

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
SUMMER FLOUNDER, SCUP AND BLACK SEA BASS  
MANAGEMENT BOARD**

**The King & Prince Beach and Golf Resort  
St. Simons Island, Georgia  
October 29, 2013**

**Approved February 4, 2014**

## TABLE OF CONTENTS

Call to Order, Chairman David Pierce .....	1
Approval of Agenda.....	1
Approval of Proceedings, August 2013 .....	1
Opening Remarks by Chairman Pierce.....	1
Public Comment.....	2
Summer Flounder Recreational Working Group Report .....	2
Presentation by Ms. Toni Kerns.....	6
Discussion of Letter from New York DEC.....	8
Review of Wave 4 Data .....	15
Review of 2014 Recreational Management Process for Black Sea Bass.....	17
Other Business .....	18
Adjournment .....	20

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of August 2013 by consent** (Page 1).
3. **Move to initiate an addendum to the summer flounder, scup, and black sea bass fisheries management plan to consider and develop alternate approaches for management of the recreational summer flounder fishery for the 2014 fishing season** (Page 8). Motion by James Gilmore; second by David Simpson. Motion carried (Page 12).
4. **Move to initiate an addendum using an ad hoc regional approach in the recreational black sea bass fishery** (Page 15). Motion by Adam Nowalsky; second by Rick Bellavance. Motion carried (Page 15).
5. **Move to recommend to the Policy Board that the commission send a letter to the Northeast Fisheries Science Center and the Mid-Atlantic Fishery Management Council expressing the commission's strong concern regarding the perceived lack of progress in addressing a key source of scientific uncertainty pertaining to black sea bass stock status; namely, a spatial analysis of stock structure** (Page 15). Motion by Robert Ballou; second by William Adler. Motion carried (Page 16).
6. **Motion to adjourn by consent** (Page 17).

## ATTENDANCE

### Board Members

David Pierce, MA, proxy for P. Diodati (AA)  
Bill Adler, MA (GA)  
Jocelyn Cary, MA, proxy for Rep. Peake (LA)  
Robert Ballou, RI (AA)  
David Borden, RI, proxy for B. McElroy (GA)  
Rick Bellavance, RI, proxy for Rep. Martin (LA)  
Rep. Craig Miner, CT (LA)  
David Simpson, CT (AA)  
Lance Stewart, CT (GA)  
James Gilmore, NY (AA)  
Pat Augustine, NY (GA)

Sen. Philip Boyle, NY (LA)  
Peter Himchak, NJ, proxy for D. Chanda (AA)  
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)  
Tom Fote, NJ (GA)  
David Saveikis, DE (AA)  
John Clark, DE, Administrative proxy  
Mike Luisi, MD, proxy for T. O'Connell (AA)  
Rob O'Reilly, VA, proxy for J. Travelstead (AA)  
Michael Petony, NMFS  
John Bullard, NOAA

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

### Ex-Officio Members

Jason McNamee, Technical Committee Chair

Dominick Fresco, Law Enforcement  
Representative

### Staff

Robert Beal  
Toni Kerns

Kirby Rootes-Murdy  
Kate Taylor

### Guests

Kelly Denit, NMFS  
Peter Burns, NMFS  
Phil Langley, PRFC  
Brandon Muffley, NJ DFW  
Mike Armstrong, MA DMF  
Dan McKiernan, MA DMF  
Chris Baker, MA OLE

Tim Huss, NY DEC  
Chip Lynch, NOAA  
Jessica Coakley, MAFMC  
Lauren Latchford, Duke Univ.  
Raymond Kane, CHOIR  
Arnold Leo, E. Hampton Baymens Assn.

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Lanier Ballroom of The King and Prince Beach & Golf Resort, St. Simons Island, Georgia, October 29, 2013, and was called to order at 2:30 o'clock p.m. by Chairman David Pierce.

### **CALL TO ORDER**

**CHAIRMAN DAVID PIERCE:** Good afternoon, everyone. I have just assumed this chairmanship, so I'm looking forward to at least a few years of the pleasure of being the chair of this board and taking over for David Simpson, who is smiling very broadly. In this new role I call the meeting to order. We have one and a half hours, and that should be enough for us to handle all of our business.

### **APPROVAL OF AGENDA**

**CHAIRMAN PIERCE:** The draft agenda is before you. Are there any additions or revisions to the agenda? Bob.

**MR. ROBERT BALLOU:** Mr. Chairman, under new business I'd like to bring forward an issue that I characterize as addressing scientific uncertainty with regard to black sea bass stock status.

**CHAIRMAN PIERCE:** All right, we will put that into the other business category and address that when we get to the end of the formal agenda. Is there anything else to add to the agenda or any revisions? I see no one expressing any interest in doing so. Therefore, without objection, the agenda is approved by consent.

### **APPROVAL OF PROCEEDINGS**

**CHAIRMAN PIERCE:** Are there any needed revisions to the proceedings from our August meeting? Okay, if not, we would need a motion to approve those proceedings. Motion by Bill Adler; seconded by Pat Augustine. With no objection, our proceedings are approved.

### **OPENING REMARKS BY CHAIRMAN PIERCE**

**CHAIRMAN PIERCE:** I remind everyone that the minutes of that meeting in August are almost entirely devoted to a report from our technical committee chair, Jason, who reviewed the progress of the Summer Flounder Recreational Working Group that has been meeting in an effort to assist this board do its business.

The rest of that meeting in August was focused on recreational fishing issues, especially on NEAMAP and on MRIP. Now, we're about to receive shortly another report from Jason on further progress of that group that is headed up by David Simpson. Also, he will be giving us technical committee requests.

So, please, I ask all board members to try to remember what you said and what was discussed at that meeting in August so we don't have the same discussion and so we don't go over the same ground. That wouldn't be very productive. As a reminder, we did have another board meeting about three weeks ago.

Not all board members were there, but certainly the state directors were there. We had it in conjunction with the Mid-Atlantic Fishery Management Council with many board members, of course, having dual roles being council members as well board members. That meeting was in Philadelphia when we adopted the commercial quotas and the recreational harvest limits for 2014. As a reminder to this board, we agreed to drop the fluke recreational harvest limit from 7.63 million pounds to 7.01 million pounds – I believe I've got that right, Jessica – about a one-half million pound decrease for 2014.

So, bear in mind the fact that we have that half a million pound decrease in that recreational harvest limit. When we discuss Agenda Items Number 4 and Number 5, it is very relevant. All the details regarding what was done at that board meeting of three weeks in Philadelphia, they have been provided in ASMFC News Release, and I hope that everyone has had a chance to look at it to remind yourself the numbers with which we'll be dealing in 2014 specific for the

recreational fishery. Again, it is very relevant to today's agenda.

### **PUBLIC COMMENT**

CHAIRMAN PIERCE: All right, public comment; does anyone in the audience wish to raise an important point or an issue regarding items that are not on today's agenda? All right, I see no hands; therefore, we will go on to the agenda item, which is number four, and that is the Summer Flounder Recreational Fishery Working Group Progress Report. What I will do now is turn to David Simpson, who is chair of that particular group and ask you, David, if you're prepared to give us some introductory material regarding what you did, why you did it and what you've got?

MR. DAVID SIMPSON: I am prepared because I have Toni and I have Jason and Kirby and others. The working group has met a couple of times by conference call. We've asked the technical committee to explore the possibility of some technical approaches to this issue. Are there purely technical, scientific approaches that could objectively tell us what changes to management could bring about greater equity in access to – I'm trying not to use the word "allocation".

I'm struggling not to use the word "allocation", but there it was – equitable ways to share in the resource and be responsive as the abundance and distribution of that stock changes. I think it would be most efficient just to turn it over to Jay now and have him go through what the technical committee has been able to accomplish to this point.

