

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

**Loews Annapolis Hotel
Annapolis, Maryland
October 31, 2007**

Approved February 5, 2008

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INDEX OF MOTIONS

1. **Approval of Agenda by Consent (Page 1)**
2. **Approval of Proceedings of January, 2007, by Consent (Page 1)**
3. **Delete Option 2, recreational fishing license.** Motion by Roy Miller; second by Pat Augustine. (Page 7). Move to strike the word “license” from the title of Option 2 and replace with “harvest data”, and state “Under the Magnuson Act Reauthorizations, states’ anglers will be required to register if river herring. Motion by Eric Smith; second by Pat Augustine. Motion defeated (Page 9).
4. **Motion to move Options 1, 2A, 3 and 6 to go forward to public comment.** Amended on Page 21 as follows: Move to bring Option 1, Option 2A, Option 3 and Option 6 – Option 6 modified from “allow landings as” to “regulate landings” – to public comment in the PID. Motion by John Nelson; second by Pat Augustine (Page 12). Motion carried (Page 14).
5. **Move to bring the amended PID to public hearing.** Motion by John Nelson; second by Pat Augustine (Page 14). Motion carried (Page 14).
6. **Move that the plan review team report on state compliance be modified for New Jersey** to indicate that New Jersey has fully implemented the required provisions of Amendment 1 to the Shad and River Herring Fishery Management Plan. Motion by Tom McCloy; second by Pat Augustine (Page 17). Motion carried (Page 17).
7. **Motion to approve the PDT and annual report as amended by the previous motion.** Motion by Patten White; second by Pat Augustine (Page 18). Motion carried (Page 18).
8. **Move to initiate development of an amendment** that accomplishes the first three of the priority items on Page 4 of the document “Implementing Recommendations from the American Shad Stock Assessment”, dated October 11th, 2007, with Item Number 2 amended as follows: It would read, “Do not increase directed fisheries for American shad unless the state or jurisdiction with management responsibility can justify that the increase will not jeopardize rebuilding or sustainable management of that stock.” Motion by Eric Smith; second by A.C. Carpenter (Page 20). Motion carried (Page 21).
9. **Move approval of the Virginia Proposal for 2008 only**, with the provision that the bycatch fishery on the spawning grounds not be included, and that the state work with the tribal governments to attempt to quantify directed harvest in the York River. Motion by Jack Travelstead; second by Pat Augustine (Page 27). Motion carried (Page 28).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for Geo. Lapointe (AA)	Leroy Young, PA, proxy for Douglas Austen (AA)
Patten White, ME (GA)	Roy Miller, DE, proxy for P. Emory (AA)
Sen. Dennis Damon, ME (LA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
John Nelson, NH (AA)	Howard King, MD (AA)
G. Ritchie White, NH (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Paul Diodati (AA), Chair	Bruno Vasta, MD (GA)
William Adler, MA (GA)	A.C. Carpenter, PRFC
Vito Calomo, MA, proxy for Rep. Verga (LA)	Jack Travelstead, VA, proxy for Steve Bowman (AA)
Mark Gibson, RI (AA)	Catherine Davenport, VA (GA)
Everett Petronio, RI (GA)	Kelly Place, VA, proxy for Sen. Chichester (LA)
Eric Smith, CT (AA)	Louis Daniel, NC (AA)
Dr. Lance Stewart, CT (GA)	John Frampton, SC (AA)
James Gilmore, NY (AA)	Robert Boyles, SC (LA)
Pat Augustine, NY (GA)	Malcolm Rhodes, SC (GA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Spud Woodward, GA, proxy for Susan Shipman (AA)
Tom McCloy, NJ, proxy for David Chanda (AA)	Bill Sharp, FL, proxy for Gil McRae (AA)
Frank Cozzo, PA, proxy for Rep. Schroder (LA)	April Price, FL (GA)
Eugene Kray, PA (GA)	Jaime Geiger, USFWS

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

Ex-Officio Members

Bob Sadzinski, MD DNR

Staff

Robert Beal
Erika Robbins

Chris Vonderweidt

Guests

Gordon Colvin, NOAA
Jeff Bridi, PA FBC

Dave Ellenton, Cape Seafoods
Arnold Leo, East Hampton Div. Com. Fisheries

The Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, October 31, 2007, and was called to order at 8:00 o'clock a.m. by Chairman Eugene Kray.

CALL TO ORDER

CHAIRMAN EUGENE KRAY: Good morning, everyone. I would like to get started. We have a three-hour meeting and a lot of stuff to cover. Erika has provided me with one of these. You know what that is; don't you? As a chairman he sometimes is also a referee; so if someone is talking too long or out of turn, I will throw the flag at them and they will get fifteen yards of penalties. Thank you, Erika, for making that for me.

APPROVAL OF AGENDA

Next is approval of the agenda. Any corrections or additions to the agenda? Seeing none, the agenda is approved.

APPROVAL OF PROCEEDINGS

Next is Proceedings from January 2007; you've all saw that in your briefing materials. Do we have a motion to approve? Any objections to the motion to approve. All right, the Proceedings are accepted.

PUBLIC COMMENT

We now go for public comment, and I understand there are two people who want to make public comment. I've instructed them to be brief. Jake Kritzer, please state your name again and who you represent. Jake is on our Habitat Committee, so he is in another meeting and he is going to jump back right to that meeting. Go ahead, Jake.

MR. JACOB KRITZER: Thank you, Gene. My name is Jake Kritzer. I am a scientist with Environmental Defense out of our New York office. Like Eugene said, I'm playing hooky from the Habitat Committee meeting right now, so I'm going to be very brief. I just wanted to let the management board know about a project I'm working on at the moment analyzing the Northeast Fishery Science Center observer data and trawl survey data, to have a look at ocean distributions and bycatch of river herring.

This is something I've been working on for the last few months and expect to finish up with a report early next year. I have provided a progress report on what I've done to date to the commission staff.

There is nowhere near enough copies for the entire board, but I can get more copies to you for those who are interested.

I just wanted to let everyone know that is in progress and encourage people to contact me if they have questions or thoughts on that work. I have also appended to that progress report a summary of a scientific workshop we held about a month ago to sort of chart the next generation of research on river herring, and that included a few members of the technical committee, as well as some academic scientists and other federal and state agency staff. I just wanted to let you know that's going on and let you know that progress report is out there to have a look at, if interested, and I encourage you to contact me. Thank you.

CHAIRMAN KRAY: Are there any questions of Jake? Thanks, Jake. Now we have Amy Kenney. Would you please indicate who you represent, please?

MS. AMY SCHICK KENNEY: My comments are with regard to the PID, so I don't know if now is the appropriate time to do it or if you want to go through your PID?

CHAIRMAN KRAY: We'll wait until the PID.

MS. KENNEY: Okay, thank you.

CHAIRMAN KRAY: Now we're up to presentation and review of the River Herring Public Information Document. Erika.

RIVER HERRING PUBLIC INFORMATION DOCUMENT REVIEW

MS. ERIKA ROBBINS: Thank you, Mr. Chairman. Staff is passing out a matrix that outlines all of the options contained within the PID that I encourage you to use as we go through it. There are many more recommendations or options contained within this PID than are in a traditional PID, so it become confusing.

CHAIRMAN KRAY: Excuse me, I should have mentioned something beforehand. When Erika is through with the document, we will have a discussion on it, and then I'll be looking for approval of the PID for public comment or to make appropriate revisions after the discussion by the board. Thank you, Erika, you may proceed.

MS. ROBBINS: The board requested that the PDT prepare a public information document for Amendment 2 because of concern about declining river herring stocks and the lack of data that we have on river herring stocks. The PID was created prior to a stock assessment. There are questions about whether fishing mortality is low enough to maintain currently stable stocks or even recover stocks that have been in decline or overfished.

Currently there are moratoriums on river herring in Massachusetts, Rhode Island, Connecticut and North Carolina. This is a graph of the commercial landings data that NMFS has. I should note that this data does not go through 2006 because 2006 data from the National Marine Fisheries Service is incomplete, and also that the National Marine Fisheries Service data may not capture all the in-river river herring landings because they aren't all reported to the federal government.

Amendment 1 is the current plan for river herring or the current guiding document. The management for river herring in Amendment 1 requires that states maintain or implement more conservative regulations for river herring under the belief that this should keep fishing mortality low enough to ensure survival and enhancement of depressed stocks or maintenance of stable stocks.

River herring are anadromous species that spend the majority of their time at sea, and they move through multiple jurisdictions, state in-river, state coastal and federal waters. It is assumed that – it is virtually agreed that river herring have strong natal homing, and the PDT just operated under the assumption that each river is a distinct stock of river herring for both alewife and blueback herring.

Alewife can be found from Newfoundland to South Carolina, and blueback herring are found from Nova Scotia to Florida, although they're more common in the Chesapeake Bay and south. River herring are caught both in rivers and in the ocean, and they're also caught as bycatch in ocean fisheries.

We have data on river herring landings from both the National Marine Fisheries Service and the states, although the data may not accurately represent stock abundance and most data is spotty. Here is a graph of total state landings from 1995 to 2005. As you can see, there are four states that dominate these landings, Maine, Maryland, Virginia and North Carolina. Maryland and Virginia's landings, as far as they're reported to the states, are mainly contained or reported by the Potomac River Fisheries Commission.

We're going to go through a series of graphs depicting state landings. Some landings come from the states themselves; others come from the National Marine Fisheries Service. Here are landings from Maine from 1950 to 2007; New Hampshire, 1988 to 2006. As we go through these slides, you'll notice that the time series are different because of the availability of data or lack of data that is available to the National Marine Fisheries Service and the Atlantic States Marine Fisheries Commission at this time.

New Jersey, Delaware, Maryland, Virginia, North Carolina and South Carolina – in South Carolina we have a longer time series on fish passage, which is depicted in the red. The green depicts landings in South Carolina, and the red indicates fish passage, which they had a longer time series of data on.

Bycatch in the ocean is largely undocumented and unreported. We have observed landings from a handful of trips from the Atlantic Herring Fishery and Atlantic Mackerel Fishery from the Federal Bycatch Observer Program. In 2005, 2006 and 2007 the landings were all over 40,000 pounds. In 2007, which is only from through April thus far, they have observed 121,000 pounds. I have been told that this data cannot be extrapolated to the entire Atlantic Herring Fishery at this time, but these numbers are still large for river herring stocks, which may be much smaller than 121,000 pounds in biomass.

The recreational fishery is also poorly documented. As we have heard before with all of our anadromous species, the MRFSS Survey does not cover inland areas well. They are caught with multiple gears, including hook and line, dip nets and seines. They are used for both bait and consumption.

River herring stocks, both alewife and blueback herring, were last assessed by the commission in 1990. That assessment found that five stocks were overfished and four are experiencing recent declines. The assessment identified that all fisheries with depleted stocks had significant fishing activity within those systems. The recommendation from that assessment was to reduce fishing mortality.

Now we're going to move into the public comment issues. The first public comment issue regards commercial fishing on river herring. Option 1 would be to allow individual states to maintain the rights to manage all in-river fisheries as outlined in the Amendment 1. Currently all states and jurisdictions are allowed to maintain the commercial coastal and in-river fishing regulations that were in place as of

April 1999, or they may institute more conservative regulations.

As this point I do encourage you to follow the handouts passed out by staff. Option 2A is to reduce fishing effort in directed coastal and in-river fisheries for river herring. Under this option states and jurisdictions would be required to implement commercial regulations that would reduce fishing effort in directed coastal and in-river fisheries for river herring, excluding fisheries operating in impoundments.

Option 2B would be to reduce fishing effort in directed coastal fisheries for river herring where states and jurisdictions would be required to implement commercial regulations that would reduce fishing effort in directed coastal fisheries for river herring.

Option 2C would reduce fishing effort in directed in-river fisheries for river herring. Under this option states and jurisdictions would be required to implement commercial regulations that would reduce fishing effort in directed in-river fisheries for river herring. This would not include fisheries that harvest landlocked or impounded river herring populations.

Option 3 is a moratorium on river herring harvest, possession and landing. This option would require states and jurisdictions to implement commercial regulations that would ban the harvest, possession and landing of river herring from both coastal and freshwaters, excluding fish harvested in impoundments.

Option 4A is a moratorium on river herring harvest from in-river fisheries, so no possession, harvest or landing of fish from in-river, excluding those fish caught behind impoundments.

Option 4B would be a moratorium on river herring harvest from in-river fisheries with reductions in effort in the coastal fisheries, so no possession, harvest or landing of river herring from in-river fisheries, excluding impoundments, and reduction in effort in marine waters.

Option 5A would be a moratorium on river herring harvest from coastal marine waters and states would still be allowed to harvest in-river. Option 5B would be a moratorium on coastal harvest with reductions in effort for in-river fisheries.

Option 6 would be to close directed fisheries and allow bycatch. Under this option states and jurisdictions would be required to implement

regulations closing all directed fisheries, both in-river and coastal, excluding those operating in impoundments. States would be allowed to have a bycatch allowance for river herring in their waters.

Option 7A would be a closure of directed coastal fisheries for river herring with a bycatch allowance in those coastal fisheries. In-river fisheries would still be allowed to land, harvest and possess river herring.

