that supports the lower quota, and has found no reason to change their recommendations to this board.

I just want to make that point clear and say that given that, I think it's incumbent on this board at this point to address a miscue and get back on track and vote to this motion. Thank you, Mr. Chairman.

CHAIRMAN MUNDEN: Dave Pierce.

DR. PIERCE: I also appreciate the efforts of the technical committee. I was there. I participated in their deliberations and answered their questions. But, again, they've offered the same advice and, frankly, it's the same advice that I and many others have criticized soundly for quite a long time now.

And it's the motion. It's a motion that establishes a 4 million pound quota, but more significantly trip limits of 600 and 300 pounds. The assumed bycatch fishery that can occur with those sorts of levels of landings -- and I've said before and I'll emphasize again, as the processors and fishermen have said in testimony, written and oral, there will be no landings of dogfish in significant amounts, certainly, with those sorts of landing limits because processors cannot stay in business.

They cannot plan. They cannot hire staff. It doesn't work. This is a 4 million pound bycatch fishery that is a sham. I think most people know that. I ask you how many dogfish have been landed in Massachusetts since May 1 with the 600 pound landing limit that we kept in place to allow fishermen to land their bycatch?

The answer is zero. Why? Because it doesn't work.

The Canadians would never adopt this particular approach. That's already been mentioned. What about Canada? Canada won't go along with further reducing their fishery because of the 8.8 million pounds.

Well, I would submit that even if we hadn't gone with the 8.8 million pounds, Canada would not have been receptive because Canada negotiators, fisheries negotiators, are rather savvy. I've witnessed that with sea herring. David Borden certainly knows it from his dealing with the Canadians. They're savvy.

They know that this is nothing more than a disguised attempt to shut down the dogfish fishery, to stop all landings of dogfish. This does not work.

So I can continue to say that if this is reconsidered -- this is more than reconsidered; basically, this is just changing the numbers. If we reconsider, then we will adopt something that exists as federal rules that is seriously flawed as evidenced by real experience.

The limit being in place right now is a Massachusetts regulation with zero landings of dogfish. Even though dogfish are abundant in our waters, fishermen aren't going to land them. They can't, not in those amounts. Processors aren't going to buy them because this is not appropriate.

I'm sympathetic to those who feel that at all costs dogfish landings must be reduced to zero. I mean, I understand their position. I know where they're coming from. We've heard these arguments time and time again.

But, I certainly can't support this sort of motion because it undoes much of what certainly in Massachusetts we have attempted to do. This affects Massachusetts more than any other state; New Hampshire, to some extent, but really it's Massachusetts.

That's what this is all about. This is a Massachusetts-created fishery, Massachusetts sustained fishery with other states being able to benefit from processors in our state. New Hampshire, of course, is important in this process, too, but not as significant as Massachusetts.

Other states have shipped their dogfish to Massachusetts for processing. Canadians have shipped their dogfish to Massachusetts for processing. So, this is a Massachusetts issue; therefore, this reconsideration impacts really only one state, which is I have been so vocal with my

opposition to this sort of approach, and, of course, why I have been quite opposed to this particular board meeting that has been called due to pressure being brought to bear.

I'm speaking quite a bit on this issue because of the nature of the motion. If this had been a motion to just reconsider the commission's decision at the last meeting, then I wouldn't say so much because we could decide whether we wanted to reconsider or not and I wouldn't have to wonder what the vote would be, which I think is going to be two-thirds, Mr. Chairman; correct?

CHAIRMAN MUNDEN: That's correct.

DR. PIERCE: So that's my perspective, which hasn't changed. I would just encourage the board to not reverse the decision that was made at the last board meeting.

CHAIRMAN MUNDEN: Thank you, Dr. Pierce. Again, we have several other people who have indicated they would like to speak. I ask you to keep your comments brief and we'll go to Bill Adler, Dave Borden; and then one individual who has not spoken, Mr. Robins; and then after that we have a gentleman in the back who has asked to speak. Mr. White will be our last speaker, so I will go to Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I was here at the last meeting and so were a lot of you, and we went through the whole thing and the information on both sides was given.

I think we were all of sane mind and body at the time -- at least I think I was. I think most of us worked very hard when we did make those decisions, and the decision came out the way it was.

What bothers me very much about this whole situation is the waste on paper, in an FMP piece of paper, in a computer, in a newsletter article, this figure that you're proposing supposedly does something to save the dogfish -- and hurray! Hurray! -- on paper.

The waste factor here is significant according to what I heard just a little while ago by the technical committee; discards greater in the non-directed fishery, discards equal the landings in a non-directed fishery -- waste.

And while we're talking about what would be the right thing to do, it's a shame that if these two

processes that we have here, the two that we're discussing which one to go with, if one of them allows fishermen to have a little fishery and one does not, and they're about the same with regard to recovery, why do we always stomp on the fishermen?

I think that in this case a change to approve this kills the fishermen in this regard instead of giving them a little something to go fishing, especially since there isn't that much of a difference between the two ways of doing it. So, I'm not going to support this motion.

CHAIRMAN MUNDEN: Thank you, Bill. Dave Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman, I'll try to be very brief. I still have the same reservations I expressed at the last commission meeting, and that's been a reservation essentially focused on the point that Bruce Freeman raised earlier, which is this whole issue of the discards.

I understand the motivation for the motion, but what we end up is the worst possible scenario. We end up with a directed fishery for 4 million pounds, and then we end up with a bycatch fishery of 300 and 600 pounds that essentially promotes discarding, which is at least 50 percent of the mortality on the dogfish stock.

And so we're not getting to where we want to go. I mean, I think everyone, if we could kind of step back from the fray, we would all be well served if we could just keep one thing in mind.

If we could convert those dead discards to landings, you could eliminate the directed fishery and double the landings of dogfish, but we haven't been clever enough to be able to figure out how to do that.

I just give you this simple example. The town I live in, Little Compton, Rhode Island, has a little fishing port. There are ten fishermen in it. It's 20 miles from the major processors from Sedona Point to New Bedford.

At 300-pound trip limits, the fishermen can't catch enough fish to put them in a truck to drive them to New Bedford to pay the man to do it, so what happens is all those fish get discarded. That's the end result.

So, we can pass the motion, but in terms of promoting dogfish conservation, next year we've got to have a completely different strategy.

CHAIRMAN MUNDEN: I have Richard Robins.

MR. RICHARD ROBINS: Thank you very much, Mr. Chairman. As we consider the structure of the fishery and the issue of trip limits, I would urge the board to consider the history of the fishery.

