

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN LOBSTER MANAGEMENT BOARD**

**Crowne Plaza Hotel
Old Town, Alexandria, Virginia
May 3, 2010**

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1. **Approval of Agenda by consent** (Page 1).
2. **Approval of Proceedings of February 1, 2010** by consent (Page 1).
3. **Move to adopt of the recommended technical committee memo of 10/30 for quartile-based abundance and exploitation rate reference points modified at the 25th percentile of abundance as a limit reference point (LRP) and the 50th percentile or median as the interim target reference point for the Southern New England Stock Area; leaving Georges Bank and Gulf of Maine reference points at the 75th percentile** (Page 5). Motion by Dave Simpson; seconded by Doug Grout. Motion carried (Page 11).
4. **Move to adopt Option 2 for Section 4.2 in Addendum XVI** (Page 12). Motion by George Lapointe; second by Doug Grout. Motion carried (Page 15).
5. **Move to approve Addendum XVI as amended** (Page 15). Motion by George Lapointe; second by Rep. Dennis Abbott Motion carried (Page 15).
6. **Move that the board task the technical committee with looking at that assessment and those figures and what have you again, taking out Western Long Island Sound and Buzzards Bay and taking those zeroes off the board** (Page 19). Motion by William McElroy; second by Bill Adler. Motion withdrawn (Page 21).
7. **Move to initiate an addendum to the Lobster FMP to address the stock condition in Southern New England. The addendum will include a range of alternatives from no action to a moratorium** (Page 21). Motion by George Lapointe; second by Pat Augustine. Motion carried (Page 23).
8. **Motion to initiate a new addendum if the Commonwealth of Massachusetts does not amend its regulations prior to July 1, 2010, that would extend biological measures to Outer Cape Cod that were approved by the board in Addendum XI for Area 3. These changes would create a 6-3/4 inch maximum size for male and female lobster and a one-quarter inch v-notch with or without setal hair possession standards for a female lobster in the Outer Cape Cod LCMA to complement federal measures. If the Commonwealth promulgates regulations prior to July 1, 2010, then those regulations would be added to the next ASMFC addendum to have the ASMFC Lobster FMP consistent with the Commonwealth's regulations** (Page 27). Motion by Pat White; second by Bob Ross. Motion was defeated (Page 29).
9. **Motion to approve *de minimis* status for the states of North Carolina, Maryland, Delaware and the Commonwealth of Virginia** (Page 30). Motion by George Lapointe; second by Pat Augustine. Motion carried (Page 30).
10. **Adjourn by consent** (Page 30).

ATTENDANCE

Board Members

George Lapointe, ME (AA)	Seth Macinko, RI, proxy for Sen. Sosnowski (LA)
Terry Stockwell, ME, (Administrative Proxy)	David Simpson, CT (AA)
Pat White, ME (GA)	Lance Stewart, CT (GA)
Sen. Dennis Damon, ME (LA)	James Gilmore, NY (AA)
G. Ritchie White, NH (GA)	Pat Augustine, NY (GA)
Douglas Grout, NH (AA)	Brian Culhane, NY, proxy for Sen. Johnson (LA)
Rep. Dennis Abbott, NH (LA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AA)
William Adler, MA (GA)	Tom Fote, NJ (GA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	Gilbert Ewing, NJ, proxy for Asm. Albano (LA)
Rep. Sarah Peake (MA) (LA)	Craig Shirey, DE, proxy for P. Emory (AA)
Bob Ballou, RI (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Mark Gibson, RI (Administrative Proxy)	Tom O'Connell, MD (AA)
William McElroy, RI (GA)	Bob Ross, NMFS

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

Ex-Officio Members

Carl Wilson, Technical Committee Chair

Joe Fessenden, Law Enforcement Committee Chair

Staff

Vince O'Shea
Robert Beal

Toni Kerns
Brad Spear

Guests

Carl Wilson, ME DEM
Charles Lynch, NOAA
John German, LISLA
Steve Leathery, NOAA

Janice Plante, Commercial Fisheries News
David Spencer, AOLA
Peter Burns, NMFS
Patience Whitten, NMFS

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, May 3, 2010, and was called to order at 12:30 o'clock p.m. by Chairman Mark Gibson.

CALL TO ORDER

CHAIRMAN MARK GIBSON: I'm going to call the Lobster Board to order. This is the Lobster Board of the Atlantic States Marine Fisheries Commission.

APPROVAL OF AGENDA

The first item on the agenda is the agenda. Are there any comments or requests for changes or additions to the agenda? Seeing none, is there any objection to approving the agenda as written? Seeing none, the agenda stands approved as written.

APPROVAL OF PROCEEDINGS

The next item is the approval of the proceedings from our February 2010 meeting. Is there any request from the board for adjustments or edits to those proceedings? Seeing none, is there any objection to approving those proceedings as drafted? Seeing none, those proceedings are approved.

PUBLIC COMMENT

The next item is public comment. I didn't see anybody signed in, but is there anybody who wishes to address this board on lobster matters not on the agenda? Seeing none, we will move on. There will be opportunities for public comment on issues that come before the board later on. Agenda Item Number 4, the technical committee review of reference points, Carl Wilson.

TECHNICAL COMMITTEE REVIEW OF REFERENCE POINTS

MR. CARL WILSON: This is an update for the board from the technical committee following our last board meeting where we were sent back to try to find kind of a compromise series of reference points that incorporated advice from the 2009 peer review of the 2009 assessment and questions from board members as well.

The search for compromise; the reference points we will be introducing today are more conservative than the 2009 peer review suggestions, but they're less conservative than the 2009 assessment which came

from the stock assessment committee and the technical committee. The reference points are based on the reference period of 1982-2003 and we're using the quartile approach in kind of boxes of 25 percent for that reference period and where we determine stock status relative to the quartiles.

The reference period is based on the recent history of the stock and fishery. It is not based on the biological properties of the stock. There is the inherent assumption that the productivity captured by the reference period will be maintained and we will be able to continue to work towards those past productivity levels.

What we're introducing today is a combination of model-based estimates of exploitation and abundance and model-free indicators looking at newly settled lobsters and the spawning potential of the stock as well. We are introducing what we're calling predetermined triggers or predetermined directions that the assessment would then provide guidance to this board for recovering stocks that are moving at or moving towards depletion. Then finally we're going to have abundance and exploitation reference points.

Again, our abundance reference points, they're model-based abundance estimates and so this is using the length-based model that has been peer reviewed in the last two assessments, generated from the University of Maine, and now there is a modeling committee that is up and running with it. We have applied it to all three stocks and it worked pretty well in the last assessment.

We indicate targets and thresholds; and our indicator indices are looking at spawning stock, which is basically our trawl surveys; and looking at the number of mature lobsters caught in the surveys; and recruitment, young of the year or larval indices. Then, again, we look at predetermined actions that would try to increase abundance.

This is kind of the matrix that would essentially lead us through a stock assessment and any actions that might come out of the determination of stock status. Essentially, the length-based model, the assessment model, at the end of the assessment we would determine what quartile we were in, so these are the four quartiles that the final last three years of abundance would be determined.

If we are above the target, above the 75th percentile in the green, there wouldn't be any need to look at model-independent indicators and there would be no action, that the stock would be considered to be in favorable condition. If we are in the yellow or the orange quartiles, then we would bring in the model

independent indicators as a way to determine what the stock status was and if there was any action that was needed.

If we follow the yellow box here, we would then bounce into looking at the spawning stock index from our trawl surveys and the young of the year. If both of these model-free indicators were below the 25th percentile for their time series in the three of the last five years, for both spawning stock and young of the year, then that would trigger management action to try to increase spawning stock such as size limits, increasing your discard rates such as v-notching over sizes.

If you're in the yellow box for abundance and these two indicators did not fall below the 25th percentile, then there would be no management action necessary. If you're in the orange box, so you're in the lower middle quartile, we would again bump to the model-independent indicators – and in this case it is the spawning stock or the young of the year. If any one of those two indicators was below the 25th percentile in three of the last five years, that would trigger management actions.

So differing from the yellow boxes which is an “and” between the spawning stock and young of the year, in the orange would be an “or”; one or the other would have to be below the 25th percentile. Again, you would have somewhat increased management action, size limits, discards, reducing exploitation, seasons, areas, quotas, and so it is kind of a stepped approach in response. If you go through the assessment and were below the 25th percentile, this would immediately trigger action essentially trying to have the highest likelihood of increasing abundance, such as a minimum reduction in harvest of 50 percent, similar to what we proposed to Southern New England last year. That is the abundance reference point.

The exploitation reference point; again, we feel that exploitation has been relatively stable for all reference periods for all stocks, and so we're being a little bit less conservative on the exploitation reference points relative to our discussions around abundance, and we're tying our exploitation and making conditional with our abundance estimates.

The middle quartile, so the middle 50 percent of the data, we would look not towards exploitation indicators; we would actually go back to the abundance indicators of settlement and spawning stock that we just talked about. These threshold triggers would trigger action to decrease exploitation

and essentially try to rebuild abundance through lowered exploitation.

Our exploitation reference points; again, we run the model, we get an exploitation, if you're in the green, so below the 25th percentile, so you have relatively low exploitation, the stock would be considered in favorable condition. If you're in the middle 50 percent, in the yellow or the orange boxes, you would then go back to your abundance triggers; and if those conditions were satisfied, so again you're below the 25th percentile in spawning stock or settlement, then you would go and have predetermines to lower exploitation with measures designed to increase abundance, so you would essentially refer back to the abundance reference points.

If you're above the 75th percentile or you're above the threshold, then that would trigger action with the highest likelihood of decreasing exploitation, and so at that point we would be in an overfished position. For the three stock areas, these are just a quick kind of status of the stock relative to the abundance.

The Gulf of Maine would be in favorable condition for abundance and in the yellow area, so for the upper middle quartile for exploitation in the last three years. Georges Bank is in the favorable condition for abundance and exploitation in the last three years. Southern New England is in the depleted, less than the 25th percentile for abundance, but exploitation would be in the favorable condition. That is it for reference points.

CHAIRMAN GIBSON: Thank you, Carl. Are there questions from the board? Dan McKiernan.

MR. DAN MCKIERNAN: Carl, could you review one more time how the model-independent indicators are gathered, specifically the spawning stock index and the young of the year? It seems to me that the young-of-the-year time series aren't that long, and I'm confused as to whether or not a couple of great year classes might result in some subsequent surveys showing decline, and so I'm a little nervous about the young-of-the-year values and not so well informed about that. How do you gather those two parameters?

MR. WILSON: Okay, the spawning stock index is based on the trawl survey, and so that is a simple number of mature lobsters caught, so there is the number of lobsters times the maturity curve is applied, and that is an indicator of spawning stock. For young of the year, you could use settlement surveys, which are generally diver-based, or you

could use a post-larval survey like we have from Millstone, and I think Connecticut has their own post-larval survey as well.

The post-larval surveys and young-of-the-year surveys, in the Gulf of Maine we have time series back to the late eighties. Massachusetts picked it up in the mid-1990's. In Southern New England we have young-of-the-year surveys in Rhode Island since the early 1990's and larval surveys through the eighties and nineties in Area 611, Connecticut.

MR. McKIERNAN: But how would you incorporate different jurisdictions or different states or different sources of young-of-the-year data into a common index?

MR. WILSON: Well, generally speaking, good settlement years in Massachusetts or good settlement years along the coast of Maine, so there is asynchrony with the settlement indices, and so we haven't had to do a blended survey yet or blended index yet, but generally speaking they agree. I think as we talk about Southern New England we have larval surveys and settlement surveys and they're all indicating about the same thing as well. The indicators allow you to explore the data a little bit.

MR. DOUGLAS GROUT: Carl, concerning this graph here or this visual, I just want to get some clarification on how you envision some of this work. I can understand, for example, if we drop into the 50 to 75 percent quartile there are certain measures such as size limits and limiting discards that we try to do; and then say that didn't work and we continue to decline to 25 or to 50 percent, then we might have to take additional measures to try and do that.

What happens if we're going in the opposition direction; we have a stock that is overfished and we take action to reduce harvest by 50 percent, and so we have taken some very substantial measures here, and now we're succeeding and things are starting to come up; would you envision that we would have to maintain that 50 percent reduction until we got up to the 75th percentile or could there be some – as we moved up to, say, the 25th to 50 percent quartile, we could modify our actions and be a little bit more relaxed on things but still have some strong management measures in; and then as it grows, say, to the 50 to 75th percentile, we would have some options that we could be a little bit more relaxed, or would you envision that we would have to keep it at a 50 percent reduction in harvest until we hit the 75th percentile?

MR. WILSON: The 75th percentile would be the target and so ultimately that is what we would be trying to manage to. We have not, as a committee, talked about the scenario that you just described, and so I think my gut is saying that if we've climbed about the 25th percentile and we're moving in the right direction, then you've accomplished something at that point, and that is noteworthy.

Then you look back to your indicators and if you're starting to climb out of the spawning stock index and you're starting to climb out of the young-of-the-year hole as well, then you're moving in the right direction. I think that would be good conversation with the technical committee. I would be interested in what the rest of the board would think, too, or engage the board as well.

MR. WILLIAM A. ADLER: Carl, a couple of things; back on one of the charts that you showed Southern New England abundance – it was on Page 6 of the report – in 1982, whatever, abundance is very low and yet were they in recruitment failure then and then what happened to bring it back up is amazing, because now abundance is back down similar to where it was in the '82, and I just wonder whether this is just part of the scenario of rises and falls in a species because it isn't like it was never down this low before.

That is my first question is, were we in recruitment failure back in 1982 and then somehow, without doing anything, we've crawled out of it. That's my first question. The second question had to do with when you're doing post-larval and young-of-the-year indexes, are you using the ventless trap studies as part of that or is that not part of the information that is gathered?

