

ATLANTIC STATES MARINE FISHERIES COMMISSION

Quality Hotel & Conference Center Arlington, Virginia

ATLANTIC MENHADEN MANAGEMENT BOARD

January 30, 2001

Approved April 24, 2001

Table of Contents

Attendance	iv
SUMMARY OF MOTIONS	v
WELCOME/INTRODUCTIONS	1
APPROVAL OF AGENDA	1
APPROVAL OF MINUTES	1
PUBLIC COMMENT	1
MULTISPEICES MODELING UPDATE	2
REVIEW OF PUBLIC COMMENTS	3
REVIEW OF AMENDMENT 1 OPTIONS	4
Goal and Objectives	4
Specification of Management Unit	5
Overfishing Definition	5
Stock Rebuilding Target/Schedule	6
Resource Community Considerations	11
Recreational Fishery Management Measures	11
Spawning Area Restrictions	11
Specifications	12
Internal Waters Processing	14
General Administrative Provisions	15
Data Collection/Reporting	15
Catch Controls	15
Effort Controls	16
Vessel Limits	17
Gear Regulations	18
Season/Area Closures	20
Minimum Size Limit	22
Fixed Gear Fishery	23
Measures to Reduce/Monitor Bycatch	23
Other Management Measures	23
Alternative State Management Regimes	23
<i>De minimis</i> Guidelines	25
Adaptive Management	25
Emergency Procedures	25
Management Board Makeup	25
Advisory Panel Structure	29
Recommendations to the Secretaries	30
Compliance Issues	30
MANAGEMENT PROGRAM OVERVIEW	33
OTHER BUSINESS	33

ATLANTIC STATES MARINE FISHERIES COMMISSION

Quality Hotel & Conference Center Arlington, Virginia

ATLANTIC MENHADEN MANAGEMENT BOARD

January 30, 2001

- - -

Attendance

Board Members:

Lew Flagg, ME DMR
Dennis Abbott, proxy for Rep. Blanchard, NH Leg. Appte.
Dr. David Pierce, MA DMF
Vito Calomo, proxy for Rep. Verga, MA Leg. Appte.
Ernest Beckwith, Connecticut DEP
Fred Frillici, proxy for Sen. Gunther, CT Gov. Appte.
Brian Culhane, proxy for Sen. Johnson, NY Leg. Appte.
Bruce Freeman, NJ DF&W
Tom Fote, proxy for Sen. Bassano, NJ Leg. Appte.
Jeff Tinsman, proxy for Andrew Manus, DE F&W
A.C. Carpenter, PRFC
Red Munden, proxy for Preston Pate, Jr., NC DMF
Melvin Shepard, proxy for Rep. Redwine, NC Leg. Appte.
David Cupka, SC Gov. Appte.
Bob Palmer, proxy for Ken Haddad, FL FWCC
Dr. David Perkins, proxy for Dr. Geiger, USFWS
Neils Moore, NFMOA
Ray Rogers

John Nelson, NH Fish & Game
Ritchie White, NH Gov. Appte.
Bill Adler, MA Gov. Appte.
David Borden, RI DEM
Dr. Lance Stewart, CT Gov. Appte.
Gordon Colvin, NYS DEC
Pat Augustine, NY Gov. Appte.
John Connell, NJ Gov. Appte.
Eric Schwaab, MD DNR
Bill Goldsborough, MD Gov. Appte.
Jack Travelstead, proxy for William Pruitt,
VA MRC
Damon Tatem, NC Gov. Appte.
Susan Shipman, GA Coastal Res.
Paul Perra, NMFS
Richard Daiger, Bevans Oyster Co.
Steve Jones, Omega Protein
Jule Wheatly, Beaufort Fisheries

Ex-Officio Members:

Mike Street, NC DMF, AMAC Chair

Mike Bloxom, MD DNR, LEC Rep.

Other Commissioners:

Pete Jensen, MD DNR

Preston Pate, Jr., NC DMF

Staff:

Dr. Joseph Desfosse
Dieter Busch
Carrie Selberg

John H. Dunnigan
Tina Berger

Guests:

Kenneth B. Lewis, CCA - MD
Ed Dietrich, CCA - MD
Kelly V. Place, VA
Tim Hobbs, NCMC
Dr. John Merriner, NMFS
Jerry Schill, NCFA

Peter Burns, NMFS
Dick Brame, CCA
Sherman Baynard, CCA - MD
Gregg Waugh, SAFMC
Curtiss Barrett, SMC/MSSA
Harry Mears, NMFS

There may have been others in attendance who did not sign the attendance sheet.

Atlantic Menhaden Management Board

January 30, 2001

SUMMARY OF MOTIONS

1. *Move that the preferred option (for Section 2.6.2) be a rebuilding horizon no longer than ten years.*

Motion by Mr. Borden, second by Mr. Calomo. The motion carries by show of hands.

2. *Motion to delete Section 4.2.9*

Motion by Mr. Travelstead, second by Mr. Shepard. The motion carries 12-10.

3. *Move that the Board retain the section on measures to regulate gear as a part of the plan to be used under adaptive management when necessary.*

Motion by Mr. Travelstead., second by Mr. Nelson. The motion carries 14-8.

4. *Move to revise Section 4.5 so that states are required to obtain prior approval for the Board of any changes to their management program for which a compliance requirement is in effect. Other measures must be reported to the Board but may be implemented without prior Board approval.*

Motion by Mr. Carpenter., second by Mr. Fote. The motion carries unanimously.

5. *Move the adoption of Option 2 (includes industry representation) for the makeup of the Board.*

Motion by Mr. Carpenter., second by Mr. Travelstead. The motion fails 9-11 with one abstention and one null vote.

6. *Motion to direct the staff to prepare the final draft of the FMP in accordance with the Board's decisions.*

Motion by Mr. Freeman., second by Mr. Nelson. The motion carries with no objection.

DRAFT

ATLANTIC STATES MARINE FISHERIES COMMISSION

ATLANTIC MENHADEN MANAGEMENT BOARD

Quality Hotel & Conference Center Arlington, Virginia

January 30, 2001

- - -

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Room of the Quality Hotel and Conference Center, Arlington, Virginia, January 30, 2001, and was called to order at 2:30 o'clock p.m. by Executive Director John H. Dunnigan.

WELCOME/INTRODUCTIONS

CHAIRMAN JOHN H. DUNNIGAN: Good afternoon. I'd like to welcome everybody to the meeting of the Atlantic Menhaden Management Board. Just to explain why I am here as the Chair, the Chairman of the Board is Commissioner Pruitt, who is unable to be with us today.

In planning for the meeting, we talked with the Vice-Chair, Mr. Moore, about handling it and we thought that it would be better to allow him the opportunity to participate as a Board member so that he could look at issues freely and not have to worry about the management of the Board's affairs. That being the case, if the Chair and Vice-Chair are not available, Commission practice is that the senior staff person in attendance serves as a non-voting chair, and I think that's me and so that's why I'm here. And if there's no objection, that's the way that we will proceed through the Board's business today.

APPROVAL OF AGENDA

Looking at the agenda, it has been distributed to you. We are going to make one change. Because of the consideration that the Board is going to make of the draft fishery management plan, Agenda Item 8, the multi-species modeling update may be relevant to those inquiries, so we're going to move that up to take place after Agenda Item 4. And then we'll move into the fishery management plan business.

Looking around the table, it is clear to the Chair that there is a quorum present. I'm going to instruct the staff to indicate on the record those Board members

who are present. And is there any objection to determining there is a quorum? Seeing none, it is so ordered.

APPROVAL OF MINUTES

Minutes from the last meeting of the Board, August 22nd. Is there any objection to approving the minutes? Seeing none, they are approved.

PUBLIC COMMENT

Agenda Item 4 is public comment. It is the Commission's practice to allow at the beginning of any of our meetings -- yes, Niels.

MR. NIELS E. MOORE: This is just regarding the minutes from the last meeting. I just wanted to raise the question. I would present this to Joe Desfosse regarding the closed corridor. I believe that it was indicated during the last meeting that this was the preferred alternative of the PDT, and I believe that was incorrect. Thank you.

CHAIRMAN DUNNIGAN: The staff is aware that that portion of the minutes was incorrect and we intend to make the correction to it. Thanks for pointing that out for the Board. We were going to deal with it later, but that's good.

At this point, if there are any general comments from the public, the Board would be glad to entertain them. We will, if we have the opportunity, given the amount of work we have to do today, make opportunity for public comment on specific issues as we go through them. But at this point is there any member of the public that would like to make a general comment for the Board? Mr. Hobbs.

MR. TIM HOBBS: Thank you, Mr. Dunnigan. My name is Tim Hobbs. I work with the National Coalition for Marine Conservation. I see, looking at the agenda, that multi-species modeling will be considered later on today, and I certainly look forward to that discussion.

The general comment that I'd like to make at the beginning of this meeting is just to stress the

importance of the Menhaden resource in the broader ecosystem. We're trying to maintain or rebuild populations of several species of fish, including striped bass, bluefish and weakfish, and the menhaden resource plays a vital role in the food chain of these species.

We'd like the Board to consider this role in establishing any future management measures and to look at the broader ecosystem ramifications that management can have on this resource. And that's about it at this time. Thank you very much.

CHAIRMAN DUNNIGAN: Thanks very much, Tim. Other comments from the public? Okay, we will proceed. The item that we're going to move up to the head of the agenda here is agenda item 8, an update on multi-species modeling. And for that we'll call on Geoff White.

MULTISPECIES MODELING UPDATE

MR. GEOFF WHITE: Thank you for moving that up in the agenda. Since the menhaden assessment external peer review, the Commission has been interested in pursuing methods to identify and quantify some of the linkages among predation, competition and the directed Atlantic menhaden fisheries. And so under the direction of the Management and Science Committee, the Commission has obtained a grant through the Chesapeake Bay Stock Assessment Committee to fund the development of a demonstration model in multi-species, focusing on Atlantic menhaden, striped bass, bluefish and weakfish.

Last August the Commission sponsored a workshop to bring together several multi-species modelers. The third page of the handout, which I apologize for not having quite enough copies, does show who those modelers were: Jason Link of Northeast Fisheries Science Center, Villy Christensen, presented on Ecosystem Simulation, University of British Columbia, Jerry Ault out of Florida, Spatial Biophysical Predator-Prey Fisheries, as well as Theresa Tsou on multi-species virtual population analysis. At that meeting we also had some key presentations on what data is available for the key species.

And the main goal of that was really to find out is it feasible to do a multi-species assessment for Commission species with available models at this time. And we had a resounding yes for that. And it was kind of a big range of depth that you can go in with multi-species. Besides some of the major buzz words, you can start off with the assessments and take those assessments and apply them to our current single species management concepts and actions, and that's really that first step that this demonstration model is

trying to pursue.

Out of that workshop we sent out a request for proposals. We have several back, and we evaluated those and approved one at the Commission's annual meeting. The chosen model and proposal was from Dr. Lance Garrison, who is actually the one directly contracted for the model, and Jason Link at Northeast Fishery and Science Center who is adding in a lot of his time and efforts on this in kind.

They began the project on December 15th and are working at developing the model. And today I just wanted to give you an idea of the four major questions that we've asked them to address in the model. The title of their approach is, "A Dynamic Trophic Model to Assess the Atlantic Menhaden Population, Application of a Multi-species Yield and Spawning Stock Biomass Per Recruit Analysis." The best part about this approach is it uses similar biological reference points to those already used in the menhaden fisheries management plan and, therefore, the results will be directly applicable to current management as well as comparable to historical assessments. And it will allow the addition of predator-induced mortality to start looking at the nebulous ideas of we know there's a linkage between menhaden, striped bass, bluefish, but we've never been able to really quantify that before in a full assessment.

So the four major questions are, first, to evaluate the nature and magnitude of those interactions between menhaden and those species. The second one is to evaluate the utilization of menhaden as a directed fishery, its role in the ecosystem and also sustainability of the stock. The benefit of the model in this area is that it can examine effects of how menhaden abundance fluctuations is affected by predator population sizes and also the reverse of that, how the predators affect the menhaden directly. So that's one of the main areas where the model hopes to shed light and help you in doing your job.

The third question is really to evaluate where there's an optimal size composition of menhaden to balance its role between the fisheries needs and its ecological role as a prey item. And the model should be able to evaluate target points to balance both of those goals.

And the fourth major point is really to evaluate any adjustments required to any biological reference points from the single-species management when you include predation in a multi-species assessment. And for that, it will improve estimates of the natural mortality rate by including the age differences in predation, and it will also suggest changes may be needed in biological reference points by expanding the basis of fishery management to include both fisheries landings and its

ecological role.

The Management and Science Committee is overseeing this. And if you have any questions either today or as the year goes on, they can be directed to Lisa Kline or myself. And we will continue to give updates to the Board on the activities of the model development, both through the Fisheries Focus newsletter and meetings of the Board. The final model is supposed to be due in September of this year. And part of the contract is to have a formal presentation back to the Menhaden Management Board as well as to the full Commission for the other species. So that's a brief update.

CHAIRMAN DUNNIGAN: Thank you very much, Geoff, very interesting. Any comments or questions for Geoff on the work that's being done? Okay, terrific. Thanks very much for the update.

All right, we're about ready to move into the main business for the Board today, and that is the consideration of what elements we're going to put into the final version of Amendment 1 to the Menhaden Fishery Management Plan. Let met just review a little bit of where we are. We've been through a long process. We went through our initial public information process and had hearings. The Board came together in a series of meetings, culminating last August, and decided what measures it wanted to include in the draft Fishery Management Plan. That draft FMP was put together by the staff and taken out to a long series of public hearings and other public comment that I will ask Dr. Desfosse to summarize in just a moment.

Now that we have the public hearing comments completed, we can go back issue by issue and decide what it is the Board wants to include in the final Fishery Management Plan. It is not my anticipation that we will finally approve the amendment this afternoon. We will be making all of the decisions of what goes into that amendment. The staff will then take it back, put together the final language for the amendment, the final draft, bring it for the Board to get one last look-see at our meeting in April.

Then it will go at that meeting, assuming the Board approves it, to the Policy Board and then on to the Commission for final adoption. So that's the status of where we are. And the nature of the activity we have to do this afternoon is to select the measures that we want in the final Fishery Management Plan. It's the last step before the final approval and adoption at the Spring meeting. Okay? All right, so at this time I'd like to ask Dr. Desfosse to brief the Board on the responses that were heard at the public hearings. We will go back through these as we go issue by issue through the document.

REVIEW OF PUBLIC COMMENTS

DR. JOSEPH DESFOSSE: Thank you, Jack. Two minor issues before we get into the actual public hearing comments. One of the reasons that we asked Geoff to go earlier on in this schedule was because there are two sections in the draft amendment that deal with ecosystems and resource community considerations that were not completed in time for the public hearings. Some of the information that Geoff reported on is going to go into the draft document. You'll have that to review during the April meeting.

Another issue, the habitat section of the draft amendment needs some reworking and the staff will be working together with, I think, some Habitat Committee members to get that finalized. So that will be updated as well.

In terms of the public hearings, the public comments that were received, for your records there was a large document that was included in your packages, which is a copy of all the public comments written and faxed and e-mailed that were received by the staff during the public comment period. There was another set of letters that were received subsequent to the public hearing comment deadline that seemed to be relevant for the Board to review. Those were passed out to you at the start of this meeting. I believe there's a letter from North Carolina and a number of other -- yes, North Carolina Marine Fisheries Commission and one of the towns in North Carolina, the mayor. There is another document which summarizes the public hearings.

I'm going to briefly go through these two documents and what I'll do is work off of the public comment summary and options paper, which should be the last document in your handouts. The two documents that I'll refer to right now are in your records.

Just for the record, a total of 171 letters and e-mails were received by the end of the public comment period. There were 11 public hearings that were held from Maine to Florida. A total of 4,400 pre-printed postcards were also received on the draft amendment. Photocopies of the two different types of postcards are included for your records, as well. The majority of the written and e-mail comments were in support of the preferred options in the draft amendment.