CHAIRMAN PIERCE: All right, I'll turn to Kirby first and ask Kirby if you have anything to add, Kirby, before we go to Jason for his report?

MR. KIRBY ROOTES-MURDY: No.

CHAIRMAN PIERCE: Okay, in that case, Jason, if you will give us an update on the progress of the working group and also, of

course, the technical committee work that has been done to date.

### **SUMMER FLOUNDER RECREATIONAL WORKING GROUP REPORT**

MR. JASON McNAMEE: I work for the Rhode Island Division of Fish and Wildlife. I've put together just a few slides so it is easier to have something look at when you're kind of recapping some of the meetings that we've had. There has been a lot of action and it has gotten a little complicated to keep track of, but I tried put together a little something here.

Since the last board meeting, the technical committee and its subcommittees have met. We have had a few meetings since the last board meeting, not counting the joint meeting. I was thinking about the one prior to that. There was a meeting to discuss the Science and Statistics Committee and the Monitoring Committee recommendations for 2014 management and beyond in some cases.

Then there were also two additional meetings to discuss the summer flounder recreational items that Mr. Simpson just talked a little bit about. We met on September 19<sup>th</sup>. This meeting had two goals. The first was to review the recommendations of the SSC and the Monitoring Committee for summer flounder, scup and black sea bass.

The Monitoring Committee did not recommend adding any additional management uncertainty to any of these three species. For summer flounder and scup it was felt that both have good stock status and that management was working well in each case. For black sea bass they did not end up adding any management uncertainty on to the overall quota; but what they did advise was careful consideration when setting recreational measures for black sea bass; so when we get into that recreational specification-setting, to be really cognizant of the difficulties that we've had in the past trying to curtail harvest in what is a fishery that by all other measures has rebounded to pretty significant levels and it is causing difficulties in the recreational fishery.

There was also an additional piece that we looked into, and that is in 2013, I believe, Wave 1 was open in federal waters and that caused some difficulties management-wise for a number of states, but in particular the technical committee as well as the monitoring committee wanted to note that there is no coverage of that fishery as far as monitoring and keeping track of the harvest that's occurring.

Other than in the federally permitted party and charterboats, we had VTR information. What we did was we got hold of that information and calculated that and basically viewed that as a minimal harvest estimate for that wave in lieu of any other information. We have that calculation.

We just wanted to make the recommendation that this be considered at least a minimum harvest estimate for that wave and in fact there was not a zero harvest in that wave as it would come across otherwise due to the lack of coverage. The technical committee reviewed the monitoring committee recommendations. It is sort of like the same people, mostly, so it is not farfetched that they would review and think favorably of their own recommendations.

They reviewed the recommendations and didn't offer any additional advice with a couple of additional members that are on the technical committee. I think you all have seen that and have considered that information. At that meeting, though, the technical committee also reviewed two models that were brought forward, and these were at this point focused on summer flounder.

There was one called the Model to Evaluate Recreational Management Measures. This was done by Dr. John Ward. Then there was also a project called Summer Flounder Management Strategy Evaluation that was done by the PMAFS Group. That is the Partnership for Mid-Atlantic Fisheries Science. Mike Wilberg was the primary on that; John Weidemann as well as others.

The technical committee did their initial review of those two models at the September 19<sup>th</sup> meeting. Okay, on October 16<sup>th</sup> the technical

committee reconvened and they got a little more information on these models and developed some further advice for the board on these two projects. The following couple of slides are going to be – I'll give a brief introduction of the model and then give you the kind of bullets of the technical committee advice on those models.

The first was the one called a Model to Evaluate Recreational Management Measures using MRIP data. This is the one done by Dr. John Ward. The model allows for evaluation of recreational management measures for the upcoming year by predicting the landings that are likely to occur across all length categories using a logistic regression.

It is just a modeling technique using existing information and develops a suite of logistic regressions on that information. He also did a second analysis and that was to estimate the potential number of fish landed and caught for a set of management regulations and known conditions in a specific fishery.

Here he tested the same information but looking at different suites of management measures that have or could occur. The model can then be used to predict proportional and directional effects of landings in relation to recreational regulatory changes. One of the neat things about this model is it looks at a lot of covariates that we have not traditionally looked at.

One in particular that kind of sticks out in my mind is there is this Omega-3 fatty acid index. I am not going to do it justice, but it is an index that is developed that has to do with people's understanding of Omega-3 fatty acids and their health benefits and the incentive that gives them to consume more fish.

That is the kind of different sort of information that is in John Ward's model that we have not traditionally looked at, so it was interesting. Okay, the technical committee comments on this model; we initially expressed interest in the results specifically in its capability to predict changes in harvest and incorporate these extra fisheries' variables in a quantitative manner.

There were concerns regarding a lack of realism in the model's outputs. I'll talk a little bit more about that in a moment. Some of the technical members looked in particular at the information for their state and said, "This isn't making sense. You're lowering a minimum size and yet your estimate has harvest going down and that is not possible."

Stuff like that kind of raised some red flags to some of the technical committee members. There were also questions about some of the data sources and the input variables. In particular it heavily relies on MRIP data and all of the caveats that go along with that exist in this modeling framework.

There has been additional consultation with John Ward, but at this point those questions are still there for the technical committee. They haven't felt that their concerns have been addressed. These concerns in conjunction with the estimated timetables for conducting sensitivity runs led the technical committee to conclude that this model was not going to be useful at least at this point for recreational specification-setting for summer flounder in 2014.

Now, we've had a subsequent followup to this meeting where we again sat down with John Ward. He is working in a shorter timeframe than is indicated on the slide here. He is going to make some modifications to his model, and he is going to bring that back forward and we're going to look at it again.

I think during this last call, which was awkward at times, I think we finally got the point that we were trying to make about the discard estimates. That was one of the concerns that we had and how they were being factored into the model. We think we got that point across. Whether they can be corrected I guess is something we'll have to just see.

There is like a smaller subcommittee that is continuing to work with John Ward to see if we can get some purchase with this model and get it to operate and get the technical committee comfortable with it. Okay, summer flounder management strategy evaluation, this model tests the effects of current and alternative

regulatory and management options in the summer flounder recreational fishery using management strategy evaluation. That is the technique that is used.

The simulation model was developed to evaluate the effectiveness of current and alternative methods for setting annual regulations. The goal here is to see if they can achieve harvest without exceeding their limits. It also evaluates the effects of different regulations on the summer flounder population and recreational fishery.

This one is a bit more of a comprehensive model. It uses stock assessment inputs and things like that in it. The outputs are split between a northern and southern region. They include harvest estimates, discard estimates, proportion of females harvested and the probability of exceeding the ACL. That is one of the nice things about this model.

Really the focus of it at the time when they developed this project was they were under sort of a preliminary understanding of what accountability measures were going to look like in the future, and they developed this model to be able to kind of run these different scenarios over time and then look at the proportions of times that you exceed the ACL under a given regulatory scenario.

It is sort of interesting in that way. The management scenario can be put into the model and run, and the outputs on the above metrics can be reviewed with this model. The model was developed again prior to the changes to accountability measures that are pretty new. The technical committee comments; we expressed interest in this analysis; specifically its ability to predict management success with available tools; bag limits, seasons, things like that.

The technical committee requested that the PMAFS Group explore model sensitivity to non-compliance with size limits and possession limits. The way the model currently exists is there is a knife-edge function in that if you set a minimum size you get a complete 100 percent compliance below that minimum size and that

they're being discarded, and they're only harvesting things above that minimum size.

This is another situation of realism where the technical committee said, "Well, you know, maybe it should be a little bit of a smoother function than a knife edge," so they're going to potentially work on that. Mike Wilberg said that they could work on this. However, the timetable to complete the additional analysis was a ways off, so it wasn't useful for the current specification-setting process.

