

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING MANAGEMENT BOARD**

**Loews Annapolis Hotel  
Annapolis, Maryland  
October 29, 2007**

Approved February 4, 2008

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1. **Motion to approve agenda by consent.** (Page 1) Motion Carried. (Page 1)
2. **Motion to approve proceedings of August 13, 2007** (Page 1) Motion by Dennis Abbott; Second by Pat Augustine. Motion Carried. (Page 1)
3. **Move that we accept the recommendation of the technical committee of the Atlantic Herring Section,** to include in that motion that ASMFC adopt the TACs that are consistent with the National Marine Fisheries Service for the 2008 and 2009 Atlantic Herring Fishing Seasons; specifically, the TAC should be 45,000 metric tons for Area 1A and 60 metric tons for Area 3. (Page 12) Motion by Pat Augustine; Second by John Nelson. Motion Carried. (Page 12)
4. **The above motion read and voted on as follows:** The motion is move that the section accept the report of the TC, adopt TACs consistent with the NMFS for the 2008 and 2009 Atlantic Herring Fishing Season; amending the Area 1A quota to 45,000 metric tons and the Area 3 quota to 60,000 metric tons (Page 14). Motion carried on Page 15.
5. **Move to nominate Dennis Abbot as Vice-chair** (Page 13). Motion made by Eric Smith; second by Pat Augustine. Motion carries (Page 13)
6. **Motion to adjourn.** (Page 13)

## **ATTENDANCE**

### **Board Members**

George Lapointe, ME (AA)	Mark Gibson, RI (AA)
Pat White, ME (GA)	Everett Petronio, Jr., RI (GA)
Dennis Damon, ME (LA)	Gil Pope, RI, proxy for Rep. Eileen Naughton (LA)
John Nelson, NH (AA)	Eric Smith, CT (AA)
G. Ritchie White, NH (GA)	Lance Stewart, CT (GA)
Rep. Dennis Abbott, NH (LA)	Pat Augustine, NY (GA)
David Pierce, MA, proxy for Paul Diodati (AA)	James Gilmore, NY (AA)
William Adler, MA (GA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	

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

### **Ex-Officio Members**

#### **Staff**

Vince O'Shea	Chris Vonderweidt
Robert Beal	Erika Robbins

#### **Guests**

Bruno Vasta	Terry Stockwell, ME DMR
Russell Dize, Ofc.of Sen. Colburn	Dave Ellenton, Cape Seafoods, Inc.
Jeff Marston, NH F&G	

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, October 29, 2007, and was called to order at 11:20 o'clock a.m. by Chairman Terry Stockwell.

### **CALL TO ORDER**

CHAIRMAN TERRY STOCKWELL: Good morning. I'm calling the Atlantic Herring Section meeting to order. I'm Terry Stockwell and welcome to the Atlantic Herring Section meeting. We have a fairly full agenda and a short period of time to spend, so I'm going to try to move things along.

### **APPROVAL OF AGENDA**

CHAIRMAN TERRY STOCKWELL: The first thing we want to do is approve the agenda. I do want to note that Action Number 5, Consideration of 2008 and 2009 Specifications may or may not be an action item, depending upon your discussion. Are there any other modifications to the agenda? Seeing none, without any objections, we will consider the agenda approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN TERRY STOCKWELL: Approval of the proceedings from August 13<sup>th</sup>, 2007.

MR. PATRICK AUGUSTINE: So second, Mr. Chairman, to approve.

MR. STOCKWELL: That was Dennis Abbott making the motion and Pat Augustine seconding. Okay, without objection, we'll move the approval of the proceedings forward.

### **PUBLIC COMMENT**

Public comments on issues that are not on the agenda. Seeing none, update on the 2007 fishery, Chris.

### **UPDATE ON 2007 FISHERY SPAWNING COMPLIANCE**

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. It's been kind of a busy year in the Herring Fishery with a lot of changes, so I'm just kind of go through those quickly. I understand that we have a lot to tackle, so I'll move right along. As everyone here is aware, Maine was trying to implement spawning closure regulations. They did pass and they are now compliant.

Their new regulation reads, "It shall be unlawful to fish for, take, possess, transfer or land in any State of Maine port or facility or to transfer at sea from any Maine-registered vessel and catch of herring harvested from" – and then that's the different management areas, east Maine, west Maine or Massachusetts, New Hampshire, depending on when the closures go into effect. They did have a voluntary closure. Their advisory council was about to meet on September 19<sup>th</sup>, and then the regulations became effective September 24<sup>th</sup>, so it looked like things there.

### **DAYS-OUT MEETING**

Days out, the initial meeting was on February 27<sup>th</sup>. It was agreed that Saturday and Sunday would be closed. Friday will automatically close when 25,000 metric tons are landed. September 23<sup>rd</sup>, in response to 25,000 metric tons being landed, they decided to continue with three days out and also take the following two Thursdays out to ensure that 15,000 metric tons was available beginning October 1<sup>st</sup>, 2007. After September 20<sup>th</sup> and 27<sup>th</sup>, it went back to three days.

Then October 17<sup>th</sup>, there was kind of an informal days-out meeting that was called in response to some industry representatives' concern. There were no changes. There were numerous concerns about other areas of the fishery, but days out remained at three days, Friday, Saturday and Sunday, and is at three days right now.

### **AREA A1 CLOSURE/WITHDRAWAL OF CLOSURE**

The Area 1A closure, August 22<sup>nd</sup> NMFS issued a letter saying that the Area 1 TAC was projected to be harvested on August 24<sup>th</sup>. Then August 23<sup>rd</sup> there was a NMFS letter that reopened the fishery. There were some reporting issues there where apparently pounds were reported as bushels, that were entered as bushels, so they got that squared away. Then October 25<sup>th</sup>, four days ago, the Area 1A total allowable catch has been harvested in Area 1A.

In response to the 24-hour closure notice from NMFS and just because there is a very complicated system in the Herring Fishery, Maine DMR initiated a Technical Reporting Issues meeting with NMFS. It was held on September 28<sup>th</sup>, 2007, in Portland, Maine. Basically, it was just to discuss potential problems with the reporting system, the IVR, VTR and VMS.

One of the concerns was that double reporting may happen with the new permits with transfer vessels. You can ask Matt about that. He knows more of the specifics. But, the main point here is that there has kind of been a first step taken to make sure that the reporting is accurate and there is not double reporting. When things are projected to be harvested, they, in fact, are close to the TAC being harvested.

## RESEARCH SET ASIDES

As far as research set asides go, just a little background, it's written into Amendment 2 of our plan and Amendment 1 of the federal plan that zero to 3 percent of a total allowable catch can be designated from an area for research set asides. You are allowed to sell your herring from the research set asides. Basically the incentive is that's your profit and that's to pay for your research.

You can also fish during days out and closures with an exempted fishing permit. Right now proposals for 2008 and 2009 have already been reviewed by technical reviewers. There will be a management review meeting on November 5<sup>th</sup>, 2007, in which ASMFC will participate. It hasn't been fully decided who is going to go to that meeting.

Basically, the research set asides for '08 and '09 are very likely to be filled already. The only way that we could bring forth a new proposal, if that was the wish, would be if there were not enough proposals filled to take that 3 percent. So, let's there is only 2 percent with all the proposals combined, there would be an extra 1 percent that they would reissue research set-aside proposals. That's the summary of the fishery so far.

CHAIRMAN STOCKWELL: Thank you, Chris. Does anybody have any questions of Chris?

MR. PATTEN D. WHITE: I just have a quick question, if I could. On the research set asides, whatever is set aside, 2 percent of it is set aside and it isn't used, it cannot be used after a certain date or anything; it's just lost?

MR. VONDERWEIDT: No, it can be used. That 1 percent, NMFS would say that we will take proposals for the remaining, like 1 percent, for '08 and '09, but that's also contingent on it not being used. If it is used, it won't be until 2010 that the next round of proposals will be accepted.

DR. DAVID PIERCE: It's not a question but a comment. I just wanted to note the closing and then the opening of the 1A Fishery by the National Marine Fisheries Service, and for those of us within the different state agencies having to deal with that closure, somewhat unexpected closure.

It did, indeed, result in a lot of frenzy and scrambling to determine what in the world did happen, a lot of confusion, quite a few phone calls back and forth. It took up a lot of our time, but, frankly, it was well worth it. Since it did unearth the problem with the reporting, the National Marine Fisheries Service was quick to recognize the problem; that is, the early closure and then reopened.

