

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
INTERSTATE FISHERIES MANAGEMENT POLICY BOARD**

**Loews Annapolis Hotel  
Annapolis, Maryland  
October 31, 2007 &  
November 1, 2007**

Approved February 6, 2008

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## INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1)
2. **Approval of Proceedings** of August 15 & 16, 2007 by Consent (Page 1)
3. **Move to approve the stock assessment schedule changes for 2008** (Page 8). Motion by Pat Augustine; second by Dennis Abbott. Motion carried (Page 8).
4. **Adjournment by consent.** (Page 61)

## ATTENDANCE

### Board Members

George Lapointe, ME (AA)	Roy Miller, DE, proxy for P. Emory (AA)
Patten White, ME (GA)	Bruno Vasta, MD (GA)
Doug Grout, NH, Proxy for John Nelson (AA)	Howard King, MD (AA)
Rep. Dennis Abbott, NH (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Paul Diodati, MA (AA)	Kelly Place, VA, proxy for Sen. Chichester (LA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Catherine Davenport, VA (GA)
Bill Alder, MA (GA)	Louis Daniel, NC (AA)
Mark Gibson, RI (AA)	Damon Tatem, NC (GA)
Eric Smith, CT (AA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Lance Stewart, CT (GA)	John Frampton, SC (AA)
Karen Chytalo, NY, proxy for G. Barnhart (AA)	Robert Boyles, Jr., SC (LA)
Pat Augustine, NY (GA)	Malcolm Rhodes, SC (GA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	April Price, FL (GA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Gil McRae, FL (AA)
Erling Berg, NJ (GA)	Spud Woodward, GA, proxy for S. Shipman (AA)
Frank Cozzo, PA, proxy for Rep. Schroder (LA)	Dave Perkins, USFWS
Eugene Kray, PA (GA)	Chris Moore, NMFS
Leroy Young, PA, proxy for Douglas Austen (AA)	A.C. Carpenter, PRFC

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

### Ex-Officio Members

#### Staff

Bob Beal	Vince O'Shea
Brad Spear	

#### Guests

David Perkins, USFWS	Bill Goldsborough, Chesapeake Bay Foundation
Bill Sharp, FL FWC	Steve Meyers, NMFS
Peter Hill, JOCI	Cecilia Lewis, USFWS
Stephen W. Heins, NYS DEC	Bennie Williams, USFWS
Bill Windley, MSSA/RFA	Wilson Laney, USFWS
Ken Simmers, MSSA	Dan Walker, EOP
Forbes Darby, NOAA	Arnold Leo

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, Wednesday morning, October 31, 2007, and was called to order at 11:05 o'clock a.m. by Chairman George D. LaPointe.

### **CALL TO ORDER**

CHAIRMAN GEORGE D. LAPOINTE: We have a lot of agenda topics; I want to get started. We have an agenda for the Policy Board. I'm going to make a couple of announcements. Louis Daniel has mentioned that one thing in the Shad and River Herring Board that wasn't done was appointing a stock assessment subcommittee, so Bob Beal is going to circulate that list of people. When it's circulated, look for the membership and if there should be other people on it, we want to get that started for river herring.

Howard King has informed me that the Maryland Proposal for striped bass for consideration at this afternoon's meeting is available. They were passed out. We're going to get to as much of the agenda as we can this morning. If we get past the reports we have this morning, my intention is to move up Agenda Topics 12 and 13.

Vince or staff wants to speak briefly about the strategic planning that the commission will be doing. I know that the strategic plan isn't the purview of the Policy Board, it's the full commission, but he is going to make an announcement about getting that started so if we lose members tomorrow, they will hear as well. Are there other changes to the agenda? Paul Diodati and Jaime Geiger.

MR. PAUL DIODATI: No changes, Mr. Chairman, just a question. We have at least one more board meeting later today, and there may be some items as result of that meeting that need to come back to the Policy Board. I am assuming that will happen tomorrow?

CHAIRMAN LAPOINTE: That's correct.

DR. JAIME GEIGER: Yes, Mr. Chairman, just a brief item maybe under other business and just sort of give an update on the cormorant depredation orders, just for the information of the Policy Board members. Thank you.

### **APPROVAL OF AGENDA**

CHAIRMAN LAPOINTE: Thank you. Any other changes to the agenda? Seeing none, is there objection to its approval? Seeing none, it is approved.

### **APPROVAL OF PROCEEDINGS**

We have the proceedings from the 15<sup>th</sup> and 16<sup>th</sup> of August, 2007. Have folks had a chance to look through those and see if we need any corrections? Seeing none, is there any objection to their approval? Seeing none, they are approved.

### **PUBLIC COMMENT**

This is the time on our agenda that's marked public comment. If folks have comments that aren't related to agenda topics, we want to hear those now; or, if people have comments on agenda topics we'll take up tomorrow, and if they will not be here, we'll entertain those now. Are there any members of the public who want to speak at this point?

Seeing none, we will proceed to the next agenda topic which a presentation on the vessel/net calibration on the Bigelow, and this is going to be given by Chris Bonzek. Vince.

### **PRESENTATION ON THE VESSEL/NET CALIBRATION OF S/V BIGELOW**

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. To set this up a bit, this reflects the interest that has been expressed in some of our other species management boards that maybe not all the members of this policy board sit on regarding the importance of this issue and the impact it has on the commission's fishery management process.

DR. CHRIS BONZEK: Good morning. My name is Chris Bonzek. The first thing I need to point out is that I live and work 500 miles away from Woods Hole. As I think most of you know, the Center is under very strict budget problems right now, so I was asked to present this in their stead, because I have been involved at least on the edges of some of this process that I will outline for you. I will take all responsibility for any factual errors that are in this presentation.

What I am going to describe is the process that the Center has in place and actually ongoing to provide themselves with coefficients to maintain the data base time series when the Albatross, with the Yankee 36 net, has to switch to the Bigelow with the newer net later next year or early in 2009.

Why is that necessary? Well, there are three different reasons. First, as you are well aware, the Albatross is being retired some time in the near future – that’s a little bit up in the air as to exactly what that date will be – to be replaced by the Bigelow, which is considerably larger, quieter and hopefully better vessel.

Second, there has been an ongoing process now for several years that started with the trawl warp issue back in early 2000. To replace the Yankee 36 net was a net that’s more acceptable to the industry and simultaneously acceptable to the Center. The pictures that you see are pictures from the flume tank test up in Newfoundland that occurred in 2005. The new net is on your left, and the Yankee 36 net is on the right.

Those are about one-seventh scale models, and you can see the new net is considerably higher in the water column. It should tend to bottom much better and just fishes in a much better configuration, at least in the flume tank, and I think in the field as well. Finally, because of the other two changes, the tow-by-tow protocols will be changed when the new fishing system is implemented.

Previously, tows were 30 minutes long at 3.8 knots, which meant that the total tow distance was something on the order of 3,400 meters. The new net will be fished for only 20 minutes at about three knots, and so the tow distance is about half as long, but the net is so much larger and more efficient and still will get more than adequate sample, I have no doubt.

About a year or so ago – or, actually earlier this year, I guess, a team at the Center developed a plan for the experiments that they would carry out in order to calculate their calibration coefficients between the old system and the new system. That plan was reviewed by an external panel back last spring. It was specifically not at peer review so that the recommendations did not have to absolutely be followed.

But the review panel did have some significant suggested changes, and those were incorporated into the plan. There is a web site listed there for the plan

as it’s now in place. Obviously enough, the basic plan here is to do side-by-side tows and lots and lots of them. When those tows are done, the Albatross with the old net will fish first so as to be sure that there’s no vessel or gear interference from the second net and second boat.

Then Bigelow will follow, offset slightly in both space and time, and then the ratio or the catch rate is the basic metric that they will use to calculate the coefficients. There are four different parts of the experiments that they have in place. There was a pilot experiment that occurred back in August. I am going to explain these in detail in the couple of slides. They are going to conduct what they call “shadow surveys”, site-specific experiments and sweep-comparison experiments. I will explain what those mean.

The pilot experiment occurred back in late August, and it was basically the first attempt to look at what they are calling the disturbance effect of does sweeping the net and the boat through the water in one place, how close can you get with the second boat and the second net, so that the two catches are sampling the same population and yet one is not affecting the other, so there is some distance there that you want to be as close as possible but not too close.

There was carried out only by the Albatross and in a closed area. As of the date when they provided me the basic information here, the data were still being looked at, so there are no results available as far as I know from that experiment yet.

The shadow surveys are really, I would say, the heart of their whole experiment. The plan that’s been interrupted a little bit is to have both vessels do complete surveys in the fall of ’07, the spring of ’08, and then the fall of ’08, so three complete side-by-side surveys would be completed. Those alone would provide I think on the order of a thousand side-by-side tows.

Again, the Albatross would fish first followed by the Bigelow offset by I think about 15 minutes and in the beginning offset by about 500 meters. The Bigelow, because it’s such a larger vessel with a deeper draft, can’t sample inside of about 60 feet, so those stations will not be sampled in a side-by-side manner. While the Albatross is inshore doing those stations, the Bigelow has plans to do other work offshore.

The advantage is that these surveys sample across all the habitats and sites that the survey samples, all the

depths, all the ecological communities. Then the data can be compared either on a tow-by-tow basis, they hope, or, at the very least, on a survey-by-survey basis. This was actually a point of discussion at the review panel meetings last spring. The review panel thought that it really was not worthwhile to do tow-by-tow basis comparisons.

The Center thought that if it's possible to collect that data, that it's very useful and so they're going ahead with that plan. If it doesn't work for them that way, if the numbers just don't work, they can back off and do survey-by-survey comparisons.

The site-specific experiments basically complement the survey comparisons. What they plan to do here is go into basically closed areas where they expect that both abundance and diversity would be very high and do more and more and more tows, as many as they can. They're also going to do more experiments, at least in the beginning, on this disturbance effect. If they find a disturbance effect at the 500-meter distance, which is their starting point, or if they don't find it, then they would go into about 250 meters and see if they find it there.

They're trying to get those vessels, again, as close as possible to one another so they're sampling the same underlying population. Those experiments will be conducted this fall and next spring. The first one, this fall, will be conducted in New England; the second one in the Mid-Atlantic will be next spring.

Finally, the sweep-comparison experiments, the trawl panel, which is the industry/ scientific/academic panel that has designed this new fishing system has recommended all along that the new gear be fished with two different sweeps; one, which is a cookie sweep, very small, little pieces of rubber on the bottom, to be used in the Mid-Atlantic; and the rock hopper sweep to be used in New England where there is harder bottom.

The Center would like to conduct all these calibration experiments using only one sweep; because, if you do it with two sweeps, you're basically halving your sample size because you are fishing two different nets. So to compensate for that, they will conduct, using only the Bigelow, at some point in the future they'll conduct experiments with the Bigelow taking a swath at one point, switching the nets to the other sweep, taking a swath, and eventually get enough experiments that way, so that they can develop that correlation coefficient as well.

The overall timeline of their plans is shown here, and this is basically just a reiteration of what I've already said, but I'll present it in one place. The pilot survey was conducted in August. The surveys, the first one was scheduled to be this fall. As many of you are probably aware, the Bigelow had some serious propulsion problems; and so after only a very small number of tows, the Bigelow went back to Newport, where it's temporarily home ported, and was not able to get back out for the rest of the survey, so they've basically lost that opportunity, unfortunately.

The site-specific experiment will be conducted in November. You can read the slide as well I can just read it off to you. Another possible hitch in the plans, assuming that the Bigelow gets itself back up and running okay, is that the Albatross is scheduled for retirement at the end of the fiscal year that ends in September '08.

The fall '08 survey, however, would extend past that date, and so the Center has to get approval and funding to not retire the Albatross for another month or two after that date. I don't know where that request stands. Then the Bigelow would actually be the only vessel doing survey data starting with the spring survey of '09. The picture on the upper left there is the new net set up in a warehouse. You can see it's a pretty large piece of gear. The Yankee Net is coming off the Albatross in the other picture. I'll take any questions.

CHAIRMAN LAPOINTE: Questions for Chris. Pat Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. Excellent report, thank you very much. Had the problem that Captain Avila and Ruhle – they were the industry representing the advisory panel – had that issue been resolved where they had come up with the right panels and cables; was that addressed and changed?

I know they talked about the panel size had been changed and the cable had been changed. Then Captain Ruhle came to the meeting and made a fool of himself – and I'll say that on the record because I told him in person – saying that how the thing was screwed up. But, it was a big concern of other board members, and we haven't gotten an official report, so if you could give us that, we would appreciate it.

DR. BONZEK: To the best of my knowledge, no actions have occurred. As much as anything, I think it's a communications issue. The Center was making changes, what the fishermen thought were very

significant changes to the fishing system, without communicating with them at all, and I think that's what really had Captain Ruhle upset. I don't know where that's going to go. The trawl panel has a meeting scheduled in mid-December, tentatively scheduled. Hopefully, things will occur either before or then.

MR. AUGUSTINE: I hope Dr. Weinsin would report that or Ms. Thompson would report it to the Mid-Atlantic writing so that all members are on the same page. Right now some folks are very concerned about what the real story is, and I appreciate your clarification on that.

DR. BONZEK: Just one more point; I did have an e-mail from Russ Brown, the Monday before I left for here, that I think they were going to respond formally or semi-formally to Captain Ruhle's concerns and point out whatever errors may have been in his statements.

CHAIRMAN LAPOINTE: Other questions, comments? Bruno and then Vince.

MR. BRUNO VASTA: Is there any kind of a document that describes the physical differences between the two boats, you know, the size, the power plant? That would be interesting to know.

DR. BONZEK: The Bigelow is described somewhere on the Center's website. I can just tell you approximately what I know. The Albatross is something like 160 feet long, in that range. The Bigelow is over 200, 210. The Bigelow, when its centerboard and all the electronics are down, it draws about 40 feet. I think the Albatross draws about 20 feet or thereabouts.

The power plant is a very interesting issue. The power plant on the Bigelow is what is called diesel-electric, where the screw is not turned directly by an engine; it's turned by electric motors with generators, and that's the issue that they had. The advantage of that is that it's supposed to be extremely quiet, and as I understand it's been measured as being extremely quiet. The disadvantage is it's a new technology and they're having a bit of trouble with it.

EXECUTIVE DIRECTOR O'SHEA: A couple of quick points. Pat mentioned panels. I think he meant doors. With regard to Bruno's comment, I think the key issue here is the width of the two ships, and the new ship is much wider, so the cables start off being wide to begin with, and that's one of the challenges this group is facing.

I think Chris is being a bit modest here. I want to clarify it for the board. Chris works at VIMS. I have been appointed to the Trawl Survey Committee that's been working for the past three years by the Mid-Atlantic and the New England Council Chairs, and Chris sits as my proxy on that effort and has sat there for two-and-a-half years, bringing his expertise as the trawl coordinator at VIMS.

The tone of some of these questions is as if he's a Northeast Science Center guy, and I want to make it clear he's a VIMS guy, and he represents our commission on that Trawl Survey Committee. Thanks.

MR. PAUL DIODATI: Well, with that clarification, then my question to Chris might be inappropriate because it had to do with the loss of the inshore trawl sites. My question was going to be is there an accommodation being made to pick those up using some other vessel; and if not, what jeopardy is there in losing that part of the time series? But, I could direct that question elsewhere.

DR. BONZEK: I can speak to it a little bit. The commission, starting almost ten years ago, I think, started this process that has come to be known as NEAMAP. It was necessarily directed and originally towards just developing a nearshore trawl survey, but that is the first major component. I'm the PI on that, and we just, ten days ago, finished the first official NEAMAP cruise that fishes exactly in the areas that the Bigelow now can't sample.

NEAMAP wasn't started because of that issue, but it certainly has gained impetus because of that issue. I don't know if there's a NEAMAP update scheduled for you. There is a summary sheet that I presented at MSC yesterday, and Melissa has a few copies of that if you are interested.

MR. JOHN I. NELSON, JR.: Thanks, Chris. Do you have a sense of how the repair is coming on the Bigelow? Chris, I know at the council level there was a lot of concern expressed on whether or not it would even be available for the coming fall survey.

DR. BONZEK: Well, the fall survey is complete, and the vessel was not repaired before the fall survey was completed, so they got very different numbers. I think the final number I heard was 16 side-by-side tows, but even those were problematic, so that survey is lost. I assume that the repairs will be done soon, because it's a software issue, as I understand it. It's not a hardware issue.



MR. NELSON: So, practically, we really only have a spring and a fall survey of comparison at best that we're going to get out of the two vessels, if the feds extend the life of the Albatross. Those are some of the issues that are still hanging out there. The other one, Chris, I think you've mentioned it, and that was the advisors I thought were concerned about the rock hopper not being used and fished totally different on a smooth bottom off the Mid – maybe I got it reversed, but it sounds like they're looking to do the different types of tows in the different geographic areas now?

DR. BONZEK: To briefly address your first point first, in addition to the two surveys, they'll have all those site-specific experiments. And just off the top of my head, I would say there is still going to be well over a thousand side-by-side tows if the plan can be carried out from this, and that's probably still the largest experiment of its type that's ever been done. They're probably still in decent shape.

The second point, yes, that's an issue of contention among some of the industry people and the Center, because all along the panel was under the assumption that there would be two nets being fished. Now the fear is that their intent is really they're only going to fish the rock hopper. The Center's argument, again, is that this gives them a much larger sample size to do their comparison tows.

The secondary argument is it really doesn't matter how efficient the net is as long as it's consistently efficient. So, if they lose some efficiency by fishing the rock hopper on smooth ground, they're still getting relative indices. Industry doesn't necessarily accept that, and it's at least a PR problem and possibly a science problem as well.

MR. VITO CALOMO: Thank you, Mr. Chairman. To answer my friend Bruno Vasta's question about the difference between the Albatross and the Bigelow, there is a song called "Night and Day." That's what they are, night and day, believe me. But to get to my question – and, again, I'm just asking the question because I was the person that NMFS chose one time to send one of my captains on the Albatross to see if things were going correctly.

His name was Captain Sam Novello out of Gloucester, Massachusetts. He found a lot of problems that started a lot of things to change, I guess, and helped straighten out the gear. This is a question that may be obvious to me because I was a fishing captain, but to some people – when you said

you're towing the net 20 minutes, is that 20 minutes when you just set it out or is it –

DR. BONZEK: From brakes on to brakes off is the way we do it on NEAMAP. I assume it will be the same on the Bigelow.