It really surprised me because most of the public comments received were in agreement with all the issues except three; and when we get to those issues, I'll point out the differences of opinions. There were a number of form letters that were received. There is a copy of each in the public comment summary.

The public hearing summaries, there is a written summary of each of the eleven public hearings and also attached to the public hearing were comments that were submitted during that hearing. If there were written comments that were submitted at that hearing, they are attached following the meeting summary.

Due to the sheer number of public comments and not to overwhelm the Board, what I did was try to summarize the major comments and put them into the document that you used at your last meeting in August. We are now looking at the Atlantic Menhaden Public Comment Summary and Options Paper. The summary of the written comments, public comments that were received during the public hearings follow each of the sections and they're in bold, italic text.

Before we get into each of those, I'd just point out, as Niels said earlier, that there was a misstatement during the August meeting. I misrepresented the Plan Development Team's opinions or recommendations. I said it was a recommendation for a season or area closure in Section 4.2.11. The document that went out to public hearing says that the PDT recommended the closed corridor approach. That was a misstatement. It was basically presented -- as far as we can tell, we went back and tried to piece together what happened, but it was basically presented as another option for the Board to consider, but it was not a recommendation from the Plan Development Team. During the August meeting the Board did not identify a preferred option for that section, so I'm not sure that it had a great bearing on the public hearings and public comments.

Beginning section by section, there were limited comments on the goal statement. This is on page 4 of the options paper, now, Section 2.2. The only comment that was received was that the phrase "and those who benefit from it" should be stricken from the goals statement. There seemed to be some confusion as to what was meant by that statement, whether it was a broad issue or whether it was focused mainly on commercial fisheries. I'll ask the Board now what is their pleasure?

REVIEW OF AMENDMENT 1 OPTIONS

CHAIRMAN DUNNIGAN: Before we start going through the document on a section-by-section basis, are there any general comments or questions that you have about the public review process or something in a general sense, not related to the specific issues, that you'd like to raise before the Board before we get into the details? David Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman, just a process question. Is it your intent

today that we're going to make specific motions to pick the alternatives that we want referenced in the document so that at the point where the document comes back, at that point, a final package, all the options are out of it?

CHAIRMAN DUNNIGAN: Yes, all the options will be out of it. What you will be seeing in April is a final FMP document. I'm not necessarily planning on taking motions on every one of these things. It's apparent, from the nature of the public comment, that there were a couple of issues that got a lot of attention and the Board will have to spend some time with today. I intend to move through most of this document in a consensus form and try to keep us moving. If we get to some issues where there are obviously some real differences of opinion, at that point I will ask for motions. But otherwise, I'm going to try to keep us moving as much as I can on a consensus basis. Other general comments?

Goal and Objectives

Okay, then, let's get into the public comment document itself along with the individual public comments. We are starting on page 4. We are starting with the goal statement, Section 2.2. You see the goal statement that's in the plan written there and the comments that we received. Is there anybody that would like to suggest that we make a change to the goal statement based on the public comment?

Okay, let's move ahead to the objectives. The objectives in the draft FMP were stated in four general areas. With respect to biological objectives, we did not receive any specific public comments.

With respect to the socio-economic objectives, there were a couple of public comments that were received that are indicated there. Some of them had to do with data, and I would point out that there are socio-economic data elements being prepared as a part of the ACCSP. So it would seem to me that we will end up dealing with those as the cooperative statistics program gets developed. Anything in the public comment there that would cause anybody to question or want to make any changes to our socio-economic objectives?

Okay, moving ahead, the ecological objectives. A couple of comments were received relative to those as well from some municipal waste water agencies. They seemed to me to be more related towards what we do with the objective than the statement of the objective itself. But is there any issue or concerns raised around the Board by those comments?

And then the last set of objectives is the management objectives. A couple of comments were

received concerning ensuring accessibility to fishing grounds and whether all of these objectives could be met given current problems in habitat. David Pierce.

DR. DAVID PIERCE: Perhaps it's just a typo. Management objectives, the second bullet where it says "develop options or programs to control or limit effort or regulate fishing mortality by time or area"; it seems as if it is offering us a choice of management objectives in that one particular bullet.

I don't think that's the case. I think the word "or" should be replaced, the "or regulate fishing mortality"; I believe that's supposed to be "and regulate fishing mortality by time or area."

CHAIRMAN DUNNIGAN: Any objection to the change that David has suggested? Okay, we will make that. Any other comments on objectives?

Specification of Management Unit

Okay, moving ahead, Section 2.4 is the specification of the management unit. We received a number of comments here. The preferred alternative is the language that appears right under Section 2.4. There were three options. Option 1 reflects the preferred alternative. And a number of public comments that were received are indicated in there. Is there anything in these public comments that would lead any of the Board members to want to make any changes to the preferred alternative? The management unit will then be specified as a unit on a coastwide basis.

Overfishing Definition

Okay, moving ahead, the definition of overfishing. The proposed option is listed toward the bottom of page 6 where the Board proposes adopting F max and F rep of 1.33 as our fishing mortality target thresholds and BMSY, and the spawning stock biomass of 20,000 metric tons as a threshold level, and that these would become our definition of overfishing consistent with more recent approaches, contemporary approaches, towards dealing with fishing mortality rates and spawning stock biomass targets and thresholds as your overfishing definition as opposed to the other strategies that are listed there on page 6. The implications of these in terms of the reference points themselves are listed in Table 12, and they are displayed in the graphs on the following three pages.

The only public comment that was received -- all the public comments were in favor of this strategy. Some wanted to have lower fishing mortality targets and a higher biomass targets as being more

conservative and more precautionary. But there seemed to be generally a lot of support for this approach in the public comment that was received. Any questions from the Board? Anybody want to recommend that we make any changes to the proposed approach that was contained in the draft? Mr. Colvin.

MR. GORDON C. COLVIN: I'm not going to recommend a change at this time, Mr. Chairman. I will say that I find myself sympathetic with the viewpoint of the commentators who suggested that in the long run it may be appropriate to consider more conservative reference points. I think the direction we're headed in is the right one. I think the approach that we're taking is the right one. And I think that that is a dialogue that needs to continue over time.

Just kind of where I'm coming from is that I really see no reason why in the long run the Commission shouldn't be seeking to restore menhaden to higher levels of abundance than I think that this plan really does seek to achieve. And I see nothing that ought to prevent us from aspiring to achieve abundances as high as perhaps the historic record has shown. And I don't know why we've abandoned that so quickly. But I hope that that's a dialogue we can have after this amendment goes into affect and I look forward to it.

CHAIRMAN DUNNIGAN: And let me just point out that when we get to the adaptive management sections of the Fishery Management Plan, those are items that will be of continuing interest to the Board as it carries out its ongoing management responsibilities under the amendment. Mr. Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. Following up on that, I guess I'm unclear as to how the objective of fulfilling menhaden's role ecologically is incorporated or factored into this target and threshold. I wonder if there could be some description of how that's done or how there's some buffer built into this for that purpose?

DR. DESFOSSE: I can try to answer that. Until there's some quantitative estimates of what is needed in terms of the menhaden biomass to perform those ecological functions, the Technical Committee has been reluctant to go down that road, and I'll let Mike answer from the Technical Committee's standpoint.

But the multi-species modeling work should at least give the right direction, the first step in the right direction to start answering those questions. So far they've been reluctant to even try to do that.

MR. GOLDSBOROUGH: Meaning that --

DR. DESFOSSE: The Technical Committee.

MR. GOLDSBOROUGH: -- that this target and threshold then do not incorporate consideration for leaving behind an additional segment of the population to fulfill those ecological roles?

DR. DESFOSSE: All I can say is that these are more conservative than the current situation. If you look at the historical record, each of these data points represent fishing mortality and spawning stock biomass that has occurred in previous years.

The last graph that I'll refer to is 1963 through 1999. You'll notice that -- I couldn't do this in color like A.C. suggested back in August. I tried but I just couldn't figure out how to do it -- the lower right-hand box in this graph is, you know, the zone that the Management Board will be striving to be in. And you'll notice that all of the other datapoints on there or almost half of them are above your overfishing threshold, and some of them are below the spawning stock biomass threshold.

So, in terms of qualitatively looking at it, this is more conservative and it should provide some ecological relief in terms of providing some menhaden. But in terms of quantitatively saying how much is out there and how much should be out there, we can't get there yet.

CHAIRMAN DUNNIGAN: Other questions or comments? Bill Adler.

MR. WILLIAM A. ADLER: This was one of the few fisheries that when I was reading the rationale on the stock, that it mentioned that fishing has very little to do with the stock biomass and that it rises and falls of its own natural reasons. I found that strange because most of the fisheries, the fishing has something to do with it. And I didn't know if it was mentioned anywhere in the definitions or the explanations of the stock, that phenomenon about menhaden, and I thought it would be interesting if it were in there somewhere.

I don't know if it's appropriate here. But, the fact that it's not necessarily fishing, the stock can go down without any fishing at all, and I found that strange in this particular species. Is that in there somewhere?

DR. DESFOSSE: It's not in the materials that you have right now, but previous versions of the full document, in the introductory sections there's explanations and also in the stock assessment background materials there's reference to that.

MR. ADLER: Oh, good, okay. So it would be taken care of, because that is sort of a strange thing about this particular fishery, but very important down the road. Thank you.

CHAIRMAN DUNNIGAN: Other questions or comments on Section 2.5? All right, then we'll proceed in preparing the final draft of the FMP with the proposed approach to overfishing that the Board prepared in the draft.

Stock Rebuilding Target/Schedule

Section 2.6 is a stock rebuilding program. Given where the resource is today, we're not in a stock rebuilding mode. So basically this language is descriptive of what we will do, and did not receive public comment, at least the introductory material.

Under 2.6.1 there were a number of options about what target would we try to rebuild to when we got the resource -- found that it either crossed our threshold or at least was in the area between where our target and threshold would be. There were three options that were received. The preferred option was the target level, and that seemed to be very well supported by most of the public comment. Any suggestion that we change from what the proposed position was here?

Okay, let's move ahead. The next question was the stock rebuilding schedule, and the issue here was how long a period of time would we allow ourselves for our planning purposes if we needed to do rebuilding within the resource. Options seemed to revolve around times of 10 years and 5 years and the preferred option was no less than 10 and no greater than 5. Most of the comments were in favor of the preferred option although there were other views that were expressed as well that are listed there on page 8 under 2.6.2. Any comments or suggestions that we change from our preferred alternative in this section of the draft FMP? Mr. Nelson.

MR. JOHN I. NELSON: Thank you, Jack, just a question. Rebuilding shall be no less than 5 years, is that limiting the Board to dealing with an issue in a - is it providing a limitation that we really don't need?

Normally if you have a rebuilding schedule and you say you're going to rebuild the stock within a 10-year period, you don't necessarily have a lower limit in there. And I'm just wondering if that's necessary to have that 5-year block in there.

CHAIRMAN DUNNIGAN: Dr. Pierce.

DR. PIERCE: Well, in 1999 we were at 32,800 metric tons and the target is 37,400 metric tons. My question is with these options that we have before us now, 1, 2, and 3, is our choice of options made easier by the fact that it's likely that we will hit our target in 2001 or 2002 or 2003?

I turn to the technical team for information or to you, Joe. That doesn't seem to be too far of a distance to go. Do we have any indication of how likely we are to very rapidly achieving our target level?

DR. DESFOSSE: Back in August I presented the Board with Doug's preliminary projections concerning fishing mortality for the 2000 season and also the spawning stock biomass for the 2000 season. And those numbers, F was going to be 0.85 and the spawning stock biomass was approximately 52,000 metric tons, so you would be within that box. You

would not be overfished or depleted and you would not be overfishing.

Those numbers will be updated by the Technical Committee, by Doug and reviewed by the Technical Committee in April. So you will have the estimates for 2000 at that time and you should also have a preliminary estimate or projection for 2001.

DR. PIERCE: All right, so we're already at the target? We've exceeded the target spawning stock biomass? Am I right?

DR. DESFOSSE: The preliminary projections say that you would be over your biomass target.

DR. PIERCE: Okay, great. So these options, then, for stock rebuilding would be the sorts of options we would have to use if things go wrong and suddenly we drop below the spawning stock biomass target or the threshold for that matter?

It would then plot our course for getting back to where we need to go. I'm assuming that would be the logic for having a rebuilding schedule in the plan when we're already above our target.

DR. DESFOSSE: Right, the schedule would pertain to those situations when you are in depleted condition. So this is setting up the framework of what you would do in the future if you were depleted.

DR. PIERCE: And you use the word "depleted." Is that an appropriate word to use? I see it a couple of times in the document, but it's not defined in any way. I assume that we're going to be referring to below the target, below the threshold and the word "depleted" will no longer be in our vocabulary. At least, that's the way I would envision it.

DR. DESFOSSE: I guess Doug Vaughan has been using that term "depleted" as opposed to "overfished" for this stock because of the high dependency on environmental factors determining recruitment.

CHAIRMAN DUNNIGAN: Mr. Colvin.

MR. COLVIN: I'd like to express support for the viewpoint that the last two speakers have suggested. I am uncomfortable adopting a management plan that says that no matter what, we will not succeed in less than five years, particularly when we may be already where we're supposed to go.

I guess we need to go on a four-year menhaden extermination program. I really think it makes more sense to go with something like Option 2. You know, it just doesn't make sense to me to say that we will affirmatively manage not to rebuild until five years from now. That doesn't make any sense to me.

CHAIRMAN DUNNIGAN: Mr. Schwaab.

MR. ERIC SCHWAAB: Back to this fisheries control schematic that depicts the points where we are, and I guess part of my question was answered in that you're projecting that for 2000 we will have moved

down inside that acceptable box both under the overfishing target and to the right of the minimum spawning stock biomass.

When I look at that depiction, obviously there is quite an aggregation of points that are to the left and above certainly the targets if not the thresholds. And I'm sure that somewhere we have the data that would show how those points array over time.

But I guess I would view this particular graph as an indication that perhaps the previous speakers were correct and that we should be very cautious. I'm going to have some concerns relating to this when we get to the management measures.

Do we have the management measures in place to stay here? But in the event that we stray again here, I think both in this point and perhaps in the previous point we need to be as aggressive as possible to be able to quickly move back into that acceptable area. And given, again, this aggregation of points, it appears that is at least historical evidence that we don't have a good history of staying there under the current management regime.

CHAIRMAN DUNNIGAN: Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. My preference would be the preferred option but delete the words "no less than five years but", so that would provide us with the flexibility to do it in a shorter period of time if we so choose, but also give us flexibility to do it in up to ten years.

CHAIRMAN DUNNIGAN: Before I follow up on that suggestion, let me just say the way that I had understood this was going to work. Looking at this chart or any one of these charts, you know, if you're in this lower right-hand box, that's where you want to be. If you're in the middle rectangle -- well, what do you call that -- whatever that form is, but if you're in that middle box, you know, you're in an area of concern. You're beyond your target but you haven't crossed your thresholds.

And at that point the Board may want to take action to head back towards the area of where you want to be. If you're in this outer box, you're over your threshold and you have to take action.

Now that's my understanding of the difference between all of these boxes and what target means and what threshold means. And it seems to me that stock rebuilding schedules applies when you're in this outer box. That's when you have to take action. And you may take action, discretionary, when you're in that middle area. That will be your choice as a part of your ongoing annual management. I think we can probably clarify that when we write the final draft.

Now, Mr. Borden has made a specific suggestion with respect to 2.6.2, that the preferred option be

modified by eliminating the words "no less than five years but". Is that a good idea? Anybody have any problems with that? Mr. Moore.

MR. MOORE: I would just raise two questions about that. The first would be -- and I would certainly defer to a biologist on this question -- is this five-year minimum perhaps a function of the life cycle of a menhaden? I don't know. I would defer to Joe on that.

The second point I would raise is -- what was my second point? I can't remember so I'll just leave it at that for the time being.

