

PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ATLANTIC MENHADEN MANAGEMENT BOARD

Crown Plaza Old Town
Alexandria, Virginia
May 5, 2009

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1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of February 5, 2009 by consent** (Page 1).
3. **Move for South Carolina, Georgia and Florida to be accepted as de minimis** (Page 2). Motion by George Lapointe; second by Bill Cole. Motion carried (Page 2).
4. **Move that the board initiate an amendment to Addendum III to extend it for an additional five years through 2015** (Page 6). Motion by Jack Travelstead; second by Louis Daniel.

AMENDMENT TO THE ABOVE MOTION ON PAGE 12: Move to amend by adding another option and the language would then be move to initiate an addendum to extend the Chesapeake Bay Reduction Harvest Cap for five years through 2015 or for three years through 2013. Motion by David Pierce; second by Mark Gibson.

FRIENDLY AMENDMENT ON PAGE 12: Move to amend the motion to include the wording “two to five years” for where it says “for five years”.

AMENDMENT REWORDED ON PAGE 13: Move to amend the motion to include options in the addendum to extend the Chesapeake Bay Reduction Harvest Cap for two, three, four and five years, through 2012 to 2015. Motion defeated on Page 13.

MAIN MOTION REWORDED ON PAGE 13: Move to initiate an addendum to extend the Chesapeake Bay Reduction Harvest Cap for five years through 2015.

SUBSTITUTE MOTION ON PAGE 14: Move to initiate an addendum to explore three options in regards to the Chesapeake Bay Reduction Harvest Cap, and those would include continuing status quo for five years, reducing the cap to account for an ecological value of menhaden, and, thirdly, to increase the harvest cap. Motion by Bill O’Connell; second by Pat Augustine. Second withdrawn and the motion failed for lack of a second (Page 16).

MAIN MOTION CHANGED ON PAGE 15 TO READ: Move to initiate an addendum to extend the Chesapeake Bay Reduction Harvest Cap for three years, through 2013, subject to annual review. Motion carried (Page 17). Motion by Jack Travelstead; second by Pat Augustine.

5. **Motion to adjourn by consent** (Page 17).

ATTENDANCE

Board Members

George Lapointe, ME (AA)	Bernard Pankowski, DE, proxy for Sen. Venables (LA)
Pat White, ME (GA)	Tom O'Connell, MD DNR (AA)
Doug Grout, NH (AA)	Bill Goldsborough, MD (GA)
G. Ritchie White, NH (GA)	Jack Travelstead, VA proxy for S. Bowman (AA)
David Pierce, MA, proxy for P. Diodati (AA)	Catherine Davenport, VA (GA)
Bill Adler, MA (GA)	Louis Daniel, NC (AA)
Mark Gibson, RI (AA)	Bill Cole, NC (GA)
David Simpson, CT (AA)	Mike Johnson, NC, proxy for Sen. Wainwright (LA)
Lance Stewart, CT (GA)	John Frampton, SC (AA)
James Gilmore, NY (AA)	Robert Boyles, Jr., SC (LA)
Pat Augustine, NY (GA)	Spud Woodward, GA (AA)
Brian Culhane, NY, proxy for Sen. Johnson, (LA)	Jessica McCawley, FL (AA)
Peter Himchak, NJ, proxy for D. Chanda (AA)	Steve Meyers, NMFS
Tom Fote, NJ, (GA)	David Perkins, USFWS
Roy Miller, DE, Proxy for P. Emory (AA)	A.C. Carpenter, PRFC

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

Ex-Officio Members

Bill Windley, Advisory Panel Chair

Alexei Sharov, Technical Committee Chair

Staff

Vince O'Shea
Robert Beal

Braddock Spear
Kate Taylor

Guests

Gil Ewing, NJ
Terry Stockwell, ME DMR
Jeff Kaelin, Omega Protein
Frank Kearney, CCA-VA
Richard Robbins, Suffolk, VA
Arnold Leo, E. Hampton, NY
Ben Landry, Omega Protein
Ron Lukens, Omega Protein
Ken Hinman, NCMC
Kyle Jackson, Univ. MD
Michelle Duval, NC DMF

Chris Hayes, ACCSP
Julie Defilippi, ACCSP
Wilson Laney, USFWS
Pete Jensen, Wallace & Assoc., Cambridge, MD
Drew Minkiewicz, Kelley Drye, DC
Shaun Gehan, Kelley Drye, DC
Harold Mears, NMFS
Tom McCloy, NJ DMF
Dan McKiernan, MA DMF
Charles Lynch, NOAA

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, May 5, 2009, and was called to order at 9:30 o'clock a.m. by Chairman Patten D. White.

CALL TO ORDER

CHAIRMAN PATTEN D. WHITE: I would like to start the Atlantic Menhaden Management Board Meeting.

APPROVAL OF AGENDA

CHAIRMAN PATTEN D. WHITE: There are a couple of changes on the agenda. We are switching Item 5 and Item 6. We will take the ecological reference points first before the addendum discussion. Are there any objections to that?

APPROVAL OF PROCEEDINGS

CHAIRMAN PATTEN D. WHITE: Seeing none, Proceedings from the February 5th meeting; you have all read those. Any objection to acceptance of the Proceedings. Seeing none, the Proceedings are accepted.

PUBLIC COMMENT

CHAIRMAN PATTEN D. WHITE: Nobody has signed up for public comment. I see one possible exception to that. You may come forward.

MR. RON LUKENS: Thank you, Mr. Chairman and members of the board. I appreciate the opportunity to be here today. My name is Ron Lukens, and I am the senior fisheries biologist with Omega Protein Corporation. I had a few comments I wanted to make today. It is with a great deal of excitement and anticipation that we begin the 2009 Menhaden Fishing Season in the next week or so.

We're expecting a fairly good season based upon the recent harvest forecast from the National Marine Fisheries Service. They project a coast-wide catch of around 169,000 metric tons. This figure would constitute about a 17 percent increase over the 2009 harvest of 141,133. Since

I'm discussing our harvest, I also want to talk briefly about what we do not catch.

According to the data from the National Marine Fisheries Service, on average the reduction fishery has a harvest rate of about 20 percent. What this means is that on average we harvest about 20 percent of the biomass of age one-plus fish, leaving about 80 percent of those age one-plus fish in the water.

We would expect then to leave about 676,000 metric tons of age one-plus fish unharvested. Remember this does include age zero fish, young-of-the-year fish, and that makes up a fairly large proportion of the total biomass. You may recall from my public comment at the last meeting, I reported that we made a number of improvements at our Reedville Facility that should increase our overall efficiency and environmental performance.

We're looking forward to being able to evaluate those improvements as the season gets underway. Of course, we will be keeping updated as we learn things and let you know how things are going. As you know, beginning this month the stock assessment process for Atlantic menhaden will get underway. This is always a time of anticipation as we await the final outcome of that assessment.

We're anticipating an assessment that will show an expanding population of Atlantic menhaden consisting with the raw observations of increased recruitment during the last few seasons. As an added point of anticipation, this will mark the first assessment that will incorporate ecosystem system components through the application of MSVPA.

This will incorporate predator/prey interactions between Atlantic menhaden and three opportunistic predators, including striped bass, weakfish and bluefish. This is a small but important step in the longer-term process of developing comprehensive ecosystem models for future assessments.

