

**PROCEEDINGS  
of the  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
AMERICAN LOBSTER MANAGEMENT BOARD**

**June 10, 2003**

**Doubletree Hotel Crystal City  
Arlington, Virginia**

# ATTENDANCE

## **Board Members and Proxies:**

George Lapointe  
Pat White  
Dennis Damon  
John Nelson  
Dennis Abbott  
G Ritchie White  
Paul Diodati,  
Bill Adler  
Vito Calomo  
Mark Gibson  
Gil Pope  
Jerry Carvahlo  
Eric Smith,  
Sen George Gunther  
Lance Stewart  
Gordon Colvin  
Brian Culhane  
Pat Augustine  
Bruce Freeman  
Tom Fote  
Roy Miller  
Harry Mears

Joe Fessenden, LEC representative  
Bob Glenn, TC Chair  
Bob Baines, AP Chair

## **ASMFC Staff:**

Carrie Selberg  
Vince O'Shea  
Robert Beal  
Nancy Wallace  
Megan Gamble

## **Members of the Public:**

Bob Ross  
Dan McKiernan  
Bill McElroy  
Ross Wallis  
Ted Colburn  
Anne Lange  
Peter Burns  
Christopher Dyer  
John Prggie  
David Spencer  
Bonnie Spinazzola  
John Sorlien  
Henry Cebula  
Bill McKeon  
Jim King  
Janice Plante  
Tom Meyer  
Kristina Cammen

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The meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Room of the DoubleTree Hotel Crystal City, Arlington, Virginia, on Tuesday, June 10, 2003, and was called to order at 8:00 a.m., by Chairman George Lapointe.

**Approval of Agenda:**

CHAIRMAN GEORGE LAPOINTE:

Good morning. My name is George Lapointe and I'm the chair of the Lobster Board. We have a full agenda this morning. There are agendas at the back table. Brad has them as well. I suspect there are other meeting materials at the back table.

Board members have before them a new agenda. I've been advised of one other business item, and that's an update on Rhode Island v-notching from Ted Coburn, which we'll put at the end of the meeting. Are there other business items for the agenda? Paul Diodati.

MR. PAUL DIODATI: Mr. Chairman, I wonder if it would be appropriate to just reorganize the agenda to take Item 11, which is the technical committee report, and move that up to follow Item 4, so that we have a good overview of resource conditions and other information about the stock before we discuss anything that has anything relevant to do with management.

CHAIRMAN LAPOINTE: that's good by me. Is there objection to moving that item up? We'll put the technical committee right after public comment. Any other changes to the agenda? Seeing none, is there objection to approval of the agenda? The agenda is approved.

The meeting material that was provided had

proceedings from the February meeting. We will now consider those. Are there changes to the proceedings from the February meeting? Do we have a motion for acceptance of those proceedings -- Pat Augustine; second by Bill Adler.

**Approval of Proceedings:**

Questions or comments on those proceedings? Is there objection to the acceptance of the proceedings? Seeing none, they are accepted.

Item Number 4 is public comment. At our ASMFC board meetings we have a reserved spot for public comment. We also, as other action items come through the agenda, welcome people's comments at that time as well. Is there public comment at the beginning of the meeting that anybody would like to take time for? Seeing none, we will move to the technical committee report, Bob.

**Technical Committee Report:**

MR. ROBERT GLENN: Okay, as George said, we have three things to report on from the technical committee today; the first being the v-notch compliance report, the second being annual survey trends from trawl surveys, and the third being a recommendation relative to vent sizes.

As I reported to you at the last board meeting, the technical committee had been working on developing a model by which to gauge v-notch compliance.

This model is based essentially on a technique typically used on a tag return or a tagging study, and it looks at observed proportion of v-notch lobsters in the catch and relates that to a compliance rate, essentially, so it changes the percentage to a rate.

And the TC, for quite some time, worked on figuring out the best way to parametrize this model so that it included v-notched lobsters that would most likely have been notched in that current year or that given year, thus it would be a good gauge of compliance to the new measure.

So essentially, after finalizing the model, we've come up with the results on the last page of the report. I'd certainly entertain any questions relative to that parameterization, but we've talked about this before so I'll go on right to the results.

If you look at the first table here, this is the actual observed percentage of v-notched lobsters in the catch in the states of Maine, New Hampshire and Massachusetts from the years 1998 to 2002.

And you see in the state of Maine that they've had a fairly steady increase since the mandatory measure went into place going from about 55 percent in 1998 and bouncing around a slight bit, and then in the terminal year of 2002 seeing a fairly sharp increase of 67 percent observed in the catch.

Similarly, New Hampshire has also seen an increase to 47 percent in 2001. I don't think they have their 2002 numbers updated yet.

In Massachusetts you see a steady increase throughout the five- year time period starting at less than 1 percent and ending up at about 22 percent observed in the catch.

So this observed data is then input into the model with updated fishing mortality rates, and the result of which is you get a compliance rate.

On the second slide, this is a Gulf of Maine-wide estimate. To come up with a Gulf of Maine-wide estimate, what we did is we took the observed v-notch percentages from each of the three states involved in Area 1, and we came up with a weighting scheme that was relative to landings so that each state's contribution to the model relative to its observed proportion v-notch was comparable to that state's landings.

Based on this, you can see the input parameters of the percentage of observed new notches, percentages observed old notches, and then also the updated fishing mortality rates for the Gulf of Maine, using a similar technique to what was used in the last stock assessment, using the Delury model to generate from trawl survey trends, fishing mortality rates and we typically report it in a three-year blended F average just because often the terminal estimate in Delury tends to be a little bit whacky, so then we move on and take a three-year blended average.

And you can see going back to 1998 benchmark, the F at that time was around 0.85, and it's slowly but steadily increased to 2001 in '98. That rate 2002 value C in the report is basically just the 2001 number.

And you note that we're assuming that F wouldn't have changed since that 2001 period where we last calculated it. It wasn't possible to calculate the 2002 F just because not all landings for each of the jurisdictions involved were completely compiled yet at this time.

So without that, we're not able to calculate 2002

fishing mortality. And then putting that into the model, you will see that it comes up for the Gulf of Maine-wide estimate of 100 percent compliance rate.

And essentially what that's saying is that at an observed 61 percent in the catch in Maine at the estimated F that would equal a 100 percent compliance rate.

At issue with that number, as you see in the asterisk in the model run, was that this compliance rate was reached well below the observed percent notched at the estimated F.

And what this indicates is one of two things, is that we're either overestimating the observed percentage of v-notched lobsters in the catch; or, the more likely scenario, since we're pretty confident in our sea-sampling data, is that we're probably underestimating F.

And basically for us to have a 61 percent observed rate in your catch, that would necessitate having a much higher exploitation rate to be able to actually have that -- the probability of having that much in your catch.

Moving on to the next table. Because Massachusetts, we have our own inshore state water survey of a significant, long-enough time series that we can generate fishing mortality rates just for that southern portion of the Gulf of Maine, we were able to report on compliance on a state-specific fashion.

We were not able to do that with New Hampshire and Maine because the Maine Trawl Survey is still fairly young and the time series is not long enough to generate fishing mortality estimates at this time.

Anyway, again, you will see that the Massachusetts observed percent in the catch has increased over time. In 2002 the observed proportion, as I said before, was 22.5 percent, then you look at the fishing mortality rates.

We know the inshore portion of the Gulf of Maine, where we have trawl survey coverage from our state trawl survey, the fishing mortality rates, as you will see, are close to twice of what we have in the estimated for the rest of the Gulf of Maine.

Based on this and in conjunction with the observed percentage of 22 percent, you see that our compliance rate at an F of 2.04 in the terminal year would be an approximately 32.5 percent compliance rate.

The contrast between this from the Massachusetts report, where we have area-specific fishing mortality rates on a small scale, gives you an insight as to the robustness of the model given that at our observed percentage, it gives you a viable compliance rate.

I think it also points to the fact that we're probably underestimating F in the Gulf of Maine-wide survey simply because we don't have many -- we only have the NMFS federal survey in the rest of the Gulf of Maine, which has very few survey strata in the inshore portions of the Gulf of Maine where the majority of the fishery occurs.

I think that probably gives us some insight as to why our Fs are probably underestimated. Okay, any questions relative to v-notch compliance?

CHAIRMAN LAPOINTE: I had Paul Diodati and, Mark, did you have your hand up?

MR. DIODATI: Bob, what's the exploitation rate associated with an F of two?

MR. GLENN: Off the top of my head, Paul, I don't know the exact exploitation rate. It would be very high. It would be up around -- probably in excess of 80 percent.

MR. DIODATI: And on Table 2, the last column, Gulf of Maine total compliance rate, if Massachusetts is only complying at the rate of about 33 percent, yet the combined Gulf of Maine total is 100 percent -- am I reading that correctly?

MR. GLENN: That's correct.

MR. DIODATI: Does it mean that all states don't have to v-notch every lobster in order to reach 100 percent; is that the assumption there?

MR. GLENN: Well, no. Again, the difference here is relative to -- in the numbers is relative to the estimated fishing mortality rate. That Gulf of Maine-wide estimate includes data, trawl survey data, as well as sea-sampling data for the observed percentage v-notch from the states of Maine, New Hampshire and Massachusetts combined.

At issue is at a fishing mortality rate of 0.98 being that low, having 61 percent observed in the catch, it brings you to 100 percent. I would say that the discrepancy between those two numbers is directly related to the differences in the estimated fishing mortality rate.

MR. DIODATI: So the 0.98 might be an underestimate, if anything?

MR. GLENN: Yes.

MR. DIODATI: And it has gone up since 1998? It's gone up, I guess you would call that a significant increase?

MR. GLENN: I would call that a significant increase, yes.

MR. DIODATI: And is it true, then, also that Massachusetts remains static, even though it's very high?

MR. GLENN: Massachusetts' F has had a slight increase. I wouldn't say -- it's pretty close to static but it has gone up slightly.

CHAIRMAN LAPOINTE: Mark Gibson.

MR. MARK GIBSON: Bob, what would the Gulf of Maine blended F need to be in order to reconcile the observed proportion v-notch with the compliance calculations?

MR. GLENN: Oh, I'm sorry, go ahead, finish.

MR. GIBSON: Yes, that was my question.

MR. GLENN: It would have to be up around, according to the model, around I believe 1.6 to 1.7.

CHAIRMAN LAPOINTE: Other questions or comments? Lance.

DR. LANCE STEWART: Have you ever developed a table that compares v-notch with berried female condition, gravid, your observations in the field and simultaneously what the percentage gravid is in v-notch or non-v-notch?

MR. GLENN: I'm sorry; I didn't quite get the beginning part of your question.

DR. STEWART: If you have a berried female, v-notched or not, have you compared the percentage of v-notched that you observed in the field with the percentage of gravid females, the numbers who are carrying eggs?

MR. GLENN: We don't have that in the

table. The calculation of observed percentage in this particular case is the number of newly notched green egg-bearing females divided by the number of green egg-bearing females without notches or with new notches.

DR. STEWART: You understand my reasoning; the purpose being that we want to confirm that v-notching produces recruitment and reproductivity. The final table would seem to be the v-notch correlation with egg-bearing females.

MR. GLENN: So you'd like to see a table just to see the proportion of green egg-bearing females in the catch?

DR. STEWART: I would think so, down the road somewhere. That would be the comparison.

CHAIRMAN LAPOINTE: Paul, you had another question?

MR. DIODATI: Bob, has the technical committee identified any target or threshold Fs for the Gulf of Maine stock?

MR. GLENN: We don't have any updated threshold Fs for the Gulf of Maine stock. In the last assessment the -- I'm sorry, the threshold F in the last assessment I believe was 0.74

CHAIRMAN LAPOINTE: Other questions or comments for Bob? Seeing none, Bob, the next item is --

MR. GLENN: Trawl survey trends.

CHAIRMAN LAPOINTE: Trawl survey report.

MR. GLENN: Okay, the next item is the technical committee at the last meeting, as an annual order of business, we like to collate all the trawl survey trends from each of the states that have a trawl survey.

And we collate them into stock units, the three stock units being Southern New England, Georges Bank and south and Gulf of Maine.

And, we just basically like to review these on an annual basis just to see what's going on out in each of the stocks relative to the relative abundance of the different size classes.

Starting this for the Southern New England stock,

basically a combination of the trawl surveys from the states of Connecticut, Rhode Island, Massachusetts, as well as the National Marine Fisheries trawl survey, all those for the Southern New England stock are at or close to time series low for abundance for all size classes, recruits, pre-recruits and fully recruited animals.

There has been an observable consistent decline in pre-recruit-recruit legal lobsters among all surveys in the last five years specifically. It has been a very steady trend among surveys in the last five years.

And, this is particularly alarming in light of the fact that since the beginning and since five years ago, the amount of effort in Southern New England stock has increased substantially, as well as the fishing efficiency of the fleet.

For Georges Bank and south, the Georges Bank and south stock unit has essentially remained fairly stable over time, over the last several years, basically throughout the time series; with the exception of the last year, there has been a slight increase in the fully-recruited animals.

Our stock line definitions would typically include the New Jersey trawl survey as part of this stock unit; however, upon looking at the trends as an inshore trawl survey, they don't match up very well with the Georges Bank and south federal trawl survey trends, and they look much more like a Southern New England trend where they've had a really consistent decline in the New Jersey trawl survey in the last five years specifically.

This I think gives the TC some inkling as to possibly needing to look at redefinition of our stock areas. This is something that came up in the last assessment, but it was never completely put to rest or finalized as to looking at the appropriateness of some of our stock definitions.

I think looking at how closely the New Jersey trends follow the Southern New England trends in recent years is a pretty good indicator that possibly that portion should be considered to put in with the inshore Southern New England stock and not grouped, as it has been in the past, with the offshore stock.

And, finally for the Gulf of Maine stock, the relative abundance in the Gulf of Maine stock has had a fairly consistent increase in abundance over time among legal size groups.

There has also been a fairly consistent increase in the

size in the pre-recruit and recruit size groups smaller than minimum legal size up until about the last three years, and those trends have tended to diverge a little bit. We see the fully recruited index in the Gulf of Maine continue to increase and the pre-recruit and recruit starting to go down slightly.

The Massachusetts trawl survey indices for the Gulf of Maine have remained fairly stable over time. They're down from historic highs but in general the trend in the time series has been fairly flat across all size groups. I think that pretty much covers it.

CHAIRMAN LAPOINTE: That's it?

MR. GLENN: Yes, that's it for the trawl survey trends.

CHAIRMAN LAPOINTE: Questions? Mark, Paul Diodati.

MR. GIBSON: Not so much a question but a comment, and further the board ought to look at these surveys, particularly for the Gulf of Maine federal survey. They're repeating the pattern that we saw in Area 2 in Southern New England.

The settlement indices aren't graphed here, but the settlement indices in Maine bottomed out in the mid-to late-'90s. The recruit and pre-recruit trends, that is those sub-legal lobsters, the federal survey are trending downward now at the proper lag to the sequence of those juveniles.

I can only suggest that the legal abundance will follow shortly thereafter. I would be very nervous about this data were I managing or influencing management decisions on the Area 1 lobster fishery.

CHAIRMAN LAPOINTE: Paul Diodati.

MR. DIODATI: Actually, I did have a question about juvenile indices, and if that's the trend that Mark just spoke to, I guess that's it. It's not doing as well as the adult index.

The fact that the Massachusetts survey remains static for adults, while we're seeing somewhat of an increase throughout the range, is there a reason for that that the technical committee may have identified?

For instance, I know that Canada has had some very severe restrictions in place for a number of years now. Is there a potential for the benefits of the Canadian management program to affect our

observance of legal size lobsters in the Gulf of Maine?

MR. GLENN: I would say yes. Concern with what we know about typical migration trends of lobsters in the Gulf of Maine and on a wide area basis, there tends to be a counterclockwise move from Eastern Canada down the coast of Maine towards Massachusetts.

If you look at the incredible increases in the abundance indices for the Gulf of Maine from the federal survey, they track fairly well with the landings in the state of Maine.

Landings in the state of Maine have increased incredibly over the last several years, and I believe they may even have another record this past year, from talking to Carl Wilson, their technical committee representative.

So, certainly, I think there is probably some benefit being gained from more restrictive management that's occurring in Canadian waters. The other thing I think is that there are probably some large-scale environmental influences causing incredible recruitment in that fishery.

In the Massachusetts trawl survey, our abundance of legal-sized animals in the trawl survey has remained static, but it has tended to track our landings pretty well.

We have not witnessed the same, nor has New Hampshire witnessed the same large increase in landings that the state of Maine has, so I think a lot of those lobsters are caught before they make it down our way, for those that are migratory, anyway.

CHAIRMAN LAPOINTE: Harry.

MR. HARRY MEARS: Bob, you mentioned earlier with regard the trawl surveys, the Maine inshore survey has not yet been used because of the scarcity of data points. Considering that the database is, I believe, going on about three years now, has the technical committee discussed at what point that data can start contributing toward lobster abundance evaluation?

MR. GLENN: Yes. We have discussed it, not at a committee level but amongst the members. I've discussed it with other members. I believe at least for the Delury analysis or the CSA analysis, which we use to generate fishing mortality trends, you need a minimum of seven years.

Now the robustness of the estimates get better, obviously, the longer the time series gets. For other trends that may be considered by the modeling sub-committee, you probably would need a much longer time series.

So right now I would say seven years is probably minimum. Longer would be better. And, that's not to say that there isn't important information that we can get out of there.

There is certainly -- it's important to look at size frequency distribution in the trawl survey and compare that over time as a good indicator of what the stock is doing as well. Without necessarily being able to generate a fishing mortality estimate, you at least can get an idea of relative size in the catch and whatnot.

CHAIRMAN LAPOINTE: John Nelson.

MR. JOHN I. NELSON: Thank you, Mr. Chairman. Either Bob or the chairman, on trying to refine a little bit more on the stabilization or the increases of the catch for Maine, I've heard a lot from fishermen that the catch is stable or similar to what we see in New Hampshire from Casco Bay southward, and that really from Penobscot eastward is where they see the abundances.

Is that valid enough from your facts that you might have from the landings, and is that further information that might coincide with what we just talked about with the Canadian recruitment pattern of the larvae moving on a counterclockwise direction southward from Canada? I was just wondering if we can refine that a little further as far as geographic increases.

CHAIRMAN LAPOINTE: I'd ask Pat White to comment on what is happening in Southern Maine. I think that trend is broadly true. I think when people mention landings numbers, they need to have the same cautions they always do.

When you talk to Carl Wilson, yes, we did have 61.7 million pounds last year. We're doing far better at reporting than we used to. Trying to tease apart how much is a change in catch and how much is a change in reporting is nearly impossible to do, but we have to use the same caution we tell fishermen to use all the time.

The other thing, when people mention the incredibly restrictive provisions in Nova Scotia, my

understanding is -- having spent a fair amount of time on that border issue is -- they've got an incredibly different management system that yields them largely the same Fs that we have.

So, I don't think the characterization of an incredibly restrictive fishery is accurate based on what I know of that system. They have a six-month season. They have a 375 trap limit. They start up their season in the nearshore waters near us at 18 pounds per trap haul and rapidly fish that fishery down and have the same Fs.

So, different management system, incredibly more restrictive, I'm not sure. Pat, could you comment on what's happening in Southern Maine?

MR. PATTEN D. WHITE: Yes, more relative to where John is coming from, I think we've done -- I think I've been involved in a 12-year time series now on diving.

And, our recruitment in our area has stabilized quite a bit as opposed to some of the areas in the other part of the state which they're concerned about.

Realizing that we're just a small bleep on the radar screen compared to the rest of the state, our catches are very similar to what yours are doing, John. But our recruitment looks fairly stable over the last three years.

MR. NELSON: Just a follow up, George. Do you have a sense, from your knowledge of the Canadian restrictions and fishery that, yes, the F may be similar to what we're doing, but do their measures produce more recruitment?

CHAIRMAN LAPOINTE: I don't know that answer, John. Gerry, you had your hand up.

MR. GERALD CARVAHLO: Thank you, Mr. Chairman. Bob, in the Gulf of Maine, we're seeing an increase in the adult stock and we're seeing a decrease in the recruitment. Does science have any idea why this is happening?

MR. GLENN: No, not right now, at this time.

CHAIRMAN LAPOINTE: Other questions or comments? Eric Smith.

MR. ERIC SMITH: Thank you. I'm just a little disconcerted by the statements that effort in Southern New England waters has gone up as high

and increasing or staying high. I would just make the point that from 1999 onward at least in Area 6 it has plummeted.

And it has great relevance when you think about exploitation indices and estimation of fishing mortality rates in the context of all of the biological parameters. It's just something that I noted in the report and I want to make sure we appreciate the experience since 1999 is different. Thank you.

MR. GLENN: Yes, relative to that, I think we're characterizing more what has been going on in the Massachusetts and the Rhode Island portions of the Southern New England stock unit, not necessarily Long Island Sound specifically.

I think if you looked at it as a whole, there has been an increase, and certainly in the Long Island Sound portion, after 1999, we've seen a decline.

CHAIRMAN LAPOINTE: Other board members? One of the things it does to me is, I mean, it shows the need for updating the assessment, which we're supposed to do this year, and the importance of the modeling sub-committee to continue working on those issues as they relate to lobster. We had a comment from the audience. I don't know your name, sir, I apologize.

MR. BILL McELROY: Thank you, Mr. Chairman. My name is Bill McElroy. I'm a Rhode Island fisherman. I want to respond to Bob Glenn's comments that Area 2 is having an increase in effort. We don't believe it is.

When I was up here in February, I pointed out to the board that we thought that there was quite a lot of attrition, boats being sold, fellows making alternative arrangements and so forth.

We've put together, at the board's request, some more information in regard to that reduction in effort. I can't disagree more strongly that there has been an increase in Area 2's effort. It hasn't. It's gone down dramatically.

I have an handout here that kind of illustrates that and I'd like to pass it out, if I could. It's that attrition list that I was talking about last time.

It's an incomplete list but it shows that we have approximately 50 vessels that prosecuted the fishery in '99 and 2000, and over the last two years, including this year, those vessels for various reasons are not prosecuting the fishery any longer.

And it's very difficult for us to figure out how to count that, and it's just as difficult for, you know, the regulators to count it. But in fact we show that there has been a decrease in the neighborhood of 50 to 55,000 traps being fished in Area 2 from '99 to now.

So, I just can't accept the idea that there is still an increase in effort in Area 2. It's vanishing. I fish in quite a few of the areas myself, and from first-hand observation in the last two weeks, where I've fished there is no gear.

There's two or three men fishing in an area where typically there would be 20 or 30 boats working in that ground, and that's three or four different areas. That's close to shore off of Point Judith.

That's a little bit farther away; and even farther out than that, there's a place where we call "Deep Hole." And you go out there and there is no gear in the water. There's no boats prosecuting it.

You drive by all of Southern New England, every gear storage area that exists is full of pots. At this time of the year it's empty in a normal year.

In Point Judith we have a big problem trying to get access to loading areas at this time of the year. It almost becomes comical the way we end up almost like taking a deli ticket, you know, to wait your turn in line.

And that isn't the case this year. You can pull up to the bulkhead to load, to unload it at any time. And the effort is just absolutely diminished to -- it's about half or less of what it was.

I was talking to a couple of the bait suppliers in Point Judith just before I come up here yesterday, and they've told me that in the last two years the amount of bait that they've provided to the inshore fleet has been cut in half.

I talked to some of the lobster trap manufacturers. There is one in Point Judith, the Narragansett Lobster Trap, that typically builds 5 to 6,000 traps in a year. This year they've built zero; not one. So I just can't believe that -- I think you're right, in the late '90s the effort was increasing, but around the year 2000 that increase stopped and it has gone the other direction big-time. Thank you.

CHAIRMAN LAPOINTE: Thank you. You may respond, that would be great.

MR. GLENN: Relative to the information that I was presenting, it's all based on Massachusetts and the Rhode Island catch reports, so if that decrease that you speak of, Bill, at least — I'm not doubting that it has occurred, and I would see the reasons why relative to stock conditions in Areas 2, but based on catch reports that are filled out by fishermen, we have not seen that decline in our data from the catch reports over that time period in the number of traps fished.

MR. McELROY: Well, we've clearly got a problem in trying to —

MR. GLENN: You're right, I'm just pointing out where the data was.

CHAIRMAN LAPOINTE: I don't want to get into a debate. Your point was well taken, Bill, and that's clearly something we need to take into account. I had Pat White and then Paul and Mark Gibson.

MR. WHITE: Well, I just had a question for Bill, if I could. This list shows an awful lot of the people going out of the fishery and are in different fisheries but were -- a lot of the figures that we've seen indicate that maybe some of the fishermen have just gone to another area outside of where they normally have fished and are still having landings. Do you think that could be part of the consideration for where Bob is coming from?

MR. McELROY: Well, certainly fishermen are trying to find different grounds to work on to get better results. But when pots are on the beach, they're on the beach and they're not catching lobsters.

And when boats are tied up and the captains aren't running them, they're not catching lobsters. So, no, I don't think it's just a matter of the effort been displaced, you know, from area, one section of Area 2 to another section of Area 2. I honestly believe that the effort has vanished.

I mean, it's been reduced so dramatically, it's difficult to quantify it. I mean, I dearly wish there was a way that we could, as fishermen, produce this information in a meaningful fashion to you folks. I'm sure you'd like to have it as well.

That's one of the problems that we've had for years is distrust on the part of the fishermen. We don't want to tell everything that we know, and the regulators have a system that doesn't work in real

time.

They're looking at what happened last year and the year before and trying to get to where it is today is a very difficult situation for all of us. Even this attrition list is a lot of guessing and wishing.

CHAIRMAN LAPOINTE: Thank you, Bill. Paul Diodati.