MR. CALOMO: Yes, because there is a difference to get the net settled on the bottom – and I heard you say 3.5 knots or something to that effect. It's an obvious thing, but if you said that, you're in the right direction. I thank you for your answer. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: Other questions or comments for Chris?

MR. GIL POPE: Thank you, Mr. Chairman. So those three parameters of 20 minutes, three knots, and 1,800 meters, was it, are the same for all species, fast swimmers and everything?

DR. BONZEK: Correct. There is some consideration at least – I don't know the Center's plans, but there is consideration at least of doing power takeoff at the end of the tow, where for the last minute or so you speed the boat up and try to tire out whatever swimmers might be swimming around in the front of the net. I know that it had serious discussion; I don't know where that decision stands.

CHAIRMAN LAPOINTE: Seeing no other questions, Chris, I want to thank you for coming and being a surrogate fed in this case. I think this to the folks at the National Marine Fisheries Service, the key to the most acceptance we can get as this conversion continues is communication as issues come up, just to keep people plugged in so the jungle beat doesn't get too loud, from my perspective, because the questions about comparisons, as we go into, in New England's case, the Gorham next year and using it in the future, are big and so communication I think will be critical. Our next agenda topic is an Assessment Science Committee Report by Mike Murphy.

## **ASSESSMENT SCIENCE COMMITTEE REPORT**

MR. MICHAEL MURPHY: Good morning. I'm here to report on the September 17<sup>th</sup> Assessment Science Committee meeting. We took two actions at that meeting. The first was to approve the stock assessment schedule for 2008. I will note for the board here that there were a couple of changes from the schedule that you saw in May.

The summer flounder, which was in consideration for the Atlantic States Marine Fisheries Commission External Review is now looked to scheduled for a SARC in June of 2008. The spiny dogfish will under a Transboundary Assessment or a TRAC in 2009. The second action that the committee took was to simply approve the stock assessment scientists' workload for that year.

Several updates were also made at the committee meeting. The committee discussed revisions to the Benchmark Stock Assessment Document. In particular, there were a couple of issues we talked about. First was the inclusion of a retrospective pattern term of reference into the stock assessment document.

The second was language that clarified the criteria for being on a peer review panel and the avoidance of conflict of interest in those panel members. The Assessment Science Committee made some recommended changes, and that document was forwarded to the Management and Science Committee, which has looked at it at this meeting.

The Term of Reference Subcommittee for the ASC also reported. They are reviewing the past five years of stock assessment terms of reference to determine adherence to these terms of reference by the peer reviews. They are making suggestions for any revisions to the terms of reference explicitly to try to get to the point of having the terms of reference addressed at each one of the peer reviews.

A subcommittee that's developing a reference points' white paper also reported. This is a document that is supposed to provide guidance to the technical subcommittees, and it is nearing completion. It has about one section left before it will be sent out for review.

We discussed the report card on Stock Assessment/Peer Review Process. This is a questionnaire that staff has developed with the committee to improve the stock assessment and the peer review process by getting input from participants of this process, particularly stock assessment scientists, the peer reviewers themselves, and Atlantic States Marine Fisheries Commission staff.

The committee reviewed some trial survey results that came in from the Northern Shrimp Peer Review, and that was sent on to the Management and Science Committee that will provide further input before we

sent the survey out again. The next one will be sent to the Shad Peer Review participants for their input.

There was also a report on the Advanced Stock Assessment Training Workshops that were held in 2007. One was on the subject of "Maximum Likelihood Estimation". It was held in July and went over very well. We had good reports on that. The second is a Fisheries-Dependent Sampling Workshop that will be held in November.

We also decided upon advanced training workshops for 2008. The topics chosen were "Generalized Linear Modeling". This is important for the development of things like tuning indices for assessments. If funding was available, a course that would introduce "R" programming, which is a statistical package that a lot of assessment scientists use. Finally, just for your information, there is a Basic Stock Assessment Workshop that will held in 2007. It's held in two parts, one in November and again in December of this year. That is my report.

CHAIRMAN LAPOINTE: Thank you, Mike. Questions for Mike? Vince has a question and Louis.

EXECUTIVE DIRECTOR O'SHEA: Actually, more of a comment, Mr. Chairman, and that is Mike has given a great report here. Everybody on this Policy Board knows about striped bass, and striped bass is getting ready to go to a SARC review this fall. The National Marine Fisheries Service had approached us saying they were bringing three outside Center of Independent Expert Scientists in for that peer review, but they were looking for a chair.

In discussions we approached Mike, and Mike has agreed to chair that SARC for the Striped Bass Review. Mike is at the Florida Fish and Wildlife Commission and a busy guy to begin with. He helped us with lobsters. I want to publicly acknowledge, because he's too modest, of him coming forward and chairing this SARC. I think it's the first time, maybe, that we've contributed through the commission process a scientist to help chair this SARC process. So, publicly I want to thank you, Mike, for coming forward, and make sure the board knows that.

CHAIRMAN LAPOINTE: Thank you and thank you, Mike. We might have to give him some scientific body armor for the striped bass exercise. Louis Daniel.

DR. LOUIS DANIEL: Thank you, Mr. Chairman, and I hope this is the most appropriate place to make

these comments. I appreciate the report from Mike. You know, we've heard a lot of discussion lately where people are starting to use the term "sound science" more than "best available data". That's encouraging, but it doesn't mean the data have gotten any better.

The issue that I'm seeing is an extraordinary lack of gear-specific age/length keys, the types of basic fisheries data that we need to assess these stocks. We've got disparities in aging structures; we've got a lack of sampling involved. I think this assessment committee should review the recent report from the National Marine Fisheries Service that indicates that their top priorities for science are going to the next generation of stock assessments that will be more sophisticated and accurate and have the ability to reduce uncertainty and incorporate ecosystems considerations.

I would like some feedback from the assessment group, if that's an appropriate direction, and perhaps get this commission to comment on that at some point in time, because I think they're going way too fast; and until they collect the information that we need to do the first-order assessments, we shouldn't be moving towards second-order assessments. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: Any comment?

MR. MURPHY: Nothing specific. That seems to be an appropriate task for the committee.

CHAIRMAN LAPOINTE: All right. Other comments or questions? Is there a concurrence around the table to bring Louis' question back to the Assessment Science Committee? I see lots of headshakes yes, so we will do that. Other questions for Mike? Seeing none, thanks very much. Our agenda topic the Multi-Species Technical Committee Report by Matt Cieri.

## **MULTI-SPECIES TECHNICAL COMMITTEE REPORT**

DR. MATTHEW CIERI: Thank you. The Multi-Species Technical Committee met recently, during the last technical meeting week in Raleigh, North Carolina. Just to sort of review where we stand with the Multi-Species MSVPA Model and its update, November 16<sup>th</sup> is when we're going to have sort of a data deadline for updating the current data that's used in the peer-reviewed model.

We're hoping to do a data workshop someplace warm and sunny, hopefully at Mike Murphy's place in St. Petersburg, hopefully, January 14<sup>th</sup> through the 16<sup>th</sup>, and then after that, we will do some model runs and hopefully get back to you guys. I'll first report it to the Multi-Species Technical Committee and then bring a report back to here for you for analysis by your May meeting.

In addition to that, the Multi-Species Technical Committee has gone through and looked at some of the recommendations from the last peer review from the SARC on how to update and improve the model. There were a number of recommendations, both short-term modeling things within the model itself and more longer-term research recommendations on collection of data, species to add it, and so on and so forth.

In addition, we were given a presentation during our last technical meeting to look at alternative ecosystem modeling approaches, including the Steele-Henderson Model, as well as the menhaden consumption model. In general, the Multi-Species Technical Committee gave the idea that a lot of these things are very interesting. They can provide accessory information for management.

In general, it's up to the TCs to use and incorporate these in their modeling activities; and that anything that is used for management purposes, of course, has to be peer reviewed for that particular species.

The other task that we were charged with at one point was from the Management and Science Committee to go over what we could say about single-species assessments and single-species stock status, using the MSVPA. The Multi-Species Technical Committee was fairly apprehensive about doing so considering that the SARC had specifically said that we shouldn't be doing that kind of activity.

However, there is some accessory information that we can provide managers on consumption rates and other types of information that we can provide directly to the species TCs in general and to the management boards, if required. One thing to keep in mind is that menhaden is pretty much one of the only forage species that is looked at in a comprehensive way in the MSVPA; and the M vector of how M is changed at age is what is incorporated in the single-species assessment for menhaden, so there is a direct link between this ecosystem MSVPA and its utility for and actually driving some of the aspects of the menhaden assessment in a single-species approach.

We also, at length, discussed some of the changes that we would all like to see in the MSVPA; the inclusion of shad; perhaps shad and river herring, as well as incorporating Atlantic sea herring as an explicitly model species. We discussed a little bit, at least tentatively, what need to be done prior to the next peer review for this model and what sort of timeframe that might be. It might be a few years off, but this type of modeling exercise takes a long time to accomplish. That is pretty much it.

CHAIRMAN LAPOINTE: Thanks for the report. Although for many of us this is black box kind of material, we're glad you're doing it so we can hopefully make a wise progression towards using them in a real management sense in the future. Our next report will be the Management and Science Committee Report.

### **MANAGEMENT AND SCIENCE COMMITTEE REPORT**

MR. DOUGLAS GROUT: Thank you, Mr. Chairman. We met yesterday. We, too, looked at the Benchmark Stock Assessment Document. We were looking at trying to make the peer review panel as impartial as possible with some suggestions on how to improve that and avoiding conflicts of interest. We also looked at the suggestions that Mike's group, the Assessment Science Committee, had about the generic terms of reference.

All that information will be brought forward to you at probably one of your next Policy Board meetings to look at revisions to this Benchmark Stock Assessment Document. As Matt had mentioned, there was a little bit – the Multi-Species Technical Committee misinterpreted one of the charges that we had given to them.

They thought that we were looking at using the MSVPA for setting reference points for single species. That's not what we had in mind, and we clarified to him that we were looking at some of the outputs, what comes of that, can any of that be used in assessments, so that's fairly clear right now.

We also had a discussion about the food habits data going into the multi-species assessment, basically looking at whether it all needed to be peer reviewed or not. Our recommendation to them was that, yes, ideally most of the data inputs do come from peer-reviewed assessment reports, but some are not; and when they are not, the data needs to be presented with methods, results and analysis.

As Matt pointed out to us, we need to have the actual raw data sets, too, for it. Then the technical committees in any assessment will be the final determination of whether they're going to use different papers and different pieces of scientific information in the assessments.

We're also looking at helping out with the development of this Energy Source Document that came out of that Energy Workshop that we had last year. We are moving forward on that. We also had a request from the – actually had a comment from the general public at our meeting this time.

We were asked to identify forage fish of concern to management and focus on fish that are not currently assessed. We're still going to look and identify the forage fish that assessed but also look at the ones that are currently not assessed. We will be taking that up as an agenda item at our next meeting.

We also reviewed the Action Plan, as all of you have, and felt it adequate. We had several updates, one of which Mike had mentioned was reviewing the stock assessment schedule for 2008. We need a formal approval of that stock assessment schedule for 2008 from the board at this point. So, even though on the report that's not an action item, we do need an action on that.

CHAIRMAN LAPOINTE: Thank you, Doug. The changes that were recommended to the stock assessment schedule were that summer flounder wouldn't be an ASMFC Peer Review. It would go to SAW/SARC, right; and, that spiny dogfish would undergo an assessment by the U.S.-Canada TRAC process in 2009.

MR. GROUT: Correct.

CHAIRMAN LAPOINTE: Are there questions on that recommendation? Do we need a motion; we probably do. Do I have a motion to approve the changes as proposed. Moved by Pat Augustine; seconded by Dennis Abbott.

Any questions or questions or comments on the motion? Seeing none, is there any objection to the motion? Seeing none, that approved. Any questions for Doug on the rest of the report? When you talk about forage fish of concern, name me some.

MR. GROUT: That currently aren't assessed?

CHAIRMAN LAPOINTE: Yes, just give us some examples.

MR GROUT: It would be anchovies. Do you want more? That's one of the things we'll come up with at our next meeting for you.

CHAIRMAN LAPOINTE: Great! Other questions or comments for Doug? Do we need to formally approve the whole report?

MR. ROBERT E. BEAL: No.

### **FISHING GEAR TECHNOLOGY WORKGROUP REPORT**

CHAIRMAN LAPOINTE: Okay, good. Seeing none, thanks very much. The next agenda topic is the Fishing Gear Technology Workgroup Report. Pat Campfield.

MR. PAT CAMPFIELD: Thanks, Mr. Chairman. The commission formed the Fishing Gear Technology Workgroup earlier this year to address bycatch reduction gear effects on habitat, and, in general, to identify new gear innovations that have come out up and down the east coast, but also potentially around the world that may be potentially applied to the fisheries along the east coast.

The Fishing Gear Technology Workgroup had their first meeting about a month ago in Raleigh. Their basic plan is to take up research on these new gears, evaluate their potential for implementation into Atlantic Coast Fisheries, and generate a report by the end of 2008 with recommendations for management and also future research where gaps exist with bycatch reduction and habitat impacts.

CHAIRMAN LAPOINTE: Thank you, Pat. Questions for Pat? I think everybody looks forward to the report when it comes down. We're going to take up Item 12 and 13. Item 12 is the discussion on Alignment of State and Federal Management Programs. That's Bob Beal.

### **ALIGNMENT OF STATE/FEDERAL MANAGEMENT PROGRAMS**

MR. BEAL: Thank you, Mr. Chairman. On the CD that went out prior to this meeting, there is a one-page white paper on this issue. It's titled "Alignment of State and Federal Fishery Management". This issue was briefly introduced at the August meeting of the Policy Board. There was a bit of discussion

there. A number of different options and scenarios were discussed.

What this white paper does is essentially pulls together or compiles a list of things that have been discussed in the future. It's not making a recommendation; they're not listed in priority. This is simply sort of an inventory of ideas that are out there that could be used to improve state and federal alignment on fishery management issues.

I'll go through the list briefly and just kind of summarize those options listed or the ideas listed. I think at the end of this or task for the Policy Board today would be to determine if there are any additional steps that the Policy Board would like to take in either working toward one of these options or is there something entirely different that the Policy Board may want to consider on the issue of state and federal alignment.

I'll run through the options fairly quickly here. Option 1 or Issue 1 is to reduce or eliminate joint or complementary management plans. Under this scenario ASMFC or the federal councils or the National Marine Fisheries Service would take over primary responsibility for certain species. There would have to be, obviously, some negotiation on dividing up those species, but this is one way to remove some of the lack of alignment issues that we have right now.

The second issue notes that the timing between the federal process and the ASMFC process is different. The ASMFC Board gets together and sets a quota, for example, on summer flounder. That quota is set in August. At the same meeting the Mid-Atlantic Council recommends a quota to the Regional Administrator for summer flounder.

The commission has the final quota in place, but the federal government still has a review and approval process that is ongoing. That at times has contributed to the lack of alignment in that once the Regional Administrator is considering the council recommendation, that has been modified in the past, and we end up with different quotas.

The third is the notion of moving away from management boards and moving into ASMFC sections similar to Atlantic herring and northern shrimp, which is just populated by state members, and the federal services are not represented on those sections.

The fourth option is to allow the councils and the National Marine Fisheries Service to have the primary quota-setting authority. This would remove ASMFC from the process. There is obviously some disadvantage here that some of the states that aren't represented on specific councils wouldn't be involved in the negotiation process and recommendation process. For example, Rhode Island, Massachusetts and Connecticut don't sit on the Mid-Atlantic Council; however, they are involved in summer flounder, scup and black sea bass fisheries.

The fifth notion is to set quotas through more of a mechanical formulaic approach similar to what is done in monkfish now, as I understand it. This sort of takes out the interpretation of the managers at the commission and council level.

The sixth idea is to establish better protocol or initial discussions prior to management boards and councils getting together to sort of understand where the other group of states or the council is coming from. I think in the past the idea has been brought up that it's uncertain what the federal government can live with as far as the quota. It's uncertain where the states think we should go as far as the quota. The idea here is to open up some dialogue or establish a protocol that would consider that prior to an actual meeting.

The seventh idea is develop flexibility within the system. Right now the states and a number of management boards of the commission have indicated that they felt like they're just essentially rubberstamping the National Marine Fisheries Service pre-determined quotas. The idea is, is there a way we can work with the system to incorporate a little bit more flexibility.

The last item here is that in the past some of the management boards and representatives on the management boards have indicated that they're not exactly sure what the federal standards are when quotas are being set. They're not sure what the federal government at times is trying to achieve in setting quotas.

Again, this idea was brought up that if the states could better understand what the federal government was moving toward as far as quota setting, it would help out. That's a quick summary of the items listed here. Again, they're not in priority and none of them are essentially recommended, but just for discussion purposes.

CHAIRMAN LAPOINTE: Thank you, Bob. Questions or comments for Bob? I want to express my appreciation for writing it down just because it's a tough issue, has been, will be. I encourage everybody to review the report, add to ideas and continue developing this because we'll need all the help we can get on this puppy. Eric Smith and then Bill Adler.

MR. ERIC SMITH: Thank you. I agree it's a great start and a lot of good ideas there. I would add one, though. I think the idea came up at the last meeting or perhaps just in some kind of a fog among three or four people talking about this very idea. You get as close as possible to it in number two, but that one doesn't necessarily capture the point that there is sequence here.

We approve our quota, the councils usually at the same meeting provide their recommendation to the service and then the service provides the final federal quota. What we talked about in this thing that I think I remember was somehow changing that process so that somehow the service could more clearly telegraph what they felt the quota would be, and that's hard to do because it has to go through the wheels of Washington, and that's never easy, but somehow co-align the decision.

Maybe I'm reading number two wrong, but we want to try and get the Fishery Service to commit as much as possible at the same time we make our decision; or, we should defer our decision so that ours is made later and we don't always feel like we've been superseded. If that's what number two is meant to capture, that's good, and it might just need to be clarified a little bit in the next redraft. Thank you.

MR. BEAL: Eric, I think that is the general direction number two was going in, but we'll work on the language there and make it more clear.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I agree a lot with what Erick just said. Some of it was what I was going to say, actually. In dealing with things such as the herring quota and like that, I've often thought that the ASMFC part of it, the section or board, whatever, should actually be meeting rather than with the council representatives, but should be meeting around a table directly with the National Marine Fisheries Service; so that when we both leave – I know the federal system has to go through some process, but we could eliminate some of the what-if if the decision made at that meeting was the decision that was agreed upon or voted on.

