

ATLANTIC STATES MARINE FISHERIES COMMISSION

Radisson Hotel Alexandria, Virginia

ATLANTIC MENHADEN MANAGEMENT BOARD

February 8, 2000

Approved April 5, 2000

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ATLANTIC STATES MARINE FISHERIES COMMISSION

Radisson Hotel Alexandria, Virginia

ATLANTIC MENHADEN MANAGEMENT BOARD

February 8, 2000

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Attendance

Board Members:

Niels Moore, Vice-chair, NFMOA
Richard Daiger, Bevans Oyster Co.
Bill Goldsborough, MD Gov. Appte.
Ray Rogers, Virginia
Jule Wheatly, Beaufort Fisheries
Charles Williams, proxy for Steve Jones, Omega Protein Co.
Tom Fote, (as proxy for Sen. Bassano) proxy for Sen. George Gunther, CT Leg. Appte.

Bruce Freeman, New Jersey DFG&W
Lew Flagg, Maine DMR
Paul Perra, NMFS
Dr. David Pierce, Massachusetts DMF
Preston Pate, Jr., N. Carolina DMF
Jack Travelstead, VA MRC

Ex-Officio Members:

Rob Winkel, proxy for Capt. Mike Bloxom, MD NRP, LEC Rep.

Other Commissioners:

Pat Augustine, NY Gov. Appte.
David Borden, RI DEM
Ernest Beckwith, CT DEP

Susan Shipman, GA Coastal Resources
Dr. Lance Stewart, CT Gov. Appte.
Catherine Davenport, VA Gov. Appte.

ASMFC Staff:

Dr. Joseph Desfosse
John H. Dunnigan
Bob Beal
Jeff Brust

Tina Berger
Heather Stirratt
Dieter Busch
Amy Schick

Guests:

Dr. John Merriner, NMFS
Dick Brame, CCA
Sherman Baynard, CCA-MD
John Carmichael, NC DMF
Bob Palmer, FL FWCC

Red Munden, NC DMF
Dr. Louis Daniel, NC DMF
Lt. Col. Bill McKeon, MA Mar. Fish. Law Enforcement
C. Dianne Stephan, NMFS
Jim Fair, MA DMF

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

Atlantic Menhaden Management Board

February 8, 2000

SUMMARY OF MOTIONS

1. *Move to approve the minutes of the November 1, 1999 meeting of the Atlantic Menhaden Management Board.*

Motion by Mr. Travelstead, second by Mr. Flagg. Motion carries unanimously.

2. *Move adoption of option 3B (for interim Board structure) as a recommendation to the ISFMP Policy Board [the effect of this motion would be to invite all the states/agencies that have a declared interest in menhaden management to participate as Board members during development of Amendment 1, as well as retaining the existing non-governmental members; the current state members would be replaced by their state delegations and then the state delegations would operate according to the process outlined in the new ISFMP Charter].*

Motion by Dr. Pierce, second by Mr. Fote.

Move to amend the motion to read “full membership for the states/jurisdiction (that are) not currently represented (with) voting status (for a state) that has not closed their coast to menhaden fishing”

Motion by Mr. Wheatly, second by Mr. Williams. Motion to amend fails on a voice vote.

The main motion passes by a voice vote.

ATLANTIC STATES MARINE FISHERIES COMMISSION

ATLANTIC MENHADEN MANAGEMENT BOARD

Radisson Hotel

Alexandria, Virginia

February 8, 2000

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The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel, Alexandria, Virginia, on Tuesday, February 8, 2000, and was called to order at 5:00 o'clock p.m. by Vice-Chairman Niels Moore

WELCOME; INTRODUCTIONS

VICE-CHAIRMAN NIELS MOORE: If I could have your attention, despite the fact that I'm sitting in front of you now, if you're here for the Atlantic Menhaden Management Board meeting, you're in the right place. Our Chairman, Bill Pruitt, cannot be with us today, so as your Vice-Chairman I'm substitute batting today. And, hopefully, I won't mess up too badly and keep things moving along. And I have Joe here to help me, and hopefully, we'll get through it. So, I guess we'll go ahead and start out by having roll call. (Whereupon, the roll call was taken by Dr. Joseph Desfosse)

APPROVAL OF AGENDA; MINUTES

VICE-CHAIRMAN MOORE: Do we have any additions to the agenda? Hearing none, we'll move on. Approval of the minutes, hopefully, we've all had a chance to look at the minutes from the last meeting of November 1. Do we need some time to review this? Does everybody have the minutes from the last meeting?

MR. JACK TRAVELSTEAD: **Move approval.**

VICE-CHAIRMAN MOORE: We have a motion. Is there a second to the motion?

MR. LEWIS FLAGG: **Second.**

VICE-CHAIRMAN MOORE: Discussion? Call to vote. All those in favor say aye; opposed. **The motion is approved.**

PUBLIC COMMENT

Public comment. I guess this is a period if anybody from the public would like to have anything to say, this is your opportunity.

I believe we have a mike in the back. We would ask you to please step forward and use that if you so choose. Any public comments at this time? Hearing none, we'll move on to Agenda Item Number 5.

At this point, we're to discuss the means of including non-member states to oversee development of Amendment 1. At this point I'll pass the baton over to Joe Desfosse, our staff member.

INCLUSION OF NON-MEMBER STATES/AGENCIES

DR. JOSEPH DESFOSSE: Based on concerns that were raised at the Policy Board at the Annual Meeting and also

through a letter from Congressman Gilcrest of Maryland, the staff put together a number of options for the Board to consider as interim measures during the development of Amendment 1 to the FMP to address the inclusion of non-member states in the development process.

To briefly go over the letter from the Congressman, it summarizes his views on the menhaden situation. It does state that at the time the menhaden catch from 1999 was 39.7 percent lower than the previous five-year average. The most recent information from Joe Smith is that it's 38.7, just for everyone's information. The Congressman asked to expedite the process of changing the Board structure. He requested the Board take emergency action to reconstitute the Board and also to restrict the reduction fishery in the Chesapeake Bay. I believe he was specific there.

Staff put together the list of options here. There are three of them. Under option 3 there are two sub-options. I spoke to Jack, and he said 3B is not a viable option so we'll just disregard the last option on the page there. I also provided in your mailing excerpts from the Policy Board meeting so that you could review what occurred at that meeting in terms of the makeup of the Menhaden Board. At this time I'll just go over the three options. The first is status quo; you wait for the adoption of Amendment 1 before changing the Management Board structure.

The second would be to initiate the change in Board structure now. It changes the Board structure to one like all the other Commission Management Boards. It eliminates industry input at the Board level. Staff notes that it might be necessary to reconstitute the Technical Committee as well into separate Technical and Advisory Committees.

The third option -- again, there used to be two options here but only one is viable -- is to invite those states or jurisdictions that are not currently represented on the Board to participate in the development of Amendment 1 now. The industry members who are currently members of the Management Board would remain as Board members until adoption of Amendment 1. At that time, the Menhaden Board structure would revert to one that is consistent with the other species management boards.

VICE-CHAIRMAN MOORE: Do I hear any motions? All right, general discussion, then?

MR. TRAVELSTEAD: Joe, you said that Option 3B was not available to us. Can you or Jack give some explanation as to why that's the case?

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: I think the only issue, Jack, would be finances, you know, for a larger Board and having more people. Although if we were meeting at times when people were with us, anyway, that wouldn't be much of an issue.

Again, the makeup of the Management Board, this Management Board is specified in the ISFMP Charter which was

adopted after the last Plan was adopted. It constitutes the current membership of the Board. And I think it is within the purview of the Policy Board in the Charter to make changes. And I frankly think that either 3A or 3B would be alternatives that the Policy Board could follow up on.

MR. TRAVELSTEAD: Can I follow up on that? Although we have three or four alternatives here, it seems to me you could boil down the issue to whether or not we proceed immediately to change the structure of the Board now with a separate addendum and put everything else on hold with respect to menhaden, while that's being done, or we follow the course we set at the last meeting, which was to address the structure of the Board with all the other management issues with menhaden and make those final decisions between now and October when we present the final plan to the Commission.

So I guess I need some comment from staff as to -- I mean, if you're saying finances are an issue with the size of the Board, it would seem to me that finances might be an issue with respect to doing two addenda, one to address Board structure and one to address everything else.

EXECUTIVE DIRECTOR DUNNIGAN: Jack, the third alternative would be just to make the change to the Charter right now. That would be within the purview of the Policy Board. So you could either do an amendment just for the Board makeup and then have the rest of the amendment slide through afterwards. You could deal with the issue in the amendment along with all the other amendment issues or you could just make the change to the Charter without waiting for the amendment to make the change.

VICE-CHAIRMAN MOORE: Tom.

MR. TOM FOTE: That means on the Policy Committee meeting tomorrow -- is it tomorrow -- if we voted today, they could change it tomorrow without an addendum?

EXECUTIVE DIRECTOR DUNNIGAN: Yes. Again, we've been over --

MR. FOTE: So does it make sense to go to an addendum with something like that?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, we've been over this ground. I mean, it's inconsistent with the FMP, but the FMP was written before the current rule and regulation setting up the ISFMP and the Charter were adopted.

