

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

**The Westin Crystal City  
Arlington, Virginia  
February 5, 2019**

**Approved April 29, 2019**

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of October 2018** by Consent (Page 1).
3. **Move to initiate an addendum to reduce the number of vertical lines in the water. The PDT should consider the following as specified in the Lobster-Whale Work Group Memo. The PDT may need to consider the ongoing activities of the ALWTRT when drafting this document:**
  - **Reduction of vertical lines by 20% to 40% for each LCMA (exclusive of LCMA 6). Percent reductions by LCMA may differ given ongoing and future trap reductions as well as newly proposed or implemented area closures in state and federal waters.**
  - **In LCMAs 1, 4, 5, and OCC: reductions can be achieved by trap limits, gear configurations, season closures, or other measures.**
  - **In LCMAs 2 and 3: reductions can be achieved by gear configurations, seasonal closures, acceleration of current planned trap reduction, or other measures.**
  - **Elimination of the 10% replacement trap tag provision.**
  - **Developing a method for reporting vertical line and trap use by individuals in each jurisdiction until 100% harvester reporting is implemented in state and federal waters.**

(Page 6). Motion made by Mr. Borden and seconded by Mr. Grout. Motion carried (Page 11).

4. **Move that the Lobster Board recommend to the Policy Board that a letter be sent to NOAA Fisheries for consideration by the Atlantic Large Whale Take Reduction Team to develop and support a suite of options for electronic vessel monitoring for federally permitted vessels** (Page 17). Motion by Pat Keliher; second by Dennis Abbott. Motion carried (Page 19).
5. **Motion to adjourn by Consent** (Page 21).

## ATTENDANCE

### Board Members

Pat Keliher, ME (AA)	Emerson Hasbrouck, NY (GA)
Steve Train, ME (GA)	John McMurray, NY, proxy for Sen. Kaminsky (LA)
Douglas Grout, NH (AA)	Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Joe Cimino, NJ, proxy for L. Herrighty (AA)
G. Ritchie White, NH (GA)	Russ Allen, NJ, proxy for T. Fote (GA)
Raymond Kane, MA (GA)	Roy Miller, DE (GA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Rep. Sarah Peake, MA (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Russell Dize, MD (GA)
Jay McNamee, RI (AA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
David Borden, RI (GA)	Mike Luisi, MD, proxy for D. Blazer (AA)
Sen. Craig Miner, CT (LA)	Pat Geer, VA, proxy for S. Bowman (AA)
Justin Davis, CT (AA)	Peter Burns, NMFS
Bill Hyatt, CT (GA)	Allison Murphy, NMFS
Jim Gilmore, NY (AA)	

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

### Ex-Officio Members

Kathleen Reardon, Technical Committee Chair	Rene Cloutier, Law Enforcement Representative
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### Staff

Robert Beal	Jessica Kuesel
Toni Kerns	Katie Drew
Megan Ware	

### Guests

Gib Brogan, Oceana	Purcie Bennett-Nickerson, PEW Trusts
Heather Corbett, NJ DFW	Mariah Pflieger, Oceana
Jane Davenport, Defenders of Wildlife	Sam Rauch, NOAA
Emily Gilbert, NMFS	Mike Thalhauser, MCCF
Zach Greenberg, PEW Trusts	Marek Topolski, MD DNR
Marin Hawk, MSC	Mike Waive, ASA
Arnold Leo, E. Hampton, NY	Danny White, ME Marine Patrol
Chip Lynch, NOAA	

Patrice McCarron, MLA

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, February 5, 2018, and was called to order at 2:55 o'clock p.m. by Chairman Stephen Train.

#### **CALL TO ORDER**

CHAIRMAN STEPHEN TRAIN: Okay we'll get this meeting started. My name is Steve Train; I'm the Chair of the American Lobster Management Board. Apparently we've got a bigger audience now than some of the other meetings earlier today; because they will be able to listen to our podcast, now that the parade is over and they've been able to go home.

#### **APPROVAL OF AGENDA**

CHAIRMAN TRAIN: I'm assuming everybody had the paperwork, has had a copy, had it e-mailed to them. By consent can we get an approval of the agenda; anyone opposed? Okay the agenda is approved.

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN TRAIN: Is there anyone opposed to approving the proceedings of the previous meeting from October? If not, I'll consider that approved by consent; okay, seeing none.

#### **PUBLIC COMMENT**

CHAIRMAN TRAIN: This is our public comment period. I only have three people currently signed up for public comment. I need to remind you public comment is for something that is not on the agenda. If you would like to come up to speak, currently I have, I've got to try to read these names, Gib Brogan is first.

MR. GIB BROGAN: My name is Gib Brogan; I'm with the Oceana. We've been following the Commission's work on the lobster FMP and looking at the addendum process, and following the TRT and the biological opinion processes. Looking at these, I think that as you discuss this today and look at the issues that are facing the

lobster fishery with right whales and other large whales.

I think it's important that the Commission come away from today's meeting with some clarity on the interaction between these processes. Right now there is the Take Reduction Team, the Take Reduction Plan that's working on their work. There is a biological opinion that is ongoing, and there is potentially an addendum.

The interplay between these three moving pieces is really important; and having clarity on what these mean, how these are going to proceed in the coming months will be very important to get a good outcome for this fishery. We hope that coming out of today we have a clear idea of what's happening there.

An overarching issue with this addendum as we see it is the need for a clear statement of a purpose and need for this action. The various documents that are out there right now, the Working Group's work that has been done through their meetings, and the documents that are available right now, make some passing reference to why this addendum is happening. Strong fisheries management, strong outcomes come out of clear purpose and need. Another suggestion that we have for this meeting today is to come up with a clear statement of why you're doing this addendum.

CHAIRMAN TRAIN: If you don't mind, you're speaking on an agenda item now.

MR. BROGAN: I'm sorry, I was looking at things that weren't in the available documents related to the addendum; I apologize. Thank you very much.

CHAIRMAN TRAIN: Jane Davenport, you're next.

MS. JANE DAVENPORT: My name is Jane Davenport; and I'm with Defenders of Wildlife, and I and some of my other colleagues are members of the TRT representing the conservation community. I'm certainly aware

that this public comment opportunity is not meant to be on agenda items.

But I would also like to ask that you indulge, as per the statement in the meeting overview that there be limited opportunity for comment on agenda items that the public has not had opportunity for comment on. If I may, I would just like to make a brief comment on that; because we haven't had that opportunity before.

CHAIRMAN TRAIN: Brief.

MS. DAVENPORT: Yes thank you. We're certainly encouraged that the Commission is being proactive in putting together this American Lobster and Whale Workgroup to move forward with an addendum; to try to solve the problem. The environmental NGOs that I work with have been very skeptical of whether effort reduction is going to get this fishery where it needs to go; and enable the National Marine Fisheries Service to get where it needs to go in respect to complying with the Endangered Species Act and the Marine Mammal Protection Act.

While we are very encouraged that the addendum is speaking in terms of reducing vertical line rules, we want to encourage the Commission and its work to be really clear on the data that's being used about the effort and the locations of various fisheries, to really prove that whatever vertical line reduction measures are being considered and eventually passed in an addendum, will truly be effective at reducing the risk to North Atlantic right whales and other large whales from vertical lines in the water column.

CHAIRMAN TRAIN: If you don't mind, you may want to make this comment after we get to the next agenda item, when we're actually discussing the addendum.

MS. DAVENPORT: Will there be an opportunity for public comment then?

CHAIRMAN TRAIN: I will make an opportunity then.

MS. DAVENPORT: Thank you that would be very much appreciated.

CHAIRMAN TRAIN: We have Purcie Bennett-Nickerson. Did I say the first name right?