CHAIRMAN DUNNIGAN: To that point, Mr. Nelson.

MR. NELSON: I think that if you were looking under a different law, under Magnuson and Sustainable Fisheries, what we're looking at is how long do you need to rebuild the stock? And that gives you ten years. but there are exceptions to that, but within a ten-year timeframe which gives you flexibility to deal with stock conditions.

You don't have to do it within a one-year, two-year or a five-year time line if there's a good reason not to do it during that timeframe. So I think the suggestion to do it within ten years -- you don't have to stretch it out to ten -- gives you that flexibility that I think the Board will find very useful in the future.

And I would point out that that's really how the councils are looking at rebuilding stocks. And as you're trying to just deal with fishing mortality, you don't have to reduce that within a certain timeframe, but you would start the trend downward and, again, it gives you flexibility to deal with it.

CHAIRMAN DUNNIGAN: Okay, Niels, does that answer your question?

MR. MOORE: Well, I remember my second point. I have to write these things down in the future. I have a very short memory, unfortunately. I believe this was discussed in our last meeting, and that was whether or not to use a three-year running average or the most recent terminal number from the VPA analysis. And as I recall, there was some concern that the most recent number that the computer VPA analysis or the VPA spits out is basically a questionable number, because it takes a couple of years before the numbers are truly known.

So I think as I recall during our last meeting, when we were discussing whether or not we wanted to use a three-year running average of these values with the most recent value, so by my recollection, we decided that we wanted to use the terminal value, then perhaps having the five- to ten-year timeframe might be appropriate in that it gives us a little flexibility in that number. That's all I would say.

CHAIRMAN DUNNIGAN: Thank you. We have

Carpenter, Calomo and Colvin. A.C.

MR. A.C. CARPENTER: Well, I interpret this schematic a little differently and I was thinking that if you were above your threshold and below your spawning stock biomass, there's another little box up here where the situation is far more critical. That's the upper left-hand corner of that box. If you happen to be in that range, then I think five years may be too long to wait to begin to do something. But if you're simply above your threshold but the stock size or the spawning stock is very high, then you don't have to act quite as quickly.

I don't know how to fit that into the words on this page. But, that's kind of where I had left off from our last meeting was that there was really three zones in here and not just two.

CHAIRMAN DUNNIGAN: Mr. Calomo.

MR. VITO CALOMO: Thank you, Mr. Chairman. I agree with Mr. Nelson and Mr. Borden. In trying to probably make an example of it, if I have a loan and the bank tells me that I have ten years to pay, I have nothing to stop me to pay it in three if I see that I need to. Why do we want to handcuff ourselves as managers and say three or five years? We can say ten years. And if we need to do it in one year, then we'll have to do it in one year. We have the criteria to do it in one, two, three, four or five.

But it's the management team that will call the shot. I don't see handcuffing ourselves with a time limitation of five, three, two or one. You can have it out to ten. You can let fisheries happen by stretching it out, if possible. But it also doesn't handcuff you in any way, fashion or means. Thank you, Mr. Chairman.

CHAIRMAN DUNNIGAN: Mr. Colvin.

MR. COLVIN: I want to make sure that I understand an answer that Joe gave earlier as to where we think we are under the current status. Joe, are we in the small box now?

DR. DESFOSSE: Yes, and actually there's three points that are in that graph.

MR. COLVIN: Yes.

DR. DESFOSSE: The one that is closest or to the left basically of those three points, that is the preliminary projection estimate.

MR. COLVIN: So we are on the good side of both our mortality and our biomass targets at the present time. And here's my question: since we're where we ought to be and we're not looking at, as we have been for so many other species, that we're all too painfully aware of, in a situation where we need to embark at the outset of our management program on a major stock rebuilding initiative, why would we want to say at the beginning of this process that our goal, if we slip out of this box, if we slip into the arena where we need to

manage, is to take ten years to get back into the box?

I can't understand that. Since we're already where we need to go, why don't we just manage to stay there? And if we manage to slide out, let's get back in there quickly. I'll say it again: I would support Option 2. I'm beginning to think that Option 3 may be the way to go.

CHAIRMAN DUNNIGAN: Dr. Pierce.

DR. PIERCE: To the question just asked by Gordon regarding where we are right now -- and it's the question I asked before and I need a clarification, Joe. In terms of where we are right now, is that based on a three-year average or is it the last datapoint?

And it's an important issue that was touched upon a while ago, and that is the document makes it very clear on page 7 that if we do use a three-year moving average, we do run some risks with regard to our being unable to identify that there is a problem that needs to be addressed.

Now, I'm assuming that because we adopted by consensus 2.5, that we are going to be using the three-year running average to determine our status, so that's what I believe to be the case. Now, my question, Joe, is it based on the three-year moving average?

DR. DESFOSSE: I don't think the Board has made that decision as to whether they're going to manage using a point estimate or a three-year moving average.

DR. PIERCE: Okay, then we need to resolve that. It's not part of the consensus for 2.5 that we just finished up with. We will need to return to that.

DR. DESFOSSE: Right, and there was no public comments received regarding whether the Board should use one over the other.

DR. PIERCE: Well, I'll support Gordon on this issue, that it seems to me that if indeed we are in the box, if we are in a very desirable location, if we determine that we've slipped somewhat, then why take ten years to get back to where we just were?

I think it makes more sense for us to be more aggressive with our management and to set some very tight -- well, I shouldn't say tight -- some reasonable yet not very restrictive time tables for us to get back in the box.

CHAIRMAN DUNNIGAN: Mr. Adler.

MR. ADLER: I think we're going to squeeze Dave here. This is an amendment which can't be changed too easily. And I prefer the "no longer than ten years" because it would permit a one-year, three-year or five-year to be done if -- and I agree with Gordon's idea of when we get in there, we could quick fix it with a real quick thing. And we could still do that.

But since this is an amendment and somewhat in concrete, it would allow us in the future, if something ever happened, that we would be able to manage it up

to, not more than, ten years. So I actually support that type of an idea.

CHAIRMAN DUNNIGAN: Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. Would you prefer a motion on this to try to refine the position?

CHAIRMAN DUNNIGAN: Yes, I would.

MR. BORDEN: I would **move that the preferred option be a rebuilding horizon no longer than ten years.**

MR. CALOMO: **Second.**

CHAIRMAN DUNNIGAN: Is there a second on the motion; by Mr. Calomo. Discussion on the motion around the Board? I'm going to stick with the list that I have. Next is Mr. Augustine and then I have Mr. Travelstead.

MR. PAT AUGUSTINE: Thank you, Mr. Chairman. In regards to ten years, I'd like to go back to the point that Gordon made. There are actually two questions I would like to ask relative to a ten-year rebuilding period.

First, how long has it taken us to get within the lower box? And the second question is how long have we been there? Did we get there by accident? I'm not being a smart alec, I'm serious. I mean, has it done it by itself?

DR. DESFOSSE: Yes, I'm trying to figure this out. The 1999 estimate is the point closest to the intersection of the two target lines, just to the left of that.

When I tried to present this with numbers and lines last August, it was too confusing and I went the bare route this time and don't have any numbers on these. So, the 1999 estimate is just outside that box. The preliminary projection for this past season is back inside the box now. And that is based on preliminary estimates of young of the year surveys, which may be overly optimistic.

MR. AUGUSTINE: Can I change my second question, Mr. Chairman? The period of time before 1999, are those the numbers that are represented on this chart to the left, just above that?

DR. DESFOSSE: I'd have to go dig through the files and take a look. I don't know offhand which one pertains to which point.

CHAIRMAN DUNNIGAN: Mr. Travelstead.

MR. JACK TRAVELSTEAD: I was going to make Mr. Borden's motion.

CHAIRMAN DUNNIGAN: Mr. Perra.

MR. PAUL PERRA: Yes, to Mr. Borden's motion, I'd support the longer time limit because on this species, if you look at the most powerful force that effects the stock, it's the environmental factors, and the fishing mortality, at least historically as we've been

reported to us, has not been the major factor that drives the size of the stock in this species.

So you may find yourself in a five-year period cutting the fishery drastically to try to deal with a short-term environmental change or something. You might want to give yourself a little more time and flexibility to deal with the fishery over time.

CHAIRMAN DUNNIGAN: Mr. Wheatly.

MR. JULE WHEATLY: Paul said the same thing I was going to say, that most of you all sitting around this table think that if we go below these levels, that it would be due to overfishing but that's not the answer.

And if we drop back below that level, it's not going to be because of overfishing, it's going to be because of the environmental conditions and we don't know what they are.

CHAIRMAN DUNNIGAN: Mr. Fote.

MR. TOM FOTE: I have a tendency to disagree with that. I basically look at that -- when I look at the size of fish that could be out there, the year classes that could be out there, the size of those year classes, the areas that are devoid of menhaden, that historically had menhaden, and we consider that now as not a problem, that it's fine, we're going along the right path, then I have concerns.

I mean, I looked at charts and graphs that shows that we used to have a huge age distribution. We don't have that. And is that purely, truly just because we have young of the year or is there truly overfishing? It's been debated back and forth, and I have some concerns over that so I think I would support Gordon on the five-year rebuilding.

CHAIRMAN DUNNIGAN: Mr. Freeman, and then we'll take Lew's comment and then I want to bring this to a close.

MR. BRUCE FREEMAN: It seems that to make this decision we need to clarify whether in fact we're using a terminal year value or a running average, and that decision has not been made. It's going to have an impact on what this is.

CHAIRMAN DUNNIGAN: All of the analysis in the discussion so far has been treating these as terminal-year estimates. Mr. Flagg.

MR. LEWIS FLAGG: I'm going to support this motion because I think it doesn't compel us to wait for ten years. It gives flexibility to this Board to act early on if the circumstances require it, but it doesn't enforce us to impose draconian measures on the fishery if they're not needed. So I think it does have some real benefit in terms of maintaining flexibility for the Board to deal with the issues as they arise.

CHAIRMAN DUNNIGAN: Okay, we've heard the debate, let see if we can make a decision on this. Need to caucus? Yes, one minute. The question before

the Board is the motion by Mr. Borden. The motion is up on the Board.

You've had an opportunity for caucus. The Chair will call for a show of hands. Remember, states who are voting, one vote per state. All those in favor of the motion, please raise your right hand; all those opposed. **The Chair would note for the record that there were two in opposition and lots in favor. The motion carries.** I'm sorry, any abstentions or any null votes? Neither. Thank you.

It seems, based on this discussion that we've been having on rebuilding schedules, that there is some lack of understanding on the question of whether we're going to measure these various points as we go through management on the basis of a point estimate for a terminal year or whether we want to look at each year in conjunction with the previous three years, in other words, using a three-year moving average.

And I think I'd like to ask the Chairman of the Technical Committee to comment on this first and then we'll come back to the Board and see if we want to change our position.

MR. MIKE STREET: Thank you. A paper written about 1995-96 by Doug Vaughan and Steve Cadrin considered the inherent variability in terminal point estimates in the VPA results. They found basically that the terminal points varied a lot.

I don't have the paper with me so I can't tell you how large that variability was, but it was considerable. It was unbiased; that is, it was equally likely to be an over estimate as an under estimate of the true value. The values stabilized after about three years; that is, when a given data point was three years old and then from then on it was stable. They also pointed out that there was a central tendency in the data, and that is as the data -- the under estimates and over estimates both tended to stabilize at a mid-range of those high and low points.

So the advice that you could get from a single point could be essentially as flawed as the advice you get from a three-year moving average.

CHAIRMAN DUNNIGAN: Okay, we've got the advice from the Chairman of the Technical Committee. Right now the way the plan is written we will be measuring these things using point estimates for the most recent year. Would anybody like to suggest that we make a revision in that approach? I don't see any suggestions around the table that we do so we will stick with it the way it is. Thank you.

Resource Community Considerations

Moving ahead, back in the document, we're still on page 8. Section 2.7 is resource community

considerations. This section of the draft FMP was not completed and still is not. It's a staff activity, one of the ones that Joe referred to earlier that we're going to have to do before we bring you back the final document in April. We did receive some public comments relative to this issue and we will take those into account in preparing the final draft. I guess I'd like to ask at this point are there any specific questions or comments that you want to direct to the staff to make sure that we craft this section appropriately?

Recreational Fishery Management Measures

Okay, seeing none, let's move ahead. Beginning on the top of page 9, the issues that we brought to the public now turn toward Section 4 of the fishery management plan, which are the management measures. Section 4.1 dealt with recreational fisheries. The only public comment we saw was that recreational harvest should get some identification as well. Any comment? Mr. Adler.

MR. ADLER: Did I miss a page? Where's three?

DR. DESFOSSE: Section 3 is just a section that outlines the implementation of the FMP monitoring, what the technical committee will do. There's no management measures in that section.

CHAIRMAN DUNNIGAN: Any comments on Section 4.1? Mr. Freeman.

MR. FREEMAN: Refresh my memory, what is the definition of the recreational menhaden fishery?

CHAIRMAN DUNNIGAN: I'm being told by staff that we're looking at recreational gillnets and recreational cast nets. Other comments on Section 4.1? Section 4.2, these are commercial fishery management measures. Section 4.2.1 is spawning area restrictions.

Spawning Area Restrictions

The draft FMP indicated that no fishing activity on offshore spawning grounds has been identified at this time. We did receive some public comment that there are more spawning areas than were cited in the document and that needs to be updated. And there were some comments about fishing on menhaden outside of three miles and whether that should be allowed. Based on the public comment, is there any suggestion to make any change in the position that's in the draft FMP? Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. Actually no change in the document, but I would be remiss if I didn't state on behalf of a lot of the recreational fishermen in the state of Rhode Island that they are concerned about having the lack of information on spawning areas within Narragansett

Bay. And I think that this whole issue would benefit from having the Technical Committee look at it at some point at some future meeting to see whether or not there are defined spawning areas outside of a narrow range. That's all. Thank you.

CHAIRMAN DUNNIGAN: Thank you very much and we will pass that comment on to the Technical Committee to deal with as they proceed through the process. Other comments on Section 4.2.1?

Specifications

Section 4.2.2, specification of maximum sustainable yield. The language is in there and the public comments begin over on the next page, on page 10. Excuse me, this is maximum sustainable yield and optimum yield. These are the basic initial specifications that we would do. A number of these options for management activity, which are Options 1 through 5 on page 9, have been reviewed by the Board before and considered infeasible at this time.

All of these are issues that will come back to the Board every year as you monitor the progress of the fishery and the status according to your objectives that are contained in the overfishing definition and will be available to you under adaptive management.

So I guess the issue is that -- and the other thing you need to note is that this section is tied to Sections 4.2.7, 8 and 9, at least, and also 10 and 11 that are on page 11 and 12. So we will be coming back to this question of specific management options. Comments? Mr. Schwaab.

MR. SCHWAAB: Thank you, Mr. Chairman. I guess I put this in the form of a question for the technical team, and it goes back to my earlier comment relating to the aggregation of historic points that are outside of the targets and in some cases the thresholds, and as I look through all these management measures I just wonder, given again that historical perspective, what level of confidence that we would have and which of these management measures we'd be hanging our hats on to shift over time significantly that aggregation of points into that more acceptable area?

CHAIRMAN DUNNIGAN: I think the answer is that at this time none of that is being proposed because of where we are. The question of where to move that over a long period of time is what the Board is going to have to deal with in the implementation of this management program. What we're essentially looking at here is a program and process to deal with these issues over time. The kinds of measures that you've got, there are a lot of them that are listed in this next five or six pages.

The choices as to which ones are going to be

appropriate for any given particular instance is something that the Board is going to have to look at when those situations present themselves. Go ahead, Eric.

MR. SCHWAAB: Well, I'm struggling with this issue because I guess, you know, this would be a key opportunity to recommend actions to come into that or to instill for all of us a greater confidence that we're going to stay there on a more regular basis than we have historically given that we've now established these new -- or we are in the process of establishing these new targets and thresholds.

