

ATLANTIC STATES MARINE FISHERIES COMMISSION

HORSESHOE CRAB MANAGEMENT BOARD

Quality Hotel and Conference Center
Arlington, Virginia

January 30, 2001

The Horseshoe Crab Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Room of the Quality Hotel and Conference Center, Arlington, Virginia, January 30, 2001, and was called to order at 1:00 o'clock p.m. by Chairman Charlie Lesser.

CHAIRMAN CHARLIE LESSER: Please take your seats. This is the Horseshoe Crab Management Board. I'm Charlie Lesser, the new chairman.

The agenda is on the back table if anybody needs a copy. Are there any additions to the agenda? Hearing none, we'll accept the agenda as proposed. Tom, will you take note of the people that are currently here and we'll dispense with the roll call to save some time.

We now open the floor for public comment. Make it brief and to the point on the agenda, please. Any public comment? Perry.

MR. PERRY PLUMART: Perry Plumart with the Audubon Society. I don't know if this is the appropriate place at the meeting, but it would be the recommendation of the Audubon Society that the Atlantic States Marine Fisheries Commission send a letter to the new Secretary of Commerce urging him to act immediately on putting in the Federal Register the horseshoe crab sanctuary area that has gone through all the appropriate review.

CHAIRMAN LESSER: That will come up on the agenda as Item 8.

MR. PLUMART: Okay, all right. Thank you.

CHAIRMAN LESSER: Any other public comment? Hearing none, I'll entertain a motion for approval of the October meeting minutes.

MR. WILLIAM A. ADLER: So moved.

MR. AUGUSTINE: Second.

CHAIRMAN LESSER: Without objection, so moved. Tom, do you want to handle the economic appointee.

MR. TOM O'CONNELL: Thank you, Mr. Chair. All of you should have received a copy of a recommendation to appoint Mr. Robert E. Unsworth to the Technical Committee as an economist. And if you have any questions I'd be happy to answer them. We're looking for a motion from the Board to approve Mr. Unsworth today.

MR. PAT AUGUSTINE: Mr. Chairman, so moved.

MR. DAVID CUPKA: Second.

CHAIRMAN LESSER: It's been moved and seconded to approve the nominee. Any discussion?

MR. AUGUSTINE: Call the question.

CHAIRMAN LESSER: Without objection, so moved. Update on the state challenge funds. Lisa Kline.

DR. LISA KLINE: Thank you, Mr. Chairman. I'm going to be rather brief. As the Board is aware, the Commission is holding \$125,000 of state funds from New Jersey, Delaware and Maryland to be dedicated to horseshoe crab research.

The Technical Committee, I think, updated the Board at your last meeting on the four projects that were recommended for funding; the first being genetic stock ID work to be conducted by Tim King. The estimate to that was about \$25,000.

The U.S. Fish and Wildlife Service has provided \$10,000 to support that funding. The Commission will provide the additional \$15,000. Tim will be talking with the Technical Committee in their next meeting in about a month to get a little more input from the Technical Committee on the focus of that additional research.

The other three projects were lumped together. They were a benthic trawl survey, identifying protocols for identifying horseshoe crab recruits, and also looking at the feasibility of aerial studies.

Jim Berkson was identified as the researcher to conduct those studies. He did submit a preproposal to the National Fish and Wildlife Foundation for match funds. That preproposal was approved by the Foundation.

Jim did submit a full proposal in December. That is in the Foundation review process and we'll be notified by March 31st whether or not the Foundation will fund that. If the Foundation does fund it, then the Commission will use the rest of the \$125,000 of state funds as matched to support that research.

If not, if that proposal is rejected by the Foundation, Jim has readdressed the three projects and whether or not he could conduct that study with just the state funds that we have. He thinks that he can by decreasing some of the sample size and still address those three projects.

All of these research projects will be coordinated through the Technical Committee, as Tom and I have talked. It will be on their agenda for their next meeting. And the Technical Committee can provide input to both Tim King and Jim Berkson on the focus of that research. And if there's any questions, I'll be happy to answer them.

CHAIRMAN LESSER: Bruce.

MR. BRUCE FREEMAN: Lisa, the original \$25,000 for the stock ID, if I recall, that work was moving forward even before we made a commitment to pay for it. Do we have any results of any of that to date?

DR. KLINE: I have not received any. I don't know, Tom, if the Technical Committee has?

MR. O'CONNELL: No, there has been no results to date yet.

DR. KLINE: And I'm sure that we can request Tim to provide an update to the Technical Committee. One of the questions that Tim has is sample size and geographic scope of his samples.

And that's one question that he has for the Technical Committee in terms of how to use this additional \$25,000 to extend the research that he's already done.

CHAIRMAN LESSER: Any other comments? Andy.

MR. ANDREW MANUS: I'd just like to add a little post-script to Lisa's report so that folks don't get the impression that we're neglecting the shorebird side.

I am still holding, waiting for a response from the U.S. Fish and Wildlife Service, and I'll even open that up to any other NGOs, \$12,000 to do a status and trends report on shorebirds that make use of the horseshoe crab eggs in their migratory flight through Delaware Bay.

This would be the avian analogue to the stock assessment that this Board committed to and has since kicked off the research agenda that we heard Lisa go through.

To date now we have heard no response from the U.S. Fish and Wildlife Service on that offer, and we're going into a period of time where there's incredible transition at the U.S. Fish and Wildlife Service.

And later on in the agenda, I hope we bring this item up so that we can get their attention on it. And the offer is now open to any NGO who may want to match those dollars available. Thank you.

CHAIRMAN LESSER: Stu.

MR. STU MICHELS: Yes, just getting back to Tim King's work, I think the work that he had done previously was essentially to identify the markers for genetic analysis and not really to delineate any stocks.

CHAIRMAN LESSER: Any other comments on the research? Okay, thank you, Lisa. Tom, do you want to review the draft material for Addendum II?

MR. O'CONNELL: Yes, thank you. All of you should have received a copy, or most of you, through e-mail. It was kind of done at the last minute last week sometime. There's also some copies in the back. Hopefully the majority of you have had a chance to review it.

The Plan Development Team put together this document based upon the motion that was made at the last meeting in affiliation with the Technical Committee's recommendation for quota transfers.