MR. DIODATI: I thank the gentleman for the list. I think this is helpful. What concerns me about it is the shift of effort to Area 1, which is what I suspected is a condition that we're going to see more of, so here's the first evidence of it.

I think that given the trends in mortality and stock conditions that Bob just talked about in Area 1, I don't think that we can afford to sit by and let this type of a management approach work itself out.

I think later on in this meeting I'm probably going to make some recommendations for the board to take a closer look and maybe correct that. Thank you.

CHAIRMAN LAPOINTE: Mark Gibson.

MR. GIBSON: Two points. First, again, thanks, Bill, for updating this. We can work with this in an assessment forum. All we have to do is look at the logbook data for these particular boats and/or businesses and determine what their catch shares were in recent years and make some judgments as to how much the catch is going to go down as a result of these boats leaving the fishery.

And we can actually look at how many traps they're deploying as to whether or not they're actually 880, which in many instances they're not; they're fishing less than that. In some cases they haven't fished in several years.

So we have a way of dealing with this and actually putting some kinds of numbers on it in terms of what we think the effective effort reduction is.

The second point I would make to the board is don't be too wedded to lists of either permits or vessels or numbers of traps leaving the fishery because at the end of the day, when we do assessments, it's what landings are being made by the industry and what is the abundance levels as evidenced by our surveys and in some cases by the catch per pot, all the fishery dependent CPUEs.

We don't put numbers of boats into the assessment

models or numbers of permits or anything like that. It's catch divided by abundance. And catch can go down by 80 percent because of whatever the circumstances are, but if the abundance has gone down by 80 percent as well, the catch extraction ratio is the same and fishing mortality rate is the same.

So, don't be too quick to jump at these numbers. We need to really look at them, evaluate them from an historical performance basis, determine what their catch years were.

But at the end of the day, fishing mortality rates are going to be determined by the landings that come in. If there are significant fishing operations still fishing, still making landings in these areas of depressed abundance, you're still going to have detectable fishing mortality rates.

CHAIRMAN LAPOINTE: Mr. Calomo.

MR. VITO CALOMO: Thank you, Mr. Chairman. My question is for Robert Glenn. I listened to him answer and not answer a minute ago about the problem in the Area 1, the decrease of young lobsters.

And I'm trying to figure out, there is an increase of adults and a decrease of juvenile lobsters, and he didn't give an answer. I'm not trying to put words in your mouth, Robert, but I want to ask you, is it possible, with the increase in predators such as cormorants, striped bass, seals, do you think that would have a great deal of effect?

Because, with my eyes I see cormorants work an area better than any fisherman could ever work an area. I see the influx of seals in my 50 years greater than I've ever seen in my time. And striped bass we know is a success story that everybody cheers about, except probably lobstermen when they're setting their young lobsters over that are under the gauge limit. Is that a good possibility, Robert, or am I just whistling in the wind here?

MR. GLENN: Okay, I guess I would characterize the decline in the abundance of recruits in the Gulf of Maine survey, it could be due to any number of factors. I didn't answer the question specifically because the technical committee has not identified one single reason as to why this could be.

Certainly, there's a number of things that could have caused that. Those lists would include things like increases in predation. It could be changes in environmental trends which is causing lower

survivorship of larvae; it could be decreased egg production.

It could be a whole host of parameters that could cause that decline. I don't think there's any evidence at this point to point to any single one as being the "smoking gun" as to why those recruits have started to decline over the last three years.

CHAIRMAN LAPOINTE: Thank you. Other questions or comments for Bob? Bob, the next issue is the vent selectivity recommendations.

MR. GLENN: At the last technical committee meeting, the technical committee reviewed the results of the lobster trap vent selectivity study that was conducted by Massachusetts DMF last summer.

This study was designed to look at the selectivity of vent sizes above and beyond what have currently been used in the fishery to accomplish two different things.

One, there are two areas that are proposing gauge increases up to 3.5 inches, which we have no data on relative to appropriate escape vent sizes, those areas being Outer Cape Cod and also Area 3.

And the other thing is that our current recommendation for a circular vent size that would be comparable to a 2-inch vent size was extrapolated from old studies. We didn't have any hard data to generate the appropriate circular vent size comparable to a two-inch vent.

So, this study looked at four different rectangular vent sizes starting at 2 inches and going up in sixteenth of an inch increments. It also looked at four different circular vent sizes starting at 2.5 inches and going up in sixteenth of an inch increments.

This information was presented to the technical committee and based on the study, the TC recommends changing the circular vent size requirement from 2-1/2 inches to 2-5/8 inches.

This change would make the selectivities be on the same level as that of a 2-inch rectangular vent, as we found the 2-1/2-inch vent was actually keeping in a higher proportion of sub-legal animals than a 2-inch rectangular. So that change to 2-5/8 inches would account that in the circular.

In addition, we recommend that vent sizes of 2-1/16 inch rectangular and 2-11/16 circular be adopted for

those LCMAs that have scheduled increases to a 3-1/2 inch minimum legal carapace length. Pat.

CHAIRMAN LAPOINTE: Good job, Mr. Chairman.

MR. WHITE: Bob, is the proposed increase from 2-1/2 inches to 2-5/8 with the 3-1/4 inch gauge now? What is that relative to, Or is that the 2 inch?

MR. GLENN: That's relative to when any area that goes up to a 2-inch rectangular vent size, a 2-5/8 inch circular vent will fish similarly to a 2-inch rectangular.

MR. WHITE: So you're saying now, though, that the 2-1/2 inch is similar to the 1-15/16 vent?

MR. GLENN: It would be closer to 1-15/16 inch vent, yes.

CHAIRMAN LAPOINTE: Board members? And the action that would be required of the board is a motion to include these in the next addendum, if that's the board's intent. Paul Diodati.

MR. DIODATI: I'd be willing to make that motion, but I'd like to hear from LCMA members from the Outer Cape and Area 3 relative to the work that the technical committee has done.

CHAIRMAN LAPOINTE: David Spencer has his hand up; so if I don't see any other board hands, David, can you come up and make your comments.

MR. DAVID SPENCER: Thank you, Mr. Chairman. For Area 3 I support the size, if they think that's appropriate. I have no problems with it. My comment would be is it possible to put a date certain in there which that would be implemented.

I think it gives people -- or at least if not a date certain at what stage of the gauge increase would you want that? It does take time to be able to plan and to get those in the gear so that would be my request if you could attach a date. Thank you.

CHAIRMAN LAPOINTE: Thanks, David, good comment. Board members, other comments? Paul.

MR. DIODATI: If it's needed, I'll make a motion to accept the TC's recommendation to develop these actions for the next addendum.

CHAIRMAN LAPOINTE: With the direction that there be the appropriate date for the -- I mean, a date that it might --

MR. DIODATI: Yes, I just don't know what date would be appropriate.

CHAIRMAN LAPOINTE: But that would be something the plan development team could develop?

MR. DIODATI: Sure.

CHAIRMAN LAPOINTE: Okay, thank you. Is there a second to that motion? John Nelson seconds. Questions? Bruce Freeman.

MR. BRUCE FREEMAN: All right, my question deals with the increase in vent size. Is that for a specific management area or does that apply to all management areas?

MR. DIODATI: I think the TC recommendations or their work was done for Outer Cape Cod and Area 3.

CHAIRMAN LAPOINTE: I believe that's correct.

MR. DIODATI: And that's what I would include in the motion.

CHAIRMAN LAPOINTE: It's for those areas that have a proposed increase to 3-1/2 inches, is it not, Bob? Right, did I say 2-1/2? Freudian slip, sorry. Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. These are two different changes? One is if you have a 2 inch -- if you have a rule that requires a 2-inch rectangular vent, is this proposal to raise the circular vent in that case to the 2-5/8?

And then if a group goes to 3-1/2 inch minimum size, which requires a larger rectangular vent, then you would go to the 2- 11/16 circular vent? So you've got two things here, right?

CHAIRMAN LAPOINTE: I believe that's correct.

MR. GLENN: That's correct.

MR. ADLER: So those who have 2-inch vents now would go to a 2- 5/8 circular; and when

there is an increase to 3-1/2 inches, then there would be another number; correct?

MR. GLENN: That's correct.

CHAIRMAN LAPOINTE: Board members, question, comments? Audience members, any questions or comments? Seeing none, do you want me to read the motion? Joe does not. The motion is being perfected, hold on for a second. Ritch White, while we're perfecting the motion.

MR. G. RITCHIE WHITE: Is there a reason to restrict this to those two areas? In other words, if this makes sense that this circular gauge size matches with this rectangular size, shouldn't we just have that in all areas, even though we don't have the -- obviously, the size lobsters differ. I mean, shouldn't this be carried throughout the range?

CHAIRMAN LAPOINTE: I don't think the other areas have increased their vent size and so you would be functionally increasing the minimum size by increasing the vent size without the minimum size, which, I mean, there hasn't been a decision in those areas.

MR. WHITE: Only when you increase the gauge size. It would --

CHAIRMAN LAPOINTE: I believe that this applies to those areas that have increased their vent size to 2 inches. And, those areas that haven't increased their vent size, it would not apply to them.

MR. WHITE: But in the future if another area increased their --

CHAIRMAN LAPOINTE: Vent size.

MR. WHITE: -- vent sizes, shouldn't this apply?

CHAIRMAN LAPOINTE: I believe that would be a change you would make at the same time. I apologize, I didn't understand your question. Pat, did you have a question or a comment? Bob Baines.

MR. ROBERT BAINES: I don't mean to make this more complicated, but right now at a 3-1/4 inch vent size rectangular, 3-1/4 carapace length, the vent size is 1-15/16 with the corresponding 2-1/2 inch circular vent.

This needs to be something in the middle. A lot of the areas are now going to a 3-3/8 carapace length, 2-inch vent size. I mean, to me, there should be three stages here, a vent size for 3-1/4 inch, a vent size for

3-3/8 and a vent size for 3-1/2 inch.

There is nothing in the middle there. I think that's something the technical committee needs to look at and address for the three different carapace lengths we're looking at.

CHAIRMAN LAPOINTE: Fair question. Bob, response.

MR. GLENN: Yes. Right now the 1-15/16 vent size is supposed to be appropriate for a 3-1/4 inch lobster. Other areas that have chosen to go up to 3-3/8 minimum carapace length, the appropriate vent size for that is 2 inches. And then if you go up to 3-1/2 inches, we're saying that the recommendation would be to go up to 2-1/16 rectangular and 2-11/16 circular.

CHAIRMAN LAPOINTE: I mean, with the 1-15/16, 2-2/16, that does in fact correspond with 3-1/4, 3-3/8 and 3-1/2.

MR. GLENN: Right.

CHAIRMAN LAPOINTE: These three stages take into account your comment. Other questions or comments? Are we ready for the question?

All right, Joe needs me to read it in. Move to change the circular vent size requirement from 2-1/2 to 2-5/8 inches, in addition change the vent sizes of 2-1/16 rectangular and 2-11/16 circular be adopted for those LCMA's that have a scheduled increase to 3-1/2 inch minimum legal carapace length in the next addendum. Made by Paul Diodati, seconded by John Nelson. John Nelson and then Bill Adler.

MR. NELSON: Thank you, George. I think the first sentence probably is still a little bit nebulous, and I think changing the circular vent size from 2-1/2 to 2-5/8 is contingent upon the rectangular vent size being 2 inches.

I think we just need to add that in there so wherever that occurs based on carapace length, then the circular vent would change also. I know that's the intent, but I just think we need to have that in there for the language.

CHAIRMAN LAPOINTE: Good comment, and I think they're going to make one more perfection. Bill Adler, while they add that language.

MR. ADLER: Yes, I just want to make sure that it doesn't mean that the vent has to go up before

the gauge goes up. Is that worded so that it would take place when that size goes up to that size, that that's when the vent would be needed and not immediately?

CHAIRMAN LAPOINTE: I think that's the clarification they're going to make.

MR. ADLER: Okay, good. That's fine.

CHAIRMAN LAPOINTE: Which we'll see in a moment. The language was to add the words "to correspond to a 2-inch rectangular vent", to make those tied together. Bruce Freeman.

MR. FREEMAN: George, it would seem to me a lot easier, both for the board and for the industry to understand this, if it was the simple construction of a table showing the minimum size, the circular vent, rectangular vent, rather than this wording which is going to be confusing.

The comment made earlier was the fact that industry needs to have some forewarning. I think it would do that. And this would apply throughout the entire range. Whenever the sizes are changed, this is what is expected for vent size, both circular and rectangular. It would be much easier to understand.

CHAIRMAN LAPOINTE: And, I mean, what this motion would do is put this item in the next addendum, and in fact the addendum would have appropriate language and just the table you talk about to talk about how it would be implemented.

I suspect with our normal addendum process, David will have plenty of forewarning about the implementation of this so he will have time to adjust from a business perspective. Gerry Carvahlo.

MR. CARVAHLO: Yes, thank you. The term "scheduled increase", I thought I heard concern about the vent being raised when it was implemented, when a minimum size is implemented, then it triggers the use of the larger vent size rather than simply "scheduled", because we're all scheduled for the increase in the carapace size.

CHAIRMAN LAPOINTE: I mean, that point is well taken and we can incorporate the specific language. The motion is just trying to get this process started, and the addendum would have to be constructed and approved.

There would have to be a compliance schedule attached to it and then there would be an

implementation schedule thereafter, so it wouldn't be scheduled until that occurs. Other questions or comments? Eric Smith.

MR. SMITH: I'll take the lead of the chair if you figure this is good enough to get the sense of it, but the second sentence is very unwieldy; and if it's going to bind us into something that we're unhappy with later, I would suggest a change. But if it's just really the intent of this is to start an addendum process, let's do that.

CHAIRMAN LAPOINTE: Thank you, I agree completely. With that final comment, are we ready for the question? Do states need time to caucus? Is there objection to the motion? Seeing none, the motion is approved. Paul Diodati.

MR. DIODATI: I just wanted to call attention back to the attrition list that was made available by the public a few moments ago. I assume that we don't have an 880 trap limit in Area 2. It's really an 800 trap limit, isn't it?

CHAIRMAN LAPOINTE: Right. I would suspect that's number of tags because they're issued 10 percent over to account for loss.

MR. DIODATI: Okay, thank you.

CHAIRMAN LAPOINTE: Carrie, modeling subcommittee.

MS. CARRIE D. SELBERG: The Lobster Board received a memo from George Lapointe in the middle of May indicating that the modeling subcommittee has been charged with several very important tasks, including revisiting Amendment 3's overfishing definition and letting the board know that group had not met because we were having difficulty finding a chair. I do believe that we have a recommendation for a chair for that group.

CHAIRMAN LAPOINTE: Mr. Colvin.

MR. GORDON C. COLVIN: Thank you, Mr. Chairman. Yes, we became aware of the difficulties that the modeling group was having getting together and recently had a talk with our staff and Kim McKown of our staff will accept, with the board's willingness, the chairmanship of the modeling sub-group.

There are a couple of conditions that go along with that because of our current state travel policy, Kim's working requirements as a working mom and all the

rest of it.

I think we'll have to have meetings in New York if we're going to do it this way, and we'll need a lot of help from Carrie. I think those are the two things that Kim laid down to me as ironclad sideboards on this before she was comfortable with my speaking up here today. But with those conditions, we'll be glad to do that and hopefully we can get this modeling group moving.

CHAIRMAN LAPOINTE: I would tell you the chair danced a little jig when he heard that Kim was willing to do this and I said, "Hell, yes, we'll travel to New York." Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you. That's great news, Mr. Chairman. I'm very happy to hear that. Just a quick question, is this an administrative requirement about the employees staying within the state of New York or is it a financial thing about not being able to spend funds to travel outside of New York?

MR. COLVIN: Yes. The money doesn't matter. As with many of us right now, Vince, the difficulties we all have traveling I think are getting pretty well known.

And while frequently the availability of funds from the commission or the councils or someone else is very helpful in making the decision, we are reluctant to send more than the usual enormous number of requests to Albany. And in this case, as I pointed out, there are also considerations involving Kim's personal situation.

CHAIRMAN LAPOINTE: Board members, is there objection to this? Seeing none, we have a new chair and, Gordon, thank you very much and send our thanks to Kim as well, because that's a critical function for getting the modeling process moving forward. That's much to the board's benefit.

MR. SMITH: Before we leave the technical committee --

CHAIRMAN LAPOINTE: Please.

MR. SMITH: I have another point. I'd just like to ask for a point of clarity in the board's mind that the upcoming stock assessment in the fall we're going to ensure -- it has been described and voted by the board to be a "turn-the-crank" assessment.

However, implicit in this, in my mind, means that the

assumptions and the input that go into the model will be the best available science and they will be reviewed -- I've had a chance to chat with Bob about this -- and make sure that we know and the technical committee knows that the best assumptions, best inputs that they can devise at the time are the things that will go into the model. It has great relevance because of the way things have changed in the last five or ten years in lobster biology.

CHAIRMAN LAPOINTE: My short answer would be that when the assessment is done, we will look at -- in "turning the crank" we've been looking for this holy grail of a new lobster model since the glaciers left New York I think, for a long time.

And by "turn of the crank", it means we will be using the same model we had before, those input parameters. I know that you've got a technical committee member who wants to look at the M number.

I strikes me that's the kind of question that can be addressed within this assessment process as opposed to a new model. There may be other issues but just to use that as a point of example.

The input parameters -- I mean, the survey information from the Gulf of Maine, I have to go back to our technical folks, but to get that updated information so that in fact we'll use the same old model but with the best and newest information in it. Is that people's understanding as well? I have John Nelson. Did you have your hand up?

MR. NELSON: Yes, I did, Mr. Chairman. I think it's along the same lines of what you were talking about, and it's dealing with the lobster database development. If it's a little different, then I can wait until you finish up with whatever you want to finish up with.

CHAIRMAN LAPOINTE: We have it on the agenda later in the meeting; is that all right until then?

MR. NELSON: That's all right, that's fine.

CHAIRMAN LAPOINTE: Thank you. Carrie, you had a comment.

MS. SELBERG: I just wanted to let you know that the commission has specific rules on when something is a "turn-of-the-crank" assessment and when something's a new benchmark assessment.

The technical committee has a meeting this summer. We're going to start looking at the new assessment which is just a "turn of the crank", so we can look at some of those issues and concerns and include that in the technical committee report for the August meeting, what kinds of things are going to be under consideration and what things won't, given this is just a "turn of the crank."

### **Massachusetts OCC Conservation Equivalency Proposal:**

CHAIRMAN LAPOINTE: Thank you. Other questions or comments at this point? Seeing none, we will move to Agenda Item 5, the Massachusetts Outer Cape equivalency proposal. I assume, Paul, that you're going to get us started.

MR. DIODATI: I can talk to this item. The Commonwealth has prepared both a 16-page report and a 4-page executive summary that outlines our alternative to what was adopted in Addendum III for the Outer Cape Cod area.

It's available on our Website and I have copies here. Unfortunately, I only have one copy of each, the executive summary and the full report. This plan is somewhat different from what the board approved for the Outer Cape Cod area, but it accomplishes the goal of reducing their effort and traps by 25 percent by the 2008 timeline.

The report indicates that we've done an exhaustive summary to evaluate that, using our historical data. What I'd like to do is proceed to public hearing in our state in August with this, because it is a different proposal than we've gone to hearing with in the past, for the Outer Cape Cod area and work within our current timeline of January 1, 2004, to implement the plan.

Although, I would still like flexibility -- given that the board is apparently going to be delivered effort control plans for Area 2, perhaps, and I understand that Area 3 is implementing one now, I'd like the Outer Cape Cod area to have the flexibility necessary to correspond with other plans that might develop between now and January 1, especially in Area 2.

But, given I don't know what Area 2 is going to accomplish before January 1, this is the plan that we have. This is the one that we'll go to hearing with, and this is the one I intend to implement on January 1<sup>st</sup> for Outer Cape Cod.

CHAIRMAN LAPOINTE: And from the

board's perspective, that should go to the PRT, Carrie?

MS. SELBERG: The PRT and then the PRT can evaluate if it needs to go to the technical committee, depending on how different it is from the proposal the technical committee reviewed in January.

CHAIRMAN LAPOINTE: And your comments about the effort controls in the other areas is just to have some degree of consistency among the areas, I assume?

MR. DIODATI: Exactly, Mr. Chairman. Maybe if another plan is adopted in one of the other areas, I'd like it to be consistent, obviously.

CHAIRMAN LAPOINTE: Board members, questions or comments? Pat White.

MR. WHITE: Well, will we get -- when will it go before the technical committee, and will we get a copy of that before it goes to public hearing or are you just going ahead with it, anyway?

MR. DIODATI: It's available now. It is on our Website. I think that's the easiest way to get a copy of it. Both the 16-page report and the executive summary is on our Website. I'll make it available today to Carrie. If she doesn't already have it, we'll make it available.

So I would suggest that it would be convenient for us if the TC reviews this information prior to August so we can go ahead. We need the timeframe. We need 60 days to set up our public hearing process, so we'd like to move ahead and set up the public hearing in our state.

CHAIRMAN LAPOINTE: Did you want to comment, Carrie.

MS. SELBERG: So the timeline that I'm understanding is that we would get the report from you. The plan review team and the technical committee will take a look at it end of June and July.

And, we will be looking at it and evaluating for conservation equivalency to what's in Addendum III for Outer Cape. And both the plan review team and the technical committee will report back to the board at the August meeting.

MR. DIODATI: Yes, I don't know the date for the August meeting, but we will probably go to

hearing mid-August, I'm guessing.

MS. SELBERG: We will finish those reports, then, by end of July so that you have them before public hearing.

CHAIRMAN LAPOINTE: That's great. And you can distribute -- after you get the copies from Paul, distribute to board members just so they have them available. Are there any questions or comments on that proposed course of action? Seeing none, we will move to Agenda Item 6, the PRT report.

**PRT Report:**

MS. SELBERG: All right, the Lobster Plan Review Team did our annual state compliance review. I'm going to go state by state through all of our different states, and then at the end I'll talk about a couple of general issues.

The plan review team looked at three different things for the board. The first is we pulled out where each of the states were with implementing the most restrictive rule and we have a special section on that.

We also pointed out what we felt were areas of concern we wanted to raise to the board. And, finally, we noted what the plan review team thought may be outstanding compliance issues. So, I will go north to south.

Maine, with the most restrictive rule, Maine has not yet fully implemented the most restrictive rule.

CHAIRMAN LAPOINTE: Do we want to go state by state or get the full report? Can I jump in at this point? I had my staff prepare a draft regulation which I've just been reviewing, and I need to make some comments on which we will go to public hearing on in July for implementation by 2004 on the most restrictive rule. So, that's our schedule at this point.

MS. SELBERG: As far as area of concerns or compliance issues, the plan review team doesn't have any recommendations regarding Maine.

For New Hampshire, for the most restrictive rule, New Hampshire has not yet fully implemented the most restrictive rule. While New Hampshire has proposed management measures to implement the various gauge increases, as well as including the phrase "the most restrictive rule" in their regulatory language, they still need to implement other management measures for other areas such as trap

limits. And as far as areas of concerns or compliance issues, the plan review team did not have any recommendations.

CHAIRMAN LAPOINTE: Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman. We have gone through the hearing process, and we have our rules ready to be implemented. I think there is a question that I need to have clarified and that is -- two of them, actually.

One is the trap numbers, because I understood there was some move afoot to deal with area restrictions on traps rather than the most restrictive.

And the other thing is the date for implementation of the overall measures. We actually are ready to implement ours in July but we are reluctant to do so unless our neighboring states are also able to do it at that time.

CHAIRMAN LAPOINTE: Carrie.

MS. SELBERG: Two responses. After the plan review team report, you will be hearing a report from the most restrictive rule sub-committee, and they do have a recommendation for the board. It is changing the way we interpret the most restrictive rule but not doing away with the most restrictive rule.

And in response to your second question, the plan review team has asked the board to set a date certain by when all states will have implemented the most restrictive rule, and that will be at the end of my report.

Massachusetts, Massachusetts has not fully implemented the most restrictive rule. While Massachusetts references the most restrictive rule in their regulatory text and includes specific area management measures in most of the areas, they have a few areas left to go.

As far as areas of concern, as outlined in previous plan review team reports, the plan review team is concerned that Massachusetts is using an alternative marking strategy for the recreational fishery.

As you know, Addendum I requires that all recreational lobster tags be tagged, and the plan review team recommends that Massachusetts use the trap tagging program as required in the plan.

Now, at the August 2002 board meeting, this was discussed and board members indicated that they

would like to allow Massachusetts time to implement this program.

So the PRT is simply recommending that the board establish a date by which Massachusetts would have this in place so that the plan review team knows how to review future compliance reports. And as far as compliance issues, the plan review team is simply raising the Outer Cape, which we've already discussed.

And if you will turn to the supplemental plan review team report, we also are raising the Massachusetts v-notching definition. After reviewing the Massachusetts zero tolerance v-notching definition, the plan review team believes that it's different from the New Hampshire definition.

Massachusetts agreed to make this language consistent with the New Hampshire definition at the last board meeting. If you will look -- while you'll see that the wording is almost identical as the New Hampshire definition, because the definitions are grouped, the definition for "zero tolerance" and the definition are "mandatory", it implies a quarter-inch notch is acceptable rather than a notch of any size that is required under zero tolerance.

And the plan review team believes that Massachusetts needs to reorder the definition the same as the New Hampshire definition to address the problem. I would like to note that Massachusetts did send me their proposed regulations.

I did review them and I did not catch this the first time around, and so it wasn't until the plan review team reviewed the full definition that we realized that this gave a quarter-inch leniency. That's all for Massachusetts.

CHAIRMAN LAPOINTE: Paul, comments?