So, in closing, Mr. Chairman, we're excited about the upcoming season and we're looking forward to continuing our close working relationship with the Atlantic States Marine Fisheries Commission, the member states, and the National Marine Fisheries Service. Thank you, Chairman White.

CHAIRMAN WHITE: Thank you very much, Ron. Could you get me a copy of that, too, please?

MR. LUKENS: Yes, sir, I will.

CHAIRMAN WHITE: Thank you. Moving on, the plan review team reports, Brad Spear.

PLAN REVIEW TEAM REPORT

MR. BRADDOCK SPEAR: The state reports for menhaden were due April 1st, and I will go through a summary of landings and state compliance. The coast-wide harvest for menhaden, both bait and reduction, was over 188,000 metric tons. Staff is now handing out the reports, and you can look at Figure 1 in that report for the historic landings to see how that fits in.

It is about a 14 percent decrease from the previous year. Broken down into the fishery sectors, the reduction harvest reported a little over 140,000 metric tons. That is a 19 percent decrease from 2007 and a 15 percent decrease from the previous five-year average. The bait harvest was up about 6 percent to almost 46,000 metric tons, and up 24 percent from the previous five-year average.

Looking at just the bait fishery, the largest increases were seen in the New England Region. They nearly tripled from the 2007 level to about 8,000 metric tons. The bait landings in the Chesapeake Bay Region dropped by about 13 percent, and the Mid-Atlantic was essentially the same as the previous year.

Looking now at the reduction harvest in the Chesapeake Bay, with regard to the harvest cap from Addendum III the 2008 harvest cap was set at over 122,000 metric tons and reported landings for 2008 came in around 85,000 metric tons, the same for the previous year. Using the Addendum III calculations, the 2009 harvest will be set at the maximum cap of 122,740 metric tons, once again. As far as state compliance, the PRT recommends that all states are found in compliance.

You can look at Table 1 on Page 5 of the report for the reporting requirements of the plan. The only other requirement of the plan is the Addendum III cap. South Carolina, Georgia and

Florida requested de minimis, and the PRT recommends granting those states for de minimis as they have qualified.

Just a quick update of the assessment that Mr. Lukin's referred to, back in November 2008 the stock assessment subcommittee held a preliminary workshop to begin discussion potential models and data for the assessment. Next week the stock assessment committee and others will be getting together to conduct the data workshop to compile all the data for the assessment and start talking about assessment models.

In italics are the board meetings. In August you will receive a update from the stock assessment committee on progress, and you also will be presented with draft terms of reference for a vote on approval. The assessment workshop is tentatively scheduled for October of this year. In February the stock assessment and technical committees will present to the board preliminary results with a SEDAR Peer Review scheduled for March 2010. The results of the assessment and peer review should be available for the board's review by May 2010. That's it.

CHAIRMAN WHITE: I need a motion, should it be desired, for South Carolina, Georgia and Florida to be accepted as de minimis. George.

MR. GEORGE D. LAPOINTE: **I would move that those three states be granted de minimis status and that the board the PRT report.**

CHAIRMAN WHITE: Seconded by Bill Cole. Any objections to the motion? **Seeing none, the motion passes.** Are there any questions about the report; any comments? Seeing none, we will move on to terms of reference; Brad Spear.

TERMS OF REFERENCE FOR ECOLOGICAL REFERENCE POINTS WORK

MR. SPEAR: On the briefing CD the board was provided with draft ecological terms of reference that staff put together. Essentially these terms are options for moving forward with the development of ecological reference points. Currently the 2006 assessment uses an age-specific natural mortality vector, which is considered M2 in the assessment. That natural mortality accounts for predation mortality on

menhaden from striped bass, weakfish and bluefish.

That M2 vector is produced by the multispecies committee through the MSVPA model. For this upcoming assessment the Menhaden Stock Assessment Committee will be considering an age-varying and time-varying M2. Other options for moving forward with the development of ecological reference points, the first one is essentially conducting a literature review to look for other examples that have used ecological reference points or something similar to that.

This task would be conducted by ASMFC staff and technical advisors, perhaps the MSC or the ASC. It can be completed by the August board meeting. The cost to the commission would be essentially a possible tradeoff of not working on other projects. Option Number 2 was to use those examples that were identified in Option Number 1 and describe different features of those examples, including the goals, the key factors and data modeling needs.

Again, this can be conducted by ASMFC staff with help from technical advisors. It can be completed by the August board meeting and the same cost as the first option. The third option is to then compare those examples to the menhaden example, so look at the current goals and data and models for use for menhaden and see if there are similarities and differences. This, again, could be done by a combination of ASFMC staff and technical advisors.

This probably would take a little bit more time because a conference call or web-based meeting would need to be held. It could be completed by the annual meeting of this year. Option Number 4 is broken down into phases. The first phase is essentially looking at the MSVPA model that the multispecies committee is working on and trying to determine if it is an appropriate tool to develop ecological reference points; and, if so, put together some sort of timeline for actually building the model for that purpose.

This would need to be done by the multispecies technical committee and ASMFC staff. Again, kind of a feasibility assessment could be conducted by the August board meeting and likely a conference call would need to be held. Phase 2 of that option, if the MSVPA model is found to be suitable, would be to reconfigure the model. This would take significantly longer.

It would take significant multispecies committee time and staff time. The estimate was about three-plus years to complete this, holding about two meetings a year, which would cost around \$22,000, and then ultimately having that product peer reviewed. The fifth option is to monitor a project that is being facilitated by the Maryland Sea Grant.

They are putting together ecologically based fishery management plans with the goal of developing reference points for a number of species, including menhaden, but it is limited to the Chesapeake Region. I'm involved in the process in providing background information, so I would continue to do that regardless.

It looks like this process will also take several years to complete, and this would be of little to no additional cost to the commission because of staff's involvement already. There are also some other technical committee folks that are involved. That's it.

CHAIRMAN WHITE: Thank you, Brad. Comments on this report, brief as they can be, please. George.

MR. LAPOINTE: Not a comment but a question. On Option 4 it has got a Phase 1 and 1 Phase 2. Is it a package deal; if you jump into four, you've got to do both phases?

MR. SPEAR: No. If the answer to Phase 1 is no, then Phase 2 is moot.

MR. LAPOINTE: But if the answer to Phase 1 is yes?

MR. SPEAR: Then it would be another option to continue with Phase 2, so it is an iterative option.

MR. WILLIAM GOLDSBOROUGH: Mr. Chairman, I was just wondering about the role of the Management and Science Committee. Originally when we went down this road, the chairman appointed MSC to take the lead in developing ecological reference points, and that is referenced in the first paragraph of the handout, but I don't see them mentioned in any of the action items. Perhaps it is what is meant by technical advisors, but maybe a little clarification of that is useful. I see them playing a role in both number's one and two, for

example, but could we get a little clarification on that?

MR. SPEAR: Bill, the intention was to leave that somewhat vague to allow the board to craft its tasking how they see fit, so I think your suggestions are certainly welcomed and open for discussion I think with the board.

CHAIRMAN WHITE: Other questions or comments? David.

DR. DAVID PIERCE: Well, clearly, this is an important task as noted in the terms of reference in draft form. The board wanted to determine ways in which account for menhaden's ecological role in an assessment and all of our management decisions. We have discussed this at previous board meetings. We've said it's of great importance to us.