The addendum was also -- let me just reiterate first that this addendum is prepared for public comment purposes and once approved by the Board will be distributed to the public to get some comments back from them.

The draft addendum was also sent out to the Technical Committee and Advisory Panel prior to this meeting, and I will ask the chairpersons to have a chance to give an update if they heard from anybody. So I'll turn it over to Stu first.

MR. MICHELS: Tom, we only received one comment on the draft public information document, and it essentially dealt with typographical errors and not a great deal of contention.

MR. O'CONNELL: And Bob Munson, the Advisory Panel Chair.

MR. BOB MUNSON: Yes, I forwarded my own comments to you and Grace Pierce-Beck is here today, and she will at some point give you her comments on it. I have heard from no other advisors on this.

MR. O'CONNELL: There was one other e-mail I received from Dr. Cooper, the vice-chair, and maybe that didn't get - okay, you did, okay. But basically it was just a minor comment about the options that were put together and supportive of them.

Given that, are there any questions from the Management Board regarding the information that is currently in the addendum?

CHAIRMAN LESSER: Jack.

MR. JACK TRAVELSTEAD: You're just looking for questions right now and not comments? I may have seen two different versions of this, I'm not sure, but I recall seeing something in here about specified periods of time when a

request for a transfer could be made, but I don't see it in the draft I have in front of me. Am I missing it or was it taken out or?

MR. O'CONNELL: It was in the original draft that I think we forwarded you, Jack, since you were going to help us out with this. But it was taken out. Given the experience that several of us had with quota transfers coming up throughout the year, it seemed that it would be appropriate for this.

MR. TRAVELSTEAD: So it's not in the final version?

MR. O'CONNELL: Yes.

CHAIRMAN LESSER: Any other Board members have comments on content? Eric.

MR. ERIC SCHWAAB: I just had some concern in the statement of problem in the way that the characterization of the states that have unilaterally imposed more restrictive regulation is put forth. It strikes me that -- in the statement of problem, the second sentence reads, "regulatory actions taken in some states exceed this reduction, resulting in unused quota."

And it strikes me that really doesn't tell the whole picture or paint the whole picture and that perhaps we could state that a little differently given the fact that the action of this Board in Addendum I had specifically encouraged those states to maintain those more restrictive regulation.

The same comment carries through into the analysis of the various options. And with respect to both Option C and Option D, I would suggest that we may want to add a concern that either of those options could potentially undermine those more conservative regulations that were encouraged in Addendum I to be continued by those states, specifically to protect that Delaware Bay stock.

So I would suggest maybe if it is at all possible to characterize that whole issue a little differently.

CHAIRMAN LESSER: Bill and then Jack.

MR. ADLER: In the draft Addendum under 4.1 Option A, number 2, identified concerns, could you explain what that statement means "Quota transfers would not be a mechanism to alleviate bait shortages."

I sort of have a disconnect here between -- that's an identified concern if there's no quota transfers. Is that worded exactly?

MR. O'CONNELL: Yes, I guess the idea that these quota transfers with the addendum is being talked about, the reason was that it could provide some mechanism to increase the supply of crabs in those states that may have a bait shortage in any one year.

So if a quota transfer was not approved by this Board, then it would not provide a mechanism for a certain state to obtain more crabs other than crabs that are landed in another state and then imported to that state for their use.

MR. ADLER: Okay, I guess I think I understand what you mean. I just had trouble trying to translate that wording into what you mean. But, okay, all right.

CHAIRMAN LESSER: Jack.

MR. TRAVELSTEAD: I have only one concern about the way the addendum is drafted at this point. I don't think it's terribly significant. I envision the quota transfer process to be dynamic. We say in Section 4.2 that in each case that there's a quota transfer, it's going to be reviewed on a case-by-case basis. We know the science is changing somewhat rapidly with respect to this species.

We know now more than we knew a year ago, and I expect we'll know still more a year from now than we know now. The Technical Committee and the Management Board, every time it reviews a particular quota transfer that comes before us, is going to give its advice or make its final decision on what the available science is at that time.

And each quota transfer, again, will be reviewed on a case-by-case basis. So it seems to me -- it's just not clear to me why we have options under 4.1 that preclude transfers, for instance, or that suggest to the public, as in Option D, that quota transfers would be unlimited when, in fact -- just suppose for an instance we picked Option D, unlimited transfers.

That implies to the public that anybody can transfer at any time when, in fact, what we really mean is every single transfer is going to be reviewed by the Technical Committee and decided by the Board based on the available science at the time that request is made.

And so it seems to me we would be better served with an addendum, rather than spelling out options, that spells out specifically the types of criteria that we expect the Technical Committee to look at when it reviews every option, and that we expect the Management Board to consider when it makes a final decision.

For instance, there's nothing in the document that talks about the amount of a particular transfer. You may get a transfer for a thousand crabs from Maine to Virginia that might receive one reaction from the Technical Committee while a transfer for 50,000 crabs from the same two states may receive a different reaction.

You also need to take into consideration the amount of transfers that have occurred previously in that same year. And there's no mention of that.

So, I guess what I would prefer to have seen in Section 4.1 is a listing of all of those criteria that the Technical Committee and the Management Board should consider when they make a decision on any particular transfer, and that it would probably be five things that they would look at.

It wouldn't be limited to that, but I can think of four or five criteria:

1. The quantity of crabs that are going to be transferred.
2. The quantity of crabs that have been transferred between all jurisdictions in that year.
3. The effect of any transfer on the problems around the genetic aspects of the stock; in other words, would the transfer be coming from a small stock that might be impacted because of the transfer?
4. The impacts of the transfer on this super abundance of horseshoe crab eggs that are needed by the shorebirds. I think those need to be listed in the addendum so it's clear to the public and clear to all the groups that have to make the decisions, the kinds of concerns that people might have.

And then I think you can take the expected benefits and the identified concerns that you see under each one of these options and expand on the four criteria that I just gave you, so that the public understands why we're looking at that particular criteria. What are the concerns? What are the expected benefits?

And I don't know how the other members of the Board feel about that, but if a motion would be in order to make those changes, I would be glad to make it at the appropriate time.

CHAIRMAN LESSER: Bruce Freeman.