Option 7B would a closure of directed in-river fisheries for river herring with a bycatch allowance. States and jurisdictions can allow non-directed harvest or a bycatch of river herring from estuarine and freshwaters. Fisheries operating in coastal waters would be allowed to harvest as current regulations allow.

Option 8A would be a moratorium on river harvest of river herring and the closure of directed coastal fisheries for river herring with a bycatch allowance for coastal fisheries only, meaning no landing in river and no directed harvest in the coastal waters but bycatch permitted. Option 8B would be a moratorium on coastal harvest with bycatch only allowed from in-river fisheries and the closure of directed in-river fisheries.

This is a handout you have all received. The red and the X indicated that it would not be allowed. The green indicates but would be allowed, and the yellow column only indicates whether effort would be restricted under that option.

The second public issue is for recreational fishing and mortality in the recreational fishery on river herring. Option 1 would be the status quo, and it would be whatever current regulations states have for recreational fisheries. Option 2 would be to require a recreational license to harvest river herring. Option 3 would be to reduce effort in the recreational fishery. Option 4 would be to close the recreational fishery.

This PID also includes a recommendation to the federal services for federal waters, and that would be to promulgate all necessary regulations to implement complement measures to those contained in the PID or the final amendment. Specifically, the commission recommends that the federal government implement measures to quantify river herring bycatch by federally managed fisheries and reduce river herring bycatch within those fisheries; for example, the Atlantic herring and Atlantic mackerel fisheries.

The anticipated timeline for completion of this document, should it be approved at this meeting, would be public comment on the public information

document beginning in November. In January the board would review this public comment. In April a draft of Amendment 2 would be available to the board for review; and if that draft amendment is approved, it would go to public comment in May. In October we would have a review of public comment and potential approval of the final amendment in January of the next year. Thank you.

CHAIRMAN KRAY: Thank you, Erika. Questions of Erika? Louis.

DR. LOUIS DANIEL: I was just wondering if we need to mention the impoundment issue since the management unit is migratory river herring. It may be simpler to present. I would argue that impounded river herring wouldn't be included in this plan.

CHAIRMAN KRAY: Thank you, Louis. John Nelson.

MR. JOHN I. NELSON, JR.: Thanks, Mr. Chairman. The tables that were presented gave me a sense of some of the problems, especially where you're looking at the potential harvest or actual harvest that can be documented to date by the herring fishery of 121,000 pounds. I just wonder if I could back, because I realize Erika went through that real fast on the state slides, and if we could just take a look quickly, not that quickly, though, at the state slides.

I just wanted to have it in my mind the 121,000 harvest elsewhere and what the state landings even look like or the returns even look like and just keep that in my mind for a minute, if I could. Thank you.

CHAIRMAN KRAY: John, do you want to go through each of the states?

MR. NELSON: Well, the state of New Hampshire is probably the more important, but, yes, it won't take too long, I don't think. That's New Hampshire, and, obviously, that's a significant difference in landings that we have seen over the few years. I think Massachusetts has seen the same type of pattern. Well, Massachusetts hasn't got any landings anymore, then. That's fine.

Again, looking at the landings, on shore is obviously significantly lower than 121,000 pounds, so that obviously is a problem that the councils need to keep in mind when they're wrestling with the herring industry issues.

CHAIRMAN KRAY: Thank you, John. Other questions? Mark.

MR. MARK GIBSON: So I can understand, what does the 120,000 pounds come from?

MS. ROBBINS: The New England Fishery Management Council updated the specifications or refreshed the board on bycatch within the Atlantic Herring Fishery at their most recent meeting, and it was in that document.

MR. GIBSON: I just point out that those are just the trips that were observed. They haven't been expanded for all the trips that weren't.

CHAIRMAN KRAY: Other questions or comments?

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Do we know what percentage – the 120,000, what percentage of the trips that came out, to make Mark's point?

MS. ROBBINS: I can look real quick. I believe it's about five trips.

CHAIRMAN KRAY: Other questions? A.C.

MR. A.C. CARPENTER: As a followup to Lou's question about the impoundment, can somebody explain how impoundment is defined here and under what circumstances we're talking about excluding that?

CHAIRMAN KRAY: Lou, can you expand on that?

DR. DANIEL: It's just my understanding that there are some locations in fisheries where there are landlocked populations of blueback and alewife. You know, if we're going to exclude them because they're not migratory, we either need to change the migratory language in the definition of the management unit or take out the impoundments.

CHAIRMAN KRAY: Does that help? A.C., go ahead.

MR. CARPENTER: Thank you, that answers my question if that's what is intended in this document.

CHAIRMAN KRAY: Robert.

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman, just another follow-on to that. We've got a case in South Carolina where we've got populations of these species behind three or four dams, almost to North Carolina, Louis, so these become somewhat North Carolina fish to some degree. But, they actually exit or would exit down between South

Carolina and Georgia on the Savannah River System. That's the intention there.

CHAIRMAN KRAY: Are there any other questions of comments from the board. Paul.

MR. PAUL DIODATI: I find this very well written. My only concern is that we'd be offering about 20 different management options for comment. I'm afraid what we get back with that many options is a real shotgun approach to collecting public comment. I'm wondering if we can be more strategic and collapse some of these down. I mean, the span goes from status quo to full moratorium, but there are 20 options in between. I think it's going to be difficult for us to deal with that once we get this document back or the comments back.

CHAIRMAN KRAY: Erika, do you want to comment on that?

MS. ROBBINS: If the board would like, the public information document could be redrafted to include more general options.

MR. CARPENTER: I have a question about Option 2 under the recreational issue. Are you talking about a separate, distinct license from the existing recreational fishing licenses that several of us already have?

MS. ROBBINS: The scope of a license hadn't been determined yet, whether it would be specific for river herring or not. It was a general public comment type issue.

CHAIRMAN KRAY: When Erika first put that up, the first thought that jumped into my mind was that it would be more like a permit. If it was just river herring, it was more like a permit than a license. We can go any way we want on that. Roy.

MR. ROY MILLER: Thank you, Mr. Chairman, more on that same issue. Option 2, the issue statement is recreational fishing mortality. I don't understand what having a recreational fishing license would necessarily do to reduce recreational fishing mortality. It just seems kind of out of place to insert in that particular heading. Thank you.

CHAIRMAN KRAY: Are you suggesting we take that out?

MR. MILLER: I am.

CHAIRMAN KRAY: Would you want to put that in the form of a motion?

MR. MILLER: I suggest deleting Option 2, recreational fishing license.

CHAIRMAN KRAY: We have a second by Pat Augustine. Discussion on the motion? Eric.

MR. ERIC SMITH: I see Roy's point. It tends to make it a flash point when really the paragraph suggests we need data from this fishery. I guess it's a good question, and it's not really an effort or an F-reducer, but the point there is to collect data. So if we take this out of there because the license isn't the issue, I would hope somewhere in here we try to capture the sense that whether it's through developing Marine Recreational Information Program or additional state efforts, we need to better capture the nature of the recreational fishery catch.

CHAIRMAN KRAY: I would hope that we would do that. I don't know how much information the current MRFSS provides on the catch of river herring. I have never looked at that part of it. Does anyone know if we collect any data through the current MRFSS process on river herring?

MR. SMITH: MRFSS does not generally go up into the waters above the so-called marine demarcation line, and that's probably where most of that catch would occur, so that's probably why it's not really captured in MRFSS. Whether the MRIP is going to address that or not, it remains to be seen. We may hear more from Pres later on or Gordon. The point is that without saying how we get at it, I think we should make the point that we need it, whether it's by a state survey in areas where the states feel the need or –

CHAIRMAN KRAY: Are you suggesting that maybe there's an alternative to a license, and that would give us another option for the recreational, such as you suggested, a state survey or things of that nature?

MR. SMITH: I guess part of my concern is I understand Roy's point, and I agree with it, the license is a flashpoint. I don't know whether we should revise this one to require or to suggest that each state adopt such a data collection program. I just don't want to lose sight of the fact that the purpose of that paragraph is get the information where we need it.

Some states may say, "You know, we have a creel survey and we get what need," and I'm a little concerned about having a coast-wide management plan tell states what kind of data they have to collect. I'm torn between having this document refer to it

versus maybe somewhere else in the PID simply making the statement that in some cases we may need a lot better data to really understand what is going on.

CHAIRMAN KRAY: Well, one solution might be an amendment to the motion, which would capture the essence of what you're trying to say, you know, remove the recreational license comment or option and replace it with the states collecting data or however they're going to collect data on that. Go ahead, Pat.

MR. PATRICK AUGUSTINE: Point of information. It's an anadromous species, and it's under the Magnuson-Stevens Act, and in the registry anyone who fishes for river herring have to have a permit or license to be registered. It's a moot point.

CHAIRMAN KRAY: Maybe we can call upon our learned representative from the National Marine Fisheries Service, Gordon Colvin. Has there been any discussion? Would MRIP now be collecting data on river herring? I don't mean to put you on the spot, Gordon.

MR. GORDON COLVIN: And you've never done it before, Mr. Chairman. Following the discussion to the degree that I can, it seems that the issue revolves around data collection issues as opposed to management issues on this particular option. It's true that historically the MRFSS program and the spinoffs from MRFSS have not done a great deal of data collection up rivers, and there are a number of reasons for that. You know, the fact is that we had explored this when I worked in New York with respect to the Hudson River as to whether it was possible to adapt the MRFSS methodology for the Hudson River.

The answer came back a resounding no because of the reliance of MRFSS on telephone interviews of residents of coastal counties, and there is an underlying presumption about the proportion of total angling effort that comes from those coastal counties. If that assumption is not met, then that model cannot be statistically valid for water body in question.

What we find for so many of the rivers is that the counties that border them do not have a sufficient proportion of the population that's involved in the fishery to meet that assumption. So, you have to come up with entirely different approaches to effort estimation on coastal rivers, and they are very expensive, using traditional methods.

I think that one of the things that we hope to get at with the MRIP – and you probably buttonhole Mr.

Pate when you see him later about this as well. Rob Andrews, I think will also be here this afternoon if anybody wants to talk to Rob off the record. He is certainly far more of an expert than either Pres or I are.

But, I think we do want to get at what are some better, more cost-effective approaches to estimation of recreational catch and effort of anadromous fish up in the rivers, and registry-based approaches will certainly be one of the things that we look at. I hope that answers your question, Mr. Chairman.

CHAIRMAN KRAY: Yes, thank you, Gordon. We have a motion on the floor. Do you want to comment, Pat?

MR. AUGUSTINE: But the question hasn't been answered do the species not come under the umbrella of the new Magnuson-Stevens requirement as being a registry-qualified specie? It says in our statement here alewife and blueback herring – ta-ta-ta-ta – are relatively small anadromous fish, and so and so on. Magnuson clearly says that anyone that fishes for anadromous species fish must be registered.

Now what is the problem? It just seems to me that maybe a line item in the existing licenses or in the new license registry to be formed by states would include something where in the telephone survey part of that, either a zip code or area location by county or whatever, where these fishermen might encounter or fish for river herring – that would be just a fine tuning of the registration. So, how do we get around the new requirement? So, why have an item in here, as Mr. Miller stated, that you have to get a license or a permit?

CHAIRMAN KRAY: Unfortunately, we're dealing with a lot of unknowns here, Pat. We don't know what the new program is going to look like and whether river herring, in fact, will be – or to what extent, how much data are they going to be able collect on the river herring. I don't know that and I don't think anybody knows that right now. Eric, you had a comment.

MR. SMITH: Well, I'm trying to find a solution to the dilemma; and capturing Pat's point, maybe recreation license ought to be changed to something like – well, leave it as recreational license, but add some text under the Magnuson Act Reauthorization, "States' anglers will be required to register if they take anadromous species such as river herring. Under this option, states and jurisdictions are encouraged to institute programs for the collection of recreational catch data on this species." Then it

focuses on the law already is going to require it, and we need data. Whether you call it recreational license or not is what I call the flashpoint and –

CHAIRMAN KRAY: Are you suggesting that as a substitute motion?

MR. SMITH: Yes. Hopefully, it will even be a friendly one so we don't have to get tied up in a parliamentary knot.

CHAIRMAN KRAY: Roy.

MR. MILLER: I would accept that as a friendly one.

CHAIRMAN KRAY: Do you have that down?

MR. SMITH: I'll read it again if you like. I don't know how to title Option 2, so I would leave it the way it is right now or call it "recreational data collection", whatever your pleasure is.

CHAIRMAN KRAY: I would take the word "license" out of that; that's a flashpoint.

MR. SMITH: Okay, recreational data collection, then. Then have the language underneath Option 2, "Under the Magnuson Act Reauthorization, states' anglers will be required to register if they take anadromous species such as river herring. Then as it reads right now, "Under this option, states and jurisdictions are encouraged to institute programs to collect recreational harvest data on river herring from state waters."

CHAIRMAN KRAY: Does the seconder of the original motion accept that friendly amendment.

