## PROCEEDINGS

of the

ATLANTIC STATES MARINE FISHERIES COMMISSION

ISFMP POLICY BOARD MEETING

June 7, 2000 Holiday Inn By the Bay Portland, Maine

Graham Verbatim Transcriptions, Inc. P.O. Box 314 Monson, Maine, 04464

(207) 997-2080

## TABLE OF CONTENTS

Call to Order, Chairman David V.D.	Bor	den		1
Approval of Agenda				2
Advisory Committee Report				5
Habitat Report				5
Delaware Compliance Issue				11
Law Enforcement Report				13
Management and Science Committee Rep	por	t		16
Legislators and Governors' Appointe	es 1	Repor	t	28
Declaration of Interest Report				34
Other Business				35
Adjournment				43
INDEX OF MOTIONS				
MOTION	P	AGE	ACTION	PAGE
Approval of Minutes	)	2	Carried	2
Re Delaware Compliance	)	12	Withdraw	n 24
Re Delaware Compliance, as amended On Pagw 26	)	24	Carried	28



## ATLANTIC STATES MARINE FISHERIES COMMISSION

## ISFMP POLICY BOARD MEETING

Holiday Inn By the Bay

Portland, Maine

June 7, 2000

- - -

The ISFMP Policy Board Meeting of the Atlantic States Marine Fisheries Commission convened in the Casco Bay Hall of the Holiday Inn By the Bay, Portland, Maine, June 7, 2000, and was called to order at 1:15 o'clock p.m. by Chairman David V.D. Borden.

CHAIRMAN DAVID V.D. BORDEN: Welcome to the Policy Board meeting. As we traditionally do, we are going to start by taking the roll. After that, we will move on to the agenda.

We do have some items that we have to add to the agenda. But Dieter, if you would, please call a roll.

(Whereupon, the roll was taken by Mr. Dieter Busch.)

CHAIRMAN BORDEN: All right, we have a quorum. In the agenda, we have a revised agenda that has been distributed. There actually have been a few changes on the agenda since it was distributed.

George LaPointe would just like a minute to address the group at the appropriate time, but I don't think this is it.

MR. LAPOINTE: It shows how stressed I am. We all had a tough day yesterday, and as I was driving home, I was pondering the Commission and the friends we have and what not.

So, I called my neighbor, who is a psychologist on the way home, and he said two elements of human nature are; one, is that we don't like to be unsettled, and the second is we like to fit in a crowd.

As we have a member of our Advisory Panel who reminds me of the other independent governor in the nation, I got a little nervous, and I wanted -- Ralph, if you could come over here, please.

And the other part of human nature is to fit into a crowd, and we, most of us, know that Ralph had a full head of

hair until recently. So I got home and got on the internet, and none of the wig companies deliver overnight, so I went to the attic, and I have a wig so that Ralph will feel at home with the rest of us. (Laughter and Applause)

Now, Mr. Chairman, I feel better and we can start. Thank you.

CHAIRMAN BORDEN: Thanks, Ralph. All right, we have a few items to add to the agenda. Pete Jensen has requested under Other Business the ability to address sea bass for a minute.

Paul Perra has requested the ability to discuss dogfish under Other Business. Do we have other changes? Yes, Jack.

MR. JACK TRAVELSTEAD: Mr. Chairman, at the last meeting of the Policy Board, several of you requested copies of a written opinion from Virginia on our ability or lack thereof to comply with the Horseshoe Crab Management Plan.

I have with me this afternoon a copy of a memorandum from our Senior Assistant Attorney General and would like just a few minutes at the end of the meeting to distribute that.

I don't intend to discuss it, and we'll save that until you have had a chance to look at that, and we would bring that up under the business session tomorrow.

CHAIRMAN BORDEN: Okay, thank you. Anything else? Gordon.

MR. GORDON C. COLVIN: Mr. Chairman, I wonder if there would be a minute to ask a brief question of the National Marine Fishery Service regarding summer flounder?

CHAIRMAN BORDEN: Any objection? No objection, we'll add that to Other Business. Any other items to add to the agenda? If not, we'll take the items in which they appear.

The minutes have been distributed. Any comments, additions, deletions on the minutes? If not, can I have a motion to approve the minutes as submitted? So moved, David Cupka; seconded by John Nelson. Comments or questions on the minutes? Any objection to approving the minutes? The minutes stand approved as submitted.

As we always do, we afford the public the opportunity to

comment at these meetings. We also take comments generally throughout the meeting. Are there any members of the public that would like to address the board at this time. I see no hands, then we will proceed.

The next item is the compliance issue. Dr. Lance Stewart. I don't see him, I did see him, so I guess we'll have to take our Committee Report, Administrative Oversight Committee, Susan Shipman.

MS. SUSAN SHIPMAN: Thank you, Mr. Chairman. I'll briefly cover some items of note and highlights from the Administrative Oversight Committee meeting on this past Monday night.

You should have received a winter calendar quarter progress report, which denotes our progress toward the 2000 action plan. Everyone should have received that. It was on one of the tables.

There is a cover memo with that. I just want to emphasize that Jack and Dieter and Lisa and Laura all welcome your feedback and your comments on that. This will be a regular item that you will be having, and it will help keep the commissioners and our extended commission family apprised of our progress toward our action plan.

You'll recall we reviewed the priorities for the ISFMP and the research and statistics components of that action plan at our April meeting with regard to the budget figures, and allocations and activities.

We received very little feedback or input of the need to adjust those, so as far as AOC and the Commission leadership, the employed leadership is concerned, that's the course we are on, and we plan to stay that course in completing our activities for this year.

With regard to the 2001 Action Plan, we discussed this a little bit this morning about our strategy for this. We will have a draft budget and priority setting for 2001 to be tackled in September by the AOC at a meeting in Washington.

However, we will be soliciting the commissioners' input in advance at the August meeting week. We will take that input and utilize that in formulating the 2001 Action Plan and bring that back to you as our recommended Action Plan at the fall meeting, for your endorsement.

We discussed the issue of accepting reports and recommendations from the committee, and it's probably

timely that this report precedes some of the others we're going to be taking in a moment.

We found that through the years we have a habit -- and we discussed this also a little bit this morning -- of accepting and endorsing the recommendations from our various support committees, such as Habitat and Management and Science.

However, we are often remiss in not identifying what priorities those recommendations should receive in our planning process. So, as we endorse recommendations today and in the future, I think it is important that we have some discussion or some feedback or some input of what priority this body thinks we need to put on those things, because we are going to have to fit them onto the platter, so to speak.

We need to have resources identified or need to know what priority this collective body places on those. Financial statements for the commission year to date, we've reviewed those by cost center for the period through May, 2000.

I'll just note that the ISFMP cost center is on target, and everything is proceeding along well there. The final item is the Aquaculture Policy recommendations. You will recall those were recommendations from the Management and Science Committee that were discussed with us, and that was deferred to the AOC at our fall meeting.

We are still reviewing those. There was a four-point recommendation, if you will. There are no new resources available to identify those various aspects. There are, however, some pilot efforts that are proceeding with development of aquaculture or culture concerns within specific FMPs, and specifically, the Atlantic Sturgeon Addendum that we are looking at will be addressing culture in detail.

But absent any additional resources, we're going to be looking at this also this fall as what, if anything, can we do further in this area. It's a very large undertaking, as a number of commissioners have noted.

It's also an issue of concern in many states. We will continue to evaluate that and bring something back to you later this year.

CHAIRMAN BORDEN: Questions for Susan? Any questions? Anyone in the audience? I don't see any. George.

MR. LAPOINTE: The Aquaculture Policy, do you have a --

you said you're going to revisit that in the fall?

MS. SHIPMAN: Yes.

MR. LAPOINTE: Okay. If I could just, can I use you as a contact just to see what the discussion and thoughts have been, so I can get myself back up to speed before fall?

MS. SHIPMAN: Sure.

CHAIRMAN BORDEN: Anyone else? Seeing none, the next item on the agenda is the Advisory Committee Report. Bob Munson.

MR. ROBERT MUNSON: Thank you, Mr. Chairman. The Advisory Committee met this morning, and we are continuing to work on a draft of the primer that we are putting together that outlines the roles and responsibilities and expectations of advisors in the ISFMP process.

We also discussed at length an action that was taken last night at the Lobster Board, which they were streamlining subsidiary boards to the Lobster Board, or subsidiary committees, and they reduced the size of the Advisory Panel.

We have a number of concerns more with the process than anything else, and that is that we're concerned that if this is going to happen in all boards, that we don't wind up with unintended consequences of preventing, by reducing the number of panel members, a broad representation of interest groups; or, that we prevent a state that has perhaps an offshore fishery or an inshore fishery from having representation from both of those areas.

We feel that that's important. We would request that in the future both the Advisory Committee and the affected panel be informed prior to any Board's action on that. Thank you.

CHAIRMAN BORDEN: Questions for Bob? Any questions? Anyone in the audience? If not, thank you very much, Bob. The next item on the agenda is the Habitat Report, Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. The Habitat Committee met earlier this week, and I'd like to use this time to present one of the issues that is taking up a large amount of space on our plate right now.