MR. FREEMAN: It seems to me the easiest way to deal with this is rather than change these to, Jack, what you suggested, just put yours in as an other option; list that as an option so instead of being A, B, C, D, there would be an E option instead of A to D, so the public has an array of options to comment on.

As I understood what you're saying is take away A, B, C, D and just include the option you have, and it seems to me easier just to add that to the list already existing.

CHAIRMAN LESSER: Jack, could you add your criteria under Option D?

MR. TRAVELSTEAD: I think the criteria would be included, depending upon what particular you go with, could be included under B, C and D.

CHAIRMAN LESSER: Well, you can word it to that effect under Option D that you --

MR. TRAVELSTEAD: I don't have any objection to Bruce's suggestion for an Option E that would make it clear that any transfer would be reviewed on a case-by-case basis and then spell out the criteria that I mentioned.

CHAIRMAN LESSER: Have you got enough information? Stu.

MR. MICHELS: That's to replace the current Option D; is that what you're asking, Jack?

MR. TRAVELSTEAD: It could be a new Option E. You know, I think Bruce suggested just a new option.

MR. MICHELS: Okay.

CHAIRMAN LESSER: Dieter.

MR. DIETER BUSCH: Thank you, Mr. Chairman. I think some of the confusion here is that this is an addendum with options in it, and normally we do not have an addendum with options in it. It would be part of the amendment process where we have a public information document with options.

The reason we have options in this document is that we do not have information yet to provide to the Board in a draft addendum that is more or less complete. This is really part of a decision-making process to get more information into this document from the Board.

And in my contact with the Tech Committee, they were trying to outline some of these options. The options that Mr. Travelstead mentioned certainly could be included in this.

This document is not going to be completed in the near future, obviously, because we do not have the genetic information to identify the boundaries that could or could not be used by the Board in its interregional or intraregional transfer.

So at this point, really, you have a draft document here that needs guidance from the Board because the PRT has had just its own brainstorming activities, and they are trying to do their job to the best of their ability. Thank you.

CHAIRMAN LESSER: Okay. Jack.

MR. TRAVELSTEAD: Again, I guess my concern is that, as Dieter says, we don't have a lot of information to flesh out particularly Options B and C, and that's why I prefer that these be done on a case-by-case basis; and that as the science is available, you don't need to come back and change your addendum.

It just changes the criteria and the information that the Technical Committee will use to evaluate any particular transfer. It seems to me it makes the whole process a lot easier. As science becomes more available and more intricate, it's automatically considered by the Technical Committee without having to come back and modify this addendum.

CHAIRMAN LESSER: The gentleman from the National Marine Fisheries Service.

MR. PAUL PERRA: It seems to me that if we want to add these criteria, we would add it under 4.2. Where it says "procedures for review and approval of state quota transfers", we could add another paragraph there that said these four things will be taken into consideration when doing quotas.

CHAIRMAN LESSER: Any other comments? Any comments from the audience on the content of the Addendum II draft? Grace.

MS. GRACE PIERCE-BECK: Members of the Horseshoe Crab Management Board, I am Grace Pierce-Beck, a member of the Horseshoe Crab Advisory Panel and Conservation Chair for the Delaware Audubon Society.

Herewith are my comments on the draft of Addendum II, Section 4.1, Management Options for state-to-state harvest quota transfers. I support Option A, no quota transfers.

Allow no quota transfers in any form. My reasons for supporting this option and the opinion that the Horseshoe Crab Advisory Panel should also support the Option A are the following:

1. Our present inadequate knowledge of the resource. Throughout the draft document, it states that research, studies, et cetera are being conducted. We should not implement quota transfers until conclusive knowledge can tell us what is a sustainable horseshoe crab population for the significant uses.
2. Quota transfers impact on competing uses. As stated under 2, Statement of Problems, third paragraph, "Quota transfers should also be evaluated for their impact on competing uses, especially the migratory shorebird populations and the biomedical industry."

The biomedical industry and shorebirds may require a surplus of horseshoe crabs beyond what is necessary to sustain the population. The vital importance to human health and to the birds of the horseshoe crabs and their eggs justifies not using quota transfers of the resource.

The Interstate Fishery Management Plan for Horseshoe Crabs was adopted in 1998 to have states maintain and manage their current horseshoe crab harvest reduction. The February 2000 establishment of a state-by-state cap on horseshoe crab landings was to provide further protection to the population.

State-to-state quota transfers will only undo the actions take by this Management Board and defeat the ultimate goal of a sustainable horseshoe crab population.

We sincerely recommend that you adopt Option A, no quota transfers; allow no quota transfers in any form. 4.1 change to read management for state-to-state harvest quota transfers, eliminate Option B, C, D and all of 4.2. Thank you for the consideration of my comments.

CHAIRMAN LESSER: Grace, will you submit those in writing?

MS. PIERCE-BECK: Yes.

CHAIRMAN LESSER: Thank you. Pat Augustine.

MR. AUGUSTINE: Are we ready for a motion or do we have more comments, Mr. Chairman?

CHAIRMAN LESSER: One more comment from the audience. Gerry.

MR. GERALD W. WINEGRAD: My name is Gerald Winegrad. I'm with the American Bird Conservancy. Just very quickly, the Atlantic States Marine Fisheries Commission initially rejected the transfer of the quotas.

And one of the things that's missing in this puzzle -- and I do commend this Board and the Commission and particularly the state of Virginia for moving forward with their management plan in Virginia with the bait bags, as

well as the very strict reporting requirements they initiated in the adoption of the quota in Virginia, so there's been great movement.

The missing key that everyone agrees, no matter where you are, whether you're a conch fisherman or whether you're a birder, is that we don't have a stock assessment yet. And there's some money in the kitty we heard, but there's still not that comprehensive stock assessment.

And as Grace said, we really don't know what a sustainable harvest is yet. Until we reach that point, even though I commend the group for putting these options together and looking at the genetic makeup, we're always concerned about transferring crabs from, let's say, Florida or Maine to the Delaware Bay population and overharvesting that critical population of shorebirds that we're concerned about.

So if you're not going to adopt Option A, which we would recommend until we have more data on the population size of the horseshoe crab and what is a sustainable fishery, we would recommend that Option B or C be considered, particularly B, so that we're not transferring quotas of crabs that are genetically distinct in subpopulations into and out of the Delaware Bay population that would be overharvested.