MR. AUGUSTINE: Yes. I was going to suggest instead of "encourage", to change it to "include". See if that changes the meaning. Obviously, we're going to have to have some way of contacting these folks. If they are going to pursue any of these herring, they're going to have to have a permit of some sort. So, no matter how we gloss it over, it's a fact. I don't think it's a suggestion or a recommendation; it's required. Is the whole thing up there, Eric?

MR. SMITH: Yes, the first sentence is fine as you have it. The second one is the one you're talking about.

MR. AUGUSTINE: Yes.

MR. SMITH: The second sentence, which I hadn't gotten done writing, so I'm flying by memory now, "States and jurisdictions should require –

MR. AUGUSTINE: Will be required.

MR. SMITH: No, I'm having difficulty with my own involvement in this now. It's very hard to build this on the fly. The concept is we want to get better data.

CHAIRMAN KRAY: "States and jurisdictions should include –

MR. SMITH: No, I have a problem with –

CHAIRMAN KRAY: "Could include state and river data."

MR. SMITH: No, I have a problem with required in that regard, frankly. I think for the reason I stated earlier –

CHAIRMAN KRAY: I agree with "required". I am just saying, "State and jurisdictions should include state river data from their surveys". Is that okay with you, Eric?

MR. SMITH: "Should include harvest data from their state surveys," fine.

CHAIRMAN KRAY: Okay, Eric, does hit right with you? All right, we have five more people who want to talk.

MR. SMITH: Mr. Chairman, could I straighten the wording up here.

CHAIRMAN KRAY: Go ahead and get that straightened out first.

MR. SMITH: In the second line, that word should be "states". No, I'm sorry, go back there, the end of the second line, after the word "reauthorization", "States' anglers will be required to register if they take anadromous species. States and jurisdictions should include state harvest data on river herring." Thank you.

CHAIRMAN KRAY: Somewhere in there, Erika just suggested that we include something recreational – it should be recreational data, because we have already got the commercial data.

MR. SMITH: I agree with that, and right there "recreational harvest data"; and as we strike the word "license" from the title, we should add "Recreational Harvest Data". So Option 2 would –

CHAIRMAN KRAY: So the title of it would be – instead of “Recreational License”, it would be “Recreational Harvest Data”.

MR. SMITH: Right.

CHAIRMAN KRAY: Are we clear on that, everyone? All right, I have about five people. Pat White.

MR. PATTEN D. WHITE: I don’t understand where we’re going if we have a clear direction, as Pat Augustine states, that we need to have a license. It’s stated in the law. Why we’re going through this angst – either it’s in there or it isn’t. I am not sure what the word is, but it says right in there that we are required – will be required to register. Then it says we may or shall, or whatever. I think we’re going down the middle of the road here with not doing anything.

CHAIRMAN KRAY: Other comments? John.

MR. NELSON: Thanks, Mr. Chairman. I think a lot of the states already provide permits to get that type of information, so this really doesn’t do anything. I mean, in our state we require a permit, free, but therefore the people are registered and they provide that information. I don’t object to going out with this, but I think worrying about a flashpoint, who cares?

It’s what you want to do is get some interest into this thing and make sure people are aware of what needs to be done, and the part that needs to be done is focus on really where the big problems are, and I don’t think it’s going to be on recreational harvest in the river. I’m happy with this language; it provides the opportunity to put in permits and whatever else by the states. They’re the only ones that are going to collect the data. The feds are not going to collect any data on the river herring, I guarantee it. I’m sure Gordon would agree with me.

Mr. Diodati: I actually supported the original motion to remove Option 2, recreational fishing license. I certainly can’t agree with this – I don’t know if it’s a substitute motion or a friendly amendment, but the language in there relative to Magnuson, we’re getting way ahead of ourselves. We haven’t even seen how the National Marine Fisheries Service intends on implementing Magnuson.

We haven’t seen a Federal Register Notice. There is going to be various interpretations of that law. You know, for instance, I’m not willing to secede the Commonwealth’s authority to license anglers in state

waters, and this suggests that we have already done that by saying that the states, under the Magnuson Reauthorization, will require anglers to have a license. I am not sure I agree with that at all from a legal perspective.

I am certainly not going to support this motion. I will support the original position. I think John kind of pointed out to it. We have a lot of freshwater licenses in place, and I think a lot of the fishing that we’re talking about, the recreational aspect of it, takes place in that area, in those districts. Most states already have those.

MR. LEROY YOUNG: I don’t understand what this motion really says. It says states and jurisdictions should include recreational harvest data on river herring. The first question is in what; require data where, when. I don’t know what that means. Secondly, what if they don’t collect this data? It’s like a meaningless motion. Well, what if they don’t; so what?

MR. SMITH: Mr. Chairman, since eyeball to eyeball, that’s directed at me, would you like me to respond? I’m trying to get to the point that the license requirement, I feel, is misguided, and it also may be required under the federal law; and as Paul points out, let that evolve. What I was trying to retain in this language is the notion that we do need recreational harvest data on the take of this species.

That’s what the last sentence says, and it’s suggested. I said earlier I don’t advocate for a plan like this to require states to go out and conduct recreational catch surveys, for example, but it’s instructive, going to the public, that if the commission says states are – I liked word “encouraged” before, but I conceded the point and changed it.

If we encourage the states to do this and a state like Connecticut feels they ought to, we’re going to the public with that as a signal that may be something that we’re going to adopt in the future. To me, it’s suggestive of where we ought to go, but it’s not a hard and fast mandate.

CHAIRMAN KRAY: At this point we have to understand that this is going out for public information. It is not prescriptive. This is going to be coming back to us, and we’re going to have additional time to work on this. We want to get the language correct or as close to the feelings of the board as we can. Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. After listening to the discussion around

the table and because it's a PID, I am opposed to the motion. I would like to see it left as it originally was in there. I call the question.

CHAIRMAN KRAY: All right, the question has been called. Do you need to caucus? Eric, do you want to read the motion, please, since yours is the friendly amendment to it.

MR. SMITH: Make a few changes as I go here, Chris. I wasn't going to bother, but I will now that we're correcting it. "Move to strike the word "license" from the title of Option 2 and replace with – and then strike the word "recreational"

All right, so it now reads: Move to strike the word "license" from the title of Option 2 and replace with "harvest data", and state "Under the Magnuson Act Reauthorizations, states' anglers will be required to register if they take anadromous species. States and jurisdictions should include state recreational harvest data on river herring.

CHAIRMAN KRAY: Does the seconder approve that?

MR. AUGUSTINE: Just one correction, I would actually make "Magnuson Act Reauthorization" – I would actually call it what it is, the MSRA. That's the title, Magnuson-Stevens Reauthorization Act.

CHAIRMAN KRAY: Eric, is that okay with you?

MR. SMITH: That's fine.

MR. AUGUSTINE: Other than that, it's fine.

CHAIRMAN KRAY: Okay, there is the motion. All those in favor, signify by raising your hand, 4; opposed, 12. The motion is defeated 4 to 12. Vito.

MR. VITO CALOMO: Good morning, Mr. Chairman. I would like to ask a question. It's troublesome to me because I've never seen this figure before, and I've never heard about this figure before, 127,000 pounds of bycatch. It's directed to the herring fleet in the northeast under mid-water trawl or paired trawl or maybe herring seiner.

All the meetings that I've been, the bycatch has been minimal. And when somebody says "trawl", right away they've assumed that it's the mid-water trawl or a paired trawl. Is the bycatch coming from a squid fishery, a scup fishery, a whiting fishery, a shrimp fishery or herring fishery, a mackerel fishery? Because, in 2007 the herring vessels or pelagic vessels – let me say that because it encompasses all –

were down off maybe the Mid-Atlantic States fishing for mackerel.

Then they did not fish all summer because they were restricted from the Gulf of Maine, and they went to Georges Bank several times, bringing back a zero. I'm just trying to see where this bump of 127,000 pounds is coming from, even though for me that's very small, but in the range of things where we're trying to rebuild the stock, you know, it sounds large.

I'm just trying to figure, Mr. Chairman – when I've watched trucks back up to sluices, and they unload fish that go directly into a truck, river herring of, say, 10,000 pounds, five trucks a day, five times a week, I'm just trying to say where are we going? Everybody seems to want to direct a fishery out of compliance or restrict them to stop bringing in herring or mackerel or other pelagics that give life to the lobster industry, to the tuna industry, to the striped bass industry and other industries.

So, I am just questioning that – you know, I'm all in favor – as a Massachusetts Fisheries Commission Chairman, I voted to restrict the harvest of river herring in our state. I mean, I pushed because there seems to be a decline. Also, Mr. Chairman, I want to say that before the pelagic fishing came into view, which was about five years ago, roughly speaking of any amount, that this has been a long-standing decline of over 15 years or so.

So I'm just trying to see – I watched some of the councilors here or committee people licking their chops at, oh, look at the bycatch. You know, I'm just trying to figure where we're going with this here. I also would like – before we present this to the public – to do a little research on some of this bycatch and where it's coming from.

Remember, I once was a commercial fisherman for pelagics, groundfish, shrimp, whiting, so on and so forth. My question again is I want to make sure that when we just specify mackerel and herring fishermen in bold print, that is where it is coming from. I'm not quite sure that's right, because I've never heard that amount.

Yes, I've seen a few thousand pounds before out of a million pounds. I visit the plants often. We have law enforcement visit plants often. I'm just trying to figure where it's coming from. I thank you for allowing me to speak, Mr. Chairman.

CHAIRMAN KRAY: I just leaned over to Erika, she can try to get some of that information for us.

MR. CALOMO: Well, I think that's important.

CHAIRMAN KRAY: Yes, I agree with you. Ritchie.

MR. R. WHITE: Thank you, Mr. Chairman. I would like to see if there would be objection, so we don't have to go through a motion, if we could add "permit" to "license" in this option, "license/permit". And if there wouldn't be objection to that –

CHAIRMAN KRAY: Well, I'm unclear on my parliamentary procedure here, but Pat tells me we can go back to the original motion, which is just to eliminate the recreational license from the options.

MR. AUGUSTINE: Yes, because this motion could change it. The substitute was defeated.

CHAIRMAN KRAY: The motion to substitute was defeated; we go back to the original motion, which is to simply take out "recreational license". John, that's not true?

MR. NELSON: Well, we're getting ourselves wound up. As I understood, it was a friendly amendment, and, therefore, it was really your main motion.

CHAIRMAN KRAY: So it was the main motion. Okay, then the floor is clear for anything. Ritchie, do you want to give that again, please?

MR. R. WHITE: If there's no objection, that we just add "recreational fishing license/permit", so just add slash permit to it.

CHAIRMAN KRAY: Anyone object to that language being in that option, "recreational license/permit"? Seeing none, we will go with that. All right, moving on, other questions and comments on the public information document? Any comment from the public? Amy, is this where you want do your thing, and be brief, please?

MS. SCHICK-KENNEY: My name is Amy Schick-Kenney, and I am here today representing the Herring Alliance, which is a coalition of environmental and other public interest organizations. It's nice to be back at the annual meeting and see so many friendly faces around the table. I really enjoyed my years working here, and I have a tremendous respect for this group and its mission. That's what brings me here today.

As Erika went over in the presentation of the PID, river herring populations along the Atlantic Coast are declining dramatically and have over the last several decades. I'm glad to see that this board is

considering an amendment to implement measures to halt the decline of river herring and help populations of alewife and blueback herring recover.

Today the Herring Alliance is releasing a report called "Empty Rivers", which documents the decline of river herring and the need to reduce at-sea bycatch. I have copies available if anyone is interested. Like I said, this report documents the life history information on the fisheries, information on management, the important ecological role that river herring play in the ecosystem, and looking at factors that have contributed to their decline in the past, including directed fishing pressure, fish passage issues, removal of dams, and predation.

However, we believe that there is a new threat to the status of river herring that has been largely overlooked, and that is the issue of at-sea bycatch. And, again, Erika touched on some of these points already. Without doing a better job of quantifying and controlling the bycatch of river herring at sea, I think it's going to be difficult to recover this population.

As Erika mentioned, the data that the New England Fisheries Management Council reported at its September, there were five mid-water trawl trips observed between January and April of this year, and on those five trips over 100,000 pounds of river herring were caught. That was for only about 300,000 pounds of sea herring landing, which is a phenomenal bycatch rate of over 30 percent.

It might have been an unusual event, but we're talking about significant numbers of river herring that are being caught at sea. And as some of you may know, the observer coverage rates are very low and may not be able to capture unusual bycatch events, let alone trying to put a number on how many river herring are caught each year.

So, again, we're glad to see that the board is moving forward with Amendment 1, and we support the variety of management options that are included in this PID. We are glad to see options ranging from a moratorium on harvest and looking at the issues of bycatch and getting better data collection and controls on bycatch. Thank you for your time.

CHAIRMAN KRAY: Thanks, Amy. All right, we're ready to – I believe we might be ready now to – Jaime, go ahead.

DR. JAIME GEIGER: Thank you, Mr. Chairman. It seems to me, looking over this document – and, again, I agree it's an extremely well-written

document, but it seems to me that there may be some value to put in some threats to the resource as part of the description of the fishery. I don't see that really laid out very well.