My last one is more of a comment and it is like what Doug brought up; can we modify – I'm trying to remember anytime we modified anything. We get into the groove and even if things go up or something like that, it just seems like, well, they never give it back to the fishermen, but we'll handle that later.

MR. WILSON: The first question, relative to the reference, when you use a reference period as your period that you're measuring stock status on and you're using quartiles, inherent in that approach is 25 percent of the points are going to be in a depleted state, and so that is the good, bad and the ugly of using reference periods and quartiles.

Some of your points are going to be where you were during that reference period. Relative to recruitment failure, I think that is really a discussion for the

Southern New England portion of the agenda. It is not really germane to the – well, I don't want to say that it is not related to the reference points, but we did not look at Southern New England when we were talking about reference periods and reference points.

MR. ADLER: And are you using in any of the gathering of the young of the year; are you using ventless traps as another tool?

MR. WILSON: Ventless trap, the time series is relatively short. I think we're five years into it in Southern New England. The Gulf of Maine and Massachusetts has had six years, I believe. We only have five up on the coast of Maine. So, no, we are not using those yet for our indicators. It is our hope and our intention to use those.

Juvenile or ventless traps do not capture young-of-the-year lobsters. My opinion is that they're not the best for capturing mature lobsters. They do a very good job for juvenile lobsters, three to seven years old. I don't know if it would be a good indicator for the spawning stock index as well just because the – the configuration of the traps; they don't really allow large lobsters to come in when they're competing against other juvenile lobsters.

MR. DAVID SIMPSON: I think the use of the quartiles will be fine for our management purposes. I would say beyond that we need some more work in terms of what independent indicators will follow from that and especially what management action will follow from that. I have a somewhat different view, I guess, of the implications of each of these levels than the technical committee has.

The first one that I'll sound like a broken record on is what it means – and Bill alluded to this – what it means to be below the 25th percentile. I don't think there is any way that you can use the term "depleted" to describe that point as Bill pointed out. Depleted, if you look it up in the dictionary, means used up or exhausted, and I don't think the resource has been depleted at that point. In fact, all of these stocks, the Gulf of Maine, Southern New England and Georges Bank, the first two in particular, went from that lower quartile to historic high records. So, in and of itself being in the lower quartile doesn't mean a whole lot. It has to be in the context of these other things that are being discussed. I would recommend that instead of using the term "depleted", simply define that as Caddy and Agnew did as the limit reference point, which would mean, yes, it is the lower bound – that is a great paper, by the way. I had plenty of time on the train to read through it pretty carefully – as the limit

reference point so you don't want to go below 25 percent, but you don't buy into this idea that you can infer anything more from it.

The other thing I think we will have to talk about for Southern New England is the target that we should have, a target reference point, and whether under the current stock conditions of poor recruitment and apparent low productivity for a few reasons, whether the 75th percentile is an achievable goal and whether we would do better as an interim target to look at the median. I have a motion to this effect when the time is right, but I'm sure there are questions that should be answered first.

CHAIRMAN GIBSON: Thanks, Dave. Anyone else on the technical committee report on reference points? Seeing none, then we will move on to the Draft Addendum XVI, the pending final action on the reference points, and Toni will summarize where we are on that.

DISCUSSION OF DRAFT ADDENDUM XVI FOR FINAL APPROVAL

MS. TONI KERNS: I just want to go through and remind the board what we did at the last meeting in working on reference points through Addendum XVI, which had gone out for public comment in December and January, earlier this year. At the last board meeting the board made a motion to say to go forward with using the University of Maine Model, which are the reference point's compromise that Carl went through does use.

Just to remind the board what Addendum XVI does is it goes through and looks at reference points to give us a new stock status determination. The first option, which is the status quo management option, is the one that the board removed from consideration at the last board meeting. Then Option 2 was going through and looking at the technical committee's recommendation, which used both abundance and effective exploitation which came out of the actual stock assessment.

Option 3 had been the peer review management option, which also used reference abundance and effective exploitation, but had the abundance threshold at half of the target and overfishing at the 90th percentile. Also on the table is also what Carl has just gone through now for looking at this compromise using the quartiles for reference points. The second portion of Draft Addendum XVI looked at how we set our reference points. Currently we have to go out for an addendum after we get advice

from a peer review, and we need to use the addendum process to change the reference points. The draft addendum process put through an option that would redefine the criteria for status determinations.

What it does is allows the board to use a wide range of processes to set reference points, either biological reference points or non-biological reference points as we're going through today. The board would follow advice either from the technical committee or a peer review that came from a benchmark or an updated stock assessment and allow the board to make that change through board action. If the board were to come up with a reference point that didn't follow either the technical committee's advice or the peer reviews advice, then we would need to go through an addendum process.

In order to adopt a change in the reference point through board action, you would need to be following advice from the technical committee or the peer reviews so that is not just any random numbers coming up for reference points that you're putting forward. It is something that has come out of a peer review.

We never actually got to the review of the public comment at the last meeting so I'm just going to quickly go through what the public had responded from the board meeting. There were three hearings. We had 37 attendees. There are seven written comments that have come in. Of those, five people had been in favor of the technical committee recommendations and twelve were in favor of the peer review recommendations.

For the stock status determination, nine were in favor of just status quo going through the addendum process to set reference points, and two were in favor of allowing the board to use just board action to set reference points. The board had put a motion on the table at the last meeting. That motion was by Pat White. We would need a vote to bring that motion back to the table.

CHAIRMAN GIBSON: We have a tabled motion; we need a motion to bring that back. Pat White.

MR. PATTEN D. WHITE: At this point I would like to withdraw the motion. I'm not sure procedurally how that is done, Mr. Chairman.

CHAIRMAN GIBSON: Nor do I; I haven't dealt with that before. Well, I think we need to bring it back for our consideration and then you can withdraw it because then it is active. That's what I

understand we can do, so we need a motion to untable this.

MR. TERRY STOCKWELL: So move.

CHAIRMAN GIBSON: Terry Stockwell; is there a second? Seconded by Doug Grout. Is there any objection to the motion to untable the motion we made? Seeing none, we now we have a motion before us. Again, back to Pat.

MR. P. WHITE: At this point, then, I would like to withdraw the motion.

CHAIRMAN GIBSON: Does the seconder concur? Ritchie White concurs. Okay, that motion is withdrawn, so where does that leave us, Toni? Dave Simpson.

MR. SIMPSON: I would move adoption of the technical committee recommended quartile-based abundance and exploitation reference points; the 25 percent, 50 percent, 75 percent – okay this is the part where I won't say that – modified to define the 25th percentile of abundance as the "limit reference point" (LRP) – that is right out of the Caddy and Agnew paper that the technical committee used extensive and that is in our binder, so it should be familiar – and the 50th percentile or median as the interim "target reference point" (TRP) for the Southern New England stock area and leaving Gulf of Maine and Georges Bank target reference points at the 75th percentile. If I can get a second, I'll give you the rationale for that and we'll go from there.

CHAIRMAN GIBSON: Okay, is there a second to that motion?

MR. GROUT: I'll second it for the purpose of discussion.

CHAIRMAN GIBSON: Thank you, Doug; seconded by Doug Grout. Dave, let us know what your rationale is for this.

MR. SIMPSON: First, we're retaining something that came from either the technical committee or the peer review, in this case the technical committee as Toni noted we should be doing based on the document that went out to public hearing. The change in the reference or definition of the 25th percentile is to get away from this idea of depleted because I don't think anyone around the table or a few people around the table are comfortable with the idea that because the stock was at one time in the

lower 25th percentile, that it has been used up or exhausted.

In fact, the evidence is quite to the contrary. When productivity and recruitment are good or reasonable, the stock can grow considerably from that level. That's the first part. That's simply changing the word – Pat, if this helps – changing the word “depleted” to “limit reference point”. That is the only thing that happens there; and as significantly using the 50th percentile as the interim target reference point in Southern New England is in recognition that we're in a low productivity phase with poor recruitment.

I think it is unlikely, even impossible, for us to achieve as an interim target the 75th percentile in Southern New England. Now I leave that unchanged in the Gulf of Maine and Georges Bank. I think it is pretty clear they're at a different level of stock condition and so I agree with the technical committee that is achievable. I'll emphasize that these are interim reference points as we have said along and that the hope is in time we will have a healthier Southern New England stock and we will set our goals higher but only when the time is right to do that.

CHAIRMAN GIBSON: Thanks, Dave. You said that you view these as all interim reference points, and I guess the Southern New England is a double interim in the sense that it is deviating from the other two. Do you foresee some stock monitoring as potentially leading to an adjustment in that Southern New England interim reference point? I guess that bears on the second part of the addendum is the process we use to review that, but that's not before us right now.

MR. SIMPSON: No, it's interim because this entire addendum is an interim plan. We don't have biologically based reference points. The hope is that someday the University of Maine Model will grow in its ability to provide those. The hope is we can adopt those as our eventual and final reference points, but in the meantime we have interim reference points.

CHAIRMAN GIBSON: I wanted to have Carl Wilson address this before I go to the board.

MR. WILSON: If your proposed median of 50 percent rebuilding; could you pick up on where Doug was talking about as far as if you're trying to rebuild a stock – so in Southern New England you're trying to rebuild, and at what point do you reassess and say we're heading in the right direction? I could see

some angst within the technical committee about lowering the target, but maybe it might be a fruitful conversation to talk about having that as a rebuilding – I don't want say target but a rebuilding step; that it is something you reach and then you reassess and you still have your eyes on the target.

CHAIRMAN GIBSON: Dave, do you want to respond to that?

MR. SIMPSON: Yes, sure. Hopefully, the technical committee will have a chance in the next few months to develop those projections that we talked about. Really, this a little bit the cart before the horse but I can anticipate what those projections will look like; we've done them. We cannot achieve the 75th percentile under current recruitment and productivity; so to go forward to the public and set an unachievable goal I think sets us up for failure and sets the resource users up for disappointment. So not having the benefit of having seen your projections, I'm saying, mostly with my fingers crossed, hoping that we can least think about reaching the median if we took very significant action.

MR. WILSON: Yes, not having the projections, I think it's premature to say if we could, but any projection forward is going to depend on what the fishing pressure is and what the natural mortality is. If it is not all natural mortality, then we have a chance towards the target. We'll obviously be talking about that.

MR. PATRICK AUGUSTINE: Mr. Chairman, is that the whole motion? I thought you had a paragraph before that. That it's now? Well, I was going to ask because it has a suggestion at the bottom it is almost a complex motion, and I was looking on the other side to see if any of the lobster folks or state folks had a problem with the Gulf of Maine reference points at the 75th percentile added for what we're trying to do for the recommendation from the technical committee at the top or whether it would be better to separate that out.

I was wondering whether it would be more convenient if we could discuss it in the context of one motion or easier to divide it in two because the first part would be totally acceptable because it is the recommendation from the technical committee. Your choice, Mr. Chairman.

CHAIRMAN GIBSON: Yes, I'm okay where it stands right now, but I'll wait to see if the northern contingent has some angst. Ritchie White.

MR. G. RITCHIE WHITE: Mr. Chairman, a question for Carl. If Southern New England is at the 25th percentile and the target is the 50 percentile, would there be different management actions required than if the target was 75 percent?

MR. WILSON: I wouldn't be able to answer that question. It certainly would be lowering the bar. It would be much easier to achieve a median rebuild than the upper 75th percentile.

MR. R. WHITE: I guess what I'm trying to get at is would it require a different response to get to the 50 from the 25 if your end goal is 75? In other words, would you have to take more severe action if the goal is 75 between 25 and 50 than if the goal was 50? In other words, either way would you be doing the same things?

MR. WILSON: My gut is saying that it would be less severe to achieve the median, but that's a hunch at this point.

CHAIRMAN GIBSON: Of course, one of the things that's happening here that we all know is that proverbial 800-pound gorilla moving in the background in terms of the recommendation relative to Southern New England. It is my understanding that recommendation is effectively decoupled from this reference point discussion in a sense. Carl can correct me, but I don't think that recommendation is changing depending on whether we pick 50 or 75 here.

It may only matter on were that to be adopted the relative likelihood of ever succeeding, of whether we get to 50 or whether we get to 75. I think that's where Dave was coming from that there is a limited – he is arguing there is a limited capability here to rebuild and 50 percent may be the only thing that is attainable under the draconian actions that maybe have been suggested. That is my understanding, is that recommendation isn't going to be changed depending on which reference points we choose here. Doug Grout.

MR. GROUT: I have a question for Toni on the process here. If we were to decide to go forward with the recommendations of the technical committee as modified where we go to this quartile reference points; are we going to have to go out public hearing again because that aspect is not within the plan as I see it, particularly the target. We didn't have anything with the 75 percent level of the target. Is there some way in the way the document went out to

public hearing that we could adopt what the technical committee came back to us with here?

MS. KERNS: It is up to the discussion of the board of how different that you think that this target is in terms of the management action or response that you would need for this target or not. The way that the technical committee had set up the reference points in terms of these quartiles and when you had to take management action; management action wouldn't have to be taken in any different – it wouldn't make a difference of where your target was set up in terms of when you actually take management action because it is dependent on the triggers from your spawning stock index and your young of the year when you fall in the yellow or orange box.

I don't think the technical committee would have given you a different recommendation if your target had been lower. They would still trigger management action if the 25th percentile – if you fell below the 25th percentile in either one of those for those indexes. It is up to the board of whether or not you feel that it was so different from the discussions for public comment, whether or not you want to do that, though.

CHAIRMAN GIBSON: It seems to me we took public comment in a fairly wide range of alternatives in terms of what was liberal and what was more conservative and what was more precautionary. It seems to me that I think this fits within the range of alternatives that we took comment on, but I certainly will listen to other board arguments one way or another. Jim.