CHAIRMAN LESSER: Okay. Now bear in mind that this document is not for debate on whether they're good, bad or indifferent; it's only what the content should be to go to public. So your comments will be more pertinent at the time we're taking public comments on the actual draft.

Just one clarification. Is it agreed with the Board that the criteria that Jack has mentioned come under 4.2 as Paul recommended? Does that suffice? If so, then I'll entertain a motion for approval of the draft.

MR. AUGUSTINE: Thank you, Mr. Chairman, I'd like to move approval of the draft Addendum II for public release with all of those changes that have been agreed to and presented by members of the Board.

CHAIRMAN LESSER: Would that include the staff with editorial privilege?

MR. AUGUSTINE: That would include the staff recommendations.

CHAIRMAN LESSER: Okay. Is there a second?

MR. ADLER: Second.

CHAIRMAN LESSER: Discussion on the motion? Dieter.

MR. BUSCH: Mr. Chairman, it might help our staff to work on this if the Board indicated if the material that was added based on Mr. Travelstead's comments had some numbers with it.

If you're talking about range, if you're talking about 10s or 100s or 1,000s or whatever, in developing 4.2 and working on that, it would be helpful to have guidance from the Board as to what the magnitude of those numbers might be.

CHAIRMAN LESSER: Are you asking that from Jack?

MR. BUSCH: I guess from Jack specifically, but maybe with Board discussion.

CHAIRMAN LESSER: Okay. The Board will be in contact with you for more specifics on the numbers.

MR. TRAVELSTEAD: Okay. I have one other.

CHAIRMAN LESSER: Okay, Jack.

MR. TRAVELSTEAD: Before we vote on this, I guess I have one other concern and that is of the four options, A, B, and C rather severely limit the type of transfer. So you have three at one end of the spectrum and then you have Option D, which is called "unlimited transfers."

And I think that's going to scare the heck out of people. I would prefer Option D perhaps say "limited", not unlimited but limited state-by-state quota transfers, and then have language following that that speaks to a review on a case-by-case basis.

I think the way Option D reads now it's wide open, do whatever you want, and I think people will forget that there's a case-by-case review. So if we could state that in there, it might allay some people's concerns.

CHAIRMAN LESSER: Fine. Any other comment on the motion? Bruce.

MR. FREEMAN: I have a question relative to the last comments by Virginia. Jack, if you recall in other plans, there are no qualifications on transfers.

For example, for summer flounder which we've all been familiar with, although the transfers are not extensive, there, quite frankly, are no restrictions for a state to transfer its entire quota to another state or series of states.

It hasn't occurred. It probably won't occur, but, nevertheless, there are no such restrictions. If what you're suggestion is so, this will be a change of the policy that we presently have.

And I just want to get a clear determination that you're aware of no such restrictions in other fisheries; and if we put this in, this would deviate. And it's fine if that's what you want. I just want to make certain that's understood.

MR. TRAVELSTEAD: I think it's part of facing reality, Bruce. If I thought this Board would support unlimited horseshoe crab transfers, you know, I would have written this myself as the only option.

But, I recognize the politics of this situation. This is one of those species where we have chosen to manage politically, and I think that limits the available options.

CHAIRMAN LESSER: Mr. Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I would suggest that we write in there, " with the addition of an Option E," to be more specific. Otherwise, we're putting the onus on the technical staff to come up with what it was we agreed to.

Now is there anything specifically that the technical staff feels should be put in the motion to be clearer than we are at the moment?

MR. O'CONNELL: I guess my only concern would be in regard to Jack's last comments, whether to change Option D to limited or add another option.

CHAIRMAN LESSER: Gordon.

MR. GORDON C. COLVIN: I'd like to be more specific, Mr. Chairman. I don't know what "as modified" means in the context of this motion. If there are specific modifications that are suggested to the text of the proposed addendum, I suggest that they be stated and put up on the Board.

CHAIRMAN LESSER: Who wants to state them? Jack, do you want to go through them?

MR. TRAVELSTEAD: Well, here's what I've been talking about. Under Option D, strike the word "unlimited" so that it reads just "state-by-state quota transfers". Then add in the next sentence something to the effect that the transfer would be reviewed on a case-by-case basis.

Under Section 4.2, you would add a paragraph D that would say something like this, that the Technical Committee and the Management Board, in its review of each state quota transfer, shall take into consideration:

1. The amount of transfer requested.
2. The amount of all previous transfers approved in that year.
3. The effect of the transfer on -- and I'm not smart enough to give you the language, but it's this genetic concern about the small populations, big populations, et cetera.
4. The effect of the transfer on the availability of shorebird eggs for the avian populations; i'm sorry, the horseshoe crab eggs for the avian population.

CHAIRMAN LESSER: Gordon, does that answer your concern?

MR. COLVIN: Yes, it does, thank you.

CHAIRMAN LESSER: Tom, are you clear?

MR. O'CONNELL: Just checking my notes to see if there's anything else. What about the comments that Eric Schwaab made earlier? Is the Board comfortable with those changes?

MR. AUGUSTINE: Mr. Chairman, could we have those repeated, as your notes are, Tom.

MR. O'CONNELL: Yes, under the statement of the problem, the second sentence of the first paragraph, change that section to reiterate the fact that the additional reductions from those Maryland and New Jersey were result of Addendum I which encouraged those states to maintain those.

And for Options C and D as another identified concern that they would undermine the more conservative regulations in Addendum I specific to those states that took more restrictive actions. Is that what you were saying, Eric? Is that clear?

MR. SCHWAAB: Yes. I mean, I can get more specific with language, if you would like.

CHAIRMAN LESSER: Please do.

MR. SCHWAAB: I would suggest one of two options in the statement of problem, the second sentence. I would suggest either to strike that phrase "resulting in unused quota" or replace the entire sentence with something to the effect of "unilateral regulatory actions in some states that are encouraged by Addendum I to be retained may result in actual harvest caps that yield a greater than 25 percent reduction." Either of those edits would be acceptable to me.

CHAIRMAN LESSER: Do you have those in writing, Eric, that you could give --

MR. SCHWAAB: Yes, I can bring them over momentarily. Let me just say, then, both in Option C and in Option D, I would add a concern to the effect that "both options may undermine more conservative Delaware Bay strategies to maintain more restrictive state programs as encouraged by Addendum I."