It would be very hard at this point to overstate the economic impact of the federal plan on the member states in question. At its peak in 1996, this was a 60 million pound a year fishery. It generated about \$12 million in ex-vessel revenue.

Of course, that was but a small fraction, perhaps 20 or 25 percent of the total value to the processing industry of this fishery. And, with that level of economic activity, obviously came a decline in the resource.

I agree it was not sustainable. However, it also created on the human side of the equation a certain degree of socio-economic dependence on this fishery, and that would be hard to overstate.

There are a lot of small boats in the small boat fleets of the Mid-Atlantic region, in addition to Massachusetts, that depended on this fishery for revenue, and they have not been able to replace that revenue in the wake of the federal plan.

And many boats, for example, even in Virginia and North Carolina, were built specifically with this fishery in mind; and now that the resource and the quota has been lost, it would be in my opinion a waste to have a bycatch-only fishery.

That 4 million quota would effectively be squandered economically. As has been pointed out, logistically and economically this is a volume industry. A 300 or 600 pound trip limit is not economically or commercially viable and would only result in landings, as has been pointed out, in Massachusetts alone. I don't think it would be fair to the southern member states.

Although Massachusetts was the processing epicenter of the industry, a lot of landings did take place in Virginia and North Carolina during the wintertime. And at 300 or 600 pounds a day, they're not going to make it on a truck to New Bedford. There's just no economics in that.

So, having said all that, as you try to put a fine point on what's an appropriate quota, whether you agree with Dr. Pierce's analysis, which I believe has merit,

or if you go with the technical committee at a 4 million pound a year quota, I would urge you to consider making this a limited directed fishery rather than a bycatch-only fishery simply because it would have a significant benefit, and it would provide relief for fishermen that are struggling to make ends meet, certainly in our state. Thank you, Mr. Chairman.

CHAIRMAN MUNDEN: Thank you. Ritchie White and then Lewis Flagg, and Lewis will be our last board member, I hope.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. **I'd like to make a motion to amend, and I hope it's a friendly motion, to eliminate the 600/300 pound trip limits and go to the plan limits of up to 7,000.**

CHAIRMAN MUNDEN: Is there a second to Mr. White's motion?

MR. FLAGG: **I second the motion. Second.**

CHAIRMAN MUNDEN: Second by Lewis Flagg. Discussion on the motion? Lewis.

MR. FLAGG: Yes, and I think this bears on this particular motion relative to the change in the trip limit. I want a clarification of the original motion here. Is it the intent that the motion also reflect the seasonal quotas established in the federal plan; the May through November, I believe it's 2.68 million pound quota for that period; and then the Period 2 quota, I believe, was 1.32 million.

Was it the intent that the other provisions in the federal plan would also apply relative to the seasonal quotas, the split?

CHAIRMAN MUNDEN: I'll ask the maker of the motion to elaborate on that, if he can.

MR. GOLDSBOROUGH: Mr. Chairman, as a question of process, I believe the desire of the maker for this to be a friendly amendment was not addressed, and I'd like to comment on that first if I could.

The mover is amenable to the motion to amend; and so if the seconder is as well, then that means it's a friendly amendment. What is the process at that point?

CHAIRMAN MUNDEN: I recognize Bob Beal for guidance.

MR. BEAL: The process that the commission has been using on friendly amendments is that if both the maker and the seconder of a motion agree to a change, as someone has suggested, we just simply make the change in the motion, read the motion into the record before we vote on it, and then there is no need for the board to vote on a motion to amend.

MR. GOLDSBOROUGH: Then I believe that would make the second question moot, Mr. Chairman. The mover is amenable and you can ask the seconder.

CHAIRMAN MUNDEN: Dr. Pierce.

DR. PIERCE: I assume, therefore, that we now have a motion on the board that has been modified in a friendly way so that it's no longer 600 and 300 pounds, it's 7,000 pounds. If that is correct, Mr. Chairman --

CHAIRMAN MUNDEN: That's my understanding.

DR. PIERCE: Okay, then I would move to substitute, Mr. Chairman. I would move -- and this is a substitute that deals with the issue of landing bycatch, not wasting bycatch and allowing for a small-scale directed fishery, consistent with the motion, that would allow the bycatch to be landed.

It is significant. We must allow the bycatch to be landed by their being some small-scale directed fishery so the motion is this -- and this also addresses the question about percent breakdowns by region, so it will be very clear with the motion.

I would move the board adopt a spiny dogfish quota of 8.8 million pounds for the May '03 through April '04 fishing year with 4.4 million pounds of the total being used for landings of dogfish bycatch in other fisheries.

Both directed fishery and bycatch allocations will be divided with 57.9 percent -- that's 2.55 million pounds -- being allocated to Massachusetts, New Hampshire and Maine; with 42.1 percent being allocated to Rhode Island through North Carolina.

The directed fishery and bycatch allocations would be landed with trip limits up to 7,000 pounds. So that's my motion to substitute, Mr. Chairman, which puts in the percentages and allows bycatch to be landed as well as, of course, the directed fishery.

MR. COLVIN: Point of order, Mr. Chairman.

CHAIRMAN MUNDEN: Gerry.

MR. GERALD CARVALHO: Second, Mr. Chairman.

CHAIRMAN MUNDEN: Seconded by Gerry.

MR. COLVIN: Point of order, Mr. Chairman.

CHAIRMAN MUNDEN: Yes, Gordon.

MR. COLVIN: Actually two. I assume that if this motion is accepted by the chair, it would require a two-thirds motion, two-thirds vote to carry it?

CHAIRMAN MUNDEN: Staff advises that it would require a two-thirds vote to pass.

MR. COLVIN: Okay, and do I understand that the motion for which the substitute is offered has been amended by the maker and the seconder to revise the trip limits to 7,000 pounds?

CHAIRMAN MUNDEN: That's correct.

MR. COLVIN: At 8.8 million?

DR. PIERCE: Up to 7,000 pounds, Gordon.

MR. COLVIN: Or 4 million, thank you.

CHAIRMAN MUNDEN: Discussion on the motion by the board? Tom Fote.

MR. FOTE: Since we've had a long discussion, I'm --

CHAIRMAN MUNDEN: Tom, for the record would you turn your mike on and repeat your comments. We did not hear them up here.

MR. FOTE: We've had a long discussion. I've been very quiet, have not made a lot of comments on this, but I am ready to call the question. I mean, we've all debated this. Let's get this vote on the substitute motion done. I call the question.