I think it would also need a funding source to be identified to be able to continue on with that. The model could be used to set consistent measures within a region and then test variations on those measures to meet any goals that you wanted to set. For instance, if you set we don't want to exceed the ACL more than 10 percent of the time in the next ten years, you could do that.

You could test different scenarios to try and meet that goal. This model could be used to investigate regional allocations that provide equal discard proportions and potential for management success. It could be useful in that regard. It could serve as a starting point to examine allocations needed in each region to meet management goals, including equitable retention rates.

The timetable to complete additional analyses was approximately one month for some of the smaller items that we had requested, but that one month wouldn't start until January just given the time constraints of the researchers. So moving forward, based on subsequent conference calls with the Summer Flounder Working Group, a subcommittee will continue to work with Dr. John Ward as he modifies his model and addresses some of the technical committee's concerns.

We've already had one followup and we've planned a second one. The technical committee will move forward with the normal process for recreational setting this year regardless of the progress with the model. I don't think we ever intended to completely shift tracks at this point. It would have been a parallel process.

I think the best-case scenario for this year is if we get model tweaked enough and get the technical committee comfortable enough, we could run it in parallel and do a comparison, but at this point I think we're kind of putting our eggs in our current ad hoc recreational specification-setting process.

The status of the PMAFS model is unclear. Work can be continued, but it was always my understanding from our meeting with Mike that some funding would be needed; and in either case it wouldn't be ready for 2014. That's an update from me; and with that, I'm happy to take any questions that anyone might have.

CHAIRMAN PIERCE: Are there a few questions for Jason? Pete.

MR. PETER HIMCHAK: Jason, what exactly was the black sea bass harvest in Wave 1; and what was the mean size? I didn't listen in on the SSC discussion of this, but what was their take on the characterization of the Wave 1 fishery as far as increasing scientific uncertainty?

MR. McNAMEE: I can't give you a number. I can give you a proportion, though. What I remember is we ran the numbers and it was about 5 percent of the recreational harvest limit is what we calculated; but again it was based on VTR data. This was self-reported federally permitted party and charter vessels. So, not huge but not insignificant; and mean size I don't know off the top of my head. I could easily look that up, but I'd just have to go back and look at my notes.

MR. HIMCHAK: As a followup, Mr. Chairman, we were seeing all the newspaper articles and all the reports that these weren't small fish. These weren't the typical pound net of fish. They were much, much larger.

Given the problems with the Tier 4 and black sea bass stock assessment and the transition from females to males at older ages, I thought the SSC would have a significant problem with the characterization of the fishery and adding to the scientific uncertainty. I don't know; I hate to say it but I think the whole issue was taken rather casually.

CHAIRMAN PIERCE: Are there any other questions? All right, I see none. Jason has indicated that the technical committee would like to proceed and has to proceed with the same ad hoc approach that it has used in previous years to assist us decide the recreational measures we will select in 2014. The models are being developed; progress apparently has been made.

There is some reason to be optimistic at least for one of those models, but they're not yet ready for primetime and not ready to be used in 2014. I think it is necessary for the board to have that understanding that we will follow along with that same approach because there really is no other alternative unless someone else on the board disagrees. I look to you to see if you do have a different point of view. David.

MR. SIMPSON: I'll just comment briefly and then Toni probably has a comment, too. I think what the technical committee is trying to do is a pretty significant challenge trying to take a technical approach to such a dynamic issue. I guess the challenge ahead for the workgroup and ultimately for the board is are there more – is ultimately this addressing this issue of perceived equity shifts in the stock abundance going to be better handled at the board level through some sort of qualitative approach, what is the sense among the states of equity comparability of minimum sizes, which is what we have been mostly talking about.

Pretty clearly, the work that was described at the Management and Science Committee today or yesterday suggests that larger fish are indeed more common to the north, so there is a logic to larger minimum sizes occurring in a south to north orientation. Whether we're ultimately going to resolve this through a technical approach or whether we're going to manage it in a more ad hoc fashion here and get a comfort level, I think that is still remaining.

I think at some point the board could really use a summary of the report that the Management and Science Committee talked about, the documentation of these shifts, how they're occurring over time and space and what the

drivers are. In a nutshell, it doesn't seem to be as much about climate change that we have talked about a lot.

It has to do with primarily the expansion of the numbers in the stock and then secondarily the size composition, and so how do we deal with that moving off into the future all while making decisions based on MRIP estimates that are themselves a bit of a moving target and a challenge. I think Toni may still have things to add.

CHAIRMAN PIERCE: Okay, David has given the board a preview I think of what the Management and Science Committee has discussed, presentations that were provided to the Management and Science Committee yesterday. I also heard some of that discussion and it was very interesting. David, I assume that the board will receive further guidance from the working group that continues to exist. I'll turn to Toni then for an update since Toni I guess is the principal person for this initiative.

#### **PRESENTATION BY MS. TONI KERNS**

MS. TONI KERNS: On the working group call we talked about some short-term and long-term solutions to moving forward with summer flounder recreational management. The working group asked me to present those short-term considerations that the board could evaluate for possible initiation of an addendum for the 2014 fishery and future years, if wanted, as well as just to update the board on some of the long-term considerations that they have begun discuss.

The first one is the retention rates, and that is allowing all of the recreational fishermen on the coast to have an equal opportunity to harvest a fish. That is what Jason had gone through at the August board meeting. We are still waiting on some B-2 data, which I believe we have now. We can have the technical committee finish up that analysis and report back to the board whether or not that is something that they think is a feasible option to move forward with.

We also have a recreational matrix that the full technical committee has not reviewed, but it is an objective tool that was developed to rank the summer flounder fisheries for each of the states relative to one another. It basically generates a number of fishery statistics based on MRIP catch-and-effort data, and it attaches a score to each of those statistics.

Then the states can be ranked for each year according to those statistics, and you can determine which state's fishery is having a lesser or better fishery experience. Then we can set measures based on those scores. Again, it is something that we need to work with a little bit further, but it is an approach that has been put out by the working group.

Next are regions, so I have just pulled together five different options for regions that we could use. The addendum would put forward these regions as mandatory regions; because as everyone knows we do have the option for voluntary regions already in the management plan. Just to review the regions that we threw together, Massachusetts to Virginia is one with almost 95 percent of the quota and North Carolina with about 5 percent; a recent of Massachusetts to New Jersey at almost 68 percent and Delaware to North Carolina at 28 percent.

The next region is Massachusetts to New York at 32 percent; New Jersey to Maryland at 45 percent; and Virginia and North Carolina at 22 percent. The next set of regions is Massachusetts to New Jersey at 68 percent and then Delaware to Virginia at 22.8 percent and North Carolina alone at about 5 percent. Then the last set would Massachusetts and Rhode Island at 11 percent of the quota and then Connecticut through New Jersey at 63 percent and then Delaware to Virginia at 19 percent and North Carolina alone at 5.6 percent. These are just some options. If the board wanted us to explore others, we can do that. These percent shares are based on the 1998 landings.

MR. JOHN CLARK: These regions would all have the same regulations?

MS. KERNS: The question was would these regions all have the same regulations. That is something that we would need direction from the board whether or not they would have to be exact size, bag, seasons – a traditional region would be that way – or whether or not we would follow some sort of scup or black sea bass example where you would allow the states to vary within that region.

It makes the uncertainty of achieving the harvest estimate larger when we do that, as the technical committee has reported to the board before, but the amount of risk that the board wants to take is completely to you all. Next is some other short-term considerations is we could do what we did last year, which I'm calling the 2013 fish-sharing method.

We went ahead and set state-by-state measures. We allowed the states that did not use all of their liberalizations – all the fish associated with that liberalization to share their left-over fish with other states. This year we gave the additional fish to New York and New Jersey to alleviate some of the reduction that New Jersey needed to take and it allowed New York to have a slightly smaller size limit.