It's certainly in keeping with the thrust of where we are evolving as fisheries' managers; that is, to look at ecosystem management and the development of ecological reference points. We had Brad to start, then, with menhaden, and, of course, we started on this already. This is a progression of continued good work by a lot of entities.

Well, first I thought this was a very difficult task or set of tasks to accomplish because obviously we have Brad and Brad is one person, so he may be drawing on other ASMFC staff, I am not sure, for assistance. But, I see that's it kind of a division of labor and that we have Brad, maybe other staff, the Management and Science Committee and then the Multispecies Technical Committee, the MSTC.

Going down the list of the different terms of reference and all the tasks that have been – the possible tasks that have been described, there seems to be a division of labor. So, if indeed that is the case, I would suggest that all of those tasks be undertaken in light of the priority of this issue and the need for us to make some substantial progress.

Item 5 involves no work at all. I shouldn't say that; ASMFC staff responsible entity but no cost, little to no cost, so with little to no cost what is the problem with Number 5; let's monitor Maryland's Sea Grants progress. I'm saying that unless someone can provide some compelling reasons why not, cost, perhaps – although the costs don't look too bad.—I would say undertake

them all. It's a division of labor, not all on Brad; and if I'm simplifying matters, Brad can certainly say so.

It's hard to assess what work will not get one. Brad does note that there are possible tradeoffs of not working on other projects, but I don't really know what that means. I don't know what other projects would be set aside as this work is done. But, as far as I'm concerned this work is high priority and I would like to see it all undertaken because of the division of labor that has been assigned.

MR. SPEAR: I will just speak for myself. Most of the staff work would fall in the science department. My role would be I guess coordinating and working with them to make sure it gets to the board. I can't necessarily speak on behalf of how much time it would take in the science department though.

CHAIRMAN WHITE: So it isn't without cost of the time, David.

DR. PIERCE: Okay, so what guidance can we give at this point in time? The question has been posed which of these terms of reference do we feel should be adopted and then pursued. I can't make a call on that except to say that from what I've read they all look to be of great worth and high priority if indeed we are to achieve this goal of getting us into a position of actually coming up with and then managing with ecological reference points. I look to you, Mr. Chairman, for further guidance as to how we should address this. I can't pick and choose this.

MR. LAPOINTE: Could we do these sequentially – yes, they're all important, but rather than loading it all up and building expectations and kind of a vague timeframe – and I don't mean that in a bad way – could we commit to number one and number two and then see how that – you know, one, two or three and see that goes and then not commit to number four right now until we see what those first three bring about. Is that a logical way of dividing this?

We can address it in time, but again I don't want to pile on so much that we build unrealistic expectations. I think the work done on one, two and three may help us focus our attention on number four and five – well, five is going on,

anyway, but four before we make that step. That's just a suggestion.

CHAIRMAN WHITE: Yes, I would think if you did one, two and three all inclusive I think it would be appropriate. Does anybody have any objection to that as a start? David.

DR. PIERCE: Not so much an objection, but Brad highlighted the fact that the science entities, the science group within ASMFC would take on the lion's share of the work, I guess, and Brad would play that important role of coordinating and facilitating. Do we have any input from the science staff of ASMFC regarding how imposing these particular tasks may be and can they be done according to the projected date of completion described in the document, with August 17 appearing to be the date that jumps off the screen?

MR. PATRICK CAMPFIELD: Mr. Chairman, I think the first three task will be relatively light lifting, but as you move into exploring the suitability of the MSVPA and then the additional task of potentially reconfiguring the MSVPA require substantially more not only staff time from ASMFC but from the members of the MSC and Multispecies Technical Committee.

DR. PIERCE: Okay, with that said, Mr. Chairman, it would seem therefore that one, two and three would be realistic tasks to take on, that they could be done before the August 17 deadline. Number 4 would not be appropriate. Maybe they could get to it if the time is there, but it doesn't seem appropriate at this point in time, especially with the deadline of August 17.

Number 5 seems easy enough so I guess this is somewhat consistent with what George said and let's go with numbers one through three and number five and set four on the back burner and bring it to the front burner if indeed the groups make substantial progress on the other terms of reference. That is my suggested approach.

CHAIRMAN WHITE: I think that is a good suggestion; I think it is realistic; and I think that's a goal that we can probably reach and go from there.

MR. SPEAR: And just to clarify real quickly, Option Number 3, the projected timeline is the annual meeting for this year. We'll look into trying to get it done for August. Certainly the

first two will be completed by then, but the third one may not be until the annual meeting.

MR. PETER HIMCHAK: Mr. Chairman, I guess I have just a question here for Brad. I mean I don't understand Item Number 4 is kind of like in the background considering all that has been invested in the MSVPA, and does it not already produce age-specific natural mortality estimates just to predation? Aren't these already being used in the stock assessment Atlantic menhaden and what would be the huge undertaking in just bringing it into the ecological reference points/

MR. SPEAR: Yes, you're correct, Pete, the M2 vector is currently used in the assessment. The additional work would be to actually configure that model to come up with recommended reference points so I guess MSY for the species involved in the model. Currently based on the last peer review of the multispecies model it is not possible. It would take serious coding of the model to do that.

CHAIRMAN WHITE: Any other questions? Bill.

MR. GOLDSBOROUGH: On that subject, just to also note, the potential limitation of the MSVPA is that it only deals with three predators, and we know there are lots of other ones that also need to be looked into.

MR. LAPOINTE: Don't I recall from the last meeting or the meeting before, Matt Cieri, who is the chair of the Multispecies Technical Committee, cautioned against how much work it would take and the steps needed for moving the MSVPA into developing ecological reference points. So a part of the process and maybe for the August meeting would be just to cycle in with those folks to see what they think about the entire endeavor as well just so that we get a realistic – you know, again, develop realistic expectations about what the steps would be to put that to work.

CHAIRMAN WHITE: Done. Item 6, begin discussions on initiating an addendum. Do you want to review the beginnings of that?

**DISCUSSIONS ON INITIATING
AN ADDENDUM TO EXTEND
CHESAPEAKE BAY REDUCTION
HARVEST CAP**

MR. SPEAR: At the request of a board member, this agenda item was put on today's agenda. You should have received an e-mail from Mr. Travelstead regarding this issue, sort of prefacing why it was put on to the agenda. In a quick summary it is essentially a process issue for Virginia to begin the process with ASMFC now to get an addendum in place so that their legislature can get management measures in place by the time that Addendum III cap expires.

CHAIRMAN WHITE: Jack, do you want to review your discussion with that?

MR. JACK TRAVELSTEAD: Yes, thank you. This item was placed on the agenda at the request of Virginia and I think all of you received an e-mail from me several days ago outlining our reasoning. I know we don't have a lot of time to discuss it today, but in a nutshell Virginia desires that the current cap on the reduction harvest in the Chesapeake Bay be extended for another five years.

The current addendum will not expire until the end of 2010, so the end of next year. Our legislative process is such that our General Assembly only meets for two or three months each year in January through February or through March. Legislation that they adopt during those sessions is effective the following July 1st. So if we proceed now to have our General Assembly consider this matter in early 2009 and it is adopted, the bill would be effective July 1st of next year or about six months before the addendum is due to expire.

If we wait longer than that, then there will be a six-month period during which the addendum would not be in effect in Virginia or the harvest cap would not be in effect in Virginia. That is something we simply want to avoid not so much because we think the industry is going rush out and suddenly in that six-month period exceed the harvest cap, but simply because it will be an easier process to get the legislation through this year than next year.