CHAIRMAN MUNDEN: Board members, your attention, please. We're going to take a five-minute break, let everybody have a chance to clear their thoughts on this. This is not a break for caucus. We're going to take a five-minute break. Be back here in five minutes.

(Whereupon, a recess was taken.)

CHAIRMAN MUNDEN: Please take your seats. All board members, please take your seats. Board members, you will be pleased to know that in the past ten minutes I've received two hours worth of advice as to how to proceed from here.

The substitute motion, I have been advised by the staff -- and I agree with the staff -- the substitute motion requires a simple majority, not a two-thirds majority. If it passes, then that becomes the main motion, which does require a two-thirds majority.

So, what we will do is we will vote on the substitute motion. The question has been called so there is no discussion. I'm going to exercise chairman's prerogative after we take action on this.

I made a commitment to recognize one individual from the audience, and I intended to recognize him after the board members had a chance to speak, so after we handle this issue then I will recognize the gentleman from the audience who has expressed a desire to speak.

Now, we're going to vote on the substitute motion and we will take time to caucus.

DR. PIERCE: The motion is not quite correct. It's with a trip limit up to 7,000 pounds for the bycatch allocation, the bycatch trip limit, to provide the flexibility so they're not -- right now there's no difference between the directed and the bycatch fishery so it's up to. Well, that's it.

CHAIRMAN MUNDEN: The change has been made, Dr. Pierce. Dr. Pierce, would you please read your motion into the record.

DR. PIERCE: **I move the board adopt the spiny dogfish quota of 8.8 million pounds for the May 2003 through April 2004 fishing year with 4.4 million pounds of the total being used for landings of dogfish bycatch in other fisheries.**

Both directed fishery and bycatch allocations will be divided with 57.9 percent -- 2.55 million pounds -- being allocated to Massachusetts, New Hampshire, and Maine and 42.1 percent being allocated to Rhode Island through North Carolina. The directed fishery and bycatch allocation will be landed with trip limits up to 7,000 pounds.

CHAIRMAN MUNDEN: Board members, are we ready to vote? Does any board member desire to have a roll call vote? Is any board member opposed

to a roll call vote? Simple majority. Okay, so we don't need a roll call vote.

All members in favor of the motion, the substitute motion, indicate by raising your right hand, three in favor; all opposed, twelve opposed; null votes, one null vote; abstentions, no abstentions. The motion fails.

Now we're back to the main motion as made by Bill Goldsborough. This requires a two-thirds vote. Before we go further on this, as I said earlier, I will recognize Mr. Stetson Tinkham. Mr. Tinkham is with the State Department.

He asked to speak about 45 minutes ago, and I intended to recognize him but we got wrapped around the axle with the motion. So, Mr. Tinkham, I apologize and we'll welcome your comments.

MR. STETSON TINKHAM: Thank you, Mr. Chairman. I sympathize with you. One of the things I do in my spare time is I chair the fisheries working group for Asia-Pacific Economic Cooperation with 21 countries, and the chairman's load is never light, I realize.

I just want to say a couple things, kind of perspective. First, I was born in Massachusetts. I've lived most of my life in Virginia, so maybe I'm in the middle on this.

But, I think that in international fishery circles more and more since, you know, over the last ten years we have pushed and pushed and pushed — we, the United States — for management decisions to be made on the basis of the best scientific advice available.

You have the recommendations of the technical committee. Also, with respect to sharks, for the last five or six years, at least, we have pushed in international fishery circles, particularly at the FAO, for all countries to adopt the conservation and management measures for sharks — not radical extreme measures, but just measures that keep sharks in the ecosystem.

I, as chairman of the fisheries working group, am overseeing what has thus far been a very successful project for developing best management practices for sharks so that countries that don't have a coast guard and don't have a commission like this and don't have management councils can come up with some way to determine rational shark conservation and management measures.

I think our effectiveness in arguing for those is diminished if there are measures that are enacted in the U.S. that are perceived as not meeting those standards that we are trying to push on other people.

I just wanted to make those points to you so that you put your actions today in the larger context of fishery conservation and management trends around the world. I thank you very much for your time, Mr. Chairman, and good luck to you all as the afternoon proceeds. Thanks.

CHAIRMAN MUNDEN: Thank you, Mr. Tinkham. Discussion on the motion? Bill Goldsborough.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. I just did want to clarify from the earlier discussion that it was the presumption of the mover, and it's my understanding of the seconder, that the 57.9/42.1 percent breakdown would remain, that the motion presumes only to change the parts indicated.

CHAIRMAN MUNDEN: Dave Cupka.

MR. DAVID CUPKA: Thank you, Mr. Chairman, a clarification on the motion. I'm not sure what that means. At one point it says the quota and trip limits are levels recommended by the technical committee, quota equals 4 million pounds, and a trip limit up to 7,000 pounds.

That's not the trip limit recommended by the technical committee, so I'm not sure what the motion is trying to say there in terms of trip limit.

CHAIRMAN MUNDEN: Bill.

MR. GOLDSBOROUGH: Yes, Dave Cupka points out some editing that still needs to be done pursuant to the friendly amendment to the motion.

CHAIRMAN MUNDEN: Does that reflect your intent?

MR. GOLDBOROUGH: Yes, Mr. Chairman, I think it might be even more precise if it said, "setting the quota at the level recommended by the technical committee."

CHAIRMAN MUNDEN: Tom Fote.

MR. FOTE: Since we've had a long discussion, again I'll call the question.

CHAIRMAN MUNDEN: The question has been called. Board members will take a minute to caucus. Take a couple minutes to caucus, board members.

(Whereupon, a caucus was held.)

CHAIRMAN MUNDEN: Board members, are you ready to vote? This will be a roll call vote. We'll ask the staff to call the roll after we ask the maker of the motion to read the motion. So, Bill, would you please read your motion for the record.

MR. GOLDSBOROUGH: Move to amend the board's previous action of setting the 2003 fishing year quota at 8.8 million pounds by instead setting the quota at the level recommended by the technical committee -- the quota equals 4.0 million pounds -- and a trip limit up to 7,000 pounds.

MS. GAMBLE: Maine.

MAINE: Yes.

MS. GAMBLE: New Hampshire.

NEW HAMPSHIRE: No.

MS. GAMBLE: Massachusetts.

MASSACHUSETTS: No.

MS. GAMBLE: Rhode Island.