We have another option that is a version of that fish-sharing method. I'm calling it the required fish distribution. It is similar except for the fact that instead of allowing states to liberalize, we would first – actually we wouldn't allow anybody to liberalize and any state that had to take a reduction could use any underage that a state had and use it to buffer their reduction that was needed, so that no one would need to take reductions if those fish were available.

You could also flip that; and if there were overages that needed to occur, we would be sharing those overages. I hope I'm describing that right. I'm looking to Adam because he helped me craft this one. Then lastly looking at averaging the harvest estimates anywhere from a two- to five-year period to determine fishery performance; so instead of having a single-based harvest estimate, it could be averaged over the years to determine what the reduction would need to be in the next year.

Then for long-term considerations we are discussing using the modeling work that Jay went over. If John Ward's project can get done in time, we can consider using it for this year. I just don't know what the timeframe will be for him to get his work done. I know that the council would like him to get it done so we can use for it this year. It just depends on how things go.

As Jay said, the work that Mike Wilberg has done cannot be used for this year because he cannot start working until January. We are still talking with him to see how much additional funding he would need to do the additional work that the technical committee wanted to see. We do that is something that can help us regionally define allocations, so I think it is promising work.

There is also the report from the Management and Science Committee, as Dave suggested earlier, that I think we can use as well as potential long-term solutions. The Mid-Atlantic Council is also putting on a workshop that we may be able to get some information out of that, as well as any ideas that come from the working group for the long-term considerations.

If the board is interested in using any of these short-term considerations, then we would need to initiate an addendum preferably at this meeting so that we can bring forward an addendum at the joint meeting that we have with the Mid-Atlantic Council in December so that we can still stay within the timeframe to get measures set and put in place in a timely fashion for 2014.

**CHAIRMAN PIERCE:** Thank you, Toni, you have outlined short-term and long-term issues, concerns and possibilities that the working group is offering up. Is that written down anywhere? Do we have that as a hard copy or is this the first time? It is the first time I have seen this, which is why I'm caught off guard.

**MR. KERNS:** Our last working group call wasn't that long ago, and we were waiting on some of the technical committee work. I do not have it written in the report, but I will get one to the board as soon as possible.

**CHAIRMAN PIERCE:** All right, thank you very much. With that said, I think we have a good segue into the next agenda item that relates specifically to the fluke recreational fishery, issues related to equity sharing, a nice followup, or as I say a nice segue to what Toni just presented, short and long-term considerations. That would be discussion of a letter from Kathleen Mosher, Assistant Commissioner from New York DEC.

### **DISCUSSION OF LETTER FROM NEW YORK DEC**

Let me highlight a couple of points here before I turn to Jim. The board has received this letter from Ms. Mosher – and I assume that everyone has had a chance to read it – and her list of concerns and plan of work she offers up to us to deal with management strategies for New York's fluke recreational fishery. She indicated the ASMFC state-by-state allocations for the summer flounder recreational fishery are based on obsolete nearly ten-year-old survey data. She highlights the shift in the center of fluke abundance and she concludes the New York commercial allocation also is flawed. It is a letter that has been submitted to us. Many good points are made by her in that letter, so I turn to you, Jim, and I ask you for the benefit of the board would you care to expound upon that letter and then perhaps offer up some suggestion as to how this board might proceed to respond to New York's concerns.

**MR. JAMES J. GILMORE, JR.:** The letter was sent and I think it indicates it was submitted to the joint meeting a few weeks ago in Philadelphia. I guess to summarize it a little bit or even to add to it – and I think many of you have been around the table even longer than I have, much longer than I have, but in terms my tenure, when we started this approach of state-by-state conservation equivalency back in the early 2000s, we thought it would be something we'd try and see and maybe it would work or maybe it wouldn't.

I think back then we even said that we can always do something different. We have sort of been locked into that and it was really the problem.

Since I've been around, which is since 2007, we have been consistently opposed to the state-by-state conservation equivalency because it really didn't make sense to us in terms of equitably managing the fishery.

We've even put motions up on many of those meetings – Pat was here also – trying to go back to coast-wide measures to set a new baseline to see if that was a way to get at this to essentially update the information, but we never had success in that. Even at those times in my first couple of meetings in 2007 and 2008, I know the technical committee and even monitoring committee of the council, both were recommending that maybe we go back to coast-wide measures because we needed to have a new data set.

Unfortunately, we didn't get there and I think part of the reason was we were under a rebuild and a lot of states had issues and were having difficulties also, so we didn't get to that point. We at least finally got to the point where we thought, well, maybe once we get the fishery rebuilt, then we could return back to some normalcy in terms of what we had before we got into this pickle with the size of the stock.

I guess the frustration level really got a lot higher because then in 2012 when we declared that the fishery had been rebuilt and then we suddenly get into the next couple of seasons and we're having the same problem. We have disparate regulations. We have a credibility problem. We hear it all the time is like how can you have neighboring states having such different limits on your fisheries when you're fishing on the same body of fish. It was not only that New York was thinking it was a problem; the whole commission I think was getting a bit of what are you guys doing? That seemed to be a common theme that we got from all of our fishermen.

Anyway, we really were hoping we could fix those disparities. We're coming to this season – and as we got into last year, I think we made a little progress because we at least got into that fish sharing, so we finally saw there was some cooperation. It seems to be that a lot of states

want to get back to something that makes more sense based upon 2013 data and maybe get away from what we did a decade or more ago and get back to some level of equity and productive fisheries for everybody so everybody has that same opportunity.

That pretty much outlines what the letter was trying to say is that at this point we really want to work cooperatively with everybody to try to come up with a solution to this and not to just sit back and say fix this. We were trying to also throw resources at it. We've been participating on the working group. I've got my staff as their priority to do as best they can.

I think one of the new things that were suggested by Toni was put up by one of my staff, which I think has got some merit. They're working very diligently and almost exclusively on this in some cases to try to come up with a solution. Also in the letter we identified that we were going to try to bring in some additional help.

Since the letter was written, we have actually secured the services of someone familiar to a lot of you folks, George Lapointe, who is very well known to this commission. George is going to help in hopefully getting us a solution to this. I think George is in the room, so you can all say hi to him later on. He has already come up with some good information and he got very quickly back into the commission process.

The reason we really thought he would be great is since he has been around longer than I think – well, I don't want to say this, George, but probably all of us, all except for Jack, maybe. We thought he would be a good asset to try to come up with a solution to this. Again, we indicated in the letter that we were hopefully going to try to make motions at the December meeting to get at this.

But then after the working group meeting last week and then Toni had just mentioned, we thought maybe a motion at this point to move the process along would be more appropriate. If you recall last year we had to do a fast-track addendum to get this because we were kind of

late to the dance, but this year we're going to try to move something along.

With that being said, right now we only have two options as we've been following along. We have coast-wide measures, which again that's still an option here. We're not going away from that. We still may want to discuss coast-wide measures if that may be a solution to this; I'm not sure. But the only other option we've had was state-by-state conservation equivalency; so we're still supporting coast-wide measures but we want to look at other solutions to this.;

We need alternatives; so, therefore, I want to put a motion up. Let me read it and then hopefully I can get a second and we can talk about it more: **move to initiate an addendum to the summer flounder, scup, and black sea bass fisheries management plan to consider and develop alternate approaches for management of the recreational summer flounder fishery for the 2014 fishing season.** Thank you, Mr. Chairman.

CHAIRMAN PIERCE: All right, we have a motion from Jim Gilmore; is there a second to the motion? David Simpson has seconded the motion. All right, discussion on the motion? Bill.

MR. WILLIAM A. ADLER: The summer flounder; is that recreational and commercial or just recreational?

CHAIRMAN PIERCE: Jim, would you clarify?