That would eliminate at least part of the confusion and consternation that seems to have developed. Another question was in number one here, where we eliminate, reduce, take, give, whatever, of various plans, I don't know how you wrestle away from the federal system some of these plans so that the ASMFC is controlling that particular plan rather than both.

The fact is that I don't know the process where you go to the National Marine Fisheries Service to say, "You're no longer going to handle this; we're going to handle it." I know it's probably easy enough for the National Marine Fisheries Service to turn around and say, "You're not going to handle it; we're going to handle it." I don't know how that works. What is the process here where we could get some results out of some of these good ideas?

CHAIRMAN LAPOINTE: I am going to respond to Bill. We actually did shift from federal to a commission management on lobsters about a decade ago.

MR. ADLER: It worked well.

CHAIRMAN LAPOINTE: Well, think what the alternative might be before you make that judgment. I mean, just because you shift to the commission plan, it's not going to make it any easier. The other thing, I think as we consider the different options, the implementation of the new Magnuson Act Guidelines – you know, when we talked about number five, quotas to be set through a formulaic proposal, paid attention to those ACL discussions as they come along, because that could change the foundation for this pretty significantly. Paul Diodati.

MR. DIODATI: To Bill's point, Mr. Chairman, I did look into that a little bit. It's my understanding that it would just take a request from the commission to the Secretary of Commerce to consider eliminating the joint process for some other process.

In that regard, I am wondering if it might not be worthwhile choosing one of the joint plans that we actually feel might be better served under the commission umbrella and putting together a straw document that would move us in that direction and get a sense of whether or not the Secretary of Commerce would favor that, so we don't spend too much more time on this if it's not going to be productive with regards to how the Secretary of Commerce is going to react. That would be my suggestion, that we start exploring in a little bit more

detail what documentation we might need to submit to the Secretary.

CHAIRMAN LAPOINTE: Jaime Geiger.

DR. GEIGER: Thank you, Mr. Chairman. Sort of along Paul's point, what is your intention and how do you perceive to proceed with the basis of this information and future actions? Thank you.

CHAIRMAN LAPOINTE: I didn't have any set idea about what we would do with this. It's just that it would be helpful to write it down because the issue of joint plans and joint planning has just been incredibly difficult. I used the term last night, we want coordination without subordination, and that's what people are looking for. We want fair treatment by both parties, and there's certainly the perception, first, that it's difficult; and, secondly, that's it's not fair to one party or the other.

Paul's suggestion is one; I think it's something we should all spend some time thinking about; and if we want to discuss it formally again to see if there are some of these items we take off the list and some we want to put more emphasis on, I think that's a logical way to go. We didn't get here overnight, and so I don't think that – I would actually probably encourage people not to jump too hastily on this, but we need to spend time on the issue. Paul.

MR. DIODATI: I agree that we need to be very thoughtful about this. Maybe this even warrants delegation to a committee, a subcommittee of some sort to look at it and create some of the more serious questions that aren't coming to mind right now. I think that might be the way to go here.

CHAIRMAN LAPOINTE: What do folks think about that idea? The quick answer to that is are people willing to sit on the subcommittee to do the work because it won't go anywhere unless there is a willingness to do that. Gil Pope and Pat Augustine said –

MR. NELSON: Paul is going to chair the subcommittee.

CHAIRMAN LAPOINTE: Paul is going to chair it, he says. The hands I saw up were Jack Travelstead, Paul Diodati, Bill Adler, Eric Smith, Pat Augustine and Gil Pope. I think that's a good mix to get started. I think that's a great suggestion, actually, and we'll have Bob or the subcommittee report back at the next meeting just about how they would intend to move

forward. Other questions or comments? Gil and then Gene.

MR. POPE: Thank you, Mr. Chairman. One thing that might be helpful is to identify the areas where we've have been told in the past where even though it's a joint plan, that NMFS' hands are tied in many cases. That really limits our options. We may have a meeting or two or three meetings in a row where we have decided on something, and we've had joint meetings with people and spend a lot of time and effort and money, and then at the very end come back and it says, "Sorry, it's going to be 8 million; you're out".

It's very, very frustrating. That's part of when I wrote that little memo of mine that I sent around. That's part of the thing that bothers me a lot, and I know bothers a lot of the people around the table. But, you know, I don't whether this is the right time to discuss it, but I think we need to, maybe in that meeting or subcommittee meeting or something or set aside some time to discuss the various solutions that we might be able to come up with to combat this where NMFS tells the state that they have no choice; they have to do this. Thank you.

CHAIRMAN LAPOINTE: That's a good comment. Gene Kray and then Lou Daniel.

DR. EUGENE KRAY: Thank you, Mr. Chairman. As you know, I also sit on the Mid-Atlantic Council, and we were charged by the new Magnuson Act to come up with a report to congress, which was just recently submitted, just about a week ago, on how the coordination works between the Mid-Atlantic Council and the New England Council.

There was a date-specific and we met that date. The report is about 30 pages. Vince, I think you have a copy of that; didn't you get a copy of that?

EXECUTIVE DIRECTOR O'SHEA: Not that I'm aware of.

DR. KRAY: Well, I can see that you get a copy. I don't have it with me. There is mention in there of the relationship between – we weren't charged to do this, but there was a space in there where we do discuss the joint kind of planning that we have – joint plans that we have with the ASMFC. So, I would suggest that the committee – and I can make sure that you get a copy of that.

CHAIRMAN LAPOINTE: Great, thank you. If you can give it to the commission staff and they can make

it available to all members. I don't want to sit on the subcommittee, but I'd like to see the report. Lou Daniel.

DR. DANIEL: I think it would be helpful for the committee to perhaps request the South Atlantic Council provide you with the justification that the National Marine Fisheries Service used to transfer authority that is still in progress for red drum to the ASMFC. There is a lot of good information in there that may be helpful to the committee.

CHAIRMAN LAPOINTE: Good suggestion. Other questions or comments? Seeing none, I want to thank Bob for putting it together, and I encourage everybody to pay attention to the subcommittee's work because, as I said before, this is an issue that has been with us and will be with us, and there have got to be ways to make it work better than has been occurring. Chris, how long is your report going to be?

MR. CHRIS MOORE: Mr. Chairman, it could be five minutes, ten minutes, fifteen minutes. Bob said fifteen, but I could do it in ten.

CHAIRMAN LAPOINTE: We're supposed to go to lunch, and I'm under strict orders that we end at 12:15, so that gives you five. Do you want to wait until after lunch?

DR. MOORE: You know, George, let me go through it. It will take me about five minutes to go through; and if we have some questions after lunch, I'll be glad to talk about it. Before I start, how many people have heard about Fishwatch, have actually visited the site? Not too many people, so it's good that I'm here today.

## **NMFS FISHWATCH PROGRAM PRESENTATION**

Fishwatch is one of our new web-based consumer offerings that my division has put together. My division is Partnerships in Communication. We do a lot of things for the agency, including this particular website. It's been well received by the public. We had a launch of the site in August at the Seafood Cookoff down in New Orleans. It has had a lot of positive feedback as a result of that launch. A lot of people have looked at the site.

Basically, what we're doing is addressing a number of concerns that have been expressed by the public as it relates to consumption of seafood. One of the



questions that the public has or a set of questions that the public has relates to sustainability. When they go to a seafood market or go to a restaurant to consume seafood, some of the questions that they might ask is whether or not if in fact they're consuming this particular fish, whether or not it's bad for the marine environment.

Some of the other questions they might have, if they're relatively savvy or educated, might be is the stock overfished, is overfishing occurring and how am I contributing to that by consuming this particular seafood. The other big set of questions that the public addresses or the public raises when it comes to consuming seafood relates to health.

I don't think I need to tell you about that, but seafood and health has been in the press quite a bit recently. There has been a number of studies. The consuming public asks very simple questions that they have a very hard time finding answers to. Basically, the questions relate to whether or not it's safe to eat this particular fish. There are questions about pregnancy and seafood and, of course, questions about mercury in seafood.

And, again, there was a recent study, I think two or three weeks ago, talking about mercury in seafood, its relationship to selenium and whether or not the concentrations of mercury in seafood were something that people needed to be concerned about or not. So, again, this is a major topic and one that we try to address on this particular website.

The goals for this particular website are very simple. One is to provide seafood consumers with the facts they need to make informed choices regarding seafood. It's very straightforward, very simple. The other thing that we're trying to do is to help establish NOAA Fisheries Service as the nation's authority on sustainable seafood and fisheries management.

We say that because there is a lot of information out there that pertains to seafood, seafood consumption. There are a lot of cards that get passed around at restaurants and aquariums that basically are telling the public what they should or shouldn't eat. We don't do that. Fishwatch does not tell the public what to eat. Fishwatch provides facts to help them make an informed decision as to what they want to eat or not.

This is the home page. Again, the website is on the card that I think was passed around to everyone today. It has a lot of information there on the front page. One of the things that you see right at the

beginning is it asks you if you are seafood savvy and talks about that a little bit. It talks about what is sustainable seafood. There are a number of links to other pages.

Note the list of species on the left-hand side. The first one is Atlantic striped bass. Currently we have about 35 species on the site. When the site is complete, we'll have a total of about 75 species. This is the species page for striped bass. If you note at the top, there are four bullets. Those four bullets are common to each one of the species pages containing the information that you might want very quickly about a particular species. Those four bullets can pretty much help you make a decision as to whether or not you want to eat striped bass.

If you want additional information, if you have more time or if you're a high school kid wanting to do a report on striped bass, you can drill down further into the page. If you look under that top box, we have one on sustainability status. It talks about biomass, overfishing, overfished, fishing and habitat, bycatch. You can click on each one of those highlighted terms, and you can get a definition if you don't know exactly what they are.

On the right-hand side, we have some interesting facts; did you know or do you know about the particular aspects? For example there it says striped bass have historically been one of the most important recreational and commercial fish in the region from Maine through North Carolina, and so on.

Below that is the Science and Management Section. We talk here about the Atlantic States Marine Fisheries Commission. We talked about the Striped Bass Conservation Act. Again, those highlighted terms and text, you can click on those and it will take you to a page that defines those for you. Again, some more interesting facts on the right-hand side of that page.

Also, on the site for each of the species is life history and habitat, some life history facts. It talks about range, habitat, life span, food, growth rate, and some other things. The box on the right, nutrition facts, is something that has been provided to us from FDA, one of our partners, and it's common to any food product that you buy in the U.S., and it's important to some people to know about nutrition facts for each one of these species.

So, again, we launched the site in August 2004 at the Great American Seafood Cookoff down in Louisiana. Right now this site is averaging more visits than any

other of the NOAA Fisheries Websites that we have. So, again, it's getting out to the public. In fact, we're starting to get feedback that in fact the public is using the site to make seafood choices. In fact, when we look at the comments that we received to date, about 90 percent of them are favorable, so, again, it's a very, very positive feedback.

This is some of the species that we have on the list right now; striped bass, cod, spiny dogfish, summer flounder. Again, we have 35 species on the site. We have tried to pick species that were distributed around the country. We didn't weigh them towards the east coast. We have some that are in the Gulf, Pacific and out in Hawaii.

We have a well-developed plan to get the information out to the public as they access the site. We're trying to get information out to grocery stores. We're starting to work with restaurants. We've been to seafood markets. We talk about Fishwatch at any event or food festival that we attend. And, again, we have some outreach products like the cards that you guys received today that we pass out to the public, again, just to get people to the site to look at it.

So, that's basically it in a nutshell. If you remember anything, just remember the site name, check it out. If you have any questions, certainly we can talk about them after lunch. When you get a chance to look at the site, take a critical look at it and see if in fact it's providing information that you think is important to the seafood-consuming public. If there is anything that we're missing, let know. If you hate the site or you don't think it's an appropriate thing to do, let us know that, as well.

CHAIRMAN LAPOINTE: And I am sure people will. I am going to hold questions until after lunch so we can break and go the Hart Luncheon. But, thanks, Chris, and for folks who have questions, we will get right to them after lunch. Thank you. We will recess until 1:30.

(Whereupon, the meeting was recessed at 12:15 o'clock p.m., October 31, 2007.)

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#### WEDNESDAY AFTERNOON SESSION

October 31, 2007

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The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, Wednesday afternoon, October 31, 2007, and was called to order at 1:45 o'clock p.m. by Chairman George D. LaPointe.

CHAIRMAN LAPOINTE: We ended the morning session with Chris Moore talking about the Fishwatch Program, and we're now going to take questions about that. I am going to start with two that I have. The first is just the thoughts that NMFS has on the connection between the sustainability index and things like the MSC Certification Program.

Then the second one is – and it may be on the site and I didn't see it – is if you're talking about whether people should – or giving advice about containment loadings and whatnot, the connection between this and fish consumption advisories we have along the coast.

DR. MOORE: In terms of the second question, if in fact there is an advisory for a particular species that's on the site, it's noted on the page, on the species page. You can go to that particular part on the page and it will take you to a link. We worked closely with FDA and EPA so that any sort of information on advisories you should be able to find.

And the second question, the MSC stuff, we don't reference MSC. We don't get into a certification program. Remember, again, this isn't a certification program. This is just something that presents facts so people can make an informed decision.

CHAIRMAN LAPOINTE: Thank you. Other questions or comments for Chris? A.C.

MR. A.C. CARPENTER: Chris, I was very impressed with the site, and I commend you for the job. The thing that noticed me was the nutrition information was all the way at the bottom of the page, and I was surprised that got so far down in the priority of where things belong. I was thinking that was one of the first things that the consumers would want to know, so it's just a thought.

DR. MOORE: That's a good comment. A.C., if you go to the top – and when you get a chance you can look at this, but each species page – on each one of the species pages are four bullets. One of the bullets should be devoted to nutrition. So if someone clicks on a page and then want quick facts, they want to look real quick, it will say this fish is low in fat, has plenty of selenium of whatever, and then, you know, see below if you want additional information.

CHAIRMAN LAPOINTE: Other questions or comments for Dr. Moore? Seeing none, thanks very much, Chris. Gordon Colvin is going to give an update on the Federal Recreational Registry. I think we will have Pres Pate give his update as well and then go into the discussion about ASFMC involvement. Gordon, welcome.

## **UPDATE ON FEDERAL RECREATIONAL REGISTRY**

MR. GORDON C. COLVIN: Thank you, Mr. Chairman, and thank you for agreeing to provide this time for us this afternoon. It's a distinct pleasure to be here among friends and colleagues wearing a different hat and with a different mission, but one that I think we all agree is very important and perhaps critically important to our joint endeavors going forward in managing marine fisheries, and that is to address the issues that will result in substantial improvements to our Marine Recreational Fisheries Data Program.

We're going to do a two-part presentation today. I am going to talk initially about the Registry Program, and Pres is going to talk to you about the larger Marine Recreational Information Program itself and the effort to rebuild the data collection programs. Because I'm going first, I'm going to talk just a little bit at the outset of my talk about the organization of the overall MRIP or Marine Recreation Information Program and the governance structure and then get into where we're headed with the registry.

Hopefully, Pres can take it up from there and get into the details of the technical parts of the survey rebuilding. The Marine Recreational Information Program, overall, is an initiative that the service started shortly after the release of the National Research Council's review of national recreational data collection programs and is overseen by a governance structure that is indicated here on the slide on the screen.

There is an executive steering committee that is managing the effort and three principal teams that work with it, the registry team which I chair, the operations team that Pres chairs, and the communication and education team which is chaired by Forbes Darby. The effort overall is located within the Service's Office of Science and Technology under Dr. John Boreman's direction.

The operations team presently is working with four technical workgroups, and I'll just point out, for those of you who may have seen this presentation have been aware of this before, that this is down from five in that the Design and Analysis Workgroups have now been merged into a single workgroup.

The membership of the executive steering committee is indicated here, and it includes representation from the Fishery Management Councils; the Interstate Commissions; MAFAC, our federal advisory committee that NOAA FISHERIES and NOAA on marine fisheries issues; and the senior executive staff within the Fishery Service itself.

The National Saltwater Angler Registry Team membership is also shown here, and as you'll note we are amply represented, assisted and supported by members from our east coast fishery community, who I would like to like to acknowledge: Brad Spear from the commission staff; your chairman, George LaPointe; Mark Robson from Florida; Spud Woodward from Georgia; Eric Barth with Virginia Marine Resources Commission; and Eric Schwaab of your host state of Maryland, who serves as our liaison to MAFAC. Dick Brame is also here, and Dick Brame is on both the operations and the registry teams, and we're glad to have Dick supporting us in a very substantial way he has across the board with the MRIP.

The executive steering committee adopted a development plan for the overall MRIP early this year, and there are three principal foundation or building blocks that it's built on; inclusiveness, and inclusiveness is represented and indicated by the fact that our partners and our stakeholders are actively involved in the teams and the workgroups.

I should mention and thank the commission for making so many of its staff available, including Vince who serves on the executive steering committee; initially Megan Gamble and now Bob Beal on the operations team; and Brad Spear on the registry team. We want to thank the commission and the many states who are members of the commission for their support and their contribution of their staff to the teams and the workgroups up and down the whole effort.

The effort is collaborative. We recognize the need for this registry effort to be a collaborative effort between the states and the federal government or the registry effort will not attain its goals, and we'll talk more about that as I go on this afternoon. The program is intended to be as transparent as it can be.

We are making every effort to make our meetings open, to publicize our meetings, and to make our meeting results and team and workgroup deliberations and recommendations available to all on our website.

Getting out of the overall program and starting now to get into the registry a little bit, the basis of the registry. Recall the evaluation of the nation's recreational statistics programs that were undertaken by the National Research Council, in its report that was issued in 2006, one of the many times repeated recommendations and findings of the NRC review is that there needs to be a comprehensive and universal sampling frame of all saltwater anglers established and that that sampling frame would serve as the basis for future surveys of anglers, and that National Registry could be either instituted as a Federal Registry or a compilation of state license or registration programs.

The emphasis of the NRC is very clearly on creating a complete registry with no exceptions. Subsequent to that report, a lot of the deliberations on the issue of a registry program shifted to the debate on the reauthorization of the Magnuson-Stevens Act. The reauthorized Act included a number of provisions related to marine recreational data. In Section 401 the new Act requires the Secretary to establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fisheries Statistics Survey with a goal of achieving acceptable accuracy and utility for each individual fishery.