MR. DIODATI: Are we dressed all right? Is there anything else? We did cover the --

CHAIRMAN LAPOINTE: Red tie next time, all right?

MR. DIODATI: We did cover the Outer Cape Cod issue, and we have gone to public hearing on the first bullet. We will, at our next in-state commission hearing, which is July 7<sup>th</sup>, I believe, begin the promulgation of the rules for all other areas. So, that is in progress similar to I think what New Hampshire stated.

The alternative marking strategy, as Carrie reported, the commission or the board did allow us opportunity for more time on that issue.

We will haven't come up with a good way to dispense those tags given that we have an unusually high number of recreational lobstermen in our fishery and a low number of traps issued to each one of them. It makes it a difficult job to do in a cost-effective fashion. We'll continue to think about that.

As far as the v-notching definition, I had assumed prior to this meeting that we were in compliance with that definition. I've talked to Carrie about that prior to the meeting, and we can make necessary adjustments.

Well, we'd have to wait until our August public hearing process, which I mentioned earlier, and that's when we'll take that to public hearing and make that change. So that's my story.

CHAIRMAN LAPOINTE: Questions or comments for Paul? Seeing none, Rhode Island.

MS. SELBERG: The most restrictive rule, Rhode Island has proposed management measures within their state to fully implement the most restrictive rule. And when they submitted their state compliance report and those were proposed, I've been informed since then that those were finalized, so they have fully implemented the most restrictive rule. The plan review team doesn't have any areas of concerns or compliance issue recommendations.

CHAIRMAN LAPOINTE: Questions? Next state.

MS. SELBERG: Connecticut, the most restrictive rule. Connecticut has not yet fully implemented the most restrictive rule. While Connecticut references the most restrictive rule in its regulatory text, the state does not include reference to management measures for those areas in which area election data exists.

An area of concern -- this is an area of concern that was in last year's plan review team report, and the plan review team didn't receive any feedback from the board, and so we're simply raising it again until the board tell us they don't want to hear it anymore.

It's that Connecticut allows one person to fish pots with tags of another licensee for as many as 30 fishing trips in a year without commissioner

approval.

The PRT noted in last year's report that they feel this is a substantial number and question whether the commissioner should approve this allowance prior to 30 days. We're simply raising this again because it wasn't discussed last year at the board level.

CHAIRMAN LAPOINTE: Comments, questions? Eric Smith.

MR. SMITH: I'd like to comment on the most restrictive rule thing. It was to some surprise that I found yesterday that the board has required everyone to adopt the full regulatory language in every other area that their fishermen might fish in.

And to me, with the kind of cumbersome regulation process we have and the potential for these things to change by addendum or otherwise is a snake pit.

I mean, I don't know if everybody else has to but we have to go through the governor's office, our office of policy and management and the attorney general to get a regulation passed, and it takes nine months.

I would ask the board to allow us to incorporate those other area rules by reference in our regulation. We'll make that amendment if we find -- and then we'll give those rules to our conservation officers for anyone who has designated the other areas.

If we have a court challenge that we can't win because of not having the exact language in our regulation, then we'll go through and do it soup to nuts.

We think, based on the kind of judicial history we've had, we can go into court to the prosecutors that we deal with, say this is incorporated by reference, here is what the rule is, the fishermen knew it because we gave it to them, and that will be sustained. So that's what I would hope the board would allow us to do.

CHAIRMAN LAPOINTE: Do other board members find themselves in the same circumstance? I think, we certainly have raised the same question in Maine, just about how you keep current with all those other areas and, I mean, selfishly in Maine's case, how we get through our advisory counsel this volume of information, and they'll want to start nit-picking about why Area 3 picked 2,250 traps. And so, I mean, that's certainly I think a valid point. Other board members? Bruce.

MR. FREEMAN: Yes, we're in exactly the

same position as is Connecticut. Realizing that we're taking less than 1 percent, we could actually apply for de minimis status, but because of the importance of the fishery to those people who are in it, we've involved at the board level.

But to require this aspect, it will completely overwhelm our regulatory system when we have other important items to deal with.

CHAIRMAN LAPOINTE: Gordon, because you have in fact incorporated --

MR. COLVIN: Yes, we're the poster child here, I guess.

CHAIRMAN LAPOINTE: And how --

MR. COLVIN: You know, it was a pain in the neck but we did it. I don't think it was as burdensome as it's being portrayed here. But in our case, incorporation by reference is a nice idea, and in some states it may well work. It may be very effective.

In the case of New York, our state Administrative Procedures Act imposes a lot of burden on an agency who wants to incorporate some other regulation by reference. By and large, we're limited only to federal regulations that have been published in the Federal Register and are adopted as a part of the CFR.

And even then, we have an extraordinary administrative burden before we can do it. We've incorporated the federal shark regulations by reference into our state fishery regs, and I don't think I'd ever do it again. It's just the way our state law works.

So anybody who would propose to do it, I would say if you can do it, I think it probably is an efficient administrative mechanism, or at least it ought to be. But check your own state administrative procedures to make sure that it works the way you hope it will.

CHAIRMAN LAPOINTE: And if I could follow up with a question, Gordon. When changes are made, is it your intention to let a number of changes build up in a bin and then run through a regulatory change as well to incorporate changes that are made in other lobster management areas?

MR. COLVIN: Well, that's the problem. I mean, technically that's what you have to do is you change -- you know, each state has to change its regs every time an area management program changes, and that's what makes this annoying and

burdensome.

You know, we'll have to do it when we have to do it. We're not going to -- I can guarantee you that we're not going to institute rulemaking to do that in New York to accommodate Area 3 or Outer Cape or something just because one of our lobstermen stuck on their forms that they might have fished there at some point.

It's something you work into your other rules when you're doing them. You don't do it for that purpose. I think that's your question.

But when you're doing regs, you know, when Carl did it for the ones that we did it, it was a bit of work, but it wasn't, you know, overwhelming.

CHAIRMAN LAPOINTE: Eric Smith.

MR. SMITH: Two points. To Gordon's and to your question, Mr. Chairman, about binning these things, that's exactly one of my concerns. At the point that some other area has changed a size limit and you've binned it and you've said, "Well, I'm going to do it in November when our next process comes up," you have a state regulation that allows a guy to land a short lobster, and that's a problem.

So it almost means to me that you have to be as quick on your feet as possible and make the changes just as they arise and then you wait nine months for it to be formalized.

We have done this incorporation by reference. I feel for Gordon because their system obviously doesn't allow it. For all of the quota-managed species in commission plans, we refer to the commission-set quota.

That has been accepted by our attorney general so it does work for us, and I would ask the board's indulgence to let us keep using that system.

CHAIRMAN LAPOINTE: Other questions or comments? We'll have to continue -- I mean, we'll revisit this issue in August and states will need to use their process to make that as specific as possible. Without the reference to the other areas, the enforceability of the plan is diminished very significantly. New York.

MS. SELBERG: Most restrictive rule.

CHAIRMAN LAPOINTE: Hold on, Ritch

White.

MR. WHITE: If we can back up, we didn't discuss the 30-day issue.

CHAIRMAN LAPOINTE: We did not.

MR. WHITE: I just wanted to get Eric's comments on the 30-day issue.

MR. SMITH: Yes, I wasn't going to say anything about that. It's an area of concern; it's not a compliance issue. It's how our regulation on the trap system was written in 2000 in order for a crewman or a family member to work on, let's say, his father's allocation of pots.

After 30 days it's written permission, it's written permission of the commissioner. So, you have to institutionalize that for 10-15-20 days. It could be a vacation. It could be an illness.

We don't require them to write in, ask for permission and then grant the approval for that. It doesn't happen very frequently so it's certainly not a -- if we thought it was becoming a way for people to get around a trap limit, then we'd do something about it.

CHAIRMAN LAPOINTE: Ted.

MR. TED COBURN: Ted Coburn, Rhode Island Lobster Restoration Program. Eric brought up a comment that I think is a concern at least to some Rhode Island lobstermen; that, if I understand the rules correctly, that a lobster that would be illegal for Rhode Island lobstermen to harvest carapace lengthwise could be taken to Connecticut in terms of my read of the Connecticut law. I must have missed something. I apologize but you mentioned, Eric, about the shorts. Thank you.

MR. SMITH: If I may, I knew as soon as I said it that way, it was going to be confusing. Anyone who elects to get trap tags, for example, in our state for another area, elects the different areas and our rule for size limits says they have to obey that most restrictive size limit even if all of their fishing happens to end up being in Connecticut waters.

If at the beginning of the year they've elected that other area, they have to obey the higher size limit. That's how we implement the most restrictive rule.

MR. COBURN: Good, we need to let more

Rhode Island lobstermen know about that. Thank you.

CHAIRMAN LAPOINTE: Harry Mears.

MR. MEARS: Thank you, Mr. Chairman. Eric, just a clarification. Is it 30 fishing trips or 30 days, the issue that we're addressing right now?

MR. SMITH: Functionally, they're one and the same because we don't have trip boats. I believe it says "30 days" in our regulations, which is fishing days.

CHAIRMAN LAPOINTE: Other questions or comments on Connecticut? Let's try New York now.

MS. SELBERG: New York is close, but not yet fully implemented the most restrictive rule. They just need to put in Area 5. And compliance issues, recommendations, the PRT doesn't have any recommendations for New York.

CHAIRMAN LAPOINTE: Questions, comments? A comment from the audience? Jim King.

MR. JAMES KING: Yes, my name is Jim King, Long Island Sound lobsterman. I thought that v-notch protection applied to everyone in the plan?

CHAIRMAN LAPOINTE: Help us out, Jim, keep coming.

MR. KING: Okay, New York's law reads that it only applies to licensed fishermen and licensed dealers. Once a v-notch lobster is out of their hands, it's fair game.

I think it specifically states in the plan it applies to restaurants and anybody else. I've got something right here I'd like to pass around. I think Joe probably knows what they are.

CHAIRMAN LAPOINTE: Jim, let's get right — when fishermen deal with us, I mean they like us to get to the point. I want you to try to do the same thing.

MR. KING: Well, let me just state right now, I've been in this process a long time. I've fished in the Sound since 1960. I've had my own boat and business since 1964. I'm a firm believer in trap limits.

I think there's too damned many traps in the water, far too many. We've still got guys hauling a thousand traps a day in the shape that the Sound is in. It's a disgrace. I v-notched some lobsters because I believe in that process.

I think it's a good thing to do. It's a joke down there. I'm a joke. Right there you've got thousands of animals. I've v-notched, trying to protect that resource, what's left of it. They've all been sold.

I've talked to people that have eaten them in the restaurants. It's just a joke. It's not being enforced. So, I don't know what to do. I've brought this up before the board many times. New York is not in compliance, in my eyes.

Now I don't mean to sound — I really get upset over this because I care about this resource. Now we all sit in this nice little room, you're all gentlemen, but there's a real world out there, too. And where I am it's not too much fun. I guess that's all I've got to say.

CHAIRMAN LAPOINTE: Joe, has this come up in the Law Enforcement Committee? I mean, clearly, it's an enforcement issue.

COLONEL JOSEPH FESSENDEN: Well, it has come up. The major issue we have facing law enforcement is all the different responsibilities in the various states. A lot of states, for example, New York has a lot of other missions to enforce other than marine law enforcement.

Maine, fortunately, we're specialized in marine resources law enforcement. But, a state like New York, they even enforce returnable bottle laws, so it's a very big workload and a tough thing to get at.

It's unfortunate. But it would be a violation of federal or state law, so I would think getting the feds involved a little bit, too, with it may help a lot.

CHAIRMAN LAPOINTE: I may work with you and Gordon just on following this up because, I mean, it's not something we're going to solve this morning, just to try to work that through because enforcement clearly is part of that, the compliance program. New Jersey.

MS. SELBERG: New Jersey.

MR. COLVIN: Mr. Chairman.

CHAIRMAN LAPOINTE: Gordon, please.

MR. COLVIN: You know, if you want to have the PDT take a hard look at our v-notch law and make a recommendation to us for change, if they think there needs to be, that's fine. It might even be helpful if we got that recommendation from the PDT, frankly.

CHAIRMAN LAPOINTE: Okay, thank you, Gordon.

MS. SELBERG: Most restrictive rule, New Jersey has not yet fully implemented the most restrictive rule. New Jersey has proposed management measures to implement the various gauge increases as well as including the phrase "the most restrictive rule" in their regulatory language.

The PRT recommends implementing the other management measures besides the gauge. As far as compliance recommendations, the PRT doesn't have any.

CHAIRMAN LAPOINTE: Questions or comments? Seeing none, Delaware.

MS. SELBERG: I grouped Delaware, Maryland, Virginia and North Carolina. All these states meet de minimis status, and all of them except for Maryland did formally request de minimis status.

I brought this to Maryland's attention yesterday and they're going to be formally submitting a request for de minimis status in writing because they were unable to be at the board meeting this morning. So, the PRT recommends granting de minimis status to these four states.

CHAIRMAN LAPOINTE: Have we not done that already for a number of the states or do we have to do it annually? Are there questions or comments? Is there objection to granting de minimis status to these states? Bill Adler's raising his hand.

MR. ADLER: De minimis; I thought we did it already; didn't we?

CHAIRMAN LAPOINTE: It's got to be done annually, apparently, so it would just be a reiteration or a reaffirmation of that de minimis status. I would think a motion would be appropriate for this.

Pat Augustine moved de minimis status for all four states, Delaware, Maryland, Virginia, North Carolina. Second by Pat White. Questions or comments?

Bruce.

MR. FREEMAN: From a procedural standpoint, does a state have to request it or we can automatically give it to them?

MR. ROBERT E. BEAL: I think technically the state is supposed to request that. However, Carrie, as she mentioned, did discuss this with Maryland yesterday and they intend to send in a letter requesting de minimis.

So it's up to the discretion of the board whether they want to grant Maryland de minimis today or just the other three states and deal with de minimis for Maryland at a later date.

MR. FREEMAN: Well my question, the other states have requested it?

MS. SELBERG: Yes.

MR. FREEMAN: Well, a motion could be put forward or I would -- oh, someone did that already -- with the proviso that the board receive a letter from Maryland making the request.

CHAIRMAN LAPOINTE: Motioner and seconder, is that all right? Sure. Harry, you had a comment.

MR. MEARS: Mr. Chairman, for the record, could we just have a reminder of what de minimis confers upon the requesting state.

CHAIRMAN LAPOINTE: Carrie.

MS. SELBERG: Coast-wide management measures, and staff last year was directed to work with the de minimis states to set a timeline for additional management measures and we'll be doing that this year.

MR. MEARS: For example, what is relieved from a de minimis state and what do they continue to be required to abide by, I guess that's my key question. I don't recall what that was.

MS. SELBERG: They're required to abide by the coast-wide management measures, and they're relieved from other management measures in the various amendments and addendums.

CHAIRMAN LAPOINTE: Gil Pope.

MR. GIL POPE: Just to refresh my

memory, what's the carapace length on the coast-wide measures?

CHAIRMAN LAPOINTE: Three and a quarter in the plan. Questions or comments? While you were talking, Mr. Maker of the Motion, there was a bit of a perfection saying that Maryland would be granted that when they submitted a letter.

We didn't think you'd have a problem with that but we wanted to check. Other questions or comments? Is there objection to the motion? Seeing none, the motion passes. Paul Diodati.

MR. DIODATI: One of the concerns that we have with the most restrictive rule and adopting all area rules is that it would prevent a state from enforcing possession limits in their markets on minimum carapace length.

For instance, an Area 2 state, such as Rhode Island, would not be able to enforce anything other than a 3-1/4 inch minimum size, even though most of their state is at 3-3/8. So, I think that becomes a problem for some other areas as well. I think it might be worth rethinking how we want to handle that.

CHAIRMAN LAPOINTE: We certainly have -- I mean, we've got a bit of experience. Rhode Island is in the throes of trying to deal with just those kind of issues. Do other states have experience as well, multiple size limits within one jurisdiction? Gordon.

MR. COLVIN: I'm not quite sure I understand what's coming up in the context of the most restrictive rule, but is this going to come up later when we get -- we're going to get some recommendations later on changes to the most restrictive rule?

MS. SELBERG: We are. The subcommittee is going to be reporting. Their recommendation is limited to the number of traps.

MR. COLVIN: Oh, not gauge?

MS. SELBERG: No.

MR. COLVIN: And the most restrictive rule requirement is applicable to the lobsterman, not necessarily, however, to possession by dealers and retailers.

I don't know if that helps address the problem you're raising, Paul, but as we understood it and

implemented it, with respect to gauge, it applies to the permit holders, the fishermen, only. It applies to what they possess and what they land. After that, state possession laws govern.

CHAIRMAN LAPOINTE: Joe Fessenden, did you have your hand up?

COLONEL FESSENDEN: Well, the possession law for the small lobsters is a problem for all the states. One of the ways to look at it was states with multiple areas, for example, Massachusetts, the way enforcement is going at it, it's like a landing law.

If the person has Area 1, for example, on his permit, when he lands those lobsters, the minimum size is 3-1/4 inches. But once they go into the marketplace, into the wholesale/retail dealers in the state of Massachusetts, the way I understand it, basically Massachusetts, in all intents and purposes are 3-1/4 inch minimum carapace size.

The problem is, like Rhode Island, for example, they just throw them out. We're getting calls from Maine dealers right now about shipping lobsters down to Rhode Island. Maine 3-1/4 inch lobsters are illegal in the retail trade in Rhode Island.

Rhode Island has worked out a process where they can be re-consigned to another state, but those 3-1/4 inch lobsters can't be sold in Rhode Island. And, this could become a problem in a lot of other states and some major markets.

So, seriously, we've got to think about the landing limits on the more restrictive rule and then the possession limits in your retail and wholesale businesses; New York, certainly New Jersey, huge markets.

And with the increase in lobster measure sizes, if it's a strict possession limit in that state, you're going to be shutting off a market, a huge market for Area 1.

So, law enforcement, right now to enforce this thing you've got to look at landing versus possession laws and think about that as you promulgate rules. I just want to throw that out to you because it affects a lot of people. Thank you.

CHAIRMAN LAPOINTE: And I understand the law enforcement committee has this on their agenda for tomorrow?

MR. FESSENDEN: Yes, we do.

CHAIRMAN LAPOINTE: Yes. I had Gerry Carvalho, then David Spencer, and Bruce had his hand up.

MR. CARVALHO: Mr. Chairman, does this mean that the states subject to de minimis status will maintain the lowest minimum carapace size, 3-1/4?

CHAIRMAN LAPOINTE: I believe that's the interpretation, yes.

MR. CARVALHO: Under these circumstances, with the exception of Maine, it emphasizes the importance of bringing all the states to a uniform size.

I mean, we've got de minimis states now that would be able to harvest 3-1/4 lobsters, and the state of Rhode Island is the highest. So there is some -- we're generating problems by this.

CHAIRMAN LAPOINTE: This is a manifestation of the area management. I will recall the former role I had as a staff member, when I sat in Bob Beal's seat, saying when we decided to go to area management, we knew it was going to be difficult and we said that when different areas went to different sizes, these very kind of questions were going to come up and they were going to require hard work and creativity to get through, from the perspective of the harvesters, from the perspective of the dealers and from the perspective of the enforcement as well.

And it is complex; it's incredibly complex, and we have to figure out how to make that work as best possible. But, I don't get any indication from anybody that they want to go back to a uniform minimum size limit along the coast.

MR. CARVALHO: I don't want to see the states with the higher gauge sizes suddenly traveling great distances to sell to states with lower gauge sizes.

That took place many years ago with New Jersey when New Jersey had a very loose minimum size and so forth. We don't want to set up a system where that opportunity is going to present itself.

CHAIRMAN LAPOINTE: I think that's an enforcement manifestation of the very thing we've been talking about, and what we're doing is we have made a conscious decision to move in this direction. We've made it for nearly -- you know what I mean --

- well over half a decade, and we're moving in that direction.

And our job is to set up a process, again, so we get good conservation, so that we make it as simple as possible for the harvesters, but for enforcement that we make a process that works. I don't see a good way of getting around that. David Spencer.

MR. SPENCER: Thank you, Mr. Chairman. Just a point of clarification in referring to Mr. Diodati's statement, law enforcement in Rhode Island currently enforces a 3-11/32 inch gauge, soon to be a 3-3/8. It is still a possession state.

What they've done in the last month is maintain possession state status, but giving out exemptions, specific exemptions to dealers, allowing them to purchase 3-1/4 inch lobsters and -- Mr. Fessenden was right -- not to sell them in state.

But I applaud Rhode Island. I think it's a step in the right direction. They also did give exemptions for one year for Area 3 fishermen to let them maintain their current gauge increase schedule. I just wanted to clear it up. Thank you.

CHAIRMAN LAPOINTE: Thank you, David. Did I have other people with their hands up?

Bruce Freeman, did you have your hand up?  
MR. FREEMAN: Just a clarification. We have a minimum size possession. It applies to fishermen, dealers, retailers, wholesalers, restaurant owners, shop owners. It's very easy to enforce.

But, it brings up another issue about the most restrictive. It appears to me, just thinking about this, that our most restrictive rule and possession would essentially cover more restrictive.

Our problem we've gotten into, when the federal agency ask the fishermen what areas they wanted to fish in, we had people in New Jersey wanting to fish in Area 1, which is totally crazy.

I think it was a situation where people thought they'd get a permit that would be worth some money they could sell somewhere, and so they list every area on their application when in fact they don't fish those areas.

But regardless, relative to our rule, if they wanted to commute to Maine to tend their traps and steam back to New Jersey, our minimum sizes would apply and our restrictive trap limits would apply.

CHAIRMAN LAPOINTE: Right. Mike.

MR. MIKE HOWARD: Mr. Chairman, Mike Howard, ASMFC law enforcement coordinator. I'm sitting here listening to this discussion and "point of clarification," "point of clarification," "point of clarification."

It emphasizes how difficult it is for field law enforcement officers to keep up with the myriad of exceptions, rules, who can possess what, when and where.

The law enforcement committee last year identified these as potential problems in a letter to this board. We're going to be discussing again to see the extent and how the officers are perceiving it. There's initial indications that it is very difficult.

States like Rhode Island and New York are having a difficult time now. It was easy when you could go and anywhere you saw a lobster, it was a standard coast-wide size.

Now it's where it's possessed, who caught it, where they caught it and what exemption paper they may have or the dealer has and following that paper trail - very time consuming -- in an effort to meet this area management.

I would just reiterate that law enforcement needs it simple. And if you're having problems and points of clarification here, just think what the field officer does when he sees multiple dealers and all coming in with various exceptions and rules.

Again, we'll have a bigger and better picture of this after our meeting tomorrow, but that difficulty that you're having with points of clarification an officer has every day, every contact, with lobsters in the field. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: Thank you, Mike. Gil, we are falling behind schedule and I want to drag back, but go ahead.

MR. POPE: Thank you very much. I just want to emphasize the fact that when I hear most restrictive, I want to make sure that the most restrictive rule that we're trying to concentrate on, the conservation of the lobster, and not the most restrictive rule when it comes to commerce of the lobster, where it's sold, where it's transported, and so on and so on. So, most restrictive, a lot of people think it's a great idea just so long as it doesn't interfere with the commerce. Thank you.

CHAIRMAN LAPOINTE: Paul, final comment.

MR. DIODATI: I tend to agree with the comments from law enforcement and the comments from Gerry, recognizing that we have made a decision to move forward with area management, and we've been doing that for some time, doesn't mean that we shouldn't step back and use common sense.

And perhaps we should, in the next addendum, consider a uniform gauge size for as many areas as possible along the coast. And if that requires a motion, like we had a motion previously to include the consideration of different vent sizes for the next addendum, I'll be willing to make this motion, as well, if that's necessary.

CHAIRMAN LAPOINTE: I don't understand. Help us out with what you would intend by the motion.

MR. DIODATI: I would intend for the board to develop a uniform minimum size for American lobster throughout as many areas as possible along the coast.

CHAIRMAN LAPOINTE: Well, we don't have a motion yet. John Nelson.

MR. NELSON: My sense of what Paul is saying is that if there is gauge increases in various areas, that we would be having a schedule so that they would be a uniform size instead of having a variety.

If you're all ultimately trying to get to a single certain number, that we work it out so that there is a uniformity towards doing that and avoids a lot of this difference of gauges. Now if you're not having a gauge size, then you're not.

CHAIRMAN LAPOINTE: I mean, the difficulty with the issue is not to say that those aren't valid concerns but, again, this board has approved three addenda that have already allowed a number of areas to increase gauge sizes at different rates and different times.

And, I mean, you can make a motion if you'd like. I'd rather put the discussion on the next meeting agenda so we have time to think about it, because at this point I think it's a big change without a lot of thought.

It hasn't been put on the agenda and it does run counter to the process we've been working on and approving for a number of years now.

MR. DIODATI: I'd settle for a discussion item at the next meeting, then.

CHAIRMAN LAPOINTE: Board members is -- Gordon.

MR. COLVIN: Well, just pretending to be a former chairman of this board for a minute, what you're talking about here is Amendment 4, nothing more, nothing less. It's a major policy shift from the history of this management program.

It's not something that should be undertaken lightly or half-cocked without a lot of thought and discussion for all its implications, that are at least as thoughtful and sensitive to the needs of this partnership as the effort to get us to Amendment 3 was.

So, sure, put it on for discussion, accept the input that we're going to get from law enforcement, which is really important, but don't have any illusions about the significance of what you're talking about.

CHAIRMAN LAPOINTE: Well put. Bonnie.

MS. BONNIE SPINAZZOLA: Thank you. I would just suggest that in that discussion -- and I'm sure that this is what Gordon was referring to -- that you would have to consider where the LCMTs come up in a discussion such as this or a topic such as this. Thank you.