MR. GILMORE: These measures right now are just talking about the recreational fishery. We still recognize we have an issue with the commercial fishery, but this discussion was from the working group on the recreational fishery.

CHAIRMAN PIERCE: All right, who would like to speak in favor of the motion? David.

MR. SIMPSON: I think we need to do this. I like the breadth of it because I think we need to explore a few different alternative approaches. I was kind of intrigued by the table you put together, Toni, of the – it happens to be '98

proposed regions and what share goes where, and it occurred to me that you might be able to work off of that and develop a time series of gross recreational catch by those regions over time and see how they have shifted, and that may provide a very nice, objective basis to incorporate how stocks have shifted over time and looking off into the future how they may continue to shift over time. I would suggest that if this motion passes that be one of the approaches considered.

CHAIRMAN PIERCE: Who would like to speak against the motion? Peter.

MR. HIMCHAK: Well, alternative measures for summer flounder, we're talking about the fish left on the table in one form or another and then this other matrix that has been floating around, so it really doesn't have too many specifics. On a more comprehensive level from where the Division of Fish and Wildlife is looking at this, not just on summer flounder, but on black sea bass, scup, croaker, et cetera, et cetera, the Management and Science Committee is looking at climate change and distribution of resources.

I think what the Division of Fish and Wildlife would prefer is that we not run into a quick fix or a recreational fishery in 2014 based on whatever reasons we believe inequities exist, core distribution has changed, but I think you would have to take the advice from the Management and Science Committee and then start a scientific comprehensive program to reallocate all the resources and not just recreational now.

I mean if the core distribution has moved in a north or northeasterly point of direction, then it's time to look at allocations on all the species. You can start with summer flounder and black sea bass. I think they're at the top of the list, but that is our preference for moving forward. I know every year it is exciting at the December joint meeting to come up with a fast-track addendum, but I think we need to take a more comprehensive approach and do it once and do it right.

MR. ROY MILLER: Mr. Chairman, may I ask a question at this point of the maker of the motion? Jim, in concept I support what you're trying to do, but my question is, is it practical to consider this for the 2014 fishing season? I'm thinking that flounder will show up and enter the fishery in our waters in April, earlier in states to the south of us. Is that realistic for 2014 or are you really talking about the 2015 fishing season?

MR. GILMORE: That is exactly the reason we put the motion up now, Roy. I think it is possible if we – I think as Jason had gone over, through the technical committee we were looking for a longer-term solution. I had mentioned this at the August meeting; we're not there yet so we needed another fix for this year and hopefully an improvement for New York and other states.

I think it's possible because we have so many different options that we can consider. We did this last year in a lot shorter period of time, as you recall. I think we initiated the fast-track addendum at the February meeting, so I think it can be done. I think Toni wants to add to it.

MS. KERNS: In terms of a timeframe, what we would do is staff would bring back an addendum at the joint meeting and then we would take it out for public comment and bring it back at the commission's February meeting. Depending on what options get put into the document, we would request – for example, if we put regions into the document, we would be giving something similar to the percent share.

We wouldn't necessarily have specific regulations; just like when we go out with the black sea bass addendum in past where we did shares and not actual regulations. States would go back and determine the regulations, but we would be asking the technical committee to pull together a method to set regional measures.

Whether that's measures that are all the same within the region if it is an ad hoc approach, I think the technical committee is getting fairly good at determining the methodology to set an ad hoc approach through trial and error that we have come up with through the black sea bass

fishery. Jay is slightly nodding his head. I think that will be a slight less of a lift.

I know that John Maniscalco, New York's technical committee representative, does know that I'm going to weigh on him heavily to help with a regional approach if that is one of the ones that is being developed in the addendum.

CHAIRMAN PIERCE: All right, we have a motion before us. I will take a few more questions or a few more comments from the board and then I want to go to the audience for a few remarks; all the while remembering that we have only an hour and a half devoted to this meeting and we have already gone through about 45 minutes, I believe. I have to keep that in mind. We will have to keep this relatively short. Tom Fote.

MR. THOMAS FOTE: The devil is in the details here, but I also cannot foresee anybody wanting to hook up with New Jersey this year after the current Wave 4 data and looking at what are possibilities there. I have to look at what you're proposing. I mean this is pretty vague. I'm not for or against. I'm just trying to figure out what you're actually meaning here. It is kind of ambiguous and I don't know what to do about voting on it because I don't know the details. I would also ask why you want to do it this year since it looks like we're going to be over like crazy, so do you want to absorb all our overages? Anyway, I'll just leave it at that.

DR. LOUIS B. DANIEL, III: Well, I don't typically get too involved in the summer flounder recreational stuff, but there are some concerns here that I think I want to express for the record. First is continuing to try to manage this fishery and many of the other Mid-Atlantic fisheries recreationally with a quota with the MRIP uncertainties and the continued uncertainties. Until we get that figured out, I don't know that you can fix this problem with any kind of certainty.

It also sends a very unnerving message that you can habitually go over your quota and then we just reallocate. That is a worry to me. Then there were comments about commercial

reallocation, and that's a different animal than the recreational fishery. The state anglers are state anglers. The commercial fishermen are mobile. When we get into the commercial allocations, I don't think the bio-geographic shifts in the fishery pertain like they do for the recreational fishery. I'll vote against the motion just because I don't like using MRIP estimate to set quotas.

CHAIRMAN PIERCE: All right, thank. I'm going to go the audience now. John Bullard.

MR. JOHN BULLARD: Mr. Chair, as you know this issue came up, as was mentioned by Jim, at the meeting in Philadelphia at the Mid-Atlantic Fishery Management Council. I addressed it then. I may have mentioned then it was during the shutdown, and I just have to remark that it is very nice to be surrounded by colleagues who are back at work. I won't mention that again.

Jim mentioned the frustration that New York feels. One of the things that I'm sure is borne out of that frustration was another letter that is not before you but that I've read several times from the governor of New York saying that if this problem isn't solved there may be a lawsuit. I get letters like this frequently, and it is not motivational to me because I do get them frequently.

As I said in Philadelphia, problems like this are not really solved very well in courtrooms. They're much better solved by the people around this table and by the people around the Mid-Atlantic. This is a tough problem and it needs to be solved. Issues of fairness and equity from the point of view of New York get seen very differently than from the point of view of North Carolina or New Jersey, but they should be solved by the people around this table and not in a court of law.

It only goes to court when we all fail to address it, and this needs to be addressed soon. I'm grateful to New York for pushing us to solve the problem. That's really what I want to say is that we do need to address it. The letter before us with the October 9<sup>th</sup> date, I applaud it because

it's an offer to help. I certainly applaud bringing in Solomon – I don't mean Solomon; I mean George Lapointe.

Maybe it is Solomon and he is just in disguise here; but if anyone can tell us how to do this, I think it would be George. I think the reason this is important and the reason I wanted to speak is that the climate change is real; it is not going away. Water temperatures might go up one year and down another, but they're going up, and all stocks are going to be affected in different ways; but in general they're on the move north and east and to deeper water.

It might be a case with summer flounder of temperature change or abundance, but in general this is a problem that is going to affect a lot of stocks. If we are going to manage stocks with state allocations, this is a problem we're going to have to deal with. Because summer flounder is one that has been managed well and it is an abundant stock, this is an easier problem to solve than a stock that's in bad condition.

Let's figure out how to solve this problem with a stock that is in an abundant condition. This is a good one to look at. This problem is not going away. In Alexandria a year or so ago we put a patch on it. That patch isn't going to last. We need to get an enduring solution and I think this is a way to go about it. Again, I want to applaud it. I think maybe there is a way to think of this as a win-win-situation.

