

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ISFMP POLICY BOARD**

**Crowne Plaza Hotel - Old Town  
Alexandria, Virginia  
May 23, 2013**

Approved August 2013

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of February 2013 by Consent** (Page 1).
3. **The ISFMP Policy Board moves that the board accept the changes as presented in the ISFMP Charter today** (Page 4). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 4).
4. **Move to approve the research proposals from Georgia and Maine** (Page 25). Motion by Pat Augustine; second by Bill Cole. Motion carried (Page 25).
5. **Move that the ASMFC support initiatives taken by the New England, Mid-Atlantic and Western Fisheries Management Councils in support of amending the Magnuson-Stevens Fisheries Conservation Act to authorize the National Marine Fisheries Service to provide the U.S. Fishing Industry with a sustainability certification program and certification mark, which would provide U.S. Seafood Producers with the ability to promote and sell their seafood products in both domestic and export markets as sustainable-based upon the requirements of the Act** (Page 26). Motion by Louis Daniel; second by Terry Stockwell. Motion carried (Page 26).
6. **Motion to adjourn by Consent** (Page 26).

## ATTENDANCE

### Board Members

Terry Stockwell, ME, Administrative proxy	David Saveikis, DE (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Roy Miller, DE (GA)
Doug Grout, NH (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
G. Ritchie White, NH (GA)	Tom O'Connell, MD (AA)
Paul Diodati, MA (AA)	Bill Goldsborough, MD (GA)
Bill Adler, MA (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Robert Ballou, RI (AA)	Jack Travelstead, VA (AA)
David Simpson, CT (AA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Dr. Lance Stewart, CT (GA)	Louis Daniel, NC (AA)
James Gilmore, NY (AA)	Bill Cole, NC (GA)
Pat Augustine, NY (GA)	Robert Boyles, Jr., SC (AA)
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Malcolm Rhodes, SC (GA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Spud Woodward, GA (AA)
Tom Fote, NJ (GA)	Patrick Geer, proxy for Rep. Burns (LA)
Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)	Jim Estes, FL, proxy for J. McCawley (AA)
Loren Lustig, PA (GA)	Kelly Denit, NMFS
Leroy Young, PA, proxy for J. Arway (AA)	Bill Archambault, USFWS

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

### Ex-Officio Members

#### Staff

Bob Beal	
Toni Kerns	Mark Robson
Kate Taylor	Katie Drew

#### Guests

Karen Abrams, NMFS	Danielle Rioux, NOAA
Anthony Rios, Ofc. Sen. Phil Boyle, NY	Bob Ross, NMFS
Peter Burns, NMFS	Olivia Rugo, NOAA
Derek Orner, NMFS	John Bullard, NOAA
Steve Meyers, NOAA	Russ Allen, NJ DFW

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, May 22, 2013, and was called to order at 2:45 o'clock p.m. by Chairman Paul Diodati.

### **CALL TO ORDER**

CHAIRMAN PAUL DIODATI: We're going to begin the Policy Board. Welcome, everyone, to the Policy Board Meeting.

### **APPROVAL OF AGENDA**

CHAIRMAN DIODATI: You have an agenda before you. Before I ask for approval of it, I think Toni might have some changes. Toni.

MS. TONI KERNS: We have two changes to the agenda. Item Number 5, the discussion of concerns with the implementation of the MRIP Program has been removed. For tomorrow's agenda we had on there to consider the Shad and River Herring Research Proposals; and if we have time, we're going to go ahead and move that to today since we took that 30-minute item off the agenda, depending if we can catch up.

CHAIRMAN DIODATI: If there are no questions, there will be opportunity for members to bring up other business at the end of the meeting. I know at least one or two people have approached me about that, so we do have a couple of items for the end of the meeting. Without any objection, I will consider the agenda approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DIODATI: You should also have the minutes from our February meeting. If there are no questions or comments about those proceedings, I will consider those approved. Toni.

MS. KERNS: I just want to note that the minutes from the second day of the meeting were not recorded and that is why you do not have them.

### **PUBLIC COMMENT**

CHAIRMAN DIODATI: And as always we like to take public comment. If there is any public comment about any issues that aren't on the agenda, we will take that now. Seeing none; we will be moving nice and quickly through this agenda given that it is 2:45 because of one of our earlier boards going a little bit long. We have Karen Abrams here today from the National Marine Fisheries Service, and Karen is going to talk about their proposed rule for Shark Act of 2010.

### **PROPOSED RULE FOR THE DOMESTIC ELEMENTS OF THE SHARK CONSERVATION ACT**

MS. KAREN ABRAMS: Thanks for having me today. My name is Karen Abrams. I am with the National Marine Fisheries Service, Office of Sustainable Fisheries, Domestic Fisheries Division. I will be talking to you a little bit about the proposed rule to implement the Shark Conservation Act of 2010.

The 2010 Shark Conservation Act was signed into law on January 4, 2011. It amended the High Seas Drift Net Fishing Moratorium Protection Act and the MSA to improve existing international and domestic shark conservation measures. It prohibits the removal of shark fins at sea, and that is the key portion that I will be talking about today, but does not impose a universal prohibition on the possession or sale of shark fins after they have been landed.

The National Marine Fisheries Service is implementing the Shark Conservation Act actually through three separate rulemakings. The first is a rulemaking that addresses some of the international portions of the Act and does that by revising the definition of illegal, unreported and unregulated fishing. That rulemaking was finalized in January of 2013.

There is a second rulemaking that I think Karyl Brewster-Geisz brought up with you yesterday having to do with the savings' clause for smoothhound sharks. As she reported yesterday, that rule is still in development. The rule I will

be talking about is the rule to implement the domestic provisions of the Shark Conservation Act.

That was published on May 2<sup>nd</sup> and we are accepting comments through June 17<sup>th</sup>. We published the proposed rule primarily because we needed to bring the existing regulations and U.S. Federal Domestic Shark Fisheries into compliance with the domestic provisions of the Shark Conservation Act. Like I said, the comment period is open through June 17<sup>th</sup>. Public comments can be submitted through [regulations.gov](http://regulations.gov).

Some of the key elements of the rule are that it includes a prohibition on the possession of shark fins aboard a fishing vessel or landing, transferring or receiving shark fins or carcasses unless the shark fins are naturally attached to the corresponding shark carcass. Previous regulations under the Shark Finning Prohibition Act of 2000 prohibited shark finning and the possession of shark fins without the corresponding carcass.

Fishing vessels could have fins removed from the shark carcasses as long as those carcasses were still on board. This rule changes that and requires that the fins remain naturally attached through some portion of uncut skin. It is important to point out that congress, while it prohibited the removal of shark fins at sea, it did not impose a universal prohibition on the possession or sale of shark fins after they are landed.

The rule also clarifies that this does not apply to skates, rays or individuals fishing for smoothhound sharks. The rule explains NMFS' view on preemption of state laws. One of the things that the proposed rule does recognize is there are territories and state laws, including Maryland and Delaware now, as well who have enacted laws that with a few exceptions prohibits the possession, sale, trade or distribution of shark fins and explains that a state law that interferes with the purpose and objectives of Magnuson could in fact be preempted.

Because of obvious sensitivity here with states, this triggers the Executive Order 13132, which requires us to reach out to states, which we did. Prior to publishing proposed rule, we reached to all states with actually enacted laws prior to publication, so that was Maryland. Delaware's law was enacted after the rule was actually published.

We understand there are quite a few other states with laws that are being considered right now similar to Maryland and Delaware. At this point the rule is there and we are looking forward to comments. We really welcome comments. We are particularly interested in comments or suggestions that help to clarify the rule and any aspects of the implementation part of the rule. We really looking forward to comments related to the potential interference between the state laws and the federal laws and places where those conflicts could be minimized. Those kinds of comment will be very helpful to us for further coordination with all the states. That is where we are and again here is the link to submit comments. That is really it in a nutshell, so thank you very much.

CHAIRMAN DIODATI: Are there any questions for Karen? Okay, I'll go to Mr. Adler.

MR. WILLIAM A. ADLER: Back on the Shark Board thing; was there a question about whether the commission should submit some comment to the federals on the rule? I think that was brought up at maybe the Spiny Dogfish and Shark Board. They said that probably the ISFMP Board would be the place to make that.

CHAIRMAN DIODATI: That is on the agenda; that will be the first decision of the day. Pat.

MR. PATRICK AUGUSTINE: Is there any thought about covering skates and rays? Usually there is something in the wings; but someone has a hidden agenda out there that would eventually want to put some kind of control on skates and rays and that sort of thing. I'm not aware of any. I have gone through all the documents and I haven't found anything yet. Is there anything that you're aware of?

MS. ABRAMS: No, not that I'm aware of.

MR. AUGUSTINE: Good; make sure they don't.

CHAIRMAN DIODATI: Okay, there is the issue that Bill Adler just mentioned; whether or not the commission should forward a comment letter about the Shark Conservation Act of 2010 Proposed Regulation. Are there any thoughts on that? Well, I don't think we need a motion. I would like to have a little – if there is a consensus; that would be fine. I don't think we need a motion on this. Pat, did you want to say something on this?

MR. AUGUSTINE: Mr. Chairman, I do think we should support their efforts. NMFS has been very forthcoming; the HMS Group has been very supportive; we have been very supportive of them. They have kept us informed as to changes as they have been occurring. I do think that we should send a letter back supporting these changes that quite frankly are overdue. That would be our position, Mr. Chairman.

MR. WILLIAM GOLDSBOROUGH: I think there are several things we could say to NMFS. Our hands may be a little bit tied based on the actions we took yesterday; but from my understand some of NMFS' public comments on the Act were not particularly flattering. I'm just suggesting that the exception for smooth dogfish was potentially problematic.

It seems also from our discussion yesterday that there is more information out there about potential fin-to-carcass ratios. We did talk about one study that I don't think has been peer reviewed yet or run by our technical committee. Then we heard in public comment about another analysis that had been done that actually suggested that the ration was 3.5 percent for smooth dogfish. It seems like one of the things we could suggest would be that they look at all available information on that and perhaps try and nail down a more precise estimate and assure them that we would also probably benefit from that work in the future.