CHAIRMAN LAPOINTE: Other comments? I will work with Carrie on that agenda item for the next meeting. Carrie, trap tag update.

MS. SELBERG: At one of last year's board meetings, the board had a discussion about a concern Gordon Colvin had raised regarding issuance of trap tags.

He explained the situation where an Area 6 fisherman had received money for turning back in trap tags and then had been issued trap tags by NOAA Fisheries, and asked the plan review team to look into this issue.

Based on the board discussion that took place that day and follow up by the plan review team, the plan review team recommends that states enter into MOUs

with NOAA Fisheries to address this concern.

Most states have done that, and our recommendation would be for New York to move forward in that manner. I've discussed that with Gordon Colvin. I'm not sure if he has any additional comments.

CHAIRMAN LAPOINTE: Gordon.

MR. COLVIN: No, thank you. I appreciate the PRT's advice. Thank you.

CHAIRMAN LAPOINTE: We like agenda items like that. Most restrictive rule subcommittee, Carrie, and there is a report in our binder, is there not?

### **Most Restrictive Rule Subcommittee:**

MS. SELBERG: Correct. The most restrictive rule subcommittee is made up of board members and advisory panel members. They conducted their work via a conference call and e-mail.

They got together to discuss outstanding issues with the most restrictive rule and to outline a solution for board consideration at this meeting.

I'm going to talk a little bit about status quo, and I'm going to talk a little bit about what their proposed solution is, and then I'm going to step through several examples.

Status quo: The FMP for American lobster indicates that multiple area fishermen must comply with the most restrictive management measures of all areas fished, including the smallest number of traps allocated to him of each of the areas fished.

The recommendation is to apply the most restrictive rule on an area trap cap basis without regard to the individual's allocation.

The subcommittee believes that the outstanding issue with the most restrictive rules as far as trap allocation is that they believe the original intention of the most restrictive rule was to allow multi-area fishermen to continue to fish as they historically have while maintaining conservation benefits.

An unintended consequence that has come up, when implementing historical participation in some areas, is limiting these multi-area fishermen to the number of traps they have been allocated in an area where they have minimal history.

All right, I'm going to step through four examples, and I would suggest that you look at the chart, which is in the last page of this report, as I do that. I'm going to step through each example, what the status quo situation is; and then based on the recommendation from the subcommittee, what the proposal would be.

Okay, the first example is a lobster fisherman is permitted in both Area 2 and 3. His Area 2 allocation is 800 traps. And based on historical participation, his Area 3 allocation is 300 traps.

If you look at the overall trap cap in Area 2 it's 800; and the overall trap cap in Area 3 is 2,600. So, under the status quo, the most restrictive rule would limit this person to the lower individual trap allocation of 300 traps, and those 300 traps could be fished throughout both Areas 2 and 3.

The new proposal would compare the trap cap in each area and the fisherman would be limited to the most restrictive trap cap, meaning the fisherman would be limited to his Area 2 allocation of 300 traps. Three hundred of those could be fished in Area 3.

Example 2: This fisherman is permitted in both Area 2 and 3. His Area 2 allocation is 800 traps; and based on historical participation, his Area 3 allocation is 1,200 traps. The overall trap cap in Area 2, again 800; and 3 is 2,600.

So the status quo would limit this individual's allocation to 800 traps. The new proposal, again, would limit the Area 2 allocation of 800 traps. So in this situation, the status quo and the new proposal would give the person the same number of traps.

Example Number 3: This is historical participation in both areas. Based on historical participation, the Area 3 allocation is 1,000 traps and his Area 4 allocation is 1,200 traps. Under status quo, the most restrictive rule would compare the individual's allocation and the fisherman would be limited to the lower individual trap allocation of 1,000 traps.

The new proposal would compare the trap caps and the fisherman would be limited to his allocation in Area 4 of 1,200 traps, 1,000 of which could be fished in Area 3.

Okay, final example: The lobster fisherman is permitted in both Areas 3 and 4. Allocation in 3 was 1,600 traps based on historical participation, and Area 4 is 1,000 traps.

Status quo, this fisherman would be limited to the lower individual trap allocation of 1,000 traps; however, the new proposal recommends this fisherman being allowed to limit his allocation in the Area 4 of 1,000 traps.

So the issue really is instead of comparing the individual allocation in each of those areas, comparing the trap cap in each of those area, so it doesn't penalize a multi-area fisherman for having limited history in a particular area.

One issue to consider at the end of the report is that NOAA Fisheries did express some concern that implementation of this proposal may be difficult because they based their original rulemaking on the original interpretation of the most restrictive rule.

Also, from a staff perspective, I would like to note that if the board would like to take the subcommittee's recommendation, this would be something else to go into the next addendum.

CHAIRMAN LAPOINTE: Ritch White, then Pat Augustine.

MR. WHITE: Carrie, could you give an Area 1 and 3 example?

MS. SELBERG: It would be very similar to the Area 2-3 examples because both Area 1 and Area 2 are not based on historical participation; so, if you were to look at the examples in Area 1 and 2 and just — Example 1 and Example 2 and just change "Area 2" to read "Area 1", it would be the same.

CHAIRMAN LAPOINTE: Mr. Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I just read that issue to consider and it's a little confusing. This is one of those that is a double entendre. You don't know which way NOAA is going on this.

NOAA Fisheries expressed concern over the implementation of the proposed solution, that it would be difficult, with potential endangered species impact.

But further on they say, "however, NOAA Fisheries, based on an historical participation rulemaking and supporting analysis on the most restrictive rule outlined in Amendment 3, indicate a strong likelihood that trap reduction would result in implementation of historic participation."

What the hell does that mean? I mean, can you take the fog out of that? What's the difference between this most restrictive rulemaking that we're doing and what they're suggesting? Maybe Harry can explain that. It's confusing to me.

CHAIRMAN LAPOINTE: Sure, Harry.

MR. MEARS: I'll try, Mr. Chairman. This goes back to your comments. Back in '97 we knew moving forward with area management, we were going to address a lot of issues we didn't know at the time and they were going to take some intensified evaluation as we went along.

The point being made to this subcommittee was that when we analyzed the rationale for historical participation as recommended by this commission for Areas 3, 4, and 5, it was predicated in part upon the impacts of multi-area fishing lobstermen.

And a lot of the rationale and supportive rationale with the clearance of this rule was predicated on alleviating impacts of numbers of traps themselves fishing on lobster and fewer lines in the water, impacting, potentially, marine mammals. Pat, as I understand your question, it's over the second sentence?

MR. AUGUSTINE: Yes.

MR. MEARS: "NOAA Fisheries is supportive of the intent of this proposed solution, finding solutions to dilemmas in area management to address the unintended impacts of multi-area fishermen of implementing historical participation in some management areas."

The way I read that, Pat, is that we recognize that as we implement new management regimes -- in this, case historical participation -- they're going to have spin-off effects, which we would like to alleviate and correct to the extent that we can; but recognize that with each management decision that's predicated on reduction of fishing effort and also reducing impacts on marine mammals, it's extremely difficult for us to then reverse the benefits of an action which we already implemented, if that helps make any sense.

MR. AUGUSTINE: It does help make sense, but in the final analysis, how flexible will the service be if this process moves forward and appears to offer the benefits that we're looking for. I don't want to get into a discussion, I just wonder if they can be helpful to clear up this point.

MR. MEARS: I can just give you very briefly my own prediction is that this would be one of the most extremely difficult things we would have had to ever done with lobster rulemaking to then go back and justify an increased number of lines in the water when we're about to be involved in the reinitiation of a Section 7 consultation under the Endangered Species Act for federal lobster regulations.

MR. AUGUSTINE: Thank you, that was the answer I was looking for.

CHAIRMAN LAPOINTE: I said it in the subcommittee and I'll say it here. The whale issues, viz-a-vie the Endangered Species Act, are huge. And if you look at -- I'll just use Maine fishermen in Area 1 -- we've got 60 fishermen who are potentially Area 1-3 fishermen.

Under the old rules, those fishermen would be bound -- I'll use the 800 and 300 number. If they elected for Area 3, they would be bound to 300 traps throughout the year. Guess what, they're not going to so it's just going to result in a shift of traps closer to shore.

Even if they did elect to them, 60 times 500, you know, it's going to be 30,000 traps when we've got 3 million in the state of Maine. We're still going to have a humongous whale issue to deal with that we'll probably all report back on.

There is legitimate concerns on NMFS' part. I mean, they're going to have to go through this cumbersome process administratively to switch allocation to trap caps. What they've done in the past is they've been flexible and listened and argued and tried to make those changes.

But, they've got the same kind of workload problems we have so should we make this change -- and as the state director from Maine I hope we do -- we can't expect them to do it overnight. Ritch White.

MR. WHITE: Has law enforcement looked at this proposal because I would think this would start to get complicated with boats being able to fish along a boundary line and pile up traps on one side of the line or the other?

CHAIRMAN LAPOINTE: Joe.

COLONEL FESSENDEN: If we stay with the historical participation, it's going to be very difficult for law enforcement to know what that

participation is.

And, like Mike Howard said earlier, if we have a table to go out there in, say, Area 1, 800 trap limit, you know, oversized lobster, certain size escape vent, certain size minimum size, that's enforceable.

But if we have to figure out what the historical level of trap limit this fisherman has, it's going to make it almost impossible. I think it's going to be very difficult for law enforcement.

CHAIRMAN LAPOINTE: My sense is that it's difficult either way. I mean, what it says is George Lapointe, fisherman, Area 1-Area 3 fisherman, is under the old system bound by 300 either spot or under this system would be bound by 800, 300 of which can be fished in Area 3. I mean, there's going to be individual determinations regardless. I think that it's just shifting numbers a little bit but not making it a whole lot more difficult. Ritch and David.

MR. WHITE: But, if I understand this, isn't this creating two sets of trap tags? In other words, the way this is set up now, the fisherman has one set of trap tags and this will create two sets. No? Well, I'm not understanding it then.

CHAIRMAN LAPOINTE: Okay, Carrie needs to think about her response because it is difficult. David, while we're waiting.

MR. SPENCER: Thank you, Mr. Chairman. I would support the recommendations of this subcommittee. As one of the people that took part in crafting historical plans, it was never the intent to make people that fished in multiple areas face these types of business decisions.

It was an attempt to let people fish as nearly the same as possible the day before a management plan went in and the day after. I think the interpretation that status quo has of most restrictive rule now is either going to face people to make some very difficult and unfair business decisions or we can try to find a flexible means for them to do it.

I would just want to agree with George that I'm not sure this is going to put more lines in the water. I think his description of the situation is accurate. People are not going to accept a smaller allocation. They'll take the larger one, so I would just speak strongly in support of adopting the recommendations. Thank you.

CHAIRMAN LAPOINTE: Gil Pope then John Nelson.

MR. POPE: Thank you very much, Mr. Chairman. That phone call was a very difficult one for me. I went away from that thinking that I understood exactly what the most restrictive meant.

But when I look at this chart, there's four different possibilities from Example 1. And my questions are is it 300 total, six hundred total, eight hundred total, or eleven hundred total?

The thing that I got from it was that it was 300 and 800. But 800, he would be allowed 800 of which he could fish 300 in Area 3, but he had the remainder of the 500 that he could fish in Area 2. That's the way that I came away from it, thinking that was it. That's correct? All right, good.

CHAIRMAN LAPOINTE: John Nelson, you had your hand up.

MR. NELSON: Well, I was going to ask David but I'll ask Gil. If you understand it that way, and I think we all do, how are we going to be somewhat assured or be assured that you're not going to have all the 800 in one zone or another at any one particular time?

CHAIRMAN LAPOINTE: Carrie.

MS. SELBERG: I don't think it's any different than it is under status quo. It would be issuing the trap tags and you could mark trap tags as Area 1, Area 3 or a combination, an Area 1-3, a trap that could be used in either one. That's something the subcommittee talked about.

CHAIRMAN LAPOINTE: John.

MR. NELSON: You know, I think right now people have to make a decision on what area they're going to fish in is what it boils down to. And if they're going to fish two areas, they're going to have to go with whatever the lowest number is.

Now their counterparts that are out there are also well aware of what their limits are, what their restrictions are. I think what we're going to find is that a flaw in this is that if you have them allocated a larger number of traps because of Area 1 and Area 3, for example, or 2 and 3 or whatever it is, people aren't going to be able to be as assured that, well, Bill's out in Area 3, but he's only got 300 traps; I know he's only got 300 traps.

I can tell he's only pulling 300 traps because I know how long it takes to pull 300 traps. And if Bill's out there a little bit longer, then the suspicion grows rapidly and very quickly that Bill's fishing his 800 traps in Area 3 when he's only supposed to be fishing the 300.

And then the complaints will come in and what are we going to do about it? We don't have the capability of doing any enforcement at sea in regard to that.

I mean, that's the reality. That's not going to happen. So, I think we just need to be cognizant of that's going to be -- I'm sure that's going to be a problem out there.

CHAIRMAN LAPOINTE: Is it any different than any other at-sea enforcement capability?

MR. NELSON: I think you -- well, I used the example of their peers knowing how long it takes to pull traps, and, therefore, they police themselves.

I mean, we have gotten people calling us and telling us, "Hey, you know, Harry's out there a little bit longer than all the rest of us, and I think you ought to check and see what he's got."

So if you have a specific example, you can go and have him pull his trap and, sure enough, he was fishing more traps than he was allowed, and we dealt with that.

CHAIRMAN LAPOINTE: But wouldn't this be just the same? I don't want to get into a debate because Carrie keeps on poking me and telling me I'm already behind but --

MR. NELSON: Thank you, Carrie, but go ahead, George. I just raise that as an issue for us to make sure we've considered, and I appreciate your input on it, too.

CHAIRMAN LAPOINTE: Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. I think, first of all, in response to that, the trap tag thing that was explained by Carrie would be a way to do that.

I mean, the 800-300 or the 500 in there and the 300 in here makes 800 total. Trap tag, numbers people could haul up, however, you're doing trap tags

anyway, the tags could tell a story.

My question to Carrie was we had talked about the fact that this could be implemented -- how is this implemented? Is it implemented as an explanation of the most restrictive rule or changing the most restrictive rule issue?

MS. SELBERG: It's changing the way you interpret the most restrictive rule; and because it's a significant change, it would go through an addendum process. You simply couldn't just say here at the board you wanted to make that change. It would need to go through an addendum.

MR. ADLER: All right, but the way you explained it in the telephone call, it was easy to do it one way rather than try to do it a completely different way, and I couldn't remember what that argument was.

CHAIRMAN LAPOINTE: It would require a motion to include this in an addendum to switch the interpretation of the most restrictive rule from that of individual allocation to the trap cap based on the area.

MR. ADLER: Okay, well, maybe the fact that it went into an addendum rather than an amendment or something was the easier way to go. I guess maybe that was it. Thank you.

CHAIRMAN LAPOINTE: Other discussions? Pat.

MR. WHITE: I'd like to make that motion that we accept this as moving this forward in the next addendum. I would like to move that we accept this and move it forward in the next addendum.

CHAIRMAN LAPOINTE: Is there a second to that motion? Bill Adler seconds. Discussion? Do board members, states need time to caucus? We're going to take a break after this agenda item.

(Whereupon, a caucus was held.)

CHAIRMAN LAPOINTE: Have we had sufficient time to caucus? Is there objection to the motion.

All right, those in favor of the motion, raise their hands, please, in favor of the motion, five; opposed to the motion same sign, two; abstentions, one. The motion carries. Thank you. John.

MR. NELSON: So what do we do in the meantime as far as until this is put into effect, George; are we interpreting the most restrictive as the most restrictive for trap numbers?

CHAIRMAN LAPOINTE: That's what's in place at this time, isn't it?

MS. SELBERG: You would go with what is outlined as status quo through the report.

MR. NELSON: And if some people give up a zone because they wanted to be able to fish more traps, do they have the opportunity to go back to that zone when this is put in place?

CHAIRMAN LAPOINTE: I think we need to check that because I don't think it's anybody's intention to make people, as David said before, to make business decisions, to punish them in a manner that wasn't the intent of the plan as it moved forward.

(Whereupon, a recess was taken.)

CHAIRMAN LAPOINTE: Let's get started. There's two more most restrictive items that Carrie wants to deal with. One is the footnote on v-notch percentage rates and the other is a date by which we tie together this most restrictive stuff.

MS. SELBERG: There were two plan review team report issues that we didn't address on that agenda item I wanted to bring up. The first is with the most restrictive rule, the plan review team had a recommendation that the board establish a date certain by which states will have the most restrictive rule fully implemented.

CHAIRMAN LAPOINTE: Board members, is 1 January 2004 a good date for having the implementation of our most restrictive rules in place? Eric is shaking his head no. Not nine months?

MR. SMITH: Pardon my frustration. It takes us nine months so if I go back and start now, January 1<sup>st</sup>, it will be soon after. It'll be March maybe.

CHAIRMAN LAPOINTE: March 2004? I mean, there are administrative processes in all of our states, and I can try to make you go faster and they'll tell you to suck eggs when you get back home, or whatever lawyers will tell you to do. March 1<sup>st</sup>? Carrie.

MS. SELBERG: Compliance reports are due on March 1<sup>st</sup>. They could correspond; you could report with your compliance report.

CHAIRMAN LAPOINTE: Is there objection to March 1 date for implementation of most restrictive, which is the same date for the compliance report for next year? John, are you raising your hand?

MR. NELSON: The same issue that I brought up before the break. Is the most restrictive now for this timeframe, it will be in effect March 1<sup>st</sup> of '04, is that all inclusive of all the measures, which includes trap numbers?

CHAIRMAN LAPOINTE: Yes. That's my understanding, yes. Eric Smith.

MR. SMITH: I think that would be helpful to have some clarification. My understanding it was the gauge size and trap numbers by areas. If there are other things, I'd want to know.

CHAIRMAN LAPOINTE: Carrie.

MS. SELBERG: The board received a memo from your board chair on May 13<sup>th</sup>. It talked about the modeling subcommittee chair and the most restrictive rule implementation.

The second page of that memo is what the plan review team was calling the most restrictive rule cheat-sheet. It's a one-page outline of what the various management measures are to make the most restrictive rule implementation easier.

MR. SMITH: And the vent.

CHAIRMAN LAPOINTE: Other questions or comments? Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. Okay, so the states have to put the most restrictive rule into their rule books by a certain date -- March you said.

Okay, are we anticipating that since the interpretation which we just voted to go to an addendum with, that we would have that done so that could be put into the rule book along with the actual wording by each state? Is that how we're planning this to happen?

CHAIRMAN LAPOINTE: I wouldn't think that -- that's an issue of interpretation of compliance more than the most restrictive rule in state or no?

Staff is shaking their head no. Is it logical to assume it would be in place for March 1 next year?

MS. SELBERG: If you move with an addendum schedule that you set up at the last meeting regarding Area 2 and you wrap all of these issues into one addendum, the schedule had that Addendum IV being approved at the December board meeting. So depending on your state regulatory structure and how you move those rules, that would give you until March.

MR. ADLER: All right, so the basic wording that there be the most restrictive rule, the interpretation of this thing that we just discussed which basically dealt with traps, that could be fixed or adopted or whatever is going to happen through the addendum and still that could be included in the state rules by March? Is that the understanding?

CHAIRMAN LAPOINTE: Yes.

MS. SELBERG: Yes.

MR. ADLER: The interpretation wording.

MS. SELBERG: Yes, if you stay on schedule and have that addendum approved by December, then you would have a couple of months until the March 1<sup>st</sup> deadline.

CHAIRMAN LAPOINTE: I had Pat White and then Paul Diodati.

MR. WHITE: Just a question to Carrie, I guess. When is the qualification criteria deadline for the two or three areas that are having that for historic participation?

MS. SELBERG: I don't know off the top of my head. I can look into that and get back to you.

CHAIRMAN LAPOINTE: Paul.

MR. DIODATI: I think it would be helpful for staff to forward all the states a memo with the specific requirements for this rule that I imagine -- we've talked about minimum size and trap allocations, but vent size, v-notch definitions or v-notch language. I think you need to identify very clearly what needs to be in this rule.

CHAIRMAN LAPOINTE: And I thought that was our intention. We sent the memo in March I think. We'll resend that to folks just so it's right before you as you consider this. Carrie.

MS. SELBERG: If you want more than what's in the most restrictive rule cheat-sheet that we put together, please let me know and I can work with states to provide more detail.

CHAIRMAN LAPOINTE: March 1? Going once, going twice. Is there objection? The discussion for folks, who just came in the room, was that the implementation date for the most restrictive for states would be the first of March, which is also the date of next year's compliance report. Seeing no objections, we will move to the last most restrictive issue and that is the footnote in Addendum III. Carrie.

MS. SELBERG: Addendum III has a footnote which is under the mandatory v-notching section. This issue is included in the plan review team's supplemental report.

The footnote reads that the Commonwealth of Massachusetts will monitor the percentage of v-notched, egg-bearing female lobster in commercial catches during 2002.

"If the observed percentage does not reach 50 percent by the end of 2002, the Commonwealth will consider additional management measures in 2003 to help achieve the goals of the FMP.

"At a minimum, all regulations promulgated to implement Addendum III in Management Areas 2, 3 and the Outer Cape will be expanded to include the Massachusetts portion of Lobster Management Area 1. Other entities of Area 1 may also consider additional management measures in 2003 to achieve the goals of Addendum III."

And as you know from the technical committee report, the TC has just finished a report indicating that the Massachusetts v-notch compliance rate has been increasing over the last couple of years but it is currently below 50 percent.

The plan review team simply wanted to bring this to the board's attention and would appreciate any feedback of how to review this particular footnote in future compliance reports.

CHAIRMAN LAPOINTE: Bill Adler and Paul, you had your hand up as well.

MR. ADLER: I think the report shows that as far as Massachusetts fishermen go in that area, they are trying to comply with this. Since the rule

only went into effect in July, and I'm not sure when this count was taken, but we know for a fact that they are doing this, trying their best, as they said they would.

I think that since it only kicked in in July officially and started, I think they're doing a very good job at moving this forward to where it's supposed to be, especially given the short time period that they've had so far to do it. Thank you.

CHAIRMAN LAPOINTE: Paul Diodati.

MR. DIODATI: You know, given that the measure is below 50 percent for the time period that was identified in the addendum, I think the prudent thing to do is to move forward and develop some alternative measures and perhaps have those available and approved and implemented, if necessary, after we see what the compliance rate is at the end of this year, which would be 2003 and a full year of v-notching.

I think that would be a prudent, wise strategy. We're not losing any time. We'd still need -- we haven't developed any alternatives so maybe we need to do that. Maybe it needs to be done in this addendum process that we've been talking about, so that's what I would suggest.

CHAIRMAN LAPOINTE: Board members. I see heads shaking yes. The process that you're talking about, alternatives would be developed by the Commonwealth for presentation to the board, I assume?

MR. DIODATI: I'm more than willing to take that on, but I think that the LCMT process is probably still part of this.

CHAIRMAN LAPOINTE: I apologize, that's a good correction. Is there objection to that course of action? That would be to revisit that next year because of the time needed to implement. Paul.

MR. DIODATI: The only other thing is I'd like some more information about this next addendum that we've been talking about all day. I don't know what the timeframe is, when we're actually going to begin.

CHAIRMAN LAPOINTE: Right.

MR. DIODATI: What's the implementation date, because there might be other items that we haven't discussed yet that I'd like to bring up that

might be appropriate for this addendum to consider.

CHAIRMAN LAPOINTE: Ritch White.

MR. WHITE: So the task to the LCMT would be to come up with measures, if necessary, to explain to them that we're not asking for measures we're going to implement but --

CHAIRMAN LAPOINTE: I mean, if we think about that for Area 1 specifically, I mean, this was a Massachusetts-specific proposal and in all reality you can send it to LCMT 1, but I don't know how productive that's going to be. That's the process you have to go through but I suspect they may see that as trying to develop alternatives to the alternative they put forward and they like. But that's the process you're outlining. The schedule on the addendum I believe was -- we had how many items, four, potentially?

MS. SELBERG: During today's board meeting, there were four items that potentially could go into Addendum IV if the board wanted those to go forward. You've already addressed the vent selectivity technical committee recommendation and the most restrictive rule subcommittee.

The other two that you will be discussing later this meeting is Area 2 and a proposal from Area 3. At the last board meeting, the board outlined a schedule for Addendum IV to address concerns with Area 2.

That schedule was review a draft addendum at the August meeting; go to public hearing this fall; and approve the addendum at the December meeting for implementation in 2004.

CHAIRMAN LAPOINTE: Paul.

MR. DIODATI: Would it be appropriate to bring up another potential item for this Addendum IV at this point?

CHAIRMAN LAPOINTE: Not at this point; I want to get back on the agenda. If there is something else, we can discuss it under other business.

MR. DIODATI: Okay.

CHAIRMAN LAPOINTE: Now, let's get to the easy stuff. Area 2, We have an options paper. Carrie is going to follow up on the emergency rule for us.

MS. SELBERG: I just wanted to let the board know that after the board's action on the emergency rulemaking in the February board meeting, there were four public hearings held as required by our charter.

The summaries of those public hearings were included in your briefing packets for your information, and that's all I'm going to do on that.

### **Area 2 Options Paper:**

CHAIRMAN LAPOINTE: The Area 2 options paper.

MS. SELBERG: Okay, I'm going to present the Area 2 options paper. A plan development team was formed at the request of this board at the last board meeting.

This plan development team was asked to put together an options paper that addressed the motion at the last meeting which was reduce fishing mortality rate in Area 2 in 2004 to a level which will allow for stock rebuilding.

The plan development team worked with the Area 2 LCMT, the technical committee and the socio-economic subcommittee to draft this paper. All of the feedback from those various committees is included in this paper.