And, again, given some of the previous comments – and, again, I'm sensitive to Vito's comments as well – that some description of some of the real and perceived threats to the fishery as related to restrictions on fish passage, habitat issues may be beneficial and enlightening in a public information document. Thank you, Mr. Chairman.

CHAIRMAN KRAY: Thank you, Jaime. I think Erika is making copious notes here and can include those items in the PID. Well, now that gives two options. One is we can approve it now or we can send it back to the plan development team – approve it now to go out for public comment with the recommended changes, input from Vito and Jaime and others, or we can approve it now and let her make the changes and then have it go out. What is your pleasure? And if you do, would someone make a motion? John.

MR. NELSON: Well, I'm probably going to complicate it, Mr. Chairman, I'm sorry. I apologize in advance. Paul brought up the issue of multiple options here and having a wide variety of comments back. I think there was the suggestion to the staff to try to condense it down, but that's probably not very fair to staff to say, "Well, why don't you condense it down a little bit"?

Then they come back with something and we say, "What the heck did you do that for?" So, I just wonder if the document would be – we could reduce it down by not having stand-alone coastal or stand-alone in-river options in there. The reason I suggest that is because then you have combined coastal and in-river options available.

Quite frankly, I think that is probably what you need to do is look at it comprehensively within the state waters. I'm just asking if that is perhaps the guidance that we could give to the staff that, where appropriate – I know those are really words that give you an awful lot of flexibility, but if you don't have too much objection to just having a comprehensive approach versus in-river or just coastal, that might give the guidance that's needed to the staff if they can reduce it down.

CHAIRMAN KRAY: Thanks, John, that was very helpful. Other questions or comments? Jaime.

DR. GEIGER: Mr. Chairman, I certainly can support those comments of John, but my overall concern is I would hate to have this go back to the team to rewrite. I prefer to make the necessary modifications and get it out, given the status of the stocks. Thank you.

MR. DIODATI: Yes, I agree with Jaime. Maybe we can just very quickly, by consensus, point to a couple of things that are consistent with John's suggestion. For instance, in Option 2A that reads "reduce fishing effort in directed coastal and in-river fisheries for river herring", just leave it at that and remove 2B and 2C.

CHAIRMAN KRAY: Can you speak up a little louder, Paul.

MR. DIODATI: I would just leave 2A or make it Option 2, and remove 2B and 2C from the document. Is that the kind of thing you're talking about, John? So if we can maybe just quickly run through it now, so that we don't have to go back – and Erika doesn't have to leave this meeting and make changes and get back to us. It will delay. If that's the case, I'd rather see the document go out the way it is. But I think we can quickly go through and by consensus.

CHAIRMAN KRAY: Okay, we have that. Other suggestions for this aspect of culling it down? Ritchie.

MR. R. WHITE: It sounded like Paul was well on his way to taking us through this process, so maybe he could just kind of run down the list.

MR. DIODATI: I'll get back to you on that. Well, certainly, with Option 2, that would be my recommendation, and I'll quickly look at some of the others.

MR. NELSON: Why don't we look at 4A and drop that out, Mr. Chairman, by consensus?

MS. ROBBINS: John, would you like to leave it as Option 3, moratoriums, and then remove the other moratorium options and assume that they're all contained within Option 3?

MR. NELSON: Yes.

MS. ROBBINS: That would be removing 4A, 4B, 5A and 5B.

MR. NELSON: And then you have a document that I think is small enough but yet comprehensive enough, Mr. Chairman.

CHAIRMAN KRAY: Yes, I agree. It sounds good, so we'll do that by consensus. Any objection to that?

MR. SMITH: Could I have that read again, Mr. Chairman?

CHAIRMAN KRAY: Erika, do you want to do that, please? Why don't you go back to the beginning and start with Paul's and go on with John's recommendation.

MS. ROBBINS: Keep Option 1; change Option 2A to Option 2 and remove 2B and 2C; keep Option 3; remove Option 4A and 4B, 5A and 5B as well; and keep Option 6. And then, John, would you suggest removing Option 7A and 7B?

MR. NELSON: I would.

CHAIRMAN KRAY: So how many options do we have now?

MS. ROBBINS: Four options.

CHAIRMAN KRAY: We have four options; that's doable, I think, Paul. Are you comfortable, Jaime? Do it again, Erika, please. Let's do the ones we have left in.

MS. ROBBINS: The ones left are Option 1, Option 2A, Option 3, Option 6.

MR. R. WHITE: Could I ask, Mr. Chairman, that we put those up on the screen, the ones that are left that we would be voting on?

CHAIRMAN KRAY: Chris, can you do that; start with Option 1. I'm sorry, Ritchie, you wanted to see the options themselves with all the verbiage?

MR. R. WHITE: No, just the numbers, so we can relate to the ones that would be left.

MR. P. WHITE: Option 8A and B weren't discussed, but it's not on this list.

CHAIRMAN KRAY: Can we take that out?

MS. ROBBINS: Perhaps maybe Option 8A and 8B could be condensed into a single option. Let me look at something real quick, I'm sorry. We could remove them completely as well.

CHAIRMAN KRAY: So we're taking out Option 8A and 8B. John.

MR. NELSON: Mr. Chairman, before we start worrying about what we've left out, I think we have a range that we're going to the public with, and we're going to get comments that will provide us with that opportunity to develop what the public is providing as input within that range. I think we've gone from moratorium to no action. I think we've got the range in there, and now it's just a matter of taking a look at some of the substance and modifying it once we get the public comment.

CHAIRMAN KRAY: I agree. A.C., go ahead.

MR. CARPENTER: I would like to add Option 7B and C back into this or just Option 7, such that we found at least in the shad fishery that allowing a very small bycatch did add dramatically to the information that we had available to monitor this fishery years ago. I think taking it out at this point in time may be a little bit early.

I think that allowing these fisheries to retain some bycatch – and it doesn't have to be a large bycatch, but to use that a barometer of what is going on. We found it found it extremely beneficial in the Potomac for the American shad years ago, and I would hate to see you taking that option off the table so early.

CHAIRMAN KRAY: Erika tells me that might be included in Option 6, if you look back.

MR. CARPENTER: All right, that's fine.

DR. DANIEL: I think there needs to be some language somewhere in this document that indicates that we don't have an updated stock assessment and that we're moving forward taking this action with probably a stock assessment not until four years out. I think that's an important caveat or else we're going to be back here arguing that we don't have an assessment, or people are going to be arguing that we don't have an assessment.

CHAIRMAN KRAY: I think that could be included. Thank you. Arnold.

MR. ARNOLD LEO: Arnold Leo, Town of East Hampton. This is a question for Erika. You know, in the poundage for the ocean harvest, which is described as a bycatch, Erika, do you know was that a discarded bycatch or was it a utilized bycatch of some other directed fishery? In other words, was the bycatch sold?

MS. ROBBINS: The National Marine Fisheries Service Sea Sampling Observer Program indicates that most of the indirected catch of river herring is

kept and not discarded. There are some discards, but it is not currently reported as river herring landings themselves. It is lumped in the category of bait if it is reported or as Atlantic herring.

MR. LEO: Okay, then, I would recommend that fact be included in this public information document that this is not wasted resource. It's a utilized bycatch that serves as food for people. Thanks.

CHAIRMAN KRAY: Is that acceptable to the board that we make a comment that it is not – John.

MR. NELSON: To that point, Mr. Chairman, I don't mind that we say that as bycatch it was utilized. It may not have gone to food; it's bait or whatever else. I wouldn't be putting "food" in there. It was unintended consequences of the harvest.

CHAIRMAN KRAY: Do you have another comment?

MR. NELSON: Yes, the other comment is I think you do need the motion, Mr. Chairman. Why don't I make the motion to move Options 1, 2A, 3 and 6 to public hearing for public comment.

CHAIRMAN KRAY: And to remove the others?

MR. NELSON: Yes, these would be items that would be going forward to public comment. I think I finally got it right.

CHAIRMAN KRAY: Is there a second to John's motion? Pat Augustine seconds. Discussion on the motion? Eric.

MR. SMITH: This has been one of those 15-minute interludes that means a great deal, but it is very hard to follow. As I've read what we're proposing to leave out and proposing to leave in, I had to go back and write down in simple terms what they mean so that I'd know what we were leaving out.

The new Option 2 is reduce effort. The new Option 3 is a moratorium. The Option 6 is close the directed fisheries and allow bycatch; again, allow bycatch is what it says. Nowhere in here, because it's embedded in all the other ones that we're about to discard, does it talk about regulating bycatch, which as I understood it was Amy Kenney's point.

If that comes to pass, that is the issue that is something that is new. I don't necessarily buy that argument until I see the justification for it, but at least that's her premise. It doesn't appear that we have an alternative here that directs the public at the thought

that maybe that will be a management action that we take.

I don't disagree that 1, 2A, 3 and 6 are okay to be in there, but I think that short list leaves us a little deficient, and that's the problem I have with knocking things out. I am happy with the motion, but I think given my druthers, I would rather have the longer list than the shorter one that might leave something out, but I see both sides of it. Thank you.

And, again, I would then ask if somebody can pick up the ball on that one, maybe there is one of these options that somehow captures that thought, so that we go out to public comment with one of the options that says somehow address bycatch in a meaningful way if it comes to pass that is an issue that is new and maybe is preventing the recovery of river herring.

CHAIRMAN KRAY: So you're suggesting that you believe we need another option in there or that is embedded in one of the existing options to regulate bycatch? John.

MR. NELSON: Just going by the chart, again, not having my brain wrapped around all the options, because there were too many for me, I think Number 3 prohibits it, and so that obviously deals with – tells the public we're going to deal with bycatch, and the others allow it in some way or another.

So, again, I was looking at the range, and I don't disagree with Eric as far as if you want to highlight something about doing something with bycatch, but my early morning mind was saying, well, you know, if you're not going to allow it, that does something to it.

MR. EVERETT A. PETRONIO, JR.: Just real briefly as a suggestion, only looking at the chart, if we modified 8, instead of having 8A and 8B, either you could keep them both in there or simply a single 8 where you take the Xs out of the bycatch. I think that was probably the intention there. I agree that we should simplify it, but maybe something along those lines as a suggestion.

MR. NELSON: If people want to make a friendly amendment, I am probably open to friendly amendments.

CHAIRMAN KRAY: Everett, do you want to make that a friendly amendment?

MR. PETRONIO: I was advised what I've suggested is actually Option 6.

CHAIRMAN KRAY: Eric, go ahead.

MR. SMITH: Picking up on what Everett just said and John's point, I'm not sure I'm satisfied that moratorium solves my problem, but a quick revision to Option 6 would. If that were to say "close directed fisheries for river herring and regulate bycatch", if that's a friendly amendment.

MR. NELSON: I am happy, Eric, to put that type of language in. I am sure the seconder would agree with that.

CHAIRMAN KRAY: Pat, would you agree to that?

MR. AUGUSTINE: Yes.

CHAIRMAN KRAY: All right, so we're going to make a friendly amendment to add Option 6 with the language as Eric – do it again, Eric.

MR. SMITH: Yes, change the words in Option 6 from "allow landings" to regulate – or, replace "allow landings as" and replace "allow landings as" with "regulate", so that it would read "close directed fisheries for river herring but regulate bycatch".

CHAIRMAN KRAY: Does everyone understand that; that we're adding Option 6, which would give us five options now, I believe.

MS. ROBBINS: No, Option 6 was already in the motion.

CHAIRMAN KRAY: Oh, I'm sorry, Option 6 was already in there. Okay, are we ready to call the question? John, do you want to read the motion, please?

MR. NELSON: Thank you, Mr. Chairman. Move to bring Option 1, Option 2A, Option 3 and Option 6. Option 6 modified language that – modified from "allow landings as" to "regulate landings" -- staff will take care of whatever language modifications – to public comment in the PID.

CHAIRMAN KRAY: Okay, all those in favor of the motion, raise your hand, 17; all opposed. The motion passes 17-0. The next item on the agenda is to review and consider the approval of annual reports. Vito, go ahead.

MR. CALOMO: Thank you, Mr. Chairman. Would this be the proper time to ask you to consider Mr. Leo's footnote about if there is a bycatch of what amount, that it is not a wasteful discard; it is utilized one way or the other?

CHAIRMAN KRAY: I think we agreed that we were going to do that.

MR. CALOMO: One more footnote. I'd like to see if we would accept, is that in reading the observer coverage, and not these amounts that I've heard today – and I'm quite aware of what the observer coverage says. There has always been a footnote on the bottom saying that they're very difficult to tell the alewives from the sea herring. There could be more in estimation, and inadvertently there could be less, because they don't seem to really distinguish very easily what an alewife is and what a sea herring is. So, I think you have to look at it both ways. There could be more, but they can't tell that there could be less. I think there is a problem here.

CHAIRMAN KRAY: Yes, but I think that might be more confusing to the public than informative if we try to put that kind of language into an asterisk. It just gets expanded and expanded.

MR. CALOMO: Well, that's why I threw it because –

CHAIRMAN KRAY: That's just my opinion.

MR. CALOMO: Well, it's a good opinion. I mean, there are other opinions that I cherish here, and that's why I put out these comments from time to time. But, I mean, it has been in written print that it always says there could be more, because we can't tell. Well, it could be less that you can't tell either. I mean, I don't understand how you can print that. All right, I guess it's a moot point.