The Act requires that this new program take into consideration and to the maximum extent possible incorporate the many specific recommendations that were included in the NRC report and that the new program use surveys that target anglers registered or licensed by the state or federal government rather than the kinds of telephone directories we had been using previously.

Although the NRC strongly recommended that there be no exemptions and congress said that we should pay attention to the NRC report, nonetheless, when congress directed in Section 401 the creation of a national registry, they did it so in a way that limited the authority of the Fishery Service to register anglers to those who fish in the EEZ and those who are fishing for anadromous fish.

All other fishing in state waters is exempted from the national registration requirement. This very clearly and simply means that if we are going to accomplish

what the NRC Panel recommended, the states and the federal government have got to work together. We need to share the common vision of building a registry, a telephone book, if you will, and filling it up with the names of every angler in the country as a result of our joint efforts. Neither one of us can do it on our own.

The Act enables the Secretary to charge a fee as of 2011, although the registry itself is expected to kick in in 2009, which is the deadline by which congress expects NOAA to implement its improved Recreational Fishery Statistics Program. At this point we are not sure what the amount of that fee will be. The Act itself does not provide any specific requirements or guidance. We believe that it will be set at a level that will be consistent with other fees, such as the bluefin tuna fee, at a level of twenty-five to thirty dollars.

The Act enables the Secretary to register both anglers; or, if desired, vessels who fish in the EEZ or for anadromous fish. The current thinking of the registry team is that since our surveys presently target anglers, in going forward are likely to continue to do so, that our registry requirement should be focused on anglers rather than vessels. The exception to this in the for-hire fisheries where vessels are the basis of surveys, so we actually believe that we will be constructing two registries; one of anglers and another of for-hire vessels nationally.

Lastly, and importantly, and cementing this notion that there needs to be a state and federal partnership, the Act provides that anglers may be exempted from the requirement to be federally registered if they are licensed or registered by a state whose data is submitted to the National Marine Fisheries Service and which the Service finds is suitable to meet the Secretary's needs in conducting its survey requirements. We are going to talk a great deal more about this exemption process as I go along here.

Now, the basis of the Secretary's authority to determine what information the states need to submit is that which is "suitable for the Secretary's use," but there is another basis that's also cited in the Act, and that is that the data is used to assist in completing Marine Recreational Fishery Statistic Surveys, so the Act actually creates a couple of potential ways in which states could seek and secure exemption of their anglers from the requirement; either by submitting data about the anglers directly or using data that they collect of that nature to do their own statistical surveys; again, assuming that survey data is "suitable for the Secretary's use".

A few weeks ago the registry team completed and secured executive steering committee approval of its development plan for the registry program, and that plan included the goals that you see up on the screen. I'm not going to read them, but I do want to emphasize a couple of points that are embedded in those goals.

First, we want to build a complete angler directory as the NRC recommended. We know that will take some time to do and will not happen simply by snapping our fingers and turning a key. The emphasis in the first goal is on the word "build". We know we need to build the phone book. Again, what we're envisioning is a large phone book that is empty that we fill up over time and make as complete as possible.

The second thing is we want to work with state registry data wherever possible. We at NOAA Fisheries Services would be happy to never register an angler under a federal registration requirement. We believe the best and most complete way to do this is to work with states. States know how best to license or register their anglers. They have systems in place to do it. All of the states have been doing for many years for at least hunters and freshwater fishermen, if not saltwater fishermen, too, and that seems to us the ideal way to move forward.

We will also work with regional data collection partnerships. The best example of such a partnership that I know of right now is the Pacific RECFIN states where the three states of California, Washington and Oregon are operating a cooperative survey themselves in partnership and with the support of the National Marine Fisheries Service. We intend to work with regional partnerships wherever they exist because we suspect and believe that those regional partnerships will play a key role in the future of the actual survey work itself.

We have to support the overall goals of the Marine Recreational Information Program to improve data quality. The purpose of the registry is to improve the data on marine recreational fisheries catch and effort, period. We're not trying to serve other purposes with this program. This is all about the data.

A word about the schedule – the first key milestone for us that went along with the completion of the development plan was the selection of an overall approach for creating the registry and the state-exemption program. The registry team has completed that approach and has secured the executive steering committee's approval of the

registry approach. It is on our website and it is the basis of what I'll be talking about hereafter this afternoon.

It will also be the basis for rulemaking. We are in the process of developing a proposed rule for the registry program in the Fishery Service now. We hope to have that proposed rule out this fall and to have a final rule adopted before the winter is over. Having done so, then we would move forward to work with each state to develop an exemption agreement and to begin to register anglers or to accept data from the states on their angler registries by the end of 2008.

How do states get to exemptive-state status? Again, referring back to the Act, there are two ways that states can get there. The first is that states can provide NOAA with a license or registry-based sample frame of the anglers and the for-hire vessels – again, we suspect this will be two submissions, two agreements – including identification and contact information.

Once the rule is in place, we will entertain applications from states that describe their systems, including a description of the categories of the persons that they license, of the data that they collect, the data bases in which it exists and can be transferred to the Service. That includes the necessary identification. The identification and information we're looking for will be name, address and telephone contact number for individual anglers; that information along with vessel name and registration or documentation number of the operators of for-hire vessels.

Based on that information, NOAA and the exempted states would enter into memoranda of agreement that would formalize the agreement and the timeframe for delivering the registry data and to address future data delivery issues and improvements that I'll talk about in a few minutes. States that do not seek initially or do not receive exempted-state status at the outset of the program could reapply and try again at any time in the future. There would no restriction on that.

The second basis of the exemption is that a state is a partner in a regional survey and that angler registry data is part of that. The states that are involved in that regional survey and seek an exempted-state status on that basis could apply individually or as a group. We've referred to this, and I'll thank Spud Woodward for inventing the term "hybrid approach" to our exempted-state status provision for either the individual angler license frame or the state survey approach.

The issue then becomes for those states that apply for exempted-state status based on submission of their license holder data, as you know, exemptions to state licenses create exceptions to the universality of the data that we collect, and that flies in the face of the recommendation of the NRC for a complete registry without exemptions, which is something again – they must have said that 15 time in their report.

So we have had a great deal of discussion, and some of this took place in less formal way with this board back in August, about what kinds of state license exemptions would work for this program and what kinds would not. What the registry team has come up with is as indicated here; that the exemptions that would be acceptable for an exempted state would include their junior anglers, generally under age 16; and every state that has a license that includes saltwater anglers exempts their junior anglers.

The senior citizens' exemptions would also be accepted at the outset of the program but not permanently, and I'll come back to that. The west coast states do not exempt their seniors. The Gulf coast states generally do. On the Atlantic coast it's a mixed bag. Anglers fishing on licensed piers or licensed for-hire vessels would be excluded. There are other surveys and ways we can get their effort data, and we don't need to get it from the registry.

We would also accept exemptions for disabled anglers and active military personnel while they are on furlough at home. The exemptions that we're concerned that we are not inclined to believe will work out are identified here. These exemptions include a substantial body of angling effort that if excluded from the registry are likely to introduce substantial bias into the effort estimates from its use.

I will identify the east coast states where we believe these are problem as I go through them. Fishing on a licensed boat – anglers who are fishing on a private vessel that itself has a license and don't require a license themselves is a substantial concern. There are exemptions of that nature in place in Delaware, Maryland, Virginia and Florida.

Fishing from private property is an issue in at least Virginia. I was told yesterday it might also be applicable in Maryland. I need to talk to Howard about that. Shore and public pier fishing exemptions are a particular problem on this coast, South Carolina and Florida, and also in California. The exclusion of submarine waters, this is an issue, as far I know, only in Maryland where their license applies in the Bay.

Even though we have concerns about these exemptions and the standard is likely to say that they would not be accepted for exempted-state status, we intend to provide some basis for a state to provide information that in a given instance the number or proportion of anglers excluded is so small that the expected bias would not occur if the anglers are excluded.

The best example I can give of that involved the Florida private boat exception where the annual cost of the private boat license in Florida is a thousand dollars, and a very limited number of people actually get that license. I believe the last year I saw figures for was 2006, and the number of them 19, so we don't think that's going to introduce to the people fishing on those 19 boats. There may well be similar kinds of cases in other situations.

In addition to the exemptions, there are other challenges in the state license databases to establishing the kind of complete sampling frame that we need for proper and efficient surveys. The first are the lifetime or long-term licenses. A number of states issue these licenses and do not refresh the contact information of the individuals who get them over their lifetimes and that's clearly a problem since many of them are given to children by parents or grandparents when they come of age or even when they're born.

We need to come up with a program that whereby the states, if they want to retain exempted-state status within a period of two years from being initially that status, they would find a way to refresh the contact information for their lifetime license holders.

The second and probably the most universal issue is the combination licenses, the all-waters fishing or the combination hunting and fishing licenses. The problem with these is that you have a great deal of people now in your registry who may never fish in saltwater and the efficiency benefit that you hoped to achieve by going to a saltwater angler registry cannot be achieved, and you're not much far removed now from being back to the telephone book.

Here, again, the intent of the team is that states would commit to a timeframe of two years within which they could find a way to earmark those people in their combination licenses who actually fish or intend to fish in saltwater, so that we can pull those earmarked individuals out and put them in our phone book.

Third is the senior licenses which I spoke of earlier. The seniors clearly are numerous and become more numerous and a higher proportion in the population, and speaking for those in my generation, intend to do a heck of a lot more fishing, and excluding from the registry is clearly a bias problem. We've got to find a way to get identification and contact information for the seniors who are exempted from the state license requirements.

There are many ways to do it, and they don't have to involve licensing them. They don't have to involve extending the state's license to include seniors. There may well be other ways to get their contact information, and we need to find a way to do that.

I think the last issue is just the data delivery itself. We will need to work with each state on the details of the manner in which the state license data will be transmitted, and any problems that go along with that, such as data confidentiality and data confidentiality agreements that need to be part of our MOAs

Now, some states will apply on the basis of using their data to do their own surveys, and the survey-based exemptions will also need to be addressed. The qualifications for that, if you will, will be, first, that the state survey data is submitted as part of a regional effort. The regions – and this comes right out of the development plan for MRIP and also the registry development plan – will include the Western Pacific, Alaska, the Pacific, the Gulf, the Caribbean and the Atlantic coasts.

They won't conform specifically to the council regions. There will be a slight variance here, the entire Atlantic coast, the area covered by ACCSP would be one region. The second criterion would be that the surveys would utilize angler registry frames; that there would be angler registry data used rather than random household directories for applicable parts of the state regional surveys; and, lastly, that there would need to be a determination of the national survey design and data collection standards.

By and large, we're looking at three questions as we develop the guidelines for those standards. The first would be does the survey design and data delivery conform to the standards that are developed by the MRIP as the MRIP goes forward and identifies and addresses standards, which it will.

Secondly, does the survey design address the NRC recommendations; is there something about the survey that is in conflict with what the NRC has

found and has recommended be done in improving surveys nationally. And, thirdly, does the data that's delivered by the survey meet the essential needs of the fishery management and stock assessment partners in the region? If it doesn't, then we've got a problem.

I'm going to talk a little bit about the principles that the registry team has developed for communication with our state partners. The first is that we intend to make and have been making regular progress reports to states. We will do everything in our power not to surprise the states. That's why I'm here; that's why Pres is here; that's why we've been doing a number of these presentations as the travel budget allows.

I know I have spent time this year with the Pacific states and the Gulf States already. One of these days somebody will let me go to Hawaii and the Caribbean, but it hasn't happened yet, but we'll get there. We will invite the states to participate in outreach and communication efforts in their states.

You know, we do have a communication and education team, and they have come up with a communication and education plan for this whole effort, and parts of that involve the Fishery Service initiating efforts within the states and the regions to improve our outreach and direct contact with stakeholders.

It's the intention of the registry team that if we are thinking about doing that in a given state, we will first contact the state and invite them to join us in that effort. Recently, very recently, we've had two examples of that here on the Atlantic coast involving the states of North Carolina and Virginia where I think we've had some very positive outcomes. I want to thank Steve and the folks in Virginia and Louis and the folks in North Carolina for those recent efforts. I think they have been very positive.

The other thing that is very important to mention is if you need us to come to your states to help discuss, with decision makers or stakeholders in your states, the registry programs and to provide information or just to be the fed to get beat up on, we are available to do that. Our shoulders are broad, and our desire to work in partnership with the state is strong enough that we will make every effort, even when travel is restricted, to get to you when you tell us you need us to be there. I can assure you that John Boreman is 110 percent in support of that.

Just a couple of things I'd like to ask for some feedback on either today or down the road. Now, the

state directors and their designated contacts have been getting these periodic e-mail status reports or progress reports from us, and I'd like to get some feedback on whether those are helpful, whether they're useful. Some people have suggested to me that it's too much information.

One of the thoughts we had is that perhaps it is a lot of information when it comes, but it can be archived and you know where it is when you need it. I would like some feedback on is it too much, is it too little, is it too frequent, is it too infrequent; that would be very helpful to hear from you about. Is there a better way for us to provide information back to the state fisheries agencies?

We've also sent on to you some information products that have come out of Forbes' team, some FAQs, fact sheets and some other stuff; is that stuff helpful? It would benefit both teams to get some feedback on those products, and also especially what other kinds of public information products would be useful to you.

This is where we are; this is where the team can be contacted; this is where you find me these days. Usually, when I'm not traveling, I'm usually in Silver Spring Monday through Thursday, and then back up in Long Island or seasonally in Florida on the long weekends. The cell phone is on. If you need me, call it, and we'll try to help out.

That pretty much wraps it up. Thank you. I don't know, Mr. Chairman, if you want to have questions after Pres' presentation, or do you want to address registry questions now?

CHAIRMAN LAPOINTE: I think we'll do some registry questions first. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. A good presentation, Gordon, as usual so much information, we're on overflow, but we love you anyway. Relative to your operations group, has any thought been given to including disabled seniors, handicapped and other exemptions for a minimal fee? The reason I asked for a minimal fee, would it make any difference in terms of receiving additional funding or expanded funded from Wallop-Breaux or Dingle-Johnson? Would that have any impact on it at all or is that is just an artifact of if you're registered the state has access to more funding?

MR. COLVIN: Pat, are you asking me – I'm not quite sure. Is the question are we considering exempting certain people from the federal fee

requirement; or, are you asking me whether we have thoughts about the states doing so?

MR. AUGUSTINE: No, I'm wondering if you had any thoughts about including disabled seniors, handicapped and other exemptions, either having them pay a minimal fee, if you were to go forward with your program, and the states end up accepting the federal program so that they would all be covered and included; or, would you then just suggest that the states would maybe possibly lump those together to get all the folks in the net as they possibly could get.

MR. COLVIN: One of the first things we did, when we started this registry effort, was to kind of build an inventory of all of the states' current licensing requirements around the country. I have to say that Brad and some of the commission's summer intern staff was of immense help to me in getting that done.

We then sent the resultant spreadsheets around to each state and we have asked the states to review them, edit them and get back to us. I think we're down to only – we're waiting for two more, I guess, at this point. So we have a pretty complete inventory, and what we find is that there are no two state license programs that are alike. Every state license is unique, as you can well imagine, because they kind of evolve from different places, and they are very politically driven evolutions.

Many states have different kinds of approaches to how they license senior citizens and disabled people and people with veteran status. They're all over the landscape. The registry team indicated, at the end of the day, that we would accept a state license frame if a state exempted anglers with disabilities.

Now, there are more states who license anglers with disabilities at a reduced cost than there are states who exempt them altogether, so there is a handful that exempt that altogether and we're prepared to accept those. Similarly, people with veteran status and disabilities, they kind of fall into the same category, Pat. So, what we came up with is that if there is an outright exemption for disabled anglers, it's okay.

And, you know, kind of the companion thing that we had a lot of discussion about was the issue of active military personnel. Most states who distinguish between active military personnel and other anglers provide some basis to either exempt or provide a low-cost license alternative for active duty personnel when they're home on furlough, when they're home on leave, and some states also enable any person



stationed in the state to have resident status so that they can buy the lower-cost resident license.

Obviously, the folks who are home on furlough, they're there for a while and then they're gone. We're not going to be able to find them to survey them anyway, so we're accepting that, and it's not very many. If active military personnel have a license, whatever they paid for it doesn't really matter, they're going to be in the phone book so we'll get them. I hope that answers your question.

MR. LEROY YOUNG: I have two questions. The first one is in a state like Pennsylvania, which does not have a marine fishery, but we do have recreational fisheries for anadromous species. This past year we just went to a point-of-sale system. We're going to have a very good data base of our license holders.

However, differentiating people that fish for anadromous species from the rest of that data base would be fairly difficult. The question is would just the entire data base be adequate, do you think, for this registry or would the state have to ferret out those who fish for anadromous fish?

MR. COLVIN: You know, we've been talking about Pennsylvania lately and Idaho and some other states. It's kind of interesting to me because the thinking on this question is going to evolve – and you had some discussions here this morning at the Shad and River Herring Board that are going to affect the evolution of that.

Let me use the Idaho example first and I'll go from there. I came back from the Pacific States Commission meeting kind of scratching my head and asking myself if I were the state director from Idaho, what would I have thought? Idaho, obviously, has only a freshwater license, but Idaho does require anybody who fishes for anadromous salmon to have a stamp.

So, Idaho could provide us with their stamp buyers' list, and that would be a darned good list, but we don't do any surveys in Idaho, never have, and the question of whether we might is kind of up in the air. So, the question becomes are we going to build a registry and have an Idaho chapter in the phone book and then never use it? That's an important question that the registry and operations teams and the executive steering committee need to address in the coming months.

Here on the east coast similar questions have come up. I think what we will have to do is put our heads

together with the key managers and data users in each of the regions and try to come up with a kind of a priority picture of what kinds of data and survey programs and survey program needs that we haven't been doing in the past we're going need to do or not need to do in the future, so that we can then come back to Idaho or Pennsylvania or perhaps Vermont with a much more informed answer to that question than we can today.

If ultimately the Shad and River Herring Board and the commission and those who are involved in stock assessments say we really need to get good information on an annual basis on recreational removals of American shad and river herring or striped bass, even, in the rivers in Pennsylvania, then we're going to need to figure out how to meet that need.

