

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

**Crowne Plaza Hotel - Old Town
Alexandria, Virginia
February 6, 2014**

Approved February 3, 2016

TABLE OF CONTENTS

Call to Order, Chairman Russ Allen 1

Approval of Proceedings, May 2013 1

Public Comment..... 1

Terms of Reference for the Benchmark Stock Assessment 1

2013 FMP Review and State Compliance 4

Other Business 5

Adjournment 6

INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1)
2. **Approval of Proceedings of May 2013 by Consent** (Page 1)
3. **Move to approve terms of reference for benchmark stock assessment** (Page 4). Motion by Louis Daniel; second by David Simpson. Motion carries unanimously (Page 4).
4. **Move to approve the FMP Review and State Compliance as presented today** (Page 5). Motion made by Pat Augustine; second by Loren Lustig. Motion carried (Page 5).
5. **Move to approve John Pedrick (PA) and Kelly Place (VA) to the Advisory Panel for Sturgeon** (Page 5). Motion by Rob O'Reilly; second by Mitchell Feigenbaum. Motion carries (Page 5).
6. **Adjournment by consent** (Page 6)

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)
Rep. Walter Kumiega, ME (LA)
Stephen Train, NH (GA)
Douglas Grout, NH (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)
Dan McKiernan, MA, proxy for P. Diodati (AA)
Bill Adler, MA (GA)
Mark Gibson, RI, proxy for R. Ballou (AA)
David Borden, RI, proxy for B. McElroy (GA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)
Dave Simpson, CT (AA)
Lance Stewart, CT (GA)
Pat Augustine, NY (GA)
Jim Gilmore, NY (AA)
Russ Allen, NJ, proxy for D. Chanda (AA)
Chris Zeman, NJ, proxy for T. Fote (GA)
Leroy Young, PA, proxy for J. Arway (AA)
Loren Lustig, PA (GA)

Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)
Roy Miller, DE (GA)
John Clark, DE, proxy for D. Saveikis (AA)
Tom O'Connell, MD (AA)
Bill Goldsborough, MD (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Rob O'Reilly, VA, proxy for J. Bull (AA)
Kyle Schick, VA, proxy for Sen. Stuart (LA)
Louis Daniel, NC (AA)
Ross Self, SC, proxy for R. Boyles (AA)
Patrick Geer, GA, proxy for Rep. Burns (LA)
Spud Woodward, GA (AA)
Jim Estes, FL, proxy for J. McCawley (AA)
Martin Gary, PRFC
Wilson Laney, USFWS
Steve Meyers, NMFS
Bryan King, DC

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

Ex-Officio Members

Staff

Robert Beal
Mike Waine
Toni Kerns

Katie Drew
Jeff Kipp

Guests

Margo Schulze-Haugen, NMFS
Karyl Brewster-Geisz, NMFS

The Sturgeon Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crown Plaza Hotel Old Town, Alexandria, Virginia, February 6, 2014, and was called to order at 11:30 o'clock a.m. by Chairman Russ Allen.

CALL TO ORDER

CHAIRMAN RUSS ALLEN: You have all been provided an agenda. Are there any adjustments to the agenda? Seeing none; we'll consider the agenda approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN ALLEN: Also, our proceedings from the May 2013 meeting; seeing no objections or changes to that or edits, we will consider them approved.

PUBLIC COMMENT

CHAIRMAN ALLEN: No one signed up for public comment. If anyone has anything to speak about sturgeon that is not on the agenda, please raise your hand. Seeing none, I will turn it over to Katie and we will talk about the terms of reference for the benchmark stock assessment.

TERMS OF REFERENCE FOR THE BENCHMARK STOCK ASSESSMENT

DR. KATIE DREW: Basically as a reminder, sturgeon will be going through an external peer review process rather than through the SEDAR or the SARC Process; so there is some latitude in how we develop our terms of reference for this assessment. The technical committee and the stock assessment subcommittee developed these terms of reference based off of ASMFC's generic terms of reference, which means that we have one set of TORs for the assessment and one set of TORs for the review.

One set is to help guide the technical committee and the stock assessment subcommittee in completing the assessment in terms of making sure we cover everything that we want to cover. The other set is to sort of guide the peer review panel and make sure that we get feedback on everything that we want to get feedback on.

I'm going to go through this first with the assessment terms of reference and then just breeze extremely fast through the peer review ones because they are very similar. We started out with an objective statement this time. Basically the objectives of this assessment are to gather the best available data on Atlantic sturgeon in order to develop meaningful biological reference points and assess the status of the stock against those reference points at a scale that is most appropriate to the biology and the management of the species.