In my view, in the discretion of the Policy Board, if they think it's appropriate to override that portion of the FMP, I think they have the ability to do that, but that's their choice. So it's one of the options that they have. And I think my views on this issue have been expressed quite clearly for some time.

VICE-CHAIRMAN MOORE: Any other discussion? Yes, sir.

DR. DAVID PIERCE: Joe, you attached excerpts from the draft ISFMP Policy Board minutes of November 4, 1999. Could you draw our attention to that which is in these excerpts which you think is pertinent to our discussion here this afternoon? Is there something you should highlight for us?

DR. DESFOSSE: When I included this in your packet, I did not have anything specific in mind. It was just as general background material.

VICE-CHAIRMAN MOORE: Any other discussion? Paul.

MR. PAUL PERRA: Yes, I think for my own point of view we were committed to working with the industry to develop the amendment and then change the policy of the Board, the

membership of the Board, I'm sorry, through the amendment process. I believe it's already in the draft amendment. That being said, though, whatever is developed by the Board must go through the Policy Board and the Commission, so it would behoove the Board to have the other states at the table as the amendment is developed.

So, I would prefer the option where the other states are invited, the non-member Commissioners are invited to participate in all the Board functions and develop the amendment that way. Once the amendment is finished, then we can restructure.

VICE-CHAIRMAN MOORE: Julie.

MR. JULE WHEATLY: Yes, in answer to Congressman Gilchrest's letter there, I think everybody in this room knows that we had a couple of hurricanes that hit the coast of not only North Carolina but also Virginia. We also know the weather in the fall of the year was devastating. And we also know we reduced the fleet size of the vessels of each plant due to the price of the product.

But getting back to the amendment, I think we would be very shallow to do anything but Number 3, and it would be very hypocritical for the ASMFC to recommend anything any different. All I've heard for the last four or five years is the praise of what North Carolina has done with its Moratorium Steering Committee and then come back with its Fisherman's Management Plans. And the only success these management plans have had or getting it through the moratorium process was the participation of the commercial fishermen, recreational fishermen, and the scientists. That was the only way it happened.

So for us to say that the state of North Carolina did a great job in its management plans and a great job and is a model for the rest of this country to do their fisheries management plans and then for this group to throw industry off, is very hypocritical and it'll be sad on the management plan.

VICE-CHAIRMAN MOORE: Yes, sir.

DR. PIERCE: Yes, Mr. Chairman. I would **move that the Board adopt Option Number 3.**

DR. DESFOSSE: Three A or 3B?

VICE-CHAIRMAN MOORE: Is there a second?

MR. FOTE: 3A or 3B?

VICE-CHAIRMAN MOORE: Would you please clarify that, are you moving 3A or 3B?

DR. PIERCE: All right, so A and B are still viable options? I thought that we didn't need A or B, that just Number 3 would be sufficient without either A or B attached to it. I need some guidance from staff on this. **All right, 3B.**

VICE-CHAIRMAN MOORE: Is there a second?

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

VICE-CHAIRMAN MOORE: Discussion? This is for the option, full membership for states/jurisdictions not currently represented with voting status, as opposed to an ad hoc membership, no voting status. Tom.

MR. FOTE: I would assume that if this option goes through, there would no longer be a separate Governor's appointee or Legislative appointee on here since all states will be fully represented and would go back to a caucus vote for those states that are on the Board. And that's the caveat. So, there wouldn't be an individual Governor's appointee or Legislative appointee, but it would become a caucus vote of the three individuals on the

Board. I want to make sure that was clear.

DR. PIERCE: Yes.

VICE-CHAIRMAN MOORE: Jack.

MR. TRAVELSTEAD: Jack, I thought I heard you say that finances would be an issue with 3B if you're going to a Board of that size.

EXECUTIVE DIRECTOR DUNNIGAN: I was trying to figure out why Joe and I appeared to have miscommunicated, and that's offhand the one thing that I could imagine might have been an issue. But, frankly, the Atlantic Menhaden Board has been meeting lately during meeting weeks, anyway. So we've already gotten the people here, so to me it probably would not add a significant financial burden to carrying out our program.

VICE-CHAIRMAN MOORE: Further discussion? Yes, sir.

MR. PRESTON PATE, JR.: What states have declared an interest that are not represented on the Board?

DR. DESFOSSE: All the states have declared an interest except for Pennsylvania and the District of Columbia.

VICE-CHAIRMAN MOORE: Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. I would speak in favor of this motion. I think it is somewhat of a compromise. I understand Mr. Wheatly's concerns, but I think this would allow each of the states that want to participate in the process to do so. And I support B from the standpoint that if, in fact, the state or jurisdiction was only allowed to participate but not be a voting member, I would feel disenfranchised as a state member. I'm sure others would as well.

I think 3B accomplishes the goal we all want. It keeps industry involved and it provides those states who want to participate more fully to do so. So I would certainly support this motion.

VICE-CHAIRMAN MOORE: Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. First a clarification. I assume any motion we pass here is just to put together a recommendation for the Policy Board?

VICE-CHAIRMAN MOORE: That's correct.

MR. GOLDSBOROUGH: And then the Policy Board will act as it sees fit? As I see it, there are two main issues at stake here. One is the one that's been mentioned of all states with an interest being at the table.

And the other is all interests overall being treated the same way. And I think the second one is the crux of the matter for some folks. Frankly, I think the first one is more important. And this motion deals with that one, so I'm inclined to support the motion.

I think the sentiment the last time around was worthwhile, the sentiment at the Policy Board from the standpoint of not pulling a fast one, if you will, on industry.

This fishery has been managed with industry participation at the Board level for many years. I do believe, though, that ultimately we need to get to a point where all interests are represented in an equitable manner. And I think that's best accomplished in an Advisory Panel like our other Boards, and that this Board ought to be constituted like other Boards. And we ought to have a Technical Committee. But I see no reason why we shouldn't have a transition to that end, if you will. And I think that this motion does that.

VICE-CHAIRMAN MOORE: Further discussion?

MR. FLAGG: Thank you, Mr. Chairman. I, too, am in

favor of this motion mainly because I feel that with the development of Amendment 3, in order for that to withstand any criticism and in order to sustain credibility in the process, I think we really do need to have a very inclusive process. And I certainly do support the idea of continuing to allow industry members on the Board until Amendment 1 is fully developed and approved.

VICE-CHAIRMAN MOORE: Thank you. Tom.

MR. FOTE: I'm here as a proxy for Senator Bassano, but I'm also really representing all of the legislators. That's who I represent when I basically fill this slot. Senator Gunther was pretty adamant. He wanted Option 2, but I'm looking at all the legislators I represent, and they want to look and try to be fair so they say this is what I would look at as a transition period until we get to the other option. That's why I supported this instead of -- and Doc is probably going to beat me up when I see him, but I'm here representing all the legislators and I think 3B is the fairest thing to go at this time. And that's why I supported 3B and not 2, because I'm representing all the legislators.

VICE-CHAIRMAN MOORE: Just as a clarification, Tom, is that a consensus that was reached by the legislators at this point?

MR. FOTE: Yes, I mean, the ones I talked to, the ones that got in contact with me.

VICE-CHAIRMAN MOORE: Jule.

MR. WHEATLY: You know, I sit here and I listen to you people talk. I sit here and I look at this letter from Congressman Gilchrest, and the compassion in it by taking one little bit of evidence from a fish case when the coast was hit with four hurricanes. And I sit back and I listen to Bruce Freeman talk about the goals that this will accomplish, and the only goal that this is going to accomplish is either putting quotas or shutting the menhaden industry down.

Now when you have two states or three states that have a viable menhaden industry in it and the other ones have absolutely no interest, the only interest they have is shutting down the menhaden industry, and they take the least bit of evidence or the least bit of so-called data, particularly catch data, in lieu of the devastation we've had, no compassion, no feeling, just shut it down.

And we cannot sit back and let states that come back here and tell us they want to shut down the menhaden industry; put them on a Board and they're not going to listen to any evidence that was put before them. They're not going to look at any data. Their minds are made up. You have a sports fishing group that's already got its mind made up. And I can tell you what's going to happen. And everybody sitting at this table knows what's going to happen if we go with 3B.

VICE-CHAIRMAN MOORE: Further discussion? Charles.

MR. CHARLES WILLIAMS: Yes, just to expand on what Jule Wheatly said about the letter, it's kind of disturbing to me, too, from the Congressman. I think he's getting information from one side and one group. He's written a letter. I don't know that he knows that much about the fishery, in my opinion. He alludes to the 1999 catch was the second lowest ever recorded. He doesn't say that it was probably the lowest fishing effort since we've been tracking the historical data of menhaden.

There used to be in excess of 40 to 50 boats fishing out of the Chesapeake Bay alone, and this year there were 13. And it doesn't go in to say when they're talking about the historical data

about the fishing ground. When I first got involved with the industry, you could fish to the beach in just about every state. Now there are three-mile restrictions in every state. There are restrictions in Delaware Bay, New Jersey, New York, that a lot of fish were landed previously and they're not now.

I don't want to belabor the point, but I think we all know what's going to happen. But I just hate to see a document like this with an inordinate amount of weight put on something like this and the other side is not listened to.