The way it's set up is we have an initial goal section and then we outline six different management measures. The plan development team outlines what the measure is and then the technical committee, the socio-economic subcommittee and the Area 2 LCMT commented on each of those options.

I also do want to note at the Area 2 LCMT meeting the LCMT forwarded an additional proposal, which was separate from this plan development team paper for board consideration. I'm going to step through this plan development team paper first and then I'm going to outline the LCMT proposal.

I'm going to outline the various committees' feedback on the different options, but we do have Bob Glenn, technical committee chair, Henry Cebule, the LCMT Area 2 chair, both at the meeting so if you have questions after I've gone through the paper, they are available to answer any of those questions.

Okay, the first section talks about the goals for Area 2. The motion passed at the February board meeting, as I noted, was reduce fishing mortality rate in Area 2 in 2004 to a level which will allow for stock

rebuilding.

In the board discussion, after I finish going through this paper, the plan development team is looking for some more input on what the goals for rebuilding the lobster stocks in Area 2 should be.

What should we be rebuilding to, and what should the timeline be? The technical committee will be developing the specifics of this, but we would appreciate some general board feedback before they start that process.

The next issue outlined in the paper and one the plan development team is looking for feedback on is whether we should be pursuing this through an addendum or an amendment. The board discussion to this point has been focusing on an addendum, and I'm going to talk a little bit about this and then why we've raised the issue of an amendment.

An addendum could have a specific goal which would reduce fishing mortality below the current overfishing definition of F- 10 percent because we view that F-10 percent as a threshold.

The plan development team would recommend management action to achieve an F rate below the current biological reference point of F-10 percent. That would be consistent with stock rebuilding.

When we discussed this with the technical committee, they had an important recommendation, which I'm going to talk about now, which is that the technical committee believes it's more appropriate to provide management advice on a stock unit rather than a management unit basis.

And after reviewing the annual survey trends, which you heard about earlier this meeting, the technical committee notes that the trends in abundance have been declining over the past five years in this stock unit.

Now the mechanisms of those declines may not be the same in the two different Management Areas 2 and 6, but they are seeing the same trends in this entire stock unit.

Now, if the technical committee is going to be providing technical advice on an entire stock unit basis, they recommend using both analytical assessment models and survey index trends.

However, if the board is going to simply look at this on a management unit basis and just look at Area 2

rather than Area 2 and 6, then the technical committee recommends using only survey index trends.

Fishery independent trawl surveys could be used as indicators of progress towards reaching the goal of rebuilding the lobster stock in Area 2. If the board agrees that this would be a good indicator, the plan development team will work with the technical committee to develop the details of this program this summer.

Now, the reason we raised the idea of an amendment is that the original Area 2 technical committee report included a recommendation to develop a control rule that incorporates both F-based and biomass-based reference points to offer better management advice.

In order to include these biomass-based targets, we would need to revise our overfishing definition, which kicks off an amendment process. An amendment process is obviously much longer than an addendum process and much more involved.

The modeling subcommittee is now, thanks to Kim McKown, going to start working on looking at the overfishing definition but that process is going to take time.

Okay, I'm going to move on to the various management measures. I'm just going to go through this entire report. We can go back and revisit some of these issues once I have.

Overall, with these management measures, the plan development team wants to note that they're not all going to achieve the same results. We don't mean, when we present all these different options, to say that all of them will achieve the same thing or at the same timetable.

We also want to note that you're going to see that there aren't details on each of these management measures. I'm sure that the board feels the same way that the technical committee and the Area 2 LCMT and the socio-economic subcommittee in reviewing these options, it's difficult to review them without the details.

We anticipate fleshing out those details once the board has given us a little more feedback on a more specific goal for Area 2 and also once the board has narrowed the choices. Right now we have everything on the table.

If you have looked at this, you have seen we have

everything from a moratorium to effort control to seasonals. Once the board has narrowed the options we're looking at we will flesh out the details on each of these options.

So, the first two options deal with effort caps, effort reductions. The first is a performance-based trap cap or reduction, and this is very similar to a proposal that the Commonwealth of Massachusetts has been working on. It's an allocation of traps based on past performance.

It does allow for transferability. Also, there are mechanisms within the plan to allow for reductions in traps either through an active trap reduction or a penalty or a tax when the traps are transferred.

The plan development team notes that this is a slightly more complex system to monitor, and we would need the commitment from states that they could monitor a system like this.

The technical committee comments -- for each of these I'm not going to go into what all of their comments are. Those are all in the report for your review. I'm just going to hit on some of the highlights.

The technical committee commented that trap reductions alone would need to be drastic to affect F and, therefore, they should be combined with other management measures. And in order for the other management measures to be effective, the technical committee does believe that a trap cap such as this one is an essential first step.

The socio-economic subcommittee reviewed this and some of the highlights of their comments were that individuals may increase their number of trap hauls or their season in order to compensate for any reductions.

They do believe that a performance-based system doesn't have a lot of the problems that they're going to outline under the next effort control option, which is a uniform cap; and that if there are active reductions, because there is transferability, an individual can purchase additional trap allocations to maintain their desired scale of operation.

The LCMT reviewed this as well. Overall some members of the LCMT are not ready to support any effort reductions at this time. Those who believe there should be effort reduction support the flexibility of this performance-based -- I mean, support the flexibility of having a trap transferability program

and would prefer a performance-based system rather than a uniform-based allocation.

The second option is a uniform cap reduction, and this would be similar to what is in place in Area 2 right now with the 800 trap cap. An initial cap could start at whatever level we feel is effective to reduce fishing mortality.

We do note that this option has a greater impact on those fishermen currently fishing more than the average number of traps. In order to effectively reduce effort and fishing mortality, the cap would need to be significantly lower than the average number of traps that are being fished right now.

The plan development team indicated that transferability could be a part of this program or could not, depending on what the board would like to see.

The technical committee comments, they are similar to the performance-based system, which is that the cap would need to be well below the current average in order to be effective, and the program does reduce the number of traps for the high-end operators, but those fishing currently under the cap could increase their effort.

The socio-economic subcommittee's comments really vary whether or not you're going to include transferability. If there is not transferability, then their comments indicate that a uniform trap cap or rule specifying the maximum number of traps an individual is allowed to fish forces fishermen with a lot of traps to cut the trap numbers while leaving small fishermen free to build up the size of their operations.

Because the most efficient fishermen may be the ones most effected by a trap limit, the trap limit may also lower the overall efficiency of the fleet. A uniform trap cap may not result in stabilizing the number of traps fished unless it is coupled with limited entry.

However, they do note that their advice is different if transferability is included. If transferability is allowed, the results are different and operators would have the ability to purchase more traps to maintain their desired scale of operation.

The LCMT feedback on this, again, there are some members of the LCMT who are not ready to support any effort reduction at this time. Those who do believe there should be effort reduction would prefer the first option of a performance-based system

because a uniform allocation system places more of the burden on the full-time fisherman and not on the part-time fisherman.

They also stress that if the board were to go with the uniform allocation system, they believe it would need to include transferability to allow for flexibility.

So those are the two effort reduction options that the plan development team has forwarded to the board for consideration. We have several other management measures.

The next one is a quota or a total allowable landings, and we were looking at this option more as a hard TAL and not a soft TAL. This quota we thought would be important if it were flexible and could be revised on an annual basis based on how the resource was doing in Area 2.

Allocation could be area wide, state by state, groups of fishermen or individual-based quotas. And if the board would like to move forward with this option, the plan development team would need some feedback on what kind of allocation schemes you would like to be thinking about.

The plan development team notes that currently states do not have the infrastructure to monitor a quota system for lobsters and are at various stages towards moving towards having those abilities, and that states would need to make a commitment towards developing these monitoring systems quickly in order for this option to be feasible.

The technical committee comments on this option: A quota is a direct way to control fishing mortality. The quota level would obviously be dependent upon the goal outlined for the area. They also note that the technical committee doesn't currently have the information available on a timely basis in order to develop yearly quota estimates.

The socio-economic subcommittee raises some concerns about an area-wide quota system. So if the allocation scheme were to be area wide, they talk about their concerns about a race to fish.

They do indicate that if it were individual-based quotas, this concern about the race to fish would no longer be relevant. They note that the outcomes of a group quota, which will be allocated to groups of fishermen, would be quite similar to what you would expect under an individual allocation system.

All right, the LCMT comments on the quota: Some

LCMT members support using a quota in Area 2 allocated on an individual basis while others do not support the use of quotas at all. Overall, the LCMT members believe that good science and a monitoring system need to be in place in order to establish and track the quota.

Some LCMT members do not believe that current scientific information is accurate enough to pinpoint the exact quota and believe that a quota system would lead to a black market for lobsters.

However, other LCMT members believe that a well-designed, individually based quota that is based on history in the fishery is their preferred management option. There were no LCMT members in support of an area-wide quota system because of their concerns that it would be to a race-to-fish situation.

The next option is seasonal closures. A seasonal closure would close the Area 2 lobster fishery during part of the fishing year. The plan development team thinks that the seasonal closure should be timed to produce newly extruded females and that all gear should be removed from the water during a closed season.

The technical committee further elaborated on that, indicating that in order to achieve fishing mortality reductions by a seasonal closure alone, the open season would need to be extremely short. The measure would be more effective in combination with other management measures such as a quota or effort reduction.

They also note that closed seasons are an important part of the management of American lobsters in Canadian waters; and in Canada where the fishing seasons are typically several months in duration, fishing mortality rates are comparable to the United States even though lobsters are caught over a shorter time period.

The socio-economic subcommittee indicates that a regulated season or fishing time restrictions might increase profitability at least temporarily by avoiding market gluts and improving the quality of landed lobsters. However, season openings following closures have also been shown to create market glut.

In the long run, however, without control over the total levels of fishing effort, any increase in profitability would tend to attract additional fishing effort in the allowable time and area which would dissipate any additional profits created by the restrictions.

They also indicate the choice of when the closed season took place would have different impacts on different fishing businesses.

The LCMT comments: The LCMT members were not in favor of a seasonal closure. They are concerned about moving all their gear in and out of the water, effort shifts to different areas and price drops.

Closed areas: Areas within Management Area 2 could be closed to protect lobsters. The plan development team suggest areas with higher vulnerability.

The technical committee comments: The closed area would need to be large enough to compensate for immigration and emigration of lobsters from the area.

The technical committee has concerns that displaced effort along the border of the closed area could negate any gains of the closed area, and it's very difficult to outline the benefits of a closed area given current information.

The socio-economic subcommittee indicates that permanently closing some areas as opposed to others will change the relative advantages enjoyed by certain fishermen, extending benefits to some while imposing costs on others within a fishery.

The LCMT was not in support of a closed area. This would impact those who fish in the closed area more than others, would bunch gear into other areas and would be difficult to enforce.

The next option is a combination of conventional management measures. This would include such things as gauge increases, maximum size, escape panels, and v-notching. They could be combined to reduce fishing mortality.

However, the plan development team feels that given the stock conditions in Area 2, these would have to be substantial to reduce fishing mortality.

The technical committee comments indicate that conventional management measures, as they have been used in Area 2, have not been effective to date. The technical committee questions if they would be effective at rebuilding the Area 2 resource without combining them with other management measures and a reduction of F. The technical committee assumes that these measures would not be used alone but be used in combination.

The socio-economic subcommittee, I'm not going to step through their comments because they're quite extensive and they deal with each of the management measures such as a gauge increase, maximum size and v-notching separately, but those are all noted in the options paper.

The LCMT comments: Some LCMT members are in support of some additional conventional management measures, and others believe that these measures will not lead to economic efficiency. Overall, the LCMT does not support any additional gauge or vent increases.

However, as you will see in their proposal, the LCMT does support additional v-notching management as outlined. Some of the members were in support of a 5-inch maximum size. They did recognize that there are limited lobsters above this maximum size, but they believe those that are there would contribute to egg production.

Finally, the moratorium: A moratorium on lobster fishing in Area 2 would prohibit lobster fishing in this area. This would obviously advance the rebuilding schedule more quickly and would allow states to remove ghost gear from the water.

The technical committee comments: A moratorium would be an effective way to reduce fishing mortality in Area 2 and rebuild the resource and would be the most rapid way to rebuild the stock of all the options presented.

It would provide a reservoir of animals to rebuild the stock with and would immediately start to increase the average size of lobsters. It would be easier to monitor and provide an opportunity to do further studies on natural mortality. They do indicate that all gear should be removed or disabled and it should apply to all gear types.

The socio-economic subcommittee indicated the short-term social and economic consequences of a moratorium would be severe. The long-term impacts would depend on the length of the moratorium. A moratorium would likely impact those fishermen close to retirement more than the younger fishermen. Effort may increase in other areas if a moratorium was implemented in Area 2.

The LCMT does not support a moratorium unless financial assistance is provided for the lobster fleet in the area. They also indicate that if a moratorium were to be put in place, the area would need to open under different management conditions in order to be

able to benefit from the closure.

There is a section for additional comments. I'm going to hit on a couple of things. These are not additional options, but I want to note that the technical committee notes that there may be added benefits of combining various management measures outlined in this paper, but for the purposes of this paper they commented on each of the options individually.

And, again, they reiterate the point that I made at the beginning of the paper, which is they believe it's more appropriate to provide management advice on a stock unit-wide basis rather than a management unit basis.

The socio-economic subcommittee notes that most of the comments in this paper are from a 2001 paper that the socio-economic sub-committee put together. They did revisit their comments on each of the sections but they pulled a lot of their comments from that original paper. Their comments are broad in nature because the options outlined did not include specific details.

And once those specific details have been developed, they would like an opportunity to comment again. And they also note in recognition of the widely varying opinions on the need for improved conservation and the form that the conservation should take.

They're currently discussing management strategies that would allow for managing a single stock through multiple strategies by multiple groups. They're going to continue these discussions and they are considering doing an addendum to their 2001 paper. If they do that, they will be forwarding that work on to the board as it's completed.

The final note of the socio-economic subcommittee talks about enforcement and that the success of a management program depends upon enforcement, and successful enforcement depends on broad acceptance of management measures.

The final LCMT comment references their additional proposal, which I will review in just a moment. I will note that the LCMT considers this proposal to be a first step to address the situation in Area 2 and, as they said at their meeting, not a last step and would revisit management options after a buyback which you will see in their proposal is put in place.

The LCMT members also have varying opinions on

the impacts of lobster health on the stock conditions in Area 2, but they encourage the board to continue supporting research on lobster health.

Okay, I'm going to now outline the additional LCMT proposal that was put together after this plan development team paper was presented and finished. That was included in your briefing materials as well.

There are four components to this additional proposal. The first component is freezing entry to current participants, and that includes enacting a size limit for qualified boats, vessel upgrades on a permit to be limited to a one-time 15 percent increase in vessel length.

The second part is that no new endorsements for Area 2 allowed on any federal lobster permits after 2003. All Area 2 permits must document participation in Area 2 between September 1999 and August 2003.

Landings of 1,000 pounds or more in one of these years is required to qualify for an Area 2 endorsement. Landings of 1 pound to 999 pounds qualify for 100 pots and zero-pound landings do not qualify for any.

The second component of their proposal is to be enacting a v-notching definition defined as at least a quarter-inch notch, with or without fetal hairs; and establishing a mandatory v-notching program identical to Area 1 to begin immediately at the completion or discontinuation of the current North Cape program; and expanding the North Cape program to include all of Area 2 for v-notching.

The third component of the LCMT proposal looks at reducing fishing effort and mortality through an effort buy-back program. This buyback should secure funding through economic assistance sources and not through Sustainable Fisheries Act sources.

All funding requests and recommendations are to be done through a joint committee of the Rhode Island Lobstermen's Association, the Massachusetts' Lobstermen's Association, the Ocean State Fishermen's Association and other interested parties. And, finally, they note they would like to retain as much of the traditional fishery as possible.

With the plan development team options paper, we tried to present a full array of different management options. I hope that we have done that. And, like I said, I'm available to answer questions for the plan development team, but we also have the technical committee and the Area 2 LCMT chair here available for questions.

CHAIRMAN LAPOINTE: Board members? Gerry.

MR. CARVALHO: First of all, I'd like to thank Carrie and the staff for the work that they've done. They did a lot of work in a very short amount of time. There are numbers of questions that are raised by all this.

And, unfortunately, of the numbers of questions, many of them can't be answered. I mean, some of the key questions that I would raise is under the increased gauge, can we measure the mortality reduction and know for sure what it's going to be by the end of the year as a result of that gauge increase? I would direct the question to Bob.

And the second question would be, Rhode Island, as a result of that oil spill, instituted a v-notch program that for those that are in the field it's extensive.

Do we know how many v-notched lobsters that are out there now as a result of that program and what their ratio is to the other number of lobsters that are out there? Some of us have looked at it, and we're going to have to start v-notching male lobsters in order to keep the sex balance, sex ratio balanced.

We don't know the answers to that question. And as you heard earlier in testimony, we've seen a tremendous natural attrition of effort and participation, participation both with individuals and with the amount of gear that they're fishing.

We can't answer that question. We may have already got to the point where we're overkill. I know if you look at it from an industry standpoint and you go down on the docks, there certainly appears to be overkill on the participants.

There have been some real additional tougher measures suggested here today that we take. I'm reluctant to go further than the extensive and profound measures that we've taken already, ones that we can't measure.

We can see it from a common sense standpoint but we're not able to measure all this. I think that by the time next February comes around and we see the results of this season's activity, we'll get a much better handle on what we've gained from the measurements we've taken. I'll stop at this point, but I want to hear from other board members.

CHAIRMAN LAPOINTE: I want to use the

discretion of the chair for a minute. Our fundamental decision — there's a lot of comments and there's a lot of concerns because what we're being asked to consider is big medicine. I mean, it is incredibly tough measures.

It doesn't matter how you piece it together, the steps needed to act in Area 2, if that's what we decide to do, need to be proportional to the magnitude of the problem.

And whether you consider any of these measures in here, they're going to be incredibly tough. My own view is on top of the measures that have already been taken, but that's my own view.

So the first question for the board is do we take the liaison approach where we say that attrition is going to do the job — and my sense from the last meeting is that wasn't the approach we took — but fundamentally do we want to act in Area 2?

And if we do act, at the last meeting through emergency we increased the size limit 2/32 over two steps as a first measure and looking down the pipe at stronger measures. And unless we want to take the next big step, we should just say that we aren't going to.

I think we first, as a board, need to make that fundamental decision. My sense is that board members -- I mean, the my sense of the board is that they do in fact want to take those broader steps, but I'd like to get that discussion before we take our next step. I'll take Pat and then Gordon.

MR. WHITE: I just have a question, George, in the difference between an addendum and an amendment and how we go forward with this. An amendment would be at least two years. How many times can we do an emergency action? It seems to me that we couldn't carry that through a two-year period.

CHAIRMAN LAPOINTE: There's a question -- I think we can extend for another two extensions; one for a year, but, first, fundamentally, we have to make the decision do we want to act on this or not, and then we'll tease apart all those other questions that were outlined in Carrie's paper. Gordon.

MR. COLVIN: Well, Mr. Chairman, as I understand it, the jurisdictions encompassed by Area 2 include the Commonwealth of Massachusetts, the state of Rhode Island and the U.S. Exclusive

Economic Zone.

There are three regulatory entities, three managerial entities who have stewardship responsibility for those waters. As a board member who is not one of those three, I am not going to initiate action.

I am more than willing to support the action of those three principal entities. I guess what I came here today expecting was to hear a motion from one or more of those three parties who brought this matter to this board's attention and asked us to address resources and attention to it. I will be happy to support the motion that those parties want to bring forward. I'm not particularly interested in debating all this today.

We heard Carrie earlier this morning outline the schedule that we tentatively established pursuant to the action that was initiated at the last meeting so, frankly, I'm waiting to hear from Area 2 managers on this. I want to know what they want to do, and I'd like to hear it expressed in the form of a motion.

CHAIRMAN LAPOINTE: Ritch White and then Mark Gibson.

MR. WHITE: Pat asked the question I was going to ask.

CHAIRMAN LAPOINTE: Mark.

MR. GIBSON: Well, I guess I wouldn't follow along exactly your reasoning that there was a mutual exclusion between action and seeing the outcome of the emergency rules because those are essentially contained in the sum of conventional measures option at the end of the shopping list.

So, what I think should happen — and I'll be drafting a motion while we're perhaps discussing it — is that I think we ought to, as a board, approve this shopping list of options to go forward for further technical development.

That technical development ought to be establishment of the current fishing mortality rates, the rebuilding of fishing mortality rates, the associated catch stream or total allowable landings that go along with those and the specific technical measures for each of these options; i.e., how long would the season have to be, when would a season occur, how big would the quota be, what would be the suite of conventional options that could be melded together to achieve that level of fishing mortality, and so on.

And if that process takes its course, as we're going through the process of public hearings, taking comments on options, maybe this attrition list comes more to fruition.

Maybe the outcome of the two gauge increases, emergency gauge increases, becomes better well known, and we can, down the road, start to evaluate a more specific conventional measures option that embraces what has already been done.

I don't think that they're mutually exclusive. I think we can proceed along this course, and if need be, embrace the latter which was bank on what we've gotten so far.

CHAIRMAN LAPOINTE: Bill Adler.

MR. ADLER: Thank you, Mr. Chairman. Mark, are you looking or dreaming or thinking of amendment or addendum or nothing?

CHAIRMAN LAPOINTE: Let's not concentrate on that because we can deal with those particular issues either way. I mean, we have to I think really focus back on how we act in regard to this Area 2 issue.

And to follow up on Gordon's comments, this was brought to us by the two jurisdictions, and do we want to move forward and support that effort or not? If we decide to do that, we then need to look at the -- I know that the plan development team is interested, if we move forward, in narrowing the scope of options because they will not be able to develop an addendum by August with the full suite of options that was in this paper.

If we get to that point, would ask people bluntly what state could implement a quota system on lobsters by the 1st of January for next year? I will tell you, I'm not in Area 2, but the state of Maine couldn't.

And if we do implement a quota system, think about how other quota systems work. Our summer flounder, scup and black sea bass in the Mid-Atlantic requires an annual assessment. That requires weekly reporting of lobster landings.

I simply don't think that the member jurisdictions on this board are capable of making that leap in the near term; therefore, if we move forward, let's not put that on as a viable option because it's not. I mean, we have to be realistic. We don't want to set up a house of cards that's going to fall apart right at the outset. Gil.

MR. POPE: Thank you, Mr. Chairman. Plus, in addition, as well done as this is, each one of these options has a zero percent to 100 percent reduction along with it, in my mind. In other words, with a moratorium, you could go with a 100 percent reduction or whatever.

So, with each one of these options, there is very little for me to go on as to how effective each one of them is going to -- or how effective we want each one of these measures to be.

In other words, each one of them seems to be a guideline as to how far we could take it and then we could add another one such as the one where -- a combination of measures.

With each one of these, there's nothing associated with them as to a percentage reduction so that makes it even more difficult to try and figure out exactly where we want to go with all of this.

CHAIRMAN LAPOINTE: And my sense is that we aren't likely to get that. I mean, in striped bass, we've honed that over a decade and a half with an incredible amount of attention, and we look at a lag time of measures being put in place and then effectiveness.

And so we might want to have those combination of numbers to add up to whatever we're looking for, and I don't think we're going to see it in the timeframe and with the amount of effort we can put into the development of this addendum if we go there. I see members hands in the public; I'm not ignoring you. I'm just trying to concentrate on the board right now, so I apologize for that. Mr. O'Shea.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. Speaking to your point about the macro issue do we make a decision to go forward or essentially do nothing, the two points that I would like to make is -- the first is we had a recommendation at least six months ago and maybe longer from the technical committee advising managers to end overfishing in Area 2 immediately. That's on the record; that's in front of us right now.

And the second is within the area of fishery policy management, we seem to be very interested in promoting the commission as a responsive, responsible, fisheries management entity.

And I think how we answer your question today of whether or not to take action or not has implications

as to what the credibility of the commission is and how the commission is going to respond to the Area 2 situation. I think people ought to keep that in mind as they go forward on this. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: Thanks, Vince. Board members? I've got Pat Augustine and Harry and then Mark Gibson.

MR. AUGUSTINE: Mr. Chairman, Vince having said that, it seems to me that we just need to take a very simple vote, a show of hands, shall we move forward or not and be done with it. And if we don't have the guts to stand up and raise our right hand, yes, we want to do it or not, then I would suggest we adjourn the meeting.

CHAIRMAN LAPOINTE: He always wants to be on time. Harry.

MR. MEARS: I don't think I can follow that remark, but I agree we need to go forward. I think it needs to be a very assertive decision by this board to do so and also recognize there are some very mighty difficult issues that whatever group is charged with this task is going to be facing.

I believe some of the comments already made that this group should not at this point be constrained by thinking, well, is this going to be an amendment, is it going to be an addendum, that should not be a constraint on the thinking of this particular group.

I also think there's some very prominent issues that were left open ended earlier today, not the least of which is a recommendation or at least discussion within the technical committee of whether in fact we should look once again at whether we should be managing stocks or management areas.

And a lot of what is being proposed and the ability of the technical committee to evaluate what we put in place and what's being proposed and what our ability is down the road to monitor needs to be incorporated into this type of discussion at some point from both a continued scientific perspective and a policy perspective.

And specifically here we have two obvious management areas that are facing very immediate needs, some of which have already been responded to in some fashion, referring to Area 6. But, we need to look at this particular stock that ranges between Cape Cod and down to Long Island Sound, including Long Island Sound, and put it into perspective.

What the technical committee can provide to us in terms of their ability to recommend, to monitor and for us to go forward on both a scientific basis in terms of evaluating the effectiveness of various management measures; to continue to identify the condition of the fishery in Area 2 and potentially Area 6 as well; not to forget that area; and, thirdly, to identify the urgency of whatever actions are identified by this group.