I just wanted to acknowledge the efforts of the State of Maine, in particular, for all of the work that Maine did with the National Marine Fisheries Service to try to get everyone on the same page to make sure that the reports were accurate, that we, indeed, come up with all of the landings, at least as many as we can possibly get. It was a difficult situation, but it worked out well. Hopefully, the next time around, because of this initiative and further work by Maine and the other states on the reporting issue, we will not have a repeat of this problem next year.

CHAIRMAN STOCKWELL: Thank you, David. I think all our collective levels of confidence in the data reporting has increased. Vito.

MR. VITO CALOMO: Thank you very much, Mr. Chairman. I want to ask a question on the research proposals. As the research proposals come forward, do we try to – even if all the proposals are pretty well equal, do we try to divvy them up from the different areas, different states; is that right?

CHAIRMAN STOCKWELL: Bob, would you comment on that, please.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. Vito, this is the first round of RSA proposals for Atlantic herring, so there is no experience to speak on here. The Mid-Atlantic Council, when they're doing research set-asides for summer flounder, scup, black sea bass, dogfish and a number of other species, I don't think there is a consideration necessarily for the geographical distribution of the catch.

The majority of the decision process has to do with the technical merits and the pounds of fish requested versus the data that will be generated from that, sort of the bang for the buck as far as the fish goes as the

final decisions are being made on who gets the fish each year.

MR. CALOMO: Along those lines, Mr. Chairman, I understand it's the best bang for the buck, but what I'm saying to you is if two areas or two fishing vessels that have applied or two companies that have applied or three companies, and we need various amounts of fish, that 2 percent, if they're equal, close to equal, I think the guidelines would be to allow different vessels to fish for the research set-aside; therefore, creating equality and fairness, if we could. If one is lopsided, absolutely not, but if it's close, I would like that.

You have several participating states that are big in this fishery, obviously, Maine, Massachusetts, New Hampshire; and Rhode Island has participated from time to time. I don't know where else, but those have been the biggest participants, so I'd just like it to be fair and equal.

One more point, Mr. Chairman, while I have the mike, is I want to congratulate you, Mr. Chairman and the others from Maine, George and Pat, for doing a fine job of bringing your state in compliance. I mean, there was leniency there, but it was a tough situation, and I appreciate it, and I am sure we all do. Thank you.

CHAIRMAN STOCKWELL: Thank you, Vito. It was a little bit of a struggle, and we sure appreciated your support. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. Just for clarification, the allocations that are put out there for various vessels to participate in research set-asides are really, as I understand it – I've participated in the Research Set-Aside Subcommittee – you actually bid on lots, lots, if you will, X-amount of pounds to participate in that fishery, and an organization called RFI conducts this auction, if you will, every year after the amounts have been allocated, whatever the specie of fish that we are making available, 2 percent or 3 percent, from the overall quota of each of those species to actually accommodate monies needed to conduct the research and follow up with that.

Vessels that have clean licenses or do not have penalties and so on – and Harry could probably speak to this more eloquently than I could – can participate in this bidding process, and you will buy a, quote, quote, lot of fish for X amount of dollars, and you actually can catch those fish pretty much wherever you want.

In the State of New York, we have to issue an experimental fishing permit in order for that vessel to fish during certain times when the season is closed on that species. So, it really is up to the captain of the vessel or owners of the vessel to participate in the RFI auction. I think there is a buy-in that goes along with that. We can give you more clarification if you need it. Thank you, Mr. Chairman.

MR. JOHN I. NELSON, JR.: Thank you, Mr. Chairman. As David mentioned, the reporting issues that cropped up a little bit earlier this year created a lot of scrambling, if you will, and whatnot, and the service did react very positively and I think appropriately to address technical problems that were easily noted, and then you take action to address them, which sometimes takes longer, but they did it in a very timely manner, and I think we all are appreciative of that. And, certainly, with Matt providing guidance to them, I think that was very helpful.

They also, though, determined that there were non-reporting issues that cropped up at that time. Since then there has been publicity about various vessels that have citations against them, you know, 38 and 19 violations of non-reporting, which ultimately could be huge quantities of herring that are not accounted for.

So, whether it is Matt's report or the National Marine Fisheries Service providing some additional input, I'd like to know what's the status of those non-reporting issues, and do we have a sense of how much poundage tonnage was not accounted for, so that we can evaluate what happened with that quota. I would appreciate that being in some report as we go through this, Mr. Chairman.

CHAIRMAN STOCKWELL: Matt, can you provide John with a preliminary report?

DR. MATTHEW CIERI: Actually everyone is pretty much up to date. Usually, what the problem has been in the past is that people have been late in reporting, so they might be late for three or four weeks to six weeks to maybe a month, but they get their stuff in after that. It's pretty much late reporting as opposed to non-reporting or a calculated under-reporting tends to be the problem.

MR. NELSON: Okay, I guess I'd like to hear from the National Marine Fisheries Service that, indeed, there are no ongoing investigations as far as the non-reporting issue, and that it has been totally resolved

or is there still an issue out there that needs to be further clarified, and that there actually is more poundage that needs to be accounted for.

CHAIRMAN STOCKWELL: That's a fair enough question, and we'll get an answer to you. David Pierce.

DR. PIERCE: To the research set-asides and the text that's on the screen, I just wanted to alert the section to a potential problem or certainly a consideration that we haven't had to date. That is if, indeed, all these proposals are reviewed and a set number are approved by the National Marine Fisheries Service, there may be a problem getting a state's exemption or a state's permission to land herring in that state if, indeed, the fishing activity associated with that research set-aside would, for example, occur during a spawning closure.

If the research is specific to spawning fish, that's a different story than if the research relates to something else. Again, just the need for us to be aware of the possibility of there being requests for these permits and one or more states may not be inclined to grant that permit if, indeed, it cannot be justified, for example, fishing in a spawning closure when the area is closed and everyone else is out – I'll be taking a close look at it, of course, with my commissioners regarding the merits of that exemption that I suspect would be requested.

CHAIRMAN STOCKWELL: Thank you, David. Any other comments or questions? Okay, seeing none, I am going to turn it to Matt for the consideration of 2008 and 2009 specifications.

#### **CONSIDERATION OF 2008 AND 2009 SPECIFICATIONS**

DR. CIERI: All right, I am going to talk to you guys today and first give you a brief update on where we are so far this year as far as landings go, and then from there talk about the specifications. So far this year, as you guys already were told by Chris, we've pretty much closed the 1A Fishery.

We're just a little bit shy of 44,000 as of last week, the week ending October 20<sup>th</sup>, and there has been some activity in Area 1B already. We expect that to close fairly quickly now that 1A is closed. As you can tell from this slide, this is a comparison of last year, this year as well as the modeling efforts, the catch-effort model used to project this fishery starting at the beginning of the year.

As you can tell by the purple line, that was last year's catch rate, and then the white is this year's catch rate. Unfortunately, the green line is what I attempted to model this year, which was pretty good up until about here, and then everything went to hell in a hand basket. As you can tell, we're significantly lower this year, and partly that has to do with the number of days out that we've taken this past year to slow that catch rate. So, we're going to end pretty much at about roughly the same time.

For the overall fishery, we're just at about on average for the 2006. Now we're talking about 2006, about last year; and as you can tell, pretty much the fishery has gone along about in the same manner since 2002. If we look at the IVR reports, one thing that does stand out is the catch from last year in Area 1B was significantly over the quota by about 30 percent even according to the IVRs.

We wound up, if you look at the IVRs for last year, right at about 100,000. If we look at the IVRs by week for last year, you can tell that the Area 1 catch for 2006 was significantly higher than it has been in previous years, and, in fact, ended the earliest it ever has, at least since 2002. As I remember, I think it was 2000 it ended roughly at about the same time.

If we look at the VTR landings – now the difference between the IVRs and VTRs, the IVRs are a weekly call-in reporting system done by the harvesters. This is a monthly trip level spatially resolved, usually a paper or electronic version mandated by the federal government. If we take just sort of a gross look at things, we can tell that the landings for 2006 were up from 2005 by about 9 percent.

Area 1A was fully utilized and, again, Area 1B is over by a significant amount. If you look at Area 1B here for the total, the previous year was about 6,000 and the VTRs ended up at about fourteen-five. That's about 4,500 above the 1B quota. If we look at some other pertinent information for the 2006 fishery, state waters landings were about 500 metric tons, mostly from Maine, 14 metric tons from Connecticut.