I think all of you are aware that Governor Kaine and his administration have been interested in

this issue for the last three years. They continue to be interested. They want to see this addendum continued. Governor Kaine's last opportunity to submit legislation for the '09 session is this year. We will elect a new governor in November; he will take office in January.

I can't tell you who the next administration will be or how interested they will be in the subject of menhaden, and that's another reason in particular why we want to proceed this year when we know we can get that extension through the General Assembly. It will be a mystery as to how difficult it might be if we wait an additional year.

I suppose there is some interest, perhaps, on the part of some in not proceeding at this point because we know we're going to get a new stock assessment about a year from now and that might tell new information about how we need to manage the stock, but I doubt seriously that the new assessment and the new science that's coming down the road is going to tell us a whole lot new about whether or not localized depletion is occurring in the Chesapeake Bay or how we should define localized depletion.

The addendum was set up to cap harvest, to prevent things from getting out of hand in the Chesapeake Bay while we allow the science to catch up to what we've done. I don't think the addendum was ever intended to be sort of punitive in nature or designed to whittle down the fishery to the point where it no longer exists.

It was simply intended to sort of cap things where they were and prevent things from getting out of hand until the science catches up to what we need. **With that, then, Mr. Chairman, I would move that the board initiate an amendment to Addendum III to extend it for an additional five years through 2015.**

CHAIRMAN WHITE: Okay, is there a second to the motion? Seconded by Louis Daniel. Discussion on the motion. Pat.

MR. PATRICK AUGUSTINE: Mr. Chairman, I had my hand up to second that, also. I think it's the right thing to do on behalf on Mr. Travelstead's presentation. I'm wondering in extending that will we have an opportunity to add other caveats or options in the case the stock assessment comes out in such a way that it does shed some light that it makes us think that we have to take more corrective action? In other

words, instead of extending it to the cap that we have now, would you perceive the possibility of doing that or does the existing amendment have that? I don't remember that it did so maybe you can answer that, Mr. Chairman.

CHAIRMAN WHITE: I don't think the existing amendment had that option. As I understand it, it would have to be included in this addendum. The only other option would be that there would be – as it went out for public hearing, as I would understand, Jack, it could be a five-year extension or a three-year extension or a one-year extension that might then be able to be altered because of the stock assessment, but as this motion stands right now it is a five-year extension without any –

MR. TRAVELSTEAD: I think the board at any time it receives new science that dictates going into a different direction can start a new addendum or a new amendment regardless of what you do with this motion here today. You know, if next May we receive some additional information that we need to further manage the stock, I suspect it will probably involve an amendment and not an addendum, and you would proceed along those lines regardless of whether addendum is extended by this motion.

CHAIRMAN WHITE: Louis, a comment to that?

DR. LOUIS DANIEL: Yes, just to indicate that was my intent in seconding the motion that obviously if new information became available that we would be able to make modifications if need be. I also want to make sure that it doesn't compromise our ability with this new assessment to develop some terms of reference for the coast-wide harvest as well as looking at the opportunity to raise the biomass thresholds once we get the information we need in order to move forward on that, but I think that is separate from Jack's issue and agree with his answer to Pat.

CHAIRMAN WHITE: I guess a question I would have to you or Jack, if you're saying it is an amendment to undo that, then it would take two years to correct it as opposed to an addendum?

MR. TRAVELSTEAD: I'm not following your question now.

CHAIRMAN WHITE: Don't we usually consider it two years to run a full amendment through as opposed to a year for an addendum?

MR. TRAVELSTEAD: Yes. You know, I'm just presenting worse-case scenario. Nobody knows what the next stock assessment is going to say. I mean we anticipate good news but just worse-case scenario suppose it wasn't. Suppose we needed an amendment, yes, I think you're looking for at least a year and perhaps longer. And, again, worse-case scenario you've got to line up with General Assembly time periods before you would see any effective measures on the ground.

MR. AUGUSTINE: Well, that's my concern is that if we went ahead and locked us in for five years, we're then taking an action – and I know it is a critical period of time here to get this done because of your exchange in your legislative group. But, we put the action on striped bass on hold yesterday for exactly the same reason that the stock assessment won't be done on time to process it parallel.

It is slightly different because you have some time constraints, but we're talking about making a commitment for five years. We're talking about having to fix that if it has to be fixed – it may not have to be fixed – of another one or two years. Then it seems to be somewhat of a disconnect there, and it is not that I don't trust the state of Virginia, but we're locking in – it is the process again – an extending period of time without having the availability of that stock assessment.

So, unless we could come up what a shorter timeframe, if in fact we decide to change an addendum as opposed to an amendment that would be more amenable and acceptable. But, to block in five and then take two to fix, if it has to be fixed, and I hope, like Jack has, it won't need fixing, but in case it does we've gone ahead and extended ourselves again. That is my only concern and I would support the motion as it is, but I would like to have an understanding that those other caveats to be in the right context; and if we have to make change, we can do it.

MR. WILLIAM A. ADLER: I think most of my answer – we were playing with the word “amendment” and “addendum”, and you brought up, you know, it's a longer series. If you do an addendum to extend the cap, can't you reverse

that with the addendum process rather than going into an amendment situation?

MR. ROBERT E. BEAL: That's true, Bill, the Chesapeake Bay Cap was established through an addendum and it can be modified through an addendum, the number can be changed. All those things can be done through an addendum. I think what Mr. Travelstead was anticipating is if there was bad news from the stock assessment and significant changes needed to be made to how menhaden is managed coastwide or within the Chesapeake Bay there may be a need for a full amendment to essentially do wholesale change of how we manage the menhaden stock. I think that is what he is anticipating, but your statement is correct that the Chesapeake Bay Cap can be modified through an addendum.

MR. LAPOINTE: We also have options. Say it is bad news, we could do an addendum to do a stopgap and then move into an amendment to do something more long term. I mean I think there is plenty of management flexibility. If it is terrible news we have got our emergency measures in our Compact. I think there are plenty of ways that we've got flexibility to act appropriately when we know what the assessment says.

MR. GOLDSBOROUGH: Mr. Chairman, first a question for Jack as I didn't hear it in Ron's remarks. Does the industry support extending the cap, Jack?

MR. TRAVELSTEAD: I believe they do, yes.

MR. GOLDSBOROUGH: Thank you. In that case I think it is useful to recall what got us to where we are now and where we're trying to get at the end of this five-year period. The five-year cap was adopted initially in 2005 simply as a stopgap, sort of a backstop to prevent any significant increases in catch during that period while the science was updated, as Jack mentioned.

If folks who were around the table at that time will recall, there was tremendous public interest expressed; I think to the tune of 20,000 letters and e-mails, for a much stronger action than that, but at the time we had a stock assessment, and still do, that indicated the stock was not overfished, and yet this board was faced with a lot of what we at that time called red flags about the state of the menhaden resource and

associated species in the Chesapeake Bay, primarily striped bass reduced weight-to length ratio, disease, increased natural mortality, lots of things like that that we discussed at the time that led us down this road.

The intent was to get to the end of the five-year period and have more precise management measures to implement to deal with those concerns. We are three years into the five-year period. I guess my main concern is that we not, at this point, either by intention or just by appearance extend that holding period without actually making measurable progress toward the real objective, which is to do better, more precise management of menhaden in particular in the Chesapeake Bay, accounting for its ecological role.