CHAIRMAN DIODATI: I'm hearing that the ratios on specifically in this rule are being dealt with, but we will go back to yesterday's board and review some of the concerns that were raised. Is there an objection to sending a comment letter that would be in general support of the proposed rule? I'm not seeing any objection.

We thought that there might be because there might be some conflicts with state law on this; so why don't we draft a letter and circulate it back to the board before we send it. We do have time to do that. I want to make sure that you will be comfortable with it. Okay, thank you, Karen. As Toni indicated, we're skipping Item Number 5 on your agenda, and I guess we will go to Item Number 6, which is to talk about the possible revisions to our Charter.

#### **CONSIDER REVISIONS TO THE ISFMP CHARTER**

MS. KERNS: If you recall, at the last ISFMP Board Meeting we approved a new technical support group guidance and benchmark stock assessment process document. I noted once that document was approved that we would go through the Charter and make any changes that we thought were necessary to be consistent with that document.

I have a couple of changes to quickly go through. There is a change to the description of the Assessment Science Committee's role. It is just how the Assessment Science Committee provides input to the species stock assessment subcommittees during the benchmark stock assessment process and that they can provide input and advice when a model change or a major revision of the data are conducted.

It no longer has that committee jointly appointing the species stock assessment subcommittees with the technical committee. We usually have the technical committee make recommendations or the board itself will make recommendations on who should be on the stock assessment committee and then it is finally approved by the board.

We also noted that the ASC may provide overall guidance during an assessment update, but they don't have to. Next is looking at a description of the technical committee's role, and it is just that the technical committee will address specific technical or scientific needs requested by the respective boards and committees. As requested, it does not have to be in writing.

We also noted that the technical committee may be requested to provide technical analysis by the advisory panel. Next is looking at a change in the description of the species stock assessment subcommittee. It just notes who will be on that committee and that the technical committee members with the appropriate knowledge and experience in stock assessment and biology of the species being assessed, as well as individuals from outside the technical committee with the expertise in that species, can be nominated if necessary.

It also notes that under the subcommittee that a stock assessment update consists of adding the most recent years of data to an existing peer review and board acceptance stock assessment model without changing the model type or structure to make that definition consistent with the guidance document.

We also note that instead of having the Chair appoint the Habitat Committee once on an annual basis, they can be appointed anytime during the year. But still consistent with all other committees, we only make a committee member change for each state once each year. You can't change a committee member multiple times.

We also added a description of the Artificial Reef Committee. It is a standing committee of the commission appointed at the discretion of the Chair. The Artificial Reef Committee advises the Policy Board with the goal of enhancing marine habitat for fish and invertebrate species through the appropriate use of man-made materials. Then it just describes who is on that committee.

Next we changed the name of the votes that we take electronically. It was called a fax ballot and

we have made that change to reflect with the times and we are now calling it an electronic ballot. We also did the addition of the LEC, which is consistent with the action plan to have someone from the Justice Department as a possibility on the committee.

CHAIRMAN DIODATI: I think I would like a motion to accept these changes. If there is a motion and a second, then we will have some discussion, if needed. Pat.

MR. AUGUSTINE: **Mr. Chairman, I move that the ISFMP Policy Board accept the changes as presented in the document as of this date.** I don't know whether you want to fill in anymore than that or not, Mr. Chairman. I think reference to the document is important.

CHAIRMAN DIODATI: Seconded by Mr. Adler. Okay, is there any comment or question about the motion or the changes? Adam.

MR. ADAM NOWALSKY: The change to electronic ballot; does that preclude the use of any of the other methods used previously, including fax. Is that an issue that we're just going to do anything that we're not here as a group only by e-mail or we're going to use whatever is available at that time?

MS. KERNS: Adam, I consider a fax machine an electronic device, so you can send it in via fax, via e-mail, any of those ways.

CHAIRMAN DIODATI: I think the Charter was written prior to e-mails becoming as popular as they are and so fax was invented and used commonly, but now by changing it to electronic it is more encompassing of contemporary modes of communication. Are there any other comments on this? All right, I will read the motion.

**The ISFMP Policy Board moves that the board accept the changes as presented in the ISFMP Charter today. The motion is by Mr. Augustine; seconded by Mr. Adler. All in favor, show of hands; all opposed same sign; abstentions. Thank you; the motion passes.**

The next is a discussion on what direction the commission might want to head relative to whelk or conch management and if we're going to proceed with the development of some new management vehicle. Actually it would be very new; we don't have one right now. Toni, I think there is a document; are you going to walk through this?

### **DISCUSSION OF WHELK/CONCH MANAGEMENT**

MS. KERNS: At the request of the Horseshoe Crab Board, the Policy Board began to discuss whelk management at the last meeting, but we ran out of time and so the Policy Board asked me to put together a white paper on some background information of what is going on in whelk management and a little bit about the status of the species. The Horseshoe Crab Board was concerned with the recent increases in catch and effort in the whelk fishery and the possible impacts of these trends on horseshoe crab.

A little bit about the life history of whelk or conchs – I am going to call them whelks for the rest of the time. There is limited information on the life history of all the species of whelks that we catch on the Atlantic Coast. I found five species of whelk that are the majority of the harvest. There is no planktonic life stage for whelk.

The eggs are put into the coil and once the eggs are hatched, they go straight to the benthic phase. Their movement is for food and breeding, but it is limited movement overall. From the scientists that I spoke with, they don't think that there is much movement between state waters; maybe neighboring states, but that would be it and not across multiple states.

The knobbed whelk bury into substrate for feeding and so therefore are more susceptible to dredges and trawls. Channeled whelks are more likely to be scavengers and so they're likely to be caught in pots. The females are larger than males, and there is a mixture of sizes at maturity. Three studies that I found were from Georgia, Virginia and Massachusetts. I am aware that there are others out there.

The females reach sexual maturity at ages ranging from six to twelve and the males from ages four to nine. Exchanges between closely situated populations is likely limited, which could explain why the growth and size at age and sexual maturity can differ significantly from one population to another.

This is the information that we have on landings for the coastwide. I have spoken with a couple of individuals and they don't think that the landings represent necessarily what has been going on in the past. There isn't required reporting in all of the states nor is there consistent reporting in all of the states.

This is from the ACCSP for the reporting that we do have, and you can see since 2005 there has been a significant increase in landings; and then from 2010 to 2011 there was a small drop-off. In your white paper there are those landings by state as well. Your major landings come from Massachusetts.

The ex-vessel value in millions of dollars for the coast has been increasing over the past couple of years. In 2008 it was almost \$5 million and then in 2009 and 2010 it was about \$6.5 million and then in 2011 it was close to \$9 million. For all the states, they have varying regulations. There is no consistent set of regulations, but they include limits on participation, some have minimum shell size either for length or for width.

There are gear requirements, harvest timing requirements and season or area closures. The effectiveness of an exploitation rate with effort controls may not be certain due to latency in some states as well as a poor relationship between the number of traps fished and the number of traps hauled similar to how that poor relationship is in the lobster fishery, as well as the effectiveness of biological measures is not necessarily certain because it is based on market and not biological measures for some states.

Because it is likely there is limited movement of whelk across multiple states and there is the varying size at age and sexual maturity, a multi-state management program may not have a

significant impact on the population because it is not a migratory species. A uniform size limit may not be effective unless maybe we had one minimum size, which was based to the lowest common denominator. We may want to recommend that all the states – if the board does anything, we may want to recommend mandatory reporting requirements – or not mandatory but the states go back and have reporting requirements so we could have a better understanding of what is being caught in each of the states’ whelk fisheries. In most cases the reporting requirements only comes when it is a bycatch in another fishery such as blue crab. That’s all I have.

CHAIRMAN DIODATI: I have a feeling this was probably generated by the Commonwealth of Massachusetts. Before I take questions on it, I will just say that the reason why is because we have been more recently aggressively managing our whelk fishery given that value. I know we’re up somewhat over \$6 million of that.

This has become the alternative fishery in Southern New England for what was our lobster fishery. It is rather sudden and increasing fairly rapidly. We have put in a fair amount of controls on effort; and looking at sexual maturity, our minimum size we found protected none of the females from spawning at all.

We have just made a proposal to increase our minimum size by three-quarters of an inch, and in fact that will give us 50 percent maturity would be protected at that. We have a fair amount of whelks coming into our state or they were from other places that either don’t have any minimum sizes or below ours. It becomes one of those classic management issues for us that we’re dealing with.

Based on what I have heard, it doesn’t sound critical to this body whether or not we want to take it on as a management board, but there seems to be other fisheries in other states that might have concerns about it or see some benefit in working together at least. With that, I will take any questions. Mr. Adler.

MR. ADLER: I don’t know how many other states have a fishery similar to us. I would like to at least know that. At the same time there was a recommendation or some comment just made by Toni having to do with the differences and how difficult it would be to have a uniform size and some of the other things because of the changes; and also the other fact that the whelk don’t go running up and down the coast like some of the species.

I personally think it would be better if the states rather than this commission could monitor and regulate their own fishery. I do agree with you, Paul, about getting together with the states to try to get some uniform thing, but I don’t know if we want to establish another board, which is going to have to deal with all the states and their little idiosyncrasies. So, you know, another board meeting when a state could handle it, I think. That is just my thoughts on this.

MR. THOMAS McCLOY: Mr. Chairman, a question for Toni; did you get a sense that this is predominantly state water fisheries as opposed to any EEZ harvest? Can you shed some light on that? I know we have a fishery, but I don’t know if it ventures very far offshore.

MS. KERNS: I believe it is mostly a state water fishery. For example, in New Jersey, in talking with Brandon, I think a significant portion is bycatch and dredge and your blue crab fishery. New Jersey is probably the only other state that is up to the level at times with Massachusetts, but that is not very consistent. It was one year where your state was over a million pounds, but I don’t think there is much in the EEZ.