Already, currently this year, we're at about 300 metric tons from our fixed gear fishery so far. The last report that we have from our fishermen was about the end of August. For the bycatch stuff, as most of you know who are council members, there was an updated fishery information document provided by the council, which took a look at the observed trips and so on and so forth for this year.

Forty-six trips were observed in 2006, eighteen from single mid-water trawls, 28 from paired trawls. In 2007 there are 198 days allocated – remember, that’s not trips because many of these herring vessels go out for longer than one day – as well as that 50 additional days to look at the USAP operations.

When you look at the 2006 data, it’s pretty much what it’s been like over the last few years with most of your bycatch being spiny dogfish, herring – and that means sea herring – mackerel, scup and some haddock thrown in. As we’ve seen, it’s been fairly low, and the observer data base from this past year and the observed trips pretty much bear that out to a level of sampling that we currently have, which is pretty minimal.

There were no purse seine observed trips in 2006 at all, which makes that very problematic when trying to compare across gear types and areas. The New Brunswick Weir Fishery last year came in at about 12,000 metric tons. I got a report from Canadian DFO about a couple of days ago. They’re currently, right now from the New Brunswick Weir Fishery, at about 25,000 metric tons.

Some of the guys at DFO indicated to me that there might be another two or three thousand metric tons behind twine in the New Brunswick Weir Fishery. So, we’re looking somewhere at around 25 to maybe 30,000 metric tons out of the New Brunswick Weir Fishery this year alone. It’s about triple what it was the year before.

If we look at some of the fishery-independent data that happens to be running around, one of the things that we sort of looked at is the NMFS Trawl Survey for all strata. This is the entire NMFS Trawl Survey for fall, spring and winter. As you can tell, it’s been pretty highly variable, as you would expect for a schooling fish like herring, when you’re trying to chase herring with a bottom trawl.

There doesn’t seem to be any real trend with the exception of we’ve got more herring in our trawl surveys over the recent time periods, since about ’84, than we had previous to that. If we look at just the NMFS Trawl Survey, the strata that go inshore for the fall, you can tell again it’s been highly variable. 2002 numbers were very, very high in catch per tow, and then it pretty much declines for at least the next three years, and then the second highest recording was last year.

For the inshore strata during the spring survey, pretty much 2007 wasn’t much higher than 2006, only slightly, so there is a slight increase. We don’t

normally use the spring trawl survey. We present the data, but we don’t use it in any of our analyses because we know that during the spring herring stocks from both Georges Bank and the inshore Gulf of Maine are mixed together so you’re basically looking at a mixed bag, rather than the fall survey which is almost exclusively or thought to be almost exclusively Gulf of Maine fish.

If we look at the Maine DMR Fall Survey that is done inshore in Maine and New Hampshire, you can tell it’s pretty much not much change. It’s fairly variable. Those arrow bars are pretty significant, but for the most part there hasn’t been much of a change. The one thing to keep in mind with the Maine/New Hampshire Inshore Trawl Survey is it mostly catches smaller fish, usually age ones, and so it’s pretty much a recruit index.

The TC met via conference call to discuss a number of issues, including the differences in area TACs and the potential difference with the New England Fishery Management Council recommendations, the National Marine Fisheries Service. We also went over the landings and the trawl surveys and tried to take a look and see what was going on.

The biggest issue that came up with the TC is there needs to be consistency between state and federal waters in whatever TAC and quotas are chosen. There was a real problem with some members indicating that the states don’t really have a way of monitoring their TACs. Remember, the TAC for the federal government is monitored by an IVR system, a call-in reporting system. The states don’t have that sort of mechanism at all.

The other thing to remember is that almost all of our vessels are federally licensed vessels that have to come under the National Marine Fisheries Service rules even if they’re fishing in state waters. The TC got together through the conference call and recommended a maximum harvest out of Area 1A at 45,000 metric tons, a 5,000 metric ton decrease from the previous year and on the schedule with the National Marine Fisheries Service recommendations.

The TC suggested there is no new information to warrant a change in that schedule, that 45,000 metric tons is more consistent with an F at MSY given the complexes or the sub-complexes size to not exceed F at MSY for the entire complex. There was significant concern about the retrospective pattern and concern that 60,000 metric tons may be excessive, and that was something that was given to us from the SSC a number of years ago.

The recommendations from the technical committee; the technical committee recommends that the section adopt TACs that are consistent with the National Marine Fisheries Service for 2008 and 2009 for the Atlantic Herring Fishery. Specifically, the TC recommends that a TAC of 45,000 metric tons be set for Area 1A and a 60,000 metric ton TAC for Area 3.

Now, let me get to that specific point. The National Marine Fisheries Service is basically going to reduce the 1A TAC by 5,000; take that 5,000 and transfer it, for all intents and purposes, to Area 3, Georges Bank. They do this so that they're not changing the optimal yield or OY, and so it's important in our discussions, when we talk about whether to lower the 1A TAC or not, that whatever is lowered or not be transferred accordingly between those two areas. Remember, Area 3 is an area of no mixing. For the most part, all of the herring that is caught in Area 3 are considered Area 3 or Georges Bank fish. And that's it. Questions?

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. Matt, for clarification on the issue that John Nelson raised earlier, in the newspaper clippings that Tina sends around to us, there was an article in the Bangor paper, I believe it was, of a Maine purse seine fisherman that was found in violation of not reporting and fined.

They talked about the fine and the penalties, so it sounded like – if the paper was correct, it sounded like this was a finding by the National Marine Fisheries, and they talk about 15 million pounds. Are you aware of this, number one; and, number two, if that is correct, was that 15 million pounds part of the 1A TAC?

DR. CIERI: Yes and yes. That is a particular issue of late reporting as opposed to non-reporting. It's not like this particular person just decided he wasn't going to report and didn't report it. This person was late in reporting; and that is the case for most of the fishery, they might be late many times reporting. However, the fishery understands that in many cases what they land from a particular area is checked also through their VTRs, as well as the dealer reports. So, for quota-monitoring purposes, it can be frustrating when somebody is late, but those fish are usually reported.

MR. R. WHITE: A followup. So, this person, in fact, was fined and these severe penalties will be put upon that vessel for late reporting?

DR. CIERI: You've got to ask the National Marine Fisheries Service that one.

CHAIRMAN STOCKWELL: This particular person was our poster child for helping us with our worse of the data reporting issues. Dave Pierce, Pat White, then Vito.

DR. PIERCE: Well, it appears that finally it happened. I have been waiting for this to happen, and it's upon us. 30,000 metric tons, that is the New Brunswick Weir estimated total catch, Matt?

DR. CIERI: 25,000 metric is what is set in stone right now. You will at least have 25,000 metrics. In talking with DFO, again, there is another two or three thousand behind twine is what is suggested. I wouldn't be surprised if between the Maine Fixed Gear Fishery and the New Brunswick Weir Fishery – remember, the fixed gear fishery east of Cutler is considered part of that number now as far as ASMFC is concerned – if it didn't top thirty.

DR. PIERCE: Right, we have long had a 20,000 metric ton set-aside for the Canadians. No negotiations with the Canadians; that's just the way we set it. For quite a few years, they've fallen far short of the 20,000, so no harm done. Now, they're at 25 and perhaps higher than that. I suspect that's going to have some implications for how we move forward with herring management at the council level and certainly at this level as well.

A couple of questions, Matt. Do we have or will we have any idea as to the age composition of those fish, 25,000 metric tons, for example, specifically small juveniles versus larger juveniles in the Gulf?

DR. CIERI: First, let me remind everybody about the process that we deal with the New Brunswick Weir Fishery. We assume 20,000 metric tons is what they're going to catch. That has been the average over the last 15 years, as I believe. The last couple of years they've been around more like 12 or 15. A couple of years before that they were right around 20. I am assuming if they go up to 30, the average probably over the 15-year time span isn't going to change a whole lot with one year's worth of landing.

One thing that we will look at as a council PDT is whether or not we believe that they're going to be catching 20,000 continuously or whether we should make some adjustments if they go up or go down. We're not going to address that issue until specifications for Atlantic herring in 2009.

DR. PIERCE: All right, thank you, that has been anticipated, one of my questions. Your recommendation – that is, the technical committee’s recommendation is for 45,000 as the U.S. TAC.

DR. CIERI: Yes.