I think it's more likely that as stocks move we're going to look at some stocks seeing percentages increase and other states looking at one specific fishery and seeing percentages go down while they look at other species and see percentages go up because all stocks move. You say goodbye to some stocks and at the same time you say hello to others.

Fishermen are going to have to adapt as that happens, as stocks move by. My point is I think we need this with summer flounder, but we need this as a management tool with any fishery that we're going to have state allocations. Now, maybe it means we shouldn't get away from state allocations; I'm not sure. That is really the

business of this body. I'm just saying as the regional administrator that you're doing a service for all of us as you wrestle with this problem. I wish you well. If we can be helpful to you, then let us know how we can be helpful. Thank you very much, Mr. Chair.

MR. BALLOU: Mr. Chairman, first of all I actually do feel like the motion as proposed is intended to be a patch. It only applies to the 2014 fishing season. Is it reasonable to assume that the options that are likely to come back if this were to be approved would be those that more or less jive with what Toni offered as far as short-term considerations?

By that I mean obviously a status quo approach, perhaps the regional approach and then perhaps a fish-sharing approach; those are the three that jumped out at me. I don't know if we're ready for coast-wide measures yet, but those three seemed to me to be the ones that would mostly likely to be considered; particularly the fish-sharing approach, which is the approach we took last year through an addendum process, as I understand it, and I just don't see how we're going to avoid that process for this year.

Whether we limit it to just that or perhaps expand it a bit, I do think that it is intended to be essentially a patch addressing short-term considerations with some of the larger issues to be deferred to a subsequent action and not necessarily this one. I think I would support it for that reason although I think it might help to lend some clarity as to what the options are likely to be or should be. Thank you. Jim, to that point.

MR. GILMORE: Bob, I think – and maybe the focus is a little bit – we left it vague because we wanted to give the greatest number of options, but even in the last few days things have changed. If I could rank them maybe in priority and maybe help the technical committee focus a bit more, first off regional obviously would be one thing we'd be pursuing; averaging; and then the matrix.

The fish sharing a week ago seemed like a great idea and then the Wave 4 data came out and then New Jersey got Bubonic Plague, so I don't know

how well that's going to work out, but we'll see what happens when we get the final data. That was essentially the idea; and if that can hone this in a little bit and specify it more to help out the board, then I think that is what we think we're going to be pursuing are those four ideas. Thank you.

MR. ADAM NOWALSKY: When Jim has first shared the motion, I was prepared to amend it to include all three species that we're talking about as well as not just for this year but to move it forward; but then as I gave it more thought and heard more discussion around the table, I realized that what we're really trying to do is find the right way to use the tools we have available. Louis just made the comment a few minutes ago that he's not comfortable using the MRIP data at all, and I would agree with that, but at the time being we don't have any other choice.

Therefore, it is incumbent upon us to find new ways to use the information that we have in front of us. It is not going away. In recent years this board has done addendums every year for black sea bass to find another way to mitigate the damage that very poor data has been doing to fisheries. Last year we went through with a fast-track summer flounder addendum to try to find a better way to make use of the data that we have great concerns about.

What this motion does here is it just gives us another year to continue to develop those tools. The Summer Flounder Working Group has developed four or five options. To go ahead and not move this addendum right now would not give us an opportunity to give the PDT and to give the technical committee time to further develop those options and give them back to us as a board to figure how to best use them.

By initiating an addendum today, it would provide us with information at the December meeting to decide how to best use the information we have in front of us when we've basically been following the process of something else in recent years for most of our fisheries. I would encourage support of moving this ahead today.

MR. ROB O'REILLY: Mr. Chairman, I'm a little bit perplexed here because I listened to Jason give his report, and there was ambiguity throughout, even to the point where in talking about John Ward's model it is still going to try and be worked out, but I wasn't really how positive that was. You have a lot of work under development, which has been seasoned yet.

I see this motion as formalizing what is already in place. However, the 2014 is off-putting to me because, like Roy Miller, come April the fishery will start in Virginia. I also think that we are looking at half the problem. I think the Mid-Atlantic Council, the staff, executive director and the chairman are looking at the other part of what makes equity so difficult, which is the science.

Part of what went on at the Mid-Atlantic Council, if you were there, was the promotion to try and get this Level 3 stock to a Level 2 stock, and that would be a big impact. At the same time it's pretty well established that with the risk policy that the SSC has and the fact that you're 82 percent – the biomass for summer flounder is 82 percent of Bmsy, and you would think that's a scenario where everything was good.

Yet if you're following the progression of years, this is the third lowest recreational harvest limit since 2003, and it's a 39 percent decrease since 2011. There are some real bottlenecks that are going on that have to be faced up to on the science end of it. It is not say science isn't moving forward on all this, but it can move a little bit more.

I think that despite anything that ends up from a fix like this, it is still going to be back to chasing targets by the state right now or eventually going to coastwide, however that works out, or going to regions, but some of these problems will remain because we're managing at the high end for summer flounder. Eighty-two percent of Bmsy and yet we've got a pretty good reduction. It's not the half million pounds; it's you have to look at the whole time series and the third lowest in twelve years.

CHAIRMAN PIERCE: This motion has had fair debate pro and con, too many hands have been raised. I can't acknowledge anymore. We're almost out of time. We have more to cover on the agenda so I'm going to ask the board now to caucus and we will vote on this motion. It is move to initiate an addendum to the summer flounder, scup, and black sea bass fisheries management plan to consider and develop alternate approaches for management of the recreational summer flounder fishery for the 2014 fishing season. Motion by Mr. Gilmore; second by Mr. Simpson.

(Whereupon, a caucus was held.)

CHAIRMAN PIERCE: I assume everyone has had a chance to decide what position to take on this motion. With that said, we're ready to vote. All right, all those in favor of the motion please signify by raising your hand; all those in opposition; any null votes; any abstentions. **The motion carries six in favor, four against, no null votes and two abstentions.**

I have a suggestion to the board. In light of the fact that the assistant commissioner has written that letter to us, I would suggest to the board that we do the following and see if you agree with me. If not, then perhaps we can go in a different way. I believe the ASMFC should write a letter to her.

Bob Beal, of course, would draft that and send it on our behalf, acknowledging receipt of her letter; agreeing with her understanding of the value of summer flounder to New York, especially the recreational fishery; indicating that we await the results of the steps that New York is taking to improve management and deal with issues of equity and changed fish distribution. She has indicated that's what she will do.

Then I suggest we ask her in this letter to provide the New York proposed changes to the summer flounder plan well before our December meeting so we can be prepared to discuss and consider those suggestions with our close attention. That would be the letter we could send to her, all the while with an understanding

that we have our own work being done through the working group and through the technical committee to deal with the addendum that we will now have developed for us for our consideration at our board meeting in December. That is what I would suggest; and if there is any objection to that, please so indicate. Roy.

MR. MILLER: Mr. Chairman, I have no objection to what you suggested, but I would ask for some consideration for jurisdictions such as Delaware that have a five-month regulatory-setting process; in actuality, even if something is approved as early as the February meeting, it would be mid-summer before Delaware could implement any new measures.

We all have had the experience of changing regulations once our regulation book is published and distributed as not being the best practice in terms of enforcement. Is there some way, Mr. Chairman, to build in some consideration for the realities of the regulation-setting process for those states so affected?

CHAIRMAN PIERCE: We could do that, certainly. Again, it is just a simple letter to recognize the fact that she has sent this to us and that we are now pursuing a specific course of action and we are now asking her, on behalf of New York, to follow through with that which she said she would do. It does not any way diminish the significance of any changes that must be made by different states, the difficulty of doing that for 2014.

I don't think it needs to be put in there, Roy, but at the same time it stands as a very important consideration we all understand, and that will certainly play into whatever we do as a board at our next meeting in December when the addendum, I assume, will be before us for our consideration.