If it means we have to come up with an angler registry for all the states in the basin, then we're going to have to figure out how to do that. Now, there is a concern about freshwater licenses that are a state-wide license, and all we really want is that handful of people who fish in one river, and I don't know how we're going to resolve that question at this point; I have to be honest with you. I think we have to.

The same question, I know, has come up in Massachusetts. I was on the phone today with one of our team members, Ron Regan, who has been looking into that question on behalf of the Massachusetts Inland Fishery Director. I don't have a good answer. The ideal answer would be to say it's not that much different from the senior citizen thing where – you know, maybe we need an equivalent of an Idaho stamp. But before we put a state through that, we need to make sure that we're going to use the data and not head where we're headed in Idaho.

MR. YOUNG: Well, I guess a quick response to that and then another question. In Pennsylvania, with its point-of-sale system, we have the flexibility to be able to ask anglers, when they buy a license, certain questions. There is a limit to the number of questions that we can ask them, of course, but that could potentially be a question that we would ask is do you fish for shad, striped bass, you know, these species, so that would be a way to ferret that out.

The other thing is you mentioned building this registry over time. One of the things that we know occurs in Pennsylvania I assume occurs in most other states is that we have a good number of anglers that buy a license one year and don't buy one the next

year and a lot of new anglers come on. You know, it's a constantly moving target. How would that be handled?

MR. COLVIN: I think my guys back in New York used to refer to that as the churn in the license buyer pool. This is going to end up ultimately being, I think, a technical question for the survey guys. We're going to look to refreshing our data annually. The federal registration requirements, as the state license requirements are, are annual in their basis.

The question then becomes when you choose names from the directory to survey, do you only choose those that registered in the last year or have a license in the current year or do you back, and that's the kind of technical question that those folks are going to have to resolve down the road.

MR. ADLER: Thank you, Mr. Chairman. Gordon, at the beginning of the presentation, you were running through something about licensing federal waters and anadromous fish, I guess. Now, at the same time, this, as I understand it, is for every angler, state waters, federal waters and everything. I was just wondering if – okay, in other words, the federal government – this is if a state doesn't come up with its own thing; I understand that – the federal license to fish in state waters; is there going to be a legal challenge to that, you know, the interstate or states' rights or anything like that, because here are the feds coming in and saying you can't fish in state waters unless you've got one of my – you're registered. Is this what we've got here?

MR. COLVIN: You're asking me if we're going to get sued. Your answer is as good as mine. You know, I can't emphasize strongly enough that if somebody is inclined to do that, it ought not to be the states, because my hope is that we work with the states to put this program together in a way that meets all of our needs, so I don't foresee that. What might happen elsewhere, who can say, Bill, I don't know.

MR. ADLER: Okay, I wasn't referring a state attacking. I was talking more about like some group or some individuals going against the federal thing, and, you know, you're out of your bailiwick here. That's all I was thinking, and your answer was you don't know what is going to happen, and I can understand that.

MR. COLVIN: I will say this, and bear this in mind, congress could have instructed us to do a federal registry that included a lot more coverage in state waters than it did. The only fish in state waters that

are covered are anadromous fish, and there is language in the Magnuson-Stevens Act under which the federal government claims exclusive management authority over anadromous fish everywhere.

I don't anybody would have an easy time putting their finger on that issue and mounting a challenge. But, again, I don't think it's about the challenge. I think the challenge is to get data that we all believe in. I haven't talked to anybody from the stakeholder community – and I mean anybody in the stakeholder community – or from the data user community who doesn't believe that the preeminence of that goal isn't really the most important thing and doesn't want to find a way to work together.

Even folks and organizations that have traditionally been very concerned about state saltwater fishing licenses have said that they believe in the need to build an angler registry, to find a way to do it, and I think that is really, really important.

MR. DIODATI: I wasn't even planning on getting into this area because I actually support the concept of registering anglers and anyone else who is benefiting from natural resources, the use of natural resources. But, the language I think you're referring to, Gordon, is from Title I, Section 101 of the MSA, and the intent of congress, when they wrote that, was to protect or describe the sovereignty of the United States relative to foreigners and foreign fishing.

I don't think it was the intent of congress to take away the sovereign rights of states. Furthermore, there is a case that you may know about that has to do with New York versus the United States in 1992 that very clearly found that the federal government cannot force federal regulatory programs within a state's jurisdiction. So, you know, I think it might be states that bring that argument to you.

But, again, I really didn't want to raise that issue. I don't think this is the proper forum for it. But, I did want to talk about some of the things that you presented, and that was a good presentation. I'm disappointed that we haven't seen a federal register yet on this issue because it's difficult for someone in my position to know what the intentions are of the National Marine Fisheries Service when it comes to implementing this law.

For instance, this thing about anadromous fish would be an interesting thing to know. I just found this out, listening to you today about at least what the federal government thinks your authority is. But you do talk about cost of the program that will begin to be

charged in 2011. You said it would be comparable to the HMS, which is \$28.00 right now.

I recently, in dealing with whether or not we're going to implement a program in Massachusetts, had put together a cost analysis of a very basic registry program in our state versus a full-blown program for a recreational fishing program that would actually support expanded studies and so forth. The basic program came out to three dollars or less to operate, and the expanded program is more like thirty dollars, so what is the federal government planning to do with the excess money?

MR. COLVIN: You're operating on the assumption that the federal government can do things at a per-unit cost that is equivalent to that of the Commonwealth of Massachusetts. I don't know if that is a valid assumption, for starters, and I don't think you think it is either. But, be that as it may, we have said one thing all along, Paul, and we have said it unequivocally, despite the service's effort to recover for fisheries management the fees paid for the various permits that we issue, we have not been authorized to do that, and any fees that we recover are deposited to the general treasury.

MR. DIODATI: How many anglers do you anticipate registering?

MR. COLVIN: Well, I don't know the answer to that because the answer depends on how many states are successfully exempted. We can hypothesize about that and I have an opinion about it, but it's not probably worth putting on the record right now. I think the majority of the states will be exempted ultimately.

MR. SMITH: That was very enlightening. I have three questions. If a state licenses a person, he gets a license; and then if a conservation officer contacts him out in the field and he doesn't have a license, he gets a ticket and a fine. Will the proposed rule make some mention of what the penalty might be if a person who is not a holder of a state license and is not a holder of a federal registration, what the penalty might be?

Because, without a penalty and particularly with the exemptions, if a person is exempt from a fee to get one of his – well, I've flushed that one out fully. Let's just limit it to if you don't have the registration, but you're required to, what is the incentive to make you have to do it; is there a penalty?

MR. COLVIN: The answer to the first part of your question is that we do intend to cover that in the rule.

However, that said, the fact is that this requirement is enacted under Magnuson and the general Magnuson penalties apply.

MR. SMITH: All right, thanks. The second one, you mentioned in your section on challenges to a complete sampling frame, the issue of the combination licenses, you know, a state might have a hunting and fishing license. We have a hunting and freshwater fishing combination license now. In our legislation last year we proposed having a combination hunting and fishing with a saltwater or without a saltwater.

You talked about – I think your choice of words are states would have earmark combination licenses to identify those that fish or intend to fish in saltwater, and I got a little concerned with the "intend to fish in saltwater" because that sometimes can be – unless there is a fee associated with it, you just check off, yes, I'm going to fish everywhere, and therefore you really don't get a good sense of who really is going to, so you're back to the full phone book.

Have you had any further thoughts on what you might mean by – I mean, what would a state have to show to say that's a guy who really – he's going to be a saltwater fisherman, whether he did it last week or whether he thinks he really intends to. That second half is the squishy part.

MR. COLVIN: We've talked just a little bit about the mechanisms that might be used for this. One of the mechanisms that we talked about is essentially what Leroy talked about a few minutes ago, and that is that where states could do so, a question could be added to the application for combination licenses that declared either the person's intent or whether they had fished in the preceding year.

That's about as far as we've gotten with it, and we clearly need to talk, again, to some of the survey experts to make sure that the way we frame that sort of thing is done in a way that gets us where we want to go and doesn't just facilitate everybody saying yes. The combination licensing is tough. Every state has combination licenses of varying types, and they really can thwart what we're trying to do.

The best example that was brought to my attention was pointed out to us by Ken Richkus who is on our team. Ken manages the HIP for the Fish and Wildlife Service. They, as we would have to, receive their information from the states, including Texas. Texas issued something called a super-combination license that is so financially attractive that an enormous

proportion of their sportsmen and women buy that license.

They sell something like 400,000 units a year of the super-combo. Now, what happens is that whole list goes to the Fish and Wildlife Service to make the HIP screening calls, and what they find is that 90 percent of the people they call from that list say, "Why are you calling me; I don't hunt migratory birds."

"Well, you have an HIP number." "How did I get an HIP number; I don't know how I got an HIP number." "Well, you got it when you got your super-combo license that included an hunting license." That's just not where we want to go, but, again, you get this emphasis on build, the emphasis on getting their over time, we need to work with the states; and to some degree, Eric, it's going to be a one-on-one process to figure out the best way to get there for each state.

MR. SMITH: The third and last one is I guess I had a similar type of question. In your approach slides, you talked about how states become exempt and you had license or a registration-based frame of anglers, ultimately an MOU between a state and the federal government or – and then you said a state users registry-based information in a regional survey accepted by NOAA.

I guess I follow in a survey accepted by NOAA, but we have a registry-based – does that presume the state would have a license or a registration basis, anyway, and that information would be acceptable to you, in which case we have a license, we don't need the federal registration; or, was something else anticipated like a regional – maybe you meant regional-based – well, I don't know. I was confused by that point, obviously.

MR. COLVIN: Let me go back to the Pacific RECFIN Program as a potential model. Under Pacific RECFIN, which replaced MRFSS on the west coast about four years ago, each of the three states, Washington, Oregon and California, conduct surveys that result in state estimates of catch and effort and species of the kind of estimates you're used to seeing with MRFSS.

In each case the states get that data in a variety of ways that include, in some instances, registry-based surveys based on their license holder list, and in some ways on some other approaches, and they develop a much more comprehensive and timely estimates of catch than were developed before they went to Pacific RECFIN.

All of their data is pooled and posted on the Pacific States Marine Fisheries Website in the same way that the MRFSS data is on our website or for the east coast on the ACCSP Website. So what they have is – and that's done in partnership with the National Marine Fisheries Service, who is both a funding and an operational partner.

So what they have is a regional survey in which registries play an appropriate role in helping to get at the effort estimates, and they use some other approaches to getting effort estimates as well, particularly for their offshore boat parts of their survey that they believe and are recognized as having a high degree of validity and accuracy.

At the end of the day that survey produces, and should produce, estimates that are as good or better than what we would do if we just created three state registries and started calling people up. You know, we're a partner, the service is a partner, the states are partners, the commission is a partner, and it works, so there is no need for the service to compile separate registries for those three states as long as that survey is working and meeting the needs out there.

Now, in Alaska, there is another case. Alaska is its own region; it is its own council region; it is its own National Marine Fisheries Region. It's one state, but it's a region. In Alaska the National Marine Fisheries Service does not do and has not done recreational surveys. The state does at its own expense.

And to the extent that state survey going forward meets the needs of the region – and it is a registry-based survey because they license their anglers in Alaska. To the extent that survey meets the needs of the region and addresses the NRC recommendations, it might well also serve as the basis for an exemption; or, the state could turn their data over to us, but I'm not sure why that would need to happen in Alaska.

CHAIRMAN LAPOINTE: I have on the list, just so you know, A.C., Ritch White, Dennis Abbott, Gil Pope, Jaime Geiger, Roy Miller, Gene Kray and Robert Boyles.

MR. COLVIN: Mr. Chairman, when I went to the Pacific States Commission, I got four questions after this presentation. I just want you to know that, five states.

CHAIRMAN LAPOINTE: Well, that doesn't help me right now. It's just that we are to wrap up our discussion, including Pres' discussion and the discussion about ASMFC involvement at 2:55, which

is seven minutes away. Be mindful of the time and we'll figure out the time afterwards, but striped bass will start at 4:00. A.C. Carpenter.

MR. CARPENTER: Thank you, I'll try to be brief. Gordon, I think you're giving us two messages and two conflicting and confusing messages in the sense that you tell us in the first slide that it covers all of the EEZ and anadromous, and then in the very next slide you say you're building a Saltwater Recreational Anglers List.

I venture to say that nobody that buys a Pennsylvania license, nobody that buys a D.C. license, very, very few of the people that buy our license think of themselves as saltwater fishermen. That to me does cause some concern and problems in the presentations here where if it's strictly EEZ, there is a whole bunch of us that are going to sit back and say, okay, go to it and have at it, but when you start talking anadromous fish – and as far as I know they go inland to quite a number of the heads of tides along the entire east coast, where in a lot of places – Virginia is one – where those areas are covered by a recreational freshwater license. You're sending a mixed message, and I'm not sure what the message is.

And then my other question was how do you intend to deal with reciprocal agreements among states now that exist?

MR. COLVIN: Well, in terms of your first point, you make a good point, A.C., and maybe that work "saltwater" should be replaced. My problem is I haven't been able to figure out what one word to replace it with because we mean saltwater, marine, estuarine, anadromous, wherever they go, and so on and so forth, and haven't been able to come up with one word that covers all that. I'll be happy to have a suggestion for one that does, but you're absolutely right, maybe "saltwater" ought to be replaced with something.

On your second point, I don't think it matters to us. I don't see what difference it makes. You know, when State A and State B get exempted and provide us with their license frames and the names and phone numbers of the people that are in their, then we've got what we want. If there is a duplicate in there, you know, hopefully, our data management geniuses will figure out how to weed them out, and that's really all we care.

We don't care where people are from. We don't care if the states' license data bases have a whole bunch of

people from Illinois, Wyoming and Indiana. We want to be able to contact the people who have licenses to go saltwater fishing regardless of where they're from.

MR. CARPENTER: Let me follow up and say that for the PRFC licenses, we had 22 states represented in our license list last year, so many of them are not coastal states.

MR. COLVIN: And that's a darned good point about why the NRC recommended this, because those people are not getting contacted by the current survey.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. Gordon, could you expand on the bias that licensing of private vessels would create if they got the same survey as charter boats, because my sense is I would expect the opposite. I would expect better data from private vessels that are licensed than from charter boats.

MR. COLVIN: Well, the issue with registering private vessels wasn't an issue of bias. The issue was that the basis of our surveys has been and is expected to continue to be individuals. The measure of effort would be angling trips made by individual anglers, and that licensing vessels doesn't necessarily get you that unless you can get information on every person that was ever fishing on that vessel so that we're better off knowing and having contact information for the individual anglers. That's where we expect – that's how the surveys have been done; that's how we expect them to be done.

MR. R. WHITE: But what would the difference be from the charter boat? In other words, you're not getting all that data from people fishing on a charter boat, so why wouldn't it just be the same situation?

MR. COLVIN: Well, in the case of charter boats, what we have now on the Atlantic and Gulf coast is an entirely different survey that gets that data. We haven't been getting that data from MRFSS for several years now. We've been getting it from something separate called the "for-hire survey," and the effort information on the for-hire survey is provided by telephone interviews with the captains of the boats.

They inform the interviewers how many trips they made, where they made them, how many anglers they had on the trip, how long they were out and so forth, so we get a detailed effort picture from the charter boat captains. The catch information comes from

traditional intercepts, and the same folks that are doing those intercepts do the private angler intercepts.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chairman. I've got a page full of stuff here, but I will try to be a little briefer. I'll have some comments and some questions. I have dealt with legislation. In fact, I sponsored legislation in my state legislature for a saltwater license. As well as being the sponsor, I'm also the prime mover in killing that legislation as we speak right now, despite being in favor of it, because of the opposition that I've received in my state and also because of the political implications of imposing a license at this time.

Being new to the majority, suddenly I look at things a little differently and I look for where I am and where I want to be a year from now, and imposing a saltwater license now I think would put a lot of my colleagues in jeopardy as we would be imposing what would be termed a new tax in the state of New Hampshire, who is, as you know, New Hampshire live free or die, and very anti-tax.

One of the things that I've heard often in my legislative dealings is the issue of is saltwater fishing a right or is a privilege? A number of people bring that to us and use that as one of their arguments for not having a saltwater license. I look at it as a privilege, but I don't know if that's in law anywhere.

Recently, at a hearing, someone came with an old law from the 1700s where it talked really about fishing on Georges Bank for cod in the 1700s, and there was a law written there that allowed people the right to fish in saltwater. But, you've mentioned also that you went to one of these things on the west coast and you only had four questions, but those folks already have saltwater licenses.

We're sitting here around the table with six or seven states who do not have a saltwater license and two parties sitting across from me haven't chimed on what is going in their states, like New Jersey and Rhode Island. I'm interested in hearing at some point what's going on with their states.

But I see you as dealing with three separate problems. You have states with a license, states who may have a license but not conforming to what you want, and many of us here who are without a license, and many arguments come up as you try to impose something on people in the legislature.

One of the issues and problems that I have is you want a federal registry, but it's not going to cover state waters. What kind of enforcement issues does that also create for our folks? I think that's an interesting thing for you to look at. Another thing that's caused me trouble in the legislative process is the fact that your program has an implementation date of 2009 but a fee in 2011.

That makes it very difficult for me in the legislative process to say I've got to ahead and I have to have this license now, but the feds aren't going to start charging. I mean, I've heard that over and over and over again through the legislative process. I'm interested in knowing – and I know that was probably all done before you became a fed, as we call you now – so, I'm interested in knowing what if the states don't have a licensing system by 2009?

I think in one of your answers you said something about Magnuson-Stevens penalties, but how are you going to impose a penalty on those folks that are fishing in state waters? I also would like to see your program minimize exemptions to the greatest extent possible. Like you mentioned for anglers over 60; I'd like to get away from that as much as I can because I think they take up a larger segment of the angling population, and it's a segment that's growing.

In New Hampshire we have a problems just in general, like all the other state departments do, with declining revenues, and in New Hampshire, once you reach the magic age of 68, all your licenses are free, and to me it makes no sense for a department with revenue problems to be giving away licenses to pretty much a group of folks who I think can afford licenses probably a lot more than someone in the 16-to-21 area.

So, whatever you can do in that area would be helpful. It might even help us changing our licensing methods for overage folks. I know you have a lot of problems to deal with, and I will be looking for your help as we move along, Gordon.