But I'd be happy to respond to questions about any of the other items that were on our agenda that you'll find under

tab one in the briefing book.

The issue I'd like to spend a few minutes talking to the Board about is the implementation of the report that the Board adopted in February, entitled "Evaluating Fishing Gear Impacts to Submerged Aquatic Vegetation and Determining Mitigation Strategies".

You may remember the yellow cover. To give you a little bit of background, the purpose of this report -- well, you've had a report handed out to you, beg your pardon, that was just passed around the table, that's entitled "Implementing the Report about Evaluating Fishing Gear Impacts", and the purpose of that paper that was passed around to you is to prevent, present and discuss a broad range of options for implementing the yellow document.

As a little bit of background, you'll recall that the Commission adopted an SAV Policy, Submerged Aquatic Vegetation Policy, a couple of years ago, that identified a range of actions to undertake for SAV conservation.

One of the most important areas of focus for this commission that was identified in that policy was the issue of adverse impacts to aquatic vegetation from fishing gears.

That was because this commission actually has the authority to effect these impacts through its fishery management planning process. The policy that was adopted directs the Commission to develop technical guidelines and standards to objectively determine gear impacts and develop mitigation strategies, and that's what the yellow document is.

Then that document has been approved by the Habit Committee, Management and Science Committee and this Board. It includes primarily a review of literature, scientific knowledge regarding SAV life history and impacts from fishing and potential mitigation strategies, but it does not deal with implementation of that information.

That's what the paper that has been passed out to you today attempts to do. If you will turn to page 3, the discussion section, you will get to the crux of the matter.

Through several different commission venues, we have evolved a set of ten recommendations that we'd like to offer to the Policy Board for actions to be taken pursuant to the yellow report.

A number of these should be familiar to you. You may have participated in any of those venues. We had a joint workshop with the Management and Science Committee last fall at which some of these were developed.

We had a Habitat Committee meeting and special evening session in February in which they were worked on some more, and then a special working group was convened in April.

This list of ten is a compilation and distillation of all those deliberations. Then if you turn to the next page, you'll see that those ten are listed in a table that contains our judgement of the advantages and the disadvantages of each of these actions, with a comment, where appropriate.

Now that's where we've taken this. You will then see that there is an implementation section that offers three possible avenues for implementing those ten actions. That's where we'd like to ask the Board to give its consideration and feedback to the habitat committee, and perhaps to any species board where appropriate.

The first implementation method would be to cast any one of those actions to the staff, essentially, and ask them to take responsibility for implementing them. The second and third would be to integrate these recommendations into the fishery management planning process, with the second being that a given action would become a recommendation of an FMP or multiple FMPs.

The third would be that actions would become compliance criteria in FMPs. So those are what we view as the three possible approaches to implementing these actions. And with that, I'd like to open it up for any responses and answer any questions.

I know you're just seeing this now for the first time, so I'm not asking for a definitive action at this time. I'm certainly open to that if the Board so desires.

CHAIRMAN BORDEN: Bill, let me ask from the Chair's perspective, would it be your preference to have this formally adopted by the Commission; for instance, at the next meeting to schedule it for formal adoption?

MR. GOLDSBOROUGH: I think that would be appropriate and desired by the committee, yes.

CHAIRMAN BORDEN: Okay. Questions for Bill. Any questions? Jill.

SENATOR JILL GOLDTHWAIT: Thank you. I'm not sure what we're doing here procedure wise. Do you want comments on these individual items, or editing comments, or you do want to do that when we review it for adoption?

CHAIRMAN BORDEN: What I would suggest, if individuals make any general comments, policy comments as to their likes and dislikes, and if, in fact, it requires redrafting, then we'll have the advantage of those comments.

Then we'll bring it back and, obviously, distribute any revised document prior to that next meeting and allow a formal discussion over it at that time. Would you like to make specific recommendations?

SENATOR GOLDTHWAIT: I would. Briefly, number 3, with the language that's presented to prohibit the use of gear that causes impacts, that's fairly sweeping as it's drafted, and I would suggest that it might read something more like, "evaluate the use of gear for below-ground or aboveground impacts", as opposed to suggesting that there's going to be that broad based a prohibition on gear.

CHAIRMAN BORDEN: Okay, others? Gordon.

MR. COLVIN: Mr. Chairman, relative to your comment about adoption, I have some concerns about process and questions that -- as I see it, we have a report that includes ten recommendations and then three options for implementing those recommendations, and depending on which of those options is selected for each, the impacts of adoption or approval of this policy are quite different.

There are impacts on the fishing industry. There are fishing impacts on the states in terms of what they need to do; impacts on the Commission staff and so forth.

It seems to me that before we can consider adoption of this kind of a series of recommendations with the prospective consequences for requiring implementation, we need to identify exactly what implementation options will be called for.

We need to expose this widely to public review and comment, including comment from the fishing industry. I think that, clearly, the recommendation number three that Senator Goldthwait brought up minute ago was one that will generate considerable public comment.

But I can assure you that many of the others will generate considerable comment relative to capability and funding

from our staff when we talk to them. So, I really think we need to broaden the review of this, and I would find it difficult to think that we'd be able to do that in a period of just a couple of months.

As I said, I think we need to face up to which of the implementation options we're talking about for these recommendations.

CHAIRMAN BORDEN: Bill, to that point.

MR. GOLDSBOROUGH: Mr. Chairman, that's exactly why the committee felt we ought to bring this to the Board at this time. We were grappling with a lot of those issues ourselves and didn't feel like we could take it any further before consulting with the Board.

CHAIRMAN BORDEN: Other comments? Tom Fote.

MR. TOM FOTE: Just to reenforce what Bill said, we were debating whether to prioritize them, basically go through them, basically try to decide what options, and we felt a lot of this was policy decisions and maybe Board decisions, how it would affect.

So it was good to get it on the table, get it moving as fast as we could. Basically, if we're going to adopt these, let's do it sometime down the road, but we need to get it for discussion out there and that's why we wanted to move it to the Policy Board.

We didn't think we could do anymore at the Habit Committee. It just seemed to be dragging on and dragging on because a lot of these are policy decisions. I think the Management Boards all need to take a look at it, also.

CHAIRMAN BORDEN: Other comments? George.

MR. LAPOINTE: The idea of getting this document reviewed is a good one because there are some sweeping recommendations. If I look at the ten recommendations, and what Maine is doing, we're doing some and not others.

Item number 3 is obviously a big concern both about what should be done and can be done. The second recommendation, however, for inclusion into FMPs is one where we're supposed to be doing habitat sections of FMPs now; and as I remember, the Habitat Committee is supposed to be preparing those.

So, that seems like something we don't need to make any recommendations on because we already have, as an

organization, that our FMPs includes habitats sections.

The Habitat Committee, as I remember, was supposed to be supplying people to do that. So, that's not something that requires further work by the Commission. The first and third, I think, need some extensive review.

CHAIRMAN BORDEN: Okay. Bill.

MR. GOLDSBOROUGH: Just to follow up on that, the committee recognized, in fact, that there are several of these for which there is some action already under way at different levels, and there may have already been some results achieved.

That's not to say, though, that they shouldn't be listed as our overall recommended strategy, if you will, for implementing the Gear Impact Report.

CHAIRMAN BORDEN: Any other comments? Anyone in the audience? It seems to me that, obviously, I think the recommendations about circulating the document to a broader spectrum of interest and soliciting input on it is appropriate.

But, then to me, it's almost as if you have to go back and set some priorities and arrange specific written recommendations on these items before it comes back to the Policy Board.

What's the preference of the Board here? Do you want to follow that format, or is there another format that you prefer? Susan.

MS. SHIPMAN: It seems like the first place to go is possibly to distribute this to a larger public and get some public input and feedback before they tackle the more, I guess, detailed aspects of implementation options for each one. It seems to me the next place we need to go is public input.

CHAIRMAN BORDEN: All right, Bill, to that point.

MR. GOLDSBOROUGH: Yes, let me suggest that for anybody who is going to be asked to provide feedback on this, that they also are aware of and hopefully have a copy of the document upon which it's based, the original report, because I'm not sure that this set of recommendations will stand alone if you don't have a complete understanding of that report.

CHAIRMAN BORDEN: All right, what I would suggest is that

staff will take this essentially as a mandate to distribute -- I think Bill's point is correct -- probably both documents in order to do it adequately, allow some period of comment, a couple of weeks, two or three weeks to comment, or even a month to comment.

Then based on the public comments that we get, I think we have to make a policy decision as to what forum is the appropriate forum to review those comments, whether or not they go back to Bill's committee, or they go to the AOC or some other committee to try to finalize a recommendation for the Policy Board.

I think George's point is probably appropriate that there's little likelihood that all those things can take place prior to August, but we'll try to do it as expeditiously as possible.

Any objections to that course of action? If not, Bill, anything further to report?

MR. GOLDSBOROUGH: No, Mr. Chairman, but like I said, I'd be happy to answer any questions about other items the committee was addressing on their agenda.