MR. MIKE LUISI: Mr. Chairman, I know we're under time constraints. I wanted to provide just a quick thought regarding the vote that we made. I just wanted to go on the record to say it's not about the approaches or in theory there needs to be some change. We need to consider all those things.

It was the timeframe that we would be under and also just the vagueness of alternative approaches. Had this motion been more in the line of continuing the ad hoc fish-sharing approach that we used last year into 2014 and further consideration of alternative approaches for '15, it would have changed our position a little more. I just wanted to let everyone know that.

CHAIRMAN PIERCE: All right, thank you. Is there any objection to sending a letter the way I just described? Is that an objection, Pat?

MR. PATRICK AUGUSTINE: No, it is a point of information. I thought the letter should indicate that the proposals that New York is presenting should be moved to the working group as opposed to going right into some other group. It will go to both but directly to the working group.

CHAIRMAN PIERCE: My assumption, Pat, is that is the path that it would take. This is more of just the necessity of giving a formal response to her in light of the significance of this issue as expressed by her in that letter; that's all. All right, a letter of the sort I've just described will be drafted and then sent to her. Yes, Toni.

MS. KERNS: It should be a recommendation to the Policy Board to send the letter. There are several letters that we've done throughout the week and it is one we can add to the Policy Board's list.

CHAIRMAN PIERCE: That is the appropriate process and we will follow that. Thank you for that, Toni.

#### **REVIEW OF WAVE 4 DATA**

CHAIRMAN PIERCE: All right, the next item on the agenda is the Wave 4 data, if available. This is an update, frankly. It is simply an update as to where we stand with the Wave 4 harvest estimates, and Kirby will be giving us a brief presentation to update us as to where we stand. No board action is required on this.

MR. ROOTES-MURDY: I'll go through this relatively quickly because of time constraints and because I probably won't be able to answer most of your questions around the MRIP estimates as they are currently. One thing to keep in mind is that they are in fact preliminary, so they have not been finalized.

First, with regards to the scup MRIP estimate harvest for Wave 4 – this is cumulative up through now – the total amount that has been estimated for harvest at this point is 3.6 million pounds, which is roughly less than half of the target amount for 2013 recreational harvest limits, which is set at 7.55 million pounds.

Moving down to summer flounder, with regards to the estimated harvest through Wave 4, currently in terms of pounds it has been estimated at 6.9 million pounds, which is roughly 90 percent of the harvest target for 2013, which is 7.63 million pounds. Question?

MR. SIMPSON: I just wanted to make the observation that Connecticut is an example. We're already at twice our annual harvest limit, and most of that came from the six weeks in Wave 3 when by coincidence or not the contractor took over the MRIP Survey. To Louis' point, we have this issue to deal with at the same time that we have changes in stock composition, movement, allocation. It is dealing with quota-based management with a very rough estimate of what is actually going on. I just wanted to make that point.

CHAIRMAN PIERCE: That point reminds me of your encounter with an interviewer that you expressed to us or described to us at our last board meeting, so thank you for that reminder, David. Go ahead, Kirby.

MR. ROOTES-MURDY: To move on to the last one, the black sea bass harvest estimate as of the end of Wave 4 is approximately 1.7 million pounds, which is approximately 75 percent of the recreational harvest limit target for 2013. In the interest of time, while I had put up questions, I think we should move on to the next item unless there is any other business.

CHAIRMAN PIERCE: Well, that is an update as to where we stand with the data so far through Wave 4. Obviously, we will be receiving, we hope, the additional wave information prior to when we meet in December to decide what to do with recreational measures for 2014 or at least to begin our discussions regarding what to do for 2014. I will entertain a few questions, if there are any, or clarification. Adam.

MR. NOWALSKY: I know that the MSC yesterday was supposed to get some information regarding MRIP. Specifically when I looked at New Jersey's Wave 4 estimates, the PSEs in the summer flounder were exceptionally high. Was there any comment that came from the MSC yesterday regarding Wave 4, which is one of our most sampled waves for our most prosecuted fishery? Summer flounder in New Jersey to have a PSE well over 40 was an exceptionally high number for that. I was wondering if you had any feedback to give us that came out of the MRIP presentations this week.

CHAIRMAN PIERCE: I don't believe that we do. We weren't present when that discussion occurred, but Toni apparently has something to add.

MS. KERNS: I do not have any clarity for the PSE, but Gordon will be presenting to the Policy Board tomorrow, and I think we can ask these questions of him. If he can't answer them, we can ask him to get those responses to us.

CHAIRMAN PIERCE: Okay, so it will be followed up with Gordon Colvin. Rob.

MR. O'REILLY: I know of at least three states that I've heard where there are situations with MRIP estimates that are maybe worth being looked at by NMFS. I don't know whether that will be a formal approach to ask about that. It certainly affects any type of fish sharing unless that's completely off the table as far as the motion that just passed as one of the options or not. I think some of the responses that were with the high New Jersey Wave 4; that might make fish sharing difficult, but there are quite a few states – three that I know of; there might be

another one or two – that really don't understand the MRIP situation.

In Virginia, just very quickly, we had 97,000 fish in March and April. The fishery really doesn't start until about the first week of April. It is limited to the seaside area or the coastal bays. Wave 3 and 4, which are the two strong waves of the fishery in Virginia, always produced about 65,000 fish, so that leaves a big question about the estimates. I think what David said is true; there is another variable that plays into all this. Thank you.

CHAIRMAN PIERCE: All right, let's head to the next item on the agenda and then we have one final item, which is under other business, that was raised by Bob earlier on, so that's still to be dealt with. A very important possible action by this board is to deal with the approach for 2014 recreational management for black sea bass.

#### **REVIEW OF 2014 RECREATIONAL MANAGEMENT PROCESS FOR BLACK SEA BASS**

CHAIRMAN PIERCE: In the description of the background we see that Addendum XXIII to the FMP allowed for a combination of regional and state-by-state measures in 2013, and that expires at the end of this year. The FMP only allows for a single set of coast-wide recreational measures unless a new addendum is initiated that allows for conservation equivalency. The question before the board now is whether or not we would like to initiate an addendum to allow for conservation equivalency in 2014 for the black sea bass recreational fishery or other measures. That is the issue before us. All right, discussion. Adam.

MR. NOWALSKY: Mr. Chairman, I would like to move that we initiate that addendum for 2014.

CHAIRMAN PIERCE: Okay, we have a motion to initiate the addendum for 2014; Rick Bellavance has seconded the motion. Toni.

MS. KERNS: Adam, the ad hoc regions; is that what you were proposing or to initiate a like

addendum from last year, just so I know how to craft the description of the addendum?

MR. NOWALSKY: Well, after hearing some of the after comment about the summer flounder addendum, I'm not sure what would garner the most support around the table at this point; just the simple continuation of the ad hoc measure we have been doing or something that explores other options. I think for the sake of simplicity, I'm just going to make this motion to go ahead and move forward with the ad hoc measures. If there is support for something larger, I would be open to hearing that and be open to amending that if there was support for something greater than that.

CHAIRMAN PIERCE: In other words, Adam, continue 2013 into '14, use the same approach; that is the gist of your motion, correct?

MR. NOWALSKY: The initiation of the addendum would go ahead and bring forth the measures that we – it wouldn't necessarily use the same percentage reductions. It would initiate the addendum that would give us the opportunity to look at it as we have in previous years.

CHAIRMAN PIERCE: With that said, would you restate your motion so we can get it up on the screen correctly.

MR. NOWALSKY: **Move to initiate an addendum using ad hoc measures in the black sea bass fishery.** What would like, Kirby?

MS. KERNS: How about the ad hoc approach?

MR. NOWALSKY: That sounds wonderful.