VICE-CHAIRMAN MOORE: So noted. Jule.

MR. WHEATLY: And I'll go back to what Charles just said, Charles Williams, is that why don't we amend this so we have a fair Board, a fair Board? That's all we ask for is a fair chance, a fair shake.

I'd like to turn it over to the scientists. But, why don't we **amend this amendment to the fact that any state that's closed its waters to menhaden fishermen, to reduction boats, not be allowed to be on it?** I mean, they've already got their minds made up. Who are they going to put on this Board that's not already got their mind made up? I mean, we don't stand a snowball's chance in hell, and you all know it. Everybody here knows it.

We're out numbered. There's two menhaden plants. You can't call mine a big one, and we reduced right on down to nothing. And here we are sitting here discussing this. And what's going to happen to us? We know what's going to happen. So if you do this to us, you're driving a stake in our heart.

VICE-CHAIRMAN MOORE: **Are you making that an official amendment to the motion at this point?**

MR. WHEATLY: **Yes, I would.**

VICE-CHAIRMAN MOORE: Could you please restate your amendment, please, amendment to the motion.

MR. WHEATLY: **Amendment to the motion would read full membership for the states/jurisdiction not currently represented voting status that has not closed their coast to menhaden fishing.**

VICE-CHAIRMAN MOORE: Is there a second to the amendment to the motion?

MR. WILLIAMS: **Second.**

VICE-CHAIRMAN MOORE: Discussion? Bruce.

MR. FREEMAN: The comments I have that I'd like to make are to Jule's and Charlie's comments previously. You're essentially prejudging the actions that the Commission will take, and I think that's a mistake. Certainly, I have no idea at this point where the Commission is going to come out on this issue so far as this plan is concerned. Perhaps you're clairvoyant and you can tell, but I think most of the other members certainly cannot.

And I feel that you criticize some for having their minds made up and, in fact, your mind is made up. You're convinced of an action that will be taken that the Board has yet to discuss. I certainly would speak against the amendment to this motion. I think this is certainly something I can't support, and I believe that the Board will treat, as it has in other instances, everybody fairly.

VICE-CHAIRMAN MOORE: So noted. Jule.

MR. WHEATLY: Well, Mr. Freeman, let's put it like this. I'm putting my job on the line if what happens comes to pass. Would you put your job on the line and go on record?

VICE-CHAIRMAN MOORE: Further discussion? Tom.

MR. FOTE: Jule sits there and talks about the menhaden industry as if the reduction boat is the only part of this industry. In New Jersey a substantial part of this industry is the bait industry. As a matter of fact, we're basically harvesting as much for bait the last couple of years as has been harvested for reduction in our state. And it's interesting to see the statistic. It's an important bait industry up and down this coast. It is not just one industry.

There are multiple industries that depend on menhaden in this thing. And what we're trying to look at is each state and its state's industry, how it is affected by a menhaden plan. So any of these states -- your motion is probably wrong because what you said, "Any state that has closed their waters to menhaden fishery," well, what does the "menhaden fishery" mean?

Well, the menhaden fishery to my estimation means harvest for bait, harvest for whatever reason that it's being harvested. So, if I can prove I've got one bait boat, then that allows me to sit on this Board. I guess that's not what you meant, Jules, and maybe you want to clarify your motion, but that's my problem here. All the states have a vested interest in this fishery whether they harvest for bait, whether they harvest for reduction.

And how we all interact, this is what this Commission does, how we all interact with each other has been done on a Commission status. It's done on a compact with states where states sit around this table trying not to do it unfairly. What we do back in our states is one thing. But when we sit on this table, we try to be fair to all the states involved and treat them equal. And that's really what the decision is here.

VICE-CHAIRMAN MOORE: Just to throw in my two cents here very quickly -- I guess it's the Chairman's prerogative -- I think Jule is speaking, I suspect, from the perspective of coastwide landings of menhaden, which I believe comprise about 90 percent of the overall landings. So, you are correct in that bait does constitute a significant portion of the landings for some states, particularly New Jersey. But, at the same time Jule, is correct in that overall, coastwide, the reduction fishery is still by far the most, takes by far the most landings. Jule.

MR. WHEATLY: Let me clarify. You're exactly right, but I did include commercial fishing. And I did include New Jersey when I said the three states that allow commercial fishing for menhaden. That was including the bait industry in New Jersey.

VICE-CHAIRMAN MOORE: Bill.

MR. GOLDSBOROUGH: Although I understand the sentiment behind the proposed motion amendment, I think it misses one point here, and that is that there are lots of interests with regard to menhaden. And I don't think that it minimizes the significance of the reduction industry; and that states that have reduced access to the reduction industry aren't necessarily states that are opposed to the reduction industry existing in some form. But I think, more likely, it's a matter of states viewing reduction industry operation in their waters as competing with the other interests that are more important to them.

And that issue of perception or dispute, I think, underscores the need to bring each of those states to the table on an equal footing where those kinds of issues can be worked out. So, I would reiterate that I think that the motion that was on the table is a good compromise motion, and I would not support the proposed amendment.

VICE-CHAIRMAN MOORE: Jack.

MR. TRAVELSTEAD: Tomorrow the ISFMP Policy Board

meets, and tomorrow in the blink of an eye the industry could be gone from this Board. Now, they can do that tomorrow or they might delay and hold off until the spring meeting in June. But the fact is that regardless of what we do here, the ISFMP Policy Board could change things drastically with one motion. And we know that the states who are not represented here have very strongly held opinions on how this Board should be structured. I am willing to bet that there is more to gain by bringing those states not now represented to the table than there is to adopt a motion that eliminates states from this process.

I cannot vote for any motion that would eliminate a state representing all of the factions, as Bill has said, from sitting around the table. So, for that reason I cannot support the amendment that is offered, but will support the main motion because I believe it's a transition that is occurring at a time when it is needed. It will bring the states who have not participated in the process and, quite frankly, where so much of the trouble has occurred with all of these closed areas. It will bring them to the table and allow them to hear all of the discussions about the status of this resource and the impacts that the industry has suffered over the last several years. And in that way we'll end up with a better amendment than we could otherwise. Thank you.

VICE-CHAIRMAN MOORE: Paul.

MR. PERRA: It could take a lot of time on this, so let's just call a question on this. And if it doesn't pass, we'll get back to the original motion.

VICE-CHAIRMAN MOORE: Okay, we have an amendment on the table right now. We'll call it to vote. We'll just do it by voice vote. All those in favor say aye; opposed, **The amendment to the motion, I believe, fails.**

MR. FOTE: Call the question on the original motion.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, can I ask a question?

VICE-CHAIRMAN MOORE: Please.

EXECUTIVE DIRECTOR DUNNIGAN: Just before you take a vote, I want to make sure the record is clear. The effect of this motion as a recommendation to the Policy Board is that all of the existing non-governmental members stay on the Board through the amendment process at least, depending upon what that amendment says, but the seven government members, six of whom represent the Commission, those six will be replaced by all of the state delegations. The seventh member is the National Marine Fisheries Service, and they'll continue to stay on the Board. So the Board will be made up of the existing industry members, all of the states and the National Marine Fisheries Service and Potomac River Fisheries Commission. Is that correct? That's the recommendation to the Policy Board.

MR. FOTE: As the seconder to the motion, my understanding of the motion, the industry stays on the table with all the states.

EXECUTIVE DIRECTOR DUNNIGAN: The maker of the motion is shaking his head, yes, I think, too.

MR. FREEMAN: For clarification. I think technically, Jack, this is to invite those members. You're correct if all of them want to serve, they could. It doesn't require all of them to do so.

EXECUTIVE DIRECTOR DUNNIGAN: That's a good point, Bruce. Thank you very much.

VICE-CHAIRMAN MOORE: Clarification. If I'm understanding you correctly, you're saying that the current state

representatives would no longer serve through the amendment process; is that correct?

EXECUTIVE DIRECTOR DUNNIGAN: Correct. In other words, right now the Commission representatives who are on the Board are Pruitt, Flagg, Freeman, Goldsborough, Gunther and Pate, and those individuals would go off the Board in favor of all of those states that accepted the invitation to become members of the Board.

VICE-CHAIRMAN MOORE: Which could include their states?

EXECUTIVE DIRECTOR DUNNIGAN: Oh, sure, but they're not on anymore as individuals. It's state membership.

VICE-CHAIRMAN MOORE: Bill.

MR. GOLDSBOROUGH: If I understood you right, Jack, then the Fish and Wildlife Service is not on the Board now and would not be under this motion?

EXECUTIVE DIRECTOR DUNNIGAN: Well, the document you have in front of you, Joe is just pointing out to me, says "states or jurisdictions", and we should clarify whether or not we believe the Fish and Wildlife Service is one of those jurisdictions.

MR. GOLDSBOROUGH: I would argue for clarification to the effect that the Fish and Wildlife Service is; and if it is interpreted not to be the case, I would like to offer an amendment to the motion such that they be included.

If this motion were to pass otherwise, they would be the only entity represented on other species boards, to which we're trying to move, which would not be represented. So, in the spirit of inclusiveness, I would suggest that we find a way to include the Service.