CHAIRMAN LESSER: Does anybody else have any substantive change that they would like to see in the motion? Bruce.

MR. FREEMAN: Jack Travelstead, I thought you made mention, on Option D, to strike the word "unlimited" and put "limited state-by-state". Was that correct?

MR. TRAVELSTEAD: Yes, I rethought that and just thought that striking the word "unlimited" would be preferable.

MR. FREEMAN: But what does that mean? Does that mean the same thing as unlimited, just striking the word or do you have --

MR. TRAVELSTEAD: Well, I just didn't like the word. I think it scares people.

MR. FREEMAN: So the concept would remain the same but the word would change, is that --

MR. TRAVELSTEAD: Well, and then we added language in there to make it clear that the transfers would be reviewed on a case-by-case basis.

MR. FREEMAN: All right. Well, I just want to make it so I understand because now I'm confused. On the transfers we have now at other species, there is no mention of limits so technically we could transfer the whole quota to one state or vice-versa.

And you're suggesting that could occur here. You're just striking the word?

MR. TRAVELSTEAD: No, I don't think there's anything in the addendum that would lead one to believe that an entire state's quota could be transferred to another state.

I mean, it seems to me with what we've added into 4.2, with a Technical Committee review and a Management Board decision that includes a look at those four criteria and all of the language under the statement of the problem and the distribution of the crab populations, I would be hard pressed to think that somebody could walk away, after reading this, that they were going to allow for that kind of a quantity to be transferred.

MR. FREEMAN: Well, the point is it could. It's probably highly unlikely, perhaps not likely at all. But I just need to understand. My understanding of the original comments were that you wanted to limit that. And my expectation was you would put some limitation, you'd limit 25 percent or 50 percent of a transfer. But that, apparently, is incorrect.

CHAIRMAN LESSER: Gentlemen, before we get carried away into rewriting this whole thing by motion, is there much more change to come or should we ask for a second draft to be distributed? Otherwise, we're going to be here quite a while. Pat.

MR. AUGUSTINE: Mr. Chairman, I'm not sure I accept all of these changes with the exception -- I will accept them all with the exception of leaving the word "limited" or "unlimited" in there.

And I would suggest I would accept this, all of the changes, with the Option D, the word "unlimited" or "limited", take it out. And the reason I would suggest that, under Option B -- well, first we have Option A, no quota transfers; Option B, intraregional quota transfers; Option C, inter-regional quota transfers, and then Option D we automatically put in there, and for some reason we put unlimited.

We should just say "state-by-state quota transfers". And, as Bruce had indicated, they will be what they will be and they will be controlled like all other plans.

CHAIRMAN LESSER: Would that change be acceptable then, to just put state-by-state under Option D? Tina, instead of striking the word, strike the word and put "state-by-state".

MR. TRAVELSTEAD: Do what, now?

MR. JOHN I. NELSON: Strike the word "unlimited".

MR. AUGUSTINE: Just strike the word "unlimited."

CHAIRMAN LESSER: All right, I'm sorry, just strike the word.

MR. AUGUSTINE: Don't put limited.

CHAIRMAN LESSER: Dieter, one more comment and then we'll call the question.

MR. BUSCH: To make you people feel a little bit more comfortable this is, as I mentioned before, a draft that the Tech Committee and the PRT wanted to bring to your attention.

After the genetic information is in, hopefully you'll be able to look at maps that show significant regional boundaries where you may have subpopulations. and then you can make your selections as to which of the options you want to go with, whether they are 2 and 3 and the other ones would drop out so you wouldn't have all these options, because it would be then an action document, the final addendum.

CHAIRMAN LESSER: Okay, do I have to read that whole thing? All right, caucus. Is there a need? You've got 15 seconds.

MR. RED MUNDEN: Mr. Chairman.

CHAIRMAN LESSER: Red.

MR. MUNDEN: I'd like to ask the question. They keep adding sentences here, but where does the 25 percent reduction come from, about the fourth line up, the bottom left-hand side? It seems like that's just been added since we started this discussion.

CHAIRMAN LESSER: I think that came from Mr. Freeman. Eric.

MR. SCHWAAB: That was just a restatement of a portion of that second sentence in the problem statement. Unfortunately, I don't have my draft in front of me, I gave it to the --

MR. MUNDEN: So that has nothing to do with the five items that Mr. Travelstead has discussed?

CHAIRMAN LESSER: No.

MR. MUNDEN: That needs to be separated from what we were just talking about now.

CHAIRMAN LESSER: It's a separate bullet. Leave it alone? The sponsor says leave it alone. Okay, gentlemen, all those in favor of the motion as on the board, please signify by saying aye; opposed. The motion carries. Any abstentions? Fish and Wildlife Service abstains. The motion carries.

The next item on the agenda is -- Clarification from the staff is, is that motion to make the changes or motion to accept the draft with the changes? What's the beginning say, Tina?

MR. AUGUSTINE: Which part of the motion, Mr. Chairman?

MR. FREEMAN: The very first part of it.

MR. AUGUSTINE: The very first part of it was that the Board move approval of the draft addendum as modified with the following changes --

CHAIRMAN LESSER: Okay, that's clear.

MR. AUGUSTINE: -- to move forward for public hearing document. Do I have to read all the rest of it?

CHAIRMAN LESSER: Bruce.

MR. FREEMAN: Just a question to Dieter relative to how this is going to be presented; you indicate this deviates from the public hearing documents we usually have.

What's your expectation how this would actually go? We would essentially take this to the public with the understanding that based upon our findings it may be modified; or, would you wait for the findings and then take this to public hearing?

MR. BUSCH: Mr. Chairman, to that point, hopefully we will not take this draft to the public the way it is, that we would have it with the maps. So we need the information from the geneticists.

That information needs to be brought to you guys because we need some decisions. Chances are we're going to find out that we have a number of different populations. And you need to draw then or you need to have input into the process as to where you have significant differences in the population structure so that you really understand what the intra and interregional boundaries are. At that time, I think we will be ready for the public information.

MR. FREEMAN: Now, one last question, Dieter, just a rough schedule of when the public hearing would occur?

MR. BUSCH: Mr. Chairman, I think we heard earlier from Dr. Kline that the Tech Committee is going to be meeting with Dr. King in February, I believe, so after that, we would have a better time line.