CHAIRMAN PIERCE: All right, we've had a fine tuning. Thank you, Toni. **The motion is move to initiate an addendum using an ad hoc regional approach in the recreational black sea bass fishery.** Motion by Mr. Nowalsky; seconded by Mr. Bellavance. Discussion on the motion; who cares to speak in favor of the motion? Rob.

MR. O'REILLY: I speak in the favor of the motion and then I would, since there is a constant catch strategy, why wouldn't 2015 be in here as well?

CHAIRMAN PIERCE: Toni, would say what you're saying on the mike.

MS. KERNS: There is no date so right now staff would interpret that as we can put multiple years in there, and then the board can consider it for the number of years that they want. We can do a one-year option, a two-year option and an option that would it would not sunset. The board could choose one so we might be out of this annual approach, if wanted.

CHAIRMAN PIERCE: Adam, is that fine with you?

MR. NOWALSKY: Yes, I would support using the approach moving forward so whatever would give us the flexibility to not necessarily expire this at the end of 2014, and I think the discussion here clarifies that intent. Again, for 2015 we wouldn't necessarily be locked into the specific percentages, but it would give us the opportunity to continue the ad hoc approach.

CHAIRMAN PIERCE: All right, so the intent should be clear now for the benefit of the board and the record. All right, who opposes the motion? In favor; Bill.

MR. ADLER: Yes, I think so. My question was also can we get this in for – we need it for the 2014 year, so can we get this in time; can we do that?

CHAIRMAN PIERCE: Yes. All right, is there a need to caucus? I see no scurrying to caucus; therefore, I'll assume that every state has its ducks in a row. All those in favor of the motion please signify by raising your hand; those in opposition; any null votes; any abstentions, two abstentions. **Okay, the motion passes unanimously.**

## OTHER BUSINESS

CHAIRMAN PIERCE: The next item on our agenda is other business and I will turn to Bob Ballou for that particular agenda item.

MR. BALLOU: Mr. Chairman, I'll be brief. As everyone is well aware, the black sea bass stock assessments remain stuck in a Tier 4 status, and that is due to several sources of scientific uncertainty; one of the most significant being the potential of a substock structure leading to potentially incoherent survey results as they relate to age structure.

My concern is that I'm not aware of any research being conducted to address that issue, and so my recommendation is that the board should go on record strongly advocating that the necessary research be conducted forthwith. I do have a motion that I provided to staff, and I can read it now. **I would move to recommend to the Policy Board that the commission send a letter to the Northeast Science Center – I wasn't sure if that should include the Mid-Atlantic Council as well. That's why it's bracketed with a question mark and I'll continue – expressing the commission's strong concern regarding the perceived lack of progress in addressing a key source of scientific uncertainty pertaining to black sea bass stock status; namely, a spatial analysis of stock structure.**

CHAIRMAN PIERCE: Bob, I would suggest you remove the brackets. My suggestion from the chair is that it should also go to the Mid-Atlantic Fishery Management Council.

MR. BALLOU: I'm fine with that; thank you.

CHAIRMAN PIERCE: All right, a motion by Mr. Ballou and seconded by Bill Adler. Toni.

MS. KERNS: I just wanted to update the board not recommend to send to the Policy Board, but I don't believe that everybody has been at the Mid-Atlantic Council meeting. We did get an update on where we are in working to move forward with black sea bass. Just so everybody is aware; the data workshop where we identified different research that can be done to move us

forward and getting to an assessment for black sea bass; the commission held an aging workshop to deal with some of the issues between scales and otoliths and aging of black sea bass, which was one of those recommendations that came out of the data workshop.

We are working in conjunction with the NRCC, the Mid-Atlantic Council and the Northeast Region to develop a roadmap to get us to an assessment. We were supposed to have a conference call in October, but it was in the middle of the government shutdown so that call did not happen. I am hoping that it will be rescheduled soon, but it has yet to be rescheduled. I just wanted to let everyone know where we are.

CHAIRMAN PIERCE: Okay, Toni, you have an advantage over us because obviously you are on the monitoring committee so you have a lot of insights into what is going on behind the scenes, so we appreciate that. Are you suggesting, before I read the motion and it is owned by the board, that the motion is not needed? Okay, I just want to make sure.

All right, I'm going to read the motion now. Move to recommend to the Policy Board that the commission send a letter to the Northeast Fisheries Science Center and the Mid-Atlantic Fishery Management Council expressing the commission's strong concern regarding the perceived lack of progress in addressing a key source of scientific uncertainty pertaining to black sea bass stock status; namely, a spatial analysis of stock structure. Motion by Mr. Ballou; seconded by Mr. Adler. That is the motion before us. Does anyone care to speak to the motion? David.

MR. DAVID V.D. BORDEN: Just for my own edification, black sea bass is a Tier 4 stock; and if this analysis is done, will it move it to a Tier 3 stock is the question?

CHAIRMAN PIERCE: I would suggest from my knowledge of the stock assessment for black sea bass and how the Mid-Atlantic Council addresses it, one of the sources of uncertainty is

stock structure. Currently there is a belief that there may be two stocks; one north and one south of the Hudson Canyon Area or thereabouts. Yes, it is a very important assessment question along with life history characteristics of black sea bass.

Potentially it would shove it into a new tier, a better tier in terms of less scientific uncertainty. That would be my assessment of the situation. All right, with that said, all those in favor of the motion please signify by raising your hand; any opposition; any null votes, any abstentions, 2 abstentions. **The motion carries unanimously.**

That takes us through our agenda and other business. I would assume that unless that unless there is any other business; and I see two people raising their hand. I recognize you at my peril, I suppose, so be very brief, please, but because there is other business that needs to be attended to by another important committee. David.

MR. SIMPSON: I'm wondering since the board has already decided to basically do conservation equivalency and not do coast-wide management for summer flounder or black sea bass conservation; have we in effect made the decisions that we normally make at the December joint meeting and is there still a need to travel down there to do this.

Would we not be better off doing a conference call a couple of weeks later than that, so that we have a little better estimate of Wave 5. That will help us with the development of the addendum. We can do it on a conference call; and then in February when we have the full year's data, we can make a decision.

CHAIRMAN PIERCE: The Chair will discuss that particular concern with staff and then advise the board as to the best course of action. Toni.

MS. KERNS: I don't think that we voted, per se, to do conservation equivalency. We initiated an addendum that gives us additional tools that can work under conservation equivalency. Under the normal rulemaking, we do those motions jointly with the council to initiate conservation equivalency or coastwide and then

we take it and set the state measures if we do conservation equivalency.

With black sea bass it is different in the sense that we take that conservation equivalency concept for black sea bass on our own. It is not done via the council. The council will continue to set coast-wide measures that would be applied in federal waters. Typically in the past it has been consistent with the Delaware south regulations.

CHAIRMAN PIERCE: We always benefit from knowledgeable staff. Thank you, Toni. One more and that's Tom.

MR. FOTE: Mr. Chairman, I was wondering we didn't have any discussion on the motion you made at the Mid-Atlantic Council and how they ruled it out of order and how we're being stuck with scup for three years.

Are we going to basically discuss that at some point or at a future meeting of how do we get out of the scup stock setting for three years and stuck with the same quota going down for three years on a fully recovered stock.

CHAIRMAN PIERCE: I will have to discuss that with you offline. I can't remember which one of my motions was ruled out of order. There were a few of them.

MR. FOTE: It wasn't ruled out of order by you. The council's motion was ruled out of order and so they wouldn't let us vote on our motion. We didn't suspend the rules so we could vote on that motion, and I was wondering what happened to your motion and the idea of that.

### **ADJOURNMENT**

CHAIRMAN PIERCE: All right, we'll discuss that offline. All right, with that said, we are 15 minutes over or thereabouts and I will adjourn the meeting. Thank you very much.

(Whereupon, the meeting was adjourned at 4:10 o'clock p.m., October 29, 2013.)