MR. JAMES GILMORE: I'm not sure if this question is for Dave or Carl, but, Dave, part of the argument and your discussion you made before about going from 75th down to the 50th percentile was based upon projections that you have seen but nobody else has seen. If we go with 50 and those projections don't come true; can we change it later on? We seem to be having another cart before the horse here. We don't have all the information to really decide at this point whether it should be 50 or 75; so what if we go with the lower number and then find out we should have gone with the higher number?

CHAIRMAN GIBSON: My sense is we have another item in Addendum XVI that is a decision on how the board responds to new information in setting the reference point; and depending on where you go with that is whether you get flexibility or not. If you stick with the addendum process, then you're more cumbersome than if we allow in that alternative

board flexibility from simply board action to adjust the reference point. If you pick that alternative here, we could come back with an extensive set of projections of whatever we had and say that is unattainable and we think we need a board action to further adjust it.

I think that is where that flexibility comes forward is in the second part of Addendum XVI. The question up here for Dave; I think you mentioned in your discussion that there was some more work needed to be done; but you haven't specified that in the – on triggers; did we mishear you on that?

MR. SIMPSON: No, what I meant by this motion and what I meant by the comment there is more work to be done is this is a motion simply to adopt the reference points as described and not necessarily the rest of it that – you know, the Table 2 is labeled as conditional on abundance target and predetermined action. I think that requires a lot more work and a lot more detail and a lot more thought that we can handle after this meeting, if we can just decide on what our targets are.

To address Jim's comment about the projections, it was two meetings ago, which places it at the annual meeting, but these projections I did share with the board members. They're unofficial. It was something we did in-house, not having anything from the technical committee, but what it showed was that if we had no fishing and continued moderate natural mortality, the best we could hope to do in a decade is almost the median, almost the – actually it is not even the median; so never mind the 75th percentile, we can't even get much above the top quartiles.

A whole lot depends on what-if scenarios that nobody can answer into the future, but I'm very confident that no one in this room and no fisherman on the coast should expect us to be able to achieve a stock rebuilding to the 75th percentile in Southern New England with or without a fishery.

MR. GEORGE D. LAPOINTE: Mr. Chairman, have we ever done a geographically based reference point having differences like that? It strikes me that – and, again, I apologize for missing the earlier discussion, but the inability to ever reach the target is an issue – I'm more comfortable letting them go back and do whatever work they need to do to say that here is how they're going to reach the median or whatever it is rather than changing the reference point based on Southern New England or the Gulf of Maine.

MR. WILSON: Just a quick response about some of the projections that David was speaking to, and maybe Genny Nesslage can chime in if I misspeak, but the natural mortality estimates that Vic brought forward for the work that he did for you exceeded what we had looked at in the – I mean, we went through, in our last assessment, exhaustive deliberations about natural mortality, and his scenarios pegged natural mortality much higher than those – the majority of his higher estimates of natural mortality.

MR. SIMPSON: I didn't reference his high estimate of natural mortality; I just used the moderate – high, forget it, there will be no stock, never mind a fishery.

MR. GROUT: I need some clarification on the ability of the board to change by board vote either the target or the reference point. What I read as the option that we could pick here is that the board could not take action that would deviate from the advice of the assessment or the peer review unless we had an addendum. The only target in this document – and correct me if I'm wrong – is put out by the peer review panel, and they recommend the 50th percentile for the target. There is no target that the technical committee put forward in the assessment document; correct?

MS. KERNS: That is correct; in the assessment, no. You guys haven't even adopted this portion of the document yet; but for future, yes, if that's what you go down to, it is still from what came out of the assessment or what was recommended from the peer review.

MR. GROUT: Yes, and I understand that, but if we adopt this and we adopt the whole addendum with this in it plus that constraint, if Southern New England decided, okay, productivity is now higher and we need to go to a higher target because productivity is higher, we would have to go to an addendum, it would not be a board vote; correct?

MS. KERNS: That would be correct, yes, as this is outlined.

MR. P. WHITE: I guess I just had a concern – and I'm not a biologist, but I did read this report and what I got out of it concerned me, David, with where you're headed with this because although at some point areas may have rebuilt from what would have been considered the 25th percentile in years past, the environmental conditions, if nothing else, are severely different than this paper alluded to being careful about what we were trying to project, and that

is why I think this gives me a little bit of heartburn. Maybe I don't totally understand that paper either.

MS. KERNS: I just want to clarify to make sure that I'm clear. There are no management triggers associated with this motion up front, so the only portion of this motion that coincides with what the technical committee had recommended in their memo that was distributed prior to the board meeting is for Gulf of Maine and Georges Bank is setting up the four quartiles, no management triggers; and for Southern New England it is dropping your target to the 50th percentile and lowering your threshold limit to the 25th – putting your threshold limit to the 25th percentile but there is no management actions required when you hit any of these reference points.

MR. SIMPSON: That I think necessarily has to come later. I think to try to move in one motion, adopt new reference points and the management actions that come with that I think would be a little bit more than we would want to bite off at one time, yes, understanding these are interim reference points and that we would then move from there. There are other issues associated with this that I don't want to get into now that will further complicate it. Depending on what we do, if we went to a total fishery closure, this entire thing becomes problematic, but I will hold off on that for now.

MS. KERNS: Dave, I was only asking as staff normally when we adopt reference points, the board will usually say if you reach a certain point and go beyond, in your reference point it would trigger management response, management action, and not necessarily saying what that action had to be. The technical committee went as far as to recommend general types of predetermined action in their memo, but in previous reference points we have – once we have decided what those reference points are, if you're below a certain point, then you say action should be taken.

CHAIRMAN GIBSON: Dave, what we're talking about are these predetermined actions that are specified in the technical committee recommendation, and your motion to some degree is silent, but I think you're talking about very specific predetermined actions and not – so if you just address how your motion treats or doesn't treat these predetermined general actions.

MR. SIMPSON: Right, the function of the limit reference point, that 25th percentile, is if you're below that you better get above it. You don't ever want to be below it, so you would need to take management

action to get above the limit reference point. That is the floor that has been defined.

The target reference point is exactly what it says; we need to work to rebuild to the target. I think there are details that we need to work out after we have more information from the technical committee to decide what those specific actions are, but the target is the target, we're trying to go there, and the limit is the place we want to stay away from and so action would be required to get away from that point north toward the target.

MS. KERNS: I just want to make sure that everybody is clear on what that says and so I am clear when I'm writing these reference points, so then falling below in your abundance reference point for Southern New England, falling below the 25th percentile would trigger a management response; and for the Gulf of Maine and Georges Bank falling below the 25th percentile would trigger a management response.

For effective exploitation falling below the 25th percentile would trigger a management response – I mean, falling above the 75th percentile would trigger a management response, but there is nothing to do with falling below the 25th percentile in the young-of-the-year index or the spawning stock biomass index as the technical committee had recommended. That's gone?

MR. SIMPSON: What I understood the technical committee's flow chart to be was to consider – yes, you know, this is only step one, and we will figure out step two, three and four, and so, yes, they made recommendations about step two, and I just – we're not there yet. I think this is complicated enough for everybody. To take all that at one time would be too much, so this is just to address that left-most column.

MR. LAPOINTE: Again, just a comment. It strikes me that given what David said about the difficulty or the impossibility of reaching those targets, what we need more is what is allowed like in Magnuson. For those species that can't rebuild within a certain amount of time, coming up with management measures or a board response, to deal with that afterwards, but we don't change the reference points because of the difficulty in achieving the goal. It strikes me that from my perspective this is not the way to go.

MR. ADLER: As David, we have all been looking at the technical committee proposal, the peer review threshold proposal, and the one in between, and I said, okay, so where is this one; is this the one in

between the technical committee avenue and the peer review avenue, and I believe David said it was somewhere in between.

I think there is a lot of confusion here as to when we left the last meeting we were looking at three different levels of options of which the middle option was not in the addendum, but we went off and thinking in terms of which one, the technical committee, the peer review or the one in between, and so when David put this one up, I go, well, where is this one in that particular thing? I was just trying to get a clearance for everybody that might be confused, myself included, about which one is this? I believe – Dave, correct me if I’m wrong – said that this is somewhere in the middle there. The second question was the part about changing things via an addendum or by board; isn’t that like a separate decision to make from this thing?

CHAIRMAN GIBSON: To the first question, I see this as a step closer to the peer-reviewed set of reference points than the alternative that came about at the February meeting. What was the other question about, the second part of Addendum XVI?

MR. ADLER: Yes, I think the part about, well, can we change it – at a board meeting can we change a reference point or do we have to go out to some addendum; isn’t that a separate decision?

CHAIRMAN GIBSON: That’s a separate decision; yes, we haven’t got to that yet. Ritchie.

MR. R. WHITE: Mr. Chairman, I guess I’m not totally clear with Toni and David going back and forth. Is there any reason that couldn’t be put into the motion in writing so that can be clear as to the actions required?

CHAIRMAN GIBSON: Dave, do you want to respond? He said what his motion is and I don’t know if he wants to make any additions to it, but you have that opportunity.

MR. SIMPSON: Hopefully, the description I gave a minute ago will be in the record and it will be understood that the limit reference point is the floor that you never want to be under and you need to take action to get above that 25th percentile if you find yourself there. The target is just that; it is the target that you’re trying to reach in the interim.

Now, again, we’re all hoping that we’re going to have a more biologically based set of reference points five or ten years from now and we will revisit this whole issue then, and we will have much more

objective reference points to go after. Right now we’re just trying to do the best we can with what we have.

MR. GILMORE: Mr. Chairman, just so I can get this straight in my own mind, first off, Dave, the first part of the motion I’m fine with although the word “depleted” doesn’t concern me as much. Depleted always didn’t mean it was like never coming back or completely gone. It was something that was just reduced. But, anyway, I’m okay with that first part.

The second part still gives me a little bit of concern because it is what Doug had brought up before; what the difference is in management versus 50 instead of 75. It is a little unclear right now so until we know that I don’t know what difference we’re doing if we’re adopting the 50th percentile, and that is what gives me pause to support the motion just because of that 50th and we’re dropping it and it is just kind of an unknown right now.

CHAIRMAN GIBSON: I think to me that is what level you can declare victory at. I mean, you’re putting measures in place to see what happens and with a 75 percentile your bar is high and with a 50 percentile it is lower. The measures do whatever they’re going to do. In one case we have a higher probability of achieving victory than not. That is the way I see those.

MR. GILMORE: That’s getting a bit semantic because it doesn’t matter if you pick 75 or 50; it is a target and whether you’re – you know, I don’t see what the difference is at that point.

CHAIRMAN GIBSON: I think in Dave’s perspective it is more realistic that we’re going to succeed at the 50 percent level than at 75. The measures again will do whatever they do and lobsters will respond however they can, and it is simply how high the goal post is, so you may have a 50 percent likelihood of achieving it and if it is 50 percent and maybe you only have a 25 percent chance of achieving it, you know, in the parlance of rebuilding another stock. That is my thinking on that. Doug.

MR. GROUT: To Dave’s point about separating the reference points here to the management action, as I read our original addendum it didn’t have specific examples of management actions that would take place. It just said if either of these cases, either you’re above the exploitation rate threshold or below the abundance level threshold, corrective management action should be implemented.

I don't think within this addendum we did not ever discuss specific or even general management actions, although I do like the direction that the technical committee took on this in adding other measures we're going to look at and specifically what we would be trying to do is take management actions to increase the abundance of the spawning stock via a variety of measures. My question is are we going to have to have another addendum if we're going to choose specific management measures; are we going to have to go the whole process again to choose specific management measures?

MS. KERNS: Doug, the board asked the technical committee to come up with either hard or soft triggers in response and so they did, and their triggers were based off of the spawning stock index and the young of the year. It could be left as just that, a trigger. If you fall below the 25th percentile on either of these as they had set them up, management action would need to be taken and you could decide what that management action is down the road.

You don't have to include the specifics of precisely what it is that has to be done if you wanted to include it in your reference points in that manner and not have to go through another addendum to set up triggers. You could detach your triggers that way since you asked the technical committee to put triggers together for you. Specifically putting in new management measures for an area, then the normal process is to go out for addendum to do that.

CHAIRMAN GIBSON: Anyone else from the board? Carl, do you want to comment?

MR. WILSON: Well, just to speak to that middle 50th percentile, I think the spawning stock index and the young of the year, it is kind of a stepped approach. I mean, if you're in 50 to 75 percent, so in the yellow, and your spawning stock index is crashing and your settlement survey is crashing, then the whole idea behind that was that is telling you something, and that is something that we can update on a yearly basis, and we don't have to go through every five years.

When you're in that orange, it is just being a little bit more – you know, is it either/or the spawning stock. You could have favorable young of the year and favorable spawning stock and be just above the 25th percentile and not have to – no action would be required. I mean, it is closer to the – it is considerably less conservative than I think the technical committee originally recommended where

the median was – you know, anything below the median, you're doing something.

MR. SIMPSON: I'll try to say it again. This is just the decision on the first step. I agree wholeheartedly that we then need to develop the what-next steps. You have to hold on and be patient a little bit because I didn't want to take this whole table on at once. Just the first column has taken 45 minutes.

CHAIRMAN GIBSON: Thanks, Dave. Is there anyone else from the board before I go to the audience? Anybody from the audience want to comment on this motion? Seeing none, I'll come back to the board; are you ready to caucus and vote? **The motion is move adoption of the recommended technical committee memo of 10/30 for quartile-based abundance and exploitation rate reference points modified at the 25th percentile of abundance as a limit reference point (LRP) and the 50th percentile or median as the interim target reference point for the Southern New England Stock Area; leaving Georges Bank and Gulf of Maine reference points at the 75th percentile. Motion by Mr. Simpson; seconded by Mr. Grout.**

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Is the board ready to vote? On the motion before us, all those in favor; all opposed; any abstentions, 2 abstentions. **The motion carries.** Dave, did you have any thoughts on where we go next given the outcome of that motion relative to triggers, actions and so on?