CHAIRMAN KRAY: My comment – and this is not facetious, Vito – is best available science. Bill Adler.

MR. WILLIAM A. ADLER: Yes, Mr. Chairman, the last motion was passed. Is there a need for another motion to take the PID as amended out to public hearing or are we not doing that now?

CHAIRMAN KRAY: I think you caught us on that one, Bill, you're probably right. Bob Beal.

MR. ROBERT E. BEAL: I think the language of this motion actually says that; move to bring these suite of options to public comment in the PID, so I think –

CHAIRMAN KRAY: You think that covers it?

MR. BEAL: Yes, included in this motion is that.

CHAIRMAN KRAY: Okay, Eric.

MR. SMITH: I'd never disagree with Bob Beal, but there's always the first time for everything. He's right on the commercial section, but if we leave this as is, we've ignored the recreational options, and I don't think we want to put ourselves in the position of, well, what did we actually approve.

The section in the document are the ones we talked about previously, Issue 2. I don't think we're – on Issue 1, he's correct. That's where I agree. But to presume that this is the only thing that will go to public comment is not correct, in my view.

CHAIRMAN KRAY: John.

MR. NELSON: Thank you, Mr. Chairman, and I'm glad Eric had his coffee. He's correct, so the motion would be to move the amended PID to public hearings – to bring the amended PID to public hearing.

CHAIRMAN KRAY: Second on the motion? Bill Adler. Discussion on the motion? All those in favor, signify by raising your hand, 16. The motion passes 16-0.

MR. MILLER: Point of order.

CHAIRMAN KRAY: Yes, Roy.

MR. MILLER: I had my hand up not to vote, but to point out how can we vote on something when we can't see it? In other words, the motion and the seconder and everything weren't up on the board when you initiated the vote.

CHAIRMAN KRAY: Can you see it now? Okay, Tom, you had something.

MR. TOM McCLOY: Thank you, Mr. Chairman. Mr. Smith covered my point.

CHAIRMAN KRAY: Okay. Go ahead, Bob.

MR. BEAL: Thank you, Mr. Chairman. Just make sure everybody is sort of on the same page as far as the processing timeline goes, my assumption is where we are is – assuming this is the last motion passed – we're going to modify the document as the board has directed today, take that out to public hearing and public comment prior to the February meeting, come back at the February meeting with a summary of public comment.

I haven't heard anyone request to see the document again to see the plan development team's modifications to the document. It seems that there is

comfort around the table – or I haven't heard the request, anyway, so I just want to make sure we're all on the same page.

MR. SMITH: I thank Bob for making that point. Earlier I wanted to make an observation, and we got into motions and so forth and I lost the time, but now here it is. Erika had sent this document out for us to review. A lot of us had staff members comment, and those comments trickled in long beyond the time when the PDT could have made revisions to the document.

I didn't see anything that my staff gave me that suggested we had to drop back and do the work over or that I would need to see it again, but I would like, in response to Bob's comment, to point out that probably a number of states submitted comments, and the PDT will be revising things like data and how things are portrayed and how they're defended.

In other words, a statement needs a figure or a table to support it, and those types of things, I consider simply to be the normal technical improvement of the document, but it doesn't make me think that it isn't worth us doing what we just did, which is get it the best it can be before we go to public hearing and then go out to public hearing. I don't need to see it again, but I expect those types of revisions will be made by the PDT. Thank you.

CHAIRMAN KRAY: Thank you, Eric. Roy.

MR. MILLER: Mr. Chairman, I would like something noted in the public record while we're discussing river herring that was not specified in this document. This document refers to the – I'll characterize it – insidious nature of the bycatch losses in ocean fisheries for other pelagic species. But what it doesn't mention is the problem that is prevalent in the Mid-Atlantic area, certainly in your state, Mr. Chairman, and in New Jersey and Delaware and perhaps elsewhere as well, that's equally insidious, in my view, and that is the harvest of adult river herring at the base of spillways.

These are spawning river herring that come in the springtime, and they are harvested as live bait for striped bass fisheries. In so doing, the capability exists for these small-scale – I'll characterize them as recreational fisheries, although some of the fish end up sold as bait – these small-scale recreational fisheries for spawning river herring has the capability of depleting or in fact wiping out runs that we're in the process of attempting to restore with fish passage, fish ladders and so on.

I think it would have been nice if there had been some mention in the PID that is considered a problem in some jurisdictions. I'm confident that the options that we left in can address that particular problem, but I just wanted to get it on record that the Mid-Atlantic states are concerned about this problem. Thank you.

CHAIRMAN KRAY: Thank you, Roy, and I would agree with you that is a concern, particularly with the season coming up right now for striped bass. Kelly.

MR. KELLY PLACE: I would like to second Roy's concern on that. Several cases in point from Virginia, even with the depleted state of the blueback herring, these spillways and impoundments he's talking about essentially gather what few fish are left into essentially a barrel, and it's just easy to shoot them. It's ridiculous to take what little is left of the stocks in the few places they concentrate and hammer them the way it happens. It is both commercial, recreational, et cetera, but I think that Roy's point is extremely important. Thanks.

CHAIRMAN KRAY: Thank you, Kelly. Okay, time is moving on; let's go on to the next item, review and consider the approval of the annual reports. Erika.

2007 REVIEW OF THE FMP

MS. ROBBINS: Thank you, Mr. Chairman. Compliance reports for shad and river herring were due July 1 of this year, and the PRT has reviewed them, and this is a presentation of both the PRT report and FMP review.

American shad, as you know, completed its benchmark stock assessment in 2007. The board heard the presentation of the report at the August meeting. It found that American shad stocks are all-time lows and do not appear to be recovering, generally, and they have experienced recent declines, but some remain stable at low abundance. There are signs of recovery in the Potomac River.

The assessment identified three causes of the decline. They are overfishing, pollution and habitat loss. The status of the stocks is unknown for hickory shad, blueback herring and alewife, the three other species in the complex. This is a graph of American shad landings coastwide from 1950 to 2006. American fisheries in 2006, commercial landed over 650,000 pounds, which is down from last year's total of just under 750,000 pounds.

The majority of landings came from North Carolina, South Carolina, New York, New Jersey and Georgia.

There was no harvest from Maine, New Hampshire, Massachusetts, Pennsylvania, Georgia or Florida. Ocean bycatch of American shad is permitted under Amendment 1. The ocean intercept fishery, which is a direct fishery, was closed in 2005.

In 2006 we saw landings of 12,529 pounds of bycatch from ocean fisheries. That's equal to 2 percent of the total coast-wide harvest, up 1 percent from last year. States that reported bycatch of American shad in the ocean fisheries were Maine, Massachusetts, New York, New Jersey and North Carolina.

Recreational harvest of American shad is reported to be over 80,000 fish caught, almost 60,000 harvested; and states that had reported harvest in the recreational fisheries for American shad were Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia.

Creel surveys were conducted in 2006 on the Roanoke River in North Carolina and on the Cooper River in South Carolina. This is a graph of hickory shad landings from the National Marine Fisheries Service. Hickory shad were reported as landings from the commercial fishery over 82,000 pounds, which is down from last year's 180,000 pounds. States that reported were New Jersey, North Carolina, South Carolina and Georgia. It should be noted that hickory shad are often misidentified as American shad, so these landings may not be accurate.

The recreational fishery reported over 250,000 fish caught with over 85,000 harvested. Landings were reported from Rhode Island, Connecticut, New York, Delaware and North Carolina. Here is a graph of river herring landings. You saw this earlier. The commercial fishery landed over 1 million pounds in 2006, and this is from state-reported data. In 2005 data only reported over 600,000 pounds.

Landings came from Maine, New Hampshire, New York, Delaware, Potomac River Fisheries Commission, North Carolina and South Carolina. Currently there are moratoriums in Massachusetts, Rhode Island, Connecticut, and North Carolina. North Carolina reported landings because they have a research set aside or an equivalent that they allow harvesting. The recreational fishery, MRFSS reported that over 14,000 were caught with just over 2,000 harvested.

Currently several states and jurisdictions stock shad and river herring into rivers. Those would be Maine, Pennsylvania, Delaware, Maryland, Virginia, North

Carolina, and the Fish and Wildlife Service. These are the numbers of fish that were stocked this year.

Considering state compliance, New Jersey reported that they had eight trips that landed bycatch of American shad from their ocean fisheries over the 5 percent of poundage bycatch limit. New Jersey reports that they are currently investigating these catches. Other states that did document bycatch from their ocean fisheries did not document whether they went over that 5 percent limit.

The states of Maine, New Hampshire, and Massachusetts request de minimis for this upcoming fishing season. They have been granted de minimis in the past and continue to meet the criteria.

2007 PLAN REVIEW TEAM REPORT ON STATE COMPLIANCE

The following are the PRT recommendations and comments to the board: The PRT recommends that the technical committee and management board consider an addendum to Amendment 1 to modify the ocean bycatch sub-sampling requirement. They no longer feel that this is necessary because of the low levels of bycatch that make it very difficult for states to meet this requirement. They should still report whether or not the 5 percent bycatch allowance is violated.

The PRT recommends that states report all stocking information. The value of the hatchery evaluation requirement is limited without knowing the number of fish stocked into the systems. They recommend that this information is reported in the compliance reports.

The PRT recognizes that as new monitoring requirements are added – currently under Amendment 1 if a state changes their regulations, they may have to institute new monitoring requirements, but on multi-jurisdiction rivers the management board has not indicated who will be responsible for reporting. The PRT would like direction from the board when those new requirements come in place.

In light of the closure of all ocean intercept fisheries for American shad along the Atlantic coast, the PRT recommends that Table 3 in Addendum 1 be modified to remove the requirement to monitor the directed harvest of American shad in the Atlantic ocean.

Trends observed in 2006 were found to be consistent with the recently completed 2007 American shad benchmark stock assessment. Fish passage at dams on the Androscoggin, Saco, Exeter, Merrimac, Pawcatuck, Connecticut, Lehigh, Susquehanna, and James rivers continue to remain at low levels, and mortality estimates exceed Z-30 on the Hudson, York, James, and Rappahannock rivers and Albemarle Sound.

Recreational creel surveys are to be completed once every five years. The PRT requests that states include the year of the most recent creel survey in every compliance report. Several states did not report all the monitoring requirements listed under Amendment 1, Technical Addendum I and Addendum I. The states should take note of the required monitoring programs that were not reported and make a concerted effort to report all monitoring programs in forthcoming annual reports.

Amendment 1, though focused on American Shad Monitoring Programs, also requires that states report available fishery-dependent and independent data on hickory shad and river herring, and it requests that any data that is collected be reported in the compliance reports. Amendment 1 requires that each state include a harvest and losses table. This was a recommendation from last year. Most states did include the table this year, but there were still a few that did not. This aids in the PRT's evaluation of the current fishery. Thank you.

CHAIRMAN KRAY: Comments? Tom.

MR. McCLOY: Thank you, Mr. Chairman. I am obviously going to have to take exception with the plan review team's assessment that New Jersey has failed to implement the provisions of the plan regarding exceeding the 5 percent bycatch. First of all, the state of New Jersey has a restriction on no ocean fishing for shad, with the exception of the 5 percent bycatch, so the state itself has done its job to put together the requirements of the plan.

The fact that a fisherman exceeds the 5 percent bycatch is a violation of our regulations. I don't see the state being out of compliance; the fisherman is out of compliance with our regulations. I think that's been mischaracterized by the plan review team, number one. The other thing I would like to mention is that we're talking about eight trips with a total of 210 pounds of shad, I believe.

If you looked further into the report – and I realize the bycatch limit is per trip – we had about 100,000 pounds of other fish that were landed during that time

that were reported, and with the other shad that were caught below the bycatch, it was only 2 percent total. So, number one, I think the plan review team has mischaracterized New Jersey's compliance or lack thereof under this particular provision, and I would request that this report be modified to correct that.

CHAIRMAN KRAY: Thank you, Tom.

MR. McCLOY: And if you need a motion to that effect, let me know.

CHAIRMAN KRAY: Go ahead, make a motion.

MR. McCLOY: I would move that the plan review team report on state compliance be modified for New Jersey to indicate that New Jersey has fully implemented the required provisions of Amendment 1 to the Shad and River Herring Fishery Management Plan.

CHAIRMAN KRAY: Seconded by Pat Augustine. Discussion on the motion? The question has been called. All those in favor, raise your hands – is there anybody opposed to it? The motion passes. Thanks, Tom. All right, now I need a motion to approve the annual reports. Do you want to break that into two parts, the fishery management plan and the PRT? Move them together.

MR. P. WHITE: So moved, Mr. Chairman.

CHAIRMAN KRAY: Pat White made the motion to approve the annual reports. Second on the motion? Seconded by Pat Augustine. Any objection to approval? John.

MR. NELSON: Just a clarification in the motion, Mr. Chairman. By approving the PDT report, are we approving their recommendation for de minimis for Maine, New Hampshire and Massachusetts request?

CHAIRMAN KRAY: That would be my expectation, yes. Eric.