And, you know, I guess I go back to the part of my question which is are we confident that just because we happen to get there, that we're going to stay there or are we going to then wait until we go back out, as has been more prevalent historically, to then take the time to bring it back in or should we be speaking more directly to some management measures right now?

CHAIRMAN DUNNIGAN: Well, I think that's the question, and it's quite appropriately put to the Board members. Mr. Freeman.

MR. FREEMAN: Part of the difficulty I understand here deals with projecting incoming year classes. And as was discussed previously, the Fisheries Service had an extensive young of year sampling program along the coast, which was apparently stopped a number of years ago because lack of funds.

And there was discussion whether in fact that could be resurrected, whether in fact it should be conducted by the Service or in fact states could take on that responsibility, each doing surveys in their area. This still appears to be a major problem. If we look at this, going back to our previous discussion of looking at the terminal value, that terminal value will be at least a year old, perhaps a year and a half old.

So, if we determine there is a major problem, it will have occurred a year in the past. Our decisions, it would seem to me, would be based on the incoming year classes. If we saw, for example, a reduction one year and yet the following year had a good year class or an abundant year class, then our decision-making process would be greatly simplified. And yet if we don't have that information, we're going to be in a situation of making, perhaps, some dramatic decisions and we're not going to have sufficient information when we make those.

My question would be to the Service -- and apparently I guess there's no one here representing Beaufort, but do they have expectations of continuing the young of year survey? And then if not, from a Technical Committee standpoint, have we made any overtures towards the states about collecting this young of year information?

MR. STREET: Doug Vaughan for several years has been obtaining data from the states, and he is using that to try and develop a young of year index. He is making progress but he's going to take a few more years before he has sufficient data to show anything. But it is looking right now quite positive that it's going to be worthwhile. He's using data from Seemap, South Atlantic, North Carolina, Virginia, Maryland, Southern New England, so he's looking at the entire coast.

But this is being done. It's not dependent upon National Marine Fisheries Service work, but is being done by the states and data are being provided to Doug. In fact, he's getting the 2000 data together right now.

MR. FREEMAN: Right. Well, it seems to me, Mr. Chairman, that this will be and continues to be a very important consideration; and although it may be out of the realm of us making the decision here today, that from a technical standpoint this issue ought to be elevated because I know New Jersey has information, and apparently we're not providing it but we certainly could be.

And if you had continuous geographical information, it would be extremely useful. We could get at some of these issues apparently we can't at this time because there's no information.

CHAIRMAN DUNNIGAN: Thank you. Other comments? Let's move ahead to Section 4.2.3. It has to do with internal waters processing. The language that's in the draft FMP refers -- about IWPs, David?

DR. PIERCE: No, the previous section.

CHAIRMAN DUNNIGAN: Go ahead, David.

DR. PIERCE: I need a clarification. At the top of page 10 in italics and bold faced, there is an important suggestion, I guess, as to how we might want to proceed if the fishing mortality rate exceeds the target as judged by a method that's being developed and that apparently at this point in time shows some promise.

And that's the method by which we forecast effort in the reduction fishery and the historical landings record; and I guess my question is if we don't act on this particular bold faced text, does it become part of the plan or do we have to actually act on this?

And what are the views of the Board with regard to this particular suggestion, which is pretty clear, that if we determine through the forecast method, if the forecast method proves to be valid, if it's determined that the F is below the target F, the critical target F, then the Board takes no action, but if the forecast that F exceeds the target, then we have to consider options to restrict harvest so that next year the target is not exceeded.

It seems like an important rule of the road. I don't think that if we were to adopt this particular strategy it conflicts with previous decisions, you know, that we've

made.

DR. DESFOSSE: I think if the Board would include this as part of the charge to the Technical Committee for their annual review when they update the assessment and make the report back to you, then that would be part of the information available for the Board to consider each year when they go through the annual review process.

DR. PIERCE: All right, so we'll just treat it then as a way for us to get guidance as to where we stand at any particular point in time and we don't have to vote to include this in the document? That would be my take from what you just said, Joe.

CHAIRMAN DUNNIGAN: I think that's true. I think this is an example of how the process that's contained in the FMP will work. David Borden.

MR. BORDEN: Thank you, Mr. Chairman. A slightly different question, though, that if under 1 there on the top of page 9, does that preclude the Board from taking action? I'll just give you a hypothetical situation. Let's say everything goes perfectly for five years, but you see a rising tendency and all of a sudden you start approaching some levels that you don't want to approach and you're still below the target level or the threshold level or actually the target level, does that preclude us from taking action or do we have to have to a problem? We have to cross that line before we take action, I guess?

DR. DESFOSSE: I don't think that was the intent when the PDT put this information together. It was just giving you an idea of how it could work in the future. If all you want to do is charge the Technical Committee with providing this forecasted information on an annual basis, then that's what they will do and then it will be up to the Management Board to take what action it considers appropriate.

MR. BORDEN: Okay, so the answer to my question, then, is it does not preclude us from taking action, then?

Internal Waters Processing

CHAIRMAN DUNNIGAN: That's correct. Any other questions on 4.2.2? 4.2.3 is internal waters processing. The language in the draft FMP refers to the Commission's normal procedures for dealing with IWPs that apply across the board.

Essentially to herring and menhaden is where we've seen them apply in the past. We did receive some public comment on this indicating that there is some opposition to having any IWPs at all. Any comments on the language, suggested changes?

Well, the Chair has a question. What is the intent of the Board relative to the effect that its

recommendations on IWPs will have? Is it the intent in this plan that the recommendations that come out of our process are just that, recommendations to the governors; or, is there some intent on our part to require the governors to follow our recommendations as a compliance issue under the FMP? Okay, I'm hearing some weird little noises from this corner of the room, but that's all right. I'm going to assume, and the staff will assume in drafting the final FMP, that it is the intent of the Commission that its recommendations to the governors on IWPs be just that, recommendations.

MR. WHEATLY: If you're dealing with the menhaden plant, Jack, does it just recommendations, then, too, if they're governor?

CHAIRMAN DUNNIGAN: To the what?

MR. WHEATLY: I said if the governor happens to own a menhaden plant, is there any recommendations that you make which are just optional to him then?

CHAIRMAN DUNNIGAN: I don't think so.

MR. WHEATLY: What's the difference?

CHAIRMAN DUNNIGAN: Mr. Fote.

MR. FOTE: That's a good question.

CHAIRMAN DUNNIGAN: Mr. Carpenter.

MR. CARPENTER: It's a very good question.

CHAIRMAN DUNNIGAN: Well, we've agreed that we have --

MR. WHEATLY: The governor just got mine.

CHAIRMAN DUNNIGAN: We have agreed that we have a nice question. I'm waiting for somebody to suggest a change.

MR. AUGUSTINE: Make a motion.

CHAIRMAN DUNNIGAN: You know, understand, by the way, that the authority that the governors have here is not derived from state law and it's not derived from this FMP. It is granted to them by the United States

Congress. Is there any suggestion that we change the understanding that I -- There is none. A.C.

MR. CARPENTER: Am I, then, to understand that a governor can -- somebody can come in under an IWP and if we were to eventually get to the point where we were having total allowable catches or some other mechanism, that they can circumvent that, that that state wouldn't be out of compliance even though they were overharvesting the stock under an IWP process?

CHAIRMAN DUNNIGAN: No, because the IWP only licenses the processing. States still maintain the regulatory control over the harvesting. Dr. Pierce.

DR. PIERCE: Well, I don't know how it works in other states, but in Massachusetts with sea herring IWPs, for example, our governor relies on us for our wisdom -- should it be done; should it not be done;

what are the pros; what are the cons; what is the impact of an IWP operation on a specific management plan; what are the objectives of ASMFC or the Council, for that matter? And at least with sea herring, from the beginning of time with IWPs in Massachusetts, the governors have relied very heavily on our advice and have gone thumbs up or thumbs down depending upon what we have recommended.

So I would assume that because we have an IWP policy, that this Board, acting on advice, I guess, from the Menhaden Technical Committee, would make a recommendation and would conclude, yes, IWPs will be good for next year or not, depending upon the expected impact of that IWP on the resource and our rebuilding efforts.

So I would prefer to leave the language as is and to just rely on the good advice from the Technical Committee and the Board decision, and that decision being very good guidance for each individual state to then pass on to the governor and then we just see how it plays out. I would hope that the governors of each state would rely, as they should rely, on the wisdom of the state directors, the fisheries agencies that play such an important role within each state.

CHAIRMAN DUNNIGAN: Other comments?
Mr. Perra.

MR. PERRA: I have to deal with nine compliance issues. Let me just lay out a scenario. For instance, a governor in the Mid-Atlantic area decides and the fisheries department recommends an IWP for menhaden. This Board recommends, also, you know, a certain level of harvest. That state feels that that's not high enough; they allow more harvest. Is that a compliance problem in the plan?

CHAIRMAN DUNNIGAN: No.

MR. PERRA: No, okay. So then you may find yourself, because of an IWP, closing down your nearshore fisheries because you've allowed this other operation to go on, which you have no control over other than just a recommendation?

CHAIRMAN DUNNIGAN: As I said, the state still maintains control over the harvesting, and the IWP is just a license. I don't use that term technically. It's permission from the governor for a foreign vessel to process fish inside the territorial sea, internal waters.

MR. PERRA: But then that could be dealt with, then, after the fact so it wouldn't happen again by giving states quotas through an ASMFC plan. But then that state can decide whether it wants to give it all to the offshore fishery or its nearshore fishery.

CHAIRMAN DUNNIGAN: If the Board wanted to do that. I think the sense around the Board is that we're going to leave this as a recommendation. Let's

move ahead.

General Administrative Provisions

Section 4.2.4 is general administrative provisions. It deals with permits and observers. The draft FMP did not include any requirements in this area. And we did not receive any public comment.

Data Collection/Reporting

Moving ahead, Section 4.2.5 is the data collection and reporting requirements section. There were a number of provisions that were included in here, and the basic approach that the Board has taken is to incorporate menhaden data collection and management provisions in with the Atlantic Coastal Cooperative Statistics Program as it is developed and not to specify at this time any greater data collection and vessel registration issues. We did receive some public comment in this area. Nobody opposed it, but there were some comments in favor of mandatory reporting in all sectors. Any suggestions for any changes?

There is a proposal from the Board in 4.2.5.1 that until the development and implementation of the ACCSP, purse seine and bait vessels be required to submit captain's daily fishing reports which currently are in use. Does that become a compliance issue or is that a recommendation? Bruce Freeman.

MR. FREEMAN: I would say that's a compliance issue.

CHAIRMAN DUNNIGAN: Is that the understanding of the Board? Okay, let's hold on to that. Jack Travelstead.

MR. TRAVELSTEAD: How are we defining bait vessel in that?

DR. DESFOSSE: The small purse seine vessels, the snapper rigs.

MR. TRAVELSTEAD: Snapper rigs, okay, that's fine.

CHAIRMAN DUNNIGAN: And we will clarify that language in the final draft. Okay, moving ahead, Section 4.2.6, FMP monitoring, essentially establishes a process that the Board will be going through on a continuing basis in its administration of the amendment. The only public comment was that we shouldn't continue to use the triggers from the original plan, and they're not in here.

Moving ahead to 4.2.7, we get into a little more detail with an issue we talked about earlier. Before that, Mr. Carpenter.

MR. CARPENTER: Is this the place that we need the language for the Technical Committee to report the anticipated F? Is this where this fits in?

Catch Controls

CHAIRMAN DUNNIGAN: Yes, and we will incorporate it. 4.2.7, catch control options; again, these are options that the Board would pursue if it got to the point of needing to take action. That's true, I think, for 4.2.7, 8, and 9. At the current time, there isn't any particular TAC that's being proposed. What is contained in Option 4 is, when we need to, the development of a coastal TAC by area and some restrictions on small fish. That was your preferred alternative.

And most of the comments that we received were in favor of that. Some of the more detailed comments are described in the language on page 11. David Borden.

MR. BORDEN: Thank you, Mr. Chairman, two questions. One is, is this envisioned to be a hard TAC, what I refer to as a hard TAC; in other words, a quota and when you catch that quota, you close the fishery or are we talking about targets here?

DR. DESFOSSE: I think based on your discussions in June and August, I get the sense that you were talking about a hard TAC.

MR. BORDEN: That was also my understanding. And then the other question for my own edification is in terms of the catch by area standards, has the Technical Committee done any analysis of that? In other words, have they started to work up a scenario in which you would be able to come forward and say this is what we think appropriate catch should be by area?

DR. DESFOSSE: No, they haven't yet. If that's the charge of the Management Board, then we'll take that forward.

CHAIRMAN DUNNIGAN: Mr. Adler.

MR. ADLER: Mr. Chairman, is it your intention to eliminate all but one of these Options in 4.2.7, is that what the idea is, to, let's say, take the preferred option and drop the others?

CHAIRMAN DUNNIGAN: That's what the staff would do. If you adopt the preferred alternative, we will cast that language as what the Board intends to do when it reaches the point of needing to take catch control options.

Let me just point out, though, that although that fully states your intent as of today, the way the language under framework management is crafted, I think you would probably have the opportunity to tailor the measures that you wanted to implement to the circumstances as they presented them to you at the time. Dr. Pierce.

DR. PIERCE: Just a clarification. It says "coastal TAC by area of catch and some restriction on some juvenile fish." Therefore, this is a TAC that would be

on adult fish not on small fish; and if there is some restriction on small fish, it will be in some other way besides a hard TAC. Is that a correct understanding of how that's intended?

DR. DESFOSSE: I don't think that there's a way for you to separate the adult versus juvenile harvest right now. So it is an overall TAC over all age groups. The intent was to provide some other protection for juvenile fish with some other measure.

DR. PIERCE: Okay, so the TAC, if we ever had one, it would apply to all ages and not just adults?

DR. DESFOSSE: Yes.

CHAIRMAN DUNNIGAN: Mr. Carpenter.

MR. CARPENTER: In that same Option 4, it says "by area". Is this area of harvest and how finite an area of harvest are we going to have individual quotas for?

DR. DESFOSSE: I think the Technical Committee would need to do some analysis to provide you with some options in terms of what types of management measures they could come up with.

MR. CARPENTER: Might I suggest that the minimum size area would be political jurisdiction.

CHAIRMAN DUNNIGAN: Any objection? We'll include that language in the final draft. Mr. Freeman.

MR. FREEMAN: My question has been answered.

CHAIRMAN DUNNIGAN: Thank you. Any other comments on 4.2.7? 4.2.8 is effort control options. None of these were indicated by the Board in the draft as being the preferred option.

Effort Controls

There were a number of comments that were received, including that there's not a need to regulate effort as long as the safe harvest target is identified. On the other hand, the need to protect different sectors of the industry from large vessels may be a problem and they need to look at those options to get a better chance of attaining goals.

And another comment that the states ought to be allowed freedom to craft the appropriate effort control option. There isn't a preferred alternative here. And the Chair is looking for some suggestion as to which you would like to include in the final draft. Mr. Carpenter.

MR. CARPENTER: I would say that if we are going to consider an Option 4 with a total allowable catch, then how that catch is taken under the control is an internal decision of each jurisdiction at that point, so I don't know that we necessarily need this if you choose Option 4 under the previous section.

CHAIRMAN DUNNIGAN: Mr. Augustine.

MR. AUGUSTINE: Well, Mr. Chairman, why don't we eliminate 4.2.8 in view of the fact that we are covered.

CHAIRMAN DUNNIGAN: The suggestion from Mr. Augustine is to eliminate the section on effort control options. Mr. Nelson.

MR. NELSON: Mr. Chairman, is it possible to leave in this section to allow the Board to have the flexibility should the need arise for some type of modification that involves effort control?

I think we've seen that in some of the other fisheries that have quotas associated with them, and it may very well be we may need to subdivide by areas, for example. I would suggest if there was some flexibility that the staff can find to just word that so the Board had the flexibility, I think it would be helpful.

CHAIRMAN DUNNIGAN: Mr. Freeman.