CHAIRMAN BORDEN: Any other issues or questions that the Board has for Bill? If not, thank you very much, Bill. We're going to move back on the agenda to the compliance issue, which is the Delaware Compliance Issue, and Lew Flagg is going to give the report.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. At the February Board Meeting, the Board passed a motion dealing with Delaware Eel Compliance. That motion reads, "Move that the American Eel Management Board forward a letter to the Delaware delegation and other appropriate Delaware officials, specifying the urgency with which Delaware must come into compliance with the American Eel FMP by April 1, 2000.

"Further, the letter should specify the specific actions that Delaware must take to come into compliance. If no action is taken by April 1, 2000, the Management Board will recommend that the Atlantic States Marine Fisheries Commission find Delaware out of compliance". That motion carried on a vote of 16 to 0.

CHAIRMAN BORDEN: Okay, thank you, Lew. We also have correspondence from the state of Delaware that indicates that they may, in fact, be in compliance. Andy, would you like to comment to that point?

MR. ANDREW MANUS: Yes, stimulated by the letter sent by the Commission, the general assembly of the state of Delaware acted, and now has in place a possession limit and size limit for eels, and it was signed into law on May 16th of this year.

That information is available to be distributed to the Eel Management Board at tomorrow's meeting.

CHAIRMAN BORDEN: Okay, thank you. So that information will be distributed to the Board? All right, the preference of the Policy Board at this point. It seems to me that the state, at least if the state believes that they have come back into compliance, the ultimate decision on that will probably be made at tomorrow's meeting. What's the preference here? A.C.

MR. A.C. CARPENTER: Mr. Chairman, if necessary, I'd move no action pending the outcome of the finding of the Eel Board tomorrow that they are back in compliance.

CHAIRMAN BORDEN: All right, is there a second to that motion? Seconded by Preston Pate. George.

MR. LAPOINTE: Tell me the sequence for the rest of the week. The Eel Board meets after business?

CHAIRMAN BORDEN: Correct.

MR. LAPOINTE: So what this motion says is that we won't do anything, and when the Eel Board says they are either in or out, we'll take the appropriate action thereafter?

CHAIRMAN BORDEN: Correct. Yes, I mean, the thing that we could do is to -- I'm just trying to think creatively here. Potentially, you could recess this meeting, and briefly reconvene this meeting after the Eel Board meeting, to take any action on it, if that's what you are suggesting. Jill.

SENATOR GOLDTHWAIT: Can you pend it so that pending an acknowledgement by the Eel Board that the state is in compliance, the motion goes away or is implemented, without having to reconvene the Board?

CHAIRMAN BORDEN: Yes, I mean, I actually would be more comfortable passing a motion which essentially judges the state in compliance with the plan's provisions, subject to obtaining approval of the Eel Board.

SENATOR GOLDTHWAIT: Well, might I suggest an amendment, then?

CHAIRMAN BORDEN: All right, please do so.

SENATOR GOLDTHWAIT: Would be to find the state of Delaware in compliance with the Eel Management Plan pending review and agreement of the state's actions by the Eel Management Board tomorrow.

CHAIRMAN BORDEN: All right, let me ask the original maker of the motion, A.C., is that an acceptable substitution?

MR. CARPENTER: That's an acceptable substitute.

CHAIRMAN BORDEN: Preston. Acceptable. We have a valid motion, substitute motion. Discussion on the motion? Bruce.

MR. BRUCE FREEMAN: Andy, you indicated that in your opinion, the minimum size and possession is, indeed, in compliance with the coastwide plan?

MR. MANUS: That's correct, and we'll get a copy of the bill signed by the Governor and send it to the Commission.

MS. SHIPMAN: Other discussion on the motion? Are you ready to vote? We're in a holding pattern for a second. I think they're trying to refine the motion. Is there other discussion on the motion while we're refining it?

CHAIRMAN BORDEN: Jack has just correctly pointed out to me there are some nuances that relate to how we handle this thing in terms of compliance findings, and what I would suggest, unless I have objection, is that we, essentially, table this for a short period of time, and let Jack work out some alternative language, and we'll put that up on the board so that we'll have the benefit of not only the motions that are there, but his alternative strategy. Any objection to that?

All right, if not, we're going to move back on the agenda, which is the Law Enforcement Report, which is Bruce Buckson. Bruce.

MAJOR BRUCE BUCKSON: Good afternoon. I'm Bruce Buckson, and I'm from the state of Florida. It's interesting to be here in the state of Maine where we have some rain for a change.

If we could pipe this down to Florida, we'd appreciate that. First of all, let me apologize for not having a report to hand out. We are still in the middle of our meeting, and we should be able to get that to the Board before the close of business today, but we don't have a

written report to hand out for you all to go along with.

The second thing, which is good news for this board, is that we don't have any actin items for this particular meeting, so I'll just give a brief summary of some of the things that we've covered so far in our meeting, and some of the direction that we are going because I believe that at the next meeting we'll have at least one, maybe two action items for this Board.

First of all, I assumed the Chair for the Law Enforcement Committee this particular meeting, and we voted Kurt Blanchard from Rhode Island as the Vice-Chair, so he will be filling in as the Vice Chair of this particular committee.

One of the things that I think that we've -- and foremost and one of the goals that we've had as a committee for several years, and we're beginning to see some of our efforts come to fruition, is some efforts we've made with Dieter Busch's staff and the FMP Coordinators in being able to find a way to get some input into the FMPs from a Law Enforcement perspective at different stages along the way.

Being a group of individuals from different states, and some not always understanding the process, but the staff has been very gracious in educating us, and when we can make that input.

What we will have at the close of this meeting is a protocol for our members, and how we are to present information that is of a law enforcement concern early on in the process of proposed FMPs.

So, we're encouraged by that, we've been encouraged by the input from the staff and the help that they've provided to us for the recent changes that are coming up in some addendums and some FMPs.

We're looking forward to that and beginning to take action even probably during this meeting. That fits in with one of the other goals that we've got for the committee.

We're trying to build, for lack of a better term, a "strategic plan" for the committee, and to be able to have the committee fit in to this whole process with the ASMFC, that being the baseline for having a strategic plan.

Some of the other things we hope to be able to do is provide to this Board, and we've mentioned it before, a simple guideline for managers and being able to categorize some of the management alternatives that commissions have used in fisheries, and place them in a hierarchy where from an enforcement perspective, one may be better than the other if there is an option for a choice between some of those.

We hope to have that in completed form for the next meeting so that all the Board members would have a copy of that to be able to refer to during the plan process. We understand, though, that the Boards may not be able to meet all of the requests, at least they'll see how some of these different management options fit in to the task that we have as a law enforcement.

We had some presentations from the FMP Coordinators, and one in particular that we were able to provide some input had to do with regulatory discards.

I think that was this Board's recommendation that a work group be set up to address those issues, and we had some questions, and not necessarily concerns, but we offered at least a couple of members to be part of that work group to provide some law enforcement input.

One other thing that was brought to our attention that we hope to be working on is providing at least a better presentation of what the Law Enforcement Committee is about is that ASMFC website as it relates to the Law Enforcement Committee.

There's just a short blurb there, and our intention is to get some state input and possibly just some better information about what the Law Enforcement Committee and what some of the Law Enforcement Divisions do in different states, and be able to provide that to the Commission to be able to put on the website.

So, we hope that that gets moving very quickly. The last concern that may become an action item for us has to do with aquaculture. We had some discussions about aquaculture, and actually, we're going to be having even more discussions this afternoon about aquaculture and some of the effects that that has on enforcement.

We understand that there may be a possibility of a workshop set up for discussions about those issues, and we are most definitely interested in at least having a representative be able to be present during any workshop to be able to present some of the concerns that the Law Enforcement Committee may have.

That sums up at least as far as we've gotten so far today

in our report.

CHAIRMAN BORDEN: Thank you, Bruce. Questions for Bruce and the Enforcement Committee? Any questions? Anyone in the audience? All right, if not, I just offer the comment that the issue of aquaculture and the relationship between the wild stock and the measures in the wild stock and those in the aquaculture industry is an issue that has surfaced a number of times in the state of Rhode Island.

You know, the ability to work out some type of protocol on that that allows and facilitates, for that matter, the development of the Aquaculture Industry without threatening the wild harvest, I think it's critical to both of the resource components, and so I personally will look forward to any enforcement input, and I'm sure Kurt Blanchard from the state of Rhode Island will welcome that type of input also. Any other points? Yes, Pete.

MR. W. PETE JENSEN: I have a question. I thought we had adopted a protocol among the states. We, in fact, adopted regulations that has a coding requirement for all shipments. Is the Law Enforcement Committee revisiting that protocol; is that what's happening?

MAJOR BUCKSON: I'm not sure I'm aware of the protocol myself, and I apologize for that. I know that recently there has been some issues that have come up related specifically to size and shipments between states.

That was primarily our focus at least at this point. There may be aquaculture products of sublegal size by the time they make it to their point of sale..

CHAIRMAN BORDEN: Other comments or questions? Thank you very much, Bruce. A.C., have you had sufficient time to consult with Jack?

MR. CARPENTER: Jack and I have. Tina is catching up with us, so you may want to go to the next item, and we'll come back to it.

CHAIRMAN BORDEN: We'll take the next report, which is Management and Science. This is Dale Theiling. Dale.