MS. PURCIE BENNETT-NICKERSON: Hello, Purcie Bennett-Nickerson, and I work for the Pew Charitable Trust. My comments are sort of a mixed bag as to whether or not it's about this agenda item or about Addendum XXVI. We commented on Addendum XXVI when it was in the scoping phase, and we would like to reiterate some of those comments now.

We are encouraged that in this particular action the Board is recommending that VTR and VMS or something along those lines would be implemented within one year. That would be in line with our comments on Addendum XXVI. I haven't heard, or we haven't heard any updates on where that is in the process.

I'm guessing that it's possible that some of the actions that are done by this Board would change some of the outcomes of that. I'm not 100 percent sure, just hoping that we can get an update on that. But specifically our request and recommendations would be that there would be 100 percent catch reporting requirement at the trip level for all permit holders; that they require additional reporting requirements, including a lost gear reporting requirement.

Require harvesters to report all data; including fishing locations by ten minute squares or a finer spatial scale if available. Require harvesters to report all data electronically. Require electronic monitoring. Require regional-specific gear markings at least every 40 feet of line, and implement trip caps and ownership limits in the lobster fishery to eliminate latent trip allocation, and reduce any number of traps that are actually fished. I don't know whether that's related to XXVI or to

what's happening now, but sort of a mixed bag, thank you.

CHAIRMAN TRAIN: Is there anybody who has not signed up for public comment that would like to speak?

#### **REPORT FROM THE LOBSTER-WHALE WORKING GROUP**

CHAIRMAN TRAIN: Our next agenda item is the report from the Lobster-Whale Working Group; Megan is going to give that.

MS. MEGAN WARE: I'm giving the Report on the Recommendations from the Lobster-Whale Workgroup. Just as a reminder; at annual meeting the Board reviewed ongoing discussions related to right whale conservation and fisheries management. That included a review of the Technical Memo by the Science Center on factors contributing to right whale population declines; as well as the recent discussions of the Take Reduction Team.

Given the potential for impacts to the lobster fishery; the Board created this workgroup to discuss the measures being considered, and provide recommendations to the Board. Workgroup members included state agency staff; including some of the Commissioners on the Lobster Board, federal partners, and ASMFC staff.

Before going into the discussion of the Workgroup, I wanted to provide an overview of the ongoing processes related to right whale conservation, because I think it is important context for the Workgroup's discussion. As you all know, Atlantic right whale populations have been in decline since 2010. As a result there are kind of two processes that are ongoing. The first is under the Marine Mammal Protection Act; and that is the work of the Take Reduction Team. That team is charged with reducing serious injury and mortality of right whales. At their upcoming spring meeting they are expected to finalize recommendations to NMFS. At this point I think it's unclear what that Take Reduction Team will recommend.

But certainly some of the discussions have included season closures, ropeless testing, weak rope, and gear markings. We also have under the Endangered Species Act the preparation of the Biological Opinion. A biological opinion provides a determination of jeopardy. I wanted to provide that definition of jeopardy to the Board; it is when an action is reasonably expected to directly or indirectly diminish a species numbers, reproduction, or distribution so that the likelihood of survival and recovery is appreciably reduced.

I've kind of underlined some of the important statements for both the Marine Mammal Protection Act and the Endangered Species Act; to show that that definition of jeopardy is a bit broader than what the Take Reduction Team discusses. Just a little bit more on the Biological Opinion, again it provides a conclusion on whether an action is likely to jeopardize the continued existence of an ESA species.

Again, that definition of jeopardy is broader; so it includes things like their reproduction, their distribution. The Biological Opinion consults on fisheries as they're currently operating, or as modified by rulemaking. That can include things like the TRT recommendations in subsequent rulemaking; but it also can include Commission action.

It means that actions taken by this Lobster Board can be taken into account in a biological opinion. If there is a jeopardy finding; so that is one of the potential results of a biological opinion, it results in reasonable and prudent alternatives. Those alternatives must relieve jeopardy.

Those come as a component of the Biological Opinion, and those alternatives are developed outside of the typical Commission process. With that background information, the Workgroup did note the several ongoing processes associated with right whale conservation; which could substantially impact

the economic and cultural future of the lobster fishery.

Given the high economic value of the lobster fishery and its social significance, the Workgroup agreed that it is important to ensure that the implementation of right whale conservation measures takes place in ways that maintain the viability of the lobster fishery. You all know as members of the Commission that Commission is the managing authority for the lobster FMP.

Some of the goals of the FMP include promoting economic efficiency, maintaining opportunities for participation, preserving cultural features of the industry; and given this the Workgroup concluded that action by the Board to consider modifications to measures in the lobster FMP is warranted at this time.

By the Commission taking actions, states can continue to cooperatively participate in the management of the species. In addition, those who are most familiar with lobster management and the fishery can provide input on those future regulations. The Workgroup did recognize that other regulatory changes may occur in the fishery; but noted the need to proactively respond to these growing challenges that are facing the lobster fishery. The recommendation from the Workgroup is that this Board initiates an addendum to consider reducing the number of traps and/or vertical lines in the water, and require vessel tracking systems for federal permit holders.

There were four components of that recommendation; which I will go through, but it was also included in your supplemental meeting materials. Part 1, management tools that the Plan Development Team should evaluate are reductions of vertical lines using trap limits, gear configurations, seasonal closures, and/or other measures to achieve a rate of 20 percent and 40 percent by LCMA, exclusive of LCMA 6.

There was a note that trap reductions should consider ongoing state and federal

management actions by LCMA; as well as future trap reductions that are already set in rule. There was also a recommendation that the PDT evaluate the elimination of the 10 percent replacement trap tag provision.

Right now some states issue additional 10 percent annual allotments automatically; while other states issue this when it's requested. There is a potential for some fishermen to fish above what is their trap limit. There was also a recommendation that the Plan Development Team evaluate the acceleration of planned trap reductions.

Number 2 was vessel tracking; so a vessel tracking system that would be required for federal-lobster-permit holders and that this be an advanced monitoring or tracking system. It not only tracked the movement, but also identifies where gear is hauled or how many traps are fished. Number 3 was reporting. The PDT should develop a method for reporting vertical line and trap use by individual in each jurisdiction; until 100 percent harvester reporting is implemented in state and federal waters.

Number 4, in addition the Plan Development Team may want to consider the list of management tools below if they're not included in the final Take Reduction Team recommendations; that included weak-link placement on rope, other innovations to break rope, and reduced rope strength on one or both ends. Kind of the whole compilation of those recommendations again is included in your supplemental materials. With that I will take any questions.

CHAIRMAN TRAIN: Do we have questions for Megan? Wow, you crushed it. Pat.

MR. PATRICK C. KELIHER: Thanks Megan for that summary. A lot of work, a lot of conversations have gone into this; to try to make determinations how and if the Commission should be involved. I know many people around this table have a lot of concerns

about the Commission taking actions as it regards to the protection of whales.

However, I think we need to act. I think the goals stated within the Working Paper, as far as what the FMP should include, including promoting economic efficiency and maintaining opportunities for participation, as well as preserving the cultural features of the industry are important to recognize. I frankly, with due respect to my friends at NOAA, don't want NOAA making decisions on what this lobster fishery should look like in the future. I'm not sure what the process should be yet; and how we should begin developing a motion. But I do believe that we need to take action. There were several comments from the public in regards to having a clear direction from the Commission and the commission process. I think that is imperative that we understand what our role is versus the TRT. In my mind, and people can correct me if they feel differently.

In my mind the TRT is dealing with serious injury and mortality associated with right whales. Our role as a Board should be; how can we as a Board and as a management body, and as individual jurisdictions, reduce risk to the right whales? To me this is risk associated with the Biological Opinion; as Megan stated earlier.