MR. SIMPSON: No, my feeling is that those things need a little bit more work and we have the time to do that. I think what we've done in the last year is adopt a new assessment, a new methodology, the measurement of the reference point coming out, for example, abundance above 78 millimeters instead of above the legal size and now we have identified target and limit reference points, but the next steps from there are going to be heavily dependent on what we choose to do.

As you alluded to, the spawning stock index for each stock area, the details aren't in here in terms of would you average trawl survey or fishery-independent indices, how would you weight them if you averaged them, would you add them all together; none of that has been spelled out so I'm very reluctant to just sign off on that. I think that needs to be developed.

I'm not at all comfortable taking emergency action if we fall below the 25th percentile and at least a 50 percent reduction. I think that requires some further thought. So, no, I have nothing further to add now and I think we can begin to focus on what management action do we need to take, get a look at some projections to get an idea of what might be achievable in a more formal way, and that's it.

MR. LAPOINTE: I may have missed something, Mr. Chairman. Given the history of the flexibility that the commission sometimes is blessed with and is sometimes cursed with, I'm comfortable with using these as examples because with conservation equivalency we can come up with other measures, anyway. I'm more interested in when these new targets or reference points are met making sure that the evaluation of the measures that are proposed pass muster with some reasonable chance of success.

When we first passed Amendment 3, we used what I'll call 12 years later or 13 years later as faith-based evaluation in some of the measures and I don't think that served us well, so I think we have to be pretty hardnosed about how we evaluate the management measures to achieve these reference points.

MS. KERNS: Okay, does the technical committee need to go back and evaluate their trigger that they had suggested or they don't need to do any further work and we're just done on this trigger issue, period?

MR. SIMPSON: I think we need to now look at each stock and figure out where we are relative to the reference points. For Southern New England we're well below the target and even the limit, and so we need to set a course and take some pretty deliberate, decisive action to rebuild the stock. I think it is time to begin to entertain the alternatives that we want to consider to do that.

CHAIRMAN GIBSON: Okay, we have a Section 4.2 that needs to be dealt with in the addendum. We have adopted the first major element of it, but we have to go to the stock status determination criteria, so why don't we knock that off and then figure out whether we should move into the management measures in response to the addendum. Toni has already said all that she is going to say on the alternatives up to this point. Why don't you remind us?

MS. KERNS: Okay, the two options; one is status quo that we would go through addendums every time we wanted to change the reference points, and Option

2 is to redefine the status determination criteria. First, this allows the board to use a potpourri of methods in order to set up the reference points, whether those reference points are biological-based reference points or non-biological-based reference points.

So it is what you can use for your maximum fishing mortality threshold or a proxy for that or what you use for your minimum stock size or a proxy for that, so it is a general category and just allows a lot of flexibility in terms of what we're using. Then the second portion of that is that coming out of a stock assessment, whether it is a benchmark or an update stock assessment, the board can change a reference point through board action if they follow the advice that came out of the assessment or the advice that came out of the peer review.

The document establishes what would deem a peer review. It uses external peer reviews through the commission and internal peer review, National Marine Fisheries Service internally conducted peer review or external one, a TRAC, et cetera. It just allows the more timely use of scientific advice to the board so that we don't have to go through the six to eight month process of doing an addendum to establish reference points, so this allows to just do that more quickly. It is not allowing you to come up with your own reference point. It is only for those reference points that were from the peer review or the assessment.

MR. LAPOINTE: **I would like to move we adopt Option 2.**

CHAIRMAN GIBSON: Okay, motion made by George Lapointe for Option 2; seconded by Doug Grout. Board discussion on the motion?

MR. BOB ROSS: Okay, here we have a situation we've just gone through where the technical committee and the peer review had a difference. Under Scenario 2, would that qualify if you picked one of those two; or, because there is a difference, then it would have to go out for an addendum?

MS. KERNS: No, because the target was not within what came out of the peer review advice or the actual stock assessment. It was outside of those but everything else fell within it so, no. No, it wasn't within the advice of the peer review or the technical committee so, yes, it would have to go out for an addendum.

CHAIRMAN GIBSON: Other board comments?

MR. SIMPSON: I just think – I mean, a management reference point is essentially a goal for that fishery and that seems a pretty weighty decision to make without the benefit of public input.

CHAIRMAN GIBSON: Other board comments on the motion? Bob.

MR. ROBERT E. BEAL: Just for the board's information, this is the same approach that is included in the summer flounder, scup and black sea bass management plan right now to allow the board to take action to change reference points based on peer-reviewed stock assessments, et cetera, so there is precedence at ASMFC that it is included in other plans.

CHAIRMAN GIBSON: Anyone else from the board on this motion? Anyone from the audience wish to comment? Dave Spencer.

MR. DAVID SPENCER: Mr. Chairman, would this be done in one meeting? I would like at least industry to have some sort of knowledge and interaction with these. Probably six months ago the industry didn't have a whole lot of interest in reference points. I can guarantee you after listening or hearing from the technical committee on Southern New England, there is a lot of interest in reference points. I'm not advocating necessarily that it has to go to an addendum, but I do have concerns if this comes before the board and it is acted upon in one meeting and industry doesn't even have an opportunity to interact with their state advisors. Thank you.

MR. LAPOINTE: I will jokingly say we can't take a coffee break in one meeting let alone have a discussion like this, but in seriousness, David, I think that clearly you have heard from the discussion we just had that reference points take the board a lot of time to grapple with, and so I would anticipate that we would have the chance for you to weigh in.

MR. GROUT: I think the place where we have the opportunity to weigh in would be is if we had a difference between the peer review and the stock assessment like we had here. Clearly, if the peer review panel said, yes, you're reference points, even if it is a new reference point, is appropriate, then we would take a vote by management action – I mean, take a vote at a management board meeting to adopt what both the assessment and the peer review agree is the appropriate new reference points on it, and I thought that is what we were getting at here; and that

we could also, if there was a difference, we could choose one of the others, but if we decided – but if we were looking for something that wasn't recommended by either one of them, then we would definitely have to go to management action.

MR. R. WHITE: Mr. Chairman, would there be anything that would stop us from going out to informational meetings outside the addendum process? It would be shorter and we could still get public input if we so decided.

CHAIRMAN GIBSON: I don't see any limits that we couldn't do that. Anyone else from the board? Bill McElroy.

MR. WILLIAM A. McELROY: Mr. Chairman, it is my first meeting so it is a little hard to get up to speed, but Dave Spencer made a very good point a couple of minutes ago when he said that industry has kind of been caught in a quandary where they – I know in my port, where I come from, up until a week or ten days ago, they didn't have a clue that any of this stuff was going on, so it has caught industry completely by surprise.

I have great concern that we need to have a little bit of breaks on this process so we have time to digest it, I have time to digest it. It is tough for me to get up to speed coming into something partway along. I know my constituents, the fishermen and the politicians in Rhode Island aren't aware yet of what is going on and they will be disappointed that we didn't get the peer review guideposts passed, that we picked an interim one.

They will be very concerned that without having an addendum process things could speed along again and we end up with a final action and industry is kind of left in the lurch and doesn't have an opportunity to weigh in. I know everybody is suggesting that we have a terrible crisis that needs an immediate solution and to some extent that is so, but you have to have some way of bringing industry in and letting them have their opportunity, and I think the addendum process is the best way of allowing that. I would be very reluctant unless I can get a better understanding of what is going on that that would be the right way to go. Thank you.

MR. PETER HIMCHAK: Mr. Chairman, I would just like to mention that we do have a mechanism for industry input through the Lobster Conservation Management Teams, which can meet at their pleasure, and the state, in our case, would be most

happy to sponsor meetings for the LCMTs on an issue coming before the board.

MR. LAPOINTE: In response to Mr. McElroy's comment – first, sir, welcome – I think again you can tell from the discussion we just had about David's motion, now the new targets, that there are different ways of looking at the reference points. The real meat of the issue will be when we discuss a management response, so, again, my motion was made because I'm less concerned about setting the number because that's hard for most people to understand.

The management response thereafter will take a bucket load of discussion and understanding by this board and then a formal action for whatever we do, unless we do nothing, will require the addendum process which will go out to the public, and so I think the issues that you're just learning about and you want to bring back to the state of Rhode Island will have abundant discussion and the formal process through the addendum of public hearings and whatnot so people can understand and make their views known.

MR. McELROY: I appreciate your comments and thanks for the welcome, but I already feel like I've let my constituency down here today. I was sitting here trying to understand the conversation on these reference points, and the question that I was posed by people in Rhode Island is I didn't get answered because I didn't ask it, I didn't see the right way to do it, and I want to make sure it doesn't happen again.

I was concerned and my constituents are that the technical committee report that says Southern New England is in a particularly bad state also has a part of it – I think it was Bob Glenn from Massachusetts that did the work on it that suggested that both Western Long Island Sound and Buzzards Bay were no longer suitable to maintain a robust population of lobsters, but yet from everything that I had been able to determine the technical committee report still seemed to suggest that those areas were being assigned a certain number of lobsters that they couldn't achieve, which kind of makes the rest of the areas not able to come up to speed.

So having had a bad experience in not speaking up quick enough to bring that issue forward while it was still germane for a vote, I'm awfully reluctant to suggest that we don't need the time that an addendum would provide, and maybe that is just my fault for not being on top of things.

CHAIRMAN GIBSON: Bill, you haven't lost that; the next agenda item is the discussion of the technical committee's report, which is the big report that we were all tiptoeing around at this point, and that is when you will be able to ask Carl direct questions about the technical basis for their report.

As George suggested a management action in response to that, there has to be an extensive debate about that, about what options are viable, and it has to go out to hearing and so on in an addendum process, so you haven't lost that opportunity. This is a narrower issue relative to the reference points and how the board can adjust those. It is not the management actions that flow from the reference point. This would give the board more flexibility to – but they still have to pick within a range of alternatives that have some standing in terms of the peer review and the technical committee. Dan.

MR. McKIERNAN: I have a concern about the level of codification of these actions. In other words, if the board was to decide of some amount of time in the future to alter the reference points, it wouldn't be codified in an addendum and so it would be buried in the proceedings of a meeting. I'm not sure that is the best way to record the actions that are taken. It would become somewhat obscure.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, maybe you can remind me of when this particular stock assessment was completed.

CHAIRMAN GIBSON: I believe the last data year was 2007 and the stock assessment was completed in 2009; underwent peer review in 2009.

EXECUTIVE DIRECTOR O'SHEA: So a year and three months ago?

CHAIRMAN GIBSON: It was peer reviewed in March of 2009. Anyone else from the board or anyone else from the audience on this motion? Okay, 30 seconds to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Okay, is the board ready; I'm going to call the question. **The motion is to adopt Option 2 for Section 4.2 in Addendum XVI.** Motion by Mr. Lapointe; second by Mr. Grout. All in favor please raise your hand; all opposed; abstentions; null votes. **The motion carries.** George.

MR. LAPOINTE: Is our next step a motion to approve Addendum XVI as amended?

CHAIRMAN GIBSON: Yes, it is..

MR. LAPOINTE: So moved.

CHAIRMAN GIBSON: Motion by George Lapointe; seconded by Representative Abbott. **The motion is to approve Addendum XVI as amended today.** Anything else on the motion?

MR. LAPOINTE: Did we make any changes outside today or no?

CHAIRMAN GIBSON: Just made today. Any comments on the final motion? Seeing none, I'll call the question on that. All in favor; opposed; abstentions, one abstention; null votes. **The motion carries.** The vote was unanimous and there was one abstention. Okay, the next item on the agenda is discussion of management measures responding to the selection of the reference points; technical committee report by Carl Wilson.

**DISCUSSION OF MANAGEMENT
MEASURES RESPONDING TO THE
SELECTION OF
THE REFERENCE POINTS**

TECHNICAL COMMITTEE REPORT

MR. WILSON: Okay, I think picking up on a theme that the chairman spoke to earlier is our discussion about recruitment failure in Southern New England is kind of over and above the results of the assessment, and it is really as new information has been brought forward to us that we're bring forward our recommendation for a moratorium.

In the context for the talk and the supplemental documentation that has been provided to you, I'll just kind of give you an overview of where we're going to go, just a quick overview of the status of the stock relative to the 2006 and 2009 assessments and peer reviews. We think we have strong evidence for recruitment failure within the Southern New England stocks and that there are significant impediments to rebuilding that stock, such as environmental stressors, disease and commercial exploitation.

We conclude with a management response section where we look at past kind of case studies of where moratoriums or closed areas or closed seasons have been used for crustaceans and then discuss the

highest likelihood of success. In this case we think it is a moratorium. This was a very serious talk and I think the technical committee really tried to back up the statements that we're trying to bring forward.

Again, the Southern New England stock, what we're talking about is everything south of Statistical Area 537, 539 and south so encompassing Area 2, 6, 4 and 5. From the last two assessments we would now consider Southern New England to be below our limit for abundance and in a favorable condition for exploitation. We think that the abundance is at very low levels for the last three years relative to the reference period and requires or warrants attention to rebuild.

We feel that we have evidence for recruitment failure, and essentially we're defining recruitment failure as a point where environmental conditions and/or fishing have resulted in successive years of poor recruitment. This would be recruitment to the bottom and into the fishery as well. We feel that when the parent stock is small the likelihood of favorable recruitment, regardless of environmental conditions, is greatly reduced.