And, noting that when the current amendment was adopted in 2001 we did include an objective to maintain the ecological role of menhaden; and at this point we haven't done anything on the ground that would help with that. We're faced with coming to the end of this five-year period and entering the 2011 fishing season ten years after that amendment was adopted without having done anything to that end.

So, my primary concern is making sure that we are acting with all responsibility and dispatch to make progress toward that end by the end of this five-year period and that any extended cap – and I think we need further discussion of what form it might take – would only be considered a temporary backstop while we continue to try and do that.

Now, having said all that, a few other pieces of that history I think are relevant. The initial cap that the commission adopted in 2005 was for 105,000 metric tons, and it was based on the average over the last five years reduction catch in the Chesapeake Bay. The rationale for that was that we had had declining reduction catch in the Bay over a number of years.

If you recall there was discussion about the cap average of the last five years, the average of the last ten years, the average of the last fifteen, but in view of that declining trend and given the appearance in the catch data, that actually might have leveled off over the previous five years, including some fluctuation.

The rationale was, okay, an average over the last five years probably makes some sense as a backstop, so that's why we set it there. Because of the process in Virginia that requires the General Assembly to adopt management measures for menhaden through legislation, that was not final in Virginia until that was done, and in the 2006 legislative session they declined to do that and it put us in a bit of a bind.

But to its credit the Kaine Administration worked very hard in the spring of '06 and hammered out what appeared to be a good alternative that the industry could live with. Indeed, they did; they signed an MOU between Omega Protein and the state of Virginia. Essentially what that did was it updated the five-year average one more year because we had an additional year of data at that point, 2005's catch, and that in effect increased the cap to 109,000 tons.

That agreement also added the potential for a one-year rollover of underage, so that is what takes it to about a 122,000 metric ton maximum possibility in any one year. This board subsequently agreed with that rationale, and that is what puts us where we are today with that cap. It's worth noting that at that point in mid-2006 the Virginia General Assembly was not in session; that Omega Protein, to its credit, agreed to adhere to that cap that year voluntarily, so that's why the five-year period started in 2006 and goes through 2010 because the industry did it voluntarily the first year.

I think that raises a couple of questions that we need to consider. The first is whether or not – if the industry agrees with extending the cap, whether or not we are in as much of a process bind as we think because if the industry does agree with the extension might they not voluntarily adhere to it in a 2011 season if it came to that and get us over that hump. I just toss that out.

I think the important thing, though – and I think as I mentioned earlier we need further discussion of what the form of an extended cap might be – is the issue what the cap level will be because as I mentioned before the rationale for the current cap was the impression that we had at the time that the Bay Reduction Catch had leveled off, and that pattern is somewhat evident in the landings' graph that Brad had on the screen there.

It's a little bit muted by the inclusion of the bait data as well, and it's stronger when you see just the reduction catch for Bay. But, in fact, what has happened since then is that the reduction catch in the Bay has continued to go down, so begging the question whether setting the cap at that five-year average still makes sense.

One of the points I think we need further discussion on is whether or not we don't – if we're going to extend the cap and have it be an effective backstop while we take other action, have it make sense and have it be consistent with what we did before, whether or not we don't need it to be a five-year average over the most recent five years, which is exactly what we did in 2006 when we updated the initial cap for formal adoption and updated that through '05 and increased the cap to 109,000 tons. Then the other point that I think needs discussion is if we do proceed to extend the cap, how many years does it need to be extended at this point. Those are a few issues I think need further discussion, Mr. Chairman. Thank you.

MR. TRAVELSTEAD: Several points. First, there isn't anybody who has been more disappointed than I in the lack of results in the research into whether localized depletion is occurring in the Chesapeake Bay and how we define it and what we do about it if in fact it is occurring.

We have spent a lot of money looking at those questions and they've at least at this point only revealed bits and pieces to answer that question, so there is still quite a bit of work to be done, but there is no evidence at all that the cap needs to lower. The cap, again, was intended to prevent some sudden expansion in the industry that might really put things out of whack.

The fact that the harvest in the Bay the last years have been below the cap I think is the best indication that the addendum that we have is working. The industry, in their behavior, has responded. They have adjusted how and when and where they fish, so I think the current addendum, as it is, has been a complete success and should be – let's extend it for five more years, recognizing that if one piece of additional information comes forward that causes concerns, in the blink of an eye this management board could adopt another addendum to fix it.

All we're asking is accommodate our legislative process, give the governor a chance to put forward this last bit of legislation to carry us forward, get it done; and then if something happens we can be right back here at the next meeting and fix it. I don't think we're ever going to see that. I mean the science certainly isn't heading us in that direction, but if does happen we know we have the ability to change and change quickly.

MR. HIMCHAK: Mr. Chairman, just to address Bill's comments, Bill, with the stock assessment being presented to the board in May of 2010 and the existing cap at 109,000 running through the season of 2010, isn't Jack's action more like a placeholder.

When the board reviews the SEDAR Report in May of 2010, it has every ability to adjust the cap immediately, I would think, and then if it so desires to development another amendment based on what comes out of the stock assessment. Isn't this just a timing issue or do you see this as a perception problem where we're essentially endorsing a cap for five years at a level that is somewhat inflated?

MR. GOLDSBOROUGH: Well, I do think there is a perception issue, but it is not just perception. It is the real issue of whether we're making progress toward the end of maintaining and restoring menhaden's ecological role as we committed to in 2001. Pete, if we do get to that point, aren't we facing the same process or concern that is causing us to discuss this today, in Virginia, I mean, so that issue will be before us regardless I guess would be the point.

I guess maybe what makes it more compelling is that if you recall why we have the cap in the first place, as I described briefly a moment ago, we still have all those warning signs. In fact, we have them to a greater degree now. We do have new information that suggests the concerns are worsening. We continue to have poor recruitment in the Chesapeake Bay. Nothing has changed there.

That was one of the most compelling reasons for going down this road in the first place, so we have three more years of poor recruitment. I guess it is totaling around 15 years in a row now. The striped bass circumstance has gotten worse. We now have a peer-reviewed paper out of VIMS from last fall which proves a connection

between mycobacteriosis and increased natural mortality in striped bass.

I heard a presentation on that a couple of weeks ago at a NOAA Fishery Symposium. I spoke to the PI for that work, and I said, "Isn't it true that people have said that when the resident striped bass are afflicted by this disease in the Bay, when they enter the coastal migratory stock, that we see lower incidents of the disease and in effect that they're able to shed the stress when they leave the Chesapeake Bay so maybe it is an environmental thing?"

He said, "Well, we don't know exactly why you see lower incidents along coast," but his impression was that the most likely reason was simply that the ones that had been infecting the Chesapeake Bay had died, so there is real concern and real reason not to just go status quo. Whether that is perception or real, I think both are important. I'm not certain where that leaves, Mr. Chairman, but I do think these are real concerns that need further deliberation.

MR. G. RITCHIE WHITE: I guess I would ask Jack, after listening to Bill's input – I think we're going to get additional input from the public in this process, and I guess I would ask Jack if he, in his motion, would allow options of two, three and five years? Then that way, after hearing public input, we would decide whether a shorter timeframe or a longer timeframe makes sense.

MR. TRAVELSTEAD: Well, my preference, obviously, is for five years. I mean there is something to be said from an industry perspective of – I mean you're trying to run a business and it helps to know where you're going to be down the road. If you're doing this every two years, that is a pretty short planning horizon. That is why I like the five years. If you want to amend the motion to add those additional years, you can do that.