I want to make sure that we don't start doing TRT work here. I'm working on a motion in my mind dealing with the electronic monitoring part; to try to separate that. But I'll ask to reserve some time for later; so I can think about what that should be. With that I'll stop rambling.

CHAIRMAN TRAIN: David Borden.

MR. DAVID V. BORDEN: As a member of the Working Group, I just thought I would comment from the perspective. I have a lot of personal reservation about the motion. I think as everyone knows, I represent the offshore lobster industry. I have a lot of reservations about what the motion says, how it says it,

what the process is that would be followed, and where we'll end up in the final analysis.

But having said that and having those concerns about the motion, I think Pat's comment is dead on that if we want to control our own future on this. I would point out we have to get ahead of the issue instead of responding to the issue, and that carries a lot of uncertainty; because our normal way of doing business is we ask a bunch of technical people to say how much of a cut do we need, or how much of a restriction should we put on our industry?

They come back with a number and then we work on it, and that's all a fairly logical process; that process is not being followed. We're not going to know what the cut is until the end; when the Agency basically comes out with its jeopardy finding. What we do here is a step; and then regardless of what we do, it's a step in the right direction.

Then the TRT process basically follow on and take additional action on the issue; and then when NOAA makes its determination, if it requires additional action then there is going to be additional action that the Agency is going to take. This is kind of a hybrid; but I would emphasize the fact that every jurisdiction around this table has fixed-gear fishermen.

The primary focus of this motion is on the lobster fishery; but in the final analysis, every one of the fixed-gear fisheries may be affected by this issue. In my view where I come down on this, all of this uncertainty, although I have personal reservations, I support moving forward. I've got a motion that Megan has at the appropriate time.

CHAIRMAN TRAIN: Any other questions? John Clark, go ahead.

MR. JOHN CLARK: I just wanted a clarification on this first recommendation; it says to achieve a rate of 20 and 40 percent by each LCMA. What does that mean?

MS. WARE: The range of reductions that would be in the addenda.

MR. CLARK: It should be 20 to 40 percent?

MS. WARE: I think the idea was that the two options would be 20 and 40 percent; but the range in between is still okay, because it's within the range of options in the document.

CHAIRMAN TRAIN: I'm looking for other hands that want to comment. Not seeing any, David, did you say had a motion, David Borden?

MR. BORDEN: Yes, Megan has it. I'll read it. Ah oh, she added 10,000 words to it. This I would point out. Before I even open my mouth, I have to get my glasses out and Number 2 I would point out. This is what the New England Council calls a Dr. Pierce motion. **I would move to initiate an addendum to reduce the number of vertical lines in the water; and require vessel tracking systems for federal permit holders.**

**The PDT should consider the following as specified in the Lobster-Whale Workgroup Memo. The PDT may need to consider the ongoing activities of the ALWTRT when drafting the document. That first bullet: Reduction of vertical lines by 20 to 40 percent for each LCMA (exclusive of Area 6). Percent reductions by LCMA may differ given the ongoing and future trap reductions, as well as newly proposed or implemented area closures in state and federal waters.**

- **In LCMAs 1, 4, 5, and the Outer Cape, reductions can be achieved by trap limits, gear configurations, season closures, or other measures.**
- **In LCMAs 2 and 3, reductions can be achieved by gear configurations, seasonal closures, acceleration of current or planned trapped reduction, or other measures. Next bullet: Elimination of the 10 percent replacement trap tag provision.**

- **Requiring 10 percent of federal lobster permit holders have advanced a 100 percent, excuse me, 100 percent of federal lobster permit holders to have advance vessel monitoring/tracking systems that could not only track movement but also identify where gear is hauled or how many traps are fished. Last bullet: Developing a method for reporting vertical lines in trap use by individuals in each jurisdiction until 100 percent harvester reporting is implemented in state and federal waters, so I move that Mr. Chairman.**

CHAIRMAN TRAIN: Take a breath, David. Do we have a second? Doug Grout, second. David, would you like to speak to the motion?

MR. BORDEN: Yes, I already made my point; but I would note for the record that is the longest motion I've ever made in my life.

CHAIRMAN TRAIN: Doug, as a seconder would you like a chance to speak, Doug Grout?

MR. DOUGLAS E. GROUT: Yes, I almost wasn't going to second it; because it does violate the Pierce rule, because they did shrink the fonts up there to get it on one page. But I decided to move forward. I agree that the main purpose of this, at least from my standpoint is that the Commission and the Industry have some input into trying to avoid a jeopardy finding.

I would hope that somewhere in our process, our federal partners might give us an indication of what the percentage cuts that we might have to take here to avoid a jeopardy finding. It makes our decisions a lot easier; instead of just guessing. But I think it's important we start today, and take a look at this and try and come up with this kind of an outline, some options. We also need to come up with a good problem statement too.

CHAIRMAN TRAIN: Are there any other comments on the motion, questions, Pat Keliher?

MR. KELIHER: Mr. Chairman, if I could direct this question through you to the maker of the motion. David, requiring 100 percent of federal lobster permit holders, I get it. I understand why we need to do it. But I'm going to go back to the comment that I made earlier in regards to kind of a clear line between what the Commission is going to be doing, and what the TRT is going to be doing. To me that gets to the issues around serious injury and mortality, and monitoring those issues. Do you think that that would be better dealt with separately by a recommendation from this Board to the Agency to address through the TRT process?

MR. BORDEN: Pat, I'm not exactly sure what you're asking. I mean the Commission already has a number of requests on the reporting issue in the system. Are you suggesting something other than those items? If you are, please be a little bit clearer, more explicit.

MR. KELIHER: Just the second to the last bullet, David, instead of making it a part of this motion, I guess we can't remand anything to the TRT. But if we could, to me this seems like an issues better dealt with by the TRT; and it is something that the Agency could put into place much quicker through their rulemaking under MMA, versus going through this process and then advancing it to the Agency.

CHAIRMAN TRAIN: David.

MR. BORDEN: I guess my answer is I'm not sure of how fast the rules are going to get implemented. If we were to adopt the whole series of provisions that are consistent with the motion, my assumption is we wouldn't do it until the summer; Megan is that the timeline we're on, or fall?

MS. WARE: In terms of when you would see a document for public comment or final action?

MR. BORDEN: The comment.

MS. WARE: I think some of that will depend honestly on the on goings of the Take Reduction Team, and monitoring what they're doing with that group. I think it would be either May or August Board meeting.

MR. BORDEN: I guess going back to Pat's question. If we were to pull that out, we could for instance make that a recommendation that the Commission submits to the TRT and asks them to consider it, and I would have no objection to that.

CHAIRMAN TRAIN: Go ahead, Pat, and then we need to get to some other people.

MR. KELIHER: That's where I'm going, David. I'm just wondering; we have a lot of work to do, well we, the PDT. Our staff has a lot of work to do between now and May; if this motion passes. I'm just trying to figure out if there are ways to streamline the work. I know that the TRT did have some preliminary discussions in regards to this; and maybe it's best left there for now.

MR. BORDEN: I would ask, Mr. Chairman, whether or not Mr. Grout has any objection to removing that bullet from the motion and then taking it up subsequently.

MR. GROUT: I have no objection with that process.

MR. BORDEN: Steve, I think you have a perfected motion.

CHAIRMAN TRAIN: Okay, now I'm wondering do we need to read what we're removing, because the motion has changed, Bob.

MS. TONI KERNS: Steve, we'll need to reread it into the record when it gets time to vote on it.

CHAIRMAN TRAIN: Okay, thank you, we'll let Dave do that. Dan McKiernan, you are next.