MR. ROY MILLER: Mr. Chairman, I know there is a fishery for smooths or channel whelk offshore of Delaware; a pot fishery in the EEZ. I don’t know the extent of it; but when I first saw horseshoe crabs and whelks lumped together in the same heading, I thought we were perhaps going in a different direction.

For some years, we have known that the tooth-bar dredge that is commonly employed in the whelk fishery damages horseshoe crabs as bycatch, so there is a bycatch mortality

component associated with the use tooth-bar dredges. I kind of thought that was maybe where we were going but apparently it isn't.

I just put that out there for public information that there is some loss of horseshoe crabs due to the use of this gear. We've found in Delaware that this is a boom-or bust fishery, and for a while we kind of left it alone. Then the price went up and our landings spiked in 2001, and there was a gold rush mentality, which we heard about yesterday with another species, concerning licenses. The state had to deal with that. I think that the boom-or-bust phenomenon is fairly common in this fishery, and it takes a long time for this resource to recover once it crashes. This is just food for thought. Thank you.

MR. JAMES GILMORE: New York has had a similar experience to what you have described. There seems to be a lot of our lobster fishermen have transitioned over to whelk and we seem to be having some significantly large harvest based upon the number of permits that we have been issuing has been significantly increasing.

We definitely need to do something. We're not a hundred percent sure if we have the resources to do that and would be speaking in favor of maybe doing something jointly because we may need the help in terms of some of the data. It is a localized population. Ours is in state waters like everybody else's.

The other complication we have had, too, is we have been having this expanding PSP issue, which has been pretty traditional in New England. It is very new to us, but we had to change our regulations last year because the whelk pick up the toxin pretty well and we have to shut down those fisheries, also. We've got a combination of an expanding fishery and a potential public health issue, so we clearly need to do something more about it. Thank you.

CHAIRMAN DIODATI: I think the reason why we brought it to this body was because in dealing with this over the past three years I think we started intensely looking at it; we conducted a maturity study, we increased our minimum

size, we limited entry to the fishery. We prohibited the use of horseshoe crabs as bait in the conch fishery.

Now we're moving forward to make it permit owner on board. It would have been helpful if we had the opportunity for regional discussions to learn about your fisheries and what you're doing. The boom-or-bust nature of this fishery is common in other parts of the world and not just in the U.S., but we have seen that and have documented that. We have done a fair amount of work on this, and I'll probably go to Dan McKiernan before we stop and ask Dan to make any follow-up comments. Why don't you wait, Dan, until we go through the list? I have got a few people here that want to speak on it. I saw, Rick, you had your hand up and I'll come back to you once we get around the table. I have Tom, Jack, Terry and Adam. Tom.

MR. THOMAS O'CONNELL: I was going to kind of say the same thing that Roy just said. In Maryland we do have a federal water fishery. It is pretty significant. We have experienced this boom-and-bust style fishery and several years ago we put a six-inch minimum size limit to try to stabilize the fishery. My neighboring states have lower size limits and our fishermen have always kind of raised the issue about the inconsistencies. I think we would be supportive of a dialogue to see if we can provide some regionalization on the management of conch. I think it would be beneficial.

MR. JACK TRAVELSTEAD: Mr. Chairman, while I don't favor development of a fishery management plan coastwide at this point, I think we could benefit as a number of others have said from simply understanding what the other states are doing in their respective states. I wonder if staff couldn't just simply compile some type of table or listing of what the various rules are in the various states and we can have a look at that.

I mean, clearly, what occurs in some states can affect the rest of us and it would be worth keeping an eye on. We have a fishery both in state and federal waters. We have had a limited entry in the state water fishery for some time and minimum size limits and bushel limits. They do

differ from the neighboring states. I would be interested in knowing what the other states are doing.

MR. TERRY STOCKWELL: Mr. Chairman, I just wanted to advise the board that Maine has had a long-term state waters waved whelk fishery. It is a trap fishery only. It has a number of conservation measures. Time and size are the two principals; but as Jim indicated, it is limited by PSP closures. The epicenter of the fishery is Downeast and adjacent to where we have our mahogany quahog fishery. We do a lot of monitoring to keep it open. I would be happy to share any of this information with staff.

MR. NOWALSKY: Mr. Chairman, it sounds like the sharing of information is certainly beneficial to everyone. I have a question for all the states that have been increasing the management in recent years; and that would be is there pushback from your fishermen; is there encouragement from the fishermen on this?

When I look at the mandate for an FMP here and possibly a Policy Board; that requires state biologists, that is going to require us to curtail time with other management boards that we already have time issues with. What would be the problems that this commission by creating a board or an FMP would be helping states with at that point?

Is it specifically to help with pushback from fishermen that are opposed to measures that are being implemented to say you need to do it? What else can we provide at that point, and I would love to hear what pushback states may be having in creating the regulations to manage their state fisheries.

CHAIRMAN DIODATI: I will go to Dan next to answer that, but I will quickly say that we have had both pushback and encouragement. As always, there is a split. A good deal of this industry is made up of long-time participants and looking for as much management as possible, particularly of growing effort. Then there are newcomers to the industry that are less interested in controls right now and want to see continued access to the fishery. It has gone both

ways, but I will let Dan speak a little bit about our experience.

MR. DAN McKIERNAN: I did want to clarify one statement you made about the ban of the use of horseshoe crabs. We actually banned it in traps other than the whelk pots and the eel pots. What we were finding is that some lobstermen were using – there were allegations of some lobstermen using horseshoe crabs in their lobster pots as a means to catch more whelks.

In Massachusetts we have a limited entry scheme. We have a low trap limit of just 200, and we're doing our best to not have the bust. We have a boom and we don't want to experience the bust. One of the things Paul mentioned was we are increasing our minimum size, and we worked with Rhode Island.

They came up to our minimum size and now we're taking that next step. All the available evidence suggests that our size at maturity and theirs is the same, so we plan to talk to them about seeing if they would consider following suit. One of the bigger problems we have, of course, is we're home to a large number processors, and our Law Enforcement Division isn't too keen on seeing a lot of undersized animals coming into our state and into our processors even if it is from out of state.

In addition to increasing the minimum size, we plan to do it one-eighth of an inch in terms of the shell width over the next two years on what we hope was going to be a six-year schedule. Our regulatory commission gave us the first two years and then they want to look at it after that. I did want to mention sort of the genesis of this idea of talking about horseshoe crabs and whelk in the same conversation, and that had to do with the fact that the whelk pot fishery is one of the biggest demands for horseshoe crabs.

To the extent that we can understand trends in the whelk pot fishery, if effort is escalating, if trap hauls are escalating, then we will understand the reasons for increased horseshoe crab demand and maybe increased harvest. Just trying to manage this holistically, we intended and we have done this, we have told the public

that we really don't want to see an escalation of the whelk pot fishery because of the demands it does put on horseshoe crabs.

As far as the pushback, again, minimum size, the dealers are concerned that if we go too far, not only will they lose market, being to bring product in from out of state, but it might displace some of the fishing to places where the larger whelk will be, so that was the rationale for going slowing, eighth of an inch over six years. One more thing; we did invent a new gauge.

It is an aluminum square pipe that has been cut in half, so it is like a shoot with high walls on either side. So far we have gotten very good feedback from the industry. We've built a bunch for about three or four hundred dollars, and we handed them out for free so we had hoped to get some compliance.

What we did find is our law enforcement officers, before we came up with the gauge, when they boarded boats – one officer boarded 12 boats one day in November of last year, and one boat had a gauge. This hasn't been an area that has gotten a lot of attention for enforcement compliance, and you can tell by the lack of gauges. We think that handing out the free gauges, we're going to get better compliance.

MR. MILLER: In response to Adam's concerns and questions that he raised, I don't know if I have the definitive answer for this as to whether Delaware would prefer to approach whelk management through an interstate cooperative agreement or not. I know we have had difficulty coming to terms with our neighboring state the other side of Delaware Bay in regard to a common size limit for our two fisheries.

Delaware has a six-inch minimum size limit and we got there the way Dan talked about in steps a number of years ago. New Jersey I believe has a five-inch minimum size. I see no easy way to resolve that in terms of joint management. Perhaps an interstate effort and part of an FMP might facilitate that at least for our state to do it by regulation. I guess you could say that is one reason to consider an FMP. Thank you.

MR. DAVID SIMPSON: Earlier did I understand you correctly; did you say you prohibit the use of horseshoe crabs for whelk?

CHAIRMAN DIODATI: No, just the opposite; I misspoke. Rick.

MR. RICK ROBINS: Mr. Chairman, Rick Robins with the Chesapeake Bay Packing and Bernie's Conchs. I appreciate you putting this item on the agenda and bringing attention to the fishery. I appreciate the work staff has done to evaluate it. I would like to just follow on one of staff's recommendations, and that was specifically about the issue of reporting.

I raise this issue because Toni had a chart up there on coast-wide landings of all the different whelk species. In some of those years I processed more in those years than were indicated for the coast-wide landings. I think just to put it in perspective there is a significant scale issue where the extent of the fishery is not well understood.

I think if we at least at the individual state level had an effective data collection system for requiring landings to be reported at the harvester level and possibly at the dealer level, that would help collect that baseline information that has really been missing throughout the evolution of this fishery. Some of the states have that in place already and some don't.

It sounds like a little bit of a mixed bag in terms of what states have in place in order to manage and limit effort into the fisheries. I think the coast-wide landings on channeled whelk at least have probably have been in the six to eight million pounds a year range, which is significantly different than the available landings' information that we have.

There is a significant scale issue there. I think if the board at least encouraged the states to implement data collection systems, that would help. I think it would also be helpful given the fact that these are localized populations to collect at least some baseline biological sampling information from those landings and to encourage the states to try to develop some

understanding of those population dynamics throughout the range of the fishery.

I have been involved in one ongoing study in Virginia that should establish some of that information when the study is complete. There have been a couple of others up and down the coast. These are early investigations into the population dynamics, but I think those are going to be important in the future. I do think that some of expansion of the fishery that has happened in recent years, if that continues it may jeopardize the sustainability of those local populations.