VICE-CHAIRMAN MOORE: Thank you. Yes, sir.

DR. PIERCE: As the maker of the motion, my intent was to include the Fish and Wildlife Service, if that would help matters.

VICE-CHAIRMAN MOORE: So noted.

MR. FOTE: No, what I seconded was the motion on the jurisdictions and the states. That's what I seconded.

EXECUTIVE DIRECTOR DUNNIGAN: Are you in agreement with David?

MR. FOTE: I'd like some discussion on it. I'd like to hear people's opinions because basically, the motion I seconded, I didn't even think about the Fish and Wildlife Service. I assumed they were on the Board.

VICE-CHAIRMAN MOORE: Paul.

MR. PERRA: Like I said before, the fact of the matter is that whatever the Board develops will have to go through the Policy Board, which the Fish and Wildlife Service is a member, so why not have them at the table when we develop it rather than bring them in late in the process where we could have problems later on. So, I would like to see them on the Board for inclusiveness.

VICE-CHAIRMAN MOORE: So noted. Further discussion? Yes, sir.

MR. FLAGG: Just a brief clarification from Jack. As I understand it, the process would be that the states would then have to declare an interest in the fishery and then there would be the process of getting all the states involved that declared the interest?

EXECUTIVE DIRECTOR DUNNIGAN: Right. If the Policy Board were to adopt this tomorrow, then they've already declared an interest. We would issue them an invitation and the

staff would give them a certain time to respond.

VICE-CHAIRMAN MOORE: Any further discussion?

MR. TRAVELSTEAD: Just one last question.

VICE-CHAIRMAN MOORE: Of Jack?

MR. TRAVELSTEAD: Of Jack. To change that Charter, is that what we're changing or the Policy Board --

EXECUTIVE DIRECTOR DUNNIGAN: Yes.

MR. TRAVELSTEAD: Is there any type of public process we have to go through to do that?

EXECUTIVE DIRECTOR DUNNIGAN: No, there's none that's specified in the Charter.

VICE-CHAIRMAN MOORE: Bill.

MR. GOLDSBOROUGH: I guess now that we've had some further comment, I would ask the seconder if it is his interpretation that the motion means to include the Fish and Wildlife Service.

MR. FOTE: Since I have heard no objections by anybody sitting at the table, the rest of the members, I will assume that is what the motion says.

VICE-CHAIRMAN MOORE: Any further discussion? Seeing none, I will call the question. All those in favor of the original motion say aye; opposed. **The motion passes.**

That brings us to Number 6 in our agenda, review draft Amendment number 1. Joe.

REVIEW OF DRAFT AMENDMENT 1

DR. DESFOSSE: The PDT had its first meeting approximately two weeks ago to put together the first draft of the Amendment 1 to the Menhaden FMP. My intent was to quickly go through the sections in here, pointing out where the PDT needs some direction from the Management Board, where there are options to be considered and get some input from the Management Board.

The PDT has a tentative meeting scheduled for February 23rd and 24th to readdress any of these issues that the Board would like to see. It could also be the Board's intent, if they wish, to move forward with this for public hearing. This is the first draft, I would remind you. The PDT did suggest that if there was additional information that may be needed, you might want to hold on approving this document for public hearing. I think the original intent last year was to approve this document after this meeting for public hearing. So with that, I'm going to run through the sections here. If you have any questions, please interrupt me.

I'm going to be working off my notes so I'm not going to look up too often. I'm going to try to get through this quickly. The executive summary is a work in progress. It'll be updated as the decisions are made.

They need to reorganize the objectives similar to what's written in Section 2.3 on page 36 and 37, which I'll get to later. The tables and figures are not included in this draft. All the labels in the text refer to those found in the Stock Assessment Report, the one that was taken out for Peer Review. Some of the data in those tables needs to be updated to reflect the 1998 fishing season. The 1999 data will not be available until the Spring AMAC meeting. It's scheduled for, I think, the third week in April.

The introduction, the text again is taken from the Stock Assessment Report. It reflects the fishery through '97. The

introduction is pages 1 through 31. Section 1.311 and 1.312 is description of state fisheries and the IWP fisheries. The text still needs to be added. The PDT is working on that.

Page 23, 1.3.4, non-consumptive factors, there is no text in here yet, but the PDT was looking for any issues that the Board would like to see addressed in this section. We have no models to go off of. We have been working off the Atlantic Herring FMP, and we did not have anything of substance in the Herring FMP for that section to work off of.

Section 1.4 is habitat, pages 23 to 30. I just note that a lot of the information is from the old document. The National Marine Fisheries Service has offered to help draft this section so we'll get some more input on the habitat issues.

Page 30, Section 1.5 is the impacts of the program. This section will be drafted once the final measures are selected for the public hearings -- not the final measures but the measures to take out to public hearing. Examples that are listed here come from the Herring FMP. They are only in there for discussion purposes.

Section 2, the goals and objectives starts on page 31 and runs through page 39. The general text comes from the Stock Assessment Report. Section 2.1.4, it's basically a reiteration of the problem statement from the earlier section in the introduction. The PDT needs to do a little work on that text. Page 36, 2.2 is the goal statement. The changes to the goal statement, you can see, are in bold italics. This reflects the decisions or the motion that was made at the Menhaden Board's last meeting in November to change the text from "and its users" to "and those who benefit from it."

The objectives on the same page there have been reordered and they're not put in any priority order. The only thing that they follow here is that in terms of the overall topics, the biological objectives, the socioeconomic and ecological follow from the goal statement, and that is that those things are addressed in that order in the goal statement. Some of the other objectives, the management objectives, were listed as last. I don't think there was any specific text changes that needed to be made to the objectives. It was just a motion or a recommendation from the Board to reorder them.

Pages 37 and 38, specification of management unit. Again, the bold italicized text reflects the motions from the Board's last meeting. There are three options for the Board to consider under 2.41, the management areas. This would be one of those areas where the PDT is looking for some input from the Board. I think at the last meeting the Board was asked if they wanted to see some different options and the answer was go ahead and provide us with what you think we might be interested in looking at. And, these are three options that were brought up from the, I believe, the 1981 FMP preparation. There's some information that's in this document that reflects preparation for the '81 FMP.

Quickly to keep on moving here, the definition of overfishing then falls on page 38. There is a separate handout. I'm not sure, but does everyone have the overfishing definition, the separate handout here, Section 2.5? We'll get that passed out to everyone and we'll come back to that one. We'll keep on going to the other items here. Section 2.6 is the stock rebuilding program. The stock rebuilding program section will be dependent on the overfishing definition chosen and the relative stock status. There are some options listed for stock rebuilding targets. There are four of them. These correlate to the

overfishing definition. There are three options that you'll see when you get that handout and some subsequent information from Doug Vaughan. I'm not sure if the Board would like to take these options out as they are for the public hearing draft or if they need to see some more information. That's something else that the PDT would like to ask the Board for input on.

2.6.3, maintenance of stock structure, pages 38 and 39. The PDT suggested retaining some of the biological indicators that were formally known as the trigger variables to evaluate current stock structure using the caveats identified by the Menhaden Peer Review Panel. Some of these would be percent age 0 and percent age 3-plus fishes in the reduction landings. Another indicator could be the distribution of the age classes in the population. It's at this point the PDT is asking the Board whether or not the Board wished to review different potential age-structure distributions. This information could be provided for the Board's next meeting in April. It would have to be compiled by the Technical Committee and forwarded for your review.

Section 2.7, resource community consideration, as you can see, there are two other additions that need to be made to this text. The PDT did not have the time to address it at its last meeting, but those are areas which they wish to address.

2.8 is the implementation schedule. This will be dependent on measures chosen in Section 4.

Pages 39 through 43 outline the monitoring program. This outlines the process of monitoring the stock status and reporting to the Management Board. There's also some ACCSP language in here that was approved by the Policy Board in May 1999. Other ACCSP issues and language are addressed in the following section, Section 4. There's another PDT note on page 41. Some of the data which is included in the overfishing definition handout could be provided in tabular form if the Board wishes to review that as well for evaluating stock condition and selection of reference periods. The Technical Committee would have to compile the information and this could be available for the April meeting. I think everyone has the overfishing definition handout and the materials, and I could go back to that at this point before we get too much farther.

MR. FOTE: Could I ask a question?

DR. DESFOSSE: Sure.

MR. FOTE: You're going through the whole thing real fast, and then we're going to go back through it step-by-step to go through and answer all your questions that you were going to ask us?

DR. DESFOSSE: Yes, there are certain areas that I'm pointing out that we definitely need input from the Board.

MR. FOTE: You're going to go through the whole thing and then we're going to go back and answer the questions?

DR. DESFOSSE: Do you want me to stop and --

MR. FOTE: Well, I'm trying to figure out what's the sense of going through and then going all the way back again; I mean, if we're going to answer the questions.

VICE-CHAIRMAN MOORE: Tom, I think the plan here is that we just breeze through everything, including those things that we don't need Board input on, and then we go back to each of the particulars and then have the Board discuss it.

MR. FOTE: That's all the question I'm asking.