Finally, if you have a small parent stock and the decline in adult spawning stock is only exacerbated by continued fishing. If goes down and you continue fishing, relatively small amounts of fishing can keep that stock depressed. The areas of evidence for recruitment failure; we'll talk a little bit about the spawning stock biomass, recruitment indices, redistribution of females, we have trawl survey indices, and then a discussion about the changes in the Southern New England Fishery.

The spawning stock biomass; for the Rhode Island, Massachusetts, Connecticut and the National Marine Fisheries Service trawl surveys in recent years are at or near the limit reference point or below the 25th percentile. The one exception would be Rhode Island. In recent years we think that is pretty good evidence that the v-notch program for the North Cape Oil Spill mitigation actually had a positive effect in spawning stock biomass, and I believe the years were 2003-2005 for the v-notch plan there.

Independent of Rhode Island, the other surveys are at or below the 25th percentile for their time series. Recruitment indices; these are either larval of the young of the year. In Area 611 we have two surveys from Millstone and Connecticut DEP and all are at or below the 25th percentile. Our two young-of-the-year surveys conducted by Rhode Island and

Massachusetts are at or below the 25th percentile for the time series.

The Massachusetts Buzzards Bay Survey has never really been that high, so we're saying that it is either stable or low. It has been bouncing around the 25th and median. The redistribution of spawning females; these figures are actually sea-sampling positions, but the fishery is responding to changes in the distribution in abundance of lobsters.

There are just two examples that are highlighted further in the appendices, but in 1998 there was an active fishery and Massachusetts DMF was collecting data up in Buzzards Bay. As the years have progressed you can kind of systematically watch the fishery work out of the Bay and into Vineyard Sound.

Further on we will be talking about how in the Massachusetts portion of Southern New England over 80 percent of the catch is female lobsters. Bob Glenn has presented, which we don't have in our document, some evidence that the actual spawning females are working their way down in the Bay as well.

For trawl surveys; from Massachusetts, Rhode Island, Connecticut, New Jersey and the National Marine Fisheries Science Center, all are trending down; certainly below the median and in most cases below the 25th percentile. We do see some uptick for fully recruited lobsters in the Rhode Island Survey; again likely based on that short-term v-notch program; and after that has ended, the survey has again started to tick down. The science center survey is our only survey available in the offshore Southern New England, and this survey follows the inshore surveys in that there is a declining trend below the 25th percentile.

We can talk about specifics, but in general the fishery has all shown a corresponding decline to decline below the 25th percentile. We don't have some of the 2009 landings available, but they in years past contributed a very small percentage. The timing of the decline is staggered and in the document it breaks it down by a statistical area, but the overall trend is very similar in that Southern New England is not where it was in the late 1990's and it is considerably below the median and the lower 25th percentile.

We do feel that there are significant impediments to the Southern New England stock for rebuilding; increased water temperatures, shell disease and continued commercial exploitation. Water temperature is a major driver in development,

growth, reproduction of lobsters, and really water temperature impacts all life history processes within lobsters.

Since the late 1990's – this is one of several examples that was brought forward temperature anomalies, but this is the number of days above 20 degrees Celsius. This is from the Woods Hole Lab and since 1999 the number of days has been increasing above 20 degrees. This is contributing to physiological stress of lobsters. They also changed their behavior to move away from high water temperature areas, and this will cause kind of a redistribution based on just in response to a change in the environment.

Shell disease has become very prevalent in Eastern Long Island Sound and Rhode Island Block Island Sound. In a recent paper co-authored by our chair, the incidence of shell disease explained a change in the linkage between settlement and recruitment to the fishery, so it was an explanatory variable, essentially introducing natural mortality into the system.

There is some debate on that point, but it is a statistical relationship that was improved by incorporating shell disease as a mortality event. Shell disease really was first noticed – we have always seen shell disease. We have reports back to the 1930's, but the incidence really increased in the late 1990's to where we have a relatively stable percentage between 15 and 25 percent for three surveys from Rhode Island, Massachusetts and Connecticut in Eastern Long Island.

As I mentioned earlier, under commercial exploitation we feel that we've seen a shift in the spatial effort, moving further offshore as lobsters are being pushed offshore. We think that there is an overly high percentage of females being landed in the Massachusetts portion; over 80 percent in the last three years females being landed.

When you have a depressed stock and fishing is continued, those losses of female lobsters to the commercial fishery are a loss of egg production and that potential is removed from the system. The 800-pound gorilla that the chair has mentioned is the five-year moratorium recommendation. This is not something that is completely out in left field based on our prior recommendations from the 2006 assessment.

I just want to touch on some case studies that looked at what we might expect to see and how we might evaluate a moratorium. We would recommend that

for five years the entire Southern New England stock be closed to lobster fishing. We think that there is a systematic recruitment failure, and really the highest likelihood to rebuild the Southern New England stock is to stop fishing. Continued fishing pressure, even at a low level, would reduce the ability to take advantage of favorable recruitment or windfall recruitment events.

Right now if we get a potential for a good year settlement, we would just be able to jump on that with reduced or a moratorium on fishing. This is not to say that the odds are stacked against Southern New England. We feel that we do have some evidence with the Rhode Island V-Notching Program that it is not all natural mortality that is causing or limiting any recovery, but the odds are stacked given the environmental conditions.

In most recoveries for a species as long lived as lobsters, it is a sobering climb back up and it would be likely that it would take longer than five years to rebuild the resource. This suggestion has been built on prior advice from the technical committee. Following the 2006 assessment, we recommended a 50 percent reduction in traps, consideration of closed seasons. A moratorium was on the table at that point, output controls, quota and reduction of traps through input controls and other measures.

In 2009, last summer we recommended a 50 percent reduction in landings from the last three-year average. We also talked again of a moratorium and we discussed the input controls of effort reductions, closed seasons, slot limits, closed areas would have less likelihood of success. What is different from August of 2009 to today is additional information was brought forward as far as just how bad the recruitment is in Southern New England.

The terminal year for the assessment was 2007. We went into additional information, settlement surveys, larval surveys, trawl surveys, and the stock is continuing to be in poor condition since the terminal year of the assessment. We found three case studies to try to build a discussion as far as what might happen in a moratorium.

In Newfoundland, in the mid-twenties, they had a pretty uncontrolled fishery from what we understand and that crashed. They imposed a three-year moratorium and the fishery did recover to a certain point. Those gains were lost relatively quickly because in a large extent, from what I understand, the fishery, although it was implementing some of the same size restrictions that were ideas of management

that we have today, they quickly kind of fished down that interest that they had gained through the moratorium.

Another example from Canada is the Brown's Bank Closed Area, which is off the southwest corner of Nova Scotia. This is a pretty large area that was closed in the late 1970's, and at this point you had two fleets converging, the inshore LFA 34 – the Lobster Bay area of Nova Scotia – was moving out to the Shelf, and the offshore fleet apparently was changing some regulations for swordfish at the time, and they were ramping up their efforts, and so the Canadian government at that point closed Brown's Bank as kind of a reproductive area.

At that point that closure really wasn't based on any science. That was brought forward as more of the discussion of the competing two fleets. The results for the Brown's Bank closed area, although it is a significant area, have never really been demonstrated as a benefit to the stock. While it was a well-intentioned closed area, I think the realization hasn't really been fully explored from our Canadian colleagues.

Finally, this is an example of another species much like lobsters in Southern New England that are on the limit of their southern range, the Northern Shrimp, and two times in the last 40 years we have seen a stock from surveys and landings decline dramatically, and through favorable recruitment and dramatic action, whether it be closed seasons or greatly reduced seasons, they have been able to rebuild the resource twice in the last 40 years.

Some of the same kind of environmental ticks against lobster in Southern New England apply for Northern Shrimp in the Gulf of Maine; and through a little bit of luck and strong work, they've been able to rebuild twice. Those are our case studies that we're trying to draw from. We don't think that this is a – we feel that this document is a point that we're going to move forward from, and we want to continue to evaluate – if there was a moratorium we would obviously evaluate through our independent surveys.

Dave Simpson mentioned a paper that we recommended really by John Caddy, and he also recommended a sentinel fishery; when you have a moratorium, that you want to keep some resemblance of where fishermen were targeting lobsters at the time of closure to see how the heavily fished areas might be changing, and then obviously we would be monitoring for recruitment events during that five-year period.

I see in the short term, depending on how the conversation goes – I think David Simpson has alluded to this, the idea of needing stock projections, and we fully agree with that. We would hope to have that available – I don't see no reason – by August. Then to continue work on recruitment dynamics and that we need to understand better just how bad the settlement and larval dispersal dynamics are in Southern New England. That was a fast run through of what will be a lengthy conversation, I believe.

BOARD DISCUSSION

CHAIRMAN GIBSON: Thanks, Carl. What I would like to do now is have any questions for Carl on the technical committee report, the information that is in it and the conclusions that they have drawn from it and the basis for the recommendation they've made – just on that report. Then the board has to have an important discussion of how to react to the report; and in response to the reference points, alluding to what David and George Lapointe have suggested, there may be an addendum that needs to be drafted in response to that. Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, hopefully in that tone, Carl, you had a graph up there with the water temperature swings, and unfortunately the way that was presented I couldn't see what years they were. On the high water temperature years you had an earlier graph in the first part of the board's business that said the level of abundance back in the early eighties, when it was very depressed, how did that correspond with those water temperature swings? I can't even see when those previous high water temperatures were.

MR. WILSON: The area of that circle is from 1999 forward, and so the early eighties would be right in here, in a period that had several years of lower water temperatures.

EXECUTIVE DIRECTOR O'SHEA: And then the higher water temperatures; what years were they, way over to the left, Carl?

MR. WILSON: 1945-1955 or so.

MR. LAPOINTE: Mine wasn't a question so much as one of process. Understanding that our agenda only runs until three o'clock and it is two-thirty, you know that in the past I have recommended for this important issue that we schedule an intercessional meeting because half an hour is not good enough for

this. The whole meeting time isn't good enough for this.

Rather than getting into the specifics, again because we have a couple other important items, I think we should make a conscious decision to schedule a full-day intercessional meeting somewhere in Southern New England, make it a no-cost reimbursement and if – well, probably most of our states can't do that, but to make it an affordable meeting, give notice and then get into the full guts of it because now I think we will all be dissatisfied, unsatisfied by having a small amount of discussion and then having to rush other agenda topics.

CHAIRMAN GIBSON: Yes, we've had that conversation and I certainly agree with that. My only question is do we need a board consensus as to when that should happen and what should we receive at that time in addition to more information from Carl. Do you want to see a draft addendum that has some elements in it because that would require some kind of board tasking at this meeting.

I think meanwhile if we have any burning questions for Carl, we would get those in and then have the discussion from the board as to how to proceed, what venue ought to be and what we ought to see at the next meeting. Is there anything for Carl before we move on that discussion?

MR. SIMPSON: Just quickly, first, in your list of impediments to stock recovery that didn't include predation and yet I'm sure I read somewhere in the document that predation was an issue, scup, smooth dogfish and striped bass, and now I can't find it anywhere. And, secondly, I guess I wonder about what the technical committee's discussion of the impacts of a moratorium on our ability to assess this stock in the future went like.

The University of Maine Model was something like ten years, five to ten years in the making. If we don't have a stream of landings' data because we have no fishery, the assessment and the reference points we just adopted are dead in the water. I wonder what the technical committee's thought was in that regard; just strictly in terms of our ability to assess the stock if we have no landings' data from which to scale to a population level.

MR. WILSON: The first question about predation; it is mentioned in the document. Well, it is not so much favored but it is not one of our highlighted impediments to rebuilding, but it is there and we agree there is some evidence and people certainly

have argued for increased predation rates. As far as measuring recovery, we would still have our independent surveys, and so you can take a stratified approach to estimating abundance. The model is incorporating estimations of growth, estimations of mortality and survey abundance and so you still have the ability to estimate a population.

MR. HIMCHAK: As far as impact on future assessments, I came to my first Lobster Board meeting and I was told we had to do an at-sea observer program for lobsters, and it has been very successful during the last two years. In fact, it is the only at-sea sampling for Area 5 and has greatly increased at-sea observer data for Area 4. My only comment is, yes, I'm in a little bit of a state of shock over this. I don't want to lose the at-sea observer program, obviously.

I know the technical committee has always had a strong message of control output parameters; don't piddle around with trap decreases, et cetera. What got you off the dime from, say, an IFQ Program with 10 percent of landings allowed? I mean that is really ratcheting down a fishery and it would still give us our at-sea observer program. I was hoping that something like that was viable.

CHAIRMAN GIBSON: It seems to me we're debating the merits of management alternative responses that we haven't even agreed to have development of and consideration for public comment, so I think what we need to talk to Carl right now about is the data that they analyzed and the conclusions they drew from it and not the management alternatives and whether they're viable or not. Bill Adler.

MR. ADLER: I won't going into all the things, but I agree with George's idea of having a meeting to go through this. A meeting also with the LCMT's in those areas would be good along with the technical team to go over this. I think before we even think about doing addendums we need to go over all of this stuff.

I do think that the technical committee report was good and I think it is adequate to put forth what you've already got here. Also, Carl had mentioned the idea of some type of a study on what a moratorium would or mean needs to be done, and I think that is something the technical committee could work on before this Lobster Board meeting and/or an LCMT meeting, actually, to go over some of these things.

I would like to know, Carl, 2008 the areas put in some management measures designed to, I think, improve the stock, the maximums and the v-notches, and I don't know if that has gone long enough to see if it has helped. Another thing is in this study, which I think this is the one you were referring to about moratoriums and stuff, it says success seems to depend on non-discretionary fishery control laws being applied. Depletions aggravated by unfavorable climate regimes will be difficult to reverse.