I think it is a very important issue that I think can be dealt with effectively if the states are able to do it at the individual state level. There is one emerging fishery that is important to be aware of and that is in New Jersey and New York there is a fairly rapidly expanding fishery for waved whelk, and this is a relative new phenomenon over the last two to three years.

We have had a request at the Mid-Atlantic Council to consider developing a control date for that fishery because it is expanding relatively quickly. We haven't taken that up yet as a council discussion, but I would anticipate at some point in the future that we will have to talk about the waved whelk fishery.

That is taking place in about 25 fathoms of water, so that is a federal waters fishery at least in the Mid-Atlantic Region pretty exclusively. I just wanted to commend the staff for their work and also suggest that requiring mandatory reporting at the state level might be helpful for collecting that basic information. Thank you.

CHAIRMAN DIODATI: Okay, I think we have dried up the discussion on this, so to speak, and the summary that was put together by staff doesn't provide a recommendation to the board. I think coming into this meeting, I think the thought was should we or should we not develop a new management board for whelk.

That is possible; we have the resources to do that. To Adam's point, that would certainly put more work on the states and staff especially in

the early stages when we're collecting information about regulations and science and baseline information. That is always a big effort in the beginning.

I'm not getting the sense that we have a consensus on this. I think there is a split. I don't think we're ready to do a board. I think some people are nodding. I think there is a consensus that there would be tremendous benefits if we can come up with some way to work together short of a board. I don't know if that suggests a whelk workshop that perhaps the commission could facilitate where some recommendations might be generated, and I don't know if we have the funds for that.

We do have an executive committee meeting tomorrow morning and maybe this is a topic we can speak about with the executive director at that time and come back to the full board in August. We have gone many, many years without a whelk board and interstate plan, so I think we can wait until August.

Why don't we do that and we will have a discussion tomorrow morning, and then we might ask staff for a firmer recommendation as to how to move forward. Is that okay with everyone? Thank you; this has been helpful. All right, Toni is going to give us a short report from the Artificial Reef Committee.

#### **DISCUSSION OF ARTIFICIAL REEF COMMITTEE LETTER**

MS. KERNS: The Artificial Reef Committee met this spring and came forward to request that the Policy Board consider writing a letter to MARAD. MARAD is part of the U.S. Department of Transportation and Maritime Administration. Recently MARAD has changed their policy on the vessels that are eligible for sinking of artificial reefs. They have made a change to say that vessels built prior to 1985 may no longer be considered for sinking.

The Artificial Reef Committee felt that this change in the policy was arbitrary, too restrictive and limits the states' options for vessel use. The report that came back from MARAD said that

the policy change was made in consideration of a state's time and cost to obtain a MARAD non-retention vessel for reefing.

The committee had argued that vessels have been successfully remediated of all regulated PCBs in the past and that these storied vessels are very attractive to divers and that states see economic benefits from the vessels. The committee is requesting the commission send a letter to MARAD to rescind the policy that does not allow these vessels to be candidates for artificial reefs and to allow all vessels that are slated for disposal and safe to transport to become candidates for artificial reef support.

The letter that was put together by the committee was included in your briefing materials and a similar letter is also being considered by the Gulf States Commission, who we meet jointly when the Artificial Committee meets with the Gulf states.

CHAIRMAN DIODATI: You have the letter. It is a 3-1/2 page letter. Pat, do you want to say something about the letter?

MR. AUGUSTINE: I do, Mr. Chairman. I think it is a great letter. It is a bit wordy. I think it would be stronger stated as to the actual value of those vessels that have been used for reefs. It just says some nice things about it. They were used, they're there, and, yes, the divers like it. It just seems to me we could come with some economic impact value and what improvement there has been or what type of stock building has occurred around those if that information is available. Otherwise, it seems like pretty much of a pro forma letter, we don't like the decision they made, we would like to have them rescind it because there are some ships older than 1985 that could be available for our usage. I do think we need a letter, Mr. Chairman.

CHAIRMAN DIODATI: Well, we're thinking very much alike, Pat. My thought was that the letter could be shortened considerably. Why don't we ask staff to take the letter from the committee and rewrite it to make a little bit more succinct and to the point. I doubt whether we're going to have that economic information, but

anything we have to include in the letter we will do that. Is there any opposition to sending a letter like this; a short letter? Bob.

MR. ROBERT BALLOU: No opposition necessary – and, Toni, you may have said this and I'm sorry, but what was the basis for the decision to preclude use of these vessels?

MS. KERNS: From my understanding, it was to – the policy change was made in consideration of a state's time and cost to obtain a MARAD non-retention vessel for reefing. I believe that it is because the older vessels can take longer and cost more money to remove all of the contaminants, PCBs, et cetera, in order for them to safe for sinking. The committee made the argument that while it may take time and cost money, these older, larger, storied vessels are really what attracts the divers to come and the economic benefit to a state from having that tourism exceeds the cost that it takes to sink.

MR. BALLOU: I just find it odd that the federal government is suggesting that because of increased costs to states they don't want the states to bear that increased – it doesn't make any sense so I agree for that reason alone a letter to at the very least seek more clarification on the basis for the change in policy and then to set forth our reasons for why we want more flexibility.

MR. DENNIS ABBOTT: Mr. Chairman, what is the fate of the vessels prior to '85 that aren't allowed to be sunk; where do they go? Would they not require the same remediation of contamination?

MS. KERNS: I don't know where all of the vessels go. I wasn't at this Artificial Reef Committee Meeting. I do know that some of the vessels are recycled and the scrap metal gets recycled and used for other things.

CHAIRMAN DIODATI: Okay, I'm not going to seek an action here. I'm not seeing opposition to sending a letter with the qualifiers that we spoke about. The only question I have is does the board have a need to see the letter that staff is going to rewrite? Jim.

MR. GILMORE: Toni, the letter seems to heavily discuss PCBs, but you said other contaminants, so was it really PCBs that was the issue or was it other contaminants? I know we had tried to put some things in the water that had asbestos in it, and they wanted that all removed.

MS. KERNS: I said "other contaminants" because I recall reading something that said PCBs and other regulated measures or something, so I assumed there are other contaminants potentially.

MR. THOMAS FOTE: Asbestos is no problem in the water. We went through this battle and basically have gotten a ruling from the EPA it wasn't a problem in the water because it doesn't basically do damage in the water. If you look at the ambient parts of asbestos that is allowed in drinking water, it hundreds of thousands more than is in the water contained there.

A lot of the vessels that aren't used for artificial reefs because you're taking it in the air and taking the asbestos out and the PCBs. A lot of them are being sold overseas because the environmental controls over there are not as strict as us, so the people that work on them don't have to wear the mask and don't have to worry about asbestos getting into their lungs. That is what happened to a lot of those. They wind up on the beaches as you see those pictures of boats being scrapped on the beaches somewhere in Southeast Asia.

MR. ADLER: I find this a little bit strange that they wouldn't be brought in as scrapped for money; and as he said, they take them out and sink them; and we talk about marine debris and we're after discarded lobster traps and nets, and yet we can go out and sink a ship out there. That is not debris and must have been a hell of a good trip for a diver when they sunk – apparently in part of the letter they sunk an aircraft carrier out there. That must be quite a dive to get to an aircraft carrier. Once again I was wondering like, well, who decided to sink it instead of ripping it up and selling the steel. Strange things happen.

CHAIRMAN DIODATI: Okay, so this letter will be reworked and sent out under the commission's signature. Next on the agenda is a report from the Chairman of the Management and Science Committee, and that is Dr. Armstrong, who has joined us. Mike.

### **MANAGEMENT AND SCIENCE COMMITTEE REPORT**

DR. MIKE ARMSTRONG: I believe circulating right now is a one-page summary, a bulletized list that I will be reading from. The Management and Science Committee; I think we complained about a year ago to this board that we didn't have much to do and you fixed that. We have been very busy in the last few months, lots of conference calls, and we just had a full eight hours of meeting and lots of discussion around four major topics.

Each one of them is really complex in their own right. The first concerned the tasking of looking at the changing distribution of species in relation to climate change, developing an ASMFC policy regarding risk and uncertainty in our assessments and management advice, ecosystem-based fisheries management and looking and research priorities for 2013 and beyond.

I will very briefly just go through each one of those; and if you have any questions at the end, I'd be happy to talk about them. We charged from the October meeting by this board with investigating whether climate change and coastal warming of our waters was causing shift in several different species that we manage; and further if there are shifts occurring, could we reconsider looking at state-by-state allocations and how it would that.

In response to that, we came up with what we hope is a good plan to address this charge. Attached is the memo from myself and the committee to this board on February 13<sup>th</sup> with a time line. Since then we have been addressing Items Number 1 through 3 mainly, a little bit 4. We made some significant progress.

Since then we've formed a subcommittee and we have met several times. Most importantly, we've also met with NMFS to look at the efforts that they're making, and we have made really great progress, lots of literature review. It is clear we all know there are changes occurring. The challenge is to document in a quantitative way that we can use for decisions.

We're very pleased to have on Jon Hare from NMFS who is instrumental in looking at and has published on the change of species in response to temperature. He is going to be a tremendous asset. We initially pared down to probably maybe just looking at black sea bass and fluke. Since then we're probably going to ramp back up to more species just because of the tremendous capabilities of Jon Hare.

He is also going to look at zooplankton and larval distribution in addition to just the changing of the species distribution. We are progressing with that and you will have a report. Hopefully we will have a lot of the results of the analysis in October when we meet again. We did talk about adjusting state-by-state allocations, and we're uncomfortable because we don't know exactly what your charge is.

I'm not asking for it now, but we will give you further information when we talk again. We talked about from pure biological distribution we could certainly allocate probably some scheme. That is probably not the way you want to do it, so we'd like you to think about what the endgame is reallocating to a more contemporary distribution of the fish.

On to the next one; we have been developing a policy on providing risk and uncertainty advice to managers. We have formed a subcommittee. The Assessment Science Committee has also been working in parallel, and they have made some great progress in coming up with policies in two different documents; a general and a more specific document on addressing uncertainty.