MR. SMITH: And also, just to be clear for the record, this is to approve the PDT report as amended.

CHAIRMAN KRAY: That's correct, the PRT report as amended by the previous motion. Do we all understand that? Any objection to the motion? The motion passes unanimously. All right, we're moving on now, and we are going to review and consider the approval of recommendations from the 2007 American shad benchmark stock assessment. Now, what we're going to do is at the conclusion of Erika's report, I am going to ask for an amendment or an

addendum, whichever you feel is more appropriate. Go ahead, Erika.

2007 AMERICAN SHAD BENCHMARK STOCK ASSESSMENT

MS. ROBBINS: Thank you, Mr. Chairman. The board was presented with a benchmark stock assessment for American shad at the August meeting, and they asked the technical committee and staff to review the recommendations of the assessment and present them again to the board with a description of how they can be implemented. The following report is based on this review.

The goal of Amendment 1 is to protect, enhance and restore east coast migratory spawning stocks of American shad, hickory shad, blueback herring and alewife in order to achieve stock restoration and maintain sustainable levels of spawning stock biomass. The objectives that the amendment identifies to meet this goal would be to constrain fishing mortality below F-30, to define stock restoration and determine target fishing mortality and to specify rebuilding schedules.

The third would be to promote improvements in degraded or historical losian habitat throughout the species range. The last would be to establish criteria, standards and procedures for plan implementation, as well as determination of states' compliance.

In Amendment 1 adaptive management is defined to mean that fishery managers will evaluate the response of a population to the regulatory measures employed and react to the resulting changes to ensure that the goals and objectives of the amendment are met. Adaptive management requires that the fishery and population are monitored to an extent sufficient to allow an assessment of how well the plan is performing, and necessary corrections must be made to the management regime if indications are that the population is declining or that the target fishing rates exceed the levels desired.

If target fishing mortality is too high or the population is not stable or growing, additional restrictions on harvest must be imposed. The conclusions of the American Shad Stock Assessment were that the benefits from the ocean intercept fishery closure, which occurred in 2005, were not yet evident. It happened too recently.

The second was that total mortality exceeded Z-30 for most rivers, and that there had been a recent decline in fish counts coastwide. The fourth was that

data only provided insight into recent stock dynamics and not how the population had been affected over the entire time series of commercial and recreational fishing. They identified regional patterns in juvenile production.

There was increased recruitment in the Upper Chesapeake Bay and Marimening Bay in Maine. There was declining recruitment patterns in the Lower Chesapeake Bay and Albemarle Sound. There is relatively low young-of-year juvenile production in recent years for New England surveys, and there is consistent low recruitment to the Hudson River.

As I go through the specific recommendations in the plan, I've color-coded them to let you know which ones can be implemented through an amendment. An addendum would require state implementation or private research or it can be tasked to the technical committee. Those listed in red are recommendations that would have to be implemented through an amendment. The green recommendations could be implemented through an addendum. The yellow recommendations can be implemented through states or funded research, and the pink can be a technical committee assignment.

The first recommendation, which is underlined, is a new recommendation. It's not contained explicitly within the plan, but the technical committee felt that it was important to following the recommendations of the benchmark stock assessment. The technical committee also took the time to rank the recommendations in the order of priority for this species.

The first recommendation, which is new and not in the assessment, would be to incorporate the benchmarks and the restoration goals of the 2007 American Shad Benchmark Stock Assessment into the Shad and River Herring Fishery Management Plan. The second would be to not increase directed fisheries on American shad.

The third would be to restrict fisheries operating on stocks where total mortality is increasing and relative abundance is decreasing. The fourth would be to employ observer coverage to verify the reporting rate of commercial catch and harvest, as well as bycatch and discards. The fifth would be to identify all fisheries where bycatch occurs and then quantify the amount and disposition of the bycatch.

The sixth would be in fisheries where bycatch is allowed, to quantify the discards. The seventh would be to identify directed harvest and bycatch losses of American shad in ocean waters and bay waters of

Atlantic Maritime Canada. The eighth recommendation would be to collect annual estimates of recreational catch, total harvest, catch-per-unit effort, age, size and sex composition of fish in the recreational fisheries.

The next would be that all river systems in the 2007 assessment should have a management plan specific to shad, regarding recovery and restoration, and that these plans should be evaluated and updated on a regular basis. Recommendation 10 is that annually the states should update all summary tables of ongoing data collection used in the assessment to speed a future assessment so it would not take another five years once we initiate our next assessment.

Eleventh would be to mark all stocks' larvae so they could be identified in future analyses. The 12th would be to develop safe, timely and effective passage for shad upriver and downriver at all barriers. The 13th would be maintain water quality and habitat; 14th would be to characterize passage efficiency, mortality, migration delay and sub-lethal effects of dams and hydropower facilities.

The 15th would be to continue brownie-type tagging programs within states. The 16th would be to monitor juvenile production in semelparous stocks in the south, which is not currently required. The 17th would be to maintain the necessary flow levels in rivers where water flow is regulated and necessary; meaning necessary to the biology of the species.

The 18th would be to identify stock composition in mixed fisheries, using otolith microchemistry. The 19th would be to spatially delineate mixed stock areas in Delaware Bay, and the 20th would be to not continue in-river tagging programs unless the necessary assumptions of those programs are verified. Thank you.

CHAIRMAN KRAY: Okay, that's a mouthful. Howard.

MR. HOWARD KING, III: Thank you. I just wanted to mention or Erika mentioned the increase in shad juvenile production in the Chesapeake Bay in the Upper Chesapeake Bay, Potomac and Upper Bay of Maryland. It's the second largest on record and follows a record production in the Potomac in 2004.

CHAIRMAN KRAY: Thank you, Howard. Other comments or questions of Erika? Do we have a motion? I guess the question is do you want to go for the whole ball of wax, meaning an amendment, or do you want to go for an addendum, and that would

leave out certain things as they were color-coded. Do you want to look at it again? Eric.

MR. SMITH: This is going to very hard to it this way, because in the document, which is the way I could put it together, on Page 4 and 5 there is the technical committee priority of the rankings, and they pretty much follow the order that Erika presented them in, but it's not color-coded.

I am ignoring for the moment whether it takes an amendment or an addendum because looking at the document was the only way, flipping back and forth, that I can see all 20 recommendations. The first three, to me, are the premier ones, you know, update the plan insofar as the benchmarks and restoration goals – that's kind of an understood – do not increase directed fisheries for American shad is number two, and restrict fisheries operating on stocks where total mortality is increased and relative abundance is decreasing.

To me, if we do nothing else, and given what our competing priorities are, those are the three I would want to go forward with. Then my notes, when I read this earlier, would be to consider the remainder – I'm just trying to float a strawman to try and agree on the top three and then people can start to add to the list of other things they think they need to do, because some of these things are going to take a lot of effort and a lot of money.

I mean, it's easy to say quantify the amount and disposition of bycatch, but it's very expensive to do that. That would be my contribution to what we ought to do is take number one, two, three as very important to do and then wrestle with the others.

CHAIRMAN KRAY: A.C.

MR. CARPENTER: I don't disagree with Eric except for number two where it says, "Do not increase directed fisheries for American shad". I would like to see something added there, "except in river systems that can demonstrate that it will not jeopardize the recovery of the stock". We are in a position in the Potomac of being in a fairly unique situation on the east coast with all signs of recovery pointing in that direction.

I think the stock assessment that's just been completed noted that, and we believe that the District of Columbia should be allowed to institute a very limited recreational catch or recreational harvest of shad in their waters where it can be used to add their data base of information that they have, as well as continue – we don't see it as interfering with the

recovery that's well underway in the Potomac. So, if we can modify that one section in whether it takes an amendment or addendum or whatever it takes, but I would not want to preclude that at this point in time.

CHAIRMAN KRAY: Thank you, A.C. Other comments? We need a motion, I guess, to move this thing along, and the only question is on what issues. Do we want to start with Eric's three and then take it from there? Eric.

MR. SMITH: Thank you, Mr. Chairman. I'm going to try and craft this on the fly and embrace A.C.'s words. I move to initiate development of an amendment that accomplishes the first three of the priority items on Page 4 of the document "Implementing Recommendations from the American Shad Stock Assessment", dated October 11th, 2007, with Item Number 2 amended as follows: It would read, "Do not increase directed fisheries for American shad unless the state or jurisdiction with management responsibility can justify that the increase will not jeopardize rebuilding or sustainable management of that stock."

CHAIRMAN KRAY: Is there a second? A.C.

MR. CARPENTER: I'd be glad to second that motion.

CHAIRMAN KRAY: We have a motion by Eric Smith; seconded by A.C. Carpenter. Questions on the motion? John.

MR. NELSON: Thanks, Mr. Chairman. Is it possible for staff to put up those three priority items also. Actually, it looks like a Dave Pierce motion, but if we could the three priority items up again just for a minute. So, Eric, you're talking about the first three, and I'm making an assumption that if other recommendations can be fit into that, which makes sense, you know, observer coverage, things like that, that those would also be incorporated as appropriate, but that we'll be focused on the first three priorities?

MR. SMITH: That's exactly right. The way I characterized in my notes was affirmatively start the amendment process to do number one, two, three, and it has to be an amendment because of the red underlining there. That one takes an amendment, so we may as well do all three in the amendment, and then consider the others. And if we can find them that we think are important to do or somebody wants to move to add them to the list, I don't have objection to the others, but as I looked at them, I couldn't embrace – I couldn't justify a motion that said do all

20 because I think that's unrealistic, but I'm not against it either.

MR. NELSON: My comments are strictly that we're going to focus on the three. I don't think we need to go through motions to add the others if the intent is to give the flexibility to the technical committee to incorporate other aspects as appropriate and as time allows.

CHAIRMAN KRAY: You say you don't believe that last wording that you gave should be included in the motion?

MR. NELSON: I don't think it needs to be included. From the discussion that we've had, the record I think is clear that flexibility is provided to the technical committee. I didn't see anybody objecting to that, Mr. Chairman.

CHAIRMAN KRAY: Thank you, John. Roy Miller.

MR. MILLER: Mr. Chairman, could we request that the – were there any other red items other than the first one – I don't recall – and if so, could they be put back and maybe we should include them in the motion as well.

DR. GEIGER: Mr. Chairman, it seems, based upon the document and the information, that if we are going to incorporate the benchmarks on the shad benchmark stock assessment plan, then it follows that all river systems should have shad management recovery plans or restoration recovery plans. That appears to go hand in glove. I think the technical committee also made those recommendations as well, so I would submit that I think it would be wise for us to include that component into this recommendation. Thank you.

CHAIRMAN KRAY: Is that a friendly amendment, Dr. Geiger?

DR. GEIGER: I would hope, Mr. Chairman, it would be viewed as a friendly amendment, if possible. Thank you.

CHAIRMAN KRAY: Eric, would you accept that?

MR. SMITH: Let me see if I can parse my words. Dr. Geiger and I certainly are friends. Whether the suggestion is acceptable or not, I have some misgivings about ordering another state to do a management plan when they might not otherwise want to. All you had to do is look at the body language and the quips between Roy and Roy, and

you get a sense that maybe in some other areas they don't want to.

The sense of the motion that John and I had was we're not excluding that particular point or anything else. And as we begin to develop whatever it might be, a PID or an amendment document, each one of those recommendations probably is going to get a paragraph of discussion, and we can maybe come back and revisit it. I don't necessarily feel the need to add it in, but if it's a motion to amend and it passes, then I don't have any objection either.

CHAIRMAN KRAY: Dr. Geiger.

DR. GEIGER: Thank you, Mr. Chairman. My concern is that, again, given the amount of money spent for American shad restoration coastwide and in virtually every major river system along the coast, it would seem to me – and, again, given the increased number of FERC relicensing and the importance of fish passage to this whole issue; and given where the action probably will be most effective, it seems to me that recommendation from the committee to include this as part and parcel of accepting benchmarks would be wise and prudent.

I realize it may put some additional responsibilities on, but, again, given the amount of resources that the states have invested in shad restoration to date and what they propose to recommend in the future, it seems to make sound biological sense to include this, Mr. Chairman. Thank you.

CHAIRMAN KRAY: I am going to use my yellow flag here. I think the comment Eric just made that basically it would be there, and it would just be up to when the document is being prepared, when the technical committee is putting it together, that's one thing they're going to have to look at, but we don't necessarily want to impose it in the form of a formal motion. Jaime.

DR. GEIGER: Mr. Chairman, with that interpretation on the part of the record, that would be, I think, very appropriate.

CHAIRMAN KRAY: Okay. Well, that's my referee hat that I'm wearing now. Okay, we have a motion and a second. Further discussion on the motion? Seeing none, all those in favor, raise your hand, please, 18; any opposed. Okay, 18-0, very good. Moving on, we're ready for the technical report. I'm sorry, Bob Beal.

MR. BEAL: Just my typical timeline question. The staff is going to be pretty busy between now the

February meeting working on the public information document that was discussed at the beginning of this meeting, as well as conducting probably a number of hearings between and then.

So, with that in mind, I am not sure at what pace the board will want to work to get the draft public information document back in front of this group for consideration. I just wanted to put that out there and see if there is an agreement around the table as far as timeline goes.