RHODE ISLAND: No.

MS. GAMBLE: Connecticut.

CONNECTICUT: No.

MS. GAMBLE: New York.

NEW YORK: Yes.

MS. GAMBLE: New Jersey.

NEW JERSEY: Yes.

MS. GAMBLE: Delaware.

DELAWARE: Yes.

MS. GAMBLE: Maryland.

MARYLAND: Yes.

MS. GAMBLE: Virginia.

VIRGINIA: Null.

MS. GAMBLE: North Carolina.

NORTH CAROLINA: Null.

MS. GAMBLE: South Carolina.

SOUTH CAROLINA: Yes.

MS. GAMBLE: Georgia.

GEORGIA: Yes.

MS. GAMBLE: Florida.

FLORIDA: Yes.

MS. GAMBLE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MS. GAMBLE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

MS. GAMBLE: Ten yes; four no; two null.

CHAIRMAN MUNDEN: **Okay, the vote is ten yes, four no, two null. The vote required two-thirds of the board members to pass. The motion fails.**

The next item on the agenda is compliance with regional quotas. Yes.

MR. ERIC SMITH: Mr. Chairman, before we leave that matter of business, that means the vote from February prevails; is that correct?

CHAIRMAN MUNDEN: That's correct.

MR. SMITH: That means the 8.8 and 7,000 pound trip limit. **Okay, I would like to offer a motion to amend such that in the trip limit, no more than 600 pounds shall be fish 80 centimeters or greater.**

MR. COLVIN: **Second.**

CHAIRMAN MUNDEN: Second by Gordon.

MR. SMITH: I'll repeat it, if you like.

CHAIRMAN MUNDEN: Let's get the motion on the board and then we'll discuss it.

MR. SMITH: The motion is that in the trip limit, no more than 600 pounds shall be fish 80 centimeters or greater. Now, if I may, Mr. Chairman, my rationale for that is not to prolong our agony tonight, but it is to respond to what the largest concern in this whole issue has been, which is the potential targeting of large females.

And if there is a way to preserve a small inshore fishery for Massachusetts or anybody else who can do it in their state permitted fishery and not target those large females, then I think that's the way we ought to accommodate this issue, the conservation issues as well as the fishery issues.

I will point out Massachusetts has very clearly explained that the discard mortality rate in this particular fishery is very, very low. It's shallow water. You sit on your set and then haul your gear. It's not long overnight sets.

Those kind of things suggest to me that you're not going to have a lot of discard mortality because of selecting. You're going to let fish swim away from the boat. I think we can accomplish a couple of things here if people think about this a minute. Thank you.

CHAIRMAN MUNDEN: I'll start with Susan Shipman, then Ritchie White and Dave Pierce. Susan.

MS. SHIPMAN: Eric, I think you're right with regard to the northern part of that fishery, but I'm still concerned about the southern part of the fishery and the discard mortality in the non-directed.

I mean, I do think it's different. We've got the data from, what, 9,000 trips? That concerns me. I would like to hear from law enforcement with regard to their perspective on this.

I appreciate what you're trying to accomplish. I think it's very important that we really minimize the mortality on these larger females, but I would hate to be a law enforcement officer having to enforce this.

MR. SMITH: I think that was directed to me.

CHAIRMAN MUNDEN: Yes, Eric.

MR. SMITH: Yes, I appreciate your comment.

This, to me, is much more palatable than the main motion. The main motion is 7,000 pounds of potentially directed fisheries on large fish. So, this is the lesser of two evils. If you have a better evil, we can talk about it.

CHAIRMAN MUNDEN: Ritchie White.

MR. WHITE: Well, I'd add to Susan's concern, and I just heard a comment from law enforcement from New Hampshire. And, you know, are we expecting them to wade through ten boxes of dogfish measuring every one? I think it makes no sense.

MR. SMITH: A number of our plans have trip limits; and when there are small either bycatches or mesh exemption limits, the plans always say you have to segregate those fish; summer flounder, scup.

I mean, a lot of the mesh rules from particularly Mid-Atlantic Council plans have that very provision dealt with by a segregation of fish exactly so law enforcement people don't have to wade through the hold.

CHAIRMAN MUNDEN: Dave Pierce.

DR. PIERCE: I understand where Eric is coming from. On the face of it, it seems to make sense but operationally it poses significant problems for law enforcement, certainly, as well as fishermen as well, for example, a gillnetter goes out or a hooker goes out and he's already spent his money for his bait.

In the case of the hooker, he's spent money for bait. He's out there; he's making his trip. Schools of fish come and go through Massachusetts waters and other states waters. Let's say a school of fish comes by and it's — let's say it's 80 centimeter to 85 centimeter school.

They'd have to then pull up their hooks or pull up their nets and then they'd have to throw everything over the side. It's a day wasted. In the case of the hook fisherman, he's spent all that money on his bait and then he comes back with nothing.

There is that problem, and there is the enforcement problem. I really don't think this would work in practice, Eric, although I appreciate your motivation for it.

CHAIRMAN MUNDEN: Dave Borden and then Bruce Freeman.

MR. BORDEN: Yes, thank you, Mr. Chairman. I'm going to express somewhat similar sentiments. I appreciate what Eric is trying to do here, but once again I can't tell you how apprehensive this type of thing makes me, given our process.

This was never taken to any public hearing that I know of. It has never been discussed as part of a public process. Now, I think if the motion passes, the way we should handle it is the states should try to implement this, go back; and if they have to run it through their own individual processes, APA processes within the states, they should do that.

But, I would be very apprehensive about essentially mandating that a state does this based on the record that we have. I don't think the record will support it.

CHAIRMAN MUNDEN: Bruce Freeman.

MR. FREEMAN: I have concerns on this issue relative to biological considerations. If my recollection is correct, when various alternatives were looked at biologically, this whole issue of fishing smaller fish was one that was raised early on, and one of the reasons voiced against it is that as much as 50 percent of those fish less than 80 centimeters are going to be immature females so you're going to take — on one hand you're trying to build up the female population but now you're concentrating on taking at least half of those as immature females.

So the issue of trying to work this size in is almost diametrically opposed to how you can do it from a practical standpoint and accomplish your biological objective. I just have concerns that although I understand what Connecticut is trying to get at here, I don't think this does it or will do it.

CHAIRMAN MUNDEN: Other comments on the motion? I have conferred with the executive director and this motion would require a two-thirds majority to pass. Board members, are you ready to vote? If so, we will caucus. Eric.