Some of what is going into that is looking at every federal council has a different methodology of doing it. They tend to be very

strict. Then put things into bins. What we think the feel of this board is we'd like more flexibility, and that is the road we're going down. We brought up ecosystem-based management, and we have been dragging this along for quite some time because it is a complex issue.

We did have a great presentation by Rich Seagraves from the Mid-Atlantic Council on their efforts of implementing ecosystem type things. What they're going down the road is not ecosystem-based management but an approach called ecosystem approach to fisheries management; the difference being ecosystem-based management is you craft an ecosystem that you want it to be, very complex.

A more realistic approach is probably the ecosystem approach to fisheries management, which means you start with single-species management. You get that as good as you possibly can and then start adding the pieces in as you can for environment, for interaction between species, so you don't try and conquer the world all at once.

As Rich called it, it is evolution and not revolution we're trying to achieve here. I think this is a good model that we should be following, and in fact we had discussions at length about we are already ahead of the game, and we should be very proud of that for the Multispecies VPA and Biological Ecosystem Reference Points Workgroup have accomplished some significant things, and that is in fact ahead of what most of the councils are at.

We also discussed that we would like to provide and feedback to the Biological Ecosystem Reference Points Working Group. We would like to be the board that provides the guidance and feedback, and they asked us at the meeting to be sounding board for what they're discussing. Rather than directly to the management boards, they would like to vet their advice through us first and we think that is a reasonable approach.

Finally, we looked at research priorities and a significant accomplishment by Jeff Kipp is

we're about to release the renewed research priorities for 2013, and this is a redoing of the document from 2008. Jeff went through all the research recommendations of every assessment, updated them, queried all the technical committees, so we have a 75-page document outlining research priorities.

Further, the MSC is developing what we call a comprehensive critical research needs, so that is trying to come up with a handful of research recommendations, each one that is comprehensive and will cover common themes that occur across multiple species problems. Each one is fairly expensive. We talked about trying to put numbers on these research initiatives that need to be done. It will be difficult but we think that might be part of where we're going.

Also, we want to develop a short list and not these large things that need to be done that would cover a lot of species but also pulling out some of the most critical research needs that pop up that would change assessments that can be done with a concentrated effort. What we would like to become is the clearinghouse for trying to take these recommendations that come from technical committees. They put them out there and then the technical committees have to move on to other technical committee, and someone needs to shepherd these research priorities, so the Management and Science Committee would be happy to do that.

We got an update on the observer program that was funded through the ACCSP money. We put in a proposal a few years ago to greatly increase the observer sampling on small-mesh fisheries in the Mid-Atlantic. We looked at some of those results. We have, in fact, dropped the CVs on some of the estimates of discard by as much as 50 percent in some cases to levels below that 30 percent magic number where we start really believing the numbers.

The next step is we discussed do we continue trying to get grants to do that or do we move on to other priorities and try and address those. Those conversations will keep going in the next

couple of weeks. Finally, we talked about funding mechanisms for 2013 and how we can get money, not just ACCSP but a host of other grant programs that may have money to address ASMFC research needs.

Then finally we talked about a briefing on the MRFSS/MRIP ratio estimators that a working group came up with how do you convert the data from MRFSS to MRIP because there is a scaling factor. We can only go back to 2004 data right now, but we discussed how that would be implemented.

Each technical committee is going to have to look at their specific data and decide if they want to apply that correction. In many cases the correction is very small and probably not worth changing the time series to do that, but in some cases it is. We also touched on what you skipped over, Number 5. We touched on the new MRIP problems, perhaps, and we will be meeting and having NMFS folks come in the fall and talk to us more about that. We thought it was important that the MSC be involved with these sorts of things, also. Mr. Chairman, that is all I have.

CHAIRMAN DIODATI: Thanks, Mike, that was very uplifting, positive, but it sounds like nothing really is for today; it is all coming in the future.

DR. ARMSTRONG: We are in the cusp of many great achievements here.

CHAIRMAN DIODATI: When you said the next meeting; we're meeting again in August, but you meant October.

DR. ARMSTRONG: October. We're right on the timeline for all these.

CHAIRMAN DIODATI: Well, actually it sounded like a lot of progress is being made somewhere, and it was actually pretty exciting work and we look forward to it. Tom.

MR. FOTE: Actually, I've got a couple of questions. I'll start off with MRIP. This year we're going to start – from my understanding,

they're going to start finally sampling night trips that weren't being sampled before for bluefish and other species that are taken from night charters and go out. They haven't included that information before.

If those trips that have been going on for the last 50 years all of a sudden are producing more trips, more fish; is anybody figuring out how we're going to handle those more fish and not just come back to the state and say, oh, by the way, like we did to New York when they found out they had more trips and everything – by the way, you're overfishing and now you have got to reduce everything. Are we going to figure out any way of handling that? That is my first question because I've been asking the question for ten years and I've not gotten an answer yet.

How do we handle, when we have new information that adds both trips and fish to the equation and deal with that and just don't tell the state, oh, we found out you were doing trips like this and all of a sudden your quota is this and you're overfishing the quota. That is an easy question, I guess.

DR. ARMSTRONG: I can answer that. You're not going to get the answer from me. (Laughter) I am not the expert on this sort of thing, but the estimates will change. They will be more accurate and they're going to have to look at how to go backwards through the time series to calibrate it again like we just did.

MR. FOTE: Okay, and the northern migration, that is the other question I'm asking. It is not about how we basically divide quota up or we increase quota; but as we start finding like black sea bass in New Hampshire – I have friends that go up there – we know that stock is now moving further north. We know that is new habitat.

Again, that is additional fish that weren't there before, more black sea bass. How do we handle that coming into the stock assessment work since there is not a lot of data being accumulated? That is a question for later on in the Policy Committee; how do we deal with putting the regulations?

You know, New York and New Jersey are put in southern regulations for a long time even though we didn't have a lot of those fish, and those fish would show up once in a lifetime. But those states up north are now seeing black sea bass and don't have regulations. I fish in the recreational sector. If it is commercial, we will start picking it up, but recreational will be ahead of the curve. How do we at least get the size limits to reflect them?

DR. ARMSTRONG: Okay, if I understand the question, I think the first part the challenge is teasing out increased abundance from change of distribution. If in fact us up north are just getting more fish because the abundance is getting greater and the stock is spreading out, that is different than translocating. These models will show that sort of thing.

But in terms of trawl surveys, the abundance will be captured by these trawl surveys. Just occurring in a different spot doesn't mean that the surveys will be different. I mean it will not capture that. So this is the challenge; one is translocating – do we want to move allocations based on where the fish now reside?

If we took a snapshot and did allocations now rather than in the early 1990's where many were done, it would be a different picture, but it is complicated about landings and where boats land and that. But the challenge is, as you said, there are fluke and scup and black sea bass in the Gulf of Maine now, and I don't believe Maine or New Hampshire has a quota.

MS. KERNS: They have a quota.

DR. ARMSTRONG: They have a quota? Then that is the challenge for this board here is what is the equitable thing to do.

MR. FOTE: Just a followup; black sea bass is not basically a good barometer in the trawl survey because it doesn't pick it up, so how do we handle – that is the problem; how do we handle that increase because it isn't – you know, we have known that.

DR. ARMSTRONG: I can't answer that. I thought this was going to be easy, Tom.

MR. DOUGLAS GROUT: Well, I think part of this is the challenge in what you're trying to address in Number 1 here. It sounded like you were having some discomfort with adjusting state-by-state allocations without some kind of a guidance –

DR. ARMSTRONG: Yes.

MR. GROUT: – from the Policy Board. The way I was reading this – and tell me if I'm wrong – was that you're going to be providing us some information in October, and at that point you're going to ask for further guidance from us on this issue or are you looking for guidance now without you telling us what you have come with?

DR. ARMSTRONG: No, we have a good several months of looking at the analysis and I think we will be able to show you quantitatively, yes, Species X has moved 200 kilometers to the north, to the east, around Cape Cod. At that point, the next step is to talk about reallocating, and we do need a little more guidance of what we're hoping to achieve with that. Is it purely biologically based or do we need to bring in other factors?

MR. GROUT: So we should be prepared after we get that report to start looking at how we provide guidance. We don't have regulations on black sea bass because they are relatively new, but we have had complementary rules on flukes since the fluke plan came in. We just don't have a creel limit because we have never caught more than two or three per angler, and even that was – it is pretty rare even today.

CHAIRMAN DIODATI: We're not going to need any guidance for Mike today. Are there any other questions for Mike or any comments about the report? Seeing none; thank you, Mike. Next we will have a report from the Law Enforcement Committee by Mark Robson.

## **LAW ENFORCEMENT COMMITTEE REPORT**

MR. MARK ROBSON: We have provided you a brief summary of the meeting we had on Monday and Tuesday. I will just hit a couple of quick highlights. In addition to a lot of discussion that we had about American eel, one of the tasks I believe of the LEC is to kind of keep an eye out for any emerging or potential enforcement issues surrounding management of our fisheries.

One of the things that came up that is not really a major problem, but just something that we want to look into a little bit more, deals with a situation where you might have commercial vessels that have more than one state's landings on them. In most states they're not allowed to land more than any other state's landings, but there are one or two exceptions, and it is being looked at in other states.

So, there are obviously some enforcement issues or concerns that might come up there. If you have officers on the dock that have to deal with a vessel that has potentially landing limits from two different states and how those are dealt with if there is a suspicion of any overage on total landings; some other issues regarding quota transfers; so we're going to take a look at this and discuss it a little bit more at the LEC level and down the road come back to the ASMFCA with any kind of report of suggestions as to how we might deal with any of these issues as they come up; not that it is an overwhelming problem at this point, but just something as a heads-up.

We benefited again from our meeting of having Bruce Buckson attend. Bruce is the head of NOAA's Office of Law Enforcement, and it is always a good thing for the LEC to have that kind of opportunity to interact with somebody at his level. At our last meeting we had the opportunity to have Woody Wilkes from the U.S. Fish and Wildlife Service attend, and that was also very helpful for the LEC.