MR. COLVIN: Thanks, and I look forward to being as helpful as I can, Dennis. Let me address a couple of the points you made; one related to the timeframes, the January '09/January '11 deadlines. Those are right in the Magnuson Act, so, yes, those were enacted in January of 2007, and they're the sideboards that we live with.

Your questions and several other folks' questions – and I think to some degree going back to something Eric had said and something A.C. had said prompt

me to want to talk a little more about enforcement and enforceability. I did talk to the Law Enforcement Committee yesterday and had a good discussion and several, I would say, helpful suggestions from members of the committee, and I look forward to hearing from them some more.

But, I talked to them a little more, as you much expect, about the mechanics of enforcing the requirement than I have in this presentation, and let me try to remember that a little bit. Once the federal registration requirement is in effect, what we would envision happening is that when an enforcement agent, from whatever agency it may be, boards a vessel fishing at sea or intercepts and does a creel check on an angler, one of the things that would be part of the officer's normal routine would be for anybody who is angling in the EEZ or for anybody who is in possession of an anadromous fish, wherever they might be fishing, to ask that person to provide evidence that they have a license from a state that is in an exempted-state status or a federal registration number, either/or.

For that purpose, we would obviously have to get information made readily accessible to law enforcement agencies about what state licenses have been accepted in the exempted-state program and information accessible to enforcement agencies about how to validate a federal registration number in the field. We spent some time discussing that yesterday, and there were some ideas brought forward, but that's the basic mechanics of it.

If a person was fishing in the EEZ or was in possession of a anadromous fish and could not produce either a license from an exempted state or a federal registration number, then they would be subject to citation under a violation of the regulation that we will be adopting and turned over to NOAA General Counsel for appropriate action within the prosecutorial discretion.

REPRESENTATIVE ABBOTT: Just a quick followup, could you address the "right" versus "privilege"?

CHAIRMAN LAPOINTE: That comes up in our state as well; and, importantly, in the context of what we do, Dennis, a right can't be taken away and privilege can; and so if you make it a right, trying to revoke somebody's license is much harder than if it's a privilege. I mean, I think that's certainly the premise we've operated under in the state of Maine.

MR. COLVIN: In order for me to address the question, I have to take off the hat I wear now and put back on the hat I wore for the last 38 years and tell you that it was always my strongest belief, supported by the many conversations I had with the department counsel over the years, that hunting and fishing is a privilege. It doesn't matter where in the state it takes place; it's a privilege, and it is not a right.

One would be hard put to find in the Amendments to the United States Constitution or the state constitution in New York, at least, anything that might suggest to a person that it constituted a right. That was our answer then. I do want to emphasize one thing about the federal registration requirement, and this gets subtle from my perspective.

We do not see the federal registration requirement as a license requirement. We see a license as something that you apply for, that you qualify for, that gives you the right to do something or gives you the privilege and the legal authority to do something that can be taken away for cause, and that cause might be that you didn't really qualify for it because you falsified your application or you didn't comply with some requirement or you're in arrears on something else that is in related law.

The requirement isn't any of those things, and nobody has to qualify to register. They just have to register. Nobody is going to take their registration requirement away; and if they're prosecuted for not registering, that won't impede their successful registering thereafter, so it is a registration and it is different.

Now, probably to somebody who is out on the water having a talk with a law enforcement official, that's going to be a distinction without a different, but I think from a legal perspective it very clearly is a different animal.

MR. POPE: Thank you very much. There are probably going to be the FAQs that you were talking about, Gordon, but they're very quick, hopefully. The first one has been asked a lot about because there is a deadline, will there be a penalty after the deadline either for a state or for an individual angler. I'm trying to ask yes-or-no answers here to keep it short.

MR. COLVIN: One of the things that the registry team needs to do, on its things to-do list for the upcoming year is to come up with strategies and plans for rolling out public information, education, building awareness of the registration requirement,

working with enforcement on a appropriate response strategies. That isn't done yet. It's going to be, but obviously we're going to emphasize education.

MR. POPE: Okay, number two, have you calculated or your group calculated when mandatory acts such as this, will this harm the industries at all; do you feel it will reduce the number of anglers for these requirements; will it hurt the industry at all since people will see all of a sudden they have to come up with thirty dollars – I don't want to register; what is this; you know, it's a bunch of hooley. I am sure they won't stop fishing, but in some ways have you calculated there might be some kind of harm to the industry because of this mandatory act?

MR. COLVIN: We haven't finished our analysis of that yet. That's part of what we have to do with the rule-making package, as you can well imagine.

MR. POPE: Okay, so it won't be a federal offense or anything if people get caught out there without one of those federal licenses. I think that's going to be a big question from a lot of people.

MR. COLVIN: Yes, it will be.

MR. POPE: Violation of the Magnuson Act?

CHAIRMAN LAPOINTE: And for those states, except North Carolina, who have cooperative law enforcement agreements, Magnuson Act enforcement is part of that, so that's something we need to pay attention to.

MR. POPE: It is a right to fish in Rhode Island under Article XVI and XVII of the Constitution.

DR. GEIGER: Thank you, Mr. Chairman. Gordon, first a question and then a comment. Have you had any discussions since Ron Regan is on your team about any implications to the U.S. Fish and Wildlife Service Federal Assistance Program?

MR. COLVIN: A little bit, not too much. It did come up a little bit in some of our discussions. As you know, Jaime, there are other things that are going on, too, in terms of the current MRFSS estimates and the current national survey estimates, and it gets all tangled up in the current data, as well as how that might change in the future.

DR. GEIGER: May comment, Mr. Chairman, is this, if I was a state direction and I had a license but it only covered primarily freshwater, I did not have a saltwater license, yet I implemented a registry of

saltwater anglers, I would be inclined to submit that as proof of additional recreational effort to support increased appropriations under the Wallop-Breau/DJ.

I don't know if that's come up, but I would urge at least some discussion with Federal Assistance because, again, there may be some opportunity where you might want – some states may think of this as an additional burden, but on the other hand it may have some additional benefits if it was done right and accepted as a true survey of saltwater anglers. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: I think that has been discussed, but it will remain to be discussed. I have got six people; Paul Diodati is going to have the last question. I am going to take the chair's prerogative so we can get to Pres and then the other discussions. Clearly, this is an issue for which we will need to re-engage as the Federal Register Notice comes out, and we will have to schedule more time at future meetings to keep plugged in on this process. Roy Miller.

MR. ROY MILLER: Thank you, Mr. Chairman. Gordon, I'm going to follow up with a conversation that you and I have touched upon previously, because I think it would be instructive for everyone. If a state has a particular exemption, is approval for purposes of the federal registry an all-or-none phenomenon?

In other words, if a state like Delaware registers most of their anglers, but has some specific exemptions like the boat license that are problematic, would those people that fall within the boat license category, they would obviously be required to participate in the federal registry; can it work both ways? In other ways, can some of Delaware/Maryland/Virginia licensed anglers be exempt from the federal registry while others have to participate in the registry?

MR. COLVIN: Thanks, Roy, and thanks for bringing that forward because that is an important question to make sure folks are aware of. The approach the registry team has come up with is in fact I think closer to the all-or-none approach that you spoke of; that we are looking to grant states either exempted-state status in which all of their licensed anglers would be exempt if they qualify or they won't get exempted-state status, and it wouldn't be a partial.

The only exception to that would be, as I've pointed out, we have two different lists that we're talking about, a for-hire vessel list and an angler list. It might be possible for a state to exempt its for-hire



vessels because it submits a complete registry frame for them, but not its anglers.

DR. KRAY: Gordon, let me give you a scenario. I live in Pennsylvania, but I fish in New Jersey, I buy a New Jersey license. I go into the Delaware and I cross the shipping channel, and I anchor up and I'm fishing in Brown Shoal, which is clearly in Delaware waters. I catch a striped bass. A Delaware Conservation Officer comes up to me and says, "Where is your license?" I say, "Here it is, a New Jersey license." Am I legal?

MR. COLVIN: If New Jersey has exempted-state status, if they have enacted a license and have come to agreement with us and we have an MOA and a FAQ with New Jersey under that scenario, then it wouldn't matter if you were in Delaware or Oregon. As long as you had that license from an exempted state, you're fine.

DR. KRAY: But I could still be fined by the Delaware Conservation Police?

MR. COLVIN: That's right. You know, I guess what it means is that the – well, the federal government can't make the New Jersey license valid in Delaware, if that's your question.

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman, just briefly. Gordon, as you know, there are several states that do have some things that we've got to take care of with our legislators. I just really want to urge you to get that Federal Register Notice out. We're being asked for it back home. We only want to go to the legislature once. Thank you.

MR. YOUNG: If I heard you correctly, Gordon, you said something about creel surveys and being asked if they had a registry or a license, whatever the individual angler – I just note, having conducted quite a few creel surveys, that is a question we never ask.

MR. COLVIN: Maybe I misspoke. I didn't mean the surveyors would do this. What I was referring to is if a conservation officer was doing a creel check.

MR. DIODATI: Gordon, I don't know if this question is the same -- I know it's similar to what Gene asked – but if you're federally registered as an angler but fishing in a state's waters, and the rules that govern the taking place and manner of harvesting fish are different, whose rules will apply, the state or the federal rules?

MR. COLVIN: Well, I don't think the registry would have any bearing on the answer to that question whatsoever; so whatever the situation is today would be the situation under the registry, and I think, if I'm not mistaken, in most instances it's going to relate to, if you're in state waters, what are the state's possession requirements. The only exception might be if you have a federal permit, if you're a for-hire boat with a federal permit, then you've got to comply with federal regulations wherever you happen to be. I just don't think the registry changes any of that, Paul.

MR. DIODATI: And will the HMS permit coincide with this new federal registry; will that eventually go away?

MR. COLVIN: Well, I can't say; I don't know. In the case of the for-hire vessels, the for-hire vessels that have any kind of federal permit that entitles them to engage in for-hire fishing, including HMS or bluefin tuna fishing, would be good enough, and they wouldn't need to register with us if they had that, because, again, we already have their information. We don't need to get it from them twice.

Insofar as individual anglers are concerned, what I've been told is that for the most part those HMS permits are vessel permits; and in the case of vessel permits, they're not going to help. Those that are issued to individuals, I don't know. That could be a point that might come up in the public comment process, that we have information on them and as long as they're maintained, maybe they should be another exception. It's the first time I've heard it suggested, Paul.

CHAIRMAN LAPOINTE: Well, I wish they apportioned federal funds based on the number of questions we ask compared to the Pacific, but they don't. I want to thank Gordon for coming and people for their attention to this issue. I encourage people to look at the facts that have been put together, the frequently asked questions by the registry programs, and the updates that are provided by the Science and Technology Office because it will contain discussion on a lot of these issues, and it will be the best way for us to keep track of it between now and the next meeting.

MR. COLVIN: I'll be here through the ACCSP Coordinating Council Meeting tomorrow, so please don't hesitate to ask me any questions. You've also seen who the other registry team members are, Spud, George, et cetera. Please, if you have questions and I'm not around, feel free to go to them with them. Once again, I just want to thank everybody for this.

And, please, state directors, get me some feedback on those outreach questions I asked. I really need to hear from you.

REPRESENTATIVE ABBOTT: Gordon, the slide presentation that you made; is that available on your website?

MR. COLVIN: It's not on our website yet; I think it will be, but Toni has got it saved, and it will be in the commission archives as well.

CHAIRMAN LAPOINTE: Preston.

MR. PRESTON PATE: Thank you, George. The advantage to me from following Gordon, aside from the fact that he manages the hot-button issue, is that he covers a lot of the background information and uses up a lot of the time, allowing me to be very succinct with my information, which, believe me, I will try to be and try to bring to you a little bit more detail about what the program is doing to address some of the survey deficiencies identified by the NRC that exists in the current MRFSS Survey.

I'll preface this with the understanding that a lot of you were around when the NRC report was released so you know firsthand the controversy that led up to the need for that survey and tone that surrounded the delivery of the message that there were serious problems with the MRFSS Program that NOAA Fisheries had to give priority consideration to fixing very quickly. So the goal is to redesign the MRFSS Program to build one that will improve the collection, analysis and use of recreational data.

The NRC report was released in April of 2006, which set into motion a lot of activities by NOAA Fisheries that really weren't very visible to the public; and throughout the course of trying to explain where we are with the redesign elements, I was asked why NOAA Fisheries waited so late to get started, but, really, they didn't.

The initiation of the initiative started immediately after the report was released. The first step was to get the right people involved in both the executive steering committee, the operations team and the workgroups that I'll pay some particular attention to in just a moment, and prepare a development plan that was approved by the executive steering committee that serves as a roadmap for carrying this project forward over the next couple of years; and to provide funding necessary to support the various research elements and other costs associated with the projects that are going to be taking place by the

workgroups and the hired contractors; then the project plan development that is going on currently with the various workgroups.

The governance structure, Gordon has already touched on, paying particular attention, in my case, to the operations team which oversees the activities of four workgroups. The executive steering committee, you've already heard about. The operations team is composed, like the executive steering committee, with an attempt to try and bring to the table a variety of areas of expertise and particularly representation from regions that are affected by the current survey and will be involved in the redesign and implementation of the new survey.

You can see it's a fairly large group. One member that is here today I want to pay particular attention to is Rob Andrews from the Office of Science and Technology of NOAA Fisheries, who served as interim chair of this group, awaiting my arrival to the scene. Rob has been very instrumental in bring me up to speed and keeping me supported throughout the process. Dick Brame also serves on this, and we're in the process of receiving approval from the executive steering committee to add Mike Cahall, who is the program director for the ACCSP, to this group.

The first step with the workgroups, after the development of an operations plan team which identified the priority projects relative to the specific issues raised in the NRC report, we brought them together in a meeting in St. Petersburg, Florida, a couple of months ago. At the time there were five different workgroups, but over the course of the last several weeks we realized that there is considerable overlap between the survey design workgroup and the data analysis, and those have recently been combined to make the process run more efficiently.

Also, I can't help but recognize – and I'll explain why in just a minute – the appearance here today of Linda Barker, who is on the Maryland Fisheries staff, who chairs the design and analysis workgroup. She started out as chair of the analysis group and very graciously accepted the additional responsibility and workload of expanding her group considerably to include the design element. We appreciate Howard making her available, and we appreciate the energy and enthusiasm that Linda brings to the process.

I have to say that about all of the groups and all of the people that are sitting around this table that have made the commitment of their staff. It's really what is making this process work as well as its work so far

and I think will be the key to success in the future. I have been very, very impressed by the level of commitment that the workgroup members are making to this process, particularly the workgroup chairs who are going, in some cases, above and beyond.

The operations team, in developing its work plan, identified some priority projects that were assigned to the various groups, and they were all intended to address the deficiencies identified in the NRC report. The design and analysis group is working on the issue of bias in catch-and-effort estimates. The NRC review clearly identified assumptions that were being made in the current MRFSS Program as contributing, perhaps considerably, to bias in the survey results.

The biases are associated with estimates of catch-and-effort data that are difficult to do or impossible to do because of cost or logistics such as night fishing, fishing from private property, and fishing from private piers. So, the projects that the design and analysis group are working on are intended to test the assumptions and find ways to redesign surveys to reduce that bias.

They fall into several categories. One is statistical estimation, which that project will evaluate alternative estimation procedures and possibly result in changes to sample designs. The catch-error project, currently the fishing trips on private property, night fishing trips, tournament and some for-hire effort are not possible to sample, and this project will test the assumption that these trips are similar to those that are sampled and measure the effects of extending these trips on catch-and-effort data.

Under the current program, the habits and catch success and level of effort by fishermen in these categories of fishing trips are considered to be identical to those that are fishing off of boats and are being captured by the MRFSS Program, and we are going to find whether or not those are valid assumptions.

Much same with effort error, some anglers are excluded from effort surveys because they are too expensive or impossible to contact because they live outside the coastal zone and have only cell phones or are exempt from a fishing license requirement. This project is intended to test the assumption that effort by these anglers is the same as those included in the surveys.

The catch-and-release project, the current dockside survey does not provide a reliable method of adequately accounting for released fish which could

impact stock assessments. This project is intended to examine the extent of bias and evaluate the use of other ways to collect the necessary information, such as logbooks and/or observers.

The data management and standards group is one that is really dealing with some of most highly technical aspects of the survey program, to address the recommendation in the NRC report that greater standardization among regional surveys and between states and national surveys is necessary.

The projects by this group will ensure comparability and compatibility among these programs while recognizing regional-specific data. We are anticipating that there will be considerable regional differences between the way that this data is used, but in order to have the national benefits, there has to be comparability of the quality of the data and the design programs.

One the first projects that they'll do is an inventory of existing data collection programs, which will include protocol for sampling data collection and processing and data accessibility. This project will identify areas of compatibility and inconsistency among the various ongoing programs. The other project this group is managing will build upon the findings of the first project and work towards developing a comprehensive data base based on minimum data elements and consistent standards that can be applied to national and regional surveys.

The for-hire workgroup will focus specifically on charter, guide and headboat fisheries. The NRC report recommended that this sector be considered commercial and that the survey methods and reporting requirements should be different from those applied to private anglers. The projects of this group will review and assess for-hire data collection methodologies, identify potential sources of bias, and recommend changes in survey design to address them.

The projects that they're doing, the initial one will inventory existing for-hire data collections programs and include descriptions of data collect methodologies, licensing and reporting requirements, data gaps, and biases. The other project they're doing will use an independent panel of experts to evaluate the various methods used to assess catch-and-effort for the for-hire fishery. This evaluation will result in recommended approaches for region-based collection of catch-and-effort data for the for-hire sector.

There will be a pilot study developed for the for-hire fishery in Puerto Rico, which will assess the benefits of replacing the current method of using random telephone calls with one designed specifically for this fishery.

Even though the NRC report did not identify the highly migratory species fisheries specifically in its report, they are an important targeted segment of NOAA's data collection efforts. This fishery was added to the MRIP Initiative since the report. Congress made it clear in the reauthorization of the Magnuson Act that all recreational data collection programs should be improved.

The focus of this group will be the geographical expansion of HMS data collection programs, assessment of current methodologies for potential biases, and develop new methodologies as needed. There will be a pilot project which will use the HMS Angling Category Permit as the basis for a telephone survey to characterize the HMS Fishery in the South Atlantic and the Gulf of Mexico.