When I'm looking at all these things, it is like you can close the fishery and probably besides destroying the fishermen you would probably not rebuild it. Your comments on Brown's Bank and even the Newfoundland thing also add to that. I support the idea that George has of having a separate meeting up there to go over this before we start putting things on paper like addendums. I think that the technical committee could prepare other information for this meeting or these meetings and bring that, and then we could have a full-day, or whatever it means, discussion before we start launching into addendums.

CHAIRMAN GIBSON: Is there anybody who has a question on the report and not the process to follow next? Bill McElroy.

MR. McELROY: If the number of lobsters that are assigned to Western Long Island, which apparently has been – and Buzzards Bay, which have climate problems that won't support a lobster fishery, if whatever number of lobsters are currently in that projection that includes those areas and assigns them essentially a rebuilding target, and they're part of this overall average, if the environment can't support them and you include that, it seems to me that almost automatically makes the situation where you can't come up with an improvement enough to satisfy that criteria.

I would like to suggest and perhaps a motion that the board task the technical committee with looking at that assessment and those figures and what have you again, taking out Western Long Island Sound and Buzzards Bay and taking those zeroes off the board, so to speak, so that at this follow-on meeting we would be able to have a look and say, okay, here is the technical committee's report that includes everything, and here is the technical committee's report that only looks at the areas that have the ability to support lobster.

I don't know whether you people are aware of it or not, but if you chose a five-year fishery moratorium to keep the fishery from collapsing, you've kind of

jumped the shark and guaranteed that the fishery collapses without even giving the opportunity to collapse, because there would be no fishery left after five years. There would be no infrastructure.

The average age of the lobster fisherman in Southern New England is something like 57 or 58 years; so if you take those people and you put five more years onto their average, they're well up into their sixties. At that point there is no fishery to come back, so it seems like the board would be considering an option that it sounds nice to say, oh, yes, well, we can do this, that and the other thing and then everything will be fine and hunky dory, but there wouldn't be anybody to fish.

There wouldn't be any infrastructure, there wouldn't be any fish docks, there wouldn't be any docks. Where I come from in Rhode Island, I rent my dock space from the Department of Environmental Management. One of the rules that they have is for me to be eligible to have my dock to keep my boat at I have to go fishing a certain number of days every year.

Now, if I get a five-year moratorium from you folks, by their regulation they're required to kick me out. Where am I going to put my boat? If I tried to take it over to a marine or a boatyard to store it for five years on the shore, they won't let you do that because they would be concerned about the liability of having to junk the boat. If I tried to put it in my yard, the town –

CHAIRMAN GIBSON: Bill, I just have to cut in on you. We haven't even tasked the technical committee yet with what we're going to call projections or evaluation of management alternatives. What you're talking about would happen – we could ask those questions in the tasking, but we haven't even gotten there yet. I'm anticipating we need to move to the – since I'm not getting anybody rising to my bait for technical questions about the information, I'll give Lance one more try and then we'll –

MR. McELROY: Well, I asked a question but then I kept talking.

CHAIRMAN GIBSON: Well, the management alternatives haven't even been identified for development so there is no ability to evaluate what we haven't tasked anybody yet. Lance, you get the last bite.

MR. McELROY: Well, the thing that I asked was about taking those numbers of lobsters out.

CHAIRMAN GIBSON: Do we have a second to the motion?

MR. ADLER: I'll second the motion.

CHAIRMAN GIBSON: Seconded by Bill Adler.

MS. KERNS: Bill, the board has asked this question before and the technical committee has come back to report that if the board wants us to do a new assessment for the Southern New England area, it requires a whole 'nother assessment, which will take the two-year timeframe for that to occur because we don't have the data ready and available to plug all those numbers into the assessment.

It also requires changing the priorities of the ASMFC's scientific staff who are currently working on other stock assessments to do so. It is not only changing the priorities for the state biologists working on this issue but as well as priorities of the ASMFC for other species management. The board has indicated to not do that in the past, to redo the Southern New England portion of the assessment.

CHAIRMAN GIBSON: I would ask that you think about withdrawing the motion because I think that – again, as Toni said, the board is on record relative to the status of the assessment and the timeline that we're on, and also in the next discussion, which I'm hoping to get to – and I think George is trying to help me with – it would be a course of action laid out in terms of how to respond to the technical committee's report, which management alternatives are viable enough to go into an information document that the board might consider moving out to the public for input. That is what I was hoping to get to.

In the course of structuring and developing those alternatives, the technical committee has indicated to me that they could do some projections of what-ifs, what if a moratorium goes into effect, what if we don't do anything, what if we do something in an intermediary mode, and they would have to think about the impediments they have in terms of doing those projections; what if there isn't any productivity from Long Island Sound or 514 and so on. That is the course that I'd like to proceed on. I don't think that this motion is going to get us anywhere.

MR. AUGUSTINE: I'll make it easy, Mr. Chairman. Based on Toni's comments and your comments and your suggestion that we do not go forward with this, I think we're spinning our wheels so I move to table this thing indefinitely if we can't get it withdrawn, Mr. Chairman.

CHAIRMAN GIBSON: Thank you, Pat. Does the maker want to consider withdrawing the motion?

MR. McELROY: Well, I guess I don't have a lot of choice, but I wanted to be able to be on the record as saying that I made that suggestion because it is a very important consideration in the minds of the fishermen. Now, it's pretty obvious I'm going to lose so I guess I might as well withdraw it, but I wish I didn't have to.

CHAIRMAN GIBSON: Thank you. Does the seconder concur? **Okay, the motion is withdrawn.** I'm going to go to George Lapointe.

MR. LAPOINTE: I want to jump from the technical into the management, Mr. Chairman, and my motion would be to move to initiate an addendum to the Lobster FMP to address the stock condition in Southern New England. The addendum will include a range of alternatives from no action to a moratorium. That will get us started and if I get a second, I'll discuss it a little bit.

CHAIRMAN GIBSON: Is there a second; seconded by Pat Augustine. George.

MR. LAPOINTE: My only other question was when Carl gave the report – this talks about a range of alternatives – Carl also mentioned and a couple of people mentioned the monitoring tools we need if you did have a moratorium. I guess we could include that, but that might be in the fine details. I guess we could include that under a moratorium when the document is developed.

CHAIRMAN GIBSON: Yes, that would be my understanding. I wanted to again discuss, so that my Rhode Island colleagues don't get too nervous, what my view of this would be is that we would ask staff to produce this document with the details that George just suggested, and we would have that come forward to us at a special board meeting in the summer that could be fully noticed, that individuals with concerns and stakeholders in this could be present to hear that board discussion.

We could have a thorough discussion as to what alternatives are viable, which alternatives should go to public hearing, motions could be made to add alternatives, withdraw alternatives. That whole discussion can be done very transparently given the consequences that Bill has very adequately discussed and the ramifications to some of these alternatives.

That is what I was hoping to get to, and I would ask the commission whether they thought that was a viable process that we would hold a special Lobster Board, a single-issue board outside of the regular summer Alexandria meeting, preferably in the Southern New England area that could be well noticed, well publicized.

I don't relish having the entire Area 2 industry present, but I think we have to afford that opportunity if they feel strongly enough they need to be present and see the debate about moving something to public hearing, for public comment and the viability of certain options that are in it. That's where I'm coming from on it, and I would like to hear from the commission. Bob.

MR. BEAL: Mr. Chairman, mostly with respect to funding for this meeting, as the commission moved through the 2010 budgeting process, we did not include resources for an extraordinary meeting of the Lobster Management Board. With that said, I think, as Mr. Lapointe mentioned earlier, there are probably ways to do this meeting in a fairly inexpensive way.

If it is in Southern New England, the majority of the states from Maine through New York and New Jersey can drive relatively easy and fairly inexpensively to the meeting; and if some states or other organizations can chip in a few dollars to pull it together and to offset some of the funding issues, I think we can probably make it happen.

With respect to the process, I think it is a reasonable thing if that is what the board is comfortable with. With your comment about the number of folks that might show up in the public comment, I guess the other dimension of that is anything that the board decides with respect to an addendum will go out to public hearings and they will have opportunity obviously there to completely say their piece and get that conveyed back to the management board.

CHAIRMAN GIBSON: Thanks, Bob. All we're talking about doing here is authorizing development of a document. We're not even talking about moving it to hearing yet, and we're not talking about which alternatives remain viable. It is simply a document with a full range of alternatives in it. Dan.

MR. McKIERNAN: I have concerns that it is too early to approve the initiation of an addendum. I suggest that we should do a few steps first. I think we should ask the Northeast Fisheries Science Center to review these findings about climate change and to see if this linkage is supported by NMFS; because if

we do get to the end of the road and we are seeking a fishery failure declaration, NMFS is critical to supporting that.

In other words, I'm almost looking for somewhat of a peer review on this. Even though a lot of the data is coming from Massachusetts, we have full faith in Bob Glenn, one of my concerns is that the document and the findings are very much focused on the inshore fisheries, and I don't think there is enough information about the offshore fisheries in this document or even in the discussion.

I would like to see NMFS weigh in on whatever data they have on this situation. I would also like to see an LCMT meeting, and I would like to see a multiple LCMT meeting where the technical committee could present to them. I don't want to see the LCMT – you know, Area 3, Area 4, 5 and 6, all the different meetings; there ought to be one meeting maybe in Providence or Mystic and let everybody come together and look at this before Toni or the staff come up with these ideas about ways to manage the lobster fishery in the future, before folks like Bill McElroy has had really a chance to chew on this.

This document is only about ten days old and it's setting everybody back on their heels. I think this is worthy of more discussion prior to initiating the addendum. Those are my three requests is for a multiple LCMT meeting, a request to NMFS for a review of these findings, and NMFS to also present to us maybe at the next meeting on the details and the potential for a federal fishery disaster declaration.

CHAIRMAN GIBSON: Dan, a few more comments on the motion, but you might want to be thinking about a motion to postpone to a time certain or something like that. Seth.

DR. SETH MACINKO: Well, I think Dan just said mostly what I was going to say. It just seemed that we went awful fast from a rather articulate statement by George about we've only got 15 minutes left, let's schedule a special meeting, to a motion to hitch the addendum train and push it out the station. I would sort of agree with what Dan said and would vote against this and then be prepared to vote for a motion that says what Dan just said to kick all that into gear.

REPRESENTATIVE DENNIS ABBOTT: Mr. Chairman, I would like to support George's motion. I haven't been asleep too much here, but this sounds like eight or nine years ago we were discussing the same problem, and today sounds to me like the day that the chickens are coming home to roost, that it is

time to fish or cut bait – to throw out a few of these clichés – but we have been dealing with this problem for the longest time; and if we want to keep batting it back to the technical committee and say go find us some more information while things are going to heck in a hand basket, I think it is time to do something.

I also think from the commission's point of view, whether the meeting costs five dollars or five thousand dollars, that we need a meeting. This is a serious subject and we have to find the resources and we have to find the gumption to take the action necessary to do something with the lobster stock in Southern New England because it has probably been eight or nine years now since Southern New England to the Atlantic States Marine Fisheries Commission and asked us to do something. To my recollection, we didn't do much of anything after we got done fussing around. Again, I support George's motion.

MR. LAPOINTE: I obviously talked to staff about this and this is putting us officially on notice saying we want to do something, and clearly the range is no alternative to a moratorium, and so we've got some breadth or some width to do that. I think that the meeting that we've all discussed or most of us have discussed will allow those discussions to occur.

It is the right process for the commission; it initiates the addendum; it will allow us to say here is this range of alternatives; it will allow us to ask the technical questions; it will allow us to ask the fisheries questions; it will put some seriousness to the issue. If you call up the Fisheries Science Center and say, geez, can you do a science review on climate without some pressing need, they're going to say we've got 700 other priorities. I think this is the right way to move ahead.

I don't want at all to say, oh, we're going to have this meeting in July and then in August we're going to make all the decisions. I don't see that happening. Even Pat Augustine won't be ready to vote then. I think this again gets the commission process moving and allows us all to share the documents, to show the commission is concentrating on the issue, but to ask all those questions that have been raised at this table.

CHAIRMAN GIBSON: Lance, do you have a question or a comment?

DR. LANCE STEWART: Yes, I did back – the timing was with the discussion of concerns about the technical committee report. A few of the things that we learned in our studies of the biology of the lobster

is surface water temperatures are not the lobsters' environment. It is benthic water temperature, and there are many thermal climes that protect the lobster from some of these higher surface water temperatures.

Distribution is driven by these thermal climate fluxes in and offshore; and to declare an inshore area void and not habitable is somewhat overboard because the animals use them in the winter. A lot of the process of fluxing of the populations is to concentrate and to provide for mating at the molting periods, so it is a very dynamic process.

To look at the habitat as somewhat uniform I think we're shortcutting ourselves, so my suggestion is that the technical committee gets a little bit more oriented to the lobster environment and temperature controls. Another thing that I didn't see in the initial natural habitat impediments to rebuilding was the pesticide issue.

Believe me, there was \$13 million spent on the 1999 die-off. The big target was chemicals and the massive spraying for – first was triple E that occurred extensively along the Rhode Island/Connecticut Border. Coincidentally and chronologically that is when the occurrence of shell disease started. A year or two later the Western Long Island Sound lobster population was devastated in one year, one-half a year. This is a catastrophic fisheries failure.

What we're looking at is sort of like something that has been going on for a long time. No, it had an event. If it was an oil spill, we would be all eligible for fisheries recovery monies. We went to court; and the pesticide companies paid the industry their suit. I was prepared to testify. A lot of the literature that is scientifically available, and I would hope the technical committee would look for it – and if you want, I can give you the references – absolutely documents the new concern for parts per billion concentrations affects on arthropods; not parts per million that the instruments of the day could assess, but concentrations of new instruments had to be perfected for it to detect.