MR. DANIEL McKIERNAN: I'm concerned about one aspect of the motion; when it talks specifically about percent reductions by LCMA may differ given ongoing and future trap reductions, because in Massachusetts portion of Outer Cape and Area 2, we have a documented decline in vertical lines over the last seven years.

We instituted a mandatory reporting form to all of our fishermen at the end of the year to ask them, how many vertical lines are you fishing? I was challenged by the industry saying why are you asking this? I said, because you're going to get credit when your vertical lines go down. I guess it's implied what the starting point is.

But I guess I'm forecasting to you all now that we're not going to tolerate a lack of recognition of reductions in vertical lines that have taken place; including those that aren't being brought about by trap reductions, by simply changing fishing strategies. Some of the Outer Cape fishermen are going from 800 single traps to 800 traps fished as 20 pot trawls.

That's going to have a huge decline in the number of vertical lines. We need not apply these formulas to each LMA the same. Because Massachusetts instituted this very unique reporting form that puts us, you could either say in the catbird seat, or on the firing line. I'm just letting you all know that this is really going to be important to us that we not start this process or this reference point of either last year or the year before; because right whales started to go downhill a decade ago, and the fishermen in those two areas have suffered a lot of trap cuts, but also documented reductions in vertical lines.

CHAIRMAN TRAIN: Sarah Peake.

REPRESENTATIVE SARAH PEAKE: I share the concerns of our Deputy Director; and my questions were going to be targeted in the same way, so I won't take up the group's time to just restate what was just stated by him. I will take a moment of personal privilege to

come to the defense of our Director of DMF that sometimes details matter, and facts matter. I appreciate his detailed approach, so thank you, and the gentleman to my right as well.

CHAIRMAN TRAIN: Ritchie White.

MR. G. RITCHIE WHITE: I would like to ask the Service, I guess Peter. The difference between having the VMS language go in to this document, as opposed to us separately writing a letter to the Service asking them to implement it, if there is any difference in the timing or how they would view that.

CHAIRMAN TRAIN: Peter, you were next on my checklist anyway. Peter Burns.

MR. PETER BURNS: Yes my comment was going to be related to the same question that Ritchie had. I think that certainly we understand that there are two memos in the file right now that have recommendations for VMS for all federal vessels. I know that in Addendum XXVI we had a pilot program that was approved; that would look at VMS across the different types of vessels and different areas in the offshore fishery.

My thinking was that it would be more of a sort of collaborative approach at the Lobster Board level; using a working group or this pilot program to really try to groundtruth what the best way to implement VMS would be. I don't know if we've moved forward at all with that working group or not; but certainly if there is something that moves forward in that direction, we would want to be informed by that.

In the meantime I think that for the purposes of this motion, I mean I think we could go either way. I think if it's included in here I don't think it hurts. I like the fact that it is included in here; because I think with our Law Enforcement Committee, with the state and industry people that are on the Lobster Board that we could probably have a more informed conversation about how to best implement VMS.

The alternative I guess would be to write a letter to us and ask us to implement 100 percent mandatory VMS for all federal lobster vessels; but that leaves a lot to the Service to try to understand the best way to do that. I think that we would be better served, and the industry would be better served by having the input of the Board.

I don't know if I'm being very definitive one way or the other; but I don't think it hurts having it in here, and I'm not sure if having it go to the TRT for consideration would necessarily be the best way for us to move forward with the right information to be able to decide how to do that.

CHAIRMAN TRAIN: Ritchie, are you satisfied? Okay David Borden again.

MR. BORDEN: As far as the motion itself. The reason I withdrew that. I wanted to have a separate discussion on it. My view is that would follow. I'm not going to go back and answer all of Peter's questions in the interest of time. I would like to go back to the point that Dan made. I have exactly the same. When I was attempting to be brief, when I talked about my reservations, and I'm going to still be brief.

But I have all the same reservations he has on this issue of the percent reductions. If you look at the allocations, Area 4 and 5, these are Mid-Atlantic lobster management areas. Areas 3 and 2 in the Outer Cape have all had very extensive trap allocation programs that were based on history; that eliminated and have subsequently consolidated the industry in a lot of those areas. That sentence that second sentence is designed to basically say to those areas that you're efforts in the past are going to be recognized as part of the process.

I agree with what Dan said; and I think we have to just recognize that vertical line cuts in the areas are going to be different in different areas, depending on the density of the traps, and how they relate to a whole host of variables like exempted areas. There are going to be

exempted areas; where we may have a different set of rules. That is what the intent of that sentence is.

CHAIRMAN TRAIN: I haven't seen any more hands; so this is where I'm going to go back to the public and see if there is any comment on the Addendum. Please step, oh Peter Burns, and then I'll go to the public. When the public comes up, please come up and say your name at the microphone.

MR. BURNS: Sorry to jump in; but I just think it's important after David's comment. First of all I'm pleased with the motion; and I'm pleased that there is some interest on behalf of the Board here to move forward. I think it's really important, and I think that timing is of the essence here.

I think as soon as the Commission can start to develop these addenda, I think that is really going to be a great way so that we can try to complement whatever comes out of the TRT to try to avoid a jeopardy finding with the Biological Opinion. I think now is the time to start doing that. It's a lot of work moving forward. But I think we're heading in the right direction here; at least we have something in the pipeline now.

As far as the fine print in the motion. I think that to understand really where the ESA is coming from. I'm not really sure how anything in the past may or may not be able to be credited. I don't want to put the cart before the horse here; because I think everything should go on the table, and we should have some clear expectations on how we want to move forward.

I think the ESA and the Biological Opinion are going to be looking at the best available information. We've seen reductions in the population of whales going down since 2010. I think that the ESA and the Biological Opinion, we're going to want to look at the most recent information available to base the reductions on. I think that there clearly could be some credit for the Area 3 trap caps that NMFS hasn't

implemented yet that we're looking at. There is also some Area 2 trap reductions that have not come to pass yet; but that are on the books, so that could certainly happen. I'm not saying that definitively we couldn't get credit for something in the past. But I'm just trying to let folks know that the ESA and the Biological Opinion may have a different way of calculating these reductions moving forward.

CHAIRMAN TRAIN: Now once again back to the public. If you would like to speak, please state your name when you come up.

MS. DAVENPORT: Thank you, Mr. Chairman. I really appreciate the opportunity. I am Jane Davenport with Defenders of Wildlife. Before the Commission votes, I would really like to urge you to consider a larger range of reductions than the 20 to 40 percent that is currently on the table. My understanding from the October Working Group meeting is that at that point the range of alternatives included up to 50 percent reduction.

But amplifying what Peter Burns just said. It's critical to understand that as the Agencies Tech Memo demonstrated in the fall; a female right whale has only a 5 percent chance of avoiding entanglement in a vertical line in the ten-year-calving interval. Of course that ten year interval is because of chronic entanglements in fishing lines.

The normal calving interval for a right whale is three to four years. As a matter of biology, not as a matter of what the Agency has found in a biological opinion, but as a matter of what the best available scientific data has shown. Entanglements are already causing jeopardy to the North Atlantic right whale; in terms of both lethal and the sub-lethal effects of effecting reproduction.

I commend your Commission for being proactive on this. But please understand that this is a time for bold action; not conservative action, and considering a larger percentage reduction, considering more innovative methods of getting rid of end lines, such as for

example having a ropeless mechanism on one end, and a rope on the other. That would achieve a 50 percent reduction right there.

Understanding that that technology is not ready to come off the shelf yet, the Commission could play a really important role in facilitating and incentivizing the development of those technologies. Again, I just respectfully ask that you consider even bolder action than what you've got in the motion before the Commission.

CHAIRMAN TRAIN: Thank you for your comments, is there anybody else in the public? Come up and state your name, please.