So, once again, I support the action but make no mistake that there are going to be some major quasi-policy issues at the very least that are going to be identified from the get-go from this group that does take this task, if this board decides to charge that group to do so. Thank you.

CHAIRMAN LAPOINTE: Mark.

MR. GIBSON: I guess I don't support removing the quota option at this juncture, regardless of whether we have the ability today to implement it. The technical committee is on record as saying that that, short of a moratorium, is the most effective way to control fishing mortality.

I think it needs to remain in the suite of options. States are developing the capability to administer quotas in general. And in particular with the growth of lobster database and states' capabilities to collect landings data in a near real-time fashion, I don't think that's going to be an obstacle down the road, so I wouldn't support doing that.

I'd like to make a motion at this time. I move that the lobster management board endorse the suite of options in the draft options paper, including the LCMT proposal, for further technical development as a draft addendum or amendment.

MR. COLVIN: Second.

CHAIRMAN LAPOINTE: Moved by Mr. Gibson, seconded by Mr. Colvin. John Nelson.

MR. NELSON: Is the intent of the development of these suites by the technical committee to end overfishing in Area 2?

CHAIRMAN LAPOINTE: That is the goal that we stated at our last meeting.

MS. SELBERG: That is the goal that was in the motion at the last meeting. The plan development team has asked for further guidance beyond that

simple statement in order to further flesh out these details.

MR. NELSON: Okay, and so I think that's what we need to focus on, Mr. Chairman, is to make sure that the technical committee has the information and direction from this board to achieve that goal. I think we need to discuss that. What else do they -- I guess it's what else do they need. What other direction do they need to achieve that?

CHAIRMAN LAPOINTE: The goal was clearly an issue. The timeline was an issue, whether we use an addendum or an amendment, and then the management measures: effort control, quotas, season closures, closed areas, conventional measures and a moratorium.

I will tell you that the goal and the timeline are important, but in regard to the management measures we, at this last meeting, said we're overworking the technical committee. We've got an assessment coming up. We've got a number of other issues here.

And the more broad we make that, the more it gets so cumbersome that we don't make progress. And my sense from the board in these past discussions was that we wanted it to be narrowly focused so that in fact we can take action sooner than later. I don't think I'm missing anything there.

I mean, we've got the decline that's been horrendous and people said they wanted to take action. We need to know when we can end overfishing, how we can end it -- and, I mean, I'll disagree with Mark.

We have to put measures in there that we can think we can put in place in a timely fashion; otherwise, you know, we can do our normal process of taking years for this. I don't think that's the sense of what we want to do.

MR. NELSON: So, just a follow up, Mr. Chairman. My sense is that at a minimum, you'd want to prioritize what measures for the technical committee to focus on without necessarily eliminating the suite that's before you, but to focus on particular ones so that they are developed so that they do meet our overall goals in whatever timeframe we desire?

CHAIRMAN LAPOINTE: I mean, that's a politer way of doing the same thing, but in fact we come to the next meeting and we've got a couple measures that are fleshed out and I like quotas and it's not fleshed out, I'm going to ask for it to be

fleshed out.

I really want to try to focus our attention to putting something together by August because that was our goal before, so that in fact we can make a decision and not wring our hands because measures have been included but not fleshed out. Pat, did you have your hand up?

MR. AUGUSTINE: Thank you, Mr. Chairman. It was a follow up to John's comment. It just seems to me that the technical committee has the advantage of looking at the suite of options that they put on the table; and because of their experience, I think have a sense, a greater sense than us as board members who are just touching on the fringes of all the intricacies of how they arrive at the conclusion that this is a better option than that.

It would just seem to me that we should rely upon their level of technical expertise to come forward with maybe two out of those that are practical, that can be done within that timeframe. And if it requires later another addendum or amendment, we've got to get the process going.

I agree, the technical committee is stretched to the limit. We're asking them to do more. So it just seems to me that somehow maybe that group could get together, a conference call or otherwise, and bring it down to maybe two options or three at the very most, and then move forward with those.

CHAIRMAN LAPOINTE: Gil Pope.

MR. POPE: I think not only have they been fleshed out pretty well, most of the options, and people have been racking their brains to try and figure out stuff, the only thing that I am lacking is having something quantified for me so that I can make some really concrete, if I have to do it, I mean, really something very concrete can be done and said this is going to accomplish this. Thank you.

CHAIRMAN LAPOINTE: Eric Smith.

MR. SMITH: I'm taking my lead, Mr. Chairman, from your desire to narrow the field. I just looked through the document trying to find where the dos and where the don'ts were, and it seemed like on season closures and area closures the technical committee had problems with both of those, at least in the sense of area closures or season closures would have to be so large or so widespread as to render them almost so unpalatable they wouldn't probably pass.

The socio-economic committee had some reservations. The LCMT didn't like either one of them. If you have to narrow the field, maybe those are the two that go to the bottom of the list and you devote your attention to the others.

CHAIRMAN LAPOINTE: Just a comment, when I deal with the Grand Manan fishery, which Harry and I have been dealing with a lot, there you've got a spot where — I mean, to put the seasonal closure in perspective, they have a six-month season and a 375 trap limit and their F rate is the same as ours is.

So if you're talking a couple hundred traps and a two-month season or something, I mean, that's just right shooting from the hip, but it would have to be incredibly severe. Pat White.

MR. WHITE: I know it's putting Carrie on the spot, but we're all getting used to that. From the LCMT perspective, Carrie, if we put this back to them and said, okay, whatever, in the next 30 or 60 days, you have to come back with a reduced suite of measures that can be considered by the technical committee -- I will vote against this only because I think while Mark's intentions are great, I think it's an impossible task, as you've brought forward, Mr. Chairman. I don't want to pass the buck, but we could spend all day arguing over all these measures.

CHAIRMAN LAPOINTE: My sense — I'll answer for Carrie -- is that we've already done that with the LCMT once, and they bounced it back to us. And what everybody needs, the LCMT needs, the technical committee needs, the plan development teams is something more concrete to chew on. I mean, we're the people who have to make the job or refining this and bringing it to the next step. Board members? Paul.

MR. DIODATI: Mr. Chairman, how uncomfortable are you with this motion that the technical committee might not be able to review all of the PDT's options; is that a major issue?

CHAIRMAN LAPOINTE: It is, yes. I mean, just the workload on all of our other issues and to do justice on the full suite, I think will give us a muddled product in August, which will then lead to a muddled deliberation in August and follow through.

MR. DIODATI: I would suggest maybe a five- or ten-minute caucus and maybe we could prioritize -- well, not prioritize but maybe reduce the

list.

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. To that point, maybe Bob Beal has some advice that may help.

MR. ROBERT E. BEAL: I think it's along the lines of what you were saying, George, that we just need to narrow the options down in the document. To fully explore all of these is going to take a lot longer.

To fully explore them and get them in a draft addendum is going to take a lot longer than August. So if we can just weed out two or three of the options in here and just get a couple to focus on, and maybe put some sideboards on the ones that are left even, you know, is what we need to do.

And then there's probably -- you know, assuming there's 100 percent there, we need to get it down to 30 percent and expand from there to explore all the options at the technical level.

CHAIRMAN LAPOINTE: I'm going to take Paul's caucus idea, but I've had a number of people who have had their hands up very patiently, so I'm going to go to the public for hopefully a short amount of time. Brevity is next to godliness, let's remember -- and that's George's statement. I'll start with Ted.

MR. COBURN: Thank you, Mr. Chairman. Ted Coburn. North Cape Restoration is synonymous with the Rhode Island lobster restoration program for all purposes. I'll give a quick synopsis of some of the information, because that was asked.

CHAIRMAN LAPOINTE: We want to hear later.

MR. COBURN: Okay.

CHAIRMAN LAPOINTE: And we want to hear what you're doing, but right now I really want to concentrate on what people think we should do about this Area 2 issue, Ted, rather than a summary of what's being done, with all due respect. The gentleman in the front row, I'm sorry, I don't remember your name.

MR. RUSS WALLACE: Thank you, good morning. Russ Wallace.

CHAIRMAN LAPOINTE: Thank you, Russ.

MR. WALLACE: I'm president of the Ocean State Fishermen's Association. We're a group of 76 members. We're on most committees and subcommittees and groups involved in any fisheries issues in the state of Rhode Island. And we're an honest, hard-working group of people.

I had three pages here. I was going to tell you all the good things we do in the community and all that and you don't want to hear that. We have been trying to come up with this plan and we've met with our congressional delegations to present a buyout along with some type of a traditional management measure.

And we have discussed -- we have a letter here that everybody can have. It's a letter from our senators in Rhode Island and Massachusetts to the Senate Committee on Appropriations asking for money. They're very serious about this.

We've spoken with Congressman Kennedy. I spoke with his office on Friday, and they tell me that they're hearing about it on the Hill, so I guess that's a good thing.

We've spoken with our Representative Langevin and our Senator Chaffee and everybody seems to be on the same page. They're not making any promises, but they've promised that they will work as hard as they can to help us out because they know the seriousness of this issue.

Senator Reid told us on Friday that they would know as soon as October whether there would be something like \$10 million to start a buy-out program, which would be very helpful to add to that attrition list and to also to the measures that we've already received this year.

Now, as a traditional fisherman and a member of the community, my members basically feel that way. We support all the traditional measures. We were in the forefront of supporting gauge increases. We support the vent increases and anything that does good, sound, biological management.

I'm only going to add a couple other things and then I'm going to throw these three pages away. Two items: one, I'm not knocking anybody. Don't get me wrong, but the state of Rhode Island did a trawl survey in Narragansett Bay. That's the area of Area 2 that I fish mostly.

They did a trawl survey in the month of October and they got no lobsters, so I guess we would assume there were no lobsters in Narragansett Bay. Six weeks later we had a pretty decent run of lobsters that went right into the cold weather.

Now, I was involved in that; I saw that. This isn't a story. And when the spring came -- after the cold weather subsided, and the spring came, there was a considerable amount of lobsters left over from the winter with plenty of activity.

There was a rain event in June of 1998. We had 10 to 12 inches of rain, and the Providence Sewer System had to dump their sewage. What happened was the salinity of the upper bay became about one-third of what it normally was.

The deckers died; traditional seaweed died. And later on that year, we started to be inundated with green sea lettuce in the deep water areas of Narragansett Bay, which I had never seen in my life and my father had never seen in his.

And for about three years, the Upper Narragansett Bay was dead. There wasn't even any growth on the pots. They weren't even getting growth on their buoy lines.

Well, this past year we started to see a resurgence of our historical horsehair weed and items that we see that is part of our environment that we always knew. And what we're seeing now is there's just mounds and mounds of this stuff.

We had the biologists from the state of Rhode Island out with us the other day on sea sampling and we were inspecting these mounds of horsehair weed. And if you put them down on deck, there were so many it was like an ecosystem in itself.

There were lobsters; there were crabs; there were fish; there was everything. There was food, shelter, everything for these little animals to survive in, which had been missing for three to four years.

And, also, I might add in Upper Narragansett Bay in the year 2002 they had their best year since 1997 and did considerably better than those in the other parts of Area 2.

So, please, when you consider these options -- I know I'm traditional and we don't want to hear that here, but please consider the people that are out there that are making their livelihood and are actually seeing these things.

Trust me, in that brown horsehair that is an ecosystem all of its own, and that's something that nobody even sees here unless you're out with us. Thank you.

CHAIRMAN LAPOINTE: Thank you, Russ. Henry.

MR. HENRY CEBULE: Thank you, Mr. Chairman, Henry Cebule, a couple quick things. I will say at the last LCMT meeting there was a certain degree of collegiate atmosphere of hopefully we can go forward from there.

But, I'd just like to bring out that on your options that you consider and based on all Paul has talked about anything we do

-- he used the word may be somewhat compatible to what he did -- I think that maybe you should or have to consider the LCMT did pass a plan last spring.

And, you know, it may have some tools; it may not have some tools. But I think that it is certainly worthy that it be considered. And I'd like to say it took quite a long time to get to that point. It is somewhat watered down but it was still a plan. It's out there and I think that should be on the shopping list before you make a decision. Thank you very much.

CHAIRMAN LAPOINTE: Thank you, Henry. Other comments? Then we will take ten minutes for states to caucus and reconvene.

(Whereupon, a recess was taken.)

CHAIRMAN LAPOINTE: Please take your seats again. Carrie, do we have something? All right, in talking to folks I think that we need to concentrate on that list that Carrie put together, first the goal of what we're doing.

The goal, as it's stated in the paper that was developed, was to reduce the fishing mortality in Area 2 in 2004 to a level that allows for stock rebuilding. We currently have the 10 percent egg-per-recruit number as our overfishing definition.

Bob tells me -- and he can correct me in a moment if I'm not accurate -- that that may be irrelevant to this discussion just because of the changing conditions. We then go to the figuring out what the goal is, and I think the goal is to allow for stock rebuilding.

We have to figure out a timetable by which that can happen. I raised the question to some folks, well, in

the absence of fishing, how quickly can that happen because we shouldn't make it sooner than that, but how quickly that can happen and then what we use to measure our success.

Do we go into an amendment and give a new overfishing definition? I've got my own views on that which I'll let people know in a little bit. And if we don't want to go into an amendment, what surrogates do we use, survey indices, for rebuilding? And Bob had some suggestions on that.

Just a matter of process, we have somebody here from New York Sea Grant?

MR. COLVIN: Connecticut Sea Grant.

CHAIRMAN LAPOINTE: Connecticut, thank you -- to talk about lobster health issues. They have some transportation issues so I'm going to break for them. They've got a 4:00 o'clock train. I'm going to try to break at quarter to one, which will give us the target for trying to wrap this together.

So, the goal that we had was to reduce fishing mortality in Area 2 in 2004 to a level that will allow for stock rebuilding. Is that still where we want to be? I see many yeses. Good.

Bob, can you tell us what kind of options we might have for the timeframe in getting there, if it's a question you can answer now.

MR. GLENN: Okay, in the timeframe that we're discussing here, if it's by 2004, I think it would be very unlikely to expect that the Lobster Modeling Subcommittee will come up with a new alternative overfishing definition that includes both F and biomass-based rates.

In light of that, to try to come up with something that we could use, I would suggest in an interim basis not to preclude the work that the Lobster Modeling Subcommittee will do in recommending an overfishing definition, but because of the urgency of the situation in Area 2, something that we could look at is a survey-based temporary or survey-based reference point based -- for example, one thing you could look at is a 20-year average of conditions from the trawl survey, abundance indices and that.

On a long-term basis, that may not be an appropriate number for rebuilding because there is nothing to say that the 20-year conditions represent a rebuilt stock.

However, coming up with a 20-year average

abundance indices for that area would give you a relative idea of what the stock has done in the last 20 years, and it would give you a metric above where we are right now because we know we're well below 20-year average conditions.

It would give you a metric for which to rebuild in the short term, and it would be a number that the TC could come up with in a relatively short period amount of time.

But, again, I think it's important to stress that this shouldn't be used necessarily in lieu of new overfishing definitions for Area 2 or for the whole coast, but at least it would be something you could do in a short term.

CHAIRMAN LAPOINTE: Board members, that makes a world of sense to me. I don't know if 20-year average is right but you could explore other alternatives. But comments on using a survey-based index in the short term for Area 2?

Is there concurrence among board members on that? I see no objections to that so that is the manner in which we will proceed.

The timeline question, Carrie, was one on rebuilding or the timeline of putting this together from the board's perspective or both?

MS. SELBERG: Rebuilding. The motion says, from the last meeting, "reduce fishing mortality rate in Area 2 in 2004 to a level which will allow for stock rebuilding."

Some general discussion from the board on what do you mean by "in 2004"? Are you going to -- is everything going to happen in 2004 or do you have a -- what is the timeline you're thinking about for the stock rebuilding process?

CHAIRMAN LAPOINTE: My recollection was that in fact -- I mean, I think people recognize we're going to need more than 2004 to rebuild the lobster fishery and that the intention was to have something in place beginning in 2004 to begin this process. I see head shakes around the room. Mark Gibson, please.

MR. GIBSON: In my view, 2004 should be the first year that the fishing mortality rate is lowered to the rebuilding target, which is consistent with some rebuilding timeline.

So, for example, if there were timelines ranging from

-- I don't know what the theoretical minimum is, and that bears on the question of what the effect of a moratorium would be, but just say for argument's sake three years was the minimum time, the maximum rebuilding rate you could achieve, there should be a three-year option, a five-year option, and a ten-year option.

Associated with each one of those rebuilding timelines would be a fishing mortality rate and an associated set of catches that would be removed from the stock in that area each year and 2004 should be the first year that you achieve that fishing mortality rate and that removal level that's consistent with that timeline.

That would have been my second motion for tasking the technical people. Obviously, these are separate issues. The suite of options that deliver the rebuilding, well, if they're done right they all do the same thing. They all deliver the rebuilding in five years, three years, ten years, whatever it is.

The second motion would have tasked the technical committee, the PDT, and whatever appropriate technical people there are to give the board advice on what the rebuilding F should be and what an appropriate timeline is, how fast can this be done and so on.

And then those options could be further -- those that were endorsed to move forward, could be configured in terms of their technical specifics. In order to rebuild in five years, we have to have a season that's only four weeks long or whatever it is, an example like that. That's where I was trying to go with this.

CHAIRMAN LAPOINTE: Comfortable? And the ability -- I mean, the one thing about the 2004 date as a beginning date is just the amount of technical information and decisions that we have to make so that in fact it can be put in place for 2004, if January 1 is the starting date.

MS. SELBERG: That's what we're talking about right now is making sure that the guidance that we've got is enough for the technical committee to do what they need to do, and we're thinking probably just enough.

CHAIRMAN LAPOINTE: Just barely.

MS. SELBERG: And we'll do the best we can.

CHAIRMAN LAPOINTE: Bill Adler,

you're looking confused, which you're in good company so it's all right.

MR. ADLER: So, did you just say that you're going to basically look at all of the menu options?

CHAIRMAN LAPOINTE: We actually have been --

MR. ADLER: Oh, you haven't not there and I'm jumping.

CHAIRMAN LAPOINTE: Being a bad chairman, I've been completely ignoring this motion for a while, but we'll get back to it. The next issue I think that we need to address is management area or assessment area. I hear different things from different board members.

My sense is that we started this as an Area 2 issue, and that that's where we should keep it at this point, to keep it clean, because if we go outside Area 2, those fishermen from Area 6, in particular, and those management jurisdictions from Area 6 haven't been engaged, and they'd need to be cycled in to make sure that their concerns are addressed and that would slow down this process more than I think we want to do it. But that's just the chair's view and I'd be interested in board views. Are there different views?

MR. MEARS: I would agree with your recommendations, certainly, for the short term. As we move toward defining stock rebuilding goals, it's going to force us once again to look at what the stocks are and to once again address how the different management areas align themselves with those stock units.

CHAIRMAN LAPOINTE: Thank you. Other views? Concurrence? I see heads shaking. Now I think we're back to Mark's motion about what management measures get included in that list, and he has all of them at this point. Are there issues within the list of four that people think -- I mean, I'm asking for discussion on the motion.

The question is are there management measures on that list that were provided by the Area 2 summary that we can take off to make that a more manageable list on the part of the plan development team and the technical committee? Ritch White.

MR. WHITE: Well, looking at the technical committee and LCMT, nobody was in favor of seasonal closures or closed areas.

CHAIRMAN LAPOINTE: Board members, comments on that? Mark.

MR. GIBSON: I would just point out that a seasonal closure system is in place in the north end. Area closures may happen as a result of other marine mammals. I don't know if you want to take them off the table at this point.

I don't see how it's so hard to evaluate a seasonal closure. All you have to do is look at landings by month. I mean, I could do that in half an hour with some judgments about whether there is going to be recruitment and those sort of things.

CHAIRMAN LAPOINTE: Bob, what's the issue?

MR. GLENN: All right, Mark's right in the fact that you can look at what is monthly landings trends in a very short amount of time and could get a rough estimate of what the amount of time reduction would relate into reduction of landings.

What we can't really estimate is the amount of recruitment that would occur after the opening of the season or the opening of the area, which is one issue that we have. We don't really have a way to characterize that.

CHAIRMAN LAPOINTE: Carrie.

MS. SELBERG: We're also talking about time. We're talking about time for the technical committee, but also for the plan development team because what we're going to be doing is putting together a draft addendum that we're hoping for approval at the next meeting.

So we're going to have to fully flesh out each one of these to a point where it's in addendum form, so it's the details of the management measures along with the technical work.

CHAIRMAN LAPOINTE: Bill.

MR. ADLER: Are you including some of these LCMT additional proposals? Some of them are pertinent to an addendum; some are not.

CHAIRMAN LAPOINTE: Such as?

MR. ADLER: Putting in the size limit proposal, the endorsement of license part, which was B; C of Number 1, but only A probably of Number 2.

The other stuff you wouldn't have to I don't think put through an addendum process, and I think that's it.

But I think that those things there may need to be in an addendum, if we're going to do it. Maybe you could look through these things and go, well, if we decided to do or there was a lot of support for one of these things, you'd have to have it in the addendum.

Then there are other things you may say, "This doesn't need to be in the addendum; we could do it anyway." And then you've put into the addendum some of these ideas. These are not the PDT ones, but these are some other things which I think should be considered.

CHAIRMAN LAPOINTE: There's one on vessel upgrades; would that require an amendment? I seem to recall this very long discussion a number of years ago in which we talked about lobster boat races and stuff but -- you're shaking your head yes or no? It would require an amendment or it wouldn't? We don't know.

Again, in the short term, I think where we're trying to reduce from the status quo and the idea of the vessel upgrades is something that's out there, but it's -- Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, I think rather than get wrapped up in it, I think what you ought to say is that if you're interested in pursuing it, put it down and then we can always advise you later which way you have to go.

CHAIRMAN LAPOINTE: Without Christmas treeing this too much, though, the document is enormous and we don't get anywhere with it by August. We're going to have to give -- I don't mind that consideration but I want to give discretion to the PDT.

If there are some issues they don't address, we have to be honest in their ability to get work done between now and then. Pat White.

MR. WHITE: I don't see in the lobster fishery what the vessel upgrade provision would -- that it would be worth the effort that it would take to go through that whole process. If we've got restrictions on time and traps, we've been down that road a lot and it didn't seem to be productive.

CHAIRMAN LAPOINTE: Bill's point was just that it was proposed by the LCMT; and if we're going through this effort, that there should be some

consideration of it, I guess. Bruce Freeman.

MR. FREEMAN: George, this issue was raised in the LCM-3 on vessel upgrades, and it was a situation where it was included in Area 4, but the federal agency didn't endorse it so we dropped it. We did that through the addendum process.

So based on what we've done, it appears you could do it, you could implement it by an addendum rather than the amendment.

CHAIRMAN LAPOINTE: Thank you. Gerry.

MR. CARVALHO: Mr. Chairman, at this point nobody is upgrading vessels. Everyone is downgrading and getting out of the business so we're going in a direction addressing issues that -- and I don't know how to get out of this, but we're addressing issues that are the opposite of what is taking place.

CHAIRMAN LAPOINTE: I quite agree with you. It was raised and I'm trying to deal with it appropriately. Board members, do we expand that list that was in the options paper developed by staff?

Do we shrink that list, or just take Mark's idea that you give some of them their due amount of attention, and for seasonal closures we task him to write a half an hour paper and he gets the work done? Paul.

MR. DIODATI: Maybe it would just be helpful to know if there are any of the -- I think there were six items on the list -- and if there are any items on the list that the TC or the PDT feel that they couldn't address within the timeframe that we're giving them.

Maybe that's logically the way to drop one off, because I can't say what's important to me is not the same item that's important to someone else. There are two items on the list that I want to see done or evaluated.

CHAIRMAN LAPOINTE: Right. Carrie.

MS. SELBERG: I think each measure would require varying amounts of time from a PDT and from a technical committee perspective. I think that the real issue is coming to this -- I mean, you can see what it took just to put together an options paper that was very, very vague.

To flesh out all of the details needed for a draft

addendum and the technical work for all of the different options is the real problem.

CHAIRMAN LAPOINTE: Board members, amendment to the motion to winnow the list or pass it as is and, again, with the proviso that some issues will be dealt with more completely than others? I'm willing to forego my lecture of quotas that I gave before, but there's only so much work they would be able to do on that between now and August, and it wouldn't be a lot of the details on the mechanics. We would have to be honest with people about our ability to use that as a measure of controlling fishing. Bill Adler.

MR. ADLER: Perhaps, Mr. Chairman, it would be appropriate that you could leave that to the technical committee. They could come back with a draft and say, "We looked at all of these. We were able to come up with some information for you for this, this, this, this. We can't do this so just drop it out."

CHAIRMAN LAPOINTE: But the problem is -- I'll speak as George -- we're punting the responsibility on that, and I don't want to have the PDT and the technical committee craft a potentially enormous, complex, suite of management measures that we don't intend to use in this short timeframe.

That's the crux of the matter. Again, I will raise the issue about quotas. I don't see any of our jurisdictions putting something meaningful in place in the timeframe we're talking about.

That's not that we might not want to use it in the future, but to put something in place so that you could get the reporting necessary to close in conjunction with a total allowable catch level so that you have a reporting system to make sure it was timely -- again, you know, probably weekly reporting at the very minimum accurate weekly reporting -- strikes me as something that under the best of climates -- you know if we were three years ago when we still had more money and staff, it would be hard to do then, but now it's even harder.

I don't see the use in doing a lot of work for something that we can't do in the short term. Pat and then Harry.

MR. WHITE: Well, first, I'd like to hear from Paul what the two were that he was choosing. I think your point is well taken on the quota thing, but could we offer, because I think a lot of time has been

spent discussing that, and is that an option for us to go forward in the next addendum process?