There will be a second pilot project which will collect both catch-and-effort data for HMS species by the charter boat fishery in the South Atlantic and the Gulf of Mexico. The third project will be – and these will be going on concurrently. They're not necessarily waiting for one to finish the other to start. This project will evaluate the need and feasibility of stratifying large pelagic species sampling information into tournament and non-tournament sampling strata.

The fourth project this group will be working on will explore options and feasibility of designing a program for collecting data on non-tournament landings in the Caribbean. There are a couple of ongoing projects, at least one that has officially started and one that is soon to be started, we hope, that address some of the issues in the NRC report.

One is being conducted in the Gulf of Mexico, which began this year, which utilizes state saltwater license data bases and telephone surveys as a dual-frame approach to cover all license and non-license anglers in that region. There will be a similar project taking place in North Carolina this year, hopefully to be initiated during Wave 6.

We have all sat around this table – a lot of us have sat around this table for a number of years and come to the clear realization that better data is necessary to help us make decisions, and NOAA Fisheries is considering this a priority and moving on a timeline which I hope will satisfy the needs of the

congressional mandates that we have and the expectations of our partners.

The process that we're into currently is awaiting the final submission of the proposed projects by the workgroups to the operations team so that the operations team can review them and approve them for funding at the next meeting we scheduled on November 28<sup>th</sup>. We have received all but two of the thirteen projects that are being developed. They have varying timelines associated with them, depending on the complexity of the project and the need for analysis and involvement of outside review.

Some will be completed by early summer; others that will be necessary to continue until late of 2008; and in one or two instances maybe beyond that point, but there is a lot expediency being given to the completion of that process fully.

As Gordon noted, one effort that we're making is to keep the states and our partners apprised of this program, and I will reiterate the offer that we are available to come and speak with groups and your constituents and your legislators as necessary to try and provide as much support that you will need at the state level to help us make this process work as we possibly can.

We hope that people will believe in the data better than they do now because we've all heard a lot of skepticism about how applicable survey results are to the decisions that we are required to make; and with that, better confidence that the public has we should instill in them a spirit of cooperation for the future, which will be better than we have now.

Hopefully, we'll be sitting around the table debating not the information and the quality of the surveys, but what that survey says is necessary to sustain the stocks that we're managing. These changes aren't going to occur overnight, and there may be some expectations on a date certain there will be a dramatic change in the way that the data is collected and analyzed, but I don't think it will be that clear – in fact, I'm fairly positive that it will not be that clear, but over time there certainly will be noticeable improvements.

We have to keep our focus on the long-term improvements of this program in order us where we need to be. Spud might want to give us a little bit of history about that photograph, whether it's doctored or if it actually occurred as it did. The information is up on the website; and if you need to contact us, you

can feel free to do so at any time. Mr. Chairman, that's a very quick overview of the operations team.

CHAIRMAN LAPOINTE: And I appreciate quickness. Are there any burning questions for Preston Pate? I apologize for trying to push the agenda along, but I want to do that. Roy, do you have a question?

MR. MILLER: I do, George. It's a fairly quick question and it could pertain to either or both of them. I'm curious if the federal government desires to estimate the total number of recreational saltwater anglers; and if so, how will you deal with the two separate surveys that you talked about, the for-hire survey and the Marine Angler Registry? It occurs to me that you will need yet a third survey, perhaps, to avoid duplication of numbers of anglers. Is the total number of anglers an important statistic to you?

MR. COLVIN: We do desire to have the ability to develop a national assessment and summary of recreational fishing activity. You don't necessarily have to have the exact number of anglers to do that, Roy. I think we certainly have to know trips, and we'll get that. We need to be able to assess the economic and social significance of angling on a national basis, and we can do that by combining the results of an angler base and a for-hire vessel base survey.

CHAIRMAN LAPOINTE: Other questions? I want to thank both of our retired commissioners for coming back and talking to us. I urge again, people, to pay attention to their outreach materials and the facts because that will help us understand as we all go along. I will deal with staff in making sure that we have time on future meetings as this moves along so that we can continue the discussions because it is of paramount importance to all of us. Thanks very much.

### **ASMFC INVOLVEMENT IN STATE RECREATIONAL REGISTRY**

Paul Diodati, the next issue is the ASMFC involvement in the State Recreational Registry. You wrote a letter to me asking this be put on the agenda. I wrote a response which is in people's binders. Do you want to kick this off?

MR. DIODATI: Thank you, Mr. Chairman. Before we get into that, I think it's important for those of involved on the registry teams – and I know that Vince is as our executive director – I just want to make sure that we're not conceding any state

authority at this point. It's a little bit early in the game to be doing that, and I feel pretty strongly that state rights are what we're about here.

With that, I'll begin to talk about the letter that I sent you. Of course, I wrote this letter without benefit of the presentation that we got this afternoon, so there are a couple of things that I'm hearing here that give me pause for concern and might change my opinion about some things. But, certainly, the interpretation that the federal government has authority to register anglers that are fishing for anadromous fish in state waters or up in the rivers or from shore or piers is a bit new to me. I think that is still vague and needs better interpretation.

In my letter I did write that without the states acting as true partners in this initiative, that we're going to be running into very serious jurisdictional issues, and I think that's an excellent example of one that is brewing. Even without that, I think I've made it pretty obvious that we're going to have some difficulty in matching data sets up and down the coast with this federal registry. So, at the very best, I imagine that there will be some kind of patchwork to be implemented.

I know that there is concern in both what you wrote, George, in response to my letter and very similar concerns but expressed by others to me personally that there is a little bit of discomfort with having ASMFC mandate some type of license program for states, given that we would all have to go back and deal with our legislators in order to get that to happen.

On the other hand, I think that there is still a critical need for us to at least talk about developing a very basic requirement for a registry program. I'm not suggesting that you do full-blown license programs, but I think that if the states had a complimentary mandate to develop a basic registration of anglers and that could be broadened to include commercial anglers as well, or fishermen as well, I think it's going to put us in a position to be successful with achieving the federal goals of the law.

I think it's going to provide us with the justification that we probably all need to revamp either existing programs or create new ones back home that do need our governors and legislators to be involved in. Without that, I'm thinking that I would have difficulty with 1.3 million anglers back in my state in convincing our legislators to go ahead and move state law forward that would registration of these people.

So, unless we think it's important, I don't think I'm going to be able to do it. That's why I still stand behind that commitment that we should at least open up a discussion, withhold making any motions until we have some discussion, but I'd certainly would like to know what other people are thinking in this regard.

CHAIRMAN LAPOINTE: Thank you, Paul. Dennis.

SENATOR DENNIS DAMON: Thank you, Mr. Chairman. I really think that Paul's desire to have some kind of uniform standards is something that we really ought to consider. I think it's in a broader framework, though, in the context of what would we have in a registry program state by state than I do coming out of this body, going back to each state saying this is you must have, and I don't think that's what Paul is exactly saying.

I heard Dennis Abbott say in an earlier discussion that he had advanced a bill in our neighboring state of New Hampshire on recreational saltwater licenses. I have done the same in Maine and met with much the same results. It is an issue that I greatly underestimated in terms of what some would regard, I think, as the great last true American freedom.

But that notwithstanding, we do have an obligation and we have the great opportunity, I think, with the reauthorization of Magnuson to put a registry in place. So, I, on the one hand, can appreciate Paul's thoughts about trying to find some standardization, but it's got to, from my perspective and my policymaking perspective in Maine, it's got to come out of us and not be pushed down upon us.

Because, even though I go back home and say, "Well, it's something that ASMFC wants us to do," in their minds, in my legislators' minds and certainly in my constituents' minds, I'm ASMFC to them, as is George, as is Pat. So that doesn't fly very well, but we do and should have the discussion, I think – and I'm pleased that Paul brings it up – that we find out what kind of parameters we should have in our state registries and we work towards that, because they can very much be a patchwork that doesn't work. They can also be a multi-colored raincoat that does work. That's what we ought to be trying for. Thank you, Mr. Chairman.

DR. KRAY: Going back to the comment I made and the scenario I posed to with Gordon before, Senator, I would agree with you, we ought to come up with something common. One of those things I would urge you to add would be reciprocity at least among contiguous states. If I slide over into Delaware

without a Delaware license, I'm going to get fined. So, consider that, and the same thing is true up and down the coast with contiguous states.

CHAIRMAN LAPOINTE: Other views? Dennis.

SENATOR DAMON: If I might, Mr. Chairman, just to respond to that. I thought that your question to Gordon was very good to that regard. His answer also was pleasing to me, which was you're not going to be in violation of the federal registry. That's one thing. Whether or not we can find the reciprocity between Maine and New Hampshire or New Hampshire and Massachusetts or Maine and Massachusetts, for that matter, is something for us to try to work out, and I'd be willing to look at it.

MR. MARK GIBSON: Thank you, Mr. Chairman. I strongly support what Paul is advocating. I don't think any of the states and what I'll call the Northeast Region who currently don't have marine recreational licenses are going to get there without commission involvement. And if that starts as a requirement, if you will, for the registry part of it for the purposes of data collection and meeting those standards, that's a very important launching point.

If we can then back in our states carry that another step forward to creating a license for improving revenues to our marine recreational fishing programs, that's great. We need this forum and that beginning point to get people's attention back home, so I strongly support what I think Paul is trying to do. Thank you.

MR. AUGUSTINE: Thank you, Mr. Chairman. Along with what both Dennis and Paul said, it seems to me that maybe we could ask staff as a next step before we get too deep into this, to take a look at the states that have licenses and make a spreadsheet that would indicate what the out-of-state license fees are, one compared to another, to see what the negative impact would be, and then think along the lines of reciprocity for all the contiguous states that don't have licenses, at least I would think from New Hampshire on down through Connecticut -- possibly New Jersey and Delaware has already implement one – and that would be another step.

But, it just seems to me we might want to move forward just a little bit and get staff involved to pull some of these facts together so that when we have our next meeting, we could take the next step.

CHAIRMAN LAPOINTE: I think much of that information has already been compiled so that will help. April.

MS. APRIL PRICE: Being a state that already has licensing and has had licensing programs for some time, the licensing part isn't so much the problem as the political scenario that we have in our state. The marine industries in our state is an \$18 billion industry, plus. In an industry that has had a tough go over the last couple years, any negative perception and licensing seniors and licensing folks that fish from shore is definitely going to be perceived as a negative impact, and I would have a tough time at this point convincing our legislature that is a good thing from us to do. I do agree that enhancing the data base is a good thing, but I have a lot of concerns.

MR. SMITH: Thank you. Actually, I think I e-mailed Paul after he sent his letter. I liked his letter a lot. I liked the initiative and also, generally speaking, what he proposed to start us off on. I liked it a lot until I read George's letter, and I liked George's letter, too, but that one gave me cause to pause. I stopped and I read it through his filter because he works directly for a governor and closer to a legislature, and he made a lot of good points.

I think the solution for me is to go in the direction Mark Gibson is talking about and how others have alluded to it. If we can focus on the strategy Paul is talking about, in other words, an ASMFC process that captures registry-type information needs and stay away from mandating a state license and therefore the push-back you're going to get from legislatures, then we can try and accomplish the first mission, which is get better data through the common standards and the kinds of things Paul talked about.

And if it comes to pass that we use that – and I guarantee we will because we already did it once this past session and it didn't prevail – that will be something that will probably enhance our prospects to be able to capture the other values of a registry or a license, or call it whatever you want, in any particular state, so it helps us.

We just shouldn't overreach and get into the realm of trying to tell a governor or a legislature what the august Atlantic States Marine Fisheries Commission thinks it ought to do because that's a dangerous thought to be in. Thank you.

CHAIRMAN LAPOINTE: Before I pick up Dennis, I just asked Bob, I said it makes sense to me to ask staff to do kind of the scenario Paul laid out in his letter and the scenario that Paul and Mark have advocated today, and some other options as well, and then to bring that back to us to more clearly identify

what we might do. Bob also suggested a workgroup, and I said, "Well, let's have a staff workgroup first and we may get volunteers thereafter for a commissioners' workgroup." Dennis.

REPRESENTATIVE ABBOTT: In the interest of time I'll pass.

MR. DIODATI: Just to set the record straight, I never proposed expanded license programs. I was always talking about the basic framework of a registry to provide the data that is being looked for by the federal government at this point. By doing so, we both standardize, increase the benefits of exchanging that information and using it and we avoid the jurisdictional issues that I'm sure we're going to get into with the federal government, otherwise.

CHAIRMAN LAPOINTE: Great, thank you. Does the course of action that I proposed sound good to people, have staff bring up options for our next discussion? All right, any other comments? Dennis.

SENATOR DAMON: Thank you, Mr. Chairman. Not to belabor it, but I'm just curious, as I'm sitting here and think of those states that have tried to enact such a license; of those who don't currently have one, I am wondering is it proper to ask how many have tried to get one in the last couple of years?

CHAIRMAN LAPOINTE: Who wants to admit to the bruises?

SENATOR DAMON: So maybe it's only four, four or five, thank you.

CHAIRMAN LAPOINTE: Thank you, and good discussion. John.

MR. NELSON: Thanks, Mr. Chairman, I'll be brief. I haven't spoken on this issue. I would just point out that having tried to put one in, the biggest issue was having a standardized approach amongst the regional bases, and that will be very, very important. I think if it's fair to all the constituents in that area no matter what state or commonwealth they're from, if it's fair to all, then it will be passed.

CHAIRMAN LAPOINTE: Thank you. Paul mentioned the issue that Gordon mentioned, and that's the interpretation by some people with NOAA's general counsel that in fact there is federal jurisdiction on anadromous fish – it said beyond the EEZ. And the federal interpretation of beyond the EEZ is oceanward, out to wherever. The other interpretation is beyond the EEZ landward.

So, under that interpretation, the feds have jurisdiction on anadromous fish, and I would encourage people to look at this very carefully. I think we're going to need to help our federal partners in some interpretation issues before this is over. I want to thank everybody for their tolerance. I underestimated the amount of time we'd need for that, so we'll have to pick that up at our next meeting.

## **COMMITTEE ON ECONOMICS AND SOCIAL SCIENCES REPORT**

I'm going to go right now to the Committee on Economics and Social Sciences Report, Agenda Topic 16. Dr. Jim Kirkley is here from VIMS, and he came up specifically for this discussion and is just here for the day. You will recall there was a report by Southwick and Associates about the economics of the striped bass fishery. We, as the Policy Board, referred this to the Committee on Economics and Social Sciences.

They wrote some comments on that. Southwick and Associates wrote a response, which I think I can accurately characterize as a rebuttal back to the commission in response to the Committee on Economic and Social Sciences views. I directed that Southwick response back to the Committee on Economic and Social Sciences, and Jim is here to tell us what they think.

DR. JIM KIRKLEY: Thank you. First of all, our comments on this report or this work done by Rob Southwick should not be viewed as criticism of anything he did or of his work. We were simply responding to a request to do an assessment of that work, so I want that to be made clear. In the name of expediency, I am going to try to go through this relatively fast, because it looks like you guys have had enough fun already.

The Southwick Report or the position advocated by Striper Forever basically is one of eliminating the commercial fishery for striped bass along the Northwest Atlantic. The work that was done by Southwick was a series of economic impact assessments to try to demonstrate what the tradeoffs would be with different types of allocations, who would gain and who would lose in that deal.

As a consequence, we reviewed the first report. Mr. Southwick made some comments on that report, and then we were asked to review his comments and offer comments back to the Policy Board. Actually, this whole process here could be boiled down right to this

single slide right here. This single slide is that it's not so much the results of the Southwick study should not be used to make these decisions, but rather there is incomplete, insufficient information.

The whole picture wasn't looked at in the Southwick study. That's really what we're saying, more things needed to be considered. Now, not being funny but apparently Mr. Bush, our president, didn't agree with that recently. By the way, just a sidebar, I'm thanking Mrs. Paine ahead of time for preparing this presentation of which I think I read on the way here in my car, so I'm not quite sure I'm doing it justice.

All right, basically we attempted to respond to each criticism or each concern raised in the Southwick study. We want to note that basically we believe that we acknowledged – rather, the Southwick people did acknowledge the caveats in the study. I think they did a good job in responding to our initial response.

One thing we felt here is that the study by Mr. Southwick substantially overestimated the economic ramifications and economic impacts of having a recreational-only fishery. The premise for that – now, I'm going to attempt to jump around to expedite this. The premise for that is that not all of the impacts at all sectors were adequately considered.

And it's a fine line. For example, we do have consumers who buy fish in restaurants and grocery stores, and they generate economic impacts. Technically, as an economist who occasionally dabbles in theory, that sector is not supposed to be included in the economic impact of fisheries because it's the retail sector generating those impacts, but, nevertheless, if you're going to compare this sector to that sector, you're going to take them all the way to the end user.

The other thing that was limiting in the study, of course, is that when you start making these significant allocative decisions, you have tremendous potential of very large social ramifications on communities and on particular industries. In the case of striped bass, striped bass in some states that allow commercial fishing is one species among many caught by commercial fishermen licensed under state regulations.

You don't find very many fishermen anymore in a state who are exclusively a particular type of species or fishery. You have guys who catch clams, guys who catch crabs, guys who catch oysters. We highlighted in our first response a \$3 million difference between the impacts of recreational and



commercial fishing. Mr. Southwick raised concerns about that and said, “Well, no, when you go up and down the coast, it’s a billion dollars in impacts.”

And the difference, as he pointed out, actually was correct, the \$3 million pertained to the state of Virginia, specifically to a study that I did in 2000 that pertained to 1998; and if you know much about the commercial fishing market of the United States, you can easily lose market when you have a species that’s taken off the market.

Some species you can always recapture the market, swordfish and lobster, but things like striped bass, you basically have lost the market, and that study that I did that was used as part of the basis with that \$3 million was almost the equivalent of a comparison between a completely lost market and opening season on trout fishing, because you had this huge pent-up demand for striped bass, because it also had been closed for many years.

All right, the other aspect in here – I’m going to point out a minor thing here – is that other members on the Committee on Economic and Social Sciences, these comments are not unanimous. They’re consensus, probably much like the way many of you reason things out, so I’m just pointing that out. They’re not always unanimous.

The CESS believed that the study attempted to compare apples to oranges, because they didn’t account for the full range of economic impacts. That’s true, that study didn’t. But I think the other thing here is basically you have to recognize that study, again, did not consider all the aspects that should be considered when making allocative decisions.