DR. PIERCE: You obviously did not get into any discussion as to the consequences of an additional 10,000 or so metric tons taken by the Canadians of the Gulf of Maine stock, potentially all 1A fish. That’s something that will happen. All right, for now I guess I’m somewhat at ease knowing that it’s not going to be 45,000 reduced by the amount taken by the Canadians over the assumed landings that the Canadians would have in the New Brunswick Weir Fishery.

However, this does beg for the National Marine Fisheries Service to do what we had hoped would happen, that sometime in the near future – and we have gone by the near future, actually – and that is to get into negotiations with the Canadians as to what level of landings they should take from that New Brunswick Weir Fishery.

Right now it’s completely unrestrained, it appears, and it can have potentially some very dramatic impacts on what the U.S. Fishery will be allowed from Area 1A and maybe elsewhere, too, once we get to the 2009 specs. At least that’s my recollection of it all. There is a bit of wizardry here, a little bit of magic, I know, but still this really makes, I’m sure, the industry, the Sea Herring Industry and the New England Region nervous.

And as managers I think it should make all of us nervous because there are some implications here, especially if the National Marine Fisheries Service moves down the road to – well, take it off the top of the U.S. harvest because the Canadian harvest cannot be controlled. This is going to be a subject for some real serious discussions by this section as time goes on; I suspect next year at the latest.

DR. CIERI: Just to refresh your memory and some of the other section members, the New Brunswick Weir Fishery is taken off the total OY. We no longer go through – and as you remember in years past, we did sort of the subtraction game where we went through and subtracted a certain amount of quota from area and this area off the OY. We no longer do that.

We use the sensitivity analysis, that risk assessment basically, looking at historical catch. So we look at the historical catch and we may, you know, as David

suggested, at some point assume that the New Brunswick Weir Fishery might catch more or it might catch less. The status of the New Brunswick Weir Fishery and whether or not it is part of this complex is something that will probably be addressed in the next TRAC, which is tentatively scheduled for 2009.

So my guess is that we’re going through the TRAC process in 2009, determine whether or not the New Brunswick Weir Fishery fits, are or are not part of the Gulf of Maine/Georges Bank Complex, and then move on with making recommendations on the specifications for 2009 through 2011, I think it is. I think that’s how it’s supposed to go over the next few years. Getting at Dave’s question on whether or not we’re going to know the ages on that, my understanding, David, is, no, you will not, because the Canadians have stopped aging their fish.

MR. P. WHITE: Just a quick question for my understanding, if I could. Matt said that the Georges Bank stock is a different stock than the Gulf of Maine stock, but just now you sort of slashed Gulf of Maine/Georges Bank, and I’m not sure how we can inadvertently take 5,000 metric tons from 1A and then put it into Georges Bank if it’s a different assessment process.

DR. CIERI: The assessment is done on a complex as a whole, so the complex includes Gulf of Maine and Georges Bank. The assessment is done on more than once stock, because the stocks basically mix any time that they’re not spawning. So that’s how we assess it; we assess it as a Gulf of Maine/Georges Bank Complex.

However, we do know that most of the fish or all of the fish that are caught in Area 3 are Georges Bank fish; whereas, fish that are caught in Area 2, south of the Cape, and fish that are caught in the summer period off the Gulf of Maine are a mix, so that’s how we go through. Because we don’t know the mixing rates, we sort of do the assessment for both stocks as part of the meta-complex.

MR. P. WHITE: So, just as a follow then, the Georges Bank stock, then, you feel is robust enough to increasing even if it isn’t mixing?

DR. CIERI: Yes.

MR. CALOMO: Thank you, Mr. Chairman. For the life of me, I can’t figure out how we have one hour to discuss this agenda. I think something is wrong here, Mr. Chairman. Secondly, Matt, when I speak I become, I guess, a little emotional at times. With all

due respect to you – and you know I have that – I just don't understand how the TC came up with 45,000 metric tons and not just duplicate the feds; whereas, we've had more meetings from the section this year than I've ever had in my life, I think, on trying to make the season longer.

That means they were catching fish faster with half a fleet because we do not allow pair trawlers into the 1A area for a good three-quarters of the season, fish-wise. I am befuddled with that. The weir fishery has been catching approximately 15,000 tons in the last couple of years. Well, they're going to catch close to 30,000 tons, in my estimation, this year. That's 100 percent more.

Yet, we're saying we need to reduce the Area 1A to 45,000 metric tons. From the fishermen's point of view, from my point of view, from the years of experience that I've had in this fishery, there are brit all over the area of Maine. There are small herring from New Hampshire to Massachusetts like we haven't seen in the past 20 years.

The spawning closure seems to be very successful because they've spawned. The abundance of small fish that was landed in a short of period has been somewhere around 20,000 metric tons, in my estimation. Of course, I'm not exact, but that's called five-inch, four-inch, six-inch and seven-inch fish. Something is wrong with this picture that the Gulf of Maine has a problem.

The Gulf of Maine last year reduced Area 1A not because of fish, so I don't want to follow suit. I think something is wrong with the 45,000 metric tons. I think we should have increased, not decrease. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Vito, I share your passion. I should note to the section here that at the last New England Fisheries Management Council meeting there was a vote to move forward a reconsideration of an in-season adjustment for 50,000, and it failed. So, be that as it is, it may factor into the rest of the conversation today. Are there any other comments from the section before I go to the audience? John.

MR. NELSON: Thank you, Mr. Chairman. I think we have addressed the weir fishery and whatnot. The only open question that still I think needs to be addressed from the section is the issue by the National Marine Fisheries on providing us whether or not that non-reporting or late reporting has totally been resolved or are there other poundages out there

from Area 1A that haven't been account for? I see they're in the audience and I'd request that they come up and provide that.

CHAIRMAN STOCKWELL: Matt, you have a followup, I think.

DR. CIERI: Yes, on the National Marine Fisheries Service Website, on the quota-monitoring page, there is a listing that says that there are about – using the dealer reports, that there's about a thousand metric tons unaccounted for, so there is a thousand metric ton discrepancy between the IVR and the dealer reports, and that has been factored in when they closed the fishery. Does that answer your question?

MR. NELSON: I think it does as far as the discrepancy, and I think we just to hear very quickly and from the service that, indeed, that takes care of that issue; or, are they still out there looking at some other component of this. Are they still fining the guy; what are they doing?

CHAIRMAN STOCKWELL: Fair enough question; we will see if we can get you an answer. Is anyone from the agency prepared to speak to this? Thank you, Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman. I have no new information, per se, to add other than the issue continues to be pending with our Office of Law Enforcement. Thank you.

CHAIRMAN STOCKWELL: Thank you, Harry. Peter.

MR. PETER MOORE: Thank you. Peter Moore; I am here representing six vessels out of New Bedford, mid-water and purse seine vessels for herring and mackerel; also, the American Pelagic Association and Norpel Processing Plant.

I wanted to speak to the issue of non-reporting in this fishery. As it was presented to here, it made it sound as though it was late reporting. I have been in touch with the authorities on this one as well. I was told it was non-reporting from the beginning of June until the bust was made in the middle of August. Fifteen millions pounds of herring was not reported.

The regulation says that you should report within 72 hours, which our vessels all do, and I think that most of the fleet does. I think at this time we're facing a lot of criticism of our industry, and I want people here to know and people in the public to know that this is an aberration as far as I'm concerned, and it

should be met with the most severe penalties possible.

This is one of the biggest fines in the northeast, 510 or so thousand dollars, two-year permit sanctions of the captain and the owner. It's a big deal. It makes a mockery of our reporting system. Now we're being told we need weigh masters and all this other stuff and that we're an unaccounted fishery or non-accounted. It just fuels the fire, and I have to say that it's really offensive to hear that it was a mis-reporting.

I have talked to the folks at the Law Enforcement Office. There is other stuff going on. I just want to make sure that people know that at least from my perspective and the industry people don't take this stuff lightly. That goes for bycatch, it goes for reporting. The only way we're going to have a successful fishery, and everybody knows this, is if people obey the law. If they don't, I would be in favor of these guys losing their permits. Thank you.

CHAIRMAN STOCKWELL: Thank you, Peter. Are there any other comments? Dennis.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chair. Not to beat a dead horse, but I will. Matt showed us a weekly catch rate for 2007; and when I saw that, I may know the answer, but my thoughts were that with that supposed late reporting coming in from that one operator of 15 million pounds, I would see a very large spike at some point. And if that's not the case, if you backfill that data – is that a thing that you do, that you backfill the data points as the normal late reporting comes in?