MS. PATRICE McCARRON: Good afternoon, Patrice McCarron with the Maine Lobstermen's Association. I want to thank the Commission for forming this group and putting this motion forward. The Maine Lobstermen's Association does support the motion. This is really tough business for the lobster industry.

I don't think our association or our industry exactly shares Ms. Davenport's view of our role in the entanglement. But we do acknowledge that we play a role; and our fishery needs to change. This Biological Opinion is scary, and when I think about the courts deciding things or the Service deciding things, I know that they don't understand the fishery and they don't adequately understand how these actions might affect our livelihoods and our ability to continue to make a living. I think the Commission is uniquely qualified to do this work. I think the close involvement of the states who understand the fishery.

You know I certainly hear Mr. McKiernan's concerns. These fisheries are diverse. You know you think vertical line reduction 50 percent, no problem. But you start to talk this through with guys, and you guys who fish singles, you have guys who fish pairs up to 20 trap trawls, and it's quickly a mess.

It's not a one-size-fits-all; it's probably multiple approaches that would allow different areas of

our fishery to achieve any of these measures. I think this is great. This allows the discussion to happen. I don't know where the industry will fall on the various options; but I think this is the vehicle to move it forward. You guys are most capable of bringing the best information to the table; and giving our industries a really strong voice in trying to map this future and keep our fishery out of jeopardy. Thank you.

CHAIRMAN TRAIN: Thank you for your comment, do we have any more hands in the audience that would like to come up and speak? Seeing none; any more comments from the table? Okay we have a motion and it's been seconded, and all comments are over. I guess it's time to vote. I think you need to reread the motion now, David.

MR. BORDEN: Do I have to do this? Move to initiate an addendum to reduce the number of vertical lines in the water. The PDT should consider the following as specified in the Lobster-Whale Workgroup Memo. The PDT may need to consider the ongoing activities of the ALWTRT when drafting this document.

- Reduction of vertical lines by 20 percent to 40 percent for each LCMA (exclusive of Area 6).
- Percent reductions by LCMA may differ given ongoing and future trap reductions as well as newly proposed or implemented area closures in state and federal waters. In LCMA 1, 4, 5, and the Outer Cape, reductions may be achieved by trap limits, gear configurations, season closures, or other measures. In LCMA 2 and 3: reductions can be achieved by gear configurations, seasonal closures, acceleration of current planned trap reduction, or other measures.
- Elimination of the 10 percent replacement tag provision. Developing a method for reporting vertical lines and trap use by individuals in each

jurisdiction until 100 percent harvester reporting is implemented in state and federal waters.

CHAIRMAN TRAIN: Do we need time to caucus? Okay, all in favor of the motion on the table raise your right hand, please. I don't think I need to do this; but we'll do this, opposition, abstention, null votes, 11, no, no, no. **The motion passes; and David, did you have a follow up from what you removed?**

MR. BORDEN: I would defer to Pat Keliher. I think he was going to make a suggestion.

CHAIRMAN TRAIN: Pat Keliher.

MR. KELIHER: I appreciate that Mr. Chairman. I do have a motion that was prepared. I don't know if it was.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Do you want me to do the Working Group Report first, and follow up with your motion?

MR. KELIHER: Yes, why don't we do that? Let's do that.

EXECUTIVE DIRECTOR BEAL: The Lobster Enforcement Vessel Working Group, it might be good to do that report out and then come back to this electronic monitoring issue; because there is a recommendation that came out of that Working Group relative to this issue.

CHAIRMAN TRAIN: Now before we go on to that item, Megan does have a question.

MS. WARE: I was just going to ask. This is a pretty hefty document for the PDT. I'm going to ask that all states review their PDT membership; and make sure that the person who is most qualified to work on this is a member of the PDT, and that they also have time to write part of this document, so if states could review that that would be a big help.

CHAIRMAN TRAIN: Pat Keliher:

MR. KELIHER: Megan, will the PDT be relying on the IEC data and model in doing any of this work?

MS. WARE: I think that will be one of the first discussions of that group. I don't have an answer for that.

MR. KELIHER: We have a Technical Committee that is fairly well tasked right now; in regards to the current assessment work that is ongoing. We've already tabled the Resiliency Addendum. I'm hesitant to put this on the table; but knowing that the individual states when they have talked to IEC in regards to datasets have identified some problems. Is it worthwhile having the TC take a look at this data; to ensure the TCs comfort level? Again, knowing full well that they are very well fully tasked at this moment?

MS. WARE: I think that's a question for the Board. I think you're correct in saying that the TC has got their hands full right now with the assessment. I just want to say that if we do task the TC with something, there may be delays down the road for the assessment; but that's the Board's decision on how you would like to move forward with that.

CHAIRMAN TRAIN: Go ahead, Pat.

MR. KELIHER: Knowing full well that workload; and knowing that we might initiate delays, I also would echo some of the environmental group comments in regards to data and ensuring that we are utilizing the best available data with the work that we're doing. As such, I would move that we task the Technical Committee to review the IEC data to ensure that we have a reliable comfort with its use.

CHAIRMAN TRAIN: Okay Pat has moved for that. Toni, did you have something on that Toni Kerns?

MS. KERNS: I just have a question for each of the states to confirm that the Technical Committee is actually the right group to review that; because in every state the Technical

Committee person isn't necessarily their data guru. I think in some states it might be a different person.

That's why when Megan and I have communicated with the states and IEC, we have asked the state to make sure that they are providing the right contact to IEC, and then each individual state sign off on their data and how IEC is using that data before they allow or communicate with NOAA that that data has been approved, and that they also cc Colleen.

Colleen is the NOAA person working on the whale group; for those that don't know, to confirm either that Colleen knows that the state has a concern and that then Colleen also knows that that concern has been signed off and addressed, so that NOAA knows when concerns are there. I just don't know if the TC is going to have all the right people to do that or not. It's a question to the states.

CHAIRMAN TRAIN: We have a motion on the table, Dan. It needs to be seconded. Is there a second for Pat's motion? Ritchie White, are you seconding, discussion on the motion, now Dan McKiernan.

MR. MCKIERNAN: To Toni's point. The person at Mass DMF who is on the TC is different than the person who is our data guru. I don't think we would support this.

CHAIRMAN TRAIN: For some reason I'm not seeing your last name, I want to pronounce it right because people are listening. Jay McNamee.

DR. JASON McNAMEE: I'm in agreement with Mr. McKiernan. I am opposed to this motion. I think it is incumbent on the states to have taken a look at this data. The Technical Committee has a tremendous amount of work to get done with the assessment. I don't think we need to task them. I think there are other ways of getting at what you're trying to get at, Pat that we can do external to the Technical Committee.

CHAIRMAN TRAIN: Emerson Hasbrouck.

MR. EMERSON C. HASBROUCK: I have two questions. The first is what is the IEC data; and secondly, why are we asking the Technical Committee to review that data?

MS. WARE: One of the things that have been used in the past for the TRT is a model. We call it the IEC model; it's the group that makes it. Fisheries data that goes into that was originally used for a co-occurrence model. It mapped where fisheries were versus where whales were. That's not really its use at this point; but it is looking like it might be the best available data for things like number of vertical lines, or information on gear in different fisheries.

The data is collected from all of the Atlantic Coast states, so it has a pretty large geographic span. Since this is the data that may be used in the Biological Opinion, I think there was an interest to make sure that that data really reflects what's actually happening, and for the states to review it. Does that help, Emerson?

MR. HASBROUCK: Yes, thank you.

CHAIRMAN TRAIN: David Borden and then Doug Grout.