MR. DALE THEILING: Mr. Chairman, members, it's a pleasure to come and represent the Management and Science Committee and some of the actions that we've taken this week. We have two items of update, and one of some action requested of the board.

First, an update on our Research Needs Publication. As

most of us know, our Research Needs Publication is about three years old now, and it's time that we refresh it and republish it.

New needs have been identified, and some of the old needs have been met. Publication lists research needs for each species under plan, and it prioritizes the needs within the species and various research topics.

So we do plan to update and republish. Now reviews have already been completed by the various Species Boards, the Advisory Committees, Habitat Committee and the Committee on Economics and Social Sciences.

The Management and Science Committee will be giving one last shot as a review very soon. So our question to you board, Mr. Chairman, is does the Policy Board want to see the research needs final document, final draft document, excuse me, after the review of the Management Science Committee and before it's published?

CHAIRMAN BORDEN: Comments on that question? Susan.

MS. SHIPMAN: To me, it's sufficient that the respective boards have had their input. I don't see a need for this body to review it.

CHAIRMAN BORDEN: Any objections to that suggestion? Gordon Colvin.

MR. COLVIN: I agree with Susan.

CHAIRMAN BORDEN: Any disagreement with that suggestion? All right, then that is the policy on the issue.

MR. THEILING: Thank you, sir. Our next item has to do with the Peer Review Process in review of fishery plan assessments, species assessments. Doctor Kline of ASMFC's staff has heard some concerns related to the Commission's process of stock assessment peer reviews and concerns, which are to be expected, revolve around coordination with the SAW/SARC process; the time allowed for assessment to be completed and the time required for documentation to be compiled in the various assessments.

The Peer Review Subcommittee of the Management and Science Committee has begun this week to make a full review of the Commission's Stock Assessment Review Policy and is considering quite a variety of options on how the process could be improved.

A subcommittee meeting was held prior to the Management

and Science Committee meeting on Monday, and a good bit of work was done, but there's a great deal more to be done.

So, I'll quickly tell you, if you'll give me the time, please, sir, the status of some of the assessments of species at this point.

Several have been or will soon be completed by internal technical committees, those being Atlantic Menhaden, Atlantic Striped Bass, Black Sea Bass, Bluefish, Northern Shrimp, Spanish Mackerel and Red Drum for the South Atlantic Council.

That group has been or will soon be completed by the various Technical Committees. There are two that are being reviewed or have been reviewed by external panels formulated by the Commission.

First is American Lobster, which as we know, was presented to the Lobster Board yesterday; and the Gulf of Maine Winter Flounder, which has been triggered by the policy to review science no less frequently than every fifth year.

This review is preferred to be completed by the end of 2000, so that's the status of those two. And there are two to enter the SAW/SARC process. The next SAW/SARC will be held on June 26th through the 30th, and those two species are scup -- that's one where the Commission has the lead, the second being summer flounder, where the National Marine Fisheries Service has the lead in the assessment.

The one at this point that is unprioritized is Atlantic croaker. That assessment is being conducted but is not yet complete. It's unlikely when the review period will start for the South Atlantic. That is the end of that portion on the report of Peer Review Process. It's an update.

CHAIRMAN BORDEN: All right, on that portion of the report, any questions for Dale? Anyone in the audience? Seeing none, Dale, if you'd like to proceed.

MR. THEILING: Thank you. The third matter has to do with power plants, and the use of the data that are generated at power plants that may be useful in assessing the damages to stocks under plan.

The board has very recently charged the Management and Science Committee with several tasks related to use of power plant data and assessment of the effects of power plants on managed species.

We have discussed the charge, and first we want to ask this board for some clarification of the job ahead, and then propose to you an approach that we all might take to tackle this question.

We have on the board the task as given to us from you. We believe that the study of the power plant data holds promise in helping us understand the effects of the mortality caused by entrapment and entrainment of managed species by power plants.

We also recognize it's going to be a major undertaking to do it properly. First, we'd like to ask that you clarify the charge. Charge number one, as given, was to secure funding to convene a panel of experts, including state, federal and independent population dynamic scientists to review methods to determine, and I believe you all's wording was "estimate the cumulative coastwide impact of power plant impingement and entrainment on managed fish stock and determine the appropriate analytical methods to assess power plant mortality".

Let me go to my notes. Your charge in the first sense was to estimate the cumulative coastwide impacts. And we would suggest that that be changed to say, "to review methods to determine the impact of power plant impingement".

We see that as being, actually, a more basic task than to quickly call this panel together to estimate the cumulative coastwide impacts. Secondly, it was believed by the members of the Management and Science Committee that in your second task to us, or second charge was to examine the prospects for species-by-species coastwide assessment of the effects of power plant mortality using American Shad.

We would suggest to add winter flounder as the first case surveys. The reason for that is that between these two species, all states would be involved, and it would be a better approach, we believe, from the Management and Science Committee to undertake both of these, primarily because good data, we believe, exists for both of these species.

If we can get that clarification, we then would propose to bring together the commission's efforts already that exist, and the interest identified to date on this matter, and ask them to look at the feasibility of this rather complex undertaking.

What we would propose is to call together the ad hoc group

that this board has formed on power plant questions and the Management and Science Committee that has already compiled data on power plants; also, to include some members of the Habitat Committee, some knowledgeable people from the Environmental Protection Agency that are involved with power plant matters, and some possibly from the Federal Energy Regulatory Commission; the idea being to have that group meet to more or less flesh out the tasks that are at hand to consider the feasibility of assessing coastwide effects of power plants.

In all honesty, we didn't feel like we had the expertise in the Management and Science Committee to determine if it is a feasible matter or not. Let this panel or this group also ask if the needed data exists, and to ask if the needed models are already in existence.

That group, also, then, if they found it's worth moving forward on, could essentially plan for the panel that's proposed here in your charge to the Management and Science Committee.

So, we don't have an absolute clearcut plan, but we believe that an intermediate step is needed, and that being to call together this group to have some expertise within the commission structure, and to invite these other entities being the Federal Regulatory Energy Commission and the EPA, and then possibly one or two researchers who already have some experience in the power plant data use.

And from that point, let that group propose a more complex and all-encompassing plan to go forward to estimate these impacts.

CHAIRMAN BORDEN: All right, thanks, Dale. The Committee has outlined an alternative strategy. As you'll recall, the original initiative, I think, was brought forward by Gordon Colvin some time ago.

Does the Committee feel comfortable with this strategy? Do we have any objections to this strategy? No objections? Any comments from anyone? Yes, George first, and then Andy.

MR. LAPOINTE: I don't recall our discussion on what secure funding means. We've had a number of discussions over the last number of days about budgetary restrictions and priorities, and how we have to be tough with these issues, and I would suggest that this is one of those.

CHAIRMAN BORDEN: Okay, Andy.

MR. MANUS: How timely, George. The issue I was going to bring up, the state of Delaware did send to the Commission, I believe, \$5,000 to kick this off as kind of a Pepsi Challenge.

It's just a question with respect to how well others have been able to meet the challenge.

CHAIRMAN BORDEN: It's my understanding that Paul Perra is about to speak and match that \$5,000 challenge. Paul.

MR. THEILING: Mr. Chairman, I do have some information on that. The state of Delaware has in fact contributed \$5,000 to the cause, and the Commission has identified 12.5 thousand for the cause.

That's a good start. It's certainly not enough to do the entire job, and in our proposal we would suggest that the group that we would like to call together initially be funded by that pot that is already in place.

CHAIRMAN BORDEN: Okay, thanks, Dale. Paul.

MR. PERRA: Yes, I'd like to request that Lisa or Jack talk with Harry. We may be able to contribute something if it concerns anadromous fish.

But my other comment would be that this is a large task, and I would suggest that once you get the group together, try to get them focused maybe on a pilot program in looking at one area; either Long Island Sound, Delaware Bay, something so that they can get a handle on it, rather than trying to solve the whole coastal issue at once. That might be a more cost effective way to deal with this.

CHAIRMAN BORDEN: Ernie.

MR. ERNEST E. BECKWITH, JR.: Yes, Paul, I think that's an excellent idea, and we have tried to do this in the Sound. I assigned Vic Crecco a couple of years ago to try to look at the cumulative affect of all the power plants in Connecticut on winter flounder.

So we do have some basis there to start from, and I would certainly offer any assistance that we can.

CHAIRMAN BORDEN: Gordon.

MR. COLVIN: A couple of comments, Mr. Chairman. Interestingly, earlier today some discussion arose about the prospects of seeking funding partnerships from the

private sector, and from other less traditional partners than we have in the past.

I think this task is a very good one to put that challenge to the test with. I think there are a lot of prospective partners out there for work of this nature, including EPRI.

Why not? Just, you know, kind of FYI a status report. There was an e-mail that I picked up yesterday, I believe, indicating that I think this week EPA is hosting a nationwide conference call to discuss with stakeholders nationally the pending development of the final Clean Water Act Regulations on entrainment/impingement issues, which we talked about a little bit last fall when I made the presentation to the Policy Board.

There is stuff happening in that arena that I don't want to see get away from us, and I'm kind of hoping -- maybe Bill can address this -- that the Habitat Committee has some ability to kind of birddog what is going on in the federal regulatory arena as well; and that in the course of maintaining some liaison contacts on that, we would identify, from among those stakeholders, some other prospective partners.