MR. SMITH: I'm having a staff discussion here about technically whether this is an amendment or simply a motion that the trip limit that had been embodied in the motion from February should be limited, so that it's no more than 600 pounds of the trip limit shall be fish 80 centimeters or greater.

I guess I'd kind of ask Vince. My understanding is you don't amend a motion that was passed four months ago. It's a new motion today. It's obviously a corollary to that motion on trip limits that passed in

February. Either way, it's two-thirds, I'm not arguing that point. Yes.

CHAIRMAN MUNDEN: You agree, it will take two-thirds majority?

MR. SMITH: Yes.

CHAIRMAN MUNDEN: I mean, two-thirds of the board members to pass?

MR. SMITH: Right.

CHAIRMAN MUNDEN: Board members, take time to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN MUNDEN: Board members, are you ready to vote? Since this vote will require two-thirds I will, again, ask for a roll call vote, so if the staff will conduct the vote, I'd appreciate that.

MS. GAMBLE: Maine.

MAINE: No.

MS. GAMBLE: New Hampshire.

NEW HAMPSHIRE: No.

MS. GAMBLE: Massachusetts.

MASSACHUSETTS: No.

MS. GAMBLE: Rhode Island.

RHODE ISLAND: No.

MS. GAMBLE: Connecticut.

CONNECTICUT: Yes.

MS. GAMBLE: New York.

NEW YORK: Yes.

MS. GAMBLE: New Jersey.

NEW JERSEY: No.

MS. GAMBLE: Delaware.

DELAWARE: Yes.

MS. GAMBLE: Maryland.

MARYLAND: Abstain.

MS. GAMBLE: Virginia.

VIRGINIA: No.

MS. GAMBLE: North Carolina.

NORTH CAROLINA: No.

MS. GAMBLE: South Carolina.

SOUTH CAROLINA: Yes.

MS. GAMBLE: Georgia.

GEORGIA: No.

MS. GAMBLE: Florida.

FLORIDA: No.

MS. GAMBLE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE:
Abstain.

MS. GAMBLE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE:
Abstain.

CHAIRMAN MUNDEN: **The motion fails. There were nine no votes, four yes votes, three abstentions and no null votes so the motion fails.** Board members, thanks for your indulgence.

We still have a couple of other items. Compliance report with regional quotas; Megan is going to share with us information that the staff put together because at the last meeting the board members were concerned about what would happen if a particular area went over its allocation of the quota and how you paid it back, because the fishery management plan has very specific provisions for paying back any overages. The action we took in February doesn't quite fit what's in the plan. So, Megan, if you would review that for us, please.

COMPLIANCE WITH REGIONAL QUOTAS

MS. GAMBLE: I just wanted to reiterate what does appear in the plan, and that's, first, that we do have a seasonal quota and Period 1 is specified as May 1st to October 31st with a 42.1 percent of the

quota allocated for that period.

Period 2 is from November 1st to April 30th with 57.9 percent of that quota. In the plan there is an overage penalty, and that overage is deducted from that same period in the subsequent fishing year.

Second, the seasonal allocation scheme is fixed through an FMP, so I just wanted to point out that in order to change either the months defining that period or the percentages allocated to that period, you would have to go through an addendum.

The action taken by the board during the last meeting implemented regional quotas for the 2003-2004 fishing year. The first region was defined as Maine, New Hampshire, Massachusetts, and allocating that region 57.9 percent of the quota.

The second region was defined as Rhode Island and the states south, allocating 42.1 percent of the quota. And as I just said, this regional quota allocation scheme was implemented through the annual specification process and will only apply to the 2003-2004 fishing year.

I also wanted to clarify that the regional allocation can be harvested at any time throughout the year provided the quota is still available. It's not restricted within those seasons. It's a separate allocation of the quota.

So, at the last meeting, after passing this motion, the board tasked staff with developing some options to ensure compliance with this regional quota allocation.

I just wanted to point out that the options paper was included in the briefing materials and it's in one of the packets we passed out at the beginning of the meeting.

Option 1 is to deduct the overage from a region's allocation in the subsequent fishing year, and I just wanted to point out some pros and cons to each of these options.

The problem with this one or a benefit is that it penalizes the region responsible for the overage. It penalizes every state within the region, which may not be a pro. But, there is no guarantee that we're going to have this same regional allocation next year.

Option 2 is to deduct the overage from the total annual quota in the subsequent fishing year. This results in penalizing every state that's involved in the

fishery, yet it may encourage states to put preventative measures in place to avoid any overage.

Option 3, delay the opening of the fishery in the state that exceeds the regional allocation. The duration of the delay would be proportional to the overage, so what we would do is we would base that on the overage amount and average daily landings.

I would probably end up using the NMFS quota monitoring. This would hold an individual state accountable for exceeding that allocation, and that penalty can be applied independent of an allocation scheme for next year's coast-wide quota.

The problem identified with this option is that it may be difficult to discern which state is responsible for the overage. If landings come in real quick, it may be difficult to determine which state had the overage.

The last option is to address any quota overages when setting the specs for the 2004-2005 fishing year; that is, if an overage does occur this year. The benefit to this is that we'll know what the quota allocation scheme is for next year.

But, the problems associated with this is that waiting until setting the specs means that there isn't going to be any deterrent in place to prevent the overages from occurring.

And, also, it may be viewed as biased because you're developing the penalty while you're aware of which region is responsible for that overage. So, those were some options developed by staff for the board's consideration.

CHAIRMAN MUNDEN: What's the pleasure of the board? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. None of them are really great. **In view of the fact that Option 1 may not even be applicable during the 2004-2005, it seems the least onerous of all of them would be to make a motion to recommend Option 1.**

CHAIRMAN MUNDEN: Do I have a second? Second by Susan Shipman.

MS. GAMBLE: Let me reiterate it, because Nancy is flipping back and forth. Option 1 was to deduct the overage from a region's allocation in the subsequent fishing year, so that's assuming we'll have the same regional allocation next year.

CHAIRMAN MUNDEN: Gil Pope.

MR. POPE: Thank you very much. I noticed another thing on Number 3. You mentioned that you would calculate on a daily basis if they were over. You were going to calculate using the average over that period.

The problem is that a lot of the landings come in hot and heavy in the beginning, so what would happen, a state would be closed for 10 days, and there is a possibility that the fishing would be over in that first 10 days. So, instead of being, say, 1,000 pounds over 30 days, it was like 3,000 pounds for the first 10 days.