This is just to sort of help frame where we intend to go with this assessment given that we're working with a lot of people on the technical committee and the stock assessment subcommittee who have not been involved in sort of the traditional assessment process before. For the stock assessment terms of reference, number one, we're going to define the population structure based on available genetic and tagging data. If we do use multiple alternative population structures such as looking at it at the DPS level and/or the coast-wide level or at a river system level, that we justify the use of each population structure.

Number two is to characterize the precision and reliability of the fishery-dependent and independent data, including tagging data used in the assessment. This includes things like providing descriptions of the data sources and the methods used to collect these data and to standardize them; the methods used to assess uncertainty and how we're measuring that uncertainty as well as discussing kind of the trends and whether or not we include them and how we justify that inclusion or elimination as well as discussing the data strengths and the data weaknesses on the model inputs and outputs.

Number three is to develop biological reference points for Atlantic sturgeon populations. Number four is to review existing estimates of Atlantic sturgeon bycatch, both retained and discarded; and if

possible, develop a time series of bycatch in our monitored fisheries and discuss the assumptions and applicability of these estimates to the reference points.

Number five is to, if possible, develop models to estimate population parameters such as F or Z, biomass, abundance and analyze model performance and stability. Number six is state assumptions made for models and for calculations of indices and other statistics and explain how these assumptions and/or the assumption violations are going to affect the model input and output.

Number seven is where possible assess stock status based on biological characteristics, including but not limited to trends in age or size structure and trends in temporal indicators of abundance; characterize the uncertainty of model estimates and the reference points; and recommend stock status as related to reference points. For example, is the stock above or below our biomass thresholds; is the mortality above or below the mortality thresholds; and is the index, if we're using an index-based assessment, above or below our reference value.

We also wanted to sort of include something on other potential scientific issues such as sort of comparing our model outputs with what we think the best available information is on the life history of the population and trying to make sure that those line up with what we think the population is doing. Then eleven and twelve are just develop research recommendations and recommend the timing of the next benchmark assessment and intermediate updates, if necessary. That is the terms of reference for the stock assessment.

I am going to blow through the peer review terms of reference because they are basically just evaluate the appropriateness of the population structure that we have defined; evaluate the adequacy and the appropriateness of the data that we have used; evaluate the estimates of bycatch sturgeon and the methods that we used to develop them; evaluate the methods and the models that we used to develop population estimates and the biological reference points,

including sort of a bunch of lists of justification and sensitivity analyses and things like that; evaluate the methods that we used to characterize uncertainty and ensure that the implications of the uncertainty are clearly stated; evaluate the recommended estimates of biomass and abundance, where available, as well as the choice of reference points; and, if appropriate, possibly recommend changes or specify alternative methods if they're not satisfied with what we've done; evaluate the stock status determination and/or recommend changes, if necessary; and then review the research recommendations and provide additional information that is prioritized for our use.

CHAIRMAN ALLEN: Thank you very much, Katie. It is a large undertaking you've got going on there and I'm looking forward to seeing the assessment results as I'm sure most of the board members are. We will start off with Bill Adler with questions.

MR. WILLIAM A. ADLER: We're moving through this whole stock assessment and everything; and where does this play into where the federal government has declared it an endangered species? I mean, we go through this stuff, we do all this stuff; does that mean that we can't do anything, anyway, because of the federal status? I don't know where that plays in.

DR. DREW: On the assessment side we are not at all affected by the ESA listing. We're not doing any new research that would require us to touch the fish in any way. This is based on existing data. I think as we've laid out the objective, the objective is not to engage with the listing determination in terms of we're not going to come out at the end and say this was warranted or not warranted.

We're going to come out with our best interpretation of current stock status and then we hand that to you as a management board to decide how you want to interact

with the ESA listing from thereon. If you feel, after you have read our stock assessment, that the listing is not warranted or it is warranted or however you guys feel about the results of the stock assessment, that is up to you where you want to take the next steps going forward in interacting with the government on this particular issue.

MR. DAVID SIMPSON: My question is quite related. I wondered how the terms of reference and all mapped to the ESA needs and what the Protected Resources Division, Protected Species Division would need to evaluate progress, what the goals might be; so how well coordinated is this with the needs for its ESA listing, with respect to its listing?

DR. DREW: We did not look at the Protected Resource Division requirements or needs for this process. We want to keep it as separate as possible from that in part to continue to allow the involvement of our federal partners, who really could not be involved if this were to explicitly engage with this listing determination.