MR. FREEMAN: I would add to the comments made by John Nelson. I think that effort control may be an option you'd want to use with a coastal TAC by area. It's not the only one, but it certainly could be used. So, somewhere in here it should be retained as a possible use. If you eliminate it, I'm not sure that option would be available.

CHAIRMAN DUNNIGAN: Mr. Adler.

MR. ADLER: I agree that you should leave these options or some options in because we run into this on other fisheries where somebody comes up with a great idea and we can't do it because it isn't in the amendment. So leaving some tools in there that we could decide to use would be good. I do have a problem with Option 4 because I can't understand how reading into something, an overfishing definition, actually reduces effort.

I mean, that's some words on a paper whereas cutting down days, giving TACs, doing quotas, sizes, those are things. But to constrain effort based on a definition, I just don't understand how that's an option of anything. That's just saying there's now a definition. Big deal!

CHAIRMAN DUNNIGAN: Joe.

DR. DESFOSSE: I think the concept behind that statement in both 4.2.8 and 4.2.7 was that what the Board is going to do now is look at where you are each year in relation to the overfishing definition and then consider, if you had to consider, some measure, you would consider a catch control or an effort control to get you back into that zone that you wanted to be. That's the idea behind that language.

MR. ADLER: Well, I thought that's what is done anyway. That's how it's done; it's not an effort control, though, per se.

DR. DESFOSSE: Not per se, just the concept.

MR. ADLER: But it's listed with per se's.

CHAIRMAN DUNNIGAN: I understand your point, Bill, and we will take that into account when doing the drafting. There was a suggestion to eliminate 4.2.8. There have been some suggestions that we ought to keep it for when we need it.

Vessel Limits

What's the pleasure of the Board? Any strong eliminators besides Pat? The sentiment seems to be to keep it, and we will. Moving ahead, 4.2.9, vessel limitations; another form of effort limitation. Vessels and capacity could be limited. It points out that there are currently twelve vessels in the reduction fishery. The Plan Development Team recommended no additional reductions.

Public comments indicated that this shouldn't be necessary as long as there's a safe harvest target. Some effort management may be needed if a restrictive catch limit is not adopted. Other suggestions: there should be a cap on vessels and effort so that effort can't increase and the Board should consider the number of reduction vessels being allowed to fish in a certain area at a certain time.

Based on the public comments, is there any suggestion that we change the position that was put in the draft FMP? Mr. Freeman.

MR. FREEMAN: I would suggest, since we control or at least suggested controlling a TAC and perhaps effort, that the number of vessels really is immaterial. And the flexibility should remain with the industry.

If they want to change those vessels, so long as the other aspects are controlled, it would give them additional freedom to do so. I see really no reason to limit the number of vessels.

CHAIRMAN DUNNIGAN: So your suggestion would be we don't need 4.2.9?

MR. FREEMAN: Yes, that's correct.

CHAIRMAN DUNNIGAN: Other comments? Mr. Connell.

MR. JOHN CONNELL: While I agree, wouldn't it be nice to leave this in as an option in case some day in the future we might want to utilize it? I'm not looking to reduce boats now. I think that's working fine but I just can't see -- you know, I believe in the fact that we should have as many options as possible.

MR. MOORE: Jack, one question.

CHAIRMAN DUNNIGAN: Mr. Moore.

MR. MOORE: I would just concur with Mr. Freeman's view on this subject. I think any time you talk about, I guess you would say, meddling in the micro-economics of individual companies or the fleet as a whole, there really is no point in this case. If

you're capping the overall TAC, then your goal to prevent overfishing is achieved. So to meddle in the economics of the individual companies through any sort of vessel restrictions would be achieved by doing this.

So I would support the elimination of this section. Thank you.

CHAIRMAN DUNNIGAN: Further comments? The implication to me, by the way, is that if we eliminate this, that on page 15 under adaptive management we would also be eliminating number 10, vessel limits. Is that the consensus around the table? I don't see any objection.

MR. ADLER: I do.

CHAIRMAN DUNNIGAN: Mr. Adler objects.

MR. TRAVELSTEAD: Do you want a motion?

MR. NELSON: Yes, you need a motion.

CHAIRMAN DUNNIGAN: There's a suggestion for a motion. Mr. Travelstead.

MR. TRAVELSTEAD: **I move to eliminate 4.2.9.**

CHAIRMAN DUNNIGAN: Is there a second?

MR. MELVIN SHEPARD: **Seconded.**

MR. TRAVELSTEAD: And number 10 on page 15.

CHAIRMAN DUNNIGAN: Seconded by Mr. Shepard to eliminate 4.2.9 and number 10 under adaptive management. Any other further comment? Mr. Goldsborough.

MR. GOLDSBOROUGH: Mr. Chairman, I kind of look at this the same was as that previous item -- I forget which one it was -- effort control, I guess, where we don't see the need to implement it now, but we also didn't see the need to remove it as a tool in case it were something that proved useful. So I wouldn't eliminate the whole section.

CHAIRMAN DUNNIGAN: Other comments? Any new ideas? Mr. Flagg.

MR. FLAGG: I concur with the previous comments relative to the need to have as many tools available as we can. This sort of reminds me about a situation we recently encountered in the red crab fishery where there was an influx of vessels from outside. I don't know that this would likely happen in menhaden, but if there are displaced vessels from other areas that might want to get into this fishery, this vessel limitation provision might have some utility for us.

So I think we should leave it in, not that we're going to use it, but that we have that option if it becomes necessary.

CHAIRMAN DUNNIGAN: Thank you. Mr. Adler.

MR. ADLER: My objection to it was more or less

just the same thing. It's not that I want that to use it, but I want it in there as flexibility that if something down the road, that we could use it. I have no other thoughts than that. It's just one more tool in the tool box.

CHAIRMAN DUNNIGAN: Further comments? Need to caucus? Take a minute. The motion before the Board is to eliminate Section 4.2.9. and number 10 from the adaptive management. All of those Board members, one vote per state, in favor of the motion, please raise your hand; all those opposed; are there abstentions; are there null votes?

Excuse me, we're going to have to take a recount because my count and Joe's count don't agree. The motion is whether to delete Section 4.2.9 and number 10 from the adaptive management section. All of those in favor of the motion to delete these sections, please raise your hands and keep them up; all those opposed; abstentions; null votes. There are 12 votes in favor and 10 opposed. **The motion carries.**

Gear Regulations

Moving ahead to Section 4.2.10, the question is measures to regulate gear. There was no preferred alternative. There were public comments received relative to some being in favor and some opposed to having a minimum mesh size regulation. However, the Board did not have a proposed alternative in going out to public comment. You know, you have a couple of options here. One of your options is to institute a mesh regulation now as a part of your overall conservation package.

Another option would be to postpone and leave that one in the tool box in case you wanted to use it. And that is basically the difference between Option 1 and Option 2. There is no preferred alternative here, so we're looking for a suggestion based on the comments as to what the Board should do. Mr. Travelstead.

MR. TRAVELSTEAD: Earlier we had talked about setting a hard quota and then taking additional measures to protect young of the year if necessary, and I think this is the measure that most people had in mind that might be done at the appropriate time when we needed to do something.

So I would recommend that Option 1 be considered or be put in this toolbox that we've been adding to as a preferred measure that would be implemented if we get into the trouble that we talked about previously.

CHAIRMAN DUNNIGAN: Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. I guess a question for my own edification is, is there a scientific basis for us to advocate a mesh size here or

will we simply promote gilling if we do that?

CHAIRMAN DUNNIGAN: Joe.

DR. DESFOSSE: The comments that were raised concerning the minimum mesh size concerned the potential for gilling of a lot of menhaden, and then it would pose a potential safety hazard down off of North Carolina during the fall fishing season. I don't know if there's a scientific basis. I'll ask Mike to comment because he was trying to whisper something into my ear.

MR. STREET: Yes, there has been one study in this issue, Rulifson and Cooper, in the late '80s, early '90s; I think late '80s in Chesapeake Bay. Most of the study spent time on developing the methodology. But the data they did have showed that as mesh size increased, from, I think, beginning at about an inch and a half mesh stretched, gilling increased of the fish that were available to them.

And they were unable to establish a means to capture what went through the meshes to determine the health of those fish, whether they were damaged at all in going through the mesh. But the larger the mesh, the more the gilling.

MR. BORDEN: Mr. Chairman, to Jack Travelstead's suggestion, I have no objection to leaving it in as an option, but I still remain to be convinced that this would be a desirable measure to implement. I'd have to see a lot of additional scientific information. Our experience with fish traps in Rhode Island where they start out at eight- or ten-inch mesh and then go all the way down to an inch and a half mesh is gilling of small menhaden becomes a very major problem as mesh size decreases down to two and a half inches.

So obviously, we wouldn't want to trigger that for a variety of reasons. So I have no objection to leaving it in, but I reiterate I think we need to have the Technical Committee look at it.

CHAIRMAN DUNNIGAN: I have Carpenter, Shepard, Travelstead and Wheatly and Colvin. A.C.

MR. CARPENTER: I have no objection to leaving it in. The only thing that I do want maybe specified in here is that if we talk about mesh sizes, we're going to talk about mesh size per gear type, not one mesh size for the entire fishery. The pound net fishery is completely different than the purse seine fishery and we would need different regulations there.

CHAIRMAN DUNNIGAN: Mr. Shepard.

MR. SHEPARD: As a many, many year dealer in fish nets and webbing -- and, by the way, there's no conflict of interest because I've never sold to the menhaden industry -- this type of fishery does not lend itself, as David Borden indicates, to a mesh size to try to eliminate a certain size. What happens is you begin

to create real damage to the size you're trying to eliminate and the size that's really very close to it. We run into the same problems when we try to go up on the size of like trawls.

It's much better to have fish excluders in trawl nets than it is to try to increase the size mesh in a shrimp trawl because we gill so many fish. David is exactly right on. This is a severe problem and it won't work now on menhaden nets.

CHAIRMAN DUNNIGAN: Mr. Travelstead.

MR. TRAVELSTEAD: In spite of what I said earlier, I just want to make you aware that Virginia does have this 7/8 inch bar regulation. It's probably one of the oldest regulations in the state. It's been around for decades. We're not going to change that. I mean, we're not going to lower that mesh, if there's some fear that that might happen. So 10 of the 12 boats in the fishery are already using this mesh. So I just wanted to make sure you were aware of that.

CHAIRMAN DUNNIGAN: Mr. Wheatly.

MR. WHEATLY: Let me comment that what Melvin Shepard said is exactly right. It's not going to help. No matter what state the industry gets in, it's not going to help bring back stocks and with just two vessels, as the National Marine Fisheries Service has already stated, we have no impact on the juvenile fish.

But another serious problem that we have is in that in the fall of the year the fish usually run deep, and four or five times this year we went around little spots and croakers that we released. But if we hadn't had a small mesh net, there's no telling how many millions we'd have killed because we would have mashed them all up before we could get our boats on the hook, and then we'd have to wash the nets out.

But they would have been dead, taken out. But the biggest problem -- and I know, I'm looking around the room, and I think there's probably two or three people in this whole room knows anything about menhaden fishing -- is that when you run the nets out, you have to get 75 or 80 percent of that net back in those purse boats until you get down to your bail bag so you can go ahead and bail your fish.

If those nets are meshed up, first of all, you can't get it back in your boats. It will not get back into your boats. You'll sink them. And usually in the fall of the year we're fishing in 20-25 mile an hour winds. It's rough, high seas, and it's dangerous.

So even if the worst-case scenario happened, implementing this wouldn't do any good anyway. Thank you.

CHAIRMAN DUNNIGAN: Mr. Colvin and then we're going to try to wrap this up.

MR. COLVIN: Yes, I'm a little confused. Are we talking about the prospect for including a mesh

regulation as a management option to be deployed in the future as necessary, or are we talking about deploying a Virginia-style regulation at the outset of the adoption of the amendment?

CHAIRMAN DUNNIGAN: So far the suggestion from Mr. Travelstead is that it be kept in the tool box for when we need it.

MR. COLVIN: I can't imagine why we would want to exclude the possibility of regulating mesh forever. Again, I've said it before today, that doesn't make sense, particularly since I understand that Virginia has had a regulation on the books for a long time and has not experienced the kind of problems that folks have spoken about.

Why would we say today, "No, we'll never consider a mesh regulation"? If that's all we're talking about, I think we ought to follow Jack's suggestion.

CHAIRMAN DUNNIGAN: Dr. Stewart.

DR. LANCE STEWART: I mean, with mesh regulations there may be some experimentation, and just the opposite that most people are thinking of opening up the main part of the net to a larger mesh, but keeping it smaller and then working down to a larger gradient at the bag end. In that case, it eliminates a lot of the gilling and it's a reverse philosophy in using gear technology to probably solve the problem.

CHAIRMAN DUNNIGAN: Okay, the suggestion that -- I'm sorry, Jule.

MR. WHEATLY: Let me answer the question on the statement the gentleman just made over there. We have a different type of fishery than they do in Virginia. That's the reason we have to use a smaller mesh net.

And the further south you go, the smaller marsh net they used to have to use because it's a different fishery. It's entirely different so that's the reason. And another thing, if you go to a larger marsh net, even though Mike said he couldn't prove it as a matter of fact, but every fish that swims through that net, wiggles through that net, gets a scale knocked off him, he's going to die anyway.

So if you use a larger mesh net, you're going to have to stay out there and fish longer, can keep cleaning your net up, killing more fish all the time. So leaving this in there, I know it's hard for you to understand, but it's harmful to the industry to leave this in here. We know from experience. We had a company that came and fished for us. And they came down there with their large mesh nets and all they did, when the planes flew over, all you saw was millions and millions and millions of dead fish on the water. Now I know what I'm talking about. Thank you.

CHAIRMAN DUNNIGAN: Mr. Calomo.

MR. CALOMO: Thank you, Mr. Chairman. Although we have not had a major fishery in the North Atlantic, such as in Maine and Massachusetts that we used to have, there's still a bait fishery there. A lot of us that go herring fishing use an inch and a quarter net. And what we would do is take that \$300,000 net and cut a section out of it to go menhaden fishing. If we wouldn't be able to use that net, it would cause a due hardship.

With that same net, though, when the inshore fisheries are abundant with herring, we use the same net to catch herring, mackerel and menhaden. We'd have a hell of a time with that net if it had to be bigger. We'd have one in every window. It would cause a very dangerous condition in the seine boats. So, I think we have a problem here.

CHAIRMAN DUNNIGAN: Okay, we've got two sets of suggestions that are on the table. One has been that we ought to leave this in the tool box for future use and the issues and the details of how well it will work to respond to that situation will be dealt with at that time.

The other one is to eliminate it completely because it's already in effect in Virginia and it just doesn't fit the practice and the safety requirements of the fisheries in North Carolina. I'm going to let Jack Travelstead make a motion. I think Mr. Travelstead's **motion is that the Board retain the section on measures to regulate gear as a part of the plan to be used under adaptive management when necessary.**

MR. NELSON: **Second.**

CHAIRMAN DUNNIGAN: That's Mr. Travelstead's motion. It's seconded by Mr. Nelson. Any further comment? Let's vote, one vote per member. All of those in favor, please raise your right hand; opposed; abstentions; null votes. There are 14 votes in favor and 8 opposed. **The motion carries.**

Season/Area Closures

Moving ahead to 4.2.11, season or area closures; again, this is the section that we confirmed earlier in our discussion where the document didn't accurately reflect exactly what the Plan Development Team had proposed. There were three options that the Board considered relative to season or area closures; and a number of public comments were received, some in favor of a closure within one mile of a shore either coastwide or a seasonal closure that's a part of the closed corridor approach. And there were some favoring Option 1. A comment to prohibit the fishery in nearshore waters, bays and estuaries out to seven miles from shore. The rest of the public comments continue at the top of page 13 and then there are some

specific comments concerning season area closures relative to this fishery from industry representatives.