Do you see what I mean? So you would have to go by the state's landings from the previous year as to what they would probably land in those first few days of when it first opened. That's the only other flaw I see in Number 3, Option 3.

MS. GAMBLE: I see your point, but what I was thinking, when I developed this, was that the overage is going to take place in this fishing year, so I would take an average daily landings from this fishing year and deduct that from next year. Did I misunderstand?

MR. POPE: No, no, you were right, but it doesn't take into consideration that certain times of the year they are probably going to be in greater abundance than in others; so if you just take an average over a month -- or if you look at the previous year's landings, you might get a better idea as to when they show up and it's pretty close.

From year to year, in a lot of cases it's pretty close so it might be better to maybe look at the previous year's landings on something like that.

MS. GAMBLE: My response to that is this is a different level of landings than in previous years so the characteristics of the fishery may be different.

CHAIRMAN MUNDEN: John Nelson.

MR. NELSON: Thank you, Mr. Chairman. I was just going to jump in a little bit here and say you do have a motion up here. I think we've got to stay focused on that motion and not explain the others right now because that's what you're going to be voting on. Time is of the essence because we actually do have another committee meeting that has already been delayed. Thank you.

MR. AUGUSTINE: Call the question.

CHAIRMAN MUNDEN: The question has been called. I'd ask the maker of the motion to read his motion for the record; then we will caucus.

MR. AUGUSTINE: Thank you, Mr. Chairman. Move to accept Option 1 to address regional quota overages.

CHAIRMAN MUNDEN: Board members, take a couple minutes to caucus if you need that long.

(Whereupon, a caucus was held.)

CHAIRMAN MUNDEN: Board members, are you ready to vote? **All in favor of the motion, indicate by raising your right hand, please, twelve in favor; all opposed, one opposed; null votes, no null votes; abstentions, two abstentions. The motion passes.** Eric.

MR. SMITH: One more order of business. You all are going to regret the day that Ernie Beckwith retired on March 31st. Connecticut was in the prevailing side on the main motion of a 4 million pound quota and up to a 7,000 pound trip limit. **After some further debate, we would like to move to reconsider.** If we get a second, I'll explain why.

MR. COLVIN: **Second.**

MR. SMITH: Okay, having heard the second, the purpose obviously would be to change our vote so that everybody who counts the way we do can appreciate it. It would then, if everyone else stayed the same, would make it an 11 to 3 vote, and that motion would pass.

One thing that had not entered into the debate is what happens to the federal quota next year in the event that -- the federal quota is 4 million pounds; the ASMFC quota is 8 million, and it's taken, the overage becomes -- I'm sorry, the quota becomes zero in the subsequent year.

That plus all of the implications, the plain implications of that motion having failed, influences Connecticut to want to change its vote, so that is the basis for our motion to reconsider.

CHAIRMAN MUNDEN: Thank you, Eric. Let's wait until we get the motion on the board before we ask for discussion on the motion. A motion has been made by Mr. Smith.

MR. CALOMO: Point of order, Mr. Chairman.

CHAIRMAN MUNDEN: Mr. Calomo.

MR. CALOMO: I believe the motion failed and he was not on the prevailing side. I believe that's correct.

MR. SMITH: No. It doesn't say you're in the majority side, it says you have to be in the prevailing side. We were not in the prevailing -- we were in the prevailing side even though we were one of the four, because that motion didn't prevail. It needed 11 to prevail.

We were not in the prevailing side -- I'm sorry, we were in the prevailing side. We were not in the majority side. So, if we were in the prevailing side of the motion, we get to move to reconsider. We had to think about it a minute, too, I know. It's convoluted because of the two-third.

CHAIRMAN MUNDEN: Gentlemen, may I have your attention. I'm going to recognize Bill Adler and then Dave Pierce and then Pat White, in that order.

So, again, the chairman has indicated that we are way behind schedule. I know that these are very important issues. I would ask you to keep your comments brief and to the point. Mr. Adler.

MR. ADLER: Thank you, Mr. Chairman. I find this annoying that we just keep coming back. In other words, it sounds like, you know, anything that we lose here, we can come back with all these motions all the time.

We've spent a good deal of the day here, and the vote was as it turned out and now we're going to play. I can stay here all night and play this game. Can I move to table this motion? Point of order, can I ask a motion to table this motion?

CHAIRMAN MUNDEN: Mr. Adler, I will get back with you in one moment on that.

MR. ADLER: Motion to table; it's non-negotiable, I guess.

CHAIRMAN MUNDEN: I ask the board to bear with us while we check the official documents to see if indeed this is an appropriate motion. Board members, I would ask you to keep your seats and please keep the noise down so that the staff can research this matter.

Board members, all board members, in order to give

the staff some peace and quiet while researching this, I'm going to declare another five-minute break. Please leave the room if you desire to discuss this issue with any of your neighbors.

(Whereupon, a recess was held.)

CHAIRMAN MUNDEN: Board members, please take your seats. After consulting with the staff, looking at the documents, I have made the decision that Mr. Adler's motion to table is out of order, and the reason for that, Mr. Adler, is that a motion to table has to be for a certain time period.

MR. ADLER: Then can I make a motion to table until the next meeting or indefinitely; would that work? Would that be in order?

CHAIRMAN MUNDEN: That's your prerogative, Mr. Adler.

MR. ADLER: **Make a motion to table indefinitely.**

MR. ABBOTT: A point of order, Mr. Chairman. I think a motion to table is not a valid motion. A motion to postpone is a valid motion, postpone to a time certain, but I went through this on the EEZ issue two months ago.

CHAIRMAN MUNDEN: That's the advice that I think I just gave Mr. Adler.

MR. ADLER: Okay, then a motion to postpone -- what did you say?

MR. CALOMO: Indefinitely.

MR. ADLER: Indefinitely.

CHAIRMAN MUNDEN: Is there a second?

MR. ADLER: How about that one?

CHAIRMAN MUNDEN: Is there a second? Is there a second?

MR. WHITE: **Second.**

CHAIRMAN MUNDEN: Second by Ritchie White. Discussion? Discussion on the motion to postpone indefinitely? The question has been called. Board members, do you desire to caucus? This motion will require a simple majority to pass.

Board members, are you ready for the vote? **All**

members in favor of the motion, raise your hand, please; all members opposed; null votes, one null vote; abstentions. The motion failed.