DR. DESFOSSE: I didn't think that with an hour left in the time period, we'd be able to slowly go through the document. If we took each issue up, it could take 20 minutes for each one. I

was trying to breeze through it and get some sense of how the Board felt about the whole document as well. I mean, the PDT wants to know are they going down the right road?

MR. FOTE: I mean, you asked a lot of questions. I'm sitting here wondering when we're going to start to answer your questions.

DR. DESFOSSE: See all the red marks on my notes?

MR. FOTE: Yes.

DR. DESFOSSE: I'm going to go back. The overfishing definition; three options that were provided during the PDT meeting, they're pretty standard. You choose a fishing mortality target and the standard measures F_{max} or $F_{0.1}$.

The second option would be to choose a minimum spawning biomass target, or what's referred to as SPR which could be based on the history of the stock, or choose a fishing mortality target and a minimum spawning biomass target or a general biomass target. The model could be based on SFA guidelines. This was where the PDT left it and sent information down to Doug Vaughan. He was not at the PDT meeting and asked for some subsequent input. And what you see following that, the italicized text that's in quotations comes directly from Doug Vaughan's e-mail to me. I've added some other text in here that comes from the supplemental report that was presented to the Menhaden Board in 1999.

There was one other option for an overfishing definition. That's option D, right above the section on spawning stock biomass. And then I included some of these tables and figures from the supplemental report for the Board's information. I think I'll leave it at that and come back later.

Page 42, biological data. There's text that needs to be added there, you see in bold. The PDT knows where to find the text but we just did not get around to it.

Before I go any further, I wanted to make it clear that the PDT has not seen this separate handout on the overfishing definition. But they were aware that we were going to send it down to Doug Vaughan and get his input and bring that back to the Board. But it has not been reviewed by the PDT.

Let's skip to Section 4, the management program. It covers pages 43 to 59. There are no recreational measures proposed in this document at this time. The PDT figured that the recreational fishery is so small that there was no need to deal with that at this time. The Board may have other opinions to that. Section 4.2 deals with commercial fishery management measures.

Section 4.2.1, spawning area restrictions. Originally this section was going to be deleted from the document. It was pointed out that since menhaden spawn probably in the federal waters, if a fishery did develop sometime in the future, that federal action might be requested in the event that it had a detrimental effect on the menhaden population. So the PDT put that text in there.

Section 4.2.2 deals with the specification of MSY and OY or maximum sustainable yield and optimum yield. Some of this section will be based on the overfishing definition chosen and the management approach, whether the Board decides to go with a quota-based system versus an F-target strategy or a mortality strategy. The PDT developed a number of options for the Board's consideration. They're based on historical studies, published estimates. I think there are four options for the Board to consider.

I'll just point out that the text that follows, the italicized

section on page 44, is a work-in-progress. Once the specifications are chosen by the Board, the PDT will draft appropriate language that goes in here. Some of this is taken as a template from the Herring FMP, again, and should have been deleted before we got to the meeting here. I think we can skip down. There's a lot of data collection and reporting requirements. A lot of this is where the ACCSP language that was approved by the Policy Board last May fits in. FMP monitoring, Section 4.2.6, page 47, outlines a process for reporting back to the Management Board on an annual basis by the Technical Committee and Advisory Panel reporting on the status of the stock and fishery.

Sections 4.2.7 and 4.2.8 deal with the management measures, catch control measures and the effort control measures. These sections are taken from the 1981 FMP development.

And, there's a caveat that starts off that section there on page 47 that they're modified from the list of management options proposed in the '81 FMP, and some of the statements may not be applicable now given the changes in the industry and fishery over the last 20 years. We need some input as to the applicability of all of these statements, and we would look to the industry to provide some of that input. Basically, what the '81 FMP preparation did was lay out a strategy and then laid out the pros and cons and a discussion of the option. What was done here was we just copied that information into this document and brought that forward to the Board for their discussion. This was the same approach that was taken for the effort-control measures in Section 4.2.8.

Section 4.2.9 was also taken from that same approach. It deals with vessel limits, number and capacity. The PDT would just point out that there has already been a significant reduction in the fleet size, particularly the large reduction vessels.

Section 4.2.10 is a mesh size discussion; the same approach, taken from the '81 FMP prep. Same for 4.2.11, season and area closures; 4.2.12, minimum size limit. There is also a no-action alternative included here on pages 52 and 53. That text is also modified from the '81 FMP preparation.

The PDT included the tradeoff discussion that you'll see on page 53. This section would probably be lifted and moved into an earlier section describing the impacts of the management measures once those measures are chosen.

4.3 is the for-hire fisheries management measures. This draft has none proposed for this amendment.

The habitat measures, all of this is taken from the Sturgeon FMP as discussion purposes. Again, the National Marine Fisheries Service has offered assistance to draft the habitat sections. We have not actually sat down and worked with their representative yet.

Alternative state management regimes on page 55 is standard text. The only thing I'd point out is that the *de minimis* guidelines in Section 4.5.3, the percentage listed here for *de minimis* is 1 percent. That would be up to the Board to decide whether that was appropriate or if it should be a different measure.

Section 4.6 is adaptive management. That is also standard text. Section 4.6.2 are measures subject to change. That will be dependent upon what measures are chosen for inclusion in the FMP or in the Amendment. Emergency procedures, standard text lifted from the other FMPs. Management institutions is

pretty much standard for all the other species management plans and amendments, this is where we lay out the structure consistent with the other species.

Section 4.8.7 deals with federal agencies. The PDT was not clear as to who has jurisdiction of menhaden in the EEZ, whether it was one of the Councils, whether it was Headquarters, that's why there's some bold text there and question marks, so we need to get a clarification on that. Section 4.9 deals with the recommendations to the Secretaries for complimentary action. Basically, the first paragraph is standard text. And if there were any specific measures to be asked for in the federal waters, it would come in the section paragraph there. Section 4.10 deals with cooperation with Canada. This is a holdover from the Herring FMP where it was a pretty significant item for discussion, at least. The PDT wonders if it is appropriate for menhaden or for this amendment. It's not known that Canada harvests much menhaden. They haven't been available up in the Gulf of Maine lately, just to make sure I got that in there.

Section 5 deals with compliance. Most of this is standard text. The regulatory requirements will be decided by the Board at a later date once they choose what management measures they wish to see implemented. Monitoring requirements and research requirements, as well; if there are any specifics that the Board wishes to include in the amendment, they would go here. Again, habitat requirements, Section 5.1.1.5, we still need to deal with those. Compliance schedule, all of this is pretty much standard text. The procedures for determining compliance is standard. There are sections for recommended non-mandatory measures.

And then Section 6 deals with the research and management needs. These were taken from the 1999 FMP review so they are the most recent research needs.

Section 7 deals with the protected species. At this time the text that you see in front of you comes from the Herring FMP for discussion purposes only. The National Marine Fisheries Service has also offered to assist in developing, along with Tina, dealing with the protected species sections. We have the sea turtle information in hand. It just has not been incorporated into this document at this time.

So with that, are there any general questions from the Board before I go back to highlight those areas?

VICE-CHAIRMAN MOORE: Any discussion? Jack.

MR. TRAVELSTEAD: Well, I note as you were going throughout the document, that there was italics language with PDT notes, and I would just say in general that I was in agreement with what the PDT is suggesting be done.

To specifically go back to definition of overfishing on page 38, it suggested that the Technical Committee evaluate the applicability of the different options, and I would certainly support that. I think I would go one step further. Is there a Stock Assessment Subcommittee that exists now?

DR. DESFOSSE: Ad hoc.

MR. TRAVELSTEAD: Ad hoc. I think it would be very helpful if at the next meeting of this group that those people or a representative of that group could be here at the Board meeting to provide us with a lot more guidance on these various definitions and everything that flows in the document from those definitions.

I think otherwise it's going to be very difficult for the Board to sit here and begin to ferret out options one over the other.

VICE-CHAIRMAN MOORE: Well, what is the will of the Board to proceed with the draft document here? By my count, there are at least 10 areas or 10 different sections where the PDT has specifically enumerated questions or is looking for advice or direction from this Management Board.

So I guess the question is do we want to proceed through this document one by one and look at each of these sections? Do we want to go about this haphazardly or do we want to do this through the writing process, comment process? What's the will of the Board?

MR. FOTE: What I'd like to do is try to answer the ones we can answer today and put them to rest if we can do that. If we can't do any of them, let's give a shot to the ones we can do. And the ones, as Jack said, we need the technical advice.

There's some things, I still don't understand how we basically do the stock assessment. I want to make sure I'm clear on before I go to that.

So, some of the ones that aren't, depending on the stock assessment or any of that type of work -- if we can clear them up, let's just go ahead and go through it. I mean, I know it's late, but I'm willing to sit here for another hour, hour and a half to go through it if we can get things accomplished, speed up the process.

VICE-CHAIRMAN MOORE: Yes, sir.

DR. PIERCE: Well, Joe said at the beginning of his presentation that the PDT meets on February 23rd and 24th so we really have no choice but to give it a go and see what we can provide as advice, go as far as we can go. I'm sure there will be many aspects of this document that we can't comment on now, but there's some that we can. So let's proceed.