Certainly, there will be people -- there are organizations involved in the ongoing federal regulatory process whose interests are similar to ours, and who are likely partners in an endeavor of this nature.

A couple of points with respect to the recommendations of the Management and Science Committee, and what once I had hoped we might come out of here. I agree with the changes in the first part of the proposal. I think that they would clarify what is to be done.

Recall, that I think what we had in mind was creating tools that we could all use to evaluate entrainment/impingement impacts so that ultimately there would be a coordinated, consistent approach to understanding what those impacts were on fish populations and in particular on those fish populations that we manage and the consistency of those impacts with our management goals.

I think the perception we have is that different approaches and different arguments and debates with utilities and utility regulators are occurring in different locations and different states up and down the east coast.

So, our objective was to kind of get us all under the same

tent in terms of how we're doing this, basically to have a unified approach to understanding the effects of these impacts on fish populations.

I think that the first part of this rewritten task will ultimately accomplish that. With respect to the second part, I am very grateful to see winter flounder added, because I think that American shad are anadromous fish.

I think they belong there. I think not just are they a coastwide resource of concern, but as an anadromous fish, they're important. I think it's also important, however, to focus on a coastal fish.

I think the issues are a little different. I think winter flounder are ideal. So, I agree with that. I would prefer not to impose geographic boundaries on this at the outset, but rather let the panel that we get together identify what they think they can do based on the data; and if they come back to us and say looking at shad coastwide is too big, let them guide us in paring it down.

I would like to try to get a handle on coastwide impacts if possible because the idea here was to give us the ability to assess the cumulative impacts of power plants on the success of our ASMFC's Fishery Management Program, and our ability to obtain the goals and objectives of our management programs.

I think we can do that best if we can try to maintain a coastwide focus. If we can't we can't, but I wouldn't want to give up at the outset.

CHAIRMAN BORDEN: Gordon has outlined a slightly different strategy. Obviously, he has acknowledged and pretty much accepted the perfected language. How comfortable is the committee with the alternative strategy? Ernie, you had your hand up. Is it a different issue?

MR. BECKWITH: No, I just wanted to make -- it's the same issue. I just want to make a comment on what Gordon said. I do agree with Gordon's assessment, it would be nice to have a coastwide focus.

I think that the two species that have been selected give us an opportunity to look at it both ways, both a local focus and also a coastwide focus, using both winter flounder and shad.

CHAIRMAN BORDEN: All right. Do we have objection to that strategy? Anyone object to it? Then, you have a charge? You have further to report?

MR. THEILING: No sir.

CHAIRMAN BORDEN: All right, any further questions to Dale while we have him? If not, we'll move on to the next item. A.C. are you ready on the revised motion? Let me, before we start this, A.C., if you and Pres are comfortable with the motion, I would suggest, so the record as clean, simply withdraw the previous motion.

MR. CARPENTER: Yes, Mr. Chairman, I would like to withdraw the original motion.

CHAIRMAN BORDEN: All right, Pres, you're in agreement?

MR. PRESTON PATE, JR.: Yes.

CHAIRMAN BORDEN: Any objection from anyone? The motion is withdrawn. A.C.

MR. CARPENTER: I'd like to move that the ISFMP Policy Board concurs in the recommendation of the American Eel Management Board relative to compliance by the state of Delaware, and determines that the Commission take appropriate action, provided if the Eel Board determines that Delaware has taken sufficient action to come into compliance, that the Policy Board recommends that the Commission take no action.

Just a few more words than I had originally in my original motion, Mr. Chairman.

CHAIRMAN BORDEN: All right, everyone take a moment to read the revised language.

MR. CARPENTER: I do want to thank the staff for providing the few extra words.

CHAIRMAN BORDEN: All right, we have revised language, we have a valid motion on the floor. Comments or questions on the motion? Lance.

DR. LANCE STEWART: Excuse me for being late here, missing some of this, but Jack and I were talking and we were wondering if there is going to be time for the Eel Board to make this decision, and then have it come before the Commission at this meeting, because Eel meets at 10:00 o'clock tomorrow. It's followed by striped bass.

CHAIRMAN BORDEN: Jack, do you need sufficient time to consider the activities at the Eel meeting tomorrow? Susan.

MS. SHIPMAN: The way our charter is set up on compliance findings, I mean, once a state is deemed to be in compliance, there is really no further action. I guess I'm confused why we're going down the road of taking action to affirm compliance beyond the Board.

CHAIRMAN BORDEN: Jack.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Well, I don't think we are. I think the issue here is non-compliance. The Management Board has recommended that the state be found out of compliance.

That motion is now before the Policy Board. The state has, in the meantime, taken intervening action. The Eel Board may or may not determine that that's sufficient. And so the problem is how do we get the Policy Board and the Commission to be able to act on a non-compliance motion?

We want to give the Management Board an opportunity to withdraw that motion before their meeting, but their meeting is after. Does that make any sense?

MS. SHIPMAN: Yes, it does. It's just the wording and the way things are sequenced there.

EXECUTIVE DIRECTOR DUNNIGAN: Well, in the charter, the responsibility of the Policy Board is to concur in the recommendation of the Management Board and recommend to the Commission. So, that's what the first part of this motion does.

MS. SHIPMAN: For non-compliance only?

EXECUTIVE DIRECTOR DUNNIGAN: Non-compliance, right.

MS. SHIPMAN: Right.

EXECUTIVE DIRECTOR DUNNIGAN: And the second part of this motion then is given that the state has taken action, is giving it out so that if the Eel Board were to determine that the state has done enough, then the proviso would carry this Board's recommendation that no action be taken.

But if not, the proviso is not operative, and then the Commission would have a recommendation under the charter to deal with for non-compliance.

MS. SHIPMAN: Yes, the first part of it, I'm fine with. I think it's the very last part where it says, "the Policy Board recommends the Commission take no action". If the

Eel Board has determined that Delaware is in compliance, at that point I think the Policy Board takes no action.

EXECUTIVE DIRECTOR DUNNIGAN: They haven't met yet.

MS. SHIPMAN: Well, right, but I don't think we need to be recommending to the Commission no action if the Eel Board -- no, the last part says, "If we determine Delaware has taken sufficient action, the Policy Board recommends the Commission take no action", and just procedurally, I don't think that's required.

CHAIRMAN BORDEN: I mean, A.C. is the maker of the motion.

MR. CARPENTER: I think Susan might be right. I think it might not be necessary, but given that the first part of this motion deals with non-compliance, I think that it cleans the motion up to say if they are back in compliance, the matter is finished.

Procedurally, you may not have to do it, but I think it helps to clear this particular motion up, given the circumstance of scheduling this meeting before the Board meeting.

CHAIRMAN BORDEN: Okay, a question for the Policy Board then. Are you comfortable with this motion, or do you want to have -- there are obviously some different perspectives here.

We could ask Susan and A.C. and Jack to caucus some more on the language of it, and move on to another item, if that makes people happier; or, we can take this motion up and vote it up or down. What's the preference of the group? Susan.

MS. SHIPMAN: I would simply like to offer a friendly amendment to remove the words "recommends that the Commission"; strike those words, then "the Policy Board take no action". I mean to me, that cleans it up.

CHAIRMAN BORDEN: A.C., to that suggestion.

MR. CARPENTER: Yes, sir, that's fine.

CHAIRMAN BORDEN: Preston, on the perfection, acceptable to you? All right, the perfection has been accepted by the maker of the motion and the seconder. You have a perfected motion. John Nelson.

MR. JOHN I. NELSON: The first part still has a recommendation from this Policy Board to the Commission.

That's all right. I think there is still a disconnect for the second part, that we take no action, but we've already recommended to the Commission to do something, to concur with the original non-compliance. So there's a step missing here, and I was more comfortable with the way it was worded originally.

CHAIRMAN BORDEN: Susan, we'll give you one more.

MS. SHIPMAN: Would it help if you add the word "non" in front of compliance in the third line? And that will be dependent upon the action tomorrow by the Eel Board. But if the Eel Board finds that there is non-compliance, the Policy Board would concur with that and move that forward to the Commission.

CHAIRMAN BORDEN: Comments to that point? Are you comfortable here? You want to do some further wordsmithing, separate discussion here? Bruce.

MR. BRUCE FREEMAN: I think this may get more complicated when it goes to the full Commission, because you're going to be asking the Commission to adopt this. I mean, the possibility is that the board determine that Delaware is not in compliance, and therefore you're going to have to pre-suppose what the Policy Board does and the Commission does, because all meetings occur after the business session. I just think it's getting very complicated.

CHAIRMAN BORDEN: Jack.

EXECUTIVE DIRECTOR DUNNIGAN: I think that between now and tomorrow morning, Bruce will be able to work out a procedure to handle those between the two boards, and I think that will be manageable.

It's complicated, certainly, but I think we can make it work.

CHAIRMAN BORDEN: It's a somewhat complicated motion. Are you comfortable with the motion, or are you ready to vote on the motion? Any objection to voting on the motion?

All right, A.C., would you read the motion, please, into the record?