However, I think in terms of what we will be providing are similar to what the PRD is going to be looking for, whether it is better scientific advice that they can decide the listing was not warranted originally or proof that we have met some kind of – I think ideally we would like to have some kind of biomass target or threshold that we could show where the population is relative to that. I think that is one of the goals. Whether we can deliver that remains to be seen; but I think certainly a stock assessment will cover a lot of the ground that PRD is looking for in that.

MR. MICHAEL PENTONY: Just from the agency's perspective – and it is a little difficult for me speaking for Protected Resources since I'm on the fish side; but in conversations that we had last year when they were preparing their biological opinion, they made it clear that the results of the stock assessment would be – I mean, one opportunity or one avenue is for when the commission receives the completed stock assessment, to use that as the basis for a formal request to reconsider, which has its own process

under the Endangered Species Act where the agency would go through essentially like a listing determination process all over again with the new information that comes out of the stock assessment.

Alternatively, depending on how clear-cut I think the results of the stock assessment may be relative to the endangered species listing; the agency may simply take that as input and initiate its own process.

MR. ROB O'REILLY: That changed my comment a little bit. I was under the impression – and Bill Adler's question, to add on to that; it was my understanding that after five years there would be a – it was automatically a review of the listing. I was going to say to Bill that without an assessment, the information gap would be there and it might be problematic once we get to that five-year mark. But now maybe I'm hearing that the five years is just one of the options and that perhaps things can happen before that, depending, of course, on what the assessment shows. I hope I'm on target there.

CHAIRMAN ALLEN: I think you are, Rob. Louis.

DR. LOUIS B. DANIEL, III: I was going to bring up similar concerns. We're spending a lot of money on this assessment. We're spending a lot of money developing an incidental take permit. We're also spending a lot of money on observer programs to monitor sturgeon. I think the quicker we can get this through, the better.

But, I still want to continue to be on the record at every Sturgeon Board Meeting about my concern over a stock assessment and the Endangered Species Act. One of the things I'm wondering about is having a TOR potentially for the reviewers to look at maybe some other species that are under our management purview.

If sturgeon come back at 8 percent and winter flounder are at 2 percent, what does

that mean? That is a real concern of mine. We're going to be setting a precedent here to where an SPR value perhaps or an F value is the reason for or against an endangered species listing. I'm just very concerned about that and feel like that could come back to bite us. I don't think we're going to get a clear answer from the Service as to where it needs to be.

Perhaps if there are other species of fish that have been listed as endangered that have stock assessments that have been done or providing us with some more information from the reviewers, I think that is going to be important information for us to try get from those folks for what we're – I mean, I'm assuming since we all opposed the listing, that we're going to looking to that assessment in hopes that we will be able to move as fast as we can to get them delisted and try to take some of this monetary burden off of us.

CHAIRMAN ALLEN: Thanks, Louis. I think once the assessment is done, we have a lot of work in front of us; so let's see how it all shakes out. Dave.

MR. SIMPSON: So again my question is, you know, trying to anticipate what needs the Protected Resources Division would have to evaluate this – and without going outside the scope of a stock assessment, it occurs to me that one of the threats to the viability of this stock is recruitment and limitations there.

Whether through this stock assessment we can address that; do we have adequate emphasis on that component of it to do at least the best we can. Without getting outside the scope of a stock assessment; do we have the right terms of reference to address those anticipated questions; are we getting any recruitment? It is not about fishing potentially. It is about lack of reproductive success.

DR. DREW: I think that would certainly be covered under our try to develop models to estimate population parameters, which would include abundance and recruitment and trying to analyze our available data in terms of what that is telling us about population structure.

CHAIRMAN ALLEN: **If there are no other questions, I will be looking for a motion to approve the terms of reference to move them forward. Louis.**

DR. DANIEL: So moved.

CHAIRMAN ALLEN: Dave Simpson seconds. No need to caucus? We can do this by consensus. Does everybody agree; is there a disagreement? **Seeing none; approved.** I will turn it over to Mike with the 2013 FMP Review and State Compliance.

2013 FMP REVIEW AND STATE COMPLIANCE

MR. MICHAEL WAINE: This is an FMP Review of the 2012 fishery. As we are all aware, there is a complete moratorium since 1997 for Atlantic sturgeon. The EEZ harvest was prohibited in '98 and it will remain in effect until the stock exhibits a minimum of 20 protected year classes of spawning females.