DR. CIERI: That data is included in that report. That is one thing to keep in mind, and I don't mean to make light of late reporting and those types of issues, but that data is included in this, so that has all been accounted for. All of the boats that are supposed to report, using the IVR system, are currently up to date.

REPRESENTATIVE ABBOTT: A followup, Mr. Chairman. So as the season goes on and you're approaching your quota, you really don't know where you are unless you already have factored in the issue of late reporting; is that true?

DR. CIERI: Yes, it is, and it depends on the severity of the late reporting. As we approach the end of the season or any of the TACs, what is generally done is if somebody has not reported in a while, because you need to make those predictions, you make an assumption as to what they have caught. And if have

they caught significantly less than that and the area closes early because they haven't reported to tell them that they have caught less than that, that's the way it works.

If they have caught over that, you know, then, again, the area would go over its quota, and that is a very significant problem in trying to figure out when to do the projections for closure. Late reporting is the biggest thing that frustrates the living whatever out of me when it comes to this.

CHAIRMAN STOCKWELL: Okay, let's take the board for a minute here before we go back out to the audience. George and then Ritchie.

MR. GEORGE D. LAPOINTE: I think the questions people are asking are good ones, and I think as a board and for the council, as well, we need to look at how we get the date on landings because we have weekly reporting now, and we have to ask ourselves is that enough. I have talked to some industry members about mandatory daily reporting.

The other thing I think that I have talked about, and people like the idea and some people don't, is to say that if George LaPointe doesn't report after a couple days, take the permit away, you know, take your ability to land away for five days or something like that. You know, people can argue about the number, but make it hurt, so that in fact if you don't report timely, your ability to fish is curtailed.

That will help correct the issue of figuring out where we are and living with the right numbers. I think those are the kinds of things that we need to consider as states at the commission and as parties at the council as well.

MR. R. WHITE: Thank you, Mr. Chairman. Maybe to clear up what we're discussing here, when you say late reporting, from your aspect when the data comes in, it's been reported. I'm thinking about it in terms of talking about did the person voluntarily report late – in other words, if this was a violation, maybe he was forced to file late as opposed to voluntarily, so that may clear up the –

DR. CIERI: Yes, I mean, for quota-monitoring purposes, I don't care if you put a gun to his head when he put in his report, as long as I get those numbers in so I can figure out where we are.

CHAIRMAN STOCKWELL: Other comments or questions from the board. George.

MR. LAPOINTE: And the other sense I get from talking to the National Marine Fisheries Service is although we have this one individual who had this gross violation, there are other issues with reporting out there, and people shouldn't lose sight of that either.

CHAIRMAN STOCKWELL: I surmised that with them holding 1,000 tons. Jeff Kaelin.

MR. JEFF KAELIN: Thank you, Mr. Chairman. I'm Jeff Kaelin from Portland, Maine. I work with the Fishing Vessel Providian and the Fishing Vessel A.J. The Providian converted to a seiner this year. We spent about \$750,000 to convert that boat into a seiner trawler and didn't fish for three months. We support the tone that Peter took about this reporting situation. We take this very seriously.

We have felt for years, even before we had a federal plan and when we finally developed a plan, that there ought to be significant permit sanctions for people who don't report. We bend over backwards to make sure that we do that correctly. In fact, this summer I realized that our captain and the owner didn't realize that they had to do weekly negative reports even though we were tied up for three months.

We weren't catching fish, but we went down to the Fisheries Service. We had been doing the monthly reports but not the weekly negative reports. Now we're clear about what is required. We don't have an enforcement issue there. We take this really seriously, and, unfortunately, the whole fleet is now being painted with a broad brush because we had a couple of bad actors who brazenly went around saying that they didn't have to adhere to this kind of strict reporting requirements.

So, you know, take the permits away and get them out of the fishery because they're affecting the public perception of the rest of us. As far as daily reporting, I don't know if we go to that or not, I know there are a lot of times when our boats are out of touch with us even by satellite phone, so we'd have to look at some of those issues. But, the weekly reporting, we've got a team of people who are responsible for making sure that happens.

I also want to make a couple of comments. The technical committee report – I don't have it in front of me – the statement that's made about the 50,000 may be exceeding the 1A MSY, it's my understanding that in fact this is a coastal complex as it's assessed, and that we don't have an MSY for the Gulf of Maine.

You know, I think we have to be careful about the shorthand that we're using here. There is no Gulf of Maine assessment; and whether or not we have one in 2009 remains to be seen. But, you know, there isn't an MSY that's been developed by the assessment for the Gulf of Maine. When I see things like that written, it puzzles me as much as anything else, because that's not the way we manage the coastal stock complex. I wanted to throw that out for the group.

The other thing that's related on this retrospective pattern issue, you know, we know that there is concerns about the assessment in terms of the retrospective pattern. It's our understanding that's why we put 26 or 29,000 metric tons and park it over here and reduce OY is to make up for that amount. So, remember, we're fishing almost 30,000 metric tons below the biological targets here, and we want to keep sight of that. That's where the retrospective pattern shows up, and we put that fish aside for that reason; and to come back and have that be a justification for further reducing Area 1A TAC, again, it puzzles us more than anything else. It just doesn't make any sense to us.

In terms of the Canadian Weir Fishery, remember that we've got that 25,000 tons parked there. I am looking forward to the 2009 assessment because if you looked at the last assessment, the Canadians are beginning to say, "You know, maybe that Southwest Nova Scotia stock does recruit into the Bay of Fundy."

And for those people who have been in the Herring Fishery for a long time, remember this issue, and we may very well see, in fact, the Canadians come forward in the next TRAC and say, "Hey, you know what, there is quite a bit of fish that are recruiting now from Southwest Nova Scotia; we realize this is the case." Politically it was the third rail in herring management.

I don't think we need to get too panicky about 20,000, 25,000, 30,000 overnight like this. But I do share Dr. Pierce's concern, and maybe we should have the Transboundary Resource Agreement because it's likely that our friends in Gloucester could sit back and say, "Oh, gee, now we've got to go to 35,000 metric tons."

So, as managers I just wanted to comment on a couple of these things because I think we've got to keep focused on the big picture. I know that most of

you are, and I appreciate the time this morning. Thank you.

MR. DAVID ELLENTON: Thank you, Mr. Chairman. Dave Ellenton from Cape Seafoods and Western Sea Fishing Company in Gloucester. Just on a couple of points. I was disappointed to hear that the TC recommended 45,000 metric tons for next year. I thought the TC had recommended 50,000 metric tons and that the only reason they were going along with 45,000 was to be in line with the National Marine Fisheries Service. I just didn't think that the ASMFC's technical committee had recommended 45,000 metric tons.

On the reporting question, under the previous agenda item, Matt reported that a technical reporting meeting took place with the National Marine Fisheries Service. I don't know whether there are going to be any minutes or recommendations coming out of that meeting. If I could ask Matt that question, if anything is going to come forward because I know that there is tremendous confusion about some of the reporting and which vessels should be reporting what fish related to carriers and what have you.

I'm just hoping that having had that issues' meeting, unless they're going to have another one to further clarify things, I would hope that there would be something coming out that would make it clear to everybody in the fishery who should reporting what.

CHAIRMAN STOCKWELL: Before Matt responds to you, I attended that meeting as well. We have a good start, but we have a long, long way to go. Our staff is meeting with agency staff. From my perspective, we're coming together on many of the issues you just addressed. Matt has been working with Stan Wangson, and he probably can fill in a few more details.

#### **TECHNICAL REPORTING ISSUES MEETING**

DR. CIERI: Part of what you're getting at, there are two issues when it comes to reporting. There are the technical issues that I deal with, you don't want those meetings anyway because you'd probably be asleep within a matter of minutes. Then there is the policy stuff that comes from those sorts of meetings.

It's mostly been informal among different – right now it mostly been informal on technical issues, how do you do this type of query or that type of query. When we're all done and we've figured that kind of stuff out as far as what might be double counted, what might not, what's being captured and what's not, I am sure Hannah's office will take a relook at

the policy dealing with reporting and then reissue some of those statements.

So, first let's figure out the technical issues about what's going on and get a handle on it, and then from there the policy decisions will be made, but it will be done by the National Marine Fisheries Service.