And if we do eliminate that, the moratorium is a given, if none of the other things work, so it narrows it down to four things, anyway. Am I missing something?

(Question asked without turning on the microphone.)

MR. WHITE: Well, by what's on the list, it would give us a trap cap of one form or another, seasons, closed areas and you guys have already done a good part of the assessment of what expansion of conventional measures would do.

MR. GIBSON: You can take the area closure out if you want and the seasonal closure wouldn't bother that but I wouldn't support taking the quota option out. You can vote the motion down if you want. I mean, that's fine.

CHAIRMAN LAPOINTE: Who had seconded the motion? Mr. Colvin.

MR. COLVIN: As I understand it, the proposal is to specify in the motion that among the options presented, two seasonal closures and area closures would not be advanced?

CHAIRMAN LAPOINTE: That's correct.

MR. COLVIN: That's acceptable to me.

CHAIRMAN LAPOINTE: All right. If a quota-based option is left in, I'll ask Carrie, what would be required to develop that into a form that we could meet and discuss in a useful way in August?

MS. SELBERG: If you leave quota on the list, I would appreciate any feedback from the board on an allocation system. All of you are familiar with quota-based systems and a lot of time and effort goes in to allocation.

So, we would like some feedback now on what kind of allocation scheme you would like developed for the draft addendum. Again, we would be developing all of the details for each of the management measures.

For example, with quota we would like to know, do you want us to develop the details for just individual or individual area-wide groups of fishermen and state by state? Any of those you can knock off the list takes off a little bit of bulk of the document.

For something like combination of conventional management measures, we would develop the details on that. Basically we're asking are there some of these things on this list that are already off the table that you don't consider to be viable options?

If you don't consider them to be viable, then we won't fully develop them. You know, for example, the LCMT comments on combination of conventional management measures; as LCMT members put it, "they're all gauged out and they're all vent increased out." So if you want us to continue to pursue that, we can but if that's not a viable option, we won't flesh out the details.

CHAIRMAN LAPOINTE: Harry Mears.

MR. MEARS: I'm just starting to feel a little uneasy in terms of arbitrarily -- not arbitrarily but we're trying to limit number of options and yet we're trying to balance -- we have an emergency situation.

We're trying to identify short-term measures that have some degree of reasonable expectation of being achieved to address the emergency situation, and yet we're kind of ruling out seasonal closures and other measures; that although we might not ultimately select them, to me it needs some degree of continued discussion, so I'm finding this discussion very difficult.

Also knowing that a presentation on quota management, as important as it needs to be in the longer term, is that really what we need in August to be before us to continue to respond to an emergency situation in Area 2? Maybe it is, but I'm not feeling real secure about that right now.

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, we've been throwing a term around here. Maybe it would be helpful for us to define what we're talking about.

When we're saying "quota management", the sense I'm getting from some of the comments made is the idea of establishing a hard TAC or a hard TAL, period.

Now, how you would implement that, there's all kinds of different ways to do it, but it seems to me one of the obvious ways to do it is when you hit the TAC you close the fishery, period.

That has nothing to do with allocating or granted you start a derby fishery, but there is some other discussion going on here that is making that a much bigger issue than it sort of has to be. I'm just wondering if you could put the TAC issue out there, some discussion on that, and then, say, a much less detailed discussion about ways that it could be implemented.

CHAIRMAN LAPOINTE: Board members? I mean, that's got some appeal to me, certainly. Mark and then Bruce.

MR. GIBSON: I think that's a real important clarification. For any of these possible options that we're talking about, you need to have a background catch level that's associated with the F for rebuilding that's appropriate for the timeline.

You can't not have that in modern management systems. You have to know how many lobsters can be taken by any means, whether it's a hard quota, whether it's with a season, whether it's with a set of performance-based trap levels and so on.

That's all I'm trying to preserve is a technical analysis of what that appropriate level should be. Lacking that, there is no basis to even have any allocation discussions or implementation discussions of any of these measures as far as I'm concerned.

CHAIRMAN LAPOINTE: Carrie, in response.

MS. SELBERG: Earlier when we were talking about goals and timelines, Mark, you indicated some ideas that you had for technical analysis, and one of them included kind of a soft TAL, and both Bob and I have noted that as something that can be included in the technical analysis for the next meeting.

I think that's separate than the hard quota that is discussed in the management options paper, which is what we outlined as a management measure. And, when we talked about it, we did talk about it at all different levels, that one level, which would be as soon as you hit it, the area closes all the way down to an individual level.

If the board wants to continue talking about quotas, then we'll pursue fleshing out the details for all the different allocation schemes including area-wide, groups of fishermen, state by state and individual unless the board wants to limit that in any way.

CHAIRMAN LAPOINTE: Bruce Freeman.

MR. FREEMAN: My comment would be if it's the desire to eliminate various options, George, there should be reasons because when this issue is raised to the public, people will simply ask did you consider such and such; and if you did and rejected it, there needs to be a clear rationalization as to why.

Otherwise, you're going to come back here with additions to what you went out with and the board is going to have to make a decision that may be based on flawed information.

CHAIRMAN LAPOINTE: I understand that, and the difficulty is the more we build into this document, what we will have, we have to be realistic with ourselves. We will have a draft to look at and refine in August and we won't have approval until December to move forward to the next step.

That's the realistic expectation. We have a ship with a leak in it, and we're trying to redesign the hull right now as opposed to stopping the leak, and you've got to deal with one before you can deal with the other.

MR. FREEMAN: I understand the difficult that's being faced. My only suggestion would be for those items that we do determine to leave out, we explain they're left out for a specific reason, just don't send the document out with them missing. Indicate they were considered and rejected and a rationale.

CHAIRMAN LAPOINTE: Mark Gibson.

MR. GIBSON: It wouldn't bother me if the word "quotas" was replaced with "TALs" as opposed to a specific quota option, which is, I guess, what's troubling everybody in terms of what you understand about how hard quotas are implemented, and the idea of a TAL became an overarching umbrella over all of the remaining options as something we're trying to develop or something we're trying to get these options to lead us to, if that helps any.

CHAIRMAN LAPOINTE: What he was saying was rather than calling it a "quota" option talking about a hard TAC option -- I mean, effective TACs are as soft as a rock.

MR. GIBSON: Recognizing that there is an implied -- for any rebuilding F level there is an implied catch level for that biomass and rebuilding timeline that all of these options, whatever the

survivors are, ought to be trying to deliver us that rebuilding F rate and that associated TAL level.

CHAIRMAN LAPOINTE: We'll go back to the motion. Carrie's question was do we want to have a quota system built into this and means of getting to that. Yes, we want it and we don't know whether it's individual or area, state-specific at this point. That's my understanding.

The motion is to move that the Lobster Board endorse a suite of options, excluding seasonal and area closures, in a draft option paper, including the LCMT proposals for further technical development as a draft addendum or amendment.

And we have, I thought, discussed -- I mean earlier we moved, we said that we would go with an addendum, and in that scaling down, can we make that correction? Good. Bill Adler.

MR. ADLER: Would it be appropriate, after you act on this one, the fact that there were other things included if you were going to do an addendum, would it be appropriate, after this action on this, to add things to that addendum other than what's up there?

CHAIRMAN LAPOINTE: We already have at least two other items to be put into this addendum.

MR. ADLER: Correct, and does that therefore just automatically take place?

CHAIRMAN LAPOINTE: I think that was staff's intention was to try to do that, recognizing the timing on both issues. We don't want the Area 2 discussion to slow down the other potential issues and vice-versa. The intention is for one addendum so we aren't running parallel tracks at this point.

MR. ADLER: Right, one addendum and you'd have all that stuff for Area 2, and then you'd have those other issues that were earlier --

CHAIRMAN LAPOINTE: That's correct.

MR. ADLER: -- and I would like to ask for another addition. Do I do it after this? It has nothing to do with this.

CHAIRMAN LAPOINTE: Yes, let's get Area 2 done first. Board members, I'm going to go to the public for a short amount of time before calling the question. Members of the public?

MR. McELROY: My name is Bill McElroy from Rhode Island. I have to agree with you, Mr. Chairman, that the idea of establishing a quota without the ability to figure it out is kind of an exercise in futility.

It's clearly complicating these discussions, and it's going to complicate them at the technical board or back at the LCMTs. I mean, it seems to me, just from a common sense point of view, that to include things that can't be done is foolish.

And, it's quite clear at this point that none of the states have the ability to come up with a quota, to enforce it, to monitor it. We have serious questions as to the survey work as to how complete it is.

We think that some of the areas within Area 2 aren't surveyed, and we have a great deal of difficulty in wanting to accept a quota if we're not sure that the quota really is figured out in the right fashion.

CHAIRMAN LAPOINTE: Your point is well taken, Bill, but the intent of the board was to leave that in for now. Staff will do their best to refine what that means to present back to the board, if we're lucky, in August or December, if not, so that we'll have something to be able to explain to the public. Member of the public Borden?

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman, David Borden, Rhode Island. I just wanted to ask is the closed season option still on the table? Is that going to be part of -- it has not? It's unclear to me whether or not closed seasons will be one of the options.

CHAIRMAN LAPOINTE: Seasonal closures and area closures are not part of this motion.

MR. BORDEN: They're not part of the motion?

CHAIRMAN LAPOINTE: No.

MR. BORDEN: I would just urge you to include season closures and there are a couple of very quick reasons. One, there have been a number of industry representatives that have suggested that historically; two, the calculation of it, as Mark and Bob have characterized, is simple and straight forward. It's not going to be time consuming.

Three would be that there may be marine mammal protection values; and, four, it would significantly

enhance enforcement of the trap tag regulations, which there is little if no enforcement in federal waters.

Requiring fishermen to take gear out of the waters would provide an opportunity for enforcement to do dockside enforcement at two occasions during the year. Thank you.

CHAIRMAN LAPOINTE: Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. Speaking quite frankly, what we really needed out of this agenda item was some clear direction from the board to shorten down the list. We're not getting that.

We're hearing very clearly that there is an urgency to get something back to the board in August. I think at this point what I'm inclined to suggest you consider is that we'll endeavor to prepare this thing for August, and I think we would sort of use the 80-20 rule.

We'll try to work through the issues that we can move as far down the field as possible; and when we run into issues that are going to be large-time things that would prevent us from getting this thing to you in August, that we'll consult with you and get advice from you and say, well, either give this a lick and a hit or move on or continue to expand.

But I think just passing this motion right now, my understanding is we have grave concerns whether we're going to give you something in August.

CHAIRMAN LAPOINTE: And I share those concerns. And what it would require in the end -- I mean, I hear Carrie talking to Bob saying that the bulk of this work -- I mean the volume of this work can't be done by August.

So what it will involve is some decisions on how to winnow that list for presentation in August. In the longer term, some of those things may stay on there, but in the short term it's got to be a manageable list.

EXECUTIVE DIRECTOR O'SHEA: And a follow up to that point, Mr. Chairman, I guess what I'm saying, to take things off the list wouldn't -- the thing you might consider is not necessarily taking it off the list, but you're going to have something there without a whole lot of analysis.

And then you will have to decide, do I want to take it off with no analysis or do I want to proceed with it

further or just say, hey, that's not really an option to you.

I think the key thing is what you're trying to accomplish and do this by '04, and I think we have a sense of that and we have advice from the technical committee, and I think we'll try to do the best we can for you.

CHAIRMAN LAPOINTE: Pat White, last comment, then I'm going to have a caucus and call the questions.

MR. WHITE: I guess I would ask Mark if he would then put back in the seasonal closures and area closures because the point that Dave Borden brings up is really, really important, and we're going to have to deal with it in many of our areas to do with the large whale stuff.

And if we can then incorporate that in a more inclusive management, it makes a lot more sense. And if on the basis of what Vince is saying, you know, it doesn't have to have a maximum evaluation, but we would at least have something on it and have it on the table.

MR. GIBSON: I have no objection to that. I wanted them to stay from the beginning. I was just offering compromises seeing the intractable position.

CHAIRMAN LAPOINTE: States caucus, then we're going to call the question in three minutes.

(Whereupon, a caucus was held.)

CHAIRMAN LAPOINTE: Board members ready? All right, those members in favor of this motion, raise your hands, six; members opposed, one; abstentions, two. The motion carries. Bill Adler.

### **Area 3 Proposal:**

MR. ADLER: Mr. Chairman, I'd like to add to this addendum an Area 3 proposal just to go into the addendum. It was explained that at the next meeting when the draft is there, that there could be a presentation made, since the time is very short now, on what this proposal is for the Area 3.

It needed to go to an addendum. We've got one flying along here. You're going to add other things to it. And it would probably be, if it was introduced at the next meeting in August, you might say, well, it's too late to put something in, so I was suggesting that it be put in the draft and could be reviewed at the next meeting, at which time it would, let's say, stay

in or if the board's pleasure was to remove it, that would be another thing, but at least it gets a shot.

CHAIRMAN LAPOINTE: Was that in the form of a motion, Mr. Adler?

MR. ADLER: Yes, to add the Area 3 -- how did we word it -- the Area 3 transferable trap plan concept to this addendum.

CHAIRMAN LAPOINTE: It's seconded by Dennis Abbott. And at this point, because we do want -- I'll get to you in a second, David -- the intention would be to put that in this document, and we would have more formal debate on it in August, because I suspect like our other things, it's going to take a fair amount of time. David Spencer, LCMT-3 chair.

MR. SPENCER: Thank you, Mr. Chairman. Thank you, Bill, just a point of clarification. The LCMT recommendation is actually two parts. There's an active trap reduction that's separate from the transferable so if that isn't the intent, I would want to make sure that both parts were included. Thank you.

CHAIRMAN LAPOINTE: I think the intent was to take both components of your proposal and include it at this point, David. I see head shakes on the part of the board. Other comments?

Is there objection to this course of action? Seeing none, we will move on to the next agenda item. Where are we on our agenda?

I would like to move to the presentation by Dr. Balcom on Long Island Sound lobster research, if we could at this point.

MR. SMITH: Mr. Chairman, if you'd allow me the honor, I will introduce Nancy.

### **Update on Sea Grant Long Island Sound Lobster Research:**

CHAIRMAN LAPOINTE: Please. I was just trying to figure out if it was Dr. Balcom or whatever, so if you do it, I won't have to figure that out.

MR. SMITH: Right, thank you. Nancy Balcom works for Connecticut Sea Grant, and she has been one the true workhorses on coordinating and keeping everyone from fishermen to fishery managers involved and informed on what is going on with the great Long Island Sound die-off.

She has coordinated research efforts and the communication vehicle between the two states' Sea Grant programs, just really done a wonderful job. So, without further ado, I guess she sort of agreed to come down and summarize the research; and recognizing she is not a pure researcher herself, cut her slack, please.

CHAIRMAN LAPOINTE: Nancy, there is another board starting in an hour so if we can just keep the pace up. I've been telling everybody else that so there is no reason I should be more polite with you. That would be great.

DR. NANCY BALCOM: That's all right. Thank you very much. Thank you, Eric. I'd like to thank Lisa Kline for inviting me to come down today.

As Eric said, I'm going to summarize the research projects that are going on, on the Lobster die-off in the Sound. Currently there are 20 research efforts underway.

Basically, because of timing and methodology development that took some time, most of them still have up to a year to go before they are finished. They took sort of a one-year no-cost extension.

Looking ahead, we're hoping that by next spring we'll have all of these research projects more or less completed, and we will have one more lobster health symposium. We've been talking with Lisa, who is a member of the steering committee, about what to do with the data and the research afterwards.

Lisa has provided us with a number of options in terms of following, I guess, ASMFC's outside peer review process, so we're looking into that because we think maybe it will take some integration from somebody who has got to step back from it to really bring it together.

This year we had our third health symposium. We brought the researchers together in January to have an internal meeting and to share their results with each other and also to break them out into groups in anticipation of the public symposium, so that they could integrate their preliminary results, try to show us what linkages they had between the projects, what discrepancies they had, and basically help us explain to those who attended the symposium where they stood on the research.

So basically the categories that we have are environmental stressors; the physiological response

to those stressors; pesticides; and then the parasites and disease.

I hope that you've all gotten both the abstract book and then the summary of the symposium. I think that we sent those down, so that's pretty much a good reference to go to.

These are just to give credit to the researchers who have worked on these projects. The groups working on environmental stressors are looking at physical and chemical factors.

They're looking at things like temperature from both the recent viewpoint of whether it's warm or warmer than average and also looking at trends over longer periods of time; also, hypoxia; bottom water chemistry, and in this case, that's referring to about the couple centimeters above and below the water sediment interface, looking at things like dissolved oxygen levels at that place, ammonia, hydrogen sulfide; and otherwise reduced environments and what effects they might have on the lobsters.

This group worked hard in their presentation to integrate all of their different projects and basically came forward with a case that environmental factors could have caused the lobster mortality. I'll take you through it just to show you what they were thinking.

This is a picture that if you look at zero being average temperature, these are trends over time. And from the period of about January '98 through 2000, January 2000, you can see that the temperatures, the spikes go above the line which means that we were having warmer than average temperatures in the Sound, sort of an anomaly.

2000 is the one that's colder than average and in 2002 it's back up warmer than average. So this sort of put temperature forward as one factor that was behaving a little unusually.

Looking at cores, we have researchers that are doing geologic studies of cores, and they can look back at a longer period of time, and this is his graph that basically the purple box, the bottom line is organic carbon.

The red boxes that's above it is biogenic silica and then nitrogen is the blue at the top. And basically, as we all know, this sort of organic deposition of nutrients in the sediments and in the Sound have increased rapidly in the last 150 years particularly, but it just shot right up.

And particularly their cores in the Western Sound are showing a 4.5 percent increase in organic carbon concentrations and also nitrogen and silica, so basically a putrefied system, particularly in the west. They get a lot of affluent input and that's where we have the hypoxia problem.

Basically with hypoxia, in the recent trends they were not looking -- this particular research group did not go out in '99 and do a lot of water tests, but they did follow up in 2000.

What they were saying is that because there's a lot of organic matter down in the sediments, as it's decomposed, it's using up oxygen and it releases a lot of, as a byproduct, sulfides and hydrogen sulfide and ammonia. That is different than what's happening, say, a meter above.

When the state of Connecticut goes through and collects their water sampling, they tend to cull their bottom water sample about a meter -- collected about a meter off the bottom.

And, these researchers found that the hypoxic event at the sediment-water interface was lasting longer than what was happening a meter or so above. And they felt that, you know, since that's where the lobsters are, that they probably were exposed to longer, more stressful reduced environment, and it could have reduced their resistance to, say, disease or something like that.

One group also was taking remote sediment profile images. These are looking to determine what's called the "apparent redox potential discontinuity" layer is, which basically, if you looked at these pictures, it's a black layer on the sediments that show that it's an anaerobic environment and often is used to indicate when there is an anoxic event or hypoxic event.

And so what they were finding is that there was not a lot of dissolved oxygen down at that layer, and it wasn't mixing into the sediments. They found this in 1999, also in 2000, and also in 2002. They did not go out in 2001 due to funding.

So they were finding in most of the Western Sound where they sampled -- I think they had 36 different stations -- they were finding this very reduced layer right in all those sediments.

These are just a few comparison graphs. The top one is from the state of Connecticut DEP water sampling where they're looking at near-bottom, is what this researcher calls it, a meter off. And then they were

looking at the dissolved oxygen at the bottom layer, on the bottom right.

And they map each other pretty well in terms of peaking in September -- this is from 2000 -- as the water starts to turn over. But, the trends were fairly similar.

Ammonia is the same. You notice that there is a peak in October. There's a lot of release of ammonia from the sediments as organic matter is broken down. And, it seems to also peak in the bottom waters in May or be elevated earlier in the year, but the state sampling doesn't start that soon to look at the hypoxia events.

And in terms of hydrogen sulfide, again, it does track. Again, the bottom right-hand graph is looking at the sediment-water interface, finding a peak in May that's not measured earlier in the year because no one is looking at it in the bottom waters, a meter off the bottom, I mean.

But, again, there seems to be little peaks in September and October of hydrogen sulfide as these reduced environment is there.

What this group came forward and said at the symposium is that overall temperature has a strong structuring influence on the Sound itself, but what is happening at the sediment-water interface is really ruled by the decomposition of all the organics, the nitrified sediments and things.

They were concerned about the warm temperatures, several degrees above average, over a long period of time, stressing the lobsters, and they felt that temperature coupled with this exposure over longer periods of time to a reduced environment with a lot of ammonia and sulfides would affect the lobsters and sort of make their physiology sort of stressed. And then if they were infected with, say, the paramoeba, they could certainly die.

They also basically came forward and said that based on their research, they felt that just the environmental factors alone could have caused the lobster mortality or at least stressed them to the point where infected lobsters could have died.

I will say at this point that we have three pretty much trains of thought here, and this is one of them. I'll continue on and talk to you about the rest of what came up at the meeting. But this is one group that felt that the environmental conditions could have caused the mortality.

The next group of research projects is really a group that's developing a lot of tools that lobster biologists and resource managers will be able to use over time to assess the health of the lobster.

What came up a lot is what is a healthy lobster, and how do you know when it isn't healthy, and how does it react in the presence of stressors, either human-induced or environmental? So this group sort of I think played a supporting role to a lot of the other research by developing some very interesting tools.

One project was looking at what do you do if you have lobsters that are infected with a pathogen, and this case they were not able to infect it with a paramoeba. That has not been able to be done successfully. So they infected lobsters with *Aerococcus veridins*, which I believe is the pathogen that cause Gaffkemia.

They have these infected lobsters and they exposed them to a bunch of environmental stressors, including high temperature, low DO, and then ammonia and sulfide combinations. They basically found that temperature alone did not accelerate the death in the lobsters.

But if you had good oxygen, but you exposed them to sulfide and ammonia, you could see an acceleration in the mortality rate, and the same with just low oxygen. This is a project, as all of these projects are, it's preliminary. There is usually a lot more to go. I will also indicate that a lot of the sample sizes are very small when they're basing these preliminary results on.

Overall, just the next few slides are some of the tools that are being developed. How they tie in is in some cases clear and others not. But, one of the things that researchers are looking at are looking at when you stress a lobster, either put them in -- when lobsters respond to, say, a pathogenic microorganism, what happens in their bodies, how do you determine it.

And one is looking at the blood cells of a lobster and how, when it's reacting to the presence of a pathogen, it produces more of this cytotoxic hypochlorous acid. And so by measuring these levels, you can kind of see how the lobster is responding to an infection; and if they're stressed, they may not respond as well; and if they're healthy, they probably are responding well.

They're also saying that you can look at the lobster serum. There are other anti-bacterial proteins that you could use to sort of track what's going on in a

lobster.

One other area that they're looking at, the hepatopancreas there's something called a fixed phagocytes and phagocytes are those cells that engulf and try to destroy foreign bodies that come into a lobster.

And so what they're looking at is if you see how phagocytosis occurs in a lobster in a healthy one versus when it's stressed; and if there are changes, then you can kind of see how or evaluate how it's able to deal with whatever is bothering it, whether it's a pathogen.

It may be able to deal with it just fine when it's just a pathogen, but if you're stressing it with temperature or a pesticide or something like that, it may suppress the phagocytosis reaction and make the lobster more vulnerable.

This is just one picture of what they call an arterial, and the fluorescent particles are the foreign bodies that have been taken up by the phagocytes.

What this researcher has done is developed a computer program that can actually count how many of these foreign bodies are picked up, and so it's a way to measure whether it's more effective or less effective depending on the stress that the lobster is being exposed to.

This is a researcher, Hans Laufer, who has looked at ecdysones, which are the hormones that regulate molting in a lobster. What they've been looking at is the levels normally in a lobster.

Just before it molts, you see in the first part of the year, I guess, this hormone level rises and then it peaks quite rapidly in May and June, right before the molting, and then it drops off significantly after the molting has occurred.

And what this researcher is looking at is what about shell-diseased lobsters? There is fishery-dependent data that shows that female lobsters seem to be affected more by shell disease. Also, there were lobstermen making observations that some of the eggers were molting before they released their eggs.

And so he was looking at what about the molting hormone levels in a lobster that has shell disease and found that it's elevated more at times when you would not expect it; post-molt.

So, the concern is that perhaps shell disease has some

effect on the molting hormones, and that it may cause the lobsters to molt more frequently. Again, this is based on one normal lobster and four shell-diseased lobster, so it's very preliminary, but this is something that Dr. Laufer is looking at.

Another tool is looking at heat shock proteins which are produced in response to a stressor like high temperature, a quick rise in temperature; or in this graph, it's salinity.

And basically what this researcher is saying is that you can look at heat shock proteins which will show a stress -- or has a half life of several days, so you could look at it and you could say within the last few days this animal has been stressed.

But if you look in more depth at what they call the "messenger" RNA of those heat shock proteins, that can show a stress over the matter of hours.

And so by looking at this particular one, the HSP 90 is one that's also involved in molting, so this researcher is trying to see how this tool would work in terms of determining how a lobster is responding to stress, and so he's looking at some of these heat shock proteins for that reason. Again, another tool, hopefully in the toolbox.

This group, of course, is under the microscope. Everybody wants to know what they're doing, and unfortunately some of the projects are much further behind than we had hoped they would be, but a lot of it was due to method development.

Basically, the goals of this group, they want to -- first of all, when the lobster die-off happened in '99, there were water tests taken and there were some attempts to try and detect levels of pesticides in the samples. Nothing was detectable in the water, the sediment or the lobster tissues.

And so the goal of this group was to improve the detection limits so that you can find these very low level concentrations or detect them, if they're there in the water; also looking at pesticides in general, which concentrations cause toxic effects and how does it vary from the different life stages or how do the effects vary depending on the life stage; and then overall, they want to try and determine if pesticides caused or led to the die-off or contributed to it.