It is a really good opportunity for your Law Enforcement Committee representatives particularly from the states to interact with our

federal partners as well. The last thing I'll say, Mr. Chairman, is like everything else we have had some institutional knowledge loss in our committee.

You're aware I guess of the fact that we've recently had retirements on the LEC from Dorothy Thumm, Jeff Bridi from Pennsylvania and Jeff Marston from New Hampshire. We have just learned also that John Tulik from Massachusetts will be retiring or leaving us soon. We're sorry about that loss of institutional knowledge. We have had some great participation on the LEC.

We're really happy to have some replacements come in to fill the void, and we've got a continuation of the process with the LEC, particularly the new member from Florida, Rama Shuster, Timothy Huss from New York. We're looking forward to some additional replacements from the other states. We will continue our work. That is my report, Mr. Chairman.

CHAIRMAN DIODATI: Thank you, Mark. Are there any questions for Mark? Okay, seeing none, we're going to go to Rob O'Reilly for the NEAMAP Report.

### **NEAMAP REPORT**

MR. ROB O'REILLY: Today's report will be brief. I did want to recognize Melissa. It looks like Melissa's term will be before I end my term as board chair. Melissa has been a joy to work with. I can't say that enough. You get calls a lot and mostly people want you to do things. If Melissa calls and wants me to do something, I'm quite amenable to anything she has to suggest. She makes it a joy.

Things that are not in this presentation, which I want to update you on, NEAMAP is a little more fully operational than you're used to. One aspect is there is an Analytical Committee that once the NEAMAP Board figured out what the Analytical Committee was, we now are using that approach.

The Analytical Committee is to help with getting the data that is necessary for stock assessments and to make sure that there is feedback all along the way about those data that are needed for stock assessments. Truly, not of us until about last February could piece together what the Analytical Committee was all about.

Also, the Trawl Technical Committee, which had been very important back with the design of the Southern New England and Mid-Atlantic component of NEAMAP, will be getting back together, and that is important. The Operations Committee, which is the backbone of NEAMAP, gets tasked with most of the situations that the board has to find information on. There is a 2013 draft operations plan.

With that, I will go forward a little bit. You have seen much of this information. The one thing about NEAMAP, it took until about a year ago before it was clear the infrastructure of NEAMAP is what is important; not necessarily that there are three surveys, which I'm going to show here, the first one looking at the overall Gulf of Maine to Cape Hatteras and the fact that we do have a Southern New England/Mid-Atlantic Survey, a Maine/New Hampshire Survey and a Massachusetts Survey, but the importance is towards the data sharing and the data end of this whole approach for NEAMAP.

NEAMAP is broader than that. Several members on NEAMAP reminded the board in the previous meeting that really when this started it was to take a look at all surveys, state surveys, federal water surveys, and not forget that and actually have an approach to be able to keep that going in NEAMAP.

Certainly, there are long-term estimates needed for abundance, biomass, length-and-age structured, diet composition and data that is for stock assessments. What you may know and you will see that of the surveys that I'm going to go over, the Mid-Atlantic/Southern New England Survey is relatively new; twelve full surveys completed.

I think in a document I saw earlier I saw fourteen, but it did start with one survey in the

fall of 2007, so twelve full surveys. This is a “wow” slide to look at all the different biological information that has been collected; stomachs, aging samples, and at the very bottom new elements to field sampling are the horseshoe crabs and the egg stage of American lobster.

If you look at the nearshore trawl survey of NEAMAP and you look at the web portals, the GIS results, abundance indices and food habits’ database are available online now. I don’t know whether you’re handout gives you all the web addresses, but certainly they’re available for you to peruse those sites.

There have been many stock assessments uses for various species. Clearly, with the Massachusetts Survey having a 35-year track record and a fairly long survey record for Maine/New Hampshire, some of the stock assessment haven’t yet incorporated CPUE indices from the Southern New England/Mid-Atlantic Survey, but that won’t be long.

To talk about the Maine/New Hampshire Inshore Trawl Survey, two surveys, just as with the Southern New England and Massachusetts, off Maine coastal waters, so that is in about its thirteenth year, and you can see the vessel is the Robert Michael. Seasonal abundance indices, you can read through this with me, and collections are done in a collaborative approach.

Many age samples, especially the otoliths are important. The species are listed right there. In terms of the stock assessments, there has been input for lobster, shad and other species. Massachusetts, again a long-term survey; it also has many stations; as you can see over 6,000; age processing capabilities and aged indices, so different ages with age keys available for summer flounder; cod, different part of the cod for your areas; yellowtail flounder; winter flounder; and another winter flounder there. This sort of summarizes it.

One of your pages of your handout should have this information. Again, to concentrate on the newest survey, the Southern New England and Mid-Atlantic, that has been 2007 on, you can see

that it is a little bit generic about provided data. In talking to Chris Bonzak from VIMS, one of the lead investigators, he indicates they supply what they can.

It is a choice of that stock assessment as to how that data will be used, and it will just be a matter of time, as I said before, before more data are used. The Maine/New Hampshire Survey, you can see the highlights there. For the Gulf of Maine assessment in 2009, you can also see at the bottom that used in direct biomass area-swept estimates.

Massachusetts, 2009 abundance indices; it also has biomass indices for 2011 that were used; and aged indices to calibrate the model. Similar to Maine/New Hampshire, it has used for computation of swept-area biomass estimates. In terms of stock assessments, which is the real focus today, the personnel attend assessment workshops.

The benefit of that is if you have ever sat around an assessment workshop, a lot of time is spent trying to figure who knows about metadata and there is no one there tell you; so instead of metadata, the use of the folks who are actually aware of how, when and why the data were collected. The Analytical Committee, as I mentioned earlier, will conduct reviews of stock assessment needs that are linked directly to NEAMAP, to the surveys, and that should also move everyone a step forward and be a real time saver.

Definitely more sharing through the committees; what is not mentioned here as well – it may be in your hand out – there is also a pool of personnel. It is not a big pool right now, but it is a way to share resources for these surveys, and that is something that came online last year. The Data Management Committee will have a workshop in June and share their data management practices and also look at some software and hardware, and that is a NEAMAP full participation, Maine through North Carolina.

The Operations Committee, as I mentioned, has a draft operations plan for 2013, and several items here that will be going forward including

aging workshops and also reestablishment of the personnel exchanges. I mentioned the Trawl Technical Committee earlier. That was instrumental when things got started up with the Southern New England/Mid-Atlantic.

They're going to look at more technologies that would either increase or streamline data collection as well as review the fixed gear surveys, and so pots I guess they're looking at there for black sea bass and also how that data is going to be included under NEAMAP. A very important slide, funding, and the Southern New England/Mid-Atlantic Trawl Survey has been funded by RSA over the last several years.

I know that doesn't set well with everyone, but it is the state of affairs. Last June at the Mid-Atlantic Council, the Mid-Atlantic Council staff had made a recommendation that RSA money strictly be allocated for NEAMAP, and at least a dozen of the board members there indicated that NEAMAP was very important but they did not want to go down that road right now.

RSA continues to have some comments, a little bit of debate, and that is going to continue. It is funding this particular survey. Maine/New Hampshire needs \$375,000, as you see. Massachusetts DMF is supported by the Wallop-Breaux project on a three-to-one fed-to-state match. It does bring something to me which is even though NEAMAP transverses many states, there should be some conversations, and it hasn't happened with the board yet, but it will next time on why wouldn't some states look into some type of funding from Wallop-Breaux, if that was available. I'm sure it doesn't have to be on a state-specific basis. That is just my thought. It has not gone before the board yet. That is my presentation.

CHAIRMAN DIODATI: And an excellent presentation. We have a few questions. Roy.

MR. MILLER: Rob, thank you for that report. Of the 1.1 million that you mentioned is available from RSA for the Southern New England/Mid-Atlantic NEAMAP Program; is that adequate, Rob, or is more funding needed to fully support that program?

MR. O'REILLY: Melissa might want to chime in because I thought it was 1.3. There was an allocation, and I don't have the name correct, but through the Rhode Island Cooperative Fisheries, that has stopped; so Melissa may want to indicate whether it is really 1.3 for the need.

MS. MELISSA PAINE: I think it is actually just 1.1. Previously the board might have heard a higher figure because that was including the Maine/New Hampshire Survey; but just for the VIMS run, Southern New England Survey, it is just 1.1.

MR. MILLER: If I understand what you're saying, Rob, you're saying that funding amount is adequate?

MR. O'REILLY: That is what I'm saying.

MR. BALLOU: Rob, a two-part question regarding black sea bass. One is how well does NEAMAP do in capturing black sea bass information? I'm thinking that it might not do that well given the nature of the species and their tendency to aggregate around rocky outcroppings. Secondly, related thereto, to what extent is NEAMAP information actually or potentially able to contribute to the scientific uncertainty that is keeping black sea bass in the Tier 4 category?

MR. O'REILLY: Well, on Question 1, Toni had made requests for the states to supply data, which included NEAMAP, for black sea bass. I think the limitations are that it is a snapshot approach when the sampling occurs, fall and spring, but it has at least been used. Whether or not it will get the Level 4 down to a Level 3, I think that is something that is being worked on probably on more bases than just that. The Mid-Atlantic Council, I know, through the SSC is working diligently to try and get a reevaluation there. Clearly, there are still some limitations; and whether it goes Level 4 to 3, we have to see.

MR. FOTE: Rob, I heard you mention Wallop-Breaux money and I heard you basically mention research set-aside. We need to find a different method of funding NEAMAP than either one of those two options. First of all,

Wallop-Breaux is what funds the states to do the research they're doing, Especially in New Jersey; there is no money in Wallop-Breaux to do that.

Again, we're taking money selling black sea bass, and that provides a major amount of the money that goes into this besides summer flounder, and it is not the best way of sampling for black sea bass. Again, research set-asides were set up for a different reason. New England doesn't allow that to be used up in their council is what I was informed the other day; the same way we're doing at the Mid-Atlantic Council. As I go over to congress, I talk about the reason – SEAMAP is funded as a line item from NMFS, and that is really where we should be going. This is NMFS responsibility to do stock assessments.