VICE-CHAIRMAN MOORE: Would you prefer to proceed -- As Joe went through this, I wrote down each section where I found specific italicized areas where the Board was looking for direction. We could either go through it one-by-one or we could go through each section as you all choose. It's up to you.

MR. PERRA: Let's start at the beginning and see how far we get.

DR. DESFOSSE: Is there anything in Section 1 in the introduction that the Board wishes to readdress, have any questions on? I don't think the PDT identified anything in Section 1.

MR. FOTE: I would just like to go where the PDT asked questions on and let's get that out of the way. And let's go through there because we've been through some of this document before. The PDT is going to meet the 24th. Let's answer their questions because we'll get another shot at this anyway.

VICE-CHAIRMAN MOORE: 2.4.1 is the first one that I have, page 37. Bruce.

MR. FREEMAN: I know it's going to be confusing how we address these problems, but it may be useful to start on the goals and objectives and get those behind us and then move forward with the other components; or, you can go through the other components and address the goals and objectives.

VICE-CHAIRMAN MOORE: Any discussion? Jack.

MR. TRAVELSTEAD: Well, we spent a heck of a lot of time on goals and objectives at the last meeting. I certainly hope we don't start wordsmithing again on those. I had thought that we had laid those out, and they're here now and essentially complete unless we hear something at public hearing when this thing comes back.

MR. FREEMAN: Well, I have a question. There is some italicized or bold print that was added to the end of this, and it seems to me there's a redundancy here.

We talk about maintaining the economic and social components of this fishery and then we also talk about those who benefit. It seems like there's a redundancy here. What is different when we deal with the economic and social components of this fishery and we deal with protecting those who benefit from it?

DR. DESFOSSE: Bruce, are you talking about the goals' statement?

MR. FREEMAN: Yes.

DR. DESFOSSE: Those five words there, "those who benefit from it"?

MR. FREEMAN: Yes.

DR. DESFOSSE: That came from the end of the last Menhaden Board meeting. It was a motion to strike "and its users" and replace it with "those who benefit from it."

MR. FREEMAN: Well, my comment would be -- I don't want to belabor it -- that if we deal with the economic and social components of the fishery, then we're essentially being redundant when we add those words at the end.

And then when we go through the various sections, when you talk about the social and economic importance of these fisheries, it just seems like this is simply redundant. I'll just make those comments.

VICE-CHAIRMAN MOORE: Bill.

MR. GOLDSBOROUGH: I would concur with Bruce's comments, but if I'm not mistaken, I'm the one that suggested these additional words. (Laughter) But, that came after a long discussion where some of those same points were made.

And, as Joe said, they were to replace existing words which said "and its users," I believe, or something like that. And I think there were those, perhaps there were some industry reps or others who did not want to simply remove those original words.

Notwithstanding the line of discussion that you've brought forward, Bruce, and so this really amounted to kind of a compromise. But, I mean, perhaps we've had time to think this through a little bit more. I would agree, though, that it really is in a sense redundant, given the rest of the goals' statement.

VICE-CHAIRMAN MOORE: If I can interject here, I think we're kind of backtracking a bit here, and the PDT is looking for very specific advice on these things. And if it's all right by Bruce, I would hope we could --

MR. FREEMAN: Yes, let's move forward. It just struck me when I read through and then looked at some of the sections as Joe was going through.

I'm looking for it now -- I didn't mark it -- but when you get back to the sections that talk about this and you read it through and go back to that, it seems to be redundant. If we want to repeat it, well, that's fine too. Let's move forward.

MR. PERRA: With that in mind, back on page 37 where you talk about management areas, obviously the management unit is coastwide. And the issue is do you apply consistent management more coastwide, or rather partition what you're doing a little differently along the coastline.

In recognition of the different ways that we're managing menhaden and the different distribution of the size classes that you find along the coastline, I think B might be a good option if it was frameworked so that the Board could apply different

management areas. They might be the same in some years, and in other years, if you have, for instance, different year classes, larger numbers of older fish farther north, you might want to have a little bit of a management in the northern area than you would in the southern area and vice versa. So, just for discussion purposes, I'd like to see the PDT focus on B.

VICE-CHAIRMAN MOORE: Are you making that in the form of a motion?

MR. PERRA: I don't know if you need a motion and all the voting if we can kind of get nods. It's here and unless there's a lot of disagreement, I think maybe we could move forward quicker just trying to approach it that way.

DR. DESFOSSE: I just have a question for the Board and that is do you want to eliminate any of these options at this time or would you rather see them included in this document and taken out to public hearing?

MR. PERRA: I would like to see us put some preferred options out rather than just put out a bunch of options, and let the public get a better idea of our thinking at the time we go to public hearing, if we can do that.

VICE-CHAIRMAN MOORE: Bruce.

MR. FREEMAN: The issue Paul raised, I think, is a very important one and I'm somewhat perplexed. And I think it's relative to our determination of what our definition of overfishing is. I think that's going to have great implications.

My concern relative to what definition we come up with could influence the management in geographical areas, for example, the spawning stock. The thing that is puzzling here is that we often see our largest recruitment from some of the lowest spawning stocks.

And if, in fact, our definition is to have a high spawning stock potential, that may be fine, but it may affect geographical areas very differently. I'm just not sure how this all fits together, and I'm somewhat leery of breaking it into subareas although it certainly, perhaps, could be convenient.

But, depending on our biological definition, this could have very strong implications. And then the other issue is I know from an economic standpoint, at least as I understand the fishery, if there's a product that can be harvested close to reduction plants, the boats tend to concentrate there and not steam 300 miles up the coast.

And that may also have implications depending on our overfishing definition if, in fact, we're trying to provide for an even distribution of age classes. I just see a lot of implications, and I'm not sure where this is going to get us until I really can understand our overfishing definition.

But my point being is there's certainly appeal by looking at geographically, but that could create some serious problems for the industry. It may not but it certainly has a possibility of doing that.

And so I'm not convinced we should make a determination of the management areas without having more information at this point. We may be able to do it, but if we make that determination, we may regret it when we start fleshing out other portions of this plan.

VICE-CHAIRMAN MOORE: So noted. Jack.

MR. TRAVELSTEAD: I agree totally with Bruce. I think he's exactly right. Once we start to make decisions about the definition of overfishing, which is most appropriate, that is in turn going to dictate the types of measures that would be put in

place.

And then at that point, you talk possibly about area management. It may be even in the wrong place in the document. It's up front now, and it may need to be back behind some of these other decisions that would have to be made first.

I don't think there's anything more we can do tonight with management by area. I think they've given us three options. Send them out to public hearing. By then we'll have made a lot of other decisions and know what's appropriate.

MR. FREEMAN: Could I make a comment? On this overfishing definition, I see this as being extremely important, and I'm not sure of all the ramifications. I'm trying to read what Doug Vaughan had put in here while Joe was going through this.

But this, I think, we need to fully understand before we make a determination because I think some of these are quite different than others. And I'm not really certain what the full implications are.

But, it's going to be an important part of the plan, and I would hope that we as a group would fully understand all of these suggested possibilities before we make a decision.

And it may take time and have a presentation by Doug or somebody else or the stock assessment group, but I think all of us recognize that these are critical to the plan. And the implications, I think, are very appropriate as to how we move forward.

So at some point I think we're going to have to spend time. Obviously, it's not right now. But I think we ought to make arrangements to have a full understanding by the Board of what these are and how they be calculated and what the implications are, not only today but several years away from today.

VICE-CHAIRMAN MOORE: Yes, I believe there was a discussion earlier about having some stock assessment folks at our next meeting to get a full understanding of the scientific basis. Yes, sir.

DR. PIERCE: Yes, I agree with Jack and Bruce. It's critical that we get to the definition of overfishing, that we determine what that definition is; because, until we do so, we really are not going to be in a position to make a choice of management area.

I say that because if we define overfishing in a certain way and then we determine that there is overfishing, if we go with alternatives B or C, then we put ourselves in a difficult situation because the PDT has said at the bottom of page 37 that there would be difficulties in implementing mortality reductions with an area-based approach.

So that suggests to me that if we go with an area-based approach, we're going to have nightmares down the road in terms of how we deal with mortality reductions. So, let's offer these three up as alternatives and, well, determine what the definition of overfishing needs to be, regarding the definition of overfishing.

I also agree with what Jack said -- I believe Jack was the one who said it -- that we do, indeed, need to, as suggested here in the handout, that we charge the Technical Committee with evaluating the applicability of those different options.

We've seen this sort of an approach before of A, and B, and C. They're standard approaches for defining overfishing, but we need the Technical Committee to evaluate them.

DR. DESFOSSE: Is there anything specific that the Board

would like to see in relation to technical information that would help them to evaluate these, something that I can take back to Doug and ask for?

VICE-CHAIRMAN MOORE: Yes, sir.

DR. PIERCE: Yes, regarding what we can ask the Technical Committee for, B and C, I look at B and C, they're both management area options, and they both define New England, Mid-Atlantic and South Atlantic.

Of course, the Chesapeake is in C. What I don't have handy, to help me evaluate what's the best option, is the coastal distribution of various age classes of menhaden. That's the rationale for the selection of B.