MR. ELLENTON: Okay, thanks very much. And just for your clarification, Matt, if the word "herring" is in the conversation, we assume that if we snooze we lose, so, believe me, we would attend those meetings if they were available to us.

CHAIRMAN STOCKWELL: Thank you, Dave. Any other comments or questions from the audience? Mary Beth and then we're going to bring it back to the board.

MS. MARY BETH O'TOOLEY: Mary Beth O'Tooley, Small Pelagic Group, Hamden, Maine. Thank you, Mr. Chairman. When we were here last, the main topic of conversation was spawning regulations. As I was saying, we were discussing spawning regulations, and there was a great deal of displeasure on the part of the industry with how the spawning regulations took place this year.

We did voluntarily not fish in Maine during spawning closures, and Maine has now implemented the required regulations. We had hoped that the section would take time in 2008 and look at the spawning regulations in totality and not just piecemeal, which is how we've done it in the recent past. So, just a question of clarification; is that the intent of the section or not?

CHAIRMAN STOCKWELL: The next agenda item. John.

MR. NELSON: Thank you, Mr. Chairman, that actually is a nice segue into what I was going to say. I think many of the points that are being made right now actually go to the next agenda item, and I wondered if we needed to – do we need to accept the technical committee's report or it was the report, and that's that, and it's appropriate to move into the next item – which is if we're going to do anything about the 45,000 metric tons, which is their recommendation.

CHAIRMAN STOCKWELL: Well, given the stock assessment update and the TC recommendations, I am going to look to the will as to what your intent is. If we are to change the Area 1A specifications, a

motion is required and a two-thirds vote is necessary. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I think Mr. Nelson's comment was whether we accept the whole report, do we need a motion for that separately, and then a second motion to accept their recommendation to adopt the 2008 and 2009 quotas. If it's one, I'd like to make the motion for all; if it's two, I'd like to make the motion for both.

CHAIRMAN STOCKWELL: Go for both.

MR. AUGUSTINE: Okay, I move that we accept the recommendation of the technical committee of the Atlantic Herring Section, to include in that motion that ASMFC adopt the TACs that are consistent with the National Marine Fisheries Service for the 2008 and 2009 Atlantic Herring Fishing Seasons; specifically, the TAC should be 45,000 metric tons for Area 1A and 60 metric tons for Area 3. That's my motion, Mr. Chairman.

CHAIRMAN STOCKWELL: Is there a second?

MR. NELSON: Second.

CHAIRMAN STOCKWELL: Motion made by Pat Augustine and seconded by John Nelson. Any discussion? Bill Adler.

MR. WILLIAM A. ADLER: Here we go. First of all, the last time the 50,000 was adopted and it was adopted for some reason, and it seemed to be okay. We're still not overfishing here. 45,000 is just not acceptable. I don't know what Matt's projection for when that would close the fishing season in 1A, but it certainly wouldn't last longer than it did this year.

Once again, we met down the coast a little ways about this time last year, and we had to do the same thing of just saying, oh, well, if the feds do this, then we have to, and I'm sick of this. I'm also tired of the fact that we have to meet and go through this thing if we're just going to have to turn around and whatever the feds want, the feds get. Tell the feds to change their mind and come back. I can't support this motion of going down to 45,000 when every year we have to do this. There is no justification at all for this. Thank you.

MR. NELSON: Well, as a comment for the motion, Mr. Chairman, while I certainly appreciate Bill's frustration with this, we wrestled with it last year both at the council level and then ultimately at ASMFC. You know, last year we had crafted what

was, I thought, a reasonable compromise at the council level. Some people will say because that's what I suggested, and it's true.

I thought the 50,000 was a number that folks could live with and would still protect the overall resource. The service accepted that for this current year, looked at the overall projections, which we did get that presentation at the council, and that the recommendation at the council at that time was to go to 45,000. We did not do that; we went to the 50,000.

The service has the ability to change the council recommendation, which they did for '08 and '09 based on the review of the data. I think that's what we're hearing from the technical committee is that they then reviewed the data, also; that their recommendation is that we need to be more cautious in Area 1A.

I fully understand the economic and social implications that are going to take place if we go to that. We've all gone through it this year for just the 50,000, and it's going to be even more so if we go to 45,000. The reality is most people are federally permitted. They're not going to fish in New Hampshire waters because we'll be closed to – we are closed to the herring harvest. I think a number of the other states are closed, so there's only going to be a couple of states that will be available for non-federally permitted vessels to catch anything beyond 45,000 metric tons. That's the reality of it.

I don't know of anyone who is geared up with just a state permit to go herring fishing, so it might be a very moot point. But, the reason why I seconded the motion is because the technical committee has reviewed the data. They are concerned; they are saying that we should be focused on reducing it to the 45,000, and that's why I moved ahead with this. It's reluctantly accepting that, but I think that we've got to look to the future, too, and hopefully this will be just a short-term change in the quota. Thank you.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. Before you go too far in this, that motion came out really quickly; and before you go further, we've tried to capture what we thought was the intent of the maker of the motion and seconder, and maybe if you just take a second to confirm that, Mr. Chairman, before you start debating the motion and make sure we got it right.

MR. AUGUSTINE: Mr. Chairman, I'm reading it now and it appears – yes, that's clearly what you

have in your document here that I read from. Thank you.

CHAIRMAN STOCKWELL: Does the seconder agree?

MR. NELSON: I didn't think we were doing it to adopt it to be consistent with the National Marine Fisheries Service. We were amending the quota to Area 1A to 45,000 and Area 3 to 60,000 based on the technical committee's recommendation, which happens to be consistent.

I suggest that we not include "consistent with the National Marine Fisheries Service for 2008 and 2009 Atlantic Herring Fishing Season", so we just adopt "TACs that amend the Area 1A quota to 45,000 metric tons".

MR. AUGUSTINE: Thank you, Mr. Chairman. I read that directly from the document that was in our handbook on Page 50, and it said, "The TC recommends that the ASMFC Herring Section adopt TACs that are consistent with the National Marine Fisheries Service for 2008 and 2009 Atlantic Herring Fishing Season; specifically the TC recommends a TAC of 45,000 metric tons for Area 1A and 60,000 metric tons for Area 3."

Then they went to include in the following bullets the rationale for the recommendation. My thought on it was that –

MR. NELSON: Mr. Chairman, I concur with Pat.

MR. AUGUSTINE: Thank you, John, did I overpower you on that?

MR. NELSON: Thank you for correcting me.

CHAIRMAN STOCKWELL: I am going to move this along, Pat White.

MR. P. WHITE: I don't know if who can answer this, but what are the consequences of staying with the 50,000 metric tons until we have the new stock assessment?

CHAIRMAN STOCKWELL: I am going to pass the buck to Matt.

DR. CIERI: The reality is that unless states actually have the ability to monitor anything – without using an IVR system, basically, unless a state has its own call-in system to do real-time reporting, most states will have to close their state waters at 45,000,

anyway, because you simply can't monitor that extra 5,000 metric tons.

There is a possibility that should that 5,000 metric tons be taken, for example, the National Marine Fisheries Service might assume that 5,000 metric tons would be taken, and therefore start closing a fishery at 40,000 to allow for that 5,000 metric tons to take place at a directed fishery. There is that possibility as well.

DR. PIERCE: Clarification, first, Mr. Chairman, and then a comment to the motion. Did you say that a two-thirds majority would be necessary to make a change?

CHAIRMAN STOCKWELL: That's correct.

DR. PIERCE: And why is that so? I need a clarification because it was my understanding, from talking with, I think it was staff not too long ago, that the section had not made any decisions for '08 and '09; therefore, it's just a matter of voting to go with 45,000 or to stay at 50,000. So, again, I need to be reminded of the previous actions of the section that would dictate the need for a two-thirds vote.

CHAIRMAN STOCKWELL: Vince, can you answer that question, or Bob?

MR. BEAL: Thank you, Mr. Chairman. I think my recollection – and I'll look to make sure this is actually what happened – is that at the annual meeting last year the section passed a motion that included the '08 and the '09 fishery at 50,000 metric tons. This motion would, in fact, amend the previous decision made by the management board, but I'll check on that to make sure.

DR. PIERCE: All right, thank you, because, again, I was told otherwise, I think. Anyway, good, you'll check on that, but you'd better check pretty quick. All right, with regard to the 45,000, obviously, I share the concerns of my colleague, Bill Adler, regarding the drop from 50,000 to 45,000, but the fact of the matter is that the National Marine Fisheries Service decided to be precautionary and to really embrace the analysis and recommendations of either the plan development team or the monitoring committee – I can't recall – of the council and went with 45,000. So be it, that's the number.