A little bit about bycatch as this is reported in the compliance reports; in 2012 a total of 332 Atlantic sturgeon were reported as bycatch in various fisheries. That is a correction from what was in your original draft. The majority of that occurred in South Carolina Winyah Bay American Shad Gill Net Fishery.

I just wanted to mention some concern about there continues to be underreporting for the bycatch as the ESA listing has created issues and also some of the states have had to end some of their voluntary logbook programs for bycatch reporting. In 2012 there were 18 Atlantic sturgeon carcasses reported in the Delaware Estuary. These were all mortalities that are most likely the result of ship strikes; so that continues to be a source of mortality for the stock.

As I mentioned, we have the current status, but we are underway with a benchmark assessment as we just reviewed the terms of reference; and that is expected to be peer

reviewed in early 2015. The technical committee and the stock assessment subcommittee are working hard on that assessment and have been compiling data for the progress to continue in 2014.

Just a quick habitat highlight; as we all know, restoration of historic spawning habitat is important; and I would like to mention that on the Penobscot River in the state of Maine two dams have been removed recently, restoring some historical spawning habitat for sturgeon and other anadromous fishes.

As part of compliance, states are required to submit information on the results of bycatch monitoring, any independent monitoring results, status of habitat, information on aquaculture. The PRT finds that all states are in compliance with the FMP. We just had a few recommendations, which was that states coordinate with the commission regarding the progress of their incidental take permits under Section 10 of the ESA; that ongoing research is incorporated to the extent possible in the upcoming benchmark stock assessment to aid in the understanding of stock structure and status.

Also, the PRT notes that several of those logbook programs that were voluntary that helped report bycatch have terminated; so we would stress the importance of mandatory reporting requirements for sturgeon bycatch in other fisheries. Thank you, Mr. Chairman.

CHAIRMAN ALLEN: Thank you, Mike, that was nice and quick. Are there any questions for Mike? John.

MR. JOHN CLARK: Mike, with one of your points there, I was just curious if you know how many states have already applied for their Section 10 permits?

MR. WAINE: Yes; we just put together this list. I can't remember it off the top of my head; but there are a number of states that have applied. We will be reaching out to them to continue to understand the progress on those. I can follow up with you on the list.

CHAIRMAN ALLEN: If there is nothing else, I'm looking for a motion to approve the review.

MR. PATRICK AUGUSTINE: **I move the board approve the FMP Overview as presented today and state compliance.** Do you want to include in that the recommendations – and staff recommendations; make it all one motion?

CHAIRMAN ALLEN: I don't that's needed at this time, Pat.

MR. AUGUSTINE: Okay, just the first part.

CHAIRMAN ALLEN: Okay, it was seconded by Loren. **The motion is move to approve the FMP Review as presented today and state compliance. Motion by Mr. Augustine and seconded by Mr. Lustig. Is there any dissent to this motion? Seeing none; approved unanimously.** I will turn it over to Rob the next item.

MR. O'REILLY: **Mr. Chairman, I would like to make a couple of nominations for the advisory panel. I hope my friends in Pennsylvania are able to second this, of course. One would be Kelly Place from Virginia and the second would be John Pedrick from Pennsylvania.**

MR. MITCHELL FEIGENBAUM: I second.

CHAIRMAN ALLEN: All right, is there any dissent to that motion? **We will consider that approved.**

OTHER BUSINESS

Is there any other additional business to come before the board. Jim.

MR. GILMORE: Mr. Chairman, just in terms of the advisory panel nominations, I will have a couple at the next meeting. I understand it hasn't met in a while. Just for everyone's knowledge, if you don't know,

Andy Kahnle, who has worked for the DEC for 33 years, retired last week. That is the bad news and we wish him well. The good news is that when I took him out to lunch last week, he asked if we would consider him for the advisory panel. I said, well, that could be a long shot, but I think we could put his name in. Anyway, hopefully, Andy will be back. We also have Arnold Leo who is interested. We will have those nominations for the next meeting. Thank you.

CHAIRMAN ALLEN: All right, thanks, Jim. I don't know what Andy could bring to the table on shad and river herring or sturgeon, sorry, or both, but bring striped bass into that also. Mike.

MR. WAINE: Jim pretty much hit it spot on. The AP hasn't met in a long time; so I guess the board should consider from their states if they want to enhance membership for that moving forward as we will be meeting with them coming up in the next several years.

ADJOURNMENT

CHAIRMAN ALLEN: Is there anything else to come before the board? We are adjourned.

(Whereupon, the meeting was adjourned at 11:57 o'clock a.m., February 6, 2014.)

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