The Board did not have a preferred alternative for what to do about season area closures in this fishery management plan so the Chair is looking for a suggestion based on the public comment as to what you would like the final FMP to read. Ms. Shipman.

MS. SUSAN SHIPMAN: Thank you, Mr. Chairman. My perspective on this is this is very much the prerogative of this state and should remain within the state jurisdiction of what they want to do with regard to the fishing areas in their state. And I believe that's the way it should be left, which is status quo, I believe.

CHAIRMAN DUNNIGAN: Let me ask for a clarification on Option 3, which is the status quo. Does that mean that the potential for this stays in the tool box? It will continue to be a part of the management program or are we talking about not having this in at all? All right, that apparently is an issue that we have to decide.

MS. SHIPMAN: I wouldn't want to supersede or second guess states that already have the measures in place that they have. Seasonal issues are sort of a different issue, depending on what the outcome is with your stock assessments and so on and so forth and the biology. The area seems to be more socio-economic driven, and I think that's within a state's prerogative.

CHAIRMAN DUNNIGAN: And clearly the fishery management plan wouldn't prohibit a state from taking that action if it wanted to. I think, looking at the draft document that went out, you can read it a couple of ways; either we're going to institute one of these options now, or we're going to leave this in the tool box for the Board to use when appropriate, or we're not going to have it at all. And that's what we need to get some clarification as to what you want to have in the final FMP. Mr. Wheatly.

MR. WHEATLY: Jack, I've got a question. If this Board can implement something like this, a closure in North Carolina, can this Board, then, later in the future implement the same thing to open up states like Maryland, New Jersey, New York? Would it have the authority to do that if it's got the authority to close another state?

CHAIRMAN DUNNIGAN: Well, Jule, I don't know the answer to that question. We've never gone to that level. The basic position that the Commission has always taken is that we would establish minimum requirements that the states have to meet; and if for some reason they want to go further, the Commission doesn't object to that.

So the states that have closed areas have done so for lots of different reasons that really pertain to that

individual state. And so I think we would probably say, if we followed past practice, that the Board would not require the states to open areas, but it would, from a conservation standpoint, take the position of closing areas by establishing a minimum standard.

MR. WHEATLY: Well, I was going back from the AMAC recommendations to this Board, and it was made up of the National Marine Fisheries Service plus state biologists and their recommendation was not to have any more closures and encourage the states that have closed bodies to open up more fishing ground. And then we get this in here. I mean, this is total contrary to the National Marine Fisheries Service, from their data, what they recommend. So this is what I don't understand how this even got in here.

CHAIRMAN DUNNIGAN: Well, I would just point out that this is a matter that the Board has discussed in a lot of detail a number of times. The Board did consider the recommendation from AMAC and elected not to go that way in the draft FMP but to put this in instead. Yes, sir, Steve Jones.

MR. STEVE JONES: I think this was put in as an option as a closed corridor to protect the age zero fish, and I just wanted to give the Board some information on this fall. We fished in Carolina from the first of November to the eighth of December and roughly caught close to 13,000 metric tons of fish, and there was neither age zero fish in those.

So, if you put this one mile corridor, what it does, it basically this past year, and it will affect about 10 to 20 percent of our fish catch and we're not protecting age zeros because we did not catch any age zeros in that area. And there were some age zero fish there.

Now we did have nets from Virginia and that's what we've been using. And to just give you a little history, we purchased Ampro back in 1997. And they had a little different philosophy in the late '80s and early '90s than we did. They targeted age zero fish in Carolina and we didn't for a while, but we kept seeing them coming back with loads of fish so we were compelled to build nets that would catch the age zero fish. But since we've purchased them in '97, we have not targeted or caught age zero fish.

CHAIRMAN DUNNIGAN: Thank you. Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. There's been a lot of discussion on this particular item over the last couple of years and I'm not sure we're going to resolve it here today. My specific recommendation -- and I'll be happy to make this as a motion -- **is to adopt Option 3 and charge the Technical Committee with looking at the viability of this particular scenario in the future.** I think we need additional technical work on this before we really

consider area closures, corridor closures or whatever. So I move adoption --

CHAIRMAN DUNNIGAN: Let's not have motions yet.

MR. BORDEN: No motion?

CHAIRMAN DUNNIGAN: Mr. Perra.

MR. PERRA: Yes, basically I've been voting on principle to include the things in the tool box because you never know down the road what you're going to have to deal with. And area closures and seasonal closures are very powerful management tools and there may come a time when we want to work with the industry to craft something.

So, I'm for keeping them as an alternative, maybe not necessarily stating the way we have it here, but just the statement that they will be considered as a future management tool.

CHAIRMAN DUNNIGAN: We've got Mr. Wheatly, Mr. Freeman, and then we're going to wrap this. Jule.

MR. WHEATLY: Let me comment on -- I think during the seasonal closures, I think I've been averaging around 56, 57, 58 percent. I don't have the papers in front of me. I think you all have them. I told Joe Smith of the National Marine Fisheries Service, he could go ahead and distribute them, release them, I didn't care. I haven't seen 2000, but I thought this past fishing season that 88 percent of my fish came within a mile of the beach. And I think, from what I saw just looking around, I saw but 5 percent of our catch were zeros and ones. So, you know, we do not target or we prefer to be offshore catching big fish.

But the difference -- getting back to the mesh size, the difference between where we fish and where they fish in Chesapeake Bay, you've got a different class fish; and besides that, they're surrounded by land on three sides. We're not. So my point is is that if this was implemented, now it would hurt Omega probably anywhere from 15, 18, 20 percent. It would hurt me anywhere from 56 to 88 percent.

So if this is even considered, I'm out of business. I mean, there's no rhyme or reason to it. I'm out of business with two boats that we've already stated that the menhaden industry, the reduction facilities has nothing to do with the recruitment and the fishing stocks of the menhaden industry.

That was stated by this gentleman over here when we first started and that's also been stated by the National Marine Fisheries Service.

CHAIRMAN DUNNIGAN: Bruce Freeman.

MR. FREEMAN: This issue has been around for this Board for many years. I remember the original discussion when the plan was put together back in the '70s. The issue of a closed corridor approach was then

put forth as a viable alternative to the taking of the young of year fish. It was not incorporated because of the arguments used by several companies at the time, not just Jule's company, but there were several others as well. The concern here is really the taking of young of year fish, the excessive take of young of year fish.

It's my opinion that the industry can control the catch. They can determine pretty closely the size of fish that they actually target. So if it comes to the point where we see low recruitment and we determine it's necessary to put requirements on reductions in the catch of young of year fish, it can be accomplished by several ways.

I'm convinced it can be accomplished by the industry, but if in fact for some reason that doesn't work, a corridor approach is another method of instituting such a management measure.

It seems to me that at the present time, if the recommendation is not to catch young of year fish, at least some number of those, it can be accomplished. But I would also think it would be advisable to retain this in the event in the future it may be necessary. I don't see the implementation of it at the present time, but it certainly, I think, argues for having this available if all other options fail.

CHAIRMAN DUNNIGAN: There have been a number of views expressed around the table. It seems to me that the predominant view is represented by the comment from Susan Shipman, Bruce Freeman and David Borden, and that is that we go with Option 3, maintain status quo for now and leave the language in here for use by the Board later and direct the Technical Committee and the staff, per David Borden's comment, to investigate further the utility of this and the circumstances and what kinds of benefits it would give to us.

That seems to me to be the predominant view around the Board. Do you think I've missed it? Okay, that's the way that we'll go, then, without objection. Moving ahead to 4.2.12., the question of minimum size limit. Mr. Travelstead.

Minimum Size Limit

MR. TRAVELSTEAD: If you look at page 16 of the minutes of the last meeting, there was lengthy discussion about minimum size limits, and it was the decision of the Board at that meeting that minimum size limits not even go out to public hearing. So I'm not sure why it's included in the package, but it's very clear from reading page 16 of the minutes that it should have been eliminated.

CHAIRMAN DUNNIGAN: We're going to have to review that. I mean, maybe that's what the Board

said. It did go out to public hearing. We didn't get any comment.

If Mr. Travelstead's recollection of the record is correct, is it the consensus of the Board that this action should just drop out, As well as in the frameworking section, 4.6. Okay, we will do so.

Fixed Gear Fishery

Section 4.2.13., the fixed gear fishery. No management measures were proposed by the Board for fixed gear fisheries at this time. The only public comment we got was that they should be subject to mandatory reporting as well. What I would point out to you is that the reporting requirements have been specified on the basis of the ACCSP when that comes into place, and I presume that would apply to the whole fishery as well as the fixed gear fishery. So, I'm not sure that there's anything we need to do at this point to make any revisions in the final draft. Any other suggestions on that? Okay, we'll move ahead.

Measures to Reduce/Monitor Bycatch

Section 4.2.14., measures to reduce and monitor bycatch. There were not any measures contained in the draft FMP. We did receive some public comment here about investigating bycatch in the fishery in North Carolina and some comments about bait fishermen and the possibility of using Wallop-Breaux funds to monitor bycatch. Is there any suggestion based on the public comment that we should make any changes in the provision that went out to public hearing in 4.2.14.?

Other Management Measures

Okay, seeing none, let's move ahead to 4.2.15., other management alternatives. It's a fairly general comment that just outlines other thoughts that were considered. We received no public comments. Any issues there?

Section 4.2.16., the no action alternative. And, again, no comments received supported taking no action at all although there were some comments that we should be maintaining status quo in our regulations, which I think is consistent with most of the actions which have been taken here. Any changes or revisions to 4.2.16.? Seeing none, we move ahead. Yes, sir, Mr. Nelson.

MR. NELSON: Mr. Chairman, the last comment on this is the peer review panel in, I guess, discussion says this may not be a viable option. So are we considering it as viable or not?

CHAIRMAN DUNNIGAN: No, I think the

implications from the fact that we're moving ahead is that it's not a viable option. And I think the statement here is simply to make that point for the record.

MR. NELSON: Okay, so do you want to still leave that in our just drop it out?

CHAIRMAN DUNNIGAN: I would leave it in.

MR. NELSON: Okay.

Alternative State Management Regimes

CHAIRMAN DUNNIGAN: But I'm not a voting Board member. Any objection to leaving it in? Seeing none, we move ahead. Section 4.5. has to do with alternative state management regimes. This is conservation equivalency. Staff has been looking at this language, and we recognize that it continues to need some work in order to fully be consistent with the conservation equivalency procedures that the Commission normally follows. But we think that that's something that the staff can fix in getting the final draft to you. There won't be any surprises there. It will be a standard approach towards conservation equivalency as the Commission normally uses it.

Are there any suggestions or comments of things that you want us to make sure we include or any other suggestions about changes that are necessary to any of the Sections under 4.5.? That would include 4.5.1, 2, and 3. Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. I just want to get clarification on the last sentence in that paragraph that all changes in state plans must be submitted. I'll give you a specific example. If there are no area closures in this plan when it's finally adopted and a state has area restrictions, if they want to change those, does that still have to be submitted? Is that what the intent here is?

CHAIRMAN DUNNIGAN: In the normal Commission practice on FMPs, we would ask that they be submitted. If you don't want to do that, tell us and we'll write it differently for this case.

MR. BORDEN: I guess my own view here would be that if there's something in the plan that's required, we should have to submit it in writing requesting a change, but if a state wants to do something, for the sake of argument, that's more restrictive, I can see no real useful purpose in having that come before the entire Board and go before the Technical Committee.

CHAIRMAN DUNNIGAN: Mr. Fote.

MR. FOTE: Same point I was going to -- Mr. Borden made my point.

CHAIRMAN DUNNIGAN: Mr. Moore.

MR. MOORE: I would just raise the issue here of this being an important issue to the Board in that if we're moving towards a TAC program that's going to

work on a regional basis, the Board is going to need to know if certain areas, say Rhode Island, wherever, might be no longer available as fishing grounds.

It would have an influence, I think, on the Board in determining TACs for regional areas. Thank you.

CHAIRMAN DUNNIGAN: I think comment well taken, but it also seems to me that states are going to be required to report those changes. It's a question of whether they would have to bring them before the Board before implementing them.

So I think you're right, it is important that the Board have that information as a part of its overall management program, but I think the suggestion is that for those areas where there are no substantive recommendations on the books at that time, that states be allowed to make those revisions without getting prior approval. Niels.

MR. MOORE: If I could just follow up, I would just say that if this Board feels comfortable with leaving open the option of closing areas and having that subject to review by this Board, I would see at the same token -- and that's referring to the closed corridor -- on the same hand I would think that they would also want the chance to at least hear, you know, what's going on in the individual states regarding whether it be an opening or a closing. I just think that that might be of interest. I know it's of interest to me, currently a Board member. So I would certainly hope that this would be reviewable by the Board. Thank you.

CHAIRMAN DUNNIGAN: Prior to adoption?

MR. MOORE: Yes.

CHAIRMAN DUNNIGAN: Okay. Comments? Mr. Fote.

MR. FOTE: I could see me notifying the Board but it's not going to be prior to approval. It depends on how the regulations go, how the state legislature goes or how acts come out because the Board really doesn't have control of that. We make allocation decisions between different parts of an industry in a state, how we allocate a resource. We do it on striped bass and many other species. That's a state's prerogative. We'll notify the Board.

CHAIRMAN DUNNIGAN: Okay, let me make sure you understand the issue. Typically any change in state programs is required to come before the Board before it's adopted. The suggestion by Mr. Borden is to exempt those actions by a state that are with respect to a measure where there's nothing in place or operational at the time, that the state be allowed to go ahead and implement those without prior approval but have to report them to the Board.

Mr. Moore has argued that we shouldn't do that, that we should stick with our standard practice. Mr. Fote is on Mr. Borden's side and I don't know where

the rest of you are. Any further comments? Mr. Shepard.

MR. SHEPARD: Jack, I need to comment on that. Conversation on this issue by members of the General Assembly indicated that they would not welcome the ASMFC deciding whether they could or could not pass a law that dealt with their internal waters and their internal affairs.

CHAIRMAN DUNNIGAN: Mr. Carpenter.

MR. CARPENTER: I think the reporting requirement should be limited to compliance issues only. I think that if you have regulations which are not compliance issues, then there's no need to report them to the ASMFC. I think you changing a compliance issue, then you need to report that or get prior approval for that, but I think that's where the distinction needs to lie. If it's a compliance issue, it has to be prior approval.

If it's not a compliance issue, you just have no notify them what you're doing.

CHAIRMAN DUNNIGAN: Other comments?

MR. CARPENTER: That should be for all plans, not just this one.

CHAIRMAN DUNNIGAN: Well, wrong Board. Okay, moving from what is our practice, the suggestion was, by Mr. Borden and I think Mr. Carpenter probably stated it a little more succinctly, that prior approval for state programs be limited to those areas where compliance requirements are in effect.

And the other view would be to stick with our normal practice which is any change to state practice needs to be reported. I'm going to take a motion from Mr. Carpenter to adopt his approach. Is there a second?

MR. FOTE: **I'll second.**

CHAIRMAN DUNNIGAN: Seconded by Mr. Fote. Any further discussion we need? Okay, let's take a vote. Caucus? Yes, Bruce.

MR. FREEMAN: Jack, just re-state succinctly what that motion is.

CHAIRMAN DUNNIGAN: **The motion is to revise Section 4.5 so that states are required to obtain prior approval for the Board of any changes to their management program for which a compliance requirement is in effect. Other measures must be reported to the Board but may be implemented without prior Board approval.** I think I just wrote the language. Mr. Moore.

MR. MOORE: Clarification. Is closing or opening an area a requirement, a compliance?

CHAIRMAN DUNNIGAN: At the moment we haven't gotten any area requirements in there as compliance requirements. In the future it might

become one. Are we ready to vote? All of those in favor of the motion to make the change as moved by Mr. Carpenter and stated by me, please raise your right hand; all those opposed; abstentions; null votes. **The motion passes without any negative votes.**

De minimis Guidelines

Moving ahead to Section 4.6., which is our adaptive management section. Excuse me, there seems still to be some questions on 4.5, 4.5.3, the *de minimis* fishery guidelines. We did not receive any public comment on this. The language of the Board in the draft FMP is written and there is a Plan Development Team note of advice to you. Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman. I would just note that I think we should have a *de minimis* guideline in the plan. I do not know if the 1 percent, the standard language is appropriate or not given the fishery, and I think that's what the PDT was concerned about. But I think we do need a *de minimis* status in there.