At the last council meeting, indeed, as you indicated, Mr. Chairman, there was an attempt – I think I made the attempt – to have the reconsideration of the 50,000. There was a lot of debate about that. The

service said administratively it couldn't done. The council said, sure, it can. It was an interesting discussion back and forth.

Nevertheless, it was very clear to me and I think all council members that there would not be any change in the position of the National Marine Fisheries Service, that they would stay at 45,000. Now the reason why I made that motion to get it back up to 50,000 at the reconsideration was the fall 2006 bottom trawl survey data that indicated an increase in abundance based on the survey data alone.

I thought that was enough reason for us to do the reconsideration. Well, it didn't pass, so the council stayed at 45,000 I think in part because they realized the service was not going to make a change. Now, if we insist on the 50,000, not making the change, and assuming we did make that decision, then the outcome will simply be that the states land 5,000 more than the 45,000, and that will come off the top of next year's 1A quota.

The service will then implement a quota of 40,000 metric tons. I think that's pretty clear to me, and it should be pretty clear to everybody around the table. That's really a mess, 40,000 – 45,000 is not good, but 40,000 is even worse. So in light of the service's position, which I understand, it's awful difficult to support continuing at 50,000 even though I'm inclined to go in that direction.

I'm also swayed by the technical committee arguments that they've described in the summary of their conference call. I love conference calls, important, of course, helpful, timely, but still kind of a black-box approach. I much rather prefer meetings, but I know that costs are involved. Consistency and federal waters is paramount – and there's two bits of rationale regarding that particular need for consistency, and then the best available science suggests a maximum harvest of 45,000.

I'm not necessarily convinced it's the best available science; it's a precautionary approach, fine enough. Anyway, it's good job by the technical committee. They've provided us with some good justification. So, with all that said, I guess I'm obliged to go with the 45,000, recognizing that it's the best of all possible worlds. It's far better than 40,000, which would be the obvious outcome with an overage of the 45,000 that the feds will implement.

CHAIRMAN STOCKWELL: Thank you, David. Bob just confirmed the section's vote last year was for a 50,000 ton TAC for three years. Eric.

MR. ERIC SMITH: I agree entirely with David Pierce's logic, so I have no further comment. I'm going to support the motion.

MR. CALOMO: Thank you, Mr. Chairman. Before I speak about herring, I also want to recognize John Pappalardo from the Commonwealth of Massachusetts State Fisheries Commission here, which Bill and I both serve on.

Now I will go back into herring. John Nelson, when he speaks, he speaks with common sense, and he made a lot of common sense to me when speaking about the 45,000 metric tons. Matt Cieri brings the issue up the best available science that I have always supported, but I have not always supported what I believe is wrong.

I believe that we're just duplicating the federal process here, and the 45,000 metric tons really isn't supported by the best available science at this time. It might be supported by politics or the loudest voice. Even though I have a loud one, it wasn't that loud at that meeting, I guess, or loud enough.

I can't support this. I believe that the Atlantic States Marine Fisheries Commission should go on its own as far as what they believe is correct. I know what happened last year. I still believe that if we are a commission and a body that should act upon doing what is best for our states, that we should support a different figure other than 45,000 metric tons. Thank you, Mr. Chairman.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chair. Believing probably everybody has their position on this, could I call the question?

CHAIRMAN STOCKWELL: Thank you, I was about to do the same. Would you all please caucus briefly.

(Whereupon, a caucus was held.)

CHAIRMAN STOCKWELL: Okay, the motion is move that the section accept the report of the TC, adopt TACs consistent with the NMFS for the 2008 and 2009 Atlantic Herring Fishing Season; amending the Area 1A quota to 45,000 metric tons and the Area 3 quota to 60,000 metric tons. Motion by Mr. Augustine and seconded by Mr. Nelson.

MR. CALOMO: Maybe in my zeal I did not hear – a point of clarification. Do we need a two-thirds vote to overturn 45,000 metric tons?

CHAIRMAN STOCKWELL: Correct.

MR. CALOMO: We do need two-thirds?

CHAIRMAN STOCKWELL: Not to overturn, you need a two-thirds vote in order to change the 50,000. All those in favor, please raise your right hand; all those opposed; any abstentions; any null votes. The motion carries.

### **EFFICACY OF SPAWNING AREA CLOSURES**

Onto the next agenda item, the efficacy of spawning area closures. As Mary Beth discussed, there have been many changes this year, and the section and the industry worked hard and I think worked well to extend the fishing season as long as they could into the year. At the last meeting that we had in Durham, there were a number of good issues and questions raised and additional concerns; a concern for a shift in effort, a concern for the increasing juvenile catch.

The discussion ensued on whether or not we should task the technical meeting to conduct an analysis to investigate the conservation values of the spawning areas and time. I am thinking about the goals of are the areas correct, is the timing correct, are the stages used correct? We have been using this process for a long time, but we going into a bold new area.

A 45,000 ton TAC is going to be difficult for us managers and even more difficult for the industry. We want to do the best thing possible, so we wanted to have a discussion here and see if there is support from the section to move forward with tasking the technical committee this responsibility. Dave Pierce.

DR. PIERCE: Well, we made a very important change in the way we do business regarding the herring spawning closure for '07. As everyone knows, Massachusetts, in particular – or this side of the table, Massachusetts was very much in support of that change, and the section, as well, through a vote. The State of Maine, to its credit, got into compliance.

At a meeting that we had up in New Hampshire not too long ago to discuss days out of the fishery, the industry members who were present made some very important points regarding what they felt was the consequence of the spawning closure, the new regulations and no fishing at all in the spawning area when it's closed.

They noted a number of very important points such as it led to intensive fishing on juvenile fish, six inch and smaller. I can't recall the exact size, but small juvenile fish, which is not something, of course, we want to have happen. Therefore, I would certainly

support any sort of an analysis that the technical committee could do to evaluate the consequences of that spawning closure relative to a shift in effort to other areas, to other sizes of fish.

I'd like to know if the data exists that can be looked at by the technical committee, and then they can bring that back to us, and we'll be in a position to evaluate the intended and unintended consequences of the actions that we took. I'm still open-minded on it. I'm still very much in favor of there not being any fishing in a spawning area when it's closed.

However, the industry has raised enough questions and has identified enough points to convince me that it needs a look-see by the technical committee and see what they can come up with regarding what the consequences were.

CHAIRMAN STOCKWELL: Thank you, David. Other comments? George and then Vito.

MR. LAPOINTE: Thank you, Mr. Chairman. John Nelson came up at the last vote and reminded me I'm not sitting here as a section member because you are and I'm Pat's advisor. But, I think if we ask the technical committee to do this – and you know we're in favor of it – that we should have the states pose specific questions.

Otherwise, we'll put them in the spot of what the elephant does, the guy with the blindfold grab, and they'll come back with some recommendations and we'll say, "No, that's not the question we intended," so I think we need to – you know, I would encourage the member states of the section to give specific questions that can be addressed.

CHAIRMAN STOCKWELL: Good comment, thank you. Vito.

MR. CALOMO: Thank you, Mr. Chairman. I agree with George and I agree with Dr. Pierce wholeheartedly. But I also have my comment to make that I believe that the section took a great step in the right direction to rebuild, as everybody says, the Gulf of Maine Area 1A, which is not overfished and overfishing is not occurring, but we're going to rebuild it.

So, I'm in favor of that, more fish into the Gulf of Maine, and maybe somebody will wake up and say, "Geez, we should take more." Mr. Chairman, Dr. Pierce made a statement about redirecting on juvenile fish. This is not something new, Mr. Chairman. This has been going on as far back as when I started

fishing for herring directly at least 35 years ago. Mr. Chairman, I think we have taken a giant step again with the spawning closures.

As far as where they should be, I think that's a good idea, take a look at it from the technical committee and see if they could say maybe we should adjust this or that. But to speed it up a little, Mr. Chairman, because I know we're running over, is that we should stop the redirecting on juvenile fish.

We should have a size limit like we have on haddock, codfish, spot are being taken, scup. What are doing killing these babies? We went to the largest mesh in the world on the New England Council, and that was my motion to go to a six-and-a-half inch mesh. I don't understand it. I don't think we need net sizes here because you're fishing on pelagics, but we should stop the slaughter of juvenile fish, whether it be herring or menhaden or any other.