CHAIRMAN LESSER: Okay, Paul Perra, do you want to give us a summary of the pipeline.

MR. PAUL PERRA: Basically, the closed area, the proposed rule was reviewed and we took in all the public comment, prepared a final rule, but that final rule is under review by the new administration, and we'll know shortly whether we'll be publishing it.

CHAIRMAN LESSER: How long did they ask for everything to be?

MR. PERRA: I'll know shortly.

CHAIRMAN LESSER: Any idea how short "short" is?

MR. PERRA: I don't know. I think within the next few days we'll know whether it's a short-term or a long-term delay because they're really only initiating discussions on the final rules that were in the pipeline to be passed by the old administration and are now beginning to be looked at by the new administration.

And the word I got was that discussions are going on within the next few days and I'll get some more feedback after that. The prohibition on transfers at sea, we're still working on a proposed rule.

We've been delayed there because we've had some staff changes and we've had to deal with the lobster non-compliance issue and the South Carolina shad non-compliance issues. And we're also trying to get out the Atlantic Coast Act final funding for all of you to carry on the monitoring programs. But, we'll get back working on that shortly.

CHAIRMAN LESSER: Paul, could you give us an estimate of the time line after they accept or reject?

MR. PERRA: Well, if they don't mess around with it, I think it's pretty much ready to go; and depending on when we get it back, it should only be a very short turnaround. There's usually a 30-day cooling off period when a rule is published.

So it could be within a month or it could be longer. I can't really, you know, answer your question because I don't have the information right now.

CHAIRMAN LESSER: Perry, did you have a comment?

MR. PLUMART: Thank you, Mr. Chairman. I'm not bound by some of the same restrictions that our good friend, Mr. Perra, is. What I think is going on is that the rule was ready to be published in the Federal Register.

When that took place, it is my understanding that it would be in effect within 30 days, the cooling off period that Paul described. The incoming Bush Administration has held up all the rules and regulations that were ready to go by the Clinton Administration for, as you know, a wide variety of political and other reasons.

I think that this particular rule, at this point, is not controversial, and I would like to offer a recommendation to the Commission, because in an unusual set of circumstances, I think many of the key players that were involved with the creation of the Horseshoe Crab Sanctuary and getting it to the point where it is are still in positions of significant influence, particularly Secretary Mineta, who was the Secretary of Commerce under the Clinton administration, and strongly supported the rule and went to Delaware Bay in support of the rule. is now in the Bush Administration as Secretary of Transportation.

It is my understanding it's a high priority for Secretary Mineta. And I think it would be appropriate for the Atlantic States Marine Fisheries Commission to let him know that this piece of unfinished business, when he was Secretary of Commerce, is important to finish out.

Secondly, I would point out that Governor Whitman, who was a strong supporter of the Horseshoe Crab Sanctuary and in fact used it as a reason why she would make a good candidate for Director of the Environmental Protection Agency, is also a key player in the Bush Administration, and you should let her know, too, that this is a piece of unfinished business that she can have a major role to play in.

Additionally, Governor Carper is now a U.S. Senator, and I know that his office has been interested in moving this forward, too, and you might inform him of the need to get this moving. As you know, because of the 30-day cooling off period, the faster we can get this going, that it would be in effect for the spring harvest. And incoming Secretary of Commerce, I believe it's Secretary Evans, should also be made aware that this is something that's important to other key Cabinet level members and is something that is really not controversial and should be acted on expeditiously.

So while it hasn't been or it didn't get done under the watch of Secretary Mineta and under President Clinton's watch, I think that with the help of the Commission here and your efforts that it can move fairly quickly.

It's not controversial like a lot of the other things are that the Clinton administration put forward. Additionally, unlike many of the things that were promulgated for the Federal Register in the waning days of the Clinton Administration, this particular proposal has had extensive hearings, both under the auspices of the Atlantic States Marine Fisheries Commission for over a year and then under the process of the National Marine Fisheries Service.

It's had extensive comment. There is just one final step and I urge the Commission to write those appropriate letters to those individuals to help push this along because I think we're very close. Thank you, Mr. Chairman.

CHAIRMAN LESSER: Thank you. Mr. Augustine.

MR. AUGUSTINE: I've been cut off at the pass.

CHAIRMAN LESSER: Any other comment? Yes.

MS. BENJI SWAN: Regarding the Sanctuary?

CHAIRMAN LESSER: Yes.

MS. SWAN: I'm Benji Swan, a manufacturer from Cape May, very small. I had approached the Board in August because I had concern that I would be shut out of where I traditionally harvest, which is in the Reserve.

At the August meeting, the Board voted a motion that would allow any company that has historical collecting in the area could continue to collect up to 10,000 horseshoe crabs. It was a motion and it was approved.

The National Marine Fisheries Service decided not to incorporate it into the Reserve plan because they felt it would hold up the plan, and I understand that. And they told me that once the plan is in, then they would help me with my problem and see if I could get into the Reserve after that.

My concern is now that the implementation of the Reserve is put off, and when it's put in, I mean, then it will take a few months to see if I can get into the Reserve to biomedical collect.

And I'm wondering if the Board can offer me any advice, any help, to let me know what I need to do now. So, the Reserve isn't implemented, say, like in two months and then I want to get into the Reserve in August to collect and I'm not able to collect, that would seriously hurt my company. So I'm wondering if the Board has any suggestions of what I can do?

CHAIRMAN LESSER: Any advice, suggestions? Bill.

MR. ADLER: Is it true, Paul, that if this were to run its course here, where the ASMFC sends their letters hoping that the action is taken quickly, et cetera, is it true that by this August the federal government is going to tell this company they can't go because we haven't got the thing into place yet? Is that going to happen?

MR. PERRA: That's a likely scenario.

MR. ADLER: How can this be fixed?

MR. PERRA: To get the rule published as soon as possible would help.

MR. ADLER: But you advised or the federal government advised her not to put it into the original rule and to come along later for help. Is that --

MR. PERRA: We didn't advise her --

MS. SWAN: What you did was, this Board here, the Horseshoe Crab Management Board voted in August to put forth a motion that would allow me to get into this Reserve to harvest.