CHAIRMAN DUNNIGAN: Mr. Carpenter.

MR. CARPENTER: Might it be possible to have two *de minimis* statuses, one for states which have a reduction fishery and one for states that do not, to get around this 1 percent problem?

CHAIRMAN DUNNIGAN: Mr. Perra.

MR. PERRA: Having been in a lot of *de minimis* discussions over the years, if this issue isn't handled very quickly, I think we ought to say there will be a *de minimis* determination made by the Board, and we can work on that following implementation of the plan, or we'll be here talking about *de minimis* for the rest of the day, even though I like the PDT's recommendation at this point. That's what I would suggest.

CHAIRMAN DUNNIGAN: Other comments? I think the idea is that, you know, we will still have *de minimis*, but rather than specify it today, you know, *de minimis* applies with respect to individual measures that a state is forgiven from having to implement because it wouldn't be worth it for them to go through all of the administrative rigmarole that would be associated with it.

I think the reason it was written this way is because it's very hard at this point right now to determine in a relevant fashion, you know, which states should or should not implement corridor provisions or other closed area provisions or any of the other items that we've left in the tool box. That would need to be specified based upon the facts that come up when you consider that measure. So, as I understood this section in the plan, the concept of *de minimis* was going to stay in, but rather than try to develop an across-the-board

universal standard for *de minimis* today, that it would be applied when the measures are adopted as we go through with our continuing implementation of the management program.

I see heads are nodding around the table and the chairman is saying yes. Is there any objection to proceeding that way? We'll make sure that the language in this section is written to indicate that when we bring it back to you in April.

Adaptive Management

Okay, 4.6 is a fairly standard articulation of the Commission's adaptive management procedures, and there were no public comments received on it. We have eliminated numbers 10 and 11 by our earlier discussions. Any further comments on 4.6?

Emergency Procedures

Okay, 4.7 is emergency procedures. This simply states what is already contained in the ISFMP Charter relative to the Board's emergency authority. Any comments?

Management Board Makeup

Okay, the next issue is 4.8., management institutions. There are essentially two options that are here; Option 1 which would reconfigure the Menhaden Management Board to be exactly the same as all of the other Management Boards under the ISFMP Charter; Option 2 which would, in addition to those, maintain some industry membership on the Board and is somewhat reflective of the makeup of the Board as we are here today. The preferred alternative was Option 1, and we did receive public comment on it. We received a lot of public comment on it, thousands of postcards. It was probably the issue that received the most attention throughout the public review process.

Consistent with the way that I've been dealing with all of these others, based upon the public comment as you've seen it, is there any recommendation or desire by any member of the Board to change from the preferred alternative? Mr. Travelstead.

MR. TRAVELSTEAD: I'm sure there will be some lengthy comments on this. I only have two to make. The first is I guess over the last couple of years, we have all sitting around this table in one form or another at one management board have talked about making the process more inclusive. And we've used the term "disenfranchisement" a lot over the last couple of years. It seems to me that the way we manage menhaden should not be the exception to the rule. It

should be the model of how we do this with a lot of other species, and that is by including pieces of industry on the Board to help us make management decisions. That's my first comment.

The second comment is a question to the Board and that is tell me how the inclusion of industry on this Management Board for the decades that they have been a part of this Board has caused a problem? Give me examples of how their being here with a vote has caused a problem. The only answer you'll be able to come back with is that it's a problem of perception. There's a perceived problem that something is going on here when, in fact, it is not. And perhaps our problem has been that we have not adequately educated the public back in our individual states as to what we have done with the menhaden resource and how we're attempting to manage it. And the fact is that industry has not been a problem sitting on this Board. Based on those two things, I would hope that we would adopt Option 2.

CHAIRMAN DUNNIGAN: Thank you. Other comments? Other comments around the Board? Mr. Carpenter.

MR. CARPENTER: Mr. Chairman, I've spoken before on this issue and I would have to agree with Jack that I think this particular fishery, where it is a unique fishery up and down the coast, I think the Board has been well served this past year that we have had the new makeup of the Board. I was not a member of the original Board. I have found it useful. I have found the industry participation useful and I would support Option 2; and if necessary, make a motion whenever you're ready for one.

CHAIRMAN DUNNIGAN: Thank you. I am not ready for motions. Dr. Pierce.

DR. PIERCE: Yes, this certainly is a bit of a tough one because this has been discussed it seems like three years or so. I've seen discussion papers on this. We've taken it out to public hearing, it seems, twice. We've had prolonged debate about it and certainly it's a controversial step; that is, to change the characteristic of this Board. I certainly disagree with Jack's suggestion that we use this Board as a model for all the other boards and that we enmesh the advisors into all Board discussions as the advisors are enmeshed right now, or the industry.

Frankly, to me this raises the issue of our advisory panels and how we use our advisory panels and can the excellent input that we've gotten from industry, the menhaden industry, could that have been obtained by their use through the advisory panel because, obviously -- I think obviously -- if we were to stick with Option 1, then those individuals around the table who represent industry would become part of a very important

advisory panel.

And the Board would then take on the structure that all the other boards have. So, while I am a little bit torn by this and certainly I don't down play in any way the very significant contributions made by industry around this table and that significant contribution has been for many years, for the sake of consistency, I would recommend that we go with Option 1, which would be to restructure the Board so that it would resemble the structure of all the additional boards.

CHAIRMAN DUNNIGAN: Thank you, David. Mr. Abbott.

MR. DENNIS ABBOTT: Thank you, Mr. Chairman. This is a matter that I've given quite a lot of thought to. The composition of this Board was in question when I arrived here four years ago. At my first meeting in Norfolk, I remember it was talked about. But in that period of time, over the period of four years, we've made some changes in how we do business here. When I first came to the meetings, I could sit at the table. I could sit in the back of the room, but I didn't vote unless I was appointed to that management board.

Since then we have incorporated a process that we now have 45 or more people -- actually more than that -- sitting around this table, each possessing one-third of one vote, one state, one vote, three commissioners. I think it should become clear to everyone that giving in this instance four votes to the industry is not the way we should be doing business.

Does it make sense to have four industry votes equal the votes of the states of New Jersey, New York, Connecticut and Rhode Island, or any other four states you might pick? I don't think so. And from the comments received, it's obvious that the people in the general public and interested parties feel the same way. Do we have management board representation from the industry on lobsters? Do we have it on herring? Do we have it on recently completed horseshoe crab meetings? I think the Audubon folks and the biomedical, they'd probably like to have a seat at the table. But I think, also, that we should encourage the industry participation, as Dr. Pierce just said.

I mean, we should value them and I do value the industry participation and I have no interest in alienating them. And I feel bad that I should speak against their sitting on the Board. There should be room for them. There is room for everyone in the room.

We also saw this afternoon at the Horseshoe Crab Board meeting that seated behind Jack was a fellow interested in what is the outcome of our management decisions, and they talked during the meeting and I think that the points that the industry wanted were

carefully presented, and I think that we achieved a good result.

We must realize that what's in the past is in the past, and we must learn from that. But I don't think we should be required to embrace that in the present. I hope that all the commissioners will vote to bring the Menhaden Board into the future by adopting the first option.

The resource in my mind needs it and I think our constituents are demanding it. But let us also ensure that the industry, the industry's concerns are dealt with because this is a paradigm shift, and I think that we have to deal with their concerns as fairly as we can and ensure that they remain a part of the process. Thank you.

CHAIRMAN DUNNIGAN: Thank you. Ms. Shipman.

MS. SHIPMAN: Dennis made a lot of the points I wanted to much more eloquently than I could. And I agree with Dr. Pierce as well. I think we've got an opportunity here to maybe enfranchise the advisory process perhaps better than we have to date.

And we've all sat through many Policy Board meetings and said we really want to get the advisors more actively engaged and involved, and I think we have an opportunity here with the menhaden industry as well as the other constituencies that are very interested in that particular resource.

And I've given a lot of thought to this. It's been a hard thing to balance, but I think we are best served by going with Option 1.

CHAIRMAN DUNNIGAN: Mr. Calomo.

MR. CALOMO: Thank you, Jack. I think the comments thus far have been excellent comments, but I also heard a word that -- when I did my homework I came up with, the word is perception, perceive, a very dangerous word. For hundreds of years people have perceived and had perceptions about different matters that caused great harm. The industry has done a great job; I've heard that. We're in the black. We're not in the red. We're in good position.

They've been doing it for a hell of a long time. They're only asking for four members who have the lion's share of investment, who have made this industry what it is today, who have spent thousands, I would say millions of dollars in it, have educated us all into a business that has now become a big bait business, that small vessels and small investors have made some good money.

If the menhaden industry and the stocks were devastated to a point that we had to pull all the stops, I could understand it. But they're only asking to give us guidance, to be there, to be part of the education process that we really need at this time because most of

us here, other than having a perception about the industry, know little about it.

I feel that having the four members on the Board at this time would be a benefit to all of us. Thank you, Mr. Chairman.

CHAIRMAN DUNNIGAN: Thank you. Mr. Fote.

MR. FOTE: When we had the public hearings in our state, it was members of the bait industry that basically said we want a fair and equal footing at the table. What they wanted is the advisory committee like we have in all other boards. They want to have two members from their state. That's what they asked for. That's what Joe Brennan basically said at our public comment and said, "I'm filling the needs of the people that basically spoke in my state, both the commercial and the recreational industry for the most part".

Yes, there was one objection, but most of the bait industry basically came along and said the same thing at the hearing I was at.

CHAIRMAN DUNNIGAN: Mr. Jones.

MR. JONES: I've served on this committee quite a few years and I really think we've had a lot of input into and I've learned a lot as a member, myself. I mean, I think I probably learned more being on this Board than I would an advisory committee.

I've taken to heart some things that came from this committee as, you know, let's not target age zero fish. And you can see there's a reduction in that. Now I went back to my company and I said, "This is what we're going to do".

I said, "The Board has concerns". So I learned a lot from the individual states of what they want us to do. We can't do everything they want to do, but I mean we've tried to mold our operation. And, I mean, it's cost us money at times but we wanted to see this plan work. And if you look at this plan with us being on the Board, the fishery has stayed fairly healthy over the years. Now we want to mold this Board like all other boards.

Well, a lot of these other boards, I've seen their fisheries collapse so are we really doing the right thing by not including industry? I'd suggest maybe we need to look at other boards in the future. The people that's actually out there day in and day out know a lot about this fishery. We don't know everything. And we're not scientists, but, you know, we see the resource, what it's doing, the migratory patterns.

So I would say that we need to stick with Option 2 and keep us on the Board. Like you said, I think we're asking for four seats. As you can see, there's quite a few seats here and all I've heard from the CCA is it's the fox guarding the hen house.

Well, if four people can control these committees,

I can look at you and I think most of you are men and you make your own minds up. I don't think that I can twist anybody's arm in here to just stick with industry. I think you hear us and then you assemble what we say and make your own decisions, so I don't think we control this Board. If it is, it's news to me. So, I would like to stay on this Board.

CHAIRMAN DUNNIGAN: Mr. Wheatly.

MR. WHEATLY: I concur with what Steve just said. But what upsets me with some of the comments I did hear, like the one gentleman that said there's 14 states and they only have one vote and we have four, I mean, we're in the industry.

This isn't a football game. This isn't a sporting event. This is our livelihood and we don't want to hurt it. We want to try to educate you all a little bit. Like I said before, outside of me and Steve, there's not a sole in this room knows a thing about the menhaden industry. And I'd like to remain on this Board, but what I'm going to say to you is that we have an advisory board. It's called AMAC. AMAC advised no new restriction and open up more fishing grounds. Now most of that suggestion came from scientists in your state and the National Marine Fisheries Service, and this is what we ended up for. And if we weren't on this Board fighting like the dickens today on some of these measures, I mean, I would have been literally put out of business today. And for what reason? I don't know. Thank you.

CHAIRMAN DUNNIGAN: Thank you. At this point I'd like to ask whether there are any members of the public who would like to comment on this issue. Mr. Schill.

MR. JERRY SCHILL: Thank you, Jack. Jerry Schill with the North Carolina Fisheries Association. As far as advisory committees and the ASMFC are concerned, I go way back, as Jack knows, and many of you all do. And it was very critical, and the ASMFC has come a long way in making it inclusive. And I'd like to really give a speech but time is of the essence here. And I think what Jack Travelstead said is very, very important.

The issue of perception here is very important. I don't know whether or not it should be used as a model, but if you look at the success of the fishery and the status of the fishery, it certainly begs that question. And I think you'd be going backwards as far as your committee process and your inclusiveness if you don't adopt Option 2. Thanks.

CHAIRMAN DUNNIGAN: Thank you, Jerry. Other comments from the public? Mr. Hobbs.

MR. HOBBS: Thanks, Tim Hobbs, National Coalition for Marine Conservation. I don't think anybody is saying that industry input is not vital to the

management of this fishery. Obviously, I think it is. But like some of the other commentors, I think that that input belongs on the advisory panel. Thank you.

CHAIRMAN DUNNIGAN: Thank you, Tim. Other public comments? Back to the Board, any final comments on this before we put a motion on the floor? Mr. Carpenter you were ready to make a motion a little while ago. Are you ready now?

MR. CARPENTER: I'd like to **move the adoption of Option 2 for the makeup of the Board.**

MR. TRAVELSTEAD: **Second.**

CHAIRMAN DUNNIGAN: Second by Mr. Travelstead. Is there any further comment on this?

CHAIRMAN DUNNIGAN: Okay, do you need a second to caucus? You will get a minute and a half.

MR. BORDEN: I request a roll call vote.

MR. ABBOTT: I second the motion.

CHAIRMAN DUNNIGAN: There is a request for a roll call. Dr. Desfosse, will you call the roll.

DR. DESFOSSE: Maine.

MAINE: No.

DR. DESFOSSE: New Hampshire.

NEW HAMPSHIRE: No.

DR. DESFOSSE: Massachusetts.

MASSACHUSETTS: Yes.

DR. DESFOSSE: Rhode Island.

RHODE ISLAND: No.

DR. DESFOSSE: Connecticut.

CONNECTICUT: No.

DR. DESFOSSE: New York.

NEW YORK: No.

DR. DESFOSSE: New Jersey.

NEW JERSEY: No.

DR. DESFOSSE: Delaware.

DELAWARE: No.

DR. DESFOSSE: Maryland.

MARYLAND: No.

DR. DESFOSSE: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

DR. DESFOSSE: Virginia.

VIRGINIA: Yes.

DR. DESFOSSE: North Carolina.

NORTH CAROLINA: Null.

DR. DESFOSSE: South Carolina.

SOUTH CAROLINA: No.

DR. DESFOSSE: Georgia.

GEORGIA: No.

DR. DESFOSSE: Florida.

FLORIDA: No.

DR. DESFOSSE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE:

Abstain.

DR. DESFOSSE: Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

DR. DESFOSSE: Mr. Daiger.

MR. RICHARD DAIGER: Yes.

DR. DESFOSSE: Mr. Moore.

MR. MOORE: Yes.

DR. DESFOSSE: Mr. Jones.

MR. JONES: Yes.

DR. DESFOSSE: Mr. Wheatly.

MR. WHEATLY: Yes.

DR. DESFOSSE: And Mr. Rogers.

MR. RAY ROGERS: Yes.

DR. DESFOSSE: You had 9 yes votes, 11 no votes, 1 null and 1 abstention.

CHAIRMAN DUNNIGAN: **The motion fails.**
Mr. Travelstead.

MR. TRAVELSTEAD: I think the motion having failed, you don't need something for Option 1, then, do you?