MR. CARPENTER: Move that the ISFMP Policy Board concurs in the recommendation of the American Eel Management Board relative to compliance by the state of Delaware and recommends that the Commission take appropriate action; provided that if the Eel Board determines that Delaware has taken sufficient action to come into compliance, the

Policy Board takes no action.

CHAIRMAN BORDEN: All right, you ready for the question? Anyone in the audience care to comment on this before we vote on it? If not, all those in favor, signify by saying aye; opposed; abstentions, two abstentions. The motion carries unanimously.

Further business on this issue? Any further business? All right, if not, we're back on the issue of Review and Update the Declaration of Interest by the state -- excuse me, I missed Legislators and Governors Appointee Report.

MR. DAMON TATEM: Thanks, Mr. Chairman. We met Monday and we had a good attendance. We had a quorum of both groups, and we discussed a number of issues including reexamination of the caucus voting system.

We felt that in a further evolution of the process, that we should extend the process to all Commission Boards, including the ISFMP.

Therefore, we recommended to the Policy Board by a motion that we move that all Commission Boards be bound by the caucus voting procedures as defined in the ISFMP charter. That was approved unanimously by the LGAs.

I'm assuming that was pretty much of an action item you've got to do something or talk about it, or so forth.

CHAIRMAN BORDEN: All right, discussion on that suggestion. Any comments? Any objections to it? If we have no objections, then -- Gordon Colvin.

MR. COLVIN: I have no objection whatsoever, Mr. Chairman. But I do have a procedural concern as a kind of a general policy issue, and that is, as a rule, I wonder about accepting operating changes, the Commission's operations and procedures ad hoc that are communicated instantly within a meeting and whether they ought not be allowed as a rule to write in a meeting before we act on it. Just a thought.

CHAIRMAN BORDEN: Well, as Damon knows, I expressed a point of view at the meeting, if, in fact, we were to accept this, it would force other changes in terms of the charter and some of the language in the charter.

My personal preference would be to, if it's agreeable to the Policy Board essentially to take this language, let the AOC look at those types of issues in terms of charter changes and language changes, and then come back to you with a formal recommendation so that you have the full picture of not only this change, but how it relates to the other activities in the charter.

MR. COLVIN: That's pretty much exactly what I had in mind, Mr. Chairman.

CHAIRMAN BORDEN: Jill.

SENATOR GOLDTHWAIT: Just to be sure that you understand that that committee was talking about all Boards, which would include this ISFMP, the Executive Committee, literally all Boards, and that there are also some implications for the possibility of combining, for instance, the Commission Board with the Executive Committee, et cetera, because of this change.

CHAIRMAN BORDEN: And for exactly that reason, that's the reason that I think we ought to look at the structure of the boards and the committees and come back with a formal recommendation.

But there is, essentially, a policy call here, and I don't think we need to have a motion on it. If this is the direction that the Policy Board wishes to proceed in, then I think we need to take it to the next step, which is let the AOC look at all the nuances of this type of change.

We will simplify our structure if, in fact, we go to this type of system, I mean, because you get rid of duplicative type handling of certain issues. Gordon Colvin, and then David.

MR. COLVIN: Well I'm glad Senator Goldthwait said what she did, because I didn't understand this motion to apply, since it's being offered, to this body, which is the Governing Body for the ISFMP and nothing else.

To apply to Commission bodies outside that, that clarifies it and that's helpful. I just think that's an important distinction to know as a commissioner, and I think that this recommendation needs to be provided to the Executive Committee and the Commission as a whole as well.

CHAIRMAN BORDEN: David.

MR. DAVID CUPKA: Thank you, Mr. Chairman. It was my understanding, when we had this discussion, that this would apply to boards and not to committees; that committees could continue to be smaller groups or subsets, but it would apply to all boards.

CHAIRMAN BORDEN: Damon, is that consistent with your understanding?

MR. TATEM: My understanding was committees and boards. The maker of the motion was Tom Fote. I don't know whether Tom may be able to clarify that, because the motion was made by Tom and seconded by Pat Augustine.

CHAIRMAN BORDEN: Tom, to that point.

MR. TOM FOTE: No, it didn't entail committees since we wouldn't have it on the Habitat Committee and certain committees. That was the direction. The direction was that any voting board would, basically, be now a full caucus the same way, and this way, we really wouldn't need maybe to have a full commission board meeting, because it would really be a Policy Board meeting, because we'll always be a full commission at that point, because it would be a caucus vote.

And that was really what we were looking at. It was not where you would change, say, the Habitat Committee because the Habitat Committee is a certain structure, and that's appointed by the Chairman. And those structures will stay in place and in committees. It would just basically pertain to boards.

CHAIRMAN BORDEN: Jack.

MR. TRAVELSTEAD: What are the implications of this motion on the Menhaden Board? Does it affect the makeup, or does it only employ the caucus voting procedures at that board?

CHAIRMAN BORDEN: My understanding of that is that we have, in essence, a really unique process in terms of Menhaden in that what we have committed ourselves to is to keep that process in place until the amendment is adopted.

At that point, if we have a policy, it seems to me that if you have a different policy, at the end of that process, you're going to have a decision to make. Do you keep that existing unique structure in place, or do you move to the standardized structure.

I would say in good faith to the industry, you don't want to change that system right now until we complete the process that we made a public obligation to complete. Paul Perra.

MR. PERRA: Yes, the other group that you have of the sections which already have caucus voting, was there any discussion on how this would affect membership on the

sections if you're trying to make all boards the same with same makeup?

Sections don't have federal representatives on it. Was there any discussion on that at all?

CHAIRMAN BORDEN: Damon, to that point.

MR. TATEM: No, but Lori tells me that a board is not considered a section. We didn't discuss that, but I don't think we applied it to sections.

CHAIRMAN BORDEN: Let me go back and restate what I stated before that -- I mean, if the Policy Board is generally agreeable to at least looking at this, then I would suggest we simply move on with the subject, let the AOC look at it, look at all these different questions that individuals have raised today, and come back with a formal recommendation. Preston.

MR. PATE: Thank you, Mr. Chairman. I agree with that approach, and I agree with the recommendation that come out of the committee. I was one of the members of the subcommittee that looked at this suggested change initially and made the recommendation to the board to pilot it, and it's turned out to be a positive addition to our procedures.

I do remember, however, that we identified some fairly significant changes that might be necessary to the charter to make this happen. Whether that subcommittee is reconvened to look at that or the Legislative Committee looks at it, we do need to pay real close attention to the ramifications on the basic charter.

CHAIRMAN BORDEN: All right, do we have any objections to allowing a subcommittee to look at this, and I'll make the decision later, after consulting with the staff on which committee that will be, but no objection? Bruce.

MR. FREEMAN: I don't have an objection, Mr. Chairman, but I'm just looking at the issue where we vote on budgets that the state may have a vote for what the state's contribution may be, and the other caucus may vote against that.

And that's a possibility. My question would be how do you deal with that? And it may be something you should consider. I could see a conflict there.

MS. SHIPMAN: I believe, yes, that's an Executive Committee issue, though, and if we're going to look at

boards, I mean, that's certainly an issue to be looked at. But if we're looking at the charter and the ISFMP Program and this motion in that context, I don't think that will be the issue.

MR. FREEMAN: But my understanding was that it would apply to the Policy Board and the Executive Committee.

MS. SHIPMAN: No, I thought I heard Tom to say "no", it was not applied to committees.

MR. FREEMAN: Oh, all right, I misunderstood. Thank you.

CHAIRMAN BORDEN: Damon.

MR. TATEM: Okay, going on, we had a short discussion about the LGAs Proxy Policy and went over that, talked a little bit about that, the acceptability of it. There was also an indication that there was some concern about joint meetings with the council and seating arrangements.

I think John Connell brought that up, and Jack said that they were working on that at this time, to try to make sure that everybody had adequate seating.

We also discussed having casual meetings in between our regular two annual meetings during lunch to discuss and identify items that we would want to put on the agenda for our regular spring and the annual meeting, LGA meeting.

We discussed, to a certain degree, the concern that legislators have about meeting when we meet at the annual meeting, and the inappropriateness of it due to session business, so forth and so on.

Of course, they have a legislators' meeting scheduled in August. We went on to discuss the Advisory Survey that was completed last year. We heard from Bob Munson, the Chairman of the Advisors, and Tina talked a little bit about dissatisfaction among the advisors in the process.

I was concerned and indicated concern about attendance by advisors. We discussed the role of the advisors and the expectations, and we forwarded a motion to the Policy Board that the LGAs recommend that the ISFMP Policy Board designate the LGAs to review and develop recommendations to improve the advisory process.

David and I talked a little bit about that, and I think he has got some ideas on that, and so do I as far as trying to work some of these kinks out of it and support Bob in his efforts to create a primer; and, you know, overall

help for the advisory process that's so necessary to keep this thing going on an even keel. Mr. Chairman.

CHAIRMAN BORDEN: All right, thank you, Damon. On the issues of advisors, we will be circulating attendance records for the advisors for each one of the states, and the one thing that I would ask is that each delegation essentially get together and look at those attendance records.