CHAIRMAN KRAY: Well, I agree with, there is a lot on the plates. We talked about pace; we do what we can do and the speed that we can do it; that's all. Pat.

MR. AUGUSTINE: Mr. Chairman, listening to what Bob had to say, it's just a matter of whether we think we want to go faster or slower. I think the question should be reversed; and with the workload that the staff is presently faced with, what is the quickest or most appropriate time to commit staff time to bring this forward?

I know the importance of this document, but it seems to me that coming from you to us, we've loaded an awful lot of activity on the staff in a very short period of time. We've just developed a work plan, so I think your input would be most valued by board members, Bob.

MR. BEAL: A couple of things. One is the action plan, as it's currently written and was reviewed by the commissioners yesterday, includes resources only for an addendum to react to the shad stock assessment and not an amendment. However, the resources it would take to complete an addendum in 2008 are probably about the same level of resources it would take to move forward an amendment.

In other words, we draft one document and have one round of public hearings, have a few PDT meetings, so I think we're going to need to modify the action plan a little bit. But, directly at Pat's question, I think it would be very difficult to get the plan development team together and pull together a draft for the February meeting.

I think we can probably pull it together by the May meeting. If there is a delay in that, we can work with the chair and work out whatever the adjusted timeline would have to be, but I think we can probably shoot for May.

MR. AUSUSTINE: Well, based on that comment, Mr. Chairman, it would seem appropriate, then, to

schedule it for the following meeting after the February meeting.

CHAIRMAN KRAY: I would agree with that. Eric.

MR. SMITH: I agree, also, but if you were also looking for a sense of priority from this group, considering the staff is involved both in river herring and shad, the sense of this whole morning, to me, suggests that the river herring should be priority number one and shad should be priority number two. If there is no objection to that and the staff needs that as a way to decide what is on first, that would be how I would see it, simply because of the apparent management needs. Thanks.

CHAIRMAN KRAY: I would also agree with that. Anyone disagree with that perception of where we're going on a timeline basis between shad and river herring? Okay. Bob Sadzinski, our technical committee report.

TECHNICAL COMMITTEE REPORT: RECREATIONAL MONITORING

MR. ROBERT SADZINSKI: Thank you, Mr. Chairman. First, I would like to talk about the response of the technical committee to the recreational creel survey requirement. Presently under Amendment 1, it establishes the monitoring requirement. It requires a creel survey once every five years, and there are state-specific monitoring requirements. They are listed here; I will not go over them. This is right from Amendment 1. You see a state is listed, and generally in every five-year requirement is listed.

It is the recommendation of the technical committee to reinstate the creel survey requirement. The technical committee would suggest a few changes to the table, changes in state regulations. Since the addendum in 2002, that's one reason why we would like to see some changes and also changes in the stock abundance. I'll leave the conclusions up there. Like I said, we'd like to reinstate the creel survey, but the technical committee would like to comment and make additions or deletions to those tables.

CHAIRMAN KRAY: Okay, any questions of the technical committee? Pat.

MR. AUGUSTINE: Enlarge upon changes in stock abundance; in what context are you – it's your recommendation, but in what context?

MR. SADZINSKI: The technical committee would like to actually sit down and review these in relation to changes in state regulations, especially changes in stock abundance that have occurred since 2002, since the addendum.

MR. AUGUSTINE: Do we need a motion to accept this, Mr. Chairman?

CHAIRMAN KRAY: Yes, we would need a recommendation to institute the technical recommendations.

MR. AUGUSTINE: I would so move, Mr. Chairman.

CHAIRMAN KRAY: And is there a second? Let's back up a second. The technical committee is making these recommendations for the board. We need a motion to accept the recommendations of the technical committee as stated. Pat made that; is there a second: Paul, are you going to second it?

MR. DIODATI: No, I was hoping to have an opportunity to ask a few questions first about the recommendations.

CHAIRMAN KRAY: All right, the motion is withdrawn. All right, let's start with Erika, she has a comment to make first.

MS. ROBBINS: The board has just initiated the amendment process for American shad. The recommendation was to do an addendum to the current monitoring requirements. That could be rolled right into Amendment 1 instead of doing an amendment and addendum at the same time, just for your knowledge.

CHAIRMAN KRAY: All right, Paul.

MR. DIODATI: My question has to do with the creel survey requirement, and I would like to know just a little bit more about that. What surveys are we talking about specifically; what river systems; that sort of thing?

MR. SADZINSKI: The state requirements were presented in that table. I went through it pretty quick. Each state is required – as a designated river system, it's supposed to do a creel survey, and it's only required once every five years. We can put the tables back up.

MR. DIODATI: I guess my next question is if there is de minimis status for a state, does this exempt the state from doing it?

MS. ROBBINS: De minimis status does not remove any monitoring requirements or relieve any monitoring requirements under the Shad Amendment 1.

MR. CARPENTER: In all due respect to the technical committee's recommendation, it seems to me that this board removed that requirement for a number of reasons a number of years ago. Primarily among them were the financial consequences of it. And also, as I recall, there was not an agreed-upon format that would be consistent in this creel survey.

I am not sure that there was enough structure or enough consistency of how this was to be applied ever developed as guidelines to the states. It simply said a creel survey, but it didn't say anymore than that, and there was no structure to it. I think before reinstating it as a requirement in the plan, I'd like to see some requirements of exactly what this creel survey – define this creel survey, minimum standards or some such information that should be provided to us.

CHAIRMAN KRAY: Thank you, A.C., so you're recommending that we ask the technical committee to give us more detail?

MR. CARPENTER: Yes, a standardized template of what they would define as a meaningful creel survey that could be used in the future. You know, do I go out once a week for three weeks and see if I can find somebody fishing on the bank and say that's my creel survey, and the technical says, "Well, that wasn't sufficient; you needed to go out six times or something". So, I think until we get that kind of recommendation from the committee, I'm not ready to put it back in through an amendment plan or an addendum at the present time.

MR. MILLER: Just to give an example that I believe I gave at a previous meeting, Mr. Chairman, the Delaware jurisdictions of Pennsylvania, New Jersey, Delaware and New York undertook a creel survey of the Delaware River a few years ago. Just to put it in a dollar perspective, that particular survey cost, if memory serves – Leroy Young can correct me – in excess of \$250,000. I just want to point out that putting this back in as an every five-year requirement carries a considerable financial burden, Mr. Chairman. Thank you.

CHAIRMAN BEAL: Bob, do you want to comment on that? Do you want to comment on the request by A.C. that we have more specific data coming from the technical committee?

MR. SADZINSKI: Yes. I mean, the technical committee obviously can review and come up with recommendations at our next meeting. Like I said, it probably would be worthwhile to do so.

CHAIRMAN KRAY: Is there any disagreement with that approach? Leroy.

MR. YOUNG: As I recall, that was specifically what money had been set aside to do is to establish a procedure for these creel surveys; and then for whatever reason, that money was moved to other ASMFC programs. I am not sure, but somebody somewhere made the decision that the priority was not high enough to develop those methodologies.

I'm just not sure how this is going to be done. I mean, where is the money coming from for this process? Is it simple enough that the staff can just pull this together without the kind of effort that was initially considered that would be necessary for this?

CHAIRMAN KRAY: Well, I think the approach we're taking and getting additional information from the technical committee on what shape, manner or form of this thing and this creel survey might take before we act on this might be appropriate at this time. Paul, you had a question?

MR. DIODATI: Well, if it was appropriate, I was going to make a motion to accept the recommendations minus the requirement to reinstate the creel surveys.

CHAIRMAN KRAY: All right, we have a motion to accept the technical committee recommendations, leaving off the creel survey until further information is received. Is there a second to that motion? Seconded by John Nelson. A.C.

MR. CARPENTER: I hate to be real dense, but I don't understand the other recommendations as they were put on the board there. Could I have somebody flush out the other recommendation so that I understand what I'm voting for?

CHAIRMAN KRAY: We can do that.

MR. SADZINSKI: We did not specify what those changes would be.

MR. CARPENTER: Well, what are we being asked to vote on?

CHAIRMAN KRAY: Our fishery management plan coordinator says we don't think we need a motion for this.

MR. DIODATI: I withdraw my motion.

CHAIRMAN KRAY: Thank you. Okay, moving on, stock assessment time requirements, Bob.

TECHNICAL COMMITTEE REPORT: RIVER HERRING STOCK ASSESSMENT TIME REQUIREMENTS

MR. SADZINSKI: The technical committee also reviewed the river herring stock assessment time requirement. We talked about this extensively. The TC did agree that a river herring assessment is urgently needed and also agreed there should be a comprehensive assessment. By the time the assessment is completed, it will be approximately 20 years. It appears that most stocks are presently declining.

This is the presented benchmark stock assessment with the appropriate time for each bullet point. There is a time overlap so you just can't add these months to come up with a total time, but I won't go over these steps. You can see in some examples the existing amount of time that is going to be dedicated to these.

But the bottom line, the technical committee agreed that it would take at least five years to do this assessment. In a sense it will be two assessments in one for bluebacks and alewife. We also will need ASMFC support.

CHAIRMAN KRAY: Thank you, Bob. Questions on the timeline? Paul.

MR. DIODATI: Well, why so long? I guess that would be the immediate question.

MR. SADZINSKI: I think we learned a lot from the American shad assessment, which took four years. There might be more data mining involved with this assessment. The more I start getting into it, the more we learned that there are lots more data out there, especially in the northeast, that we're not aware of, plus, like I said, we're doing two assessments in one. We're doing alewife and blueback.

MR. CARPENTER: Bob, do you think after the five years your assessment is going to be any more than the fact that the fishery is collapsed?

MR. SADZINSKI: Well, without the data, yes.

MR. CARPENTER: Okay, all right.

CHAIRMAN KRAY: This timeline is there. If the board wanted to initiate a stock assessment, this would be the timeline that the TC is telling us. So, if we wanted to do that, then that would require a motion. If we don't want to do that at this time, then it doesn't require a motion. Louis Daniel.

DR. DANIEL: This is a question for the technical committee; what information we have repeat spawners and if any of the states – I know North Carolina is collecting the scale information to look at repeat spawners. In 2006, for the first time, we had zero repeat spawners. That's a pretty good barometer, I think, of the condition of at least the fishery in North Carolina.

I think we could get a real good handle real quickly this spring if we could get some scales. It's very simple to collect them. They're very easy to read and see the repeat spawning checkmark. We could get some handle on that. I mean, I'm very concerned about waiting five years if we don't take a stand of a moratorium in this amendment waiting for the stock assessment. I think that's an opportunity and would just like some feedback as to what you thought of that and if you knew of any other states who are collecting that data.

MR. SADZINSKI: I can speak for Maryland: I crunch Maryland numbers. We see a similar trend that repeat spawning is decreasing. We see a shrinking age structure. We're getting a lot of younger fish. We're not seeing those eight- and nine-year-old fish anymore. We're seeing lots of threes and fours.

MR. SMITH: Mr. Chairman, I might not have understood the question that you raised just before Dr. Daniel spoke. I thought I heard you say if we want to start an assessment, we need a motion; if we don't want to start an assessment, we need no motion; was that correct?

CHAIRMAN KRAY: That's correct.

MR. SMITH: I thought we had back at our last meeting set ourselves on the way of – at that point in August we talked about an emergency action and decided, well, maybe that wasn't necessary, but producing the amendment was, and we've got the PID at this meeting and we're moving ahead. But, part and parcel to that, I thought from August was, yes, we want to have a stock assessment on the river herring species, the two species.

CHAIRMAN KRAY: That's my recollection as well.

MR. SMITH: As quickly as possible, and that may be it takes five years, but, certainly, I didn't hear anything today or in August that suggested that we would not proceed with prudent management. Even though we didn't have an updated assessment, we would simply have to use the best information we have, which is in the PID.

The assessment will give us more enlightenment when it's done, but I wouldn't think that we're talking about waiting until we get that. I didn't think we needed a motion, but if you do, I will move that we begin development of an assessment for the two species.

CHAIRMAN KRAY: Okay, there is a motion on the floor to initiate a stock assessment on river herring.

MR. NELSON: Point of order, Mr. Chairman. I don't disagree with Eric, but looking at the action plan, they have in there the initiation of the benchmark river herring stock assessment. So, Eric's previous comments as far as that, the board has already requested this be considered as part of the action plan, and it is in there. So as long as the action plan is approved as it is for river herring tomorrow, then that basically is the motion.

CHAIRMAN KRAY: Then we would not need this motion possibly?

MR. NELSON: Just based on this, I don't think we need it.

CHAIRMAN KRAY: Okay, that's fine. Paul.

MR. SMITH: Mr. Chairman, it means you can rule me out of order; and it's great fun, so I would encourage you to do it.

MR. DIODATI: I agree with Eric and John that the benchmark assessment needs to be initiated, and the action plan accommodates that. Whether it takes three years, five years or ten years, we should begin it. But I also agree with Lou and others that we need, I think, within a year an examination of some parameters that could be an index of spawners, it could be age distribution in key river systems and a few other parameters that the technical committee, I'm sure, could come up with. But there has got to be three or four or five parameters that they can report back on immediately to give us a flavor of what we're looking at along the coast. I think that would be within a year.