CHAIRMAN DUNNIGAN: We only need to do something if we're changing from the preferred alternative in the plan.

MR. TRAVELSTEAD: I just had a suggestion, a side-bar conversation with Susan during the break, that if this motion failed, it seemed to me we ought to work to at least make sure that industry is present during future Board meetings. They're now being off the Board, I think it would be very helpful. I think everyone agrees that their comments are helpful on a lot of these issues.

And, I mean, while they would no longer have a vote, I think if somehow we could arrange meetings with the Advisory Panel to coincide with particular meetings of the Management Board so that they could be here for us to hear their comments firsthand, I think that would be helpful.

CHAIRMAN DUNNIGAN: Thank you. Mr. Abbott.

MR. ABBOTT: Thank you. Having been vocal for the option that we prefer, I agree with the sentiments of Jack Travelstead for I feel it's very important that they continue to be a part of the process.

CHAIRMAN DUNNIGAN: Thank you. Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. My suggestion is one critical aspect here will be the composition of the advisory panel and the balance on that panel. And that, I don't believe, is part of this amendment, and it's something that the Board should discuss and deliberate on at some point.

CHAIRMAN DUNNIGAN: There is a section in the FMP dealing with the advisors. The practice under the commission's advisory committee policy would be

after the amendment is adopted, for the Management Board to make decisions as to what the makeup of its advisory panel would be and how those members would be appointed by the states. Mr. Fote.

MR. FOTE: My comment is the same as David.

Advisory Panel Structure

CHAIRMAN DUNNIGAN: Thank you. Okay, moving ahead, we are on page 17. Section 4.8.3, 4., and 5., are standard sections that describe the management institutions internally within the Commission. We did not receive any public comments on any of those during the public review process. Are there any other comments from the Board? Are there suggestions for changes or questions with those sections?

Okay, moving ahead, Section 4.8.6 is language concerning the Menhaden Advisory Panel. We received a number of public comments as to how you might go about doing that. But as I stated a minute ago in response to David Borden's question, the Commission's normal practice is for the Board to make those decisions once the FMP is approved and you constitute the advisory panel, so there really is no need for the Board to deal with those issues today. Mr. Fote.

MR. FOTE: Well, we should be thinking about it for the next meeting.

CHAIRMAN DUNNIGAN: That's definitely sure. At the top of page 18 are a number of -- excuse me, Mr. Goldsborough.

MR. GOLDSBOROUGH: Just a quick comment on that last one, 4.8.6. I think the prevailing thinking about the advisory panels and how they operate is that the specific makeup that might give you a majority of one interest in some vote is really less and less relevant because of the need for the panels to give complete information to the boards. So as I hear more and more comment on this, it seems to me over time that boards are requesting to get majority and minority opinions out of advisory panels lest no group be disenfranchised on the advisory panel.

So I think it will work well given that we're headed in that direction, regardless of the makeup, if all interests are represented. And I'd like to also add a question. Mr. Chairman, does this mean now that AMAC officially dissolves?

CHAIRMAN DUNNIGAN: When the fishery management plan is approved, that would be the case. It would be replaced by the Technical Committee and the Advisory Panel. Thank you.

Beginning on the top of page 18 are a number of general comments that we received as a part of the public review process, not specific necessarily to any

particular item. As we begin to wrap this up here, if you would take a look at those and see whether or not you want to raise any of those points for discussion with the Board members, we will do so.

Recommendations to the Secretaries

Section 4.9 is recommendations to the Secretaries for actions in federal waters. We did not receive any public comment to this. Staff has been talking about the language that needs to go in here. And at the moment, there are no specific recommendations that are being made to the National Marine Fisheries Service for action in the EEZ under the Atlantic Coastal Fisheries Act. However, those actions may be recommended as a part of ongoing management. As the Board chooses to implement particular measures, it may find it appropriate to ask the federal government to take complimentary action. But there's nothing specific to ask them to do today that was in the draft FMP. And, again, we didn't receive any comment. Are there are suggestions or problems? Mr. Carpenter.

MR. CARPENTER: Not a suggestion or a comment but I'm wondering is that something that should go back under the adaptive management? One of the things that may be in the future dealt with through the adaptive

management process is recommendations to the Secretaries, or is having it in this section sufficient?

CHAIRMAN DUNNIGAN: Well, I think that's a good point. I'm not sure but the staff will make sure, when we're drafting this up, that we have it covered. We may mention it in both places; that adaptive management recommendations need to consider the potential for a request to the Secretary for complementary action.

Compliance Issues

Okay, moving ahead, Section 5 is compliance. Again, the staff is still looking at some minor editing that we're going to do with this section. At this time there are no regulatory compliance elements that we've considered for adoption today that need to be included and specified to the states in Section 5.1.1, unless I've missed something that we've done today.

With respect to Section 5.1.2, monitoring requirements, there was one item that we discussed earlier that the Board clearly indicated would be a compliance element. Right, excuse me, the CDFRs for purse seine vessels would be a mandatory reporting requirement, and we will include that in here. Are there other suggestions of what we need to do with this section? Again, the purpose of this section is to tell the

states, you know, beginning on the day the plan is approved, what is it you must do to be in compliance.

And, at the moment we haven't incorporated any of those. As we go through ongoing management in the future, if there are compliance requirements relative to time, season, area, all of the things we've been talking about all day, those would be designated as compliance measures at that time. Mr. Adler.

MR. ADLER: Did you mention, was there reporting or something that was mandatory and was that what you just said?

CHAIRMAN DUNNIGAN: What I mentioned was the captain's daily fishing reports --

MR. ADLER: Yes.

CHAIRMAN DUNNIGAN: -- for purse seine vessels.

MR. ADLER: You mentioned that. That is a compliance thing.

CHAIRMAN DUNNIGAN: We would include that in here --

MR. ADLER: Good.

CHAIRMAN DUNNIGAN: -- as a mandatory compliance element. I guess my question would be how long would states have to come into compliance with that or are they all in compliance already? The Chairman of the Technical Committee is pointing out that there are some bait vessels right now that are not using these and states would have to be given some opportunity, I presume, to put that requirement into effect. What would you say, six months?

MR. COLVIN: You've got to give us time to do rule-making.

CHAIRMAN DUNNIGAN: Yes, rules or statutes would have to be passed to do that. Mr. Carpenter.

MR. CARPENTER: We already have mandatory reporting, but is it a case of maybe some states are even going to need to require licenses for this bait fishery to even get the reports from? So, is there a state that has an ongoing fishery that is going to need some time?

CHAIRMAN DUNNIGAN: Well, let me ask the question a different way. States that do not require mandatory reports on captains' daily fishing records for purse seine vessels, who are you and how much time do you need? New York, six months; Connecticut. All right, Mr. Beckwith said he doesn't have an active fishery right now but if he had to do it, it would take him about four months. Dr. Pierce.

DR. PIERCE: Yes, we have a means by which we acquire records from fishing vessels of menhaden catches in our state waters. However, in order to be completely compliant with the requirements, I suspect it would take us approximately six months, maybe less.

CHAIRMAN DUNNIGAN: I've heard the number six months from a couple states around the table, and

let me suggest that that's what we include as the length of time states have to come into compliance with this mandatory element. Any objection? Joe Desfosse.

DR. DESFOSSE: Just as a means of clarification, I think when this was written it was to address those areas where there was not data collection already in place; so if a state had an alternative data collection system that they were using, they didn't have to go to the CDFRs.

CHAIRMAN DUNNIGAN: Ms. Shipman.

MS. SHIPMAN: I'm not clear. Are you saying within six months or by six months from time certain of when a fishery develops or are you saying a time certain like January 1, 2002? It's not clear to me.

CHAIRMAN DUNNIGAN: What I was suggesting was that this requirement become mandatory for states that allow purse seine fisheries six months after adoption of the FMP.

MS. SHIPMAN: I was just going to suggest for a time certain why don't you just say January 1, 2002?

CHAIRMAN DUNNIGAN: The suggestion is January 1, 2002. Is that acceptable to the Board? I see no objection and that's how we'll write it.

Moving ahead, still within Section 5, under compliance there is reference to research requirements. None are specified at this time. Law enforcement requirements, essentially the requirement there is for reporting.

Habitat requirements, there are no mandatory habitat requirements that have been included. We did not receive any public comment on any of those. Comments? Mr. Freeman.

MR. FREEMAN: I mentioned previously the issue of states that have surveys, particularly catching young of year menhaden, provide that data at least to the Commission, to the Technical Committee. And apparently some states are doing it; other states are not. And either under the research requirements or down under 6, research and management needs, there should be some statement to encourage states to provide that information. And I would suggest that either through the Technical Committee or the Plan Development Team they canvass the states to make certain which states are collecting such data and seek that information if we're not using it.

CHAIRMAN DUNNIGAN: Let me suggest that I think that's a good idea, and it would appropriately fit under Section 5.3., which are the recommended management measures, not necessarily compliance issues but strong recommendations for the states to do that.

MR. FREEMAN: But, again, I think this information is extremely important for making

intelligent decisions in the future, and we should utilize all the information that we have at hand.

CHAIRMAN DUNNIGAN: Good point. Other comments? All right, everybody, stick with us here, we're getting real close. Comment? Law enforcement.

MR. BLOXOM: Mike Bloxom, Law Enforcement Committee. All right, on the reporting requirements, are we talking about the same type of report that we're doing for the striped bass now?

CHAIRMAN DUNNIGAN: No, we're not.

MR. CARPENTER: They're worse.

CHAIRMAN DUNNIGAN: No. No, they're not. Moving ahead, there are a couple of sections left that we didn't receive any public comment on when we went out.

The research and management needs section and the protected species sections have been included in the draft FMP that you have seen and we haven't had any suggestions for those. There are no mandatory requirements or other management measures that are a part of that. The one issue I would focus your attention on is Section 5.4, an analysis of enforceability of proposed measures and this may get to Mike Bloxom's last comment. That section of the plan hasn't been written yet. It will be written in cooperation with the Law Enforcement Committee before we bring the final document back to you in April. Mr. Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. I would suggest under the enforceability, that if in fact during their annual or biannual meeting of the Enforcement Committee, that those states that have fisheries ongoing essentially inform the other enforcement representatives of their activities just for purposes of reporting, not that it's a requirement, but I think it would be good for states to share such information. And if, in fact, that's not on the agenda of the Enforcement Committee, I think it's something that would be very helpful.

CHAIRMAN DUNNIGAN: I think that's an excellent suggestion and we'll do that in working with the Law Enforcement Committee in establishing their agendas.

We have made our way through the document, ladies and gentlemen. At this point the chair would entertain a -- not quite. Mr. Goldsborough.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. I just have, now that we're done, a broad comment and a request, I guess. In Section 4.2.7 we agreed on catch control options, coastal TAC by area and some restriction on juvenile fish. My question is what actions are we taking under this plan to accomplish the latter of those two things, some protection on juvenile fish?

The explanatory text in the September draft of the

plan under that option states, "Additional restrictions on the harvest of juvenile menhaden would need to be implemented." And there's a parenthetical statement to give what they might consist of and it says, "size limits, further reduced harvest and nursery areas, seasonal closure to protect age zeros, et cetera." Now since we have agreed today not to use size limits, not to use mesh restrictions and not to use closed areas, that just leaves us with et cetera. When we're called upon to vote on this plan in April, I think it's important to know what the et cetera is.

And so I'd like to make a request that the Technical Committee be prepared to explain to us what measures under this plan will be taken to protect juvenile fish.

CHAIRMAN DUNNIGAN: Mr. Travelstead.

MR. TRAVELSTEAD: My recollection is a little bit different. I don't think we excluded mesh sizes from the tool box or area closures. I think they're still available to us.

CHAIRMAN DUNNIGAN: Go ahead, Bill.

MR. GOLDSBOROUGH: Yes, they are in the tool box, that's correct, but we are not recommending any action under this plan. In fact, we explicitly decided not to take action on the mesh sizes, and we eliminated size limits, of course, entirely from the tool box.

But my question, regardless of how you interpret the action today, my question stands. I'd like to have the Technical Committee be prepared to tell us what actions under this plan will protect juvenile fish before I can vote on the plan.

CHAIRMAN DUNNIGAN: Thank you and the question will be referred to staff and to the Technical Committee. Mr. Wheatly.

MR. WHEATLY: Well, I'd like to ask a question. What protection do the juveniles need? That's my question. What protection do they need, and what data supports that?

MR. GOLDSBOROUGH: Our action today calls for some restriction on juvenile fish. That's what I'm citing. I'd like to know what that's going to consist of.

MR. WHEATLY: You said our data today?

MR. GOLDSBOROUGH: Our action today.

MR. WHEATLY: Oh. Well, there's no reason for it. I mean, I have not heard of any reason for it. The National Marine Fisheries Service, who has collected the data since the '50s, recommended no change. There's no harm and it said that my company in North Carolina has zero effect on them so what protection do they need?

MR. GOLDSBOROUGH: It appears we're rehashing in a debate from earlier today, Mr. Chairman.

CHAIRMAN DUNNIGAN: I think you're correct and I think, you know, we've noted the question that

Mr. Goldsborough made to the staff, and the Technical Committee will be prepared to discuss it in April; and if we need to get into further issues at that time, we can.

Okay, no, we are not going to adjourn. We've got business. At this point I would like to have a **motion to direct the staff to prepare the final draft of the FMP in accordance with the Board's decisions this afternoon.**

MR. FREEMAN: **So moved.**

CHAIRMAN DUNNIGAN: Motion by Mr. Freeman, **seconded by Mr. Nelson.** Is there any objection to the motion? **Seeing no objection, the motion is approved.** Congratulations, folks, you did a lot of good work this afternoon.

And let me also thank Joe Desfosse. Joe has been working very, very hard on this for a long, long time, it's a drudgerous and complex process. So, from the staff standpoint, I definitely want to thank Joe for all of his efforts. (Applause)

Now just what I'll say is you're going to get a draft of the FMP soon, but in enough time prior to the annual meeting. You know, check it over. If you see big problems, get a hold of Joe or Dieter. I'm not planning on a real long Board meeting in April. You've made the decisions today. The document will be there for your final approval. Depending upon what we hear from you in the interim, we may need to schedule some extra time to deal with specific issues that you bring forward at that time. But, you'll have your final approval of the document in April and then it will go to the Policy Board and presumably the Commission as well.

Okay, moving ahead, we have one last agenda item. Before we thank him too much, we've got to put Dr. Desfosse back to work and talk to us about our planning horizon for the next 12 to 18 or more months.

MANAGEMENT PROGRAM OVERVIEW

DR. DESFOSSE: And what I'll refer to is just the table of the quarterly outline of the management program, and this goes through the winter of 2000 through the fall of 2003. This is basically the staff outlook for what it would take to continue the menhaden management program in the future.

Concentrating on 2001, the spring of '01 will reflect the Board having to meet in April to approve the final amendment. There's a Technical Committee meeting scheduled for April. I'm not sure how that's going to mesh with the Board meeting when the meeting week is, whether or not that Technical Committee will meet prior to the Board meeting. If it meets following it, the Technical Committee will report

to the Management Board in July and report on stock status at that point. And the Board can develop measures for the following season, if necessary, depending on stock status.

Basically you would be looking at one or two meetings of the Management Board for the upcoming years. One meeting would be to review any compliance reports or issues that come up and one meeting to review the stock status and develop recommendations for future implementation if necessary. That's about it.

CHAIRMAN DUNNIGAN: Any questions of Joe as to how this is about to develop? This is one of these management situations that's going to move shortly below the line. But recognizing that as a part of our ongoing management program, we're ready to take action if we have problems. Comments or questions?

OTHER BUSINESS

We are on to other business, I believe, on our agenda. Is there anything else to come before the Board this afternoon? Okay, don't anybody go any place, but thank you all for your attention. Without objection, the Menhaden Management Board is adjourned. (Whereupon, the meeting was adjourned at 5:45 o'clock, p.m., January 30, 2001.)