MR. BORDEN: I was just going to suggest a simpler way. Rather than deal with the motion, simply to ask every State Director sitting around the table to go home, talk to the appropriate staff in their agency, have them review this data. Then have the State Director send an e-mail in to our staff, basically saying that they either approve or disapprove, and if they disapprove then follow the directions that Toni specified.

CHAIRMAN TRAIN: Doug, and then Dennis Abbott.

MR. GROUT: The person that deals with our landings data is different than our Technical Committee member. We have been already, at the instruction of the Commission staff, reviewing the IEC data compared to our state,

which actually has end line numbers. We've been requiring that number in our lobster reporting for a number of years. At least from our particular small state, the numbers are very different than what's in the IEC model.

We are planning to; this is something that I thought was already a task that states were undertaking. But if we want to send a formal response to the Commission staff about this, we can do that. At least from my standpoint the Technical Committee wouldn't be the most appropriate entity to look at this.

CHAIRMAN TRAIN: Dennis has deferred, Pat Keliher.

MR. KELIHER: I appreciate those comments; and that is why I was hesitant to make the motion in the first place, more because of the workload, but I think the points on are they right entity to review I take to heart. But like Doug, when our staff looked at the IEC data in regards to Maine, we had a lot of concerns.

IEC was very quick to help address those. If in fact all jurisdictions are moving forward, and having those conversations then I'm comfortable; because the PDT is not, as Toni just reminded me the PDT is not going to utilize datasets that are not going to be accurate. If jurisdictions sitting around this table are comfortable, and they are interacting with IEC with their datasets, then I'm much more comfortable. If they're not then I remain concerned that the data that's going to drive the Biological Opinion, and the data that would help would also be used to drive any development of any addendum, is potentially going to be flawed. I want to ensure that that is not the case.

CHAIRMAN TRAIN: Peter Burns.

MR. BURNS: Yes, I think this is a good discussion, and I think it's really important. Certainly the Fisheries Service believes that we have to use the best data, and that it's important for everyone to be on the same page

with what we began with and what we use. I think IEC could be available to do a webinar or some type of a seminar to go through the data that they have.

We could have the appropriate people sit in on the webinar from the different states; and then there could be some interaction between them, and the caveats on the data and where the gaps are, and where the questions are. That might be a good way to really get everybody altogether; and kind of take a look at the information there and make any corrections as needed.

CHAIRMAN TRAIN: One more time Pat Keliher.

MR. KELIHER: I appreciate that Peter. I think that is a fantastic suggestion. It allows us to have the right people interact with them, and ensure that that conversation happens. With that in mind, if the seconder of the motion agrees, I would be happy to withdraw.

CHAIRMAN TRAIN: Doug that was you I believe, no it was Ritchie, I'm sorry.

MR. WHITE: Agree.

CHAIRMAN TRAIN: Okay that motion is withdrawn. Dan McKiernan.

MR. MCKIERNAN: The elephant in the room on all of this forward management of the lobster fishery is the role of the exempted areas; and to what degree the exempted areas will continue to be exempted. I only bring this up, because one of my best staff is going to be saddled with serving on this PDT; and he's going to ask me Friday morning that question.

I don't know how we come away from this meeting without sending that signal to the PDT. Maine has the historic exemption line that encompasses a lot of their state waters. New Hampshire exemption line includes all of the Great Bay. Massachusetts has a 0-3 mile exemption for single traps. The Nantucket Sound fishery at this point is not included,

because of the lack of whale sightings down there.

I hope that we can send a signal to them. I don't know if they're listening in, but I'm really concerned that there is no message being sent there. That's going to be a huge issue for NMFS when they do their Biological Opinion. I know we're hoping the PDT delivers the goods, you know a definitive, verifiable management scheme. But that's a big question; and I didn't see that noted in the motion. I hate to bring it up after the motion, but I would like to have a discussion on that.

CHAIRMAN TRAIN: I'm looking around Dan, to see if somebody would like to discuss it. Does anybody want to talk, no, I guess not today?

#### **REPORT FROM THE LOBSTER ENFORCEMENT VESSEL WORKING GROUP**

CHAIRMAN TRAIN: Okay, we are going to move to Item Number 5, Report from the Lobster Enforcement Vessel Working Group, Bob Beal.

EXECUTIVE DIRECTOR BEAL: I'll make this fairly brief; but happy to answer any questions at the end. I don't have slides; but there is the draft meeting summary in the supplemental material that was supplied to the Board. This Board has talked about offshore lobster enforcement a number of times; and expressed concerns over the difficulty of enforcing the regulations out in the offshore areas, different gear, far from shore, heavy gear and those sorts of things.

There has also been some discussions with NOAA Fisheries about ways that we could possibly build a vessel, fund a vessel that is capable of going offshore hauling gear, and enforcing the provisions in the offshore area. NOAA Fisheries has identified some opportunities possibly for funding a vessel and building a vessel; and with hopes that that actually is able to move forward.

This Board formed a working group to talk about the offshore area; and how we would staff an enforcement vessel, and where the

vessel would be located, who would own the vessel, all the other logistics associated with the vessel operating in the offshore area. That group was formed at the annual meeting.

The group got together December 20, this year, right before the Christmas holidays. The current makeup of the group has representatives from Maine, New Hampshire, Rhode Island, NOAA Office of Law Enforcement, and the U.S. Coastguard. If any other states want to be involved they are more than welcome to become part of the working group.

The meeting started out with kind of a background conversation about offshore enforcement and the difficulties associated with it, and the limitations of the current vessels that the states operate. There was a note that the U.S. Coastguard doesn't pull lobster gear; they don't have the ability to haul gear and look at it.

The reality is most enforcement in lobster gear right now is limited to about 20, 25 miles offshore. There are some trips that go farther than that; but they are not very common. There was some conversation about some examples of when the enforcement vessels do wander farther offshore to enforce the provisions.

There is some pretty high noncompliance rate up to 80 percent in some areas on one trip that was made. The enforcement folks knew of some folks that weren't playing by the rules. They went out to those areas, and they found a lot of illegal gear. That just reinforced the concern of the group that there needed to be increased offshore lobster enforcement.

The first subject that the group talked about gets to this electronic monitoring conversation that the Board had earlier today. The group quickly came to the point where just building a new shiny vessel and saying go offshore and enforce lobster rules; really doesn't work all by itself. That vessel and the enforcement folks would need to be able to narrow down the part of the ocean that they're going to travel in and

enforce the regulations in. Step one, the group agreed would be electronic monitoring, VMS type monitoring on all the federally permitted vessels, to be able to identify where the vessels are going. It would be a little bit more complex than just standard VMS. It would be monitoring gear that anytime the hydraulics or the winch are engaged, there would be a ping sent back to shore or recorded, the vessel location and the fact that the hydraulics have been engaged and they're hauling gear offshore, so they would know when that vessel is hauling gear and where they're located any time.

Once you build a record of this, the offshore vessel would know where to go and where to look at gear and where to haul gear, and make sure it's all compliant with the current provision. There is a recommendation that came out of the group that I think Pat is going to talk to a little bit later.

But the bottom line is that the group recommends an accelerated approach to implementing a VMS type system in all offshore area, or all federally permitted vessels fishing in the offshore areas. This as I said, would be more complex than just some of the VMS systems just monitor vessel location every half an hour or fairly infrequently.

It would be linked to the hydraulics and a frequent ping rate, so they have a good track of where that vessel is going and where that vessel is fishing. The other provision there is this technology could be linked to cameras, so that any time the trap hauler is engaged the camera would start recording all the activity on the deck, and they could count traps and monitor the other parts of the fishery as well.