Now we're back to Eric Smith's motion. This motion will require a two-thirds majority. Eric, I will recognize you, and then I still have several people who have indicated that they wanted to speak.

MR. SMITH: Mr. Chairman, this has been a difficult day for everyone. We are going to withdraw our motion to reconsider.

CHAIRMAN MUNDEN: Does the seconder of the motion agree to withdrawal? Mr. Colvin, I believe you have to agree to have this motion withdrawn; is that correct? Do you agree?

MR. COLVIN: Yes.

CHAIRMAN MUNDEN: The motion is withdrawn. Thank you, board members.

OTHER BUSINESS

CHAIRMAN MUNDEN: We have one other issue that we discussed when we were talking about setting the agenda, and that is a letter from the North Carolina Division of Marine Fisheries asking the board to revisit the distribution of the quota between the New England states and the states south of Rhode Island.

So, it is a very happy time for me because I'm going to turn the chairmanship over to Bob Beal temporarily, so I can bring this issue before the board in a non-biased manner. So, Bob, if you would come over and please accept the chairmanship for a few minutes, I'd appreciate it.

MR. BEAL: Thank you, Red, I think. I think everyone has a copy of the letter from North Carolina in the packet of materials that was handed out at the beginning of this meeting that were not included on the CD-Rom, so it's in there.

And you also were just handed a response letter from Vince O'Shea to the North Carolina Marine Fisheries Commission, and I will call on Red Munden.

MR. MUNDEN: Thank you, Bob. As most of you board members probably know, North Carolina has not had a spiny dogfish fishery since the federal plan was implemented in the year 2000, and our fishermen are very concerned that even with the action that the board agreed to back in February, that

there will be few if any fish available when the water temperatures drop to the point that they migrate down to North Carolina, and they will be once again shut out of the opportunity or denied the opportunity to harvest spiny dogfish.

A number of fishermen approached our commission, the North Carolina Marine Fisheries Commission, and asked that they request that the board make the southern boundary of the area that is allocated 58 percent of the quota by our February action at the Maryland/Virginia border rather than at the Rhode Island/Massachusetts border, I believe it is.

So, I have asked the staff to go ahead and put up a draft motion, which I will offer, and that is **to amend the action that was taken by the board on February 25, 2003, and we would add the states of "Rhode Island, New York, New Jersey, Delaware and Maryland" in the motion after "Massachusetts", and we would substitute "Virginia" in the second part of the motion for "Rhode Island."**

This effectively would make the border for the harvest of 42 percent of the quota start at the Maryland/Virginia border and the states from that point south would get 42 percent and the 58 percent would be allocated to the states north of that. That's my motion, Mr. Chairman.

MR. BEAL: Is there a second for the motion? **Second by Mr. Robins.** Any discussion on the motion? Just to be clear on parliamentary procedures, as we've been trying to do all day, this is a motion to amend the action that occurred at the February meeting, so it's going to take a two-thirds majority vote to pass. With that, Gil Pope.

MR. POPE: Thank you very much. The only way I could see this working at all would be to take the landings from each state on average for a particular set of years, whether it's the last few years or whatever -- you say you've had no fishery? And if you possibly had a fishery in the past in North Carolina -- and go to the dividing line and add -- or out of that percentage or whatever it is, 57 percent and out of the 43, try and figure out which states landed what percentage of that 57.9 and 47.3, the states that are now going to be included in that 57.9, so then New York all of a sudden just doesn't lose it out or New Jersey.

Find out what they landed so that you can have the dividing line, but you can't just go from 0 percent to 50 percent for two states, or whatever the states are

south of that.

Do you see what I'm saying? So, to me it would be more fair if you were to figure out about what each state lands down the coast and still have your dividing line, but it may work out to be something like 75/25 or it may work out to be 78/22.

But you would still have a fishery and maybe you would have it to where it was preserved, but it wouldn't be the full 47. Am I making my point clear around the table? Thank you.

CHAIRMAN BEAL: Mr. Robins.

MR. ROBINS: Thank you, Mr. Chairman. Whether the effect was intentional or not -- and I suspect it was not -- the federal plan has had the unfortunate effect of slighting fishermen in Virginia and North Carolina.

And as we have previously discussed the history of this fishery, obviously Massachusetts was the historical epicenter of the processing industry and to a large degree the harvesting industry, but at the same time Virginia and North Carolina had a very rich history over the past ten to fifteen years of harvesting spiny dogfish.

And, again, that created a certain amount of economic dependence. Boats were built as late as 1995 in Virginia specifically for the purpose of prosecuting this fishery.

Those fishermen have expressed significant concerns recently at the fact that for the past three or four years the entire federal quota has been caught by Massachusetts and neighboring states before the fish had had a chance to get to Virginia and North Carolina.

And this is about those fishermen having a level playing field to play on, and in their estimation our colleagues in the Northeast have been kind of borrowing from the bank with this federal quota. This is a one-year plan, as I understand it.

This is a proposal for the next year. We'd like to see the level -- we would like to see the playing field leveled out a bit in the spirit of fairness, and we'd like to see the line moved down to the Virginia/Maryland state line. Thank you.

MR. BEAL: Thank you. I have a list of people growing here. Dave Borden, did you have your hand up?

MR. BORDEN: Yes, thank you, Mr. Chairman. I can't support the motion, and a couple reasons, quick reasons. One is it doesn't solve the problem.

The problem that North Carolina and Virginia are attempting to resolve here is a problem that is caused by the federal regulations, which is a 4 million pound quota and the trip limits.

Anyone with a federal permit, dogfish permit, is going to be closed as soon as any of the states collectively land more than 4 million pounds.

So, the other point I would make is the way to resolve this is the way that I, as Mr. Munden knows, attempted to resolve this after the last meeting.

I spent a considerable amount of my time trying to work with the state of Massachusetts and New Hampshire and Maine to limit their catches to allow the southern states to have a directed fishery later in the year.

And in fact the state of Massachusetts graciously agreed to do that, and that was one of the reasons that they put off their fishery until the fall was to try to accommodate the interests of the southern states.

So, I can't support it. And if it was to go forward, we would have to realign the percentages along the lines that Gil Pope had said that these percentages would have to be changed.

The way to resolve this -- I agree with the intent of the motion, but the way to resolve this is we set up a structure where the three Northern New England states essentially can get together and negotiate a set of rules for those areas, in order to accommodate their specific interests and the southern states, including Rhode Island, would be set up to do exactly the same thing.

The state of Rhode Island is perfectly willing to negotiate with our sister southern states to try to accommodate their interests.