And then I found out that the National Marine Fisheries Service, when the proposed rule came out, did not include it. And they felt at that time that it would just -- it would really prolong the implementation of the Reserve, so let that get into place first, which I thought it was going to be in November, and then we would spend this winter trying to see what ways we could get so I could get into the Reserve to collect.

MR. ADLER: And so it's still advisable not to put it into the final rule?

MR. PERRA: If you want to slow it down more. Anything you do now to change or fool around with the rule will take much longer to deal with.

MR. ADLER: And the likelihood is that if you didn't put it in, okay, so you're moving the rule through, like you want, but then it's not going to be able to have the other process in effect by August; that's what you're saying?

MR. PERRA: Well, once the rule is in, then we have to deal with the biomedical issue and that's a whole new process. And that will take some time.

MR. ADLER: So it doesn't look like there's any hope here; right?

MR. PERRA: There's always hope. I'm only guessing, too. I don't know.

CHAIRMAN LESSER: Benji, I don't think we're going to get a --

MR. PERRA: I don't know when the final rule is going to be published and --

MS. SWAN: I just kind of wanted to know what avenues need to be pursued to allow me to biomedical collect in the area so I can start working on that, and, you know, who do I need to talk to?

I came to the Atlantic States Marine Fishery Commission. I got a motion. I went home. I was elated, to find out when the proposed rule came out, that there's nothing in there that allows an exemption for biomedical collecting. And, I mean, I don't really know what to do and I'm just asking you for some kind of advice.

CHAIRMAN LESSER: Maybe the suggestion would be to get with Paul after the meeting and see what advice he could give you personally. I don't know what we could do to add to it without, like Paul said, starting, you know, adding time to the current pipeline situation.

Update on the formation of the Shorebird Technical Committee, is anybody here from the Fish and Wildlife Service to speak to that? David.

MR. DAVID PERKINS: Yes, thank you. I'm sitting in today for Rick Bennett. I don't know if that's been formally requested from the Commission, but Rick Bennett who is the Assistant Regional Director for Migratory Birds in Hadley will now be helping assume some of the responsibilities on the ASMFC and will be serving on this Board.

So I think that's one of a number of positive steps that the Service has taken in the recent -- some other updates that have been occurring.

Some of the cooperative funds that we have managed with the USGS BRD, we've allocated them to some of the genetic research that Tim King is doing to help facilitate that as well as allocating some funds toward a study that will look at the importance of horseshoe crab eggs in the shorebird diets exploring the use of stable isotopes and comparing horseshoe crab eggs isotope signatures with other various species.

Another step that has been taken recently, I understand that there is a new staff person in Washington that will be working on shorebird issues.

And, to speak directly to the Technical Committee formation, I'm not aware of any updates or any movement along those lines other than my Regional Director has informed me that she did receive assurances that the Technical Committee formation was not something that was going to be dismissed.

CHAIRMAN LESSER: So we're still waiting?

DR. PIERCE: That's all I know at this point.

CHAIRMAN LESSER: Andy.

MR. MANUS: Under the category of unfinished business, particularly specific to this issue of the Shorebird Technical Committee, I think it would behoove us if we took a look at the letter that the Commission sent under Dieter Busch's signature on January 12th, and send a copy or a version of that to the Director of the U.S. Fish and Wildlife Service.

We'll know who that person would be in a few months, days, weeks, whatever. But I found it rather painful that during the past two years, where we've tried to engage in a partnership with the Service and ask them to step up to the plate with respect to their migratory bird responsibility, we've seen no action; no action on the part of the Service to form this Technical Committee, no action on the part of the Service to really follow through with the research agenda for shorebirds.

And it's clear to me that action on the part of the Service hasn't kept pace with the rhetoric that we hear from them on this issue. There has been no peer review or population assessments of shorebirds that migrate through Delaware and use the horseshoe crab eggs.

There has been no peer review of the available shorebird databases that exist. There has been no analysis by the U.S. Fish and Wildlife Service of flyway-wide environmental and management issues that need to be attended to.

And this is particularly unfortunate given the fact that we've tried to make the commitment on the part of addressing a number of these issues on the horseshoe crab side of the equation here.

I find it a little difficult to continue to support the state-federal partnership, when on the federal side we get admonished and they don't follow through with the commitment that they've made.

Consequently, I'm requesting that we take the letter, again, that was sent to the Regional Director, Dr. Mamie Parker, who to her credit has seen the letter, read the letter and taken up a couple of issues with the Migratory Bird Office.

But I think a Regional Director can only do so much. I think it's time for us to go directly to the new Director of the U.S. Fish and Wildlife Service or the acting director right now and maybe even take it to the Secretary of Interior, because this is a responsibility that's clearly a federal responsibility that has not been attended to, and I think the information on the shorebird side of the equation hasn't been addressed and we're falling behind on an important issue here.

So I would make that in the form of a request of the Chair that we take the letter that was sent to the region and also send it to Washington.

CHAIRMAN LESSER: Without objection, Dieter, would you take care of that task?

MR. BUSCH: Yes, Mr. Chairman.

CHAIRMAN LESSER: Would you copy the --

MR. BUSCH: The whole Board, yes, I will.

CHAIRMAN LESSER: Thank you. Bill.

MR. ADLER: Mr. Chairman, thank you, but I want to return to my previous discussion here with regard to the biomedical and the closed area.

And, I was wondering if it would be appropriate or whether this could happen if the Commission could at least send along to the powers that are approving this federal plan or rule, indicating that in addition to asking that they move ahead as quickly as possible, which was discussed earlier, that also we could request that somehow they could take a look at a process to allow some type of an exempted permit or something, whatever they've got in their bag of goodies, to allow this biomedical operation to go ahead this August.

At least it brings to their attention the need that something be done and understanding that it couldn't go into the plan because it would hold it up. We understand that. But we're more or less saying that we did support -- in a motion,

we did support this being included, and so is there some way that this Commission could send a letter along saying, yes, we want the plan or the rule moved through quickly, but also we would like them to take note of the fact we supported this biomedical operation and it looks like there's going to be time problems, is there something they could do? Then at least they're alerted to that and maybe that might help. Is that possible?

CHAIRMAN LESSER: Who would be the appropriate person receiving this letter, Paul?

MR. PERRA: I think you would send it to Bill Hogarth as acting director of the National Marine Fisheries Service.