This suggests that if we had that information in hand, the coastal distribution of the various age classes, we would be in a better position to evaluate whether B or C is the better choice.

So, I would like to see that information presented with either a PDT or a Technical Committee evaluation as to what that distribution of the various age classes suggests, B or C.

VICE-CHAIRMAN MOORE: Thank you. Yes, sir.

MR. PATE: I'm just sitting here wondering if this painfully slow process we're into at 6:30 at night isn't a little bit premature, given the imminent change of the Board. That's going to include a lot more people -- Pardon me?

MR. FOTE: I said you just took words out of my mouth.

MR. PATE: -- with a lot more interest and whether or not we shouldn't delay this painfully slow process to give those people a chance to comment on these very important items as well?

MR. FOTE: Could I follow up on this?

VICE-CHAIRMAN MOORE: Tom.

MR. PATE: Along with us, yes.

MR. FOTE: Yes, I want to get them all at the table to suffer through it. But, really, what I would expect maybe on the stock assessment is that since we are going to have a lot of new members to the Board, since they should be there to understand, some of them which they really haven't been paying that much attention of how the stock assessment was done previously or any nuances or new changes, what we really need is a briefing at the next Board meeting, if we change the Board, to go through, explain to all the new members how stock assessments are done so they're up-to-date so they can fully evaluate that.

Go through the whole process of what you do. There have been five members to this Board and they're the people that have been involved in the industry. And now we're going to put another six or seven jurisdictions or eight jurisdictions on here.

They need to be brought up-to-date on how they do it. We are all familiar with a lot of what's going on, but let's bring everybody up-to-date. So, what I'm suggesting is things that we can decide right now that looks interesting, to answer the PDT questions for their 24th meeting, let's do that; and not going through a lot of stock assessment because we're going to have to go through this with the full Board anyway if the Board changes membership.

And if there's something like that you can find specifically or we can go through the document now and handle to give you directions for the 24th, let's do that.

DR. DESFOSSE: Well, the question I had, first of all, when you were talking about a briefing on stock assessment, do you mean how the menhaden assessment has been done, not a general overview on stock assessments?

MR. FOTE: No, how the stock assessment from menhaden differs from stock assessments for other species, what are the specific nuances of that -- I mean, to better understand whether -- a lot of the stock assessment work came out of what the reduction boats caught since they were the largest harvester, understand how the system worked.

We did the stock assessment on this. And if we're suggesting any changes or to keep it the same, that's really what we need to know.

DR. DESFOSSE: Okay. The PDT -- am I interrupting?

VICE-CHAIRMAN MOORE: Yes, please.

DR. PIERCE: I admit it's a painfully slow process. They always are painful and slow, but the PDT will be meeting very soon. We need to give them as much advice as possible.

Yes, indeed, the new Board will have to be briefed as to what this all means. Nevertheless, I'd like to continue discussion at least until we hit the midnight hour -- that is seven o'clock -- and provide what we can in terms of advice.

And with that in mind, I'd go to page 41, and I'd say that we should request the PDT to provide all of this information that they say would assist us in evaluating stock condition and selection of reference periods.

I'm assuming they didn't have the time to put the information together. Maybe they didn't have it. Well, I assume that's the case, they just didn't have the time. But it seems from their notation, that this would be helpful to us so let's ask for it.

VICE-CHAIRMAN MOORE: So noted. Further discussion? Paul.

MR. PERRA: Yes, I think we made a decision to leave all the options in for area, so let's go to the next major question.

VICE-CHAIRMAN MOORE: Well, by my count that was Section 2.5 so it's back a page or two.

DR. DESFOSSE: We're going to skip that. That's the overfishing definition.

VICE-CHAIRMAN MOORE: Okay, 2.6.1.

DR. DESFOSSE: The same thing.

VICE-CHAIRMAN MOORE: Right, 2.6.2, 2.6.3 -- 3.5.1, right? 3.5.3.

DR. DESFOSSE: Okay, in 3.5.3, the notation there in bold is just a reference on text to describe the sampling that occurs in the bait fishery and how that goes into the assessment.

There's also a PDT note down here that the Board may want to consider a recommendation or a requirement in a later section, in the compliance section, Section 5, to continue the sampling program as an element of the monitoring program under Amendment 1.

The question from the PDT, then, is do you want them to draft language for Section 5.112, I think it is, to reflect that?

MR. PERRA: Yes.

VICE-CHAIRMAN MOORE: Bruce.

MR. FREEMAN: I would agree, I think it would be useful, but I also have another question. I know Beaufort years ago used to do young-of-year sampling along the coast; and now if it's done, it's done in a restricted area.

My question, relative to the biological sampling, is that something that Beaufort as eliminated because of manpower problems and they would like to continue or they see no need for it?

MR. FOTE: I think that goes to our briefing.

VICE-CHAIRMAN MOORE: Paul.

MR. PERRA: We believe it would be a very big and extensive study. We'd like to continue that, but we'd need the help of the states and additional funding. I think it's a big hole in trying to get an early warning system for the status of the stock that we don't have a good young-of-the-year sampling. But it's not a simple task. It would have to be done coastwide.

MR. FREEMAN: Well, if it's something that's necessary, I think it should be addressed in the plan. And it may well be that states do have sampling programs, and they simply could utilize the data that's being collected, together with other state data, and put a program together to supply the information.

That's certainly a possibility. And it seems that, from my perspective, we need to know from the technical people whether that is a valuable piece of information and determine the degree of sampling that would be necessary and, in fact, it could be part of the plan.

We do this in other fisheries. Now, in fact, we may find it not something that could be done. But certainly, I think it needs to be at least addressed; and if we can't do, it let's say we can't.

And if we can do it, let's put together something that would provide information that's valuable to the management of this species. I don't think we just ignore that and we need to address it in some way.

DR. DESFOSSE: It is identified as a research need in Section 6. Do you want to put in a recommendation in the monitoring section?

MR. FREEMAN: Yes, I think -- I don't know what's all involved, Joe, but I think if we could have a feel from the stock assessment people what would be needed, the degree of sampling coastwide to make this a viable program.

We need to understand what that is. We may be able to do it now. There may be sufficient surveys. And I say that because when I know the Fisheries Service was doing that, many states did not have a sampling program. Now they do.

And the question is can that be used together with other state programs to actually sample the coast? I need, and I think the other Board members need to know to what degree we'd have to coordinate our efforts in order to make something useful to the new recruits, young-of-year.

VICE-CHAIRMAN MOORE: John Merriner.

DR. JOHN MERRINER: Thank you, Mr. Chairman. On page 42, there at the bottom it talks about fishery independent survey data. Those that are extant presently, those that historically had been undertaken by National Marine Fisheries Service, both coastwide and juvenile and abundance indices and then the four-stream, as we eventually called it, Virginia and North Carolina streams, out of that program there was a protocol, if you would, developed by Dean Ahrenholz, and it coupled some work from Kevin Friedland that could potentially be used as a, if you would, species-specific kind of a survey for menhaden or other planktivores, if you would, that keys back to plankton abundance and color, if you would, water color and particle size, availabilities. It would be, if it were implemented coastwide, a very expensive operation to undertake. However, in the historic data file of menhaden and other coastal fisheries with extant inshore surveys, there is reference to them in the stock assessment peer review report work, and that some indices, the Maryland and Virginia young-of-year indices seem to work, have a reasonable projection.

The difficult part in trying to employ young-of-year indices or abundance indices, as are done in a number of other species, such as derived from the Northeast Center's Groundfish Survey Sampling Program, Trawl Survey Program, is we typically don't get enough spread in age classes there to get follow up one year to the next. We have the signal of zeros, but we don't get the signals of zero, one two, to be able to track it to give a refined juvenile index to give you some tracking and to serve as a tuning element or an evaluation data point in the stock assessment if we wanted to go into those kinds of modeling approaches.

So the short answer is, "yes, we have some data." The data that have been employed so far are represented and have been used in some preliminary exploratory evaluations by Doug. They were presented in the Stock Assessment Peer Review Panel Report.

And they include both the Virginia-Maryland seine indices, Beaufort bridge-net samples, SEAMAP indices as have been developed to date. To implement a new coastwide survey, from what I've heard this week of the Atlantic Coastal Act funding situation and the projections for longer-term funding for fisheries research both within the National Marine Fisheries Service and within the Commission under the Atlantic Coastal Act, I think development of a species-specific survey of the magnitude that would be required to assess Atlantic menhaden throughout its range in a productive estuarine nursery areas would be very, very expensive. I would love to see it done, but I'm a menhaden freak. I enjoy the biology of the animal and its interaction within the environment. And it could lead to some very interesting ecological information, particularly if we try to couple it to productivity and particle size filtration efficiencies.

There may be some strange things going into the plankton community that we don't understand. It could be part of our question with this year-class success dilemma we find ourselves in with copious spawning stock biomass and very low recruitment. I know Joe is getting paid by the minute again, by the word, so I'll shut up.

VICE-CHAIRMAN MOORE: Thank you, John. Tom.

MR. FOTE: Again, this is another stock assessment question. We're going to have some people from the Stock Assessment. We keep on going off on tangents. Are we're going to go through the document and answer the questions for the PDT?