And obviously there are a whole host of extenuating circumstances why some advisors can't make meetings, but make a judgement as to whether or not you as a delegation are satisfied with your advisors or not.

And if you're not satisfied with your advisors, then start the process to solicit new advisors so that we ensure that each one of the states gets the type of representation that we know that it deserves. Are there any questions on that? Any further business, Damon?

MR. TATEM: No sir. I thank you.

CHAIRMAN BORDEN: All right, Gordon Colvin.

MR. COLVIN: The issue of advisors, Mr. Chairman, I just would point out that sometimes we will be the beneficiaries of advice from our advisors within our states, even if they are unable to attend meetings.

They're often very valuable to us board members, the three of us, in terms of in state consultation. So, you know, attendance is important, but it's not the only thing.

The other thing I would point out is that we have, I think, some coordination problems with Advisory Panel appointments between the Councils, at least the Mid-Atlantic Council and the Commission.

I would just like to suggest that we try to get that, if we're going to look at membership of Advisory Panels, that we try to sort that out.

CHAIRMAN BORDEN: Okay, any other business? Bob.

MR. BOB PALMER: Yes, Mr. Chairman, while we're on this item, I just wanted to present the Florida Governor's appointee, who has just started to attend our meetings, Cathy Barco.

CHAIRMAN BORDEN: Welcome, Cathy. All right, we'll move on. The next issue is update on the Declaration of

Interests. Dieter Busch.

MR. DIETER BUSCH: Mr. Chairman, we passed out the declaration sheet. You should have it in front of you, dated April 2000. It has organized by plans under amendment, plans under preparation, plans under revisions through addenda, plans under implementation; and then I guess, a very nice -- I mean, another category, Future Planning Activities.

I guess this is if CARA passes or something like that. Maybe it's a Freudian slip so that Jack can get blue crab under the table. Please look at this.

This is what we're using to maintain our data file to get information to the boards and sections. If you haven't, if you're not listed on their, then either our data is incorrect, or we need confirmation that you are interested in that species.

If you don't want to be on the list, I guess there's an opportunity to be taken off the list.

CHAIRMAN BORDEN: Before I recognize George, I would just ask each one of the delegations to caucus on the list, and if you want to be added or deleted from a particular item, then within one week, notify Dieter. George.

MR. LAPOINTE: Within one week I'll notify you that I asked that we be put back on the Horseshoe Crab Board.

MR. BUSCH: And you were, but you're not on this list yet.

CHAIRMAN BORDEN: Any further discussion of this item? Paul.

MR. PERRA: Yes, I'd like to mention that we do use this list. We don't use future planning activities, but all those little stars under there are used in a weighting system toward the other things, plans under amendment, under preparation, and all the rest for the formula that gives you your Atlantic Coast Act Funding.

So it could affect your funding somewhat if you're not participating. And if you are -- I know some states don't have a big interest, so they don't put a star there. But that, in the long run, could affect your funding in a fairly significant way if you're missing a couple of those little stars.

CHAIRMAN BORDEN: How much more money can Florida get if they declare interest in Northern Shrimp?

MR. PERRA: I believe they're kind of like the top state now, so all the rest is like cream. If they get a couple more stars, they'll be making more funding than anybody.

CHAIRMAN BORDEN: Anything else on this item? If not, we'll move on to Other Business. Sea Bass, Pete Jensen.

MR. JENSEN: The next opportunity for the meeting of the Flounder, Sea Bass, Scup Committee is probably in August. In the meantime, we believe we're going to have a little problem.

The National Marine Fishery Service just announced closure of the Black Sea Bass quota for the current quarter. In fact, the quota may have been exceeded. The reason that comes about is because they do not attempt to make any adjustment in the landing limit, simply close it.

I'm not sure exactly how to handle this, or what I'm asking for, but it appears to us that the states are in a position to control the landing of black sea bass through the trip limits in order to extend the season, and then not be in a situation where fishermen have to pull their pots for a two- or three-week period, and then reset them at the beginning of the next quarter.

It appears to me and several others that the way we can handle this is, if the staff, ASFMC staff would track the landings of black sea bass, and at the point that 75 percent of the quarterly quota has been reached, to contact the states, and I'm not sure of the medium, whether it's fax.

I think it's impractical to think that we could convene the committee by a conference call, but set up some mechanism where when the 75 percent is reached, and the staff makes a projection as to what the trip limit would have to be in order to extend that quota all the way through the quarter and avoid a closure, that we then act jointly to adjust the landing limit in order to achieve the extension of the season all the way through the quarter, consistent with that quarter's quota.

So I guess what I'm asking for is the Board's concurrence to request the staff to set up that procedure for this upcoming quarter, because the Board cannot meet and take any formal action to change that.

I guess I'm further asking a commitment from the member states that we would all be guided by that advice from the staff and act within our own jurisdictions to adjust the trip limit in order to achieve that purpose.

CHAIRMAN BORDEN: Pete, for my own edification, are you speaking in regard to the next quarter, or are you speaking in terms of making adjustments in the remainder of this?

MR. JENSEN: No, the next quarter. It's too late to do it for this quarter, because as I said, the quota has probably been exceeded, and most of us couldn't act fast enough to adjust trip limit anyway for the remaining three weeks of this quarter.

CHAIRMAN BORDEN: All right, Pete has outlined a concept that would avoid some of the difficulties with the closure. Comments on that? Ernie Beckwith.

MR. BECKWITH: Yes, I think in terms of the concept it's credible, but in terms of practicality, many, many states and Connecticut, in particular, can't change trip limits on the fly.

What we have to do is do it by regulation and everything is fixed ahead of time. So, we could have a trigger included, but the trip limit that would be triggered by that would have to be fixed.

CHAIRMAN BORDEN: All right, other comments? Jack.

MR. TRAVELSTEAD: I think we have the same problem that Ernie has, but one solution might be that once that trigger is pulled, that you hit the 75 percent level, that you simply cut the trip limit in half; some pre-specified level that would automatically go into effect once industry is notified.

That can be done very easily in Virginia and, hopefully, in the other states, and we would certainly be committed to doing that as long as the other states agree.

MR. JENSEN: I think that certainly would be a positive move towards the achievement of the season extension, yes.

CHAIRMAN BORDEN: Tom?.

MR. THOMAS W. MCCLOY: I just add my support to Ernie and Jack. We had to go through some real logistical problems just to put the 3,000 pound trip limit into effect, and the way we have set up most of our plans, when it comes to ASMFC, is we have to involve our Marine Fisheries Council.

So, when they meet every other month, sometimes timing isn't what it should be to get these things done. But, if we did have some pre-determined percentage that when you

hit 75 percent, the trip limit was cut in half, or a quarter, or whatever the case may be, then we would be able to act.

Again, it would take us time to put that into our regulations so we have that ability to move. We just won't be able to do it this quarter, that's my only thing.

CHAIRMAN BORDEN: Gordon Colvin.

MR. COLVIN: I would certainly support Pete's proposal, and I think the idea that Jack Travelstead voiced is a good one in terms of setting up the mechanism. The one thing I would just suggest is if we do something like this, we base it on a projection that the 75 percent, if that's the target, is reached, rather than having reached it because if we wait until we've reached it, we're at least two weeks behind, and we may as well not even bother. I mean, that's kind of what this quarter showed us, anyway.

CHAIRMAN BORDEN: Gil.

MR. GIL POPE: Yes, in Rhode Island we found that 75 percent wasn't good enough, so we start at 60. And then after that, we have it in place so that it can go anywhere from zero to whatever we want it to be. That may also be an idea.

CHAIRMAN BORDEN: Pete, in terms of the specifics of the proposal, since you're going to have a committee meeting in August, is that too late to work out the specifics of a language you want each one of the states to --

MR. JENSEN: Yes, I think it's pretty likely that we will have reached that 75 percent trigger by the time the committee meets next, and that's why I wanted to raise it at this meeting, to see if we couldn't get a good faith agreement among the various states that for this next quarter, we will adopt this ad hoc process and act independently in the best way we could to avoid a closure.

It sounds like perhaps we're agreeing on a principle that when the Commission staff notifies us that 75 percent, or what other percentage seems appropriate, that the states would then reduce or cut their trip limits in half.

CHAIRMAN BORDEN: Any of the states object to the concept that's being advocated here? John Nelson.

MR. NELSON: I hate to use the objection word, Mr. Chairman. I merely had a question. Is the staff involved

in doing monitoring already, and so this is not an add on that would take them away from some of their other duties?

CHAIRMAN BORDEN: Dieter.

MR. BUSCH: Yes, we are monitoring, not in the depths that we will have to to do this, but it's doable. The numbers come in, and we happen to express our concern. We've talked about doing something like this, and I think this is quite doable.

MR. NELSON: Okay, thank you, Mr. Chairman. I just wanted to make sure that where we were talking about budgets, et cetera, et cetera, that, you know, we are looking at everything that comes in that might not be part of our priorities.

CHAIRMAN BORDEN: Unless I'm mistaken, the numbers are tracked by the National Marine Fisheries Service since it is the regional quota. If my understanding is correct, what we would have to do is set up a process whereby the National Marine Fisheries Service notifies the Commission, and then the staff runs through whatever process that has been adopted by the committee.