This slide is a little bit out of order, but we'll talk about it anyway. One of the researchers has spent a long time studying a hormone called Methyl farnesoate in crustaceans which affects

metamorphosis in crustaceans.

And methoprene is very similar in structure to it, and the idea is that it interrupts the metamorphosis of an insect larvae. And so this researcher just decided to see what would happen if you held lobster larvae and exposed them to either Methyl farnesoate or methoprene and see what the affects on survival were.

And in both cases, as he expected, it shows a suppression of survival over time, both of them, methoprene being a little more severe than the MF. But this is again something they're looking at in terms of how methoprene may affect lobster larvae.

In general, they're looking at what affects these pesticides have, what are the lethal affects, and sub-lethal, exposure over time and what concentration will cause the LC-50, which is the least concentration that causes 50 percent to die, acute versus chronic effects.

They also want to see, and some of them are looking at what affects do the exposure to pesticides have on some of the physiological responses in the body. Does it affect things like digestion, reproduction, phagocytosis, the immune system in general and then, also, how does exposure to pesticides relate to other stressors that may be affecting the lobsters?

We have one group that is looking at static exposures, which is basically putting adult lobsters in 20-gallon tanks and either dosing them once and letting the water stay there for five days or dosing them once and then changing the water over time.

It varies, but it's not a flow-through system. The exposure to the pesticide concentration does decrease over time. The other method is looking at flow-through exposure where the researchers have developed a way to continually keep the water flowing through a tank, but expose the lobsters to the same concentration of pesticide over time.

It's not allowed to diminish. And, again, they're looking at larval, adult and juvenile stages and different effects. In terms of the static tests, they were looking at adult lobsters, sampling the water and the lobster blood over time and then sampling the tissues as well and determining that for -- I think this one was malathion -- what effects did it have?

What concentration would kill the lobsters and what would happen in terms of the immune response and things like that? And so he had a number of different

tests

And in terms of malathion, the LC-50 was determined to be 33 parts per billion for adult lobsters over a 96-hour static test. And, this researcher also found that the process of phagocytosis was significantly reduced.

Even three weeks after lobsters have been exposed to one dose of 21 parts per billion, 46 parts per billion, and as low as 5 parts per billion, they would see that the ability of lobsters to engulf and destroy those foreign particles was reduced.

They also saw this after three days in this static test, that the ability for the lobsters to undergo phagocytosis was diminished. So, even though they found that the malathion degraded very rapidly over time in these static tests, after one day 65 to 77 percent of the malathion was undetectable.

And after three days, as much as 96 percent was undetectable, so it seemed to disappear out of the system. The researcher's point was that it didn't mean that there was a lack of exposure to the pesticide even though it degraded quickly.

He did determine that there were some effects on the lobsters, overall finding that adult lobsters are sensitive to 33 parts per billion when he compared it to some other species such as walleye where 60 parts per billion is considered very highly toxic; and brown trout, 100 parts per billion malathion is considered highly toxic. His feeling was that lobsters are, indeed, quite sensitive to the effects of malathion exposure.

Another research team, as I said, was looking at flow-through. And in this case, this graph is for resmethrin, which is one of the components in the spray of scourge. And they looked at larval lobsters, stage II larval lobsters, and they found that after 96 hours, their LC-50 was 100 nanograms per liter, which is part per trillion.

And this group has developed methods to be able to detect parts per trillion. So they've found that after a fairly long period of exposure, it didn't take too much to cause mortality.

They did a shorter study, 24-hours, and the LC-50, again on stage II larvae, was 300 nanograms per liter or 300 parts per trillion, slightly higher temperatures. But, again, look at the number of larvae they were looking at was three, so we're hoping that we see more larger sample sizes soon.

So, this group, again, spent some time figuring out a way to deliver a constant pesticide level at what they considered environmentally realistic concentrations -- and I'll explain that in a minute -- to the larvae.

They plan to do this also with juveniles and adults as well. And they were just saying that a longer exposure even to a smaller amount did cause some mortality in these larvae.

Overall we have an LC-50 for malathion for adult lobsters, and they're working on methoprene and resmethrin. In terms of juveniles, nobody seems to have worked with them yet.

And larvae, they have a two-part per billion LC-50 for methoprene for stage II larvae, and also one that's 300 parts per trillion, so there is a little bit of differences there. A lot of work still to come at both, as they put it, at regular temperatures and stressful temperatures to see what happens.

One of the researchers is looking at what happens if the pesticides are accumulating in the lobster tissue or does the pesticides accumulate. And, again, when they were tested in '99, there were not detectable levels of pesticides there.

But, this one found that after a four-hour exposure to 50 parts per billion, that you could get methoprene accumulating in the tissues, including the green gland, the hepatopancreas and the epithelial cells, so different concentrations, and there were other organs that did get smaller amounts collected in there too.

So, the concern is, again, you know, as they go for larger sample sizes is, what's the difference between a lethal exposure and a sub-lethal exposure which over time, even if it's exposure to a lower level of pesticide, what effect does it have on the lobster or the lobster's physiology.

And then how do lobsters compare to other species? We have some idea with respect to malathion, but I don't think that anybody has looked for the other two, resmethrin and methoprene, yet to compare.

And then the question, of course, is all of these exposures are done in a lab in tanks and what is the difference between that and real-life exposure in the Sound?

In order to deal with this detectability question, Dr. McElroy and her co-investigators were looking at ways to detect pesticides in the environment after

application. Could it be done?

And if so, were they at levels that were toxic alone, or would they be toxic only in concert with other stressors, and what affect, again, does it have on the immune system of lobsters?

They developed a way to test. They went out before and after spraying in 2002, and they were able to develop a method that can now detect low part per trillion? levels in the water which will enable them to get a better idea of toxicity, both acute and chronic, to the lobsters in various life stages. They are actually able to detect now.

This is an example of what they found. They did tests, again, before and after spraying and after a rainstorm. The first compound, piperonyl butoxide - - that's another component of scourge -- they were able to find that in concentrations of 0.3 parts per trillion up to 15,000 parts per trillion.

Resmethrin, they also were able to detect lesser amounts of one part per trillion and 980 parts per trillion. Did not find any sumethrin or malathion and only had one sample of methoprene they were able to detect of 7.4 parts per trillion.

It appears, in terms of the scourge, that the resmethrin degrades much more rapidly than the piperonyl butoxide, or whatever that is. I butchered it, I'm sure. But they are now able to detect these in the water.

These methods are 10 times more sensitive to what is really the best method available now and 1,000 times more sensitive than what was used in 1999 to test the water. So, in '99 we can't say that the pesticides were not there, they were just not detectable given the equipment that was used or was available.

So, the question, again, is they probably may need to apply this also to the lobster tissues as well. But they were, as they say, able to detect now, after application, some pesticides at varying concentrations. They do want to look at this more.

The spraying, of course, has diminished dramatically, which makes it a little difficult to do these environmental tests, but it's kind of a key development in terms of trying to see if after pesticides are applied how quickly do they break down and how much can you detect in the water.

This group's conclusions are collectively that lobsters are sensitive to malathion as adults and methoprene

and resmethrin as larvae. But you could also see some lethal effects with malathion at much lower concentrations.

The effects on phagocytosis in the face of this sort of exposure to low levels of pesticides could explain a reduced resistance to pathogens. So, I guess what they're saying is it may not be the pesticides directly.

They don't know for sure, although they are seeing effects, but there is certainly some sub-lethal effects that may make the lobsters more susceptible to other factors.

The key thing that's missing that has been a real, I think, keystone bit of information is the fact that no one has analyzed what was actually applied in terms of pesticides to the Sound in 1999.

New York DEC does have, finally, after a great effort on their part to get it, the data for New York for 1999, which I guess is a lot of information to go through. In Connecticut we have not been able to establish that there is a database of this information.

The permits are given and it may be that the actual application data resides in the individual towns where the application is made. There is some effort trying to figure out if we can compile some sort of database that's comparable to New York's for Connecticut.

The steering committee knows this is a big issue, because if you show pesticide effects in a lab at various concentrations, you need to have some idea of what is the maximum concentration of pesticides that the lobsters could have been exposed to in the Sound.

The only way you can really do that is with the actual data, and so this is a big hole that I'm hoping will be addressed soon. I guess we just need to hire some consultants or something to really tackle this.

But, in terms of the lawsuit and the lawyers, they've had some experts do back-of-the-envelope calculations and feel that the lobsters were exposed to high enough concentrations, but they don't have this data, and so I really think this is a key piece of information that's missing and needs to be dealt with.

The last group looked at parasites and diseases, and those people, along with a lot of collaborators, worked on these next groups of research efforts.

Basically what they wanted to do was look at three diseases that are significant, new, causing mortality

in the lobsters in the Sound, and then look at linkages between the diseases and learn more about them.

Basically, the three things that have affected the lobsters to whatever degree is the paramoebiasis, which was discovered in 1999; shell disease which was not part of the die-off, but has been affecting lobsters, as you know, in Eastern Long Island Sound, Narragansett Bay and Buzzard's Bay; and calcinosis, which is something that was identified in 2000.

And these diseases are not uniformly distributed within the Sound. They have different zones, it seems to be, where they're affecting the lobsters. The calcinosis, which was found last summer by a researcher at SUNY Stony Brook, who was sent samples of lobsters that were not quite the same as they were in '99, but were not "perky", shall we say, and had poor shelf life and were dying, but it was not a large die-off as far as we can tell.

These lobsters had the characteristics of having an orange coloration to their underbelly. Their blood was orange colored. It didn't clot very well, if at all. The gills, which I'll show you a picture of in a minute, were considered rusty and had granulomas, which I can explain in a minute.

And their gills had a lot of epibiotic growth on them. The antennal glands, which are typically green, were brown. And so there was a lot of characteristics to this calcinosis.

This is what the gills would look like if you looked at them under a microscope. All that reddish color is not normal at all, and that was one of the key characteristics of this lobsters affected with this.

The granulomas were the lobsters' response to a foreign body, and the foreign body in the right-hand slide is a calcium carbonate crystal that was being formed, and then the lobster would form a granuloma around it to try to get rid of it, and then ultimately would have more and more of these and they would build up in the gills and basically clog the gills.

This is a fatal disease. It seems to be related to metabolism, the Sound temperature, related to water temperatures which were quite warm last summer. Warmer temperatures change the lobsters metabolism, calcium in lobsters to deposition as opposed to, you know, say shell formation or something or dissolving it.

And so they would form these calcium crystals, and basically it seemed that the lobsters were ultimately

suffocating because their gills would get clogged up with these granulomas and these crystals.

And, again, several samples. They're keeping an eye out for more lobsters with that orange color to try and learn a little bit more about this. These lobsters did not have the paramoeba, did not show any of those same symptoms as those that were affected in '99.

In terms of shell disease, I'm not a histologist, but I put these slides in because it seemed important to understand how a carapace is laid out, and basically the epicuticle is the outer part of the carapace -- you probably know this better than I -- and the underlying connected tissues is the inner part and this is the layers of the carapace that is formed normally.

And the carapace has these CD and cuticular pores in it as well. And this shell disease that seems to be similar to what we've seen, but also very different, localized to a large area of the Northeast, certainly Massachusetts through the Sound, more severe, more extensive lesions than have seen in many decades, seems to be related to a bacterial invasion of those cuticular pores.

And if you read, they are followed by the cuticle eroding, forming these tightened pillars and inflammation, and it just basically seems to work its way through the carapace layers in a very distinct way.

The researchers have isolated three to seven different bacterial strains from these pores, but they're also not sure how protozoans may play in there. They may help expand these lesions. The animals are able to molt out of the lesioned carapaces.

This should be three to seven strains. They found a couple in every lobster except one, the pseudomonas gracilis. They're not finding any correlation between bacteria in the lobster blood and the shell disease, so they feel it's coming from out. It's not coming from -- it's not in the bloodstream as well.

They tried to verify Koch's Postulates through infectivity studies. They took healthy lobsters. They exposed them to these bacteria. They banged up some of the carapaces. They took shell diseased lobsters and put them in tanks with healthy lobsters.

And, after six months they still were not able to transmit the shell disease from the diseased lobsters to the healthy ones or get the bacteria to move from one lobster to the other.

I understand that this is not an easy thing to do, and just because this group failed to do it doesn't mean that it couldn't be done or isn't how it's transmitted, it's just not always easy to show this infect transmission.

Again, no correlation between the disease and the blood infections. And, they are looking at a couple of these bacteria more closely to see if they may be the primary or key component in the shell disease pathogens.

The paramoebiasis, again, was something discovered in the dead and dying lobsters in the fall of '99. Unfortunately, the pathologists couldn't then and still can't say whether this is a primary or secondary cause of mortality of the lobsters. It definitely killed them, but whether something else lead to the paramoeba being there is still unclear.

These are amoeba that had not been found in lobsters to their knowledge before. And, again, unlike the calcinosis, they did not find any calcium crystals in these lobsters so they were very separate things, the calcinosis and the paramoebiasis.

So we have some researchers trying to figure out what this paramoeba is, what is it related to, other paramoeba-type organisms, developing tests so that you can detect the paramoeba in lobster tissues and you don't have to sacrifice the lobsters, but be able to detect it in tissues of live lobsters and also be able to detect the paramoeba in either water or sediment from the Sound, trying to decide is it something new or has it been there in the Sound, trying to figure out what it is.

They've compared it with a number of known agents and it seems to be most related to the neoparamoeba. There's a number of different diseases there: gray crab disease, sea urchin nerve ring, salmon gill, and some free-living paramoeba.

And it seems to be most related to a neoparamoeba. We can skip this one. They just collected lobsters and got tissues to do this, and you can read the fine print, but basically the bottom line is they haven't quite identified it yet, but they're honing in on it being a species of neoparamoeba.

And, as I said, there's work going on trying to develop primers that are specific for the genus and the parasites so that it can be detected in both the tissues or in the environment. They have been taking sediment and water samples from the Sound.

They're looking at a variety of neoparamoeba-

specific primers trying to isolate the one that they think is the one, the paramoeba one.

And they have found basically in the Sound several different neoparamoeba, paramoeba isolates listed there. The bottom one, paramoeba elhardi has been found everywhere.

But, all of them have been found both in water and sediment cultures from the Sound or samples from the Sound so, again, honing in, but not there yet on what this all means. I think that's probably all of the slides. I don't know whether you have time for questions or comments.

CHAIRMAN LAPOINTE: Thank you, Nancy, for that great presentation. I'm going to take a couple minutes for questions, if people have them, and then we'll move on. We've got two other agenda items. I see Lance's hand up.

DR. STEWART: Yes, very thorough, Nancy, thanks very much. I just want to briefly comment on kind of some observations and review that I think the research, although it's not finalized and the researchers themselves are clearly not ready to say they have a peer-reviewed paper, are of pretty paramount concern when you put them and link them together with what we have experienced in Western Long Island Sound and what we appear to see trends occurring through Southern New England.

A few of those linked processes I might alert you to that a lot of us have been talking about are certainly environmental extremes may have triggered and enhanced the effects on lobsters, but there is clearly evidence in the research of tremendously small, minute traces of malathion and the prorithrins that affect lobster's physiology, primarily the decreased immune response, which can be directly linked to the first-time incidence of paramoeba.

When you have single dosage affects on the physiology of an animal in a parts per billion, ten times below could be detected before, that can be experienced three months or a month later in their physiology so that they're susceptible to disease, it's an extremely important process in the whole molting cycle or life growth of an animal.

And these are experiments on adults under cooler water aquarius situations; not under, you know, not on larvae, not on juveniles that go through many more molts, that are subject to much more lethality or affects of the physiology. So, that's one point of concern.

The other one is if you were to accept the decay rates that most of these pesticides have been calculated at, you look at agricultural principles of decay, and those are the physical, chemical processes of photodegradation, acidity and hydrolysis -- if you put these same compounds directly into the marine environment or marsh levels that can be washed directly into an aphotic zone in the marine environment -- there is no penetration by UVs once you get below about six feet -- into a basic environment and into a salt water environment, not a fresh water acidity hydrolysis situation, you have a whole new suite of calculations that have to be done on toxicity added to the compound effects that these pesticides are designed to adsorb to particles, either adhere to the agricultural crops or the insects or the particles in the field or to plankton and immediately drop to the bottom, less detectible in surface water or immediate post application rates and public health service.

Now we have instruments that are a thousand times more sensitive. They couldn't detect this before. All these circumstantial events would heighten my concern, if I were anyone looking at application rates, that we continue to pursue of malathions, the resmethrins, and methoprenes throughout New England and can't get a clear answer from the agencies as to what their volumes were, what their application rates were or what aerial extent where we might be concerned in the marine environment.

It's starting to really bother me as a progression of one or two year research goes on, and some of these points are not really amplified.

So, I'm just trying to express my, you know, obviously anxiety to the board that I think there's a lot more hidden effects on the environment that we should be immediately concerned with and addressing either alternative solutions to applications of pesticides or other compounds that would have a much less directed affect on an arthropod or crustacean.

Another concern is the whole complex of crustacean-related organisms that our fisheries species depend on that may have been impacted.

And none of these studies were designed to address that, although some studies were proposed that should have looked at the ecology of this really impacted area for multiple species effects.

So, enough of this. I have a few more issues, but I

don't want to, you know, take too much of the time. But I think it's a very critical issue in light of what we see New England-wise out to 20 fathoms, extending well beyond the physio-chemical ranges where we might have extreme environmental stressors.

We're seeing lobster populations diminish by ten times when they were at their peak. That means the recruitment, juvenile recruitment phase of one or two or three years got hit somehow. It's not just that we're overfishing.

Something apparently -- I mean, if you just common sense look at what the population experienced, there's something much more dramatic than just environmental or just plan fisheries effects.

So, I think the research is great. The topics have been -- I mean, they're very difficult to address but when you link the biochemists' results to the disease effects, it's extremely important. So, thanks, George.

CHAIRMAN LAPOINTE: Thank you, and sorry to cut you off. Other questions or comments for Nancy? I will note -- although, I mean, it's been done in Long Island Sound, the results of the research are being watched by folks interested in lobster throughout their range because it's certainly applicable elsewhere. Nancy, thanks very much for coming.

DR. BALCOM: You're welcome. Thank you.

CHAIRMAN LAPOINTE: Gordon has a comment.

MR. COLVIN: Well, no, I think you just did it. I wanted to thank Nancy for making the trip down here and for the effort she put into the presentation. Just a reminder to the board, the Lobster Steering Committee whose work is being reported to you today is organized under the auspices of this board.

Several of the board members are directly involved; myself, Eric, Harry. It is chaired by Tony Calabrese of Northeast Fisheries Science Center. Dr. Lisa Kline of the commission staff is also a member of the board.

And if you, at any point, folks, have questions about the progress of this work, please don't hesitate to direct them to any of the board members who are associated with the committee.

And at some point I hope that the board will give thought to what this all means in the larger context, kind of as Lance has indicated, of lobster biology and marine ecology regionally. Thank you.

CHAIRMAN LAPOINTE: Thanks, Gordon. Thanks, again, Nancy. We have three more agenda items. One, Vince wants a second. I told Ted he would have a minute after cutting him off. So, Ted, can you come up.

MR. COBURN: Thank you. I think you're ready for some good news. I'm Ted Coburn, Ocean Technology Foundation. We'll keep it to a minute and offer, as I did to the chairman, that I can come back at a later time and give a brief that's more comprehensive.

The good news is that in the last two years, the lobster restoration program has notched and released 250,000 hard-shell female non-egger lobsters with other criteria.

We started the program up again this spring, a couple weeks ago. Our initial data shows 55 percent of those lobsters that would otherwise be in a kettle somewhere are now eggers. I think that's pretty impressive.

The other statistic I'll offer is that we have a recapture rate now already starting off this year at 40 percent. So even with 250,000 lobsters, 200,000 last year, basically in the last 12 months, we're having a significant effect in Rhode Island, and I think there's a great opportunity here to continue that effect broader into Area 2. And with that, I'll say I'll come back and I'll answer any questions at the moment.

CHAIRMAN LAPOINTE: Thanks, Ted. Any questions? Thanks very much. Bill Adler.

### **Assistance to Area 2 Fishermen Subcommittee Update:**

MR. ADLER: All right, thank you, Mr. Chairman. The basic reason for this, I had two meetings with regard to the purpose that I brought up at the last meeting, which was since it was determined that the Area 2 stock decline is not solely due to fishing activities, but environmental factors, predation, health, et cetera, et cetera, that the government agencies should examine what they could do to share the burden in trying to stop the decline and help trying to bring the stock back, to explore what might be done, be able to be done.

Meetings were held. I held one on April 9<sup>th</sup> and I

held another one on June 4<sup>th</sup>. These meetings were to be parallel to the meetings of what fishing rules were being developed, so they had nothing to do with the fishing rules, per se.

The ideas we discussed had to do with the buyback, which was a project that everybody said you could help us with that. And earlier today, there was the mention about the effects of that particular project.

There's \$10 million that was put in by a letter by Senator Reid, and we're following with that with trying to come up with what would be needed by the senators to push this thing forward. They would need probably some fact sheets like ammunition so we're working on that.

That was one of the things we discussed. Another idea that came up was the habitat environmental checks. Rhode Island and Massachusetts — and I wanted them to check with regard to the nutrients, the chlorines, the pollutants in the sediment and the water, and one of the reasons for that is we want to make sure that the habitat is conducive to supporting the lobster stock as fishing-related measures are undertaken to put more lobsters back in.

In other words, we need to make sure that they'll survive if they're put back in. I think that's a job the states can do, so we were talking about that.

And there was some work done in Massachusetts according to the biologist, Bruce Estrella, who was checking the chlorine levels and the nitrogen levels, nutrient levels, et cetera, in Buzzard's Bay.

And, his report came back that it looked like, at least from what he could see in the statistics, that it was okay, basically conducive. But, this is what I'm going to continue to work on.

The mosquito spraying, which you talked before, concerned us, and I was indicating that I thought that it might be helpful if the ASMFC or the states could take some type of a stand against this type of spraying or dropping of these types of chemicals anywhere, disseminated anywhere within x-number of miles of coastal water, and you ought to stand up and be counted and not just give lip service to it. So, I thought that was something.

I wanted the states to do trap surveys, that meaning ventless trap surveys in the Buzzard's Bay and Narragansett Bay area, actually where lobsters live more than where they're just towed, and to try to make sure and can be convinced that we are in fact in

the decline that we are.

We say we are, we believe we are, we think we are, but we also have to make sure to the fishermen, who we're asking to do an awful lot with, to make sure that we're watching this very closely, and ventless traps rather than nets might be a good way.

We also talked about oil spill. The North Cape, which was just mentioned, expanding that into Buzzard's Bay would help; also, taking some action on the Buzzard's Bay oil spill as that develops in order to try to get some restocking.

We talked about the restocking of the area idea such as hatcheries or bringing in lobsters. That didn't go too far in the discussions, but at least it was that type of an idea of how can the states perhaps jump start the lobster population in the area. But those were the types of ideas that we discussed.

We discussed shell disease. We did discuss the freezing of permits by state which sort of was starting to drift into fishing rules, but these were the types of things that the states perhaps could be doing, other than thinking up more rules for fishermen, since it was not the fishermen's fault that we have this problem.

And so I'm going to continue with this endeavor, trying to move forward with the buy-back idea which, fishermen supported and government would help if that was the case. They have to develop ideas of how that would be done, if it was approved, so it doesn't fall into some type of a debacle like some of the other buy-back systems have.

So, I'm going to continue with this, and I'm going to continue to bother the Rhode Island and the Massachusetts divisions of environmental management and marine fisheries to ask them what they've done on our ideas and our suggestions, and I might be able to have something for you at the next meeting, if necessary.

CHAIRMAN LAPOINTE: Thank you, Bill. One item, Geoff White asked that I talk about the lobster database. He or I, or some combination, will be approaching states to make sure we have that database together to move forward. We need that for the assessment. David Borden, you had your hand up. Be quick.

MR. BORDEN: Yes, thank you, Mr. Chairman. I just wanted to follow up on one of Bill's comments. At that meeting the other day, the need for having surveys conducted with unvented pots came up. Bill said he's going to keep our feet to the fire. I've already instructed our staff to implement that.

So, Rhode Island will be moving forward with issuing permits to our cooperating lobstermen to start fishing unvented traps, and then we will set up a program where they will be collecting data for us, and also we will be sampling the catch for those boats.

Now the only reason I came to the mike is to urge Massachusetts to do exactly the same thing. I would also urge New York and Connecticut to do the same type of system, because it will give us the ability to characterize the pre-recruit population, which is solely dependent on trawl surveys now.

CHAIRMAN LAPOINTE: Thank you, David. I'm going to close. My thanks to Carrie and Bob, in particular, for putting up with a bunch of ornery old commissioners through a tough issue. Thanks to the commissioners for their perseverance, and you will be hearing from us soon.

(Whereupon, the meeting adjourned)  
at 2:00 p.m., June 10, 2003.)

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## **INDEX OF MOTIONS**

Move to change the circular vent size requirement from 2-1/2 to 2-5/8 inches; in addition, change the vent sizes of 2-1/16 rectangular and 2-11/16 circular be adopted for those LCMA's that have a scheduled increase to 3-1/2 inch minimum legal carapace length in the next addendum.

Motion to grant de minimis status to Delaware, Maryland, Virginia, North Carolina.

Motion to accept the report of the Most Restrictive Rule Subcommittee and move it forward in the next addendum.

Motion that the lobster management board endorse the suite of options in the draft options paper, including the LCMT proposal, for further technical development as a draft addendum or amendment. .

Motion to add the Area 3 transferable trap plan concept to the addendum.