Again, I don't really see the point. By making it a smaller number of years, I suppose that forces the board to come back and have to decide whether to renew it or move in a different direction, and yet the board already has that ability every year to make changes or every meeting if they want to. I don't think you gain anything by shortening the time period.

What you do gain by going with the longer time period is if you don't have to deal with it, it is

already there in place and you don't have to worry with it and you don't have to put staff back through the process of yet another addendum.

CHAIRMAN WHITE: In the interest of time, and I will give you a chance to think about it while I go to the public, I think, Bill, you've got an opportunity if you want to do a substitute motion, as you do, Ritchie, and as Jack indicated I think there is also an option to possibly go to the 105 as a cap option with a five-year extension. If you would like to think about that for a moment, I'll go to the public for a brief comment because time is of the essence. Ken.

MR. KEN HINMAN: Ken Hinman, National Coalition for Marine Conservation. You just had a discussion about terms of reference for ecological reference points and planned out a strategy, I believe, to look into those a bit more seriously than we have so far, the first really serious exploration of what kind of things we can do to manage menhaden differently on an ecological basis.

With reports due in August and October, I think that it's a bit premature to be talking about extending the current management scheme for another five years. We're talking about 2015; we're talking about 15 years from when the 2001 amendment took place that made ecological management of menhaden an objective of this plan.

I think we certainly have wanted initiation of an addendum to replace the current cap with a new management regime in 2011, so we're certainly not opposed to that; but if you're going to initiate that at this point, you really need to include all the options on the table. You need to put not just extending the current cap but extending a cap for, as has been mentioned, various time periods but also caps at different levels.

You have also heard in past meetings recommendations of things like a coast-wide cap. You have heard implementing new catch limits based on new ecological reference points as they are developed, and they could be developed within the next year. I don't have any reason to think that is not possible with what you've started here.

I think it is due the public for you to offer up a wider range of options than you're talking about

right now for future management of menhaden in the Chesapeake Bay, especially if you're talking about an extended period of time. It will be perceived by the public, and I think with a very good reason, as just punting and doing nothing for another five years. I think you really need to get serious about this and put different options on the table.

Bill mentioned the five-year average, the most recent five-year average. I think that certainly should be an option given what has happened in the fishery in recent years. The population in the Bay seems to be lower than it was. We have got a lot of evidence that striped bass are having more trouble than they were having before.

Fish have been infected with mycobacteriosis which scientists have said could be a stress factor related to diet. The mortality is twice as high as healthy fish and their growth is only two-thirds healthy fish. There are a lot of signs that mean that we can't just extend this term program for five years. We need to do more so I think at the very least that has to be an option that you're talking in a new addendum. Thank you.

CHAIRMAN WHITE: Thank you, Ken. Anyone else from the public? Would you please try and keep your comments to the motion.

MR. BEN LANDRY: My name is Ben Landry, and I am with Omega Protein, and thank you for the opportunity to comment on this. The industry does support Virginia's steps to extending this cap. I wouldn't characterize as a change in management other than actually more of the same. It is an extension of the current cap in place until we have more science to indicate anything different, and at this point we simply do not have that available to us.

In regards to the length of the cap I think that the commission has the administrative tools in place to adjust it should that need arise, but again the scientific and research agenda has not concluded that there is any need for that change. The stock assessment will be coming out the first or second quarter of next year, and all indications are that the stock will remain healthy. Those are Omega Protein's comments and we thank you guys for opening this debate. Thanks.

DR. PIERCE: I thought Bill Goldsborough did a very good job in giving us some history as to where we've been and where we are, some

considerations that we really do need to think about. Of course, Jack made some very compelling arguments for moving forward with this particular addendum and that strategy to extend the cap. Members of the public have also raised some similar concerns that are also quite compelling.

I would support an addendum to extend the cap, but I would prefer to see another option in place, because as it stands right now the motion really extends the moratorium for seven years. I mean we're in 2009, 2010, et cetera, et cetera, so I would like to extend it for five years as of this year right now. **I would move to amend by adding another option and the language would then be move to initiate an addendum to extend the Chesapeake Bay Reduction Harvest Cap for five years through 2015 or for three years through 2013.**

What is it you don't understand? Right now it says extend it for five years through 2015, so I'm saying add another for three years through 2013. Right now we're in 2009. The fishery is underway, but it will continue throughout the year. That means we don't know what 2009 is going to be like.

We don't know what 2010 is going to be like; we're not there yet, and then '11, '12, '13, '14, '15, so that is quite a long period of time to go with initially in light of the comments made by Bill, especially. So, to me a three-year option makes a lot more sense. It still prolongs the cap for a period of time, but it doesn't extend it out for seven years, including the current year that we're in. That would be the other alternative for three years through 2013 with an understanding that, as Bill said, if indeed we do get some new assessment information that indicates that the cap is inappropriate or some other number should be put in place, something lower, for example, then we can move with another addendum to respond to that new scientific information.

CHAIRMAN WHITE: Is there a second to this amendment to the motion? Seconded by Mark Gibson. Comments to the amended motion. Yes, Roy.

MR. ROY MILLER: Just to extend David's logic, I am wondering if it would be, to give us maximum flexibility, if alternative wording for his amendment might be two to five years for the

original wording of five years, and that would give us maximum flexibility within that time period.

CHAIRMAN WHITE: The maker of the motion.

DR. PIERCE: I have no objection to that if it provides maximum flexibility. **I would accept that as a friendly amendment.**

CHAIRMAN WHITE: The seconder?

MR. GIBSON: Yes.

CHAIRMAN WHITE: Do you want to read how you would like to have it, then, Roy?

MR. MILLER: **Move to amend the motion to include the wording "two to five years" for where it says "for five years".**

CHAIRMAN WHITE: Thank you. Comments on the amended motion. Louis.

DR. DANIEL: I just think we might be micromanaging I think with a simple request to extend this for five years, recognizing that we have the flexibility through an addendum to change it back if we need to. I mean it just seemed like – we're going to get an assessment in May – I think Pete said as a placeholder, and that is the way I see it is if we find out we've got a problem in May, then we can come back and say, "Sorry, Jack, we've got to back up." I speak against the amendment.

MR. THOMAS O'CONNELL: I guess I'm in a position that I don't think I can support either of the motions at this point in time. I wonder why we're not willing to make a commitment to revisit this in one year. I think while we always can come back and revisit this issue, we made a commitment of five years of research, of a stock assessment and looking at ecological reference points, and all of that information is coming together within the next year.

I think it is important for us to show some accountability to the public that we are willing to come back to the table and revisit this situation when that information becomes available. We've patiently awaited the findings of the research and the stock assessment and maybe it is not going to show significant new information, but is today the time to preclude that knowing

that the CIE report is available to the board in August? I'm just really concerned with going forward with either of these two motions at this time.

MR. GOLDSBOROUGH: Perhaps one additional alternative, and to reuse Roy's term of maximum flexibility, and that would to actually have maximum flexibility and say "one to five years". Might that not be worth considering?

CHAIRMAN WHITE: I think we're beating this to death, but, do you want to make that switch? What difference does it make from the original motion as Jack has said because we have that option with the five years?