Biochemical studies, biomedical studies all around the country showed cuticle aberrations by exposure to malithion vismitherine and pyrethrin and metoprine. Our scientists at UConn, French and DeGuise, showed that the reduced immunities, reduced phagocytosis caused invasion by the parasite that killed the lobsters, so it wasn't a direct effect of heat or hypoxia, because hypoxia has been waxing and waning.

CHAIRMAN GIBSON: Lance, the technical committee has heard your comments and will be thinking about that. We have a motion on the board that I need to deal with. I think you can vote this up or down and we can move on. I'm going to caucus on this question of initiating an addendum.

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Okay, we're going to call the question on this motion. The motion is move to initiate an addendum to the Lobster FMP to address the stock condition in Southern New England. The addendum will include a range of alternatives from no action to a moratorium. Motion made by Mr. Lapointe; seconded by Mr. Augustine.

All in favor please your hand, 8 in favor; opposed, 2 opposed; abstentions; null votes. **The motion carries.** Okay, we have agreed to that and now we need to have a discussion about when the meeting should occur, when this document comes forward, the venue, what should happen in the intervening period relative to LCMT meetings, tasking. There was a suggestion of running something by the Service. We need to hear from Bob Ross on that. We need some discussion and guidance for staff on the range of – we have specified the range, but we need information on intermediate measures. Dave Simpson.

MR. SIMPSON: Well, in terms of the range I think George just about covered it, zero to a hundred. We did talk about something running down the middle, you know, a 50 percent reduction so that the technical committee didn't have to run endless scenarios. That way if you want to consider something in between zero and 50 or between 50 and a hundred, you can kind of interpolate where you would end up.

I certainly wouldn't want to delay this process at all in order to go to the National Marine Fisheries Service to get them to weigh in on temperature or anything else. I think the stock assessment and the peer review is replete with references to non-fishing factors that are regulating this population and depressing its productivity and recruitment and that would provide ample basis for an argument for a natural fisheries failure to go on a parallel track. In terms of, were you looking for specific alternatives to develop – they've already hit the major ones in terms of input controls, output controls, so –

CHAIRMAN GIBSON: No, what I'm more interested in is actually the timing of this meeting. We seem to have some agreement for a special board meeting in the Southern New England area, but the timing of the meeting; the product that is coming forward, I think we understand what that is, but there were some concerns around the board of some actions that need to take place prior to the time that this addendum come forward.

Again, this is just going to be a draft addendum for consideration for public comment, and there can be a full debate at that time as to whether any of these alternatives that are developed, based on this board guidance, have any viability, should be removed, should be modified. I'm assuming the product will also have, as Carl has suggested, some projections as to the likely response of the stock to this range of alternatives. There were concerns about LCMT involvement and I thought about input from the Service, and maybe Dan wants to speak to those.

MR. McKIERNAN: Well, I have already. I think that it is critical to give the LCMTs a bite at this report, even to discuss the content before the addendum is drafted in Washington. I would ask that the states, whoever is responsible for LCMT convening, do that as soon as possible. I would suggest even a single meeting or maybe just a couple of meetings to cover it regionally; ask fishermen to drive out of state so that people can all hear this together.

I think it is critical that these meetings not be held in a vacuum. I think from the feedback that we're all going to get from the industry we can make for better options in the final addendum document. I think that is really important. As far as the request to NMFS, I still believe that – because the science center put out a paper on climate change on a whole bunch of finfish species, I was hoping they could just turn the crank on the question of American lobster and see if they can come up with similar findings.

As far as fishery disaster declaration, we might as well get that conversation started behind the scenes as soon as possible. Maybe our NMFS representatives can look into presenting something to us in August if in fact they believe in the findings that this is a climate change related situation.

CHAIRMAN GIBSON: Thanks, Dan. Well, our two next regularly scheduled meetings will be in the summer in Alexandria and then in the fall in Charleston. Getting to my point, neither of those are in my mind good venues for consideration of a draft

document, modification of that document, decisions on the fate of some of the alternatives and hearing input back potentially from the Service. Is there a sense from the board as to when the next board meeting ought to take place relative to this addendum? Dave Simpson.

MR. SIMPSON: I think with that, I would expect that the technical committee will need at least until the August meeting to develop the projections. They're saying no; they can knock those off. When we talked about this a few months ago was we couldn't possibly begin work on it until August so now I'm glad to hear that they'll be done well before August.

MS. KERNS: Genny Nesslage has done a series of preliminary projections already and vetted those through Carl, and Carl gave Genny some suggestions on things to work on, and then we're going to vent through the technical committee. Then the technical committee can help me craft the appropriate projections for the addendum document. That can happen relatively quickly and they think we could have something together by the end of June. I see Genny nodding her head in the back in agreement with me, so I think we could have those projections done by the end of June.

MR. SIMPSON: Yes, so if we were going to see that for the first time at the end of June, we need to go to the public with something concrete to react to, those projections in hand and understood by the board and people who are going to run those meetings, and the suite of alternatives, both input controls and output controls, at least listed, you know, we're considering these things.

It could be the complete laundry list of everything that has ever been done in fisheries management and some sense of the – you know, we will have that zero to 50 to a hundred range of action. I would need that much to take out to public hearing to get intelligent comment on; do you prefer output controls such as quotas over a season or trap limits and why.

I think we would need that, and it would be I think rushing it to get that meeting in before the August meeting to approve a document for public hearing. I guess I'm wondering do we just take until August to develop the draft for public comment that has all the possibilities and the projections, approve that for public hearing in August, and then you're into the early fall.

I think in Southern New England that fits better in terms of time availability of fishermen, the affected public, to get a lot of public input in the fall and maybe have a meeting just – that special meeting just before the annual meeting, just before or just after –

CHAIRMAN GIBSON: I was thinking that the special meeting needs to be the next one where we look at this document, the projections, and have the debate as to which options are viable to go to the public, because I know there are going to be strong opinions around the table about the viability of a moratorium option.

I think that needs to take place at this meeting in Southern New England that we're talking about so that there is simply a matter of public record on how that monumental option was treated. I'm thinking of a summer meeting. I don't think the Alexandria one is the place to do it, but I'm certainly open.

The technical committee can work as fast as they're going to do, but I think there needs to be some time for the state agencies to reach out to their industries, make sure they're clear as to what is going on and when this meeting is going to occur and what the process is going to be from there on. I'm looking for a summer date for this to take place and have that debate as to what goes out to the public hearing, what are the elements that are in this document that goes out. As you have stated, it needs to be very clear what is in it relative to the expected outcomes of a particular set of actions.

MR. SIMPSON: Okay, so we would have sort of a – we would add an extra step to the normal process and that would be to have a meeting to decide what to put into a document to take out to public hearing, and we would want to have hearings about that document before we approve it for public comment is what it sounds like.

MR. LAPOINTE: I'm going to jump in, Mr. Chairman. This is a recognition of the extraordinary circumstance that the stock condition is in. When I spoke to Dave Simpson about this first, his technical committee person was outside the room wanting to tell him about it. I said just yell, "Holy, bleep", because it is extraordinary and so my thought would be have the technical committee and staff put together – I'll call it an outline, but the guts of what we're going to look at, meet in July – if we try to make it convenient, we're going to take too much time – meet in July so that we understand it, so that we can ask additional questions.

Then it is going to take time for the LCMTs to get together. If it is an extraordinary issue, people are going to have to find the time. We can't wait until it is convenient for them because there is going to be no convenient time for this discussion. I like your idea about not deciding this in either Alexandria or Charleston.

Now that I think about it there are two meetings involved at least. I'm not burning to say at the very next meeting we're going to approve an addendum for public hearing; and so meet in July; we will wrestle with it some more in August at the meeting in Alexandria just to figure out which shoe goes before the other one; and then the states can schedule the LCMT meetings collectively or individually to move this ball along.

EXECUTIVE DIRECTOR O'SHEA: Just as a reminder, it has not been unusual for our process to have a draft addendum come before a board at least twice before that addendum goes out for public comment, so I haven't read until now anything special about what you're contemplating here.

CHAIRMAN GIBSON: Thank you, so I think what we're looking at, if we follow George's suggestion, is we would get a draft addendum for consideration in July. We would hopefully have a great discussion of that and make the improvements we think that need to be made to it, whatever understandings we think need to be adjusted for the public's benefit, agree to what alternatives are in or out, and then decide what to do with it at that point, whether to carry it over to an Alexandria meeting or whether to authorize it for public hearing at that time. That is what I'm looking for some board consensus on, and I think I see some of that developing. Tom.

MR. THOMAS FOTE: I was just looking at meeting dates. I know we're going to be attending the Mid-Atlantic Council meeting in August, and that is going to be in Pennsylvania. I know that's a lot closer than Alexandria to New England, and a lot of us will be down there for the meetings.

Since it is a joint meeting of the Black Sea Bass, Summer Flounder and Scup Board and bluefish, do you want to tailor it onto there so you're not paying for double travel expenses and you're not basically pulling people away. With travel restrictions for a lot of states right now, it basically makes it easier.

CHAIRMAN GIBSON: I think we're looking for a Southern New England venue for this July meeting. We're running out of time. If you allow me the latitude to work with staff on the venue and the time

– we’re looking at July for constructing a draft document that we can hopefully study and have plenty of input into as to how that ought to be modified for public understanding, public clarity, and then make a decision on whether it is ready for moving to public hearing or not. I don’t think we need a motion.

MR. AUGUSTINE: Mr. Chairman, great idea and probably if one or two dates are selected, go to a google date calendar and let the board weigh on it and that’s it; if they make it, they make it; if they don’t, it is on them. I think everything has been said, including George’s clarification and your followup, and it almost seems at this time it is incumbent for you, Mr. Chairman, to tell us what you think you need to do, we need to do, which you have done very clearly, we’ll have a nodding of heads and then just move forward with it.

CHAIRMAN GIBSON: Okay, I think we have an agreed-upon course of action for that response. Toni.

MS. KERNS: In light of the time, for 514 the board had asked us to do the same thing that we did for Southern New England. The technical committee did a preliminary analysis but ran out of time due to the great number of tasks that they had assigned to them from the past meeting and we will give a report on 514 in August.

CHAIRMAN GIBSON: Thank you. The next agenda item is a discussion on Outer Cape Cod regulations, Carl Wilson.

DISCUSSION OF OUTER CAPE COD REGULATIONS

MR. WILSON: Okay, trying to make this through quickly, at the last board meeting the technical committee was asked to look into past conservation measures as a basis for not adopting complementary v-notch measures in the Outer Cape. Specifically, we had two questions; how much reduction in fishing mortality and brood stock protection does the Outer Cape Trap Reduction Plan enacted in 2004 provide? Secondly, is this equal to, greater than or less than the gains provided by the eighth inch v-notch possession standard and the adoption of a 6-3/4 inch maximum size?

A quick description of the Outer Cape Cod, it is a relatively small fishery with approximately 70 current harvesters in 2008. It is a million pound fishery, and the landings have increased by approximately 29 percent since 2002. Before the

implementation of the Outer Cape Plan, there was a 25 percent reduction in numbers of traps.

Since the implementation of the plan, which was a 20 percent reduction in traps, the trap hauls, which is a more representative figure for effective effort, have remained stable. They have actually seen an increase in the catch-per-trap haul in this area. Since 2003 licenses have stabilized as well.

The biological composition in the Outer Cape Cod, generally there are larger lobsters. This is a transient population. In the fall they seem to move out of Cape Cod Bay towards Provincetown and south. In the spring there is a net westerly and northern movement back into Massachusetts or Cape Cod Bay.

While there is no trend in quarter-inch v-notch lobsters, what is currently illegal to take in the Outer Cape Cod, we do see that there are a greater number of v-notches in Provincetown than further to the south. If we include v-notches that are currently illegal to take in Management Area 1, then total v-notches have increased since the initiation of the compulsory v-notching in Massachusetts Bay, 514 and all of Area 1.

Relative to egg production, the increase in the minimum size from 3-1/4 inches to 3-3/8 accounted for a 1 percent increase in egg production. My slide has an error. Currently the Outer Cape does not have a maximum size. Second, the increased protection from adopting a – going from a quarter-inch v-notch to an eighth of an inch v-notch would increase egg production by 8 percent; so to the first question, it provides less egg production than the proposed eighth-inch notch.

Exploitation has increased by 40 percent from 2002 to 2007 in the Georges Bank stock area, of which Outer Cape Cod is predominantly a member of; and so since the implementation of the Outer Cape Plan, exploitation has actually increased by 40 percent. The technical committee consensus statement, although a 20 percent reduction was achieved, we have seen no reduction in exploitation, and the Outer Cape Cod Fishery has lost more egg production by harvesting sexually mature v-notched lobsters, those that are currently legal to take in Outer Cape Cod, so that is 8 percent, than has been gained by the increase in minimum size from 3-3/8 to 3-1/4 inches, which was 1 percent.

The Outer Cape Cod Trap Reduction Plan does not provide equivalent levels of brood stock protection

that an eighth-inch v-notch and maximum gauge would provide, and the Outer Cape Cod Plan threatens conservation benefits in adjacent management areas as there is bleed from movement from one stock to adjacent stocks. That's it for our presentation.

CHAIRMAN GIBSON: Thanks. In the interest of time I'm going to ask Pat White to introduce his motion on this. Toni, you can make your comments first.

MS. KERNS: Carl had said that the Lobster Board had asked us to look at this information, and Sarah Peake had actually sent an e-mail to Mark Gibson asking if the technical committee could look at this information, and that is where it had come from.

CHAIRMAN GIBSON: Thanks, Toni, for that clarification. Pat.