That is a recommendation that is to this management board for consideration during this meeting. The group talked a lot obviously about what would this offshore vessel look like. How big is it? What is the capacity? How long would it need to be able to stay offshore and those type of details? They really after a fair amount of discussion they came up with two

scenarios. The first scenario is a 70-ish foot steel hold vessel that could operate offshore for fairly long periods of time, haul a lot of gear, and look at a lot of areas.

It would be fairly independent offshore, and it could operate on its own without support of the Coastguard or anyone else. But as that conversation kind of matured during this meeting, it became clear that this vessel would probably need to be owned by the federal government; either the U.S. Coastguard or NOAA Office of Law Enforcement.

Given the complexities of adding another vessel to the federal fleet, they came up with Option B as well, which would be a vessel in the mid 50 foot range, 55 foot, but it would be a fiberglass vessel, a little bit less expensive to build, a little bit less endurance offshore and a little bit more restricted by weather. But the U.S. Coastguard representatives said they would be willing to partner with this vessel and do offshore enforcement.

One of the ideas is that boat would be owned by the state of Maine. Maine would ensure the boat, self-insure the boat, and it would be staffed primarily by Maine enforcement folks, but it would be also available to travel south down to some of the other more southern offshore areas, and engage in enforcement activities in those areas as well. Those sorts of Option A and Option B need to be fleshed out a little bit better. One of the other areas that were talked about toward the end of the meeting was the schedule and the penalties for violations. What a number of the states are doing is much faster and much more severe than what happens sometimes in the federal system. Now the federal system does take a long time and multiple years to fully prosecute a case that is made; and state systems take two months, four months, six months, something along those lines.

There is a disconnect there, and states frequently suspend or revoke fishing permits, and the federal government doesn't do that

very frequently. There is conversation that we should have some more discussion about making the federal and state penalties more consistent; and try to streamline. I don't know if we can necessarily speed up the federal enforcement process; but at least have that conversation and decide if we can make the penalties and some of the processes more consistent between state and federal government.

Mr. Chairman, that's a quick summary, there are a number of follow up activities at the end of the meeting summary. But all in all I think it's a good group. They clearly understand all the ins and outs of this. They've moved forward quite a bit on how to staff this vessel and own this vessel and operate this vessel; but there are details still that need to be fleshed out some more.

But the primary short term outcome is this notion of electronic monitoring of the federally permitted vessels; and that working group made that recommendation to this Board for consideration today. Happy to answer any questions, and there is a number of folks obviously around the table that are part of that working group and can chime in if they want to provide more details.

CHAIRMAN TRAIN: Questions or comments?  
David Borden.

MR. BORDEN: Just a quick comment. When we talk about tracking we're not talking about VMS; we're talking about a tracking system that's probably about the size of your cell phone that would record every five minutes. Therefore, you would have an actual location where the gear is being hauled; as opposed to a VMS system.

One of the big differences, cost of tracking system is about a \$350.00 item and then you get a service program that goes with it. A VMS system can cost thousands of dollars. One of the biggest issues is the electrical draw on the boat. A lot of the fleet that would be covered

by this are on moorings, don't have access to electrical outlets, so you've got to get something with a low draw, otherwise they simply burn out the batteries.

CHAIRMAN TRAIN: Pat Keliher.

MR. KELIHER: I can't emphasize more the importance of being able to haul gear in Area 3; from an enforcement perspective. The goal in the state of Maine is voluntary compliance. That is the end goal with everything that we put in place; and we maintain voluntary compliance in two different ways.

One, the fleet knows that the Maine Marine Patrol is hauling lobster gear up and down the coast, 20 to 30,000 traps a year. I mean it's a small percentage of what you, Mr. Chairman as a fisherman would haul yourself. But the fact that we're hauling gear, confiscating gear, and writing tickets based on that ensures voluntary compliance. We've just received not too long ago some Intel in regards to a fisherman in Area 3; and after going out and hauling that individual's gear, we discovered that 80 percent of that gear was in violation, 80 percent. Hauling some other gear in the area we ended up ticketing another person for having untagged gear.

That's the snapshot; and I don't mean to say that 80 percent of the gear in Area 3 is noncompliant. This was obviously based on good intelligence for the time. But if we're not hauling gear, and didn't have the ability to haul gear, we wouldn't have found it. We wouldn't have found those violations.

It's something that this Board needs to keep in mind. I think we need to find a way to get a big boat into the fleet. I am willing to redirect some of the assets within the state of Maine to try to do this; even though we have the fewest amounts of permit holders in Area 3. This is one lobster management unit.

Now we are managing the Gulf of Maine and Georges Bank, so it is as resource issue as well as compliance issue with our FMPs, and an issue

for marine mammals. We need to find a way to solve this problem. The electronic monitoring is a big part of this; and frankly it is the first step that needs to be taken. With that in mind, Mr. Chairman, I have a motion in the queue ready to go up to start a discussion on that component.

CHAIRMAN TRAIN: Well let's get the motion up.

MR. KELIHER: My motion is not a Dr. Pierce motion. That is not it either, I don't think is it? Unless you. Yes it is, no it's not, and no there it is, no that's not it that's definitely not it. You don't have it? You didn't get it? It's short. I'll read it and you type, how's that? You ready? **Move that the Lobster Board recommend to the Policy Board that a letter be sent to NOAA Fisheries for consideration by the TRT to develop and support a suite of options for electronic vessel monitoring for federally permitted vessels.** If I get a second I'll –

CHAIRMAN TRAIN: Seconded by Dennis Abbott. Go ahead, Pat.

MR. KELIHER: I want to reiterate some points that David Borden made; and I didn't feel like I needed to put it in a motion. But we're not talking about VMS here. We're talking about a very simple system that has been tried and tested on offshore vessels. You could create geo fencing with it; you can ensure that we would know when they leave the dock. But based on Bluetooth technology you would know when the hauler is engaged, so you would know where the gear is.

That is very, very important to have that information as it relates to a large offshore vessel; because the density of gear in Area 3 is nothing like we have inside. Having that knowledge of where that gear is to then haul is critical. I think beyond that the idea of it, as our Executive Director said, the idea of potential video use within this type of system is also very important.

CHAIRMAN TRAIN: Dennis as a seconder would you like to speak? No, okay. Eric Reid, no go ahead Dan McKiernan.

MR. MCKIERNAN: Pat, could you explain the role of the Large Whale Take Reduction Team as the recipient of this?

MR. KELIHER: As I said earlier, and maybe I shouldn't make such a hard black and white line here. But to me this type of technology really gets to serious injury and mortality. It's a way for us to monitor gear as it relates to current and future regulations; rope size diameters, traps, number of traps on a trawl, information in regards to issues that again relate to not necessarily as much risk, but as it does to serious injury and mortality. I think that belongs in their wheelhouse. It doesn't mean we can't assist. I think we all have representatives on the TRT that can help with that; as well as the Commission's representative on the TRT.

CHAIRMAN TRAIN: Peter Burns.

MR. BURNS: I think that if the Policy Board or the Board approves this and the Policy Board sends a letter, I think it would be good and helpful to have as much technical information in there as possible to provide the TRT with some different types of technologies, and the type that the Board might be looking for to look at so that it can sort of give a little bit more detail on the scope and the intent of what's happening here. If there is any information either from a working group or from the Law Enforcement Committee that can help inform that I think that information would be helpful.

CHAIRMAN TRAIN: Dennis Abbott.

MR. ABBOTT: Having been at that meeting; it seemed very clear that if you didn't have this there would really not be a lot of sense in having an offshore vessel, because Maine Law Enforcement at that meeting talked about the difficulty in even locating any gear. You could spend inordinate amounts of time looking for

gear and not finding it. These two things, getting a craft and having this monitoring goes hand in hand, and they both have to be there.

CHAIRMAN TRAIN: Bob.