DR. PIERCE: Well, I guess I was focusing more on perception than anything else. I recall all the discussions we had about the cap years ago, and the audience was full, and there was vitriol, there was anger, there was compassion. There is nobody here speaking in that way. I'm not sure exactly what that means. Maybe the public didn't realize we were going to focus on this issue today; I am not sure.

The five years, again, is seven years, so the public would understand that we are going to extend it for seven years without any data in hand, without any new information. It just seems inappropriate, it gives the wrong impression. That is why I started with the three years, but maximum flexibility, two to five years – doing it for one year, that might be too much at odds with what Jack has requested.

In other words, he has to deal with the legislature and to ask the legislature to – well, the governor, I suppose – one year seems awful short. I would rather keep it this way, two to five years as opposed to one to five, again with the understanding that the new information may dictate some other approach.

CHAIRMAN WHITE: Ritchie, are you going to bring this to a close?

MR. R. WHITE: Unfortunately not. Mr. Chairman, I guess I would like to ask Tom, in his comments where he said he wasn't going to support this motion, what he is looking for. Is it status quo? I wasn't quite clear on where Maryland wanted to head.

MR. O'CONNELL: I guess my preference would be to remain committed to the existing schedule and revisit this question in May. I think we have heard from Virginia that the risk of not having a cap in place in 2011 is probably low because the industry has not met their current cap and whether or not there is some emergency legislation process to short gap that time difference from January to July, I am not sure of that.

My preference would be if we went forward with an addendum at this time it would include a broader range of options for the harvest cap, looking at options that could potentially increase the cap or lower the cap in recognition of the ecological value of menhaden. I guess the question would be whether or not that would require an amendment versus an addendum.

CHAIRMAN WHITE: Anymore new comments to this? Bill.

MR. ADLER: Mr. Chairman, can I move the issue?

CHAIRMAN WHITE: You certainly may. The issue has been moved. We are voting on the amendment to the motion: **Move to amend the motion to include options in the addendum to extend the Chesapeake Bay Reduction Harvest Cap for two, three, four and five years, through 2012 to 2015. Motion by Dr. Pierce; seconded by Mr. Gibson.** Caucus for 30 seconds.

(Whereupon, a caucus was held.)

CHAIRMAN WHITE: All set to vote? All those in favor of the motion raise their right hand; all those opposed. **The motion fails.** Now we're back to the main motion. **The main motion is move to initiate an addendum to extend the Chesapeake Bay Reduction Harvest Cap for five years through 2015.** Motion by Jack Travelstead; seconded by Dr. Daniel. Do you need time to caucus?

MR. FOTE: Mr. Chairman, I haven't made a comment on this. I was waiting to see how the other motion turned out.

CHAIRMAN WHITE: Okay, go ahead.

MR. THOMAS FOTE: You know, I have been listening to the back and forth on this, and I'm

really concerned on what perception we put out here. I mean we basically went through a public hearing process and came up with a cap a couple of years ago. The cap was not implemented as it basically went through the public hearing process of the legislature of Virginia, basically taking another course in a compromise situation that came through and the board approved it.

My concern is if we basically vote for this and we basically come back in two years, it doesn't solve the problem in case we want to do something different. It has still got to go through the same legislative process, so I'm really not ready at this time to support this type of motion to extend it five years for what is something I'm not sure is the right way of going.

I can't support this motion in its present form. If there were other options included in the motion, I could do that, basically allowing – because we're going to go to public hearing, I want to go to public hearing with all the options that are available to go there. I just can't support this motion presently as it states.

CHAIRMAN WHITE: Thank you, Tom. Any other comments? George.

MR. LAPOINTE: I am going to support the motion. Of course, I'm going to confer with my colleague at the head of table. As we move forward, I certainly need a better a better understanding of the statement a number of people have said about how conclusive the science has been.

We can all enter into good-faith efforts to go on a five-year research plan, but we can't guarantee the outcome of that. So if we have in good faith entered the process of trying to gather new data and the data aren't conclusive, that doesn't mean we haven't done it in good faith. It just simply means that the questions being asked, there aren't conclusive answers. I think that will take some explaining for me and for members of the public.

So if we are try to enter the debate after five years of inclusive data, we will go back to the same process we had and it will be as contentious as before and that won't be a good spot for this commission to be in.

CHAIRMAN WHITE: Any other comment? Tom.

MR. O'CONNELL: Just a question; if we were to consider other options, status quo or increase or decrease the cap, would that be a process through an addendum or would that require an amendment process?

CHAIRMAN WHITE: It would be an addendum unless it is a substantive change, as I understand it. If it is just the cap, it would just be an addendum. Yes.

MR. O'CONNELL: **Well, if I could offer a substitute motion, then, move to initiate an addendum to explore three options in regards to the Chesapeake Bay Harvest Cap, and those would include continuing status quo for five years, reducing the cap to account for an ecological value of menhaden, and, thirdly, to increase the harvest cap.**

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, we want to make sure we get this correct, so if you will give us a minute or two to get it up there before you start.

MR. O'CONNELL: In regard to the time period, my preference would be to include a range of one to five years, but I could go with five years recognizing that the board can come back and revisit this at their will. The only suggestion I would have is to include the timeframe for all of the three, so initiate an addendum for up to five years, to include –

CHAIRMAN WHITE: So that would be for all three, then? Okay, is that it now?

MR. O'CONNELL: Yes, as long as it is clear it is to the Chesapeake Bay Reduction Harvest.

CHAIRMAN WHITE: Is there a second to that motion? Pat Augustine seconds. Louis Daniel.

DR. DANIEL: I would really suggest that we wait until we get the assessment before taking this type of action. I mean I think Jack's motion was simple and I think it was a placeholder as we move forward. But in order to address a lot of these questions and concerns, you really need to wait until you get your assessment to look at the impacts of increasing and decreasing, determining what the ecological role is and quantifying that to some degree.

I have no problem with pursuing this, but I think that is something for next year. At that time if

we find that we need to reduce the cap based on the assessment we will be able to, but at least we give Virginia the opportunity to move forward with their legislative agenda, recognizing that it may change based on the assessment. I speak in opposition to the motion.

MR. TRAVELSTEAD: Well, what I thought was a simple sort of administrative issue that would be over and done within a few minutes – and it is largely because everybody is worried about perception. Most of you don't even have big menhaden fisheries but you're very worried about how this plays back home.

To me the substitute motion that was just made is – I mean what is the perception of that? The perception I have of that motion is we don't know where we want to go. We might increase the cap, we might decrease it, we might keep it the same. I think that creates a whole new set of perception parameters.

I mean the fact is we've had multiple reports from our technical committee that we don't have a whole lot of new science on this whole question of depletion, localized depletion in the Chesapeake Bay. In fact we don't even know how to define it yet. We heard somebody say that abundance of menhaden in the Chesapeake Bay is down again.

I mean if we knew that we would know how to define localized depletion. In fact the catch per unit of effort of menhaden in the Potomac River has been increasing for the last several years. I had wanted this to be a rather simple process to just keep us on a road to give industry a planning horizon for them. If the science does change, then I'm sorry we will have to deal with it in a different amendment, whether it is six months from now or six years from now.

CHAIRMAN WHITE: Thank you for your intentions, Jack. Doug.

MR. DOUGLAS GROUT: I have to agree with the previous speakers that this motion opens up too much work here until we have the assessment. While I supported the previous motion to amend and having more options, this has too many options in it that we have to deal with without an assessment. I don't support this motion.