CHAIRMAN KRAY: Okay, are you clear with that, Bob?

MR. SADZINSKI: Yes.

CHAIRMAN KRAY: Okay, we'll move on to the next issue dealing the Virginia bycatch. Jack Travelstead, you're going to deal with this?

**TECHNICAL COMMITTEE REPORT:
VIRGINIA BYCATCH ALLOWANCE
PROPOSAL**

MR. JACK TRAVELSTEAD: Sure, Mr. Chairman. As you know, Virginia has had a moratorium on the harvest of American shad for more than a decade now. For the last two years, Virginia has requested an allowance for our limited bycatch fishery in three of our major tributaries, which this board has approved. We're back again this year asking for a continuation of those provisions.

The program consists of a small bycatch fishery in the James, York and Rappahannock Rivers, above the first ridges on those rivers to ensure a greater probability that we're taking fish only from those stocks. The bycatch fishery is limited to anchor, gill nets and stake gill net fisheries, which have a high probability of producing 100 percent mortality of the captured fish.

We have an additional requirement that those fisheries are required to take harvest of spot, croaker, bluefish, catfish, striped bass or white perch if they're going to be allowed to possess any of the American shad. Each vessel that participates in the bycatch fishery is limited to ten American shad.

There is also a fairly detailed amount of sampling that occurs in that bycatch fishery and looking at things like whether or not the fish were of hatchery origin. In the last two years we have harvested 271 American shad in the program this year, and I believe it was 254 fish the year before, so it's quite a small fishery.

It was actually our hope this year, based on the previous two years' worth of data, that we could procure your approval to make this program an ongoing fishery without having to come back every year for approval, noting that there are other neighboring jurisdictions that also allow some limited bycatch who do not have to come back annually and request ASMFC permission.

Nevertheless, I note and I think you'll hear briefly from the technical committee that they are requesting that this continue to be an annual review process. So, with that in mind, we'll keep coming back. That's

not a problem for us. So, our request this year would be, then, that the fishery be allowed for 2008 only. That's the gist of our request. I assume you want to hear from the technical committee next, and then I'll have some additional comments on their recommendation.

CHAIRMAN KRAY: Yes, distributed to you were the comments of the technical committee and the recommendation in terms of their recommendation to this board. Bob, do you want to elucidate on that?

MR. SADZINSKI: Thank you, Mr. Chairman. The technical committee did review the bycatch report. Just a few points, that it is a multi-stock proposal. It was reviewed by the TC regarding the effect on recovery of the river stock. The TC did acknowledge, though, that the reported bycatch has been extremely low, as Jack said, less than 300 fish per year.

The TC also had data presented from '06 and '07. These are not included in the recent stock assessment report. Also, in the stock assessment report the Z-30s were exceeded in these systems. In light of that, the TC does recommend a limited bycatch of American shad for the 2008 fishing season only.

The TC would also like to recommend the following from VRMC, which is an annual request to ASMFC, to allow permitted bycatch along with the technical committee review. In addition, we would like to see the closure of the bycatch fishery on the spawning grounds since there is no reported catch at this time and to close the James River Bycatch Fishery. The data from '06 and '07 shows a significant decline in stocks from the James.

Also, we'd like to quantify discards by gill and pound nets. Right now there is no requirement for that. And, lastly, work with the tribal government to try and quantify the directed harvest in the York River. Thank you.

CHAIRMAN KRAY: Thank you, Bob. Jack, you said you had comments?

MR. TRAVELSTEAD: With respect to the technical committee requirements or suggestions, we do have some concerns. As I indicated earlier, however, we will continue to make this an annual request. We certainly welcome the technical committee review and would like to see that occur on an annual basis.

With respect to the recommendation to close the bycatch fishery on the spawning grounds, we agree. In fact, there has been harvest on the spawning

grounds in the last two years, even though it was permitted to occur. No fishery is out there now, and we don't want to encourage them, so we will agree to that recommendation.

The recommendation to close the James River Bycatch Fishery is problematic. We're talking about converting dead discards to a useable product for people who are fishing in that river for other things. There were a total of 52 shad taken this year as a result of the bycatch fishery. We don't think that's significant. We agree the James River Fishery population is not healthy, but we just don't think that 52 fish that are dead otherwise are contributing to that status of the resource.

In terms of quantifying discards by gill nets and pound nets, I would love to have an at-sea observer program for all species in Virginia. The reality is – and we have requested funding in the past, but the reality is that it is just not there, it's just going to happen. It's just an impossibility that we couldn't agree to because we can't afford it.

Working with the tribal governments to quantify directed harvest in the York River, we have attempted this in the past. For those of you who are not aware, there are two tribal governments, one on the Mattaponi River and one on the Pamunkey. They both operate shad hatcheries, which I suspect is the reason why the York River System is the healthiest or one of the healthiest in Virginia.

But, under treaties that date to the 1600s, those tribes are allowed to harvest in the rivers for personal consumption, and they have been reluctant to quantify those harvests in the past, even though we have requested. We're certainly willing to continue to discuss that issue with them. We do provide some funding to both of those governments for their shad hatchery, so that may provide us with some leverage to gather the data the technical committee is interested in. So, we would agree with that provision. I assume, Mr. Chairman, you're looking for a motion to help speed things along.

CHAIRMAN KRAY: That's correct.

MR. TRAVELSTEAD: I would move approval of the Virginia Proposal for 2008 only, with the provision that the bycatch fishery on the spawning grounds not be included, and that the state work with the tribal governments to attempt to quantify directed harvest in the York River.

CHAIRMAN KRAY: Seconded by Pat Augustine.

MR. AUGUSTINE: And then discussion when you get to me.

CHAIRMAN KRAY: Discussion on the motion? A.C.

MR. CARPENTER: I thought you were looking for a second.

CHAIRMAN KRAY: No, Pat seconded. Pat.

MR. AUGUSTINE: Mr. Chairman, I followed Mr. Travelstead's comments on this, and he indicated that he didn't have a problem with closing the bycatch fishery on the spawning grounds because they haven't fished on it for two years, and that was okay. But, then in your motion you wanted that as an exception, and I thought you wanted the technical committee's recommendation to close the James River Bycatch Fishery, you wanted that to be allowed – so I guess you've got me confused – and then quantify discards by gill and pounds nets, and you indicated that you've tried to do that, but you don't have funding to do it.

So, it seemed to me that the motion would have read to allow for a bycatch fishery on the spawning grounds, which you don't have it opened for two years, so you're not going to do anyway, but to take out to close the James River Bycatch Fishery that the technical committee said, and allow that to occur. That's what you had said, is that what the intent of your motion is?

MR. TRAVELSTEAD: Yes, the Virginia Proposal does include a bycatch fishery on the James. It also included a bycatch fishery on the spawning grounds, which I am proposing to eliminate.

MR. AUGUSTINE: Then we're not accepting the technical committee's –

MR. TRAVELSTEAD: I am not accepting the technical committee recommendation that there be no bycatch fishery in the James River.

MR. AUGUSTINE: That was the clarification I wanted. Thank you.

CHAIRMAN KRAY: Pat, do you second that motion?

MR. AUGUSTINE: Yes, I did, Mr. Chairman.

CHAIRMAN KRAY: Further discussion on the motion? Eric.

MR. SMITH: I would ask Jack to look at the last line and see if that captures – I thought it was work with the tribal groups. I think you wanted to quantify harvests. I'm not sure if you wanted to create a new government.

CHAIRMAN KRAY: Yes, I didn't know where that came from.

MR. TRAVELSTEAD: Yes, it should read that Virginia work with the tribal governments to collect harvest information on the York River.

CHAIRMAN KRAY: Okay, is that accurate now, Jack?

MR. TRAVELSTEAD: I think it is.

CHAIRMAN KRAY: Okay, discussion on the motion or questions? Jaime.

DR. GEIGER: Yes, sir, Mr. Chairman. Jack, quantify discards by gill and pound nets; you said that basically if you had the resources to do that you would like to do that, but basically you lack the resources to satisfy that request from the technical committee; is that correct?

MR. TRAVELSTEAD: That's correct. We had actually asked for funding a couple of years ago from the General Assembly to establish a state-wide at-sea observer program for fisheries like these but quite a few others as well, but it didn't get anywhere.

DR. GEIGER: So, Mr. Chairman, basically what I'm understanding is that if you did have the resources to quantify discards by gill and pound nets, if you had the resources, you would be more than willing to do that. Thank you, Mr. Chairman.

CHAIRMAN KRAY: Other questions or comments? Seeing none, all those in favor, signify by raising your hand, 17; any opposed. The motion passes 17-0.

MR. STEVE MEYERS: Mr. Chairman, point of order.

CHAIRMAN KRAY: Yes, Steve.

MR. MEYERS: One abstention.

CHAIRMAN KRAY: One abstention, I'm sorry. Okay, moving on, I have some other business, but before I do my other business, does anyone else have other business? Roy Miller.

MR. MILLER: Mr. Chairman, I'd like a clarification. In the plan development team that we voted to accept earlier today, is it too late to add some wording to that document at this point in time or would that require a two-thirds vote? What I'm thinking, Mr. Chairman, just so you understand where I'm headed with this, the point I made about the river herring fishing at the base of spillways, I would love to have a sentence inserted into the plan development team, so the public is aware of this as a problem.

CHAIRMAN KRAY: You mean the PID?

MR. MILLER: Into the PID, yes.

CHAIRMAN KRAY: Erika just informed me that she took it as to include that in the document.

MR. MILLER: Thank you, Mr. Chairman, that addresses my concern.

CHAIRMAN KRAY: Is there any other business? Eric.

MR. SMITH: Did I miss a beat, Mr. Chairman, or do we have another item on the agenda?

PLAN DEVELOPMENT TEAM MEMBERSHIP

CHAIRMAN KRAY: Yes, I'm sorry, we did. I skipped that. Thank you. We're going to review and consider the approval of the plan development team membership. As of now, we do not have a Mid-Atlantic representative on that team, and we would like to have that. Are there any of the states who are in the Mid-Atlantic who would propose one of their staff to serve on the PDT, New York, New Jersey, Pennsylvania? Steve.

MR. MEYERS: Mr. Chairman, the National Marine Fisheries Service will volunteer a staffer to serve on the team.

CHAIRMAN KRAY: Thank you. Jaime.

DR. GEIGER: Mr. Chairman, the Fish and Wildlife Service would be pleased to offer Mr. Larry Miller, our Susquehanna River Coordinator, to serve on this team if the board so wished. Thank you.

CHAIRMAN KRAY: Thank you, I think that would take care of it. Okay, now into the other business. The plan development team, we can do this by consensus if Chris can get it up on the board. With

the additions that Steve Meyers and Jaime Geiger recommended, is there any objection to this being the plan development team for shad and river herring? Any objection? Seeing none, the Chair rules that is the plan development team.

One name would be Larry Miller from the Fish and Wildlife Service and Steve Meyers from NOAA. All right, the names would be Michael Brown from Maine, Michael Armstrong from Massachusetts, Phillip Edwards from Rhode Island, Andy Kahnle from New York, Kathy Rauls from North Carolina, Bill Post from South Carolina; and as I said, Larry Miller from the Fish and Wildlife Service and Steve Meyers from NOAA.

OTHER BUSINESS

All right, now the other business. This is my last meeting. My term is up. I'm going to turn over the yellow flag to Paul Diodati. I never got a chance to use it today. I came close a couple of times.

And the other is actually not an action item, but we will be looking for a vice-chairman since Paul will be stepping up to become the chairman. Bob Beal has been looking at people that he would like to tap; so if you get tapped on the shoulder by Bob Beal, be prepared at the next meeting to be elected the vice-chair of this august group. It has been my pleasure to sit in this chair for the past two years. Yes, Pat.

MR. AUGUSTINE: Gene, you had quite an initiation. You came into ASMFC and immediately were assigned as chairman because you didn't know any better. We got you and I think you've done an outstanding job. You've come to the forefront, you've jumped out with both feet, and you don't even have a vested interest in these creatures. But, congratulations on a job well done, Gene. (Applause)

MR. PLACE: Mr. Chairman, I think you may have missed my hand earlier. There is one really big issue, especially with regard to river herring and other anadromids as well. We have a huge problem with non-native introduced catfish in the Chesapeake Bay. They will become a coast-wide problem.

It's widely seen by many fisheries managers that we're shortly headed for a trophic collapse, first in the Rappahannock, subsequent rivers after that. I didn't want to bring it up earlier because it was complicated enough, but I would like to see the technical committee and possibly the plan review or development team look at some sort of assessment of

the effect of these non-native catfish on our anadromids, because it's profound.

I can't emphasize how many thousands of direct empirical observations different people in the rivers have made of catastrophic proportions depending on who you talk to. With the Intercoastal Waterway and the Delaware Canal, our huge problem in Virginia will soon be yours. I just would like to get that at least on the record. Thank you.

ADJOURN

CHAIRMAN KRAY: Thank you, Kelly. With that, we are adjourned.

(Whereupon, the meeting was adjourned at 10:50 o'clock a.m., October 31, 2007.)