If the ships hadn't been so big and started getting bigger and bigger and they can't take them inshore, that is where they were basically supposed to be doing it. That is the way we should be following it. We shouldn't look at Wallop-Breaux and we shouldn't be looking at research set-asides. We should look at NMFS' responsibility in doing stock assessments.

MR. O'REILLY: Okay, thank you. There is no question there, but that is exactly why I prefaced my report about RSA with I know there is dissatisfaction. Wallop-Breaux, I'm not sure with Massachusetts how many years that goes back, but certainly is there a lesser of the two as far as usage. Maybe that is something that still needs to be talked about I think while we wait for NMFS to take care of their responsibility.

CHAIRMAN DIODATI: Well, funding for all of these surveys has been a pressing need since the beginning, for many years, and it is going to continue to be, I'm sure. Roy.

MR. MILLER: I was just going to briefly add that a few of us made a foray over to the Hill on Monday to talk to our congressional delegation. One of the programs we emphasized was funding for NEAMAP. The reason I was asking questions of Rob, I wanted to make sure that I didn't make a fool of myself by mentioning the

need for funding for NEAMAP. But, thanks to the followup from Tom, it appears that we were on the right footing to talk about that with our congressional delegation, so thank you.

MR. O'REILLY: It is not as if there haven't been bumps in the funding of NEAMAP, if everyone doesn't know, and there have been some times where it has been waiting to make sure that even with the RSA that the money could be available. It is not just a closed door, open door, closed door kind of situation.

Some of the years in the last five have been partial funding and then waiting for other funding. I think that's why for at least the Southern New England/Mid-Atlantic part of the trawl, that is why there was funding coming from another source for a certain number of year, from the Cooperative out of Rhode Island.

CHAIRMAN DIODATI: Okay, thank you, Rob, for that presentation. We're going to go to the next issue, which is the Habitat Committee Report from Toni.

#### **HABITAT COMMITTEE REPORT**

MS. KERNS: The Habitat Committee met at the beginning of May. The New York DEC hosted. The committee had updates and presentations from ACFHP, the Artificial Reef Committee concerning the MARAD letter, as well as the Nature Conservancy's Aquatic Connectivity Project.

They went through and reviewed their progress on the 2013 Action Plan and are moving forward on target with their proposed action items. They discussed Kent's participation in the strategic planning that we just had yesterday and pulled together articles and assignments for those articles for the Habitat Hotline for 2013. They all have a regulatory theme to those articles, so be on the lookout.

The committee discussed habitat bottlenecks for the commission's managed species with poor stock status. Red drum has already been addressed through the addendum that was done and will be looked at tomorrow. There were no

identifiable habitat bottlenecks in that species currently. They have discussed including bottlenecks for the lobster draft habitat section that will be presented to the Lobster Board in August.

Then they want to identify a problem or a potential problem for species' recovery and suggest management measures or research recommendations to mitigate that problem. When the problem cannot be identified or directly mitigated, other management measures may need to be considered or considered to indirectly mitigate, meaning some type of fishery control.

They concluded on the next installment of the Habitat Management Series, which will be Habitat Implications of Nearshore and Estuarine Aquaculture. It will address finfish and shellfish, looking at recent NOAA Fisheries and regional management council policies. It will also reference the 2002 Commission Aquaculture Report.

The committee also went through and reviewed the American Lobster Habitat FMP Section that was written by Dr. Jason Goldstein from UNH. They have made some recommendations to Jason and he will provide those edits and will be reviewed by the technical committee and given to the board in August.

The Habitat Committee also provided some comments for the Black Drum FMP Habitat Section, which we will go through tomorrow in the South Atlantic Board. Their second FMP full habitat addendum was supposed to be black drum this year, but the committee has requested instead to work on a sciaenid source document. They would like to do this for their 2014 Action Plan instead of just doing a Black Drum Habitat Addendum for this year.

The committee also worked on the Habitat Guidance Document. It is their governing document for the Habitat Program Committee and Products. It includes a Habitat Program review and recommendations and also works off of the technical committee guidance and assessment process. They will be bringing that

forward to the Policy Board for their consideration in August. That's it.

CHAIRMAN DIODATI: Are there questions for Toni? Bill.

MR. ADLER: Toni, very quickly, back on the Lobster Habitat, like what are they looking at under the Lobster Habitat thing; what kind of general – what are they doing?

MS. KERNS: It is a complete update of the Habitat Section of the FMP for lobster. Jason did a literature review and it looks at – I'm trying to remember – habitat needs, life history information, gear impacts to habitat. It is consistent with sections that are identified in the FMP for habitat.

MR. FOTE: After Bill Goldsborough received his award last night, Bill and I were talking about the start of the Habitat Committee and where it came from and when Al Goetz and myself planned it years ago when we started moving along. We were talking about at one time how Diane was – we had a full-time person handling habitat for using grants and things like that. Also, at that period time most of the commissioners were members.

I remember Phil Coates was a member, Gordon Colvin was a member, I was a member. A lot of the governors' appointees and legislative appointees and state directors were members because we thought of the importance of habitat in the program. Is there any chance of looking at grants where – again, I know it is a part-time job, but I'm looking forward and how we move in the next direction that we basically get one person that basically that is the fulltime – you know, we used to put our habitat hotline and things like that.

I'm looking with all the talk that went on I guess at the meeting that I didn't attend last week because it was too expensive, but maybe they were looking at ecosystems and other things that maybe that is the way we should be moving forward. I just think that for your consideration.

MS. KERNS: If it is the desire of the Policy Board for us to look into grants, we can. I will note that Megan – as I had said in my memo about staffing updates, Megan will be finished in June. Melissa Yuen is going to take over as the Habitat Committee Coordinator. We promised 30 percent of her time, which is an increase in time from what Megan was putting in; and then any additional time that Melissa has, she will put that to habitat if her species coordination is on its low or low level.

CHAIRMAN DIODATI: Thank you, Toni, and staying with the Habitat Team, we will go to the Atlantic Coastal Fish Habitat Partnership Report by Emily.

#### **ATLANTIC COASTAL FISH HABITAT PARTNERSHIP REPORT**

MS. EMILY GREENE: I just wanted to update the board on a handful of activities that the partnership has been up to over the last few months. I will start with NFWF River Herring Conservation Initiative. I mentioned in my winter update that the partnership submitted a proposal to NFWF, particularly their River Herring Keystone Initiative in partnership with the University of New Hampshire and the Nature Conservancy for a project to prioritize river herring restoration needs in Southern New England, the Mid-Atlantic and Southeast Regions.

We learned in April that we were approved for the grant. However, the final word on that is contingent upon NFWF's receipt of various sources of funds. It could be several months before that information becomes available. However, hopefully, when it does, we will be working with ACFHP partners to identify experts and stakeholders to participate in a series of webinars and an in-person workshop to achieve the end goal.

The end goal will include these two major products that I have listed on the screen; a working paper summarizing information on river herring habitat needs and a report from the in-person workshop, which includes the

prioritization of river herring needs within those specific river systems.

Earlier this month the National Fish Habitat Partnership unveiled its ten waters to watch list for 2013. This is an outreach campaign for collection of rivers, streams, estuaries, watershed systems and lakes that will benefit from strategic conservation efforts to protect, restore or enhance their current condition.

Among these rivers selected was the Cape Fear River in North Carolina, which was jointly nominated by the Atlantic Coastal Fish Habitat Partnership as well as a second fish habitat partnership, the Southeast Aquatic Resources Partnership. This river is located in a priority area identified in the North Carolina Department of Marine Fisheries Coastal Habitat Protection Plan.

This project will provide half an acre of spawning habitat for American shad and may indirectly provide spawning habitat for striped bass, sturgeon and river herring. They will place approximately a thousand tons of crushed granite in the Cape Fear River below Lock and Dam Number 2 in Bladen County.

In addition to the on-the-ground restoration, the project will also assess benthic habitats along a three-mile stretch of river. It will develop a substrate map identifying potential spawning habitat restoration areas and conduct annual post-construction survey of eggs within the vicinity of enhanced habitat.

Also, earlier this month the steering committee of the Atlantic Coastal Fish Habitat Partnership met in Long Island where it unanimously approved the addition of a new MOU partner, the Merrimac River Watershed Council. The Watershed Council is a partner-focused organization with a regional impact. Its alignments with ACFHP include objectives to improve water quality and quantity; restore habitat and watershed health; and watershed planning.

In addition to the Merrimac River being among the top 5 percent in the northeast for its

importance to connectivity for migratory fish as part of Great Marsh, the largest salt marsh in New England, its lower portion is also important to coastal fish. Dr. Carrie Shumway, who is the executive director of that organization, currently serves as the Partnership's Science and Data Committee Chair, so we're pleased to have the Watershed Council on board formally.

The last update that I wanted to provide to you, we're currently soliciting applications for letters of endorsement in support of the NFWF's Foundation Bring Back the Natives/More Fish Program. They recently announced its 2013 request for proposals to restore, protect and enhance native populations of sensitive or listed fish species, especially on lands on or adjacent to federal agency lands.

The program has made special efforts to align itself with the priorities of existing fish habitat partnerships and the National Fish Habitat Action Plan; and specifically the priorities which align with ACFHP are shown on the screen here. They are looking for projects that address habitat alteration, lack of adequate in-stream flows and invasive or non-native species.

They're also looking for projects that protect coastal and marine habitats and those that provide benefits to native Atlantic Coast estuarine-dependent or anadromous species. They're also encouraging competitive proposals to describe how the project meets one of the National Fish Habitat Action Plan goals and strategies. If there is a nexus with the Fish Habitat Partnership, they've encourage applicants to reach out to a fish habitat partnership for a letter of support.

The Atlantic Coastal Fish Habitat Partnership is encouraging the development of native fish habitat projects that meet priorities and criteria outlined in the RFP as I have just described, particularly habitat protection projects that will benefit one of ACFHP's regional priority habitats, which are shown in our strategic plan, and one or more of the species listed below.