MR. HIMCHAK: Mr. Chairman, I have a question that may be a solution to this. What if we move to extend the harvest cap to the year 2011 with the proviso that it be subject to annual board review for every year thereafter much the same as what we're going to deal with horseshoe crabs at the August meeting? Would that not solve Jack's problem and not commit to the cap for five years?

CHAIRMAN WHITE: I won't speak for Jack because I think he already addressed that, but do you want to make your comment again, Jack?

MR. TRAVELSTEAD: Perhaps five years to 2015 is too long. I mean is that part of your problem? If we could get to 2013 with a proviso that there will be an automatic annual review by the board – I mean I think you can do that, anyway, but if that gives comfort to those of you around the table, I don't object to that. If we could at least get it to 2013, I think I would be satisfied with that.

MR. AUGUSTINE: Mr. Chairman, I seconded the motion for the discussion to be focused and that's exactly what it did. It became more clear in my mind as to the following speakers after the motion was made that this is nebulous. We can't get our arms around it, and it doesn't give us the real direction that we're looking for.

By the way, I won't support my own second on that motion, but we did focus on the issue. The issue is that we're adding things to a rather simplistic administrative direction that the state is asking to go forward with. With regard to what Mr. Travelstead said about changing the five years to a three year, if you would want to substitute or I would substitute a motion to go to 2013, and then we would be able to support that. Thank you.

CHAIRMAN WHITE: Well, procedurally there is no substitute motion here. We're back to the main motion because the substitute motion no longer has a second. I would ask the maker of the initial motion then if he would accept that as a three-year – if that is what you're proposing, Jack, and then as I understand it, Mr. Augustine will second that.

MR. TRAVELSTEAD: **Change my original motion to through 2013.**

CHAIRMAN WHITE: And do you second that?

MR. AUGUSTINE: I would second that, Mr. Chairman.

CHAIRMAN WHITE: Okay, so main motion now reads move to initiate an addendum to extend the Chesapeake Bay Reduction Harvest Cap for three years, through 2013. Motion by Jack Travelstead; seconded by Pat Augustine. No, what?

MR. AUGUSTINE: Mr. Daniel was the original seconder.

CHAIRMAN WHITE: Okay, whatever, seconded by Louis Daniel.

DR. DANIEL: But I think you're in a scrape here.

CHAIRMAN WHITE: I am?

DR. DANIEL: Yes.

CHAIRMAN WHITE: I don't think so. Go ahead.

DR. DANIEL: Well, if you're not, that's cool, but I think just because – I mean I don't think Pat formally withdrew his second for Tom's motion; and I would think that, also, if a second is withdrawn, you have to give the option for somebody else to second his motion before you just automatically assume that it is a dead motion.

CHAIRMAN WHITE: I'm willing to do that. Bill, did you have a question?

MR. GOLDSBOROUGH: That was the point I was going to make.

CHAIRMAN WHITE: Okay, on the substitute motion Mr. Augustine withdrew his second –

MR. AUGUSTINE: **I withdraw my second officially.**

CHAIRMAN WHITE: -- officially. Is there anyone that wants to then second that substitute motion? Bill Goldsborough wishes to second the substitute motion. Oh, can't do that. **Seeing no second to the motion, the motion then fails. We still are back on the main motion; comments to the main motion.**

DR. DANIEL: Mr. Chairman, I'm comfortable with Jack's perfection to the motion, as the seconder of the motion, to change it to 2013.

CHAIRMAN WHITE: I understand that; I think you made that point very clear. Pete.

MR. HIMCHAK: Mr. Chairman, I would feel more comfortable if it explicitly had the language "subject to annual review by the board". I think that was discussed. I would feel more comfortable if it was written into the motion.

CHAIRMAN WHITE: Did you include that in your thought process, Jack.

MR. TRAVELSTEAD: Yes, that was my intent.

MR. BEAL: Just for clarification, as we draft the addendum is that annual review beginning in 2011 or is it annual review after 2013, which means the board could, through board action, extend the cap beyond 2013? I guess I'm not –

MR. TRAVELSTEAD: It means we're going to come back here every year and have this same amount of fun starting this time next year.

MR. BEAL: I was afraid that was the answer. At the end of 2013 the board would have to go through another addendum process to extend the cap if they chose to do that; is that your intention, Mr. Travelstead?

CHAIRMAN WHITE: He is nodding yes. All right, you have ten seconds to caucus.

MR. ADLER: All right, what happened to the subject to reviews; is that just not there anymore?

CHAIRMAN WHITE: It's coming. Roy.

MR. MILLER: Mr. Chairman, when does this annual review start; it wasn't clear?

CHAIRMAN WHITE: Next year. Bill Goldsborough.

MR. GOLDSBOROUGH: Mr. Chairman, the discussion on the substitute motion was interrupted by that procedural issue of the second, and I did have something I wanted to add with respect to the issue of what level the

cap is set at. At this point I recognize it may be just for the record, but I think that's worthwhile.

Reference has been made to not moving on an addendum that would change the level of the cap until we have the assessment in hand. I think it's important to recall that the current cap was not set related the most current assessment at that time at all. It bore no relationship to what the assessment said.

It was simply a matter of looking at the catch record and deciding with the logic that I previously described that the most recent five-year average made sense. So an adjustment that would maintain that principle and set the cap at the most recent five-year average would be consistent with what this board has done and with what all the major players on this issue have agreed to in concept previously.

I just want that to be on the record because I think extending the cap at this level bears little relevance to the reality of the resource at this time. Maybe it will be a reasonable placeholder, and that is all well and good, but I think we could do better to consider the actual level of the cap. Thank you.

CHAIRMAN WHITE: It would be my understanding, and I am not going to belabor it, that the cap will remain where it is now unless something comes out of the stock assessment that indicates otherwise, at which point the board has the prerogative to change that without going forward with another addendum.

MR. BEAL: The board would need to go through the addendum process to change the cap. It was established through an addendum and it would take more than simply a board vote to modify the cap.

CHAIRMAN WHITE: The Chair stands corrected. We're now voting on the motion, and I will read it: **Move to initiate an addendum to extend the Chesapeake Bay Reduction Harvest Cap for three years, through 2013, subject to annual review. Motion by Jack Travelstead; seconded by Dr. Daniel. No need to caucus at this point. All those in favor raise their right hand; all those opposed; null; abstentions. The motion passes.** Update on the Chesapeake Bay Menhaden Research, Brad.

UPDATE ON THE CHESAPEAKE BAY MENHADEN RESEARCH

MR. SPEAR: I won't go through the full presentation; it's just a couple of slides. You will get a more complete update of the menhaden-related research in the Chesapeake Bay at the August meeting. The research was put through a program review of CIE experts this month, and those experts are putting together their recommendations for moving forward with the program. There were very engaged and personally invested in the issue, so it should be a thorough report presented to you in August.

MR. DAVID SIMPSON: I just wanted to get the outcome of the vote in the record; the number for or against and so forth. I think it just helps for our recordkeeping.

ADJOURN

CHAIRMAN WHITE: Sixteen in favor, none against, one null. Seeing no other business, I thank you, one and all, and I absolutely apologize to the Summer Flounder Board for carrying this over. I appreciate everybody's patience. We will see you next year for the renewed discussion.

(Whereupon, the meeting was adjourned at 11:10 o'clock a.m., May 5, 2009.)