CHAIRMAN BEAL: Mr. Fote then I have Mr. Colvin and Mr. Pate.

MR. FOTE: I'll just remind people that the Mason-Dixon Line runs through New Jersey, and that we are in the southern part, and we keep getting lumped in the northern part of this fishery. And New Jersey has not had a fishery, and we suffer the same consequences as North Carolina and everything else.

As long as the bycatch fishery, the New Jersey fishermen who had a substantial harvest of dogfish a couple of years ago, because I saw the barges coming into Point Pleasant, no longer have a fishery, so I can't support this motion.

CHAIRMAN BEAL: Mr. Colvin.

MR. COLVIN: I guess the problem I have is I just don't really know what the consequences of this would be. It has just kind of come at me, you know, cold, and don't have an opportunity to get any input.

The fishermen really didn't see it coming. And under these circumstances, it's just not really possible to make -- you know, for those of us whose status would change, to make an informed judgment about the impacts of it.

I'm very sympathetic to the plight of North Carolina here because I frankly think North Carolina has gotten the shaft in this whole management program, and I've said so before. I think what we need is along the lines of what Dave Borden suggested.

We need some time to try to -- to take the time to work amongst the states and with our fishermen to try to figure out what works the best, and I can't really support this motion today. Although who knows, once we took that time, maybe something along these lines might be workable.

CHAIRMAN BEAL: Mr. Pate and then Mr. Munden.

MR. PRESTON PATE, JR.: Thank you, Bob. I certainly agree with the points that Dave Borden made. The vote that we cast in favor of the current motion establishing the split between Massachusetts and Rhode Island was predicated on the understanding that we were poised to work in good faith with the other southern states to accomplish exactly what Dave said.

We haven't done that yet. That doesn't diminish my optimism that we will still be able to if this motion fails. But, our fishermen didn't see that vote coming either. I don't think anybody did.

The vote to set the quota and the vote to set this distribution of that increased quota was done in an atmosphere of uncertainty and haste at the last meeting, and we're sitting here at ten minutes after six as a result of that.

I regret that happened because I feel like I might have

made a mistake in the role that I played in that last discussion. But, our fishermen are feeling exactly what Gordon just aptly characterized. They've been screwed for a number of years and they're tired of it.

I think the emotion that they brought in their discussions with our Marine Fisheries Commission that went into the letter, that resulted in the letter being prepared that was sent to you are indicative of how disgusted they are with the process that keeps cutting them out of a fishery in which they were very significant players historically.

Obviously, we support this motion. If it fails, I'm certainly interested in working with the other states, as David suggested, to try to make the best out of this situation. But, this may not be the long-term solution that is favorable to the more southern states in the range of this species.

I would ask for your support. If you can't support it, I understand that. It's getting late and we need to move on, but I don't want to give up the fight under any scheme to make sure that our fishermen are treated fairly. Thank you.

MR. BEAL: Mr. Munden.

MR. MUNDEN: Thank you, Bob. I agree with the points that both Dave Borden and Gordon Colvin made relative to looking at the percentages but that, I believe, has pretty much been done because that was one of the options that we considered when we adopted the FMP was state-by-state quotas.

Now, realizing that we rejected that option, there isn't a need to spend a lot of time worrying over spilled milk, as my mom used to say, but for the benefit of the board, I will inform you that one of the options that the Mid-Atlantic Council and the New England Council will be taking forward in Amendment 1 to the spiny dogfish federal plan is state-by-state quotas.

And that just may be -- after all the discussions that we've had over the past six months relative to allocating the quota of spiny dogfish, it may be the state-by-state quotas are a better solution than what we've come up with. Thank you, Mr. Chairman.

MR. BEAL: All right, thank you. I don't see any other hands so I guess we're ready to go ahead and vote on this. Again, it's going to take a two-thirds majority vote for this to pass. So, we'll go ahead and do another roll call vote, and I think that will be it. Oh, sorry, caucus prior to the vote.

(Whereupon a caucus was held.)

MR. BEAL: Okay, I think the caucusing is done so we'll go ahead and start the roll call vote. Megan, please.

MS. GAMBLE: Maine.

MAINE: No.

MS. GAMBLE: New Hampshire.

NEW HAMPSHIRE: No.

MS. GAMBLE: Massachusetts.

MASSACHUSETTS: No.

MS. GAMBLE: Rhode Island.

RHODE ISLAND: No.

MS. GAMBLE: Connecticut.

CONNECTICUT: No.

MS. GAMBLE: New York.

NEW YORK: No.

MS. GAMBLE: New Jersey.

NEW JERSEY: No.

MS. GAMBLE: Delaware.

DELAWARE: No.

MS. GAMBLE: Maryland.

MARYLAND: No.

MS. GAMBLE: Virginia.

VIRGINIA: Yes.

MS. GAMBLE: North Carolina.

NORTH CAROLINA: Yes.

MS. GAMBLE: South Carolina is not here. Georgia.

GEORGIA: Yes.

MS. GAMBLE: All right, thank you. Florida.

FLORIDA: Yes.

MS. GAMBLE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE:
Abstain.

MS. GAMBLE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE:
Abstain.

MR. BEAL: The motion fails for lack of a two-thirds vote, but I think there was enough commitment around the table from the states of Rhode Island and North Carolina and some of the other folks that it is probably worth some time, and I'll commit to working with the states as staff, and not as temporary chair of this board, but as staff to make some phone calls and see if there is a way that we can work some agreements out to limit the catch in the different regions so that everyone gets a crack at the quota this year. I've got a couple of hands and I think we're pretty close to through with the agenda. Dave Borden.

MR. BORDEN: Very briefly, Mr. Chairman, I'd just like to reiterate something I said before. Since we're back to the original motion, as Red knows, we tried very hard to figure out a system whereby the increase in quota would be -- the way we would use that is to convert dead discards to landings.

I would just ask that the states kind of reenergize that effort. I think it's the appropriate way to go from here on it. And if we're going to have discussions about quota-sharing arrangements, I think we can factor that in. If everyone can get their staff to look at when the primary discards take place in their area, I think it will facilitate that discussion.

MR. BEAL: All right, Mr. Adler.

MR. ADLER: I'd like to make a motion to adjourn.

MR. ABBOTT: Second.

MR. BEAL: I think there's plenty of support. The board is adjourned.

(Whereupon, the meeting adjourned at 6:20 o'clock p.m., June 10, 2003.)