What are we doing here? 20,000 tons, Mr. Chairman, in my estimation, is quite a few millions of pounds. Somewhere in the neighborhood of 45 million pounds have been redirected on five-inch, six-inch and seven-inch fish when there is still an abundance of large fish in that area. Again, where not overfishing is occurring and we're not overfished in 1A.

So, Mr. Chairman, I think it's this opportunity to speak on this because I don't see it in other place on the agenda to have the section meet or take a position that we stop the slaughter and senseless slaughter, whether it be a sports fisherman gathering four-inch spot to use to catch tuna or a striper, or using undersized scup or undersized whiting or undersized anything for bait. I think it's the wrong thing, and I think we start right here with herring. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Vito, we will add that to the task list for the technical committee should this move forward. Dennis Abbott.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chair. We have been having a bit of a discussion here, and should a motion be in order so I'd have a better understanding of exactly what we're talking about.

CHAIRMAN STOCKWELL: If that's your wish or if the section moves forward, we can move it forward with concurrence.

REPRESENTATIVE ABBOTT: I don't have a motion to make, but I thought someone did.

MR. NELSON: I think the discussion revolved around requesting the technical committee to evaluate the effectiveness of the spawning area closures, and you were getting, then – I didn't see anyone objecting to that direction from you to have the technical committee look at that. I think you were getting comments from folks on how focused that of discussion should be.

That's what I was going on, but if you feel you need a motion, I think that's fine and I would be happy to make that motion. Otherwise, unless there is objection, you're going to just direct the technical committee to evaluate the spawning closures' efficiency.

CHAIRMAN STOCKWELL: That is correct, to begin the analysis of the conservation equivalencies of the spawning areas and time closures. Do you have anything else to add, Matt?

DR. CIERI: Yes. I mean, this is an involved analysis. It not only involves doing catch-at-age matrices and looking at areas and sub-areas. It also requires taking a good, hard look at how juvenile fish fit into the entire assessment. So, if you're going to do this type of stuff, you first need to understand that in the assessment process everything is age two plus. We don't look at age ones at all in the assessment any longer.

The second thing is be as specific as possible as to what you want us to do. Otherwise, you'll get back a general warm, fuzzy feeling from the technical committee. If you want specific questions answered, make those specific questions to the technical committee either formally in some sort of management action or in a letter or memo to the technical committee.

CHAIRMAN STOCKWELL: To that point, I was going to suggest that all states forward specific suggestions to the technical committee – in what time period, Chris?

MR. BEAL: Just one comment, Mr. Chairman. It might be easier if staff sort of acts as kind of a conduit to the technical committee. We can compile all the recommendations from the individual states, compile those, and then we'll put together a draft list of questions, circulate that back to the section.

Then if the section approves and kind of puts that into a formal tasking to the technical committee, then

they can start reacting to that. It may take a little while, but I think if everyone can send – if the states can send to staff their requests in general terms in the next two weeks or so, and we'll send out an e-mail requesting that, I think we should be able to get a memo turned around to the technical committee pretty quickly.

CHAIRMAN STOCKWELL: Good point. My intention is the technical committee liaison is Chris, and Chris should be the recipient of these comments. Other comments? I have got Jeff Pike and Jeff Kaelin in the audience.

MR. JEFF PIKE: Thank you, I'll be brief. My name is Jeff Pike. I'm here today on behalf of Bumble Bee Stinson Seafood. In August, at the Alexandria board meeting, I raised this issue, and then Chairman Smith suggested, in response to some comments by Mr. Nelson, that indeed we could not look at this issue in '07, but that, quote, it would be at the annual meeting in October.

So, thank you for putting this on the agenda and for following through on your commitment. I won't repeat a lot of the concerns that we had that were expressed at the August meeting. But I will say that as far as the change in season and the days-out scenario and the need to evaluate the effective of the spawning closures; and, more specifically, the no-fishing aspect of the spawning closures, we had hoped at the sardine factory that we would have approximately 15,000 metric tons in 1A to take us through the October 1-November timeframe.

As you may know, at the beginning of October, there was a directed juvenile fishery off of Jonesport; and as a result, probably 10 to 12,000 tons has already been taken, and we are very disappointed that we will not have that fish available later on in the season, and again deeply concerned about the impact of a directed juvenile fishery, which I believe in part was caused by the no-fishing aspect of the spawning closures. Thank you very much.

CHAIRMAN STOCKWELL: Thank you, Jeff. Jeff Kaelin.

MR. KAELIN: Thank you, Mr. Chairman. Jeff Kaelin from Portland, Maine. I know you guys want to get to lunch, but I'm glad this is on the agenda; I appreciate that. I've only been doing this since about 1986, and I think that the industry first worked with the commission to create spawning closures in the early eighties, to redirect effort from ripe and running fish.

That's why this has been done for so many years. There has always been a little bit of juvenile mortality that comes out of those areas, but it's been relatively small. I'm looking forward to seeing the analysis that the technical committee might do to look at whether or not we have concerns about the mortality rate at certain ages here or not, because we don't know if that's the case.

But, certainly, this summer the fact was that there were larger fish that were spent fish we thought down off of Massachusetts, and the fleet wasn't able to work on those because of the complete closure, so we really had a directed fishery on these juvenile fish, which we don't really want to do. So, I'm glad that this back on the agenda.

The other issue is if we don't have a fishery, you can't sample to determine that the closures are really being both closed and opened around the time that the fish are really spawning, so we lost the most important mechanism to make sure that the spawning closures have efficacy, I think. So, thank you for revisiting this, and I would hope that there might be an opportunity for the industry to have some input into this process. Maybe it's through our own state directors, I don't really know. But, it wasn't good this year, and we'd like to get back to some sense of a tolerance, some use of the tolerance perhaps in the future. Thank you very much.

CHAIRMAN STOCKWELL: Thanks, Jeff, and we'll be talking to staff about convening the advisory panel. Dave Ellenton.

MR. ELLENTON: Thank you, Mr. Chairman. I think you just said in the last few words that I was just going to ask you for. As some stage, as chairman of the advisory panel, I would like to think that we get penciled in on a date sometime where we can talk about the recommendations of the technical committee on this point.

As an industry, we actually need to get together and talk about the holocaust that we've just gone through. It's been terrible this season. Various aspects of the fishery need to be discussed by the industry, and perhaps we can give some input to the technical committee on some other aspects of the fishery, in addition to the juvenile fishing which we, as a company, anyway, we would totally like to get away from any juvenile fishing.

CHAIRMAN STOCKWELL: Thank you, Dave. I think we'll do better than penciling you in. Any

other comments from the audience? Well, without object, I'm to move and charge the TC to begin the analysis of the conservation equivalencies.

#### **OTHER BUSINESS**

CHAIRMAN STOCKWELL: Other business before the board? I know of one issue. Ritchie.

MR. R. WHITE: Thank you, Mr. Chairman. I would ask that the Chair task the Law Enforcement Committee to look at this issue of late reporting, non-reporting to see if there is any additional information that did not come forward today. If there is not, they don't need to report, but if they find additional information that we did not know about today, then they could report back to us.

CHAIRMAN STOCKWELL: Excellent idea; we'll include that in the next full section meeting reporting.

MR. JEFF MARSTON: Jeff Marston from the Law Enforcement Committee. I have spoken with the National Marine Fisheries and they are going to speak briefly about the reporting issues at the Law Enforcement Committee meeting later this afternoon.

#### **ELECTION OF VICE CHAIR**

CHAIRMAN STOCKWELL: Thank you. Other business? The other business that I have is a vice-chair, and there may be a motion from Eric Smith.

MR. SMITH: What is your pleasure, Mr. Chairman? We're so late we could postpone this until February or we could deal with it now; it's up to you.

CHAIRMAN STOCKWELL: Let's deal with it now.

MR. SMITH: Okay, I would nominate Dennis Abbott to be the vice-chairman of the section.

MR. AUGUSTINE: Second that motion and close nominations and cast one ballot for Representative Dennis Abbott to become vice-chairman of the section.

#### **ADJOURN**

CHAIRMAN STOCKWELL: Well, it looks like congratulations, Dennis. That being said, this meeting is adjourned. Thank you all very much.

(Whereupon, the meeting was adjourned at 1:05 o'clock p.m., October 29, 2007.)