EXECUTIVE DIRECTOR BEAL: Not knowing the membership and expertise of all the individuals on the TRT right off the top of my head. I take Peter's point that the TRT may not have all the expertise they need to dig into all the options, and different hardware and software and other things that are available to monitor vessels and cameras.

There are electronic monitoring experts out there. We'll try to do the best we can in providing them some information in that letter or get it working with our Law Enforcement Committee or something else to help that group out; and at least understand what the goals and what we're trying to achieve through this electronic monitoring. It's a fair point. They're individuals that weren't put together to be electronic monitoring experts.

CHAIRMAN TRAIN: Are there any other comments on the motion? **Do we need time to caucus? Okay, everyone in favor of the motion raise your right hand; opposed, null votes, abstentions, one abstention. Motion carries 10, 0, 0, and 1.** Ray Kane.

MR. RAYMOND W. KANE: I just heard Dennis' rationale. I know years ago offshore lobstering for Bobby Brown, has anybody contemplated aerial surveys to find illegal gear? I mean it's a lot quicker way, just a thought. Put a plane up, go offshore, and you'll have tracking on legal gear, you'll know where that is. But the illegal gear so you can send the enforcement boat directly to the illegal gear, just a question.

CHAIRMAN TRAIN: Pat Keliher.

MR. KELIHER: I'm glad you finished that because the Maine Marine Patrol has a plane; and I can tell you we haven't written any lobster violations with it, but if you had that sort of

ability that would be great. However, we're flying a Cessna on floats; so to go that far out I can tell you, and the Major can tell you better that our pilot would not be thrilled about being sent 75 or 80 miles offshore, even with floats. You would have to have an aircraft with a little bit longer range I think, to do that type of work. It might be even more cost prohibitive.

CHAIRMAN TRAIN: Go ahead, Ray.

MR. KANE: Just a thank you, another suggestion, blue fin tuna observer pilots. You know you can pick them up cheap. They are no longer observing for seiners, and they fly that distance, single engines without floats.

#### **REVIEW IMPLEMENTATION OF THE JONAH CRAB FISHERY MANAGEMENT PLAN FOR DELAWARE AND NEW YORK**

CHAIRMAN TRAIN: Okay we're going to go on to our next agenda item. Review Implementation of the Jonah Crab Fishery Management Plan for Delaware and New York; and I'll take it in the way that it is presented. Delaware, do you have anything to tell me?

MR. CLARK: I do indeed. I apologize for the first state's tardiness in getting this compliance here. But we have started the regulatory process. The first step has been completed; and within four to six months we should be in full compliance for our little harvest of Jonah crab claws.

CHAIRMAN TRAIN: That was John Clark by the way. Thank you very much, and New York.

MR. JAMES J. GILMORE: I'll start by apologizing too; just because John said those things. Ours is a little bit more complicated. I think we put it context. We have a rulemaking in place. We're ready with all the limits to file them. Unfortunately the statute that we have for this expired on December 31, so currently I have a rulemaking that I can't file.

However, the Legislature, both the Assembly and the Senate, have put bills in to restore that statute. The minute I have that we'll be able to

file the rules; which should be pretty soon. Hopefully we're looking at by March. We're working with the Legislature. They know that we're out of compliance right now; so they understand the priority of it.

The one hiccup we have is just to give you some stats is that well first off, like most states, this is a federal fishery for the most part. The FMP requires that you essentially have a lobster license to prosecute this fishery. In New York we have a total of 12 permit holders in 2018. Ten of them have lobster licenses; so they're fine. The one issue we've got is that in New York you can also harvest if you have a crab permit. There are two individuals, and I think they're related that have crab permits that fish in state waters, but don't have a lobster license. If we cannot figure out a way to accommodate these guys, these guys will be out of the fishery, and I've actually met this guy and he's actually pretty reasonable. We've got two options on that.

I can try to convince the Legislature to do additional legislation for two fishermen that have gotten caught up in this little technicality, for lack of a better term, or is there some way through the Board we could do a technical fix for this, for these two guys that are essentially caught in what came from the FMP?

That is the sticking point. I have two fishermen, and I'm not sure how we cover in this. That is assuming we do all of, you know everything else should be going forward, in terms of implementing the management requirements. But I have two that I'm trying to keep in the fishery that has been doing this for a long time. That's where we are, Mr. Chairman.

CHAIRMAN TRAIN: My question is if you follow through with everything else and the legislative process, if you don't get something resolved through the Legislature for these two, you'll have something back here at our next meeting or the following meeting for us to resolve it?

MR. GILMORE: Yes. We're looking at; the other thing is the Legislature the whole thing changed over the last election, so a lot of new people trying to get up to speed on this. We're hoping to solve this through the Legislature, but that would probably be where we would get to that if we cannot fix it in New York, we would come back to the Board in the May meeting and try to come up with some other solution for the two fishermen.

CHAIRMAN TRAIN: Is there any other discussion on this topic? This is a possible action item. I don't see a need for action at this time. We're without a motion as such, I think we move on, Progress Update on the 2020 American Lobster Benchmark Stock Assessment.

#### **PROGRESS UPDATE ON THE 2020 AMERICAN LOBSTER BENCHMARK STOCK ASSESSMENT**

MR. JEFF J. KIPP: The Lobster Stock Assessment Subcommittee actually met last week at our second in-person meeting. It was an assessment workshop in New Bedford, Massachusetts; from Monday to Thursday. We reviewed the assessments models, the length-based assessment models with data updated through 2017, and also covered our non-model dependent terms of reference at that workshop.

Just as a reminder, the big milestones moving forward. We will have our last in-person workshop with the Stock Assessment Subcommittee tentatively scheduled for September of this year. At that meeting we'll be reviewing what we hope will be our final base models for this current assessment.

Tentatively we are scheduled for a peer review in May of 2020; and then we'll be coming to this Board to present the results of the assessment and that peer review at the August ASMFC meeting in 2020. If there are any questions on the assessment progress, I can take those now.

CHAIRMAN TRAIN: Do we have any questions for Jeff? You nailed it, I guess. David Borden.

MR. BORDEN: Not a question, but I had the good fortune of sitting through a day and a half of the discussions. I would just complement Jeff; I thought he ran a good meeting. I thought the Committee was very focused, and challenging of each other. When someone makes a statement they are right after each other; and that's what we need to get a good product out of it in the end, so keep up the good work.

CHAIRMAN TRAIN: Okay, do we have any other business? Go ahead, Pat Keliher.

MR. KELIHER: I'm going to bring it back to whales one last time. We have spent a lot of time as a body to speaking about the interactions and risks associated with lobster fisheries and right whales; but we are not having any conversation about every other fishery from Maine to Florida. I'm not asking for any specific information from NOAA Fisheries.

But you know there is other risk out there besides the lobster fishery. I know NOAA has not lost sight of that issue; but I just want to make sure that is on the record to express the state of Maine's concerns that other work needs to be done here, besides what's being done with this management board.

CHAIRMAN TRAIN: Anybody else? Seeing nothing, I'll entertain a final motion. Peter Burns.

MR. BURNS: Just a follow up to Mr. Keliher's comment. I think that in the process of the IEC webinar, maybe we could address that issue; because I believe that when that data was initially put together that was to look at the co-occurrence model of where fixed-gear fisheries and whales were interacting. There may be some of that data that is still available there, and something we could take advantage of that opportunity at that time, possibly.

CHAIRMAN TRAIN: Would you like to follow that up with a final motion?

**ADJOURNMENT**

MR. BURNS: Motion to adjourn, Mr. Chairman.

CHAIRMAN TRAIN: Any opposition? We're all done.

(Whereupon the meeting adjourned at 4:25 o'clock p.m. on February 5, 2019)