MR. P. WHITE: I move to initiate a new addendum if the Commonwealth of Massachusetts does not amend its regulations prior to July 1, 2010, that would extend biological measures to Outer Cape Cod that were approved by the board in Addendum XI for Area 3. These changes would create a 6-3/4 inch maximum size for male and female lobster and a one-quarter inch v-notch with or without setal hair possession standards for a female lobster in the Outer Cape Cod LCMA to complement federal measures. If the Commonwealth promulgates regulations prior to July 1, 2010, then those regulations would be added to the next ASMFC addendum to have the ASMFC Lobster FMP consistent with the Commonwealth's regulations.

CHAIRMAN GIBSON: Is there a second to the motion? Seconded by Bob Ross. Discussion on the motion? Paul Diodati.

MR. PAUL DIODATI: I guess I can understand where this motion comes from, but I just want to remind the board that over five years ago, when we were adopting these measures, I expressed my extreme concern that Massachusetts was faced with an unprecedented situation to manage so many different lobster management areas. Working with the LCMTs we accommodated them as best we could to implement the programs that they developed through some difficult working sessions. This particular program was presented to the board.

It was a very difficult one to put in place, but we did it. This board did nothing five years ago or nine

years ago when the Commonwealth made it clear that this was going to be problematic to have such a variety of management measures; yet the board was also clear in their commitment to standing by the LCMT process and for adopting independent plans for these areas.

The Outer Cape has adopted a plan that meets all the requirements that were put before the board. Nothing has been demonstrated by the board or the technical committee that more conservation is needed in the area. It is not clear to me where that 8 percent egg production that you'll benefit by goals, whether it is Georges Bank or Gulf of Maine, and is it critical to put more restrictions on fewer than 50 lobstermen in that area in order to achieve that 8 percent egg production increase.

Recognizing how this process works, I know we will have an opportunity to make statements during the public process, but I'm not going to support the motion. I hope my delegation doesn't. It would be inconsistent with the support that the LCMTs expect. I guess the one thing I'll ask is what is the benefit of the 8 percent egg production?

Why is that critical and why is it necessary to move into an addendum to force an LCMT to perhaps do more; and if it is important to the board for this 8 percent production to develop, why are we taking this particular area in a different management direction? Their scheme was based around the concept of controlling the number of traps that they fish with, and they have limited themselves to the number of traps.

Now we're asking them to address v-notched lobsters and maximum sizes. We're going completely inconsistent from the concepts of their plan. If we need more conservation, getting that conservation shouldn't be based on a plan that they already embraced, which would be to reduce their traps. Thank you.

CHAIRMAN GIBSON: Paul, is that a question for the technical committee?

MR. DIODATI: Yes, one question is why is it necessary to force this particular area into doing more restrictions for the 8 percent; why is that 8 percent necessary; and what do we gain for that 8 percent. The next question is if we're going to do an addendum, if that 8 percent is important, why aren't we going to achieve it in the same way that this area has already adopted, which is by trap controls?

CHAIRMAN GIBSON: Carl, do you want to address those.

MR. WILSON: Well, first, the plan was established back in 2001 around reducing fishing mortality, and a linkage was made that a reduction in traps would equate to a reduction in fishing mortality, and we haven't seen that in Outer Cape Cod. In fact, we have seen an increase of exploitation within the Georges Bank area since the plan was implemented.

The second comment to your question is the Outer Cape Cod has competing management measures with everywhere else in the Georges Bank stock area and adjacent management areas, and so the effectiveness of other participants in the same stock area is being diminished by competing measures in Outer Cape Cod. Finally, I think it is a realization as conversations in Southern New England go forward and we start talking about traps relative to fishing effort and catch, that it is a very hard relationship to make.

MR. ADLER: As Paul has pointed out, this area did put their plan in, it was approved, they did it. I know the technical committee had indicated that the traps did go down, the fishermen are down, and yet they're catching a good amount of lobsters. In other words, they're becoming efficient. Well, of course, I know that the technical committee way back when in a stock assessment said that traps weren't a good way to control things, anyway.

However, they did pass it and they've been successful and now we're going to try to penalize them because they're successful. First of all, the latest stock assessment says they're not overfished, overfishing is not occurring. Whether you wanted the exploitation rate to go down or whatever you wanted it to do, the point was that this area is not overfished.

Now, leakage, yes, there is some leakage, there is some leakage probably from the Gulf of Maine or the Area 1 into this area, that's true. Of course, there is leakage the other way, too, because the lobsters they throw over Area 1 can take. They both do that. I don't want to see 27 fishermen affected when they didn't need to be.

Now, the state has its plan going and there are 27 of the fishermen out there that are going to be affected from a federal rule, not a rule that we came up with, but a federal rule that jumped ahead of us for whatever their reasons, although I did understand that the reasons had to do with the non-trap lobster

controls because they have no areas on them and they can go anywhere.

What I would want is I would want the feds to give an exemption to their rule, which is in effect July 1, give an exemption to the lobster trap fishermen that have areas on their permits, basically the Outer Cape federal guys, and then things could go along. Remember, things are not bad. One of the things or a message or meeting that was had – and I was not there – there was a concern as to 514 and we're going to put this into the Outer Cape because 514 might be in trouble.

Well, right now we've got a report from the technical committee that 514 is not too bad, is doing okay, is not a serious thing right now. Once again, I would NMFS to consider giving an exemption to their plan or their rule and not putting this addendum forward. I'm not going to support this addendum because I think it's unfair to those Outer Cape fishermen.

MR. P. WHITE: I guess I'm a little confused because I thought by moving forward with this I was responding to what I had heard at several meetings from the Massachusetts contingent or at least of the some of Massachusetts contingent about their confusion in enforcement that they were going through.

I sat by when Sarah asked that the technical committee review the situation in the Outer Cape, and now the technical committee has come forward. They have come up with information that says there is a 40 percent increase in the v-notched lobsters that are being caught there – no, that is a 40 percent increase in the mortality even with a trap reduction; 80 percent of the harvest is female lobsters. It just doesn't sound like a healthy situation. I don't think that the goals of the plan for the Outer Cape have been met with what we're trying to do to reduce mortality. That is why I asked for the amendment.

REPRESENTATIVE SARAH PEAKE: Mr. Chairman, I won't take time repeating what my fellow commissioners from Massachusetts have just said, but I would like to point out and I guess request of the technical committee – we have looked at, as Bill Adler calls it, the leakage in effect from Area 1 into the Outer Cape, but I don't believe that there is data in there or we have information – you know, the Outer Cape lobstermen went up on their minimum gauge size, so there is a certain amount of lobsters that would be legal in Area 1 that gets thrown back overboard. If we could come up with that data, that would be helpful.

I would like to reiterate also the point where we will be seeking an exemption for the trap fishermen from the federal rules, which I think the way this motion is worded might make the point moot; and, finally, put in a call or a request to let the LCMT process roll on this. The same people who crafted these regulations, they've just received the report several days ago.

There was a meeting held in Chatham that the Massachusetts Lobstermen's Association that Mr. Adler and Paul Diodati and Dan McKiernan were at. We were debating the budget so I was sequestered at the State House at that particular moment. They've just really had the opportunity to start to chew this over as well.

I want to express my appreciation and thanks for the technical committee for making the time in what was your very busy schedule preparing reams of other information for this board meeting today to find time to gather this data. Again, if we could just get that last piece of data of what is the spillover back into Area 1? Thank you.

CHAIRMAN GIBSON: I'm going to go to Bob Ross for the Service's perspective and then we need to bring this motion to a vote.

MR. BOB ROSS: I would just like to thank the board for continuing this dialogue over several meetings. I understand it has been quite a challenge. I think from NMFS perspective, as we moved forward with commission recommendations to address these brood stock measures, we provided an extensive analysis of our logic as to why we felt that the Outer Cape area should also come under similar brood stock measures.

I also note that the Outer Cape area, as is Area 3, spans all three stock areas. Now we know that Area 3 has had this tendency to have to abide by the most restrictive measures in place for any of the stock areas involved. In a situation like this we have the Outer Cape which also includes a part of the Southern New England stock area, which we've heard today has got serious brood stock concerns.

It also overlaps into the Gulf of Maine lobster stock area; specifically, Area 514, which since the Outer Cape's trap reduction plan went into effect, two additional stock assessments have come on line through the commission process, which continued in both cases to indicate high levels of concern about the Area 514.

We have also heard at this board level that there are larval supplement benefits within Area 514. We have heard from the technical committee that even though the trap numbers have gone down, in fact effort has gone up and in fact landings have gone up. This area, as we've heard from the technical committee, is also considered to be a lobster highway, and lobsters transiting this area and the v-notched lobsters that are taken from this area are most likely notched in other areas and transiting through. You will also see from the technical committee report that – well, I will rest at that point.

CHAIRMAN GIBSON: Thank you, Bob. We need to caucus on this motion.

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Okay, on the Outer Cape motion, all in favor, 3; all opposed, 3 opposed; abstentions, 4 abstentions; null votes. I think we had 3 opposed and 3 in favor so the motion fails for lack of a majority. Pat White.

MR. P. WHITE: Question on Rhode Island; they said it was a null vote, but was that counted as a yes vote or a no vote?

CHAIRMAN GIBSON: All right, why don't we vote again just so we make sure we had it correct for the record. All those in favor, 3 in favor; those opposed, 3 opposed; abstentions, 4 abstentions; null votes, none. **Okay, the motion fails because of a tie.** Toni, anything else on that issue? Seeing none, we move on to Area 3 vents, Toni.

DISCUSSION OF LCMA AREA 3 VENT CHANGE

MS. KERNS: In 2008 the Area 3 minimum size went up to 3-1/2 inches. At that time the LCMT had asked for a delay of two years in the corresponding vent size that goes with the 3-1/2 inches. There is an increase at that step. Then in February the LCMT asked for a permanent removal of that increase in the vent that corresponds with the 3-1/2 inch minimum size.

The board asked the technical committee to go back and look at what that would mean. Carl is going to give a report on that in just a moment. Today, if the board takes action, the only action that would need to be taken is to permanently remove the Area 3 increase in the vent that corresponds with 3-1/2 inches. If the board wants the vent to go ahead and continue, you don't actually have to take action

because that is already in line for the regulatory process.

CHAIRMAN GIBSON: Thank you, Toni, and, Carl, will you give the technical committee's report on this.

MR. WILSON: Mr. Chairman, this is going to be pretty short. In short, the gauge sizes were matched to a vent size going back over the last ten years. There was kind of a conservation slot or an escapement that was built into the gauge and the vent in that there were a certain percentage of lobsters that were released.

The intent with keeping the larger vent size was to continue to have the appropriate percentage of lobsters be able to escape. We feel that if the vent was not increased, then you would be losing some of the conservation benefit that was inherent in that plan. You would have a gauge mismatched with the vent relative to the other areas and that you would potentially be adding or increasing the pressure in one stock, Southern New England, which we have already talked about doesn't need anymore additional removals. That is, in short, where we are with the technical committee is that we feel that we would like to encourage keeping on schedule with the vent.

CHAIRMAN GIBSON: Thank you, Carl. Any questions for Carl or does anybody wish to make a motion relative to this issue? Bill, do you have a question?

MR. ADLER: I would like to know briefly what is the reason they don't want the vent to proceed along – yes, perhaps somebody, Mr. Chairman, could explain to me what is the problem with going on?

CHAIRMAN GIBSON: Dave Spencer, do you want to address this for us?

MR. SPENCER: Mr. Chairman, the rationale was that people felt that the fact that we were at the highest minimum size stood on its merits and has started to have positive results, and that the vent probably – we're just starting to see the resource come back because of that and people were a little nervous about the appropriate size of the vent. Thank you.

CHAIRMAN GIBSON: Thank you, Dave. Okay, I'm not seeing anyone asking to make a motion to remove this requirement. As Toni said, no action means it follows along its course and along its timeline, and there is an obligation to put it in place by July 2010. Okay, seeing nothing from the board,

we will move on to the final agenda item, compliance reports.

REVIEW OF ANNUAL STATE COMPLIANCE

MS. KERNS: As the board had agreed at their last meeting that we would delay our fishery management plan reviews until August, but I went ahead and looked at everybody's regulations and everybody was in compliance with the FMP and the corresponding addendums in their regulations.

The states of North Carolina, Maryland, Virginia and Delaware all requested de minimis. They all meet the de minimis requirements, which is the last two years' average landings are less than 40,000 pounds. Some of those states have had no landings of lobster, and so they have requested de minimis status for the 2010 fishery.

MR. LAPOINTE: A motion to approve the FMP reviews including de minimis status for the states of North Carolina, Maryland, Delaware and the Commonwealth of Virginia.

MS. KERNS: George, the FMP Review is not until August. It was just –

MR. LAPOINTE: How come you told us, then? All right, I withdraw my motion.

MS. KERNS: That is what I said. No, the de minimis motion is good but the FMP Review will be in August.

MR. LAPOINTE: **All right, then my motion is to approve de minimis states for those jurisdictions.**

CHAIRMAN GIBSON: Thank you; motion by George Lapointe and was seconded by Mr. Augustine. Any discussion on that motion? **Seeing none, the motion is approved.** Is there any other business to come before the Lobster Board? Pete.

MR. HIMCHAK: Mr. Chairman, since we have some new board members here, in the event when Lobster Conservation Management Area 5 has a meeting, we would hold one in Cape May to try and accommodate some of your travel requirements. We did this a couple of years ago, so you can come up and take the ferry and not have to travel, but we will have an LCMA meeting at some point through this addendum. Thank you.

ADJOURNMENT

CHAIRMAN GIBSON: Thanks, Pete. Any other business to come before this board? The motion is to adjourn and seconded and we stand adjourned. Thank you.

(Whereupon, the meeting was adjourned at 3:47
o'clock p.m., May 3, 2010.)