These are not the only species that ACFHP considers, but they are of particular interest for

this RFP. In order to include a letter of endorsement from ACFHP in a pre-proposal, we are requesting that folks send in applications by May 27<sup>th</sup>, which is next Monday. I apologize for the tight turnaround; but if any of your staff are considering applying for this grant, I would encourage them to visit the ACFHP Website, download an endorsement application and shoot me an e-mail. Thank you; that is the end of my update.

CHAIRMAN DIODATI: Thank you, Emily, it is nice to see the partnership growing and continuing to grow, so that is great. Are there any questions or comments?

MR. WILLIAM ARCHAMBAULT: Just a quick note, Mr. Chairman; as far as the future allocation formula for NFWF, the Service does have a group pulled together looking at future allocation methodologies. Under all the formulas we're looking at, it would become clear to us that this partnership should see some additional funding in the future. We hope to have a final recommendation some time this summer and the new formula will be rolled out probably in 2014, but you should see some increase in the partnership funding.

CHAIRMAN DIODATI: Great, thank you, Bill. Okay, thank you, Emily. We have one final issue that we're going to deal with before we recess tonight, and Kate Taylor has at least one or two research proposals for shad and river herring to talk about.

MS. KATE TAYLOR: There are two research proposals that were submitted in your briefing material. Since the Shad and River Herring Board is not meeting during the May Meeting Week, this is going up under the Policy Board. Shad and river herring is a coast-wide board, and the majority of the members here sit on that board.

The first research proposal is for a stocking program in the state of Georgia. This is for a five-year experimental stocking program to determine the effectiveness of a stock program for American shad and also hopefully to increase

the numbers of American shad that are occurring in the Ogeechee River.

This complements the recent closures to the American shad fishery in the Ogeechee. The state of Georgia will attempt to collect the brood fish from the Ogeechee River; but if needed, they may supplement it from other rivers. This program is slated to begin in 2014, but they are beginning their planning process right now, and so it is going in front of the board for this meeting.

The technical committee did review this proposal. They recommend that the board consider approval of the plan with the requirement that only fish taken from the Ogeechee – it is amended that only fish are taken from the Ogeechee as well as the state continues its young-of-the-year and adult monitoring programs and it coordinates also with Georgia EDP on water quality monitoring, and also it attempts to verify any OTC marks that are placed on American shad that are stocked in the Ogeechee. Additionally, the technical committee did feel that the stocking program may also be premature and recommended additional research on American shad habitat in the Ogeechee.

The state of Maine also just submitted a proposal to the technical committee as well just for their review. They will be collecting juvenile river herring for research. This research is focused on diet analysis, aging and the habitat use of river herring. This research is supported by Maine DMR. It is being conducted by the University of Maine as well as the National Marine Fisheries Service.

This research will be taking place in a river that is outside of the rivers that Maine has approved in their Sustainable Fishing Plan, so this will just be an additional source of mortality on another river. The technical committee supports this research as it may provide valuable information for the next stock assessment. Thank you, Mr. Chair.

CHAIRMAN DIODATI: I know that Robert had either a question or a comment.

MR. ROBERT H. BOYLES, JR.: Kate, do you know on the Georgia Proposal – the technical committee said about looking for OTC marking – are there not genetic tools available now to determine where the fish are stocked?

MS. TAYLOR: There are some genetic marking tools that the technical committee did discuss. The current FMP only requires OTC marking for a stocked fish.

CHAIRMAN DIODATI: Okay, we have two research proposals before the board. I imagine they're coming before the board because we have to provide authority for these two areas to work outside of the plan; is that correct? I see Pat Augustine is very ready to make a motion.

MR. AUGUSTINE: I am, Mr. Chairman, with one question first. Do you know what the technical committee's reservations were when they said it was too early? It looked as though Georgia had done their homework and were prepared to move forward with this, but you had a one-liner that was a zinger, and I wonder if that is going to be a knockout factor.

MS. TAYLOR: There was some concern about water quality in the Ogeechee River and its impact to American shad successful reintroduction, and so there was a request that the state may – it may be more beneficial to conduct water quality analysis to look at other factors that are limiting shad from currently increasing their population on their own naturally before they go and restock American shad in that river. Also, just for reference, the board did approve in February an American shad stocking proposal for the Altamaha River in Georgia.

MR. AUGUSTINE: Thank you for that and would Georgia want to respond to that, that they believe the water quality is adequate that it would suffice to run this program successfully, Mr. Chairman?

MR. SPUD WOODWARD: Pat, I can respond to that. What is sort of driving this is there was a very large fish kill in the Ogeechee River last year because of an unauthorized discharge of

some contaminants into the Ogeechee River. As part of the penalty settlement, money has been allocated to DNR to do some shad stocking; and so what we're trying to do is take advantage of that opportunity to use that money on an experimental basis.

There are a couple of things here that we think we can address. One is why that Ogeechee River population has been in an apparent state of decline and where are the spawning areas in the Ogeechee River for shad. It used to have a very vibrant population of shad, which has declined over time.

There is some concern – I believe that maybe the water quality concerns are regarding some alteration as to the hydrology that occurred in the lower Ogeechee River during the plantation era where rice plantations were built and there is some back-feeding of saline water into the lower river, but this will actually give us a chance to maybe test that and see what is going on.

MR. AUGUSTINE: Mr. Chairman, based on that answer, **I surely would like to make a motion that the board approve the Georgia Proposal.**

CHAIRMAN DIODATI: I see several seconds, so I will go with Mr. Bill Cole. That was for both proposals, right, Pat.

MR. AUGUSTINE: Both proposals, yes, Mr. Chairman.

CHAIRMAN DIODATI: **Georgia and Maine. The motion is move to approve the research proposals from Georgia and Maine. Motion by Mr. Augustine; seconded by Mr. Cole. I don't see any question on the motion. Is there any objection to approval of this motion? Seeing none; consider this motion approved.** We have one more item of business and it has to do with the other business section. Our vice-chairman had something he wanted to introduce to the board.

## OTHER BUSINESS

DR. LOUIS DANIEL: Mr. Chairman, two things real quick; just one for the Policy Board's information. We were unable to get any matching funds for the Striped Bass Water Tagging Cruise, so it is not looking like that is going to go off this year. We do have about \$8,000 to do the charterboat stuff, but it is not the trawl so it won't be as efficient. We will at least be able to continue but nobody was able to afford the match.

The New England, Mid-Atlantic and the Western Pacific Fishery Management Councils have all discussed, in support of amending the Magnuson-Stevens Act, an opportunity and is looking for support to provide the U.S. Fishing Industry with a sustainability certification program and certification mark, which would provide U.S. Seafood Producers with the ability to promote and sell their seafood products in both domestic and export markets. I think this is a good thing. It has great potential to assist our domestic producers and so I had asked Kate to put the motion up on the board. It is a long motion.

CHAIRMAN DIODATI: While that is going up, Louis, I am assuming that this would be a recommendation from this commission relative to the reauthorization of the Magnuson-Stevens Act, so this would be a recommendation for the federal agency to create a certification program?

DR. DANIEL: Yes, and I talked with Chairman Robins and his recommendation was to send a letter to the agency; but then once the reauthorization discussions began, that we would be in a position to lobby for that position, to try to get that certification program. From my understanding, a lot of the folks around the table have already discussed and voted on this issue at the New England and the Mid-Atlantic Council.

CHAIRMAN DIODATI: I will take some questions while the motion is going up on the board.

MR. DAVID SIMPSON: I think it is a great idea, and I was just wondering about the other

regional councils; no chance to discuss it with them to join in the motion or they had a different view.

CHAIRMAN DIODATI: Do you mean all eight? I don't know other than the Mid, but it looks like we might have someone who knows. Go ahead, Terry.

MR. STOCKWELL: Mr. Chairman, first I will second the motion. To answer your question, Dave, the other councils haven't met yet. This was discussed at the Managing Our Nation's Seafood a couple of weeks ago, and it is going to move forward out to each of the councils.

DR. DANIEL: Mr. Chairman, if you would like I'll read that. **Move that the ASMFC support initiatives taken by the New England, Mid-Atlantic and Western Fisheries Management Councils in support of amending the Magnuson-Stevens Fisheries Conservation Act to authorize the National Marine Fisheries Service to provide the U.S. Fishing Industry with a sustainability certification program and certification mark, which would provide U.S. Seafood Producers with the ability to promote and sell their seafood products in both domestic and export markets as sustainable-based upon the requirements of the Act.** Motion by Dr. Daniel; second by Mr. Stockwell.

MS. KELLY DENIT: I just wanted to provide an additional point of information as sort of a followup to the Managing Our Nation's Fisheries Conference. The Marine Fisheries Advisory Committee, which is the group that provides advice to the Secretary regarding fisheries management, has been tasked with looking at this concept, including the costs of running such a program. I just wanted to make the commission aware that there are some activities already underway looking into this. Thank you.

CHAIRMAN DIODATI: Thank you, Kelly. Roy.

MR. MILLER: Mr. Chairman, if a fishery is undergoing restoration or undergoing rebuilding;

is it possible for that fishery to receive certification when it is not fully rebuilt?

CHAIRMAN DIODATI: I think that would come after certain criteria would be established to what qualifies, I imagine. I don't know the answer to that. I don't know how MSC does it or other established programs. This is not an established program. As it becomes established, if this was in the next authorization, then I imagine the National Marine Fisheries Service would develop a program perhaps through the rule-making process, I don't know, and that sort of thing would be qualified. Are there any other questions about the motion? **All in favor raise your hands; opposed same sign; abstentions, 1. The motion passes; thank you.** One other piece of business.

MS. KERNS: We got through both days' Policy Board agendas unless a compliance issue comes up tomorrow in one of the other species boards. I want to remind you that we do have a full business session. If the South Atlantic Board does approve the Black Drum FMP, then the full commission will need to approve that FMP, so we will need a quorum there for that. Please don't run on home.

#### ADJOURNMENT

CHAIRMAN DIODATI: And we have an executive committee meeting at 7:30 morning. Okay, so the Policy Board is in recess.

(Whereupon, the meeting was adjourned at 4:50 o'clock p.m., May 22, 2013.)