I know we all have a lot of questions as we go, and spend hours on it, but aren't we supposed to be going through the document, looking at what help we could give to the PDT? And let's stop going off on tangents. We've only got a half an hour to get through and answer those questions. So let's move forward.

VICE-CHAIRMAN MOORE: The next area. Yes, sir.

DR. PIERCE: On page 43 at the bottom, the MSY options, those are awful difficult to evaluate what's better than the other. I would appreciate from the PDT a bit more rationale as to, well, I guess the pros and the cons of A, B and C.

I assume that MSY can be calculated for menhaden; otherwise, we wouldn't have these estimates. But obviously, the estimates are pretty wide ranging. I would appreciate from the PDT some evaluation as to whether they feel, in light of the variation in the MSY that's been calculated over the years, that we should go with a proxy. They give us D, develop an MSY proxy, SPR or SSP. I would like them to give me some further insights as to why we should go with a proxy versus these

historical MSY values.

VICE-CHAIRMAN MOORE: Thank you. Any other discussion on Section 4.2.2? The next area I found was 4.2.2.1, initial specifications. That's really not guidance, is it? 4.2.6, actually.

DR. DESFOSSE: The question from the PDT, then, on 4.2.6, page 47, does the Board want to see a specific process laid out whereby the Technical Committee meets one day and the Advisory Panel would meet the next day and be updated, or do you want to leave it up to staff to work out on an individual basis, to keep the language general?

VICE-CHAIRMAN MOORE: Paul.

MR. PERRA: Keep it general.

MR. FOTE: I would agree with that. At this point in time, I would agree with that. I mean, it's very hard to do specifics when you don't really know what you're doing yet.

VICE-CHAIRMAN MOORE: It sounds like a consensus. Okay, Section 4.2.7.

DR. DESFOSSE: Actually, I would like a little input from the Board on Sections 4.2.7 and 4.2.8. Is the approach that the PDT took dealing with the development of these sections, using the preparation work from the '81 FMP, is this appropriate? Would you like to see more information, a different type of information on these different approaches?

VICE-CHAIRMAN MOORE: Bruce.

MR. FREEMAN: I would think this also gets back to the overfishing definition. If you use a fishing mortality, then you would not necessarily have a TAC. You would monitor it, as we have other species, so that -- this whole section would change considerably. If, in fact, you pick some other way to define overfishing, then a TAC may be very appropriate. My concern is depending what you select will influence this section.

DR. DESFOSSE: I think the input we were looking for was the approach in terms of laying out the pros and cons the way this is.

MR. FREEMAN: Oh, I see that, fine. There could be other alternatives that you haven't described here is my only concern.

DR. DESFOSSE: Right. And if --

MR. FREEMAN: No, I think the way you did it, Joe, is fine, because it gives the reader a feel for what's advantageous and what is not. And that's very useful.

VICE-CHAIRMAN MOORE: Section 4.8.7 is the next section I had. Page 58. Yes, Sir.

MR. DIETER BUSCH: I have a procedural question I'd like to ask. Since earlier you passed a motion to present to the Policy Board a new potential makeup of this Board, are you going to go through all this again with the new Menhaden Management Board if the Policy Board supports this concept?

VICE-CHAIRMAN MOORE: Bill.

MR. GOLDSBOROUGH: I believe both Tom and Pres brought that point up earlier, and I was about to. The way I understood it at the time, notwithstanding the problem that could happen if we made a bunch of decisions about the content of the plan that Dieter just brought up, that there still was a need to sort of evolve our thinking on some of this, short of making decisions, and provide some feedback to the PDT so they could work a little bit more. And that's all we are trying to do now. And if we did get to a point where we were going to put forth a motion and try and make a decision that was fundamental to the workings of the plan, I was going to make that point and suggest

that we not.

So it's my understanding that that's what we're going. We're just trying to advance things as much as we can short of making any fundamental decisions. And if anyone disagrees, maybe we ought to discuss that. But that's where I think we ended up.

VICE-CHAIRMAN MOORE: Thank you. Paul.

MR. PERRA: Back to the question on management and the Exclusive Economic Zone, I would put under the jurisdiction of the three Atlantic Coast Fisheries Management Councils because I don't think any one is designated for the lead yet, and then just leave the rest there. In the absence of a Council FMP, management is the responsibility of the National Marine Fisheries Service as mandated by the Atlantic Coastal Act. And you might drop the Magnuson-Steven Act or move that up by the Councils.

VICE-CHAIRMAN MOORE: So noted. Next section, 4.9. I believe this is the last section that I found unless somebody found some more somewhere or something else. 4.9, page 59.

DR. DESFOSSE: I don't think that the PDT was asking for any input at this time. I think this would evolve during the plan development. And the Board, if it identifies anything that it would like to request of the federal government and Secretary to implement, then it would be addressed in this section.

The only other thing is I would just ask if the Board has any general comments in terms of any of the general text that's added in here. Again, the PDT will try to update, during its next meeting, the general text in Section 1, the introductory text, to include the tables and figures that are referenced in there, the updated tables and figures.

VICE-CHAIRMAN MOORE: Yes, sir.

DR. PIERCE: Joe, I haven't got any comments on that specifically, but I would like to return for a moment to page 48 and 49, 4.2.7.4, coastal TAC with subdivision for major companies. Under the discussion it says, "Until the legality of allocating to an individual or firm is clarified, this cannot be considered a viable option." Can we be updated as to whether we will be in a position sometime soon to determine if it is legal to allocate to an individual or firm?

DR. DESFOSSE: That text is taken directly from the '81 information and I forgot to get some input from a legal source as to whether or not this was appropriate, so I can't answer the question right now.

DR. PIERCE: Okay, that's fine. I just wanted to call it to your attention.

VICE-CHAIRMAN MOORE: Bruce.

MR. FREEMAN: Just to answer what I thought Joe's original question was on the section, was it 1 and 2, Joe?

DR. DESFOSSE: The introductory section?

MR. FREEMAN: Yes, I would --

DR. DESFOSSE: The second one?

MR. FREEMAN: -- just assume that each of the groups involved in this would simply read through this and make sure the information is accurate. I know in some instances it's a description of the fishery in geographic areas. And if anything needs to be added or corrected, we would get back to you with that. It would be more or less editorial comments. Otherwise, if you get no comments, you'd assume it to be correct.

DR. DESFOSSE: Okay. I'll just point out that all the Commissioners have received a copy of this. If there is anything

particular to those states that are not sitting here at the Board, if they want to send their comments in to me, I'll bring them to the PDT meeting and we can make corrections at that time.

VICE-CHAIRMAN MOORE: Any other discussion on the draft document? Joe.

DR. DESFOSSE: No, not from me.

VICE-CHAIRMAN MOORE: Very good. Any other new business to bring up?

OTHER BUSINESS

DR. PIERCE: Mr. Chairman, just one final point. There seems to be a heavy emphasis in this plan on the importance of menhaden as a forage base.

I'm sure the PDT has given a lot of thought to this already, but I would still like to encourage them and the staff to perhaps elaborate a little bit more on page 10, the predator/prey relationships, the ecological role.

Those are relatively short sections, and I don't know if they properly -- well, I would suggest it be expanded to be more in sync with the emphasis that we placed on the importance of menhaden as forage.

DR. DESFOSSE: One other thing I'll point out; I don't remember the number offhand but there was something about a resource and community interactions that would be extensive discussion in that section as well dealing with the same issue. We just didn't have the text and didn't have the time to get into that.

VICE-CHAIRMAN MOORE: Any other discussion? Any new business? Paul.

MR. PERRA: I just think we need to understand the schedule now. Our input is going to the PDT who will meet on February 23rd-24th, and then what will happen after that? A new draft will come back to the Board, and at that time we will get more input on the overfishing definitions, and then we will follow, hopefully, after that meeting with the draft for public hearings? Is that a logical approach?

DR. DESFOSSE: If the Board is updated with the information on overfishing definition, will the Board be able to, at its next meeting in April, will they be able to make all of the decisions necessary to approve the document for public hearings in April?

VICE-CHAIRMAN MOORE: Tom.

MR. FOTE: I hate to commit the new Board to that, but I think if we have a good briefing on the stock assessment, bring the people up-to-date, understand what's going on, then have a discussion on the overfishing definition, leave enough time for that, there might be an opportunity, but I don't want to commit the new Board to that, if there is a new Board.

VICE-CHAIRMAN MOORE: Jack.

MR. TRAVELSTEAD: Let me just say that Bill Pruitt, the Chairman, has been contacted by a number of people about this Management Plan, including the Congressman whose letter you've seen today. And while he did not speak to all of the Board members before he responded, he, himself, was very intent upon completing this Management Plan Amendment, so that it could be approved at the fall meeting of the Commission. So, I just want to share that with the Board. We certainly don't want to do anything that would slow this process down. We do want to get everybody up to speed, obviously, and as quickly as

possible. But there has been a commitment made to proceed as quickly as possible.

VICE-CHAIRMAN MOORE: Further discussion? New business? All right, we're adjourned. Thank you very much.

(Whereupon, the meeting was adjourned at 6:55 o'clock, p.m., February 8, 2000.)