MR. ADLER: And that might help at least because it did indicate that we did support this idea, if nobody has an objection.

CHAIRMAN LESSER: Okay. Without objection, Tom O'Connell has agreed to draft a letter. Well, just a minute. Eric first.

MR. SCHWAAB: I just wanted to -- as I understood there were two parts to that letter. The first part would urge speedy action on the pending rule on the Sanctuary. The second part would specifically raise this concern related to the access to the Sanctuary for the biomedical research?

MR. ADLER: Okay, the first part was something I thought we were going to do. Weren't we going to send a letter about moving ahead?

CHAIRMAN LESSER: Yes.

MR. ADLER: If that was not, then, no, that's not officially. I was thinking if you were going to send that letter, please add this into it. If you're not going to send that first part, then at least send this part.

MR. SCHWAAB: Well, that was the point that I wanted to come back to because I'm not sure whether we had reached conclusion that that first letter be sent, and whether it needs to be made in the form of a motion or whether that can be something that the Chair can direct, I would suggest that that letter be sent in that way, addressing both of those points.

And I would suggest that in addition to Mr. Hogarth, that that letter might be directed to the new Secretary of Commerce with copies, as Mr. Plumart had mentioned, to the outgoing Secretary of Commerce as well as, perhaps, some of the other interested parties, like the new Administrator of the EPA.

CHAIRMAN LESSER: That motion was approved in August, Eric, that we supported. Are you questioning whether we --

MR. SCHWAAB: I'm suggesting that given the political transition that maybe a new letter, it would be appropriate.

CHAIRMAN LESSER: Okay. Is that agreeable?

MR. ADLER: That would cover both things then, right?

CHAIRMAN LESSER: Okay, then I'll so order from the Chair.

MR. AUGUSTINE: Point of clarification, Mr. Chairman. Does that mean that when it comes from Secretary of Commerce, or Hogarth as the case may be, and then you get it, Paul, that you have to redo what you've already done, or do you initiate an additional federal action to incorporate the biomedical?

Right now, as you had indicated, to hold up what you're doing right now and then put this in the existing package, if we'd call it that, it's going to slow the whole process up; whereas, if you went ahead and continued with what you're doing on the first part and then add a new section or maybe treat this as a separate piece because of the critical

nature of the medical purposes that these are used for, maybe that should be considered as a hot item by and of itself as opposed to tagging it onto something else.

CHAIRMAN LESSER: Bill.

MR. ADLER: Okay, the idea of the letter was to say we understand that this issue can't be put into the rule that you're trying to fast track because of the slow down. We don't try to slow it down.

But we're saying run that rule through fast like you planned to, but we've got this situation. Is there something in your bag of goodies that you can do, something that you could do so that by August this other thing could be somehow resolved.

MR. AUGUSTINE: Mr. Chairman, the problem is I don't know how you abdicate the policy. There is a set process that all these things go through. And to turn right around and have to put in the Federal Register a correction to the existing federal notice that was put out already, you're starting the process all over again.

Wouldn't it be just as easy to take this piece separately, get it rushed through as a fast-track item, just addressing the biomedical, let the other part take its process. It's already been out there for the public review.

And now Paul just has to wait for the okay to move what he presently has in limbo to the next step.

MR. ADLER: Does the proposed rule have the ability for some type of a permit in the proposed rule?

CHAIRMAN LESSER: No.

MR. PERRA: No.

MR. ADLER: Is that the problem? To allow for an exempted fishery permit for this year, is that the problem?

MR. PERRA: That's the problem. It will take a little longer to do an exempted fishery.

CHAIRMAN LESSER: Jack, you have some comments.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Mr. Chairman, I'm sorry, you've been going around this for quite some time now. The Board has already got established positions. We know you want us to write a letter.

I suggest you let us craft that letter and we'll state the position you've got as affirmatively as possible. And I think Bill Adler pretty well hit it a little bit earlier. Don't try to micro craft your letter here this afternoon.

MR. ADLER: Agreed.

EXECUTIVE DIRECTOR DUNNIGAN: I think you ought to just let us do it.

CHAIRMAN LESSER: Any further comments to come before the Board? Jack.

MR. TRAVELSTEAD: I need some clarification on an earlier point about when Addendum II goes to public hearing. Dieter, you had said we would hold that up until there are these genetic subpopulation maps available.

And in earlier conversations with staff, it was my understanding that it would be quite some time before those are available. And I'm concerned if we wait for those, that, you know, it's going to be many, many months before Addendum II comes to a vote at the Management Board.

Can you be more specific in the timeframes that you're thinking about?

CHAIRMAN LESSER: Dieter.

MR. BUSCH: Mr. Chairman, I don't know how specific I can be. In past discussions with Dr. Kline and with the PRT and Dr. King, our understanding was, if I could recall this correctly, that Dr. King was doing some of this work already, and there's also a publication that has become available since then.

So I think he's fast tracking this activity. And hopefully the information that comes out of this will be of the quality and quantity that the Board could use to identify regionalization of these populations.

If this is not of that quality, then more information will have to be obtained. So I think if you're putting me on the spot, I think in one sense we could talk about a matter of maybe six months or so to see results from Dr. King; and then, again, this would have to be reviewed to see how applicable it is to setting the boundaries. And, you know, it could be much longer than that if this does not answer the questions.

CHAIRMAN LESSER: Jack.

MR. TRAVELSTEAD: My concern is, as Dieter has said, that we know science is going to be coming available, but we're not even sure at this point whether it's going to be helpful or not helpful.

And I guess my question to the Board is what would be your objection to sending the addendum as we amended it today out for public comment now and letting the public look at all the options that are in there and providing us with advice and come back and adopt some form of Addendum II at the April meeting?

CHAIRMAN LESSER: Does that sound agreeable?

MR. TRAVELSTEAD: If you need a motion, I will so move.

CHAIRMAN LESSER: I don't see any opposition to it, Jack, so we'll do it that way.

MR. TRAVELSTEAD: Okay, thank you.

CHAIRMAN LESSER: We have to break; we've got a time commitment. You need a five-minute break before the Menhaden Board meets in this room so this meeting is adjourned.

(Whereupon, the meeting was adjourned at 2:25 o'clock p.m., January 30, 2001.)

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