Anyone disagree with that understanding? That, to me, is a minimum amount of work. The work will be entailed in having the staff and work with Pete to try to define what the process is and what the level is between now and the point that the states adopt it.

That way you'll get consistency in terms of what is adopted. Any objection to proceeding with this? Then if not, then, Pete, I think you've got the endorsement of the board to move forward and work with the staff on the development of this type of system.

MR. JENSEN: Thank you, Mr. Chairman.

CHAIRMAN BORDEN: All right, the next issue is Dogfish, Paul Perra.

MR. PERRA: Yes, the two services, the National Marine Fisheries Service, the Fish and Wildlife Service, are very concerned with the Dogfish Fisheries Management. We worked with the Mid-Atlantic and New England Councils to finely implement what we thought was a good beginning to rebuild the dog fishery.

We still have a serious loophole to the plan in state waters. Some states have not acted fast enough, and we're also very concerned about the state of Massachusetts'

recent setting of what we feel is too high a quota.

What we would like, of course, is an emergency action by the Commission today to reduce fishing effort in state waters, and we'd like some discussion about that at this meeting to see how that can be addressed.

CHAIRMAN BORDEN: All right, either Dieter or Jack, I think it would be helpful if you could just outline the process that we would have to follow if, in fact, we wanted to proceed with some type of emergency request. Is it possible, and what is the process? Dieter or Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, the Dogfish Management Board has already recommended to the states that they take action on a voluntary basis that would assist in the implementation of the Federal Fishery Management Plan.

Under the charter for the ISFMP, the question of whether or not to take emergency action is the prerogative of the Management Board and not the Policy Board. So there isn't any action that the Policy Board could take today that would result in being emergency action.

We have received a correspondence from the Mid-Atlantic Fishery Management Council containing their recommendation that the Commission enact emergency action immediately.

And I think the implication is that they're looking for emergency action that would require the states to close state waters when there was federal closure, but the letter really wasn't that specific. That will come before the Spiny Dogfish Board in August.

We will schedule a meeting. In my discussions with the Executive Director of the Mid-Atlantic Council, I told them that I would do everything I could to make sure that the Management Board had all the information it needed to fully consider that issue when it meets in August, and will not be in the position of saying, "Well, we can't act today because we don't have enough information".

I suspect that, from the staff's standpoint, we're going to do everything we can to make sure that the Spiny Dogfish Board is in a position to vote that either up or down.

I did look into the possibility of trying to wedge a Dogfish Board meeting into this week. It was absolutely impossible. As you've seen, we've been going pretty flat out here since Monday morning.

I've already written back to Dan Furlong, telling him that it would be impossible for us to have that meeting this week. Unfortunately, the request came through after this planning and scheduling for this week's meeting was completed. Thank you, Mr. Chairman.

CHAIRMAN BORDEN: Thank you, Jack. Any questions on process? Paul.

MR. PERRA: Yes, do we have the guarantee of the Chairman of the Commission that this item will get on the agenda, because I will have to go back and report.

CHAIRMAN BORDEN: For August?

MR. PERRA: For August.

CHAIRMAN BORDEN: Oh, absolutely. There will be a full discussion in August. I would just offer the personal comment that had the request come in earlier, I would have made an effort to try to accommodate them, but the schedule was already put out.

It's just there's a limited amount of time. Some of us, I would point out, have been meeting from 7:00 o'clock in the morning until 10:00 o'clock at night; yesterday being a good example. It's not like there has been a lot of free time. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Well, I've also discussed this, Paul, with the Chairman of the Spiny Dogfish Board, and he fully intends that this will be on the agenda in August.

CHAIRMAN BORDEN: Okay, additional comments on this issue? In the audience? Sonja?

MS. SONJA V. FORDHAM: Sonja Fordham, Center for Marine Conservation. There's a letter available from the staff from CMC, National Audubon Society, Environmental Defense, Natural Resources Defense Councils of Wildlife Conservation Society, and the World Wildlife Fund on this issue.

And I just wanted to say a few things and remind you that the FMP has been under development for several years; that the science behind the plan was developed and repeatedly reviewed by many of the most respected shark and fishery scientists in the country.

I served on the Advisory Committee throughout this process, and I can tell you that no one involved was

hoping that these quotas would be as low as they've had to be.

If there were some way to continue to allow directed fishing, and still rebuild the population within the same timeframe, I'm confident that the council and the scientists and the committee would have found this.

Since the management process began, the rebuilding period has gone from less than ten years to nearly two decades. The Environmental Community and the Shark Science Community is extremely concerned that if Massachusetts carries through with its intention to catch nearly two times the federal coastwide quota, that this exceptionally vulnerable and severely damaged stock will collapse, or certainly decline further, thereby stretching recovery for several decades.

We recognize the lack of progress on ASMFC Dogfish measures to date exacerbates this difficult and unfortunate situation, and also limits your ability to act between now and your scheduled meeting in August.

However, given that the Massachusetts Fishery is well underway and will peak this summer, we urge both the commission and the individual states to take the swiftest action possible to try to prevent state landings from completely derailing the long-awaited Dogfish FMP.

I'll just remind you that the science and the background for these measures is already done, that meaningful action could be as simple as just coordinating the state and federal closures for the fishery, and/or requiring that state dogfish fishermen have a federal permit. Thank you for considering our views.

CHAIRMAN BORDEN: Thank you, Sonja. Anyone else in the audience care to comment? Back to the Policy Board. Any further comments on this? And seeing no hands up, this issue will be addressed in full at the August meeting.

I would encourage individual states to take whatever unilateral action that they can take within the confines of their existing regulatory framework. Any further action on this item? If not, we'll move on, horseshoe crabs, Jack Travelstead.

MR. TRAVELSTEAD: Mr. Chairman, I just want to take this time to pass out the legal opinion that you had asked for at your last meeting. I have enough copies for all of the commission members, I believe.

So, if you want to take multiple copies and share with the other members, that's fine. I think I have additional copies for the public who are interested.

CHAIRMAN BORDEN: All right, thank you very much, Jack for honoring that request; if the staff could hand those out to the commission representatives. If there are members of the audience that want copies of the document, please contact Tina, and she'll write down your name and address and send you a copy.

Any other business on horseshoe crab? All right, if not, summer flounder, the request was on the status of the lawsuit, Gordon Colvin.

MR. COLVIN: Thank you, Mr. Chairman. We all had recently been made aware of the Service's decision on quotas for this year as a result of a Federal Register Notice that came out, and the indication that there would be further action taken by August 1st, that resulted from the Circuit Court decision.

Since then, we haven't heard too much, and I'm wondering whether the Service representatives here, if they have any additional information, or any new information they could share with us about the status of that and what things look like for August 1st.

CHAIRMAN BORDEN: Paul and Harry.

MR. PERRA: Yes, we're going to defer to Harry to answer this simple question.

CHAIRMAN BORDEN: I think Harry is going to defer to you; and if I had recognized him first, he would have.

MR. HARRY MEARS: Without having the benefit of legal council here to assist me, I'll do the best I can. Most of you are aware, which was briefly, not briefly, extensively discussed at a recent joint meeting of the Summer Flounder Board and the Mid-Atlantic Council, that there was a court ruling back in April which remanded the 1999 specifications dealing with managing the Summer Flounder Fishery.

Essentially that ruling directs the National Marine Fishery Service, by August 1, essentially to come up with a minimum standard under the Magnuson-Stevens Act for harvest quotas with respect to meeting target fishing mortality rates.

At the risk of overstating the obvious, the National

Marine Fisheries Service is currently exploring the best way to respond to the court ruling. It is keenly aware of the sensitivity, the importance of the ultimate course of action, not only to federal permit holders, but certainly also to the Atlantic States Marine Fisheries Commission, the development of state actions in state waters.

It certainly goes without saying that anything the federal government does alone cannot achieve the intended management objectives.

One of the highlight challenges before the National Marine Fisheries Service is to work now to come up with a response to the court ruling that will meet the intent of the management objectives of the Fishery Management Plan, and to identify approach that would minimize the socioeconomic impacts upon the involved fisheries.

We would especially appreciate any dialogue or comments that this group would have at this point today.

CHAIRMAN BORDEN: All right, Gordon, further comments, questions?

MR. COLVIN: Well, yes, I guess, I appreciate what Harry is saying. I'm not sure that most of us are prepared to render advice, kind of ad hoc today. I had hoped that we might be hearing a little bit more in terms of any kind of a process that might involve consultation with the board, Harry, and the states.

But I do appreciate the Service's expression of awareness of the sensitivity and the importance of having the states on board on this issue. You know, I can only speak for myself, and I haven't thought about this in terms of a process, but I think we need to be particularly concerned about the prospects for changing things in the middle of a fishing year when state regulations are already in place, and the fatal difficulties that that lays out for state regulations and enforcement.

CHAIRMAN BORDEN: Anyone else on the Board? Anyone in the audience. If not, we'll move on. I believe that is the last item on the agenda. Any further business to come before the Policy Board? No hands up, the meeting is adjourned.

(Whereupon the meeting was adjourned at 3:05 o'clock p.m., June 7, 2000.)