And it was admittedly so by Mr. Southwick, the study did not attempt to assess what’s called economic value or economic benefits. And, a sidebar to that is that, again, states can do whatever they want in regulating their coastal ocean fisheries, inland fisheries, et cetera, subject to the codes that they’re faced with or laws.

So, the bottom line is to make an allocative decision at a state level, you don’t really have to do any of this. You don’t have to do an economic impact; you don’t have to do a social impact statement; you don’t have to do evaluation, but it’s kind of a good idea to do it just so you have a good feel for what is going on.

Another limitation – and I think you can all appreciate this – is that the Southwick study, in doing their analysis and looking at if we made it on all recreational fisheries, assumed the linearity between trips and the increased availability of a resource, you only need to think about how you buy things now and then.

Maybe if you can get some really, really good wine at ten dollars a bottle, you’ll buy ten, but that 11<sup>th</sup>, 12<sup>th</sup>, 15<sup>th</sup>, you probably won’t buy unless the price comes down considerably or you might not buy at all. So, what you have is you have satiation, and we’ve seen this in recreational fisheries. There is also the issue of substitutability. You don’t have to exclusively target striped bass. You can catch bluefish, you can catch mackerel. That study didn’t accommodate that substitution possibility. In fairness, the study did say, you know, this is the best we could do.

One thing that we felt was a significant limitation, though, of the study was the purported comparison of actual level of landings in pounds and/or numbers of striped bass caught recreationally. Obviously, if you have significant restrictions on the commercial fishery and they’re binding, you have a good chance that you’re going to end up with a lower commercial catch unless that state really says 50/50.

And what you’re faced with now in some states, it’s been discovered that some states have gone over their allocations in terms of the recreational sector catch. What you find, of course, as recreational anglers you don’t – I will probably will get crucified for this, and I have been before, but many states don’t sufficient monitoring enforcement of the recreational sector that they do of the commercial sector.

Some states have the equivalent of individual transferable tags or quotas on striped bass, so in theory at least every single fish that’s commercial caught is somehow documented. You don’t necessarily see that occurring in the recreational fishery. In any event, the point is you have to look at whether or not the lower catch was due to regulations, and the study didn’t look at whether or not the lower catch by the commercial sector was due to regulations.

Another aspect of the study dealt with aquaculture, that you could eliminate the commercial fishery and replace it completely with aquaculture. I think you can ask yourself the real simple question if aquaculture is so lucrative for striped bass, why isn’t it happening on a huge scale. It’s not happening; and the reason why is you’re looking at a two-fifty to

three dollars per pound at the farm gate for a break even.

It simply is not going to do it, plus we know from some other work that's been done is that there is a strong consumer preference for wild capture product over farm-raised product, and this doesn't apply just to striped bass. It applies to other species as well. As a consequence, it's a little bit limiting to state that you could displace the commercial catch and have the same economic impacts or better economic impacts through that allocation to the recreational sector with the aquaculture product. So we felt that was a limitation.

One thing I think that everybody the committee felt – again, no disrespect to Mr. Bush. He apparently doesn't share this sentiment – in totality everybody on the committee did believe that if you're going to start making these significant decisions or decisions with such ramifications about allocating a resource, you really need to take into consideration the full realm of information; who is hurt, to what extent, how are communities affected, what is in fact the economic value, gains and losses to society.

This is one of these Econ 101 courses that we're not going to do. There is a difference between economic value and economic impacts. Economic value represents how you really value a good service or state of the environment despite what you pay for it. You derive value when you go recreational fishing, but you don't have a market unless you go on a charter boat.

You don't say, "Well, I'm going to catch two striped bass today between 18 to 28 inches, and I'm going to buy it." You know, you're not. Economic impacts simply show the level of economic activity generated in the economy from other economic activity. That's all it is. And if you want to measure impacts and value and see how maybe economic impacts are not such a great way, you just need to step back and look at the Exxon Valdez, huge impacts and all those cleanup costs.

And as most recent of this week, there is a thing in the newspaper about the terrible evils of people not recovering and the resources still not recovering. On the one case you're seeing value pitted against impacts.

We don't feel, as members of CESS, that overall that the results presented in the study adequately support the conclusions or the recommendation to make this a more or less equivalent recreational or game fish only species, despite the fact that several – I can't

remember – three or four states – and I don't understand Connecticut.

I think in Connecticut you can commercially fish in state waters, but you can't land them in Connecticut, or maybe it's the other way around. It's something like that. I knew this once because I wrote it. You can't catch them but you can sell them in Connecticut. Whatever, it's an odd regulation, anyway. Anyway, that's the gist of it. If you want the fine-line details, we have prepared a response, a set of comments and whatnot from the CESS that is available to ASMFC in totality.

CHAIRMAN LAPOINTE: Thank you, Jim. Before I take any questions, I want to thank you and the committee for doing the response. When we got the response back from Southwick, the key for me was did the Committee on Economics and Social Sciences give them a fair review. I think this helps us greatly in saying, yes, they did. I don't want to get into the substance of it. Then, importantly for people, those things that you should consider when making broad policy decisions about allocation are incredibly important as well. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. It just seems to me that a copy of this report with a letter from our executive director should be forwarded to the president's staff for reconsideration of the recent EO. Thank you, sir.

MR. R. WHITE: Thank you, Mr. Chairman. This report will be available electronically to the staff?

CHAIRMAN LAPOINTE: Yes, we'll make that available. Other comments or questions? Eric Smith. We love Connecticut.

MR. SMITH: I'm not even going to rise to the occasion. I could explain it, but it's not relevant and we don't have a lot of time. I'll explain it later if Jim is interested. The point I do want to make – and this might rub a little the wrong way, but it's going to rub both ways. I just think I wouldn't leave this discussion without making this observation.

In the future, whoever we ask to do a review for us, we would benefit probably by somebody making a tone pass through the response of the commission. I sense from Southwick's letter that he was a little hot when he wrote his response. I went back and looked at the CESS comments, and I guess I could figure out – not that I disputed what they said, but it was how it was said rubbed a little raw, so we get a sharp-edged response and sharp-edged response to that, and we get into this duel, and we don't need to be there.

So, just for the future, when we send something out that the commission asked for and it goes out to a third party, we just make that pass through, filter it, so that we don't have anything that rubs raw, because the content should drive the debate and not the tone of it. Thank you.

CHAIRMAN LAPOINTE: Fair enough. Other questions or comments? Jim, thanks again for coming up and for the review. We're ten minutes behind schedule. I'm going to move the other agenda items from today, Law Enforcement Committee Report, Habitat Committee Report, Interstate Tagging, Permit Depletion; and Dogfish Male-Only Fishery discussion that Pat White wants us to have to tomorrow's agenda.

### **PRESENTATION BY NATIONAL OCEAN SERVICE**

We should make up a little bit of time because the National Ocean Service on Coastal Visioning is not going to occur because they forgot to put it on their calendar. They vision it onto the November 1<sup>st</sup> calendar they have in their office. I will recess the meeting for the day. Thanks very much for your patience.

(Whereupon, the meeting was recessed at 4:10 o'clock p.m., October 31, 2007.)  
THURSDAY MORNING SESSION

November 1, 2007

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The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, Thursday morning, November 1, 2007, and was called to order at 11:30 o'clock a.m. by Chairman George D. LaPointe.

CHAIRMAN LAPOINTE: Good morning. Can folks please take their seats, and we will restart the ISFMP Board. I am going to pick up on yesterday's agenda and then go this morning's agenda. Before I do that, as we're starting the board again, it's our policy to allow public comment before the meeting starts. If folks have a comment on issues not on the agenda, now is the time to do that. If you have comments as the meeting develops, we'll take your

comments at that time. Are there any members of the public who wish to speak?

Seeing none, the first item we will take up is the Law Enforcement Committee Report. Mike Howard, please.

### **LAW ENFORCEMENT COMMITTEE REPORT**

MR. MICHAEL HOWARD: Thank you, Mr. Chairman. The Law Enforcement Committee met on the afternoons of October 29<sup>th</sup> and 30<sup>th</sup> during the annual meeting. Chairman Jeff Marston opened the meetings and has presented the following summary.

A subcommittee of the former National Marine Fisheries Service, which is now the NOAA Office of Law Enforcement, presented an update on the MSA reauthorization that allows states access to VMS. This is something that for two years our committee was instrumental in seeing it was changed so that states could have access for state conservation and other law enforcement purposes.

Implementation of this useful tool is expected by August of 2008. It is hopeful that state officers on patrol will have immediate access to this information. The Office of Law Enforcement has pledged its cooperation in the interim in gaining access to this information. They have promised that if we need information on something that we believe is going to happen, we can get permission in advance. If it's ongoing, we can get it as it happens and after the fact as long as the data base is stored. At least two cases have already been made in the New England area using VMS by state officers.

A review of enforcement of ASMFC species was conducted. Tautog enforcement was discussed. The states of New Jersey, New York, Connecticut and Rhode Island have discussed and have ongoing cooperative efforts to reduce illegal fishing, concentrating on the illegal trade in the live market.

A full report of that will be coming out in the winter meeting or the next meeting of the Tautog Board. A comparison report will be provided at the spring meeting at the latest comparing last year's efforts against this. Striped bass enforcement remains a priority along the coast with several efforts occurring. The third year in a row of an increased action in EEZ cases has occurred.

It is observed that the amount of illegal fishing for striped bass generally along the EEZ has been declining in most areas. JEAs continue to provide needed assistance to states in this arena of the EEZ enforcement. It is our hope – and this is a sideline – it is our hope that North Carolina will continue to press to obtain a JEA with the federal government and get their legislature to approve that.

The committee discussed the non-reporting of some Atlantic herring catches. Enforcement officers discussed and will be monitoring catches and landing data to ensure timely, accurate and full reporting of these catches. There are ongoing investigations of this activity.

Staff presented an update of the Coastal Shark FMP proposal, and the LEC is working towards coast-wide training for officers in shark identification. We're looking at grouping three states together, providing training and identification packets. We will also be presenting comments on the enforceability of this plan as it moves forward.

A presentation on the saltwater angler registry was presented and discussed by the committee. Comments were given by the LEC on ways to make the registry enforceable. Chairman Jeff Marston opened the floor for nominations for chair and vice-chair. Jeff Bridi of Pennsylvania was nominated and Stephen Adams, Georgia, was nominated for vice-chair.

The vote was unanimous for the election of these two individuals. The newly elected chairman, Jeff Bridi, closed the meeting. Any questions?

CHAIRMAN LAPOINTE: Thank you, Mike. Any questions of the Law Enforcement Committee Report? John Nelson.

MR. NELSON: Thank you, Mr. Chairman, and thank you, Mike. When you folks were talking about the non-reporting of some Atlantic herring catches – we had a discussion on that at the Herring Section, and it was kind of inconclusive as far as what did that all mean. Some of it was that it was late reporting. I note, though, that you've got non-reporting down here. I just wonder if you had a sense of how much has occurred of non-reporting and how much poundage was associated with the non-reporting.

MR. HOWARD: Thank you for your question. Without going into ongoing investigations, which there are ongoing investigations, as I understand it, it is I think important to note that the Law Enforcement

Committee members in that area have recognized that catches were not reported, and it came to their attention at some point in time. The timeliness versus the non-reporting, I do not have an answer for you.

It's my understand that they should be reported in a certain way. Since the one incident and a NOVA was issued by the feds, other cases are being looked at. I think it's a combination of looking to see if there is accurate reporting; that it's timely as required; and if there is any usurping of the process. I will be glad to report back in full as these investigations conclude.

CHAIRMAN LAPOINTE: Other questions for Mike? Seeing none, thanks very much, Mike. The Habitat Committee Report is next. Karen.

### **HABITAT COMMITTEE REPORT**

MS. KAREN CHYTALO: Good morning. I'm Karen Chytalo; I am the Chair of the Habitat Committee. Before I start our Habitat Committee Report, I have been asked to speak about the upcoming Fish Passage Workshop, which will be for commissioners as well as other relevant technical committees. A draft agenda has been developed, and some of the speakers have been selected.

There has been an issue about the date of when this was going to occur. One of the issues that has come up has been continuing resolutions and whether or not people can travel for some of these meetings and stuff. The thought is that we've created a survey, which is being handed out right now to you, to find out what dates, especially the commissioners, are available to attend. We're looking at March in 2008, but we hope to get some feedback from you as to what's the date for having that meeting. Please fill out that form and return that.

Another thing I'm reporting out on is the Atlantic Coastal Fish Habitat Partnership, which is meeting right now as we speak. It's the second steering committee meeting that's being held. You heard already about the successful grant application that the partnership has received through ASMFC from the U.S. Fish and Wildlife Service for \$521,000.

This partnership grant will pay for a coordinator for the partnership as well as to assist in data collection; not new data but existing data sets so we can examine what habitats are available. At the steering committee meeting that's going on today, we are discussing what is the management structure of the partnership and how do we operate. All those things

are being put down on paper to figure out how do we proceed from here because we have a lot of members that have joined.

Also, as a vehicle to keep the partnership moving, we've developed a memorandum of understanding, and that's also being debated right now and modified to keep the partnership alive and move over time. One of the things that has also occurred, we also have created a Science and Data Workgroup, which met on October 17<sup>th</sup>. They're in the process of developing the assessment of the habitats, what is happening with them, what has changed over time, and they're collecting the different data sets.

So they've been working on that, that's part of their responsibility. One of their other responsibilities has been to refine the targets. When we had the first meeting of the partnership way back in May, we came up with ten different targets, ten different types of species or groups like SAVs to anadromous fish and things.

Having that many targets, we're looking to refine that list down for the entire partnership, and that will come back to the steering committee and a decision will be made as to exactly which species we will be working on. I just wanted to let you know that the process is moving forward, and it looks like we are gaining a lot more momentum, but having that 500-something grant is really going to be a big help. We're also looking at another \$50,000 grant from NOAA, and we're going to be working towards getting that funding source also. It is gaining some steam.

At the Habitat Committee meeting that we had yesterday, we did some updating information, and one of the things that we did get an update on is on the Artificial Reef Subcommittee that had met earlier. That's a subcommittee of the Habitat Committee. One of the documents that they are developing right now is looking at the states' existing monitoring programs for our artificial reef. One of the things the Habitat Committee did request, though, that they include in this document that is going to be developed is to start listing some of the protocols that are being used for siting of an artificial reef.

That always comes up as an issue of habitat exchange or other types of problems in conjunction with marine protected areas or other issues, and we want to have some of that information be placed in that document. That request was made.

Another thing that the Habitat Committee is working on right now is an Operational Procedures Manual.

We're updating what has been done in the past and we're adding new sections. One of the new components we're proposing to add right now deals with ecosystems and then monitoring.

This would be for the habitat sections of the fishery management plans, to include some information on ecosystems and types of things that should be monitored, what are some of the changes that are happening over the range for that fishery species for that management plan that is drafted.

Now, these will not be compliance issues; these will be not be requirement issues, but these are things that are recommended, that these are things that could be done and should be looked at; so when you look at your fisheries data, look at it also in combination with water quality, land use or wetland loss, so we can try to understand why our temperature changes, why are we seeing some of these shifts or changes that might be going on with some of these species.

And it always gets that old question, is it overfishing or is it habitat loss. So, we want to start bringing those pieces of information into there, too. Another piece of this manual, we're revising the Project Review Policy. That's when a large project comes into a state and, you know, how could ASMFC respond, and we're looking at, you know, the differences between an informational letter requesting information or saying, "You know, we have a concern about this project in your area because of the ASMFC species that could be affected."

We're also looking at a course-of-action letter. It will be a little bit stronger, a little bit more informational or to actually recommend something to say that, no, we think this is definitely going to be detrimental to the habitats in that area or the species in that area. That is something that we're still working on; and when we have the final, we will be presenting that to you as to what changes would take place in that.

Another thing that we have discussed, too, is our effective review. We felt that, you know, we don't want to just keep doing bean counting where we're showing how many documents have we drafted, how many brochures have we put together. We're more of how have we affected change within our individual states; has any of the documents that we have produced, have they filtered up and made a change in the way we do business.

Rhode Island gave a wonderful example yesterday of how our Submerged Aquatic Vegetation Document that was put together has risen up to become, you know, submerged aquatic vegetation regulations. That's a good thing, so that's a change, you know, that the group actually was able to affect. So that's what we're going to try to do on an annual basis to be able to build up that body of evidence as to the effectiveness of what the Habitat Committee has been doing and the documents that have been produced and see as to how they were being moved.

Another thing that we discussed yesterday, too, was the Alternative Energy Document. An outline has been drafted for that document. It was reviewed the day before by the Science and Management Committee, that looked at like, wow, this is a little comprehensive, very, you know, huge undertaking.

They originally were going to jointly work with us on that document, but now the Habitat Committee will take it on all by ourselves, and we will be using the Management and Science Committee as a review process. In that document we will have many things on, you know, not only some of the legislation that's involved with it, but the emphasis that we want to make is what is some of the monitoring that should be done for pre- and post-installation of alternative energy projects, so that therefore we can get and evaluate the environmental impacts and fishery impacts from those types of projects.

We will also be having in there some summary information on impact analysis of all those projects. We felt that this is something that will be very helpful for all the coastal states. We expect to complete that by next year. That's the end of my report. Are there any questions?

CHAIRMAN LAPOINTE: Thanks very much, Karen. Any questions for Karen? Seeing none, thanks a lot. Bob asked that the surveys on the Fish Passage Workshop be filled out and given back to him. The next agenda top is Wilson Laney is going to give a report on the Interstate Tagging Committee.

## **INTERSTATE TAGGING COMMITTEE REPORT**

DR. WILSON LANEY: Thank you, Mr. Chairman. I am giving the report on behalf of Chair Paul Caruso, who couldn't be here. I wanted to thank Science Director Megan Caldwell and Dr. Nesslage, especially, for putting the report together for us.

The Interstate Tagging Committee, if you recall, hasn't met face to face since March of 2003. It became active again in 2007, once we got some staff support. Two conference calls were held on April 23<sup>rd</sup> and May 21<sup>st</sup>. In 2007 the committee decided to continue with plans to update the Cooperative Tagging Website and Registry. I would encourage you to take a look at that if you haven't done so. The URL for that is [www.fishtag.info](http://www.fishtag.info).

We've created a prioritized list of changes to the website and to the data base. Those have been completed and implemented. The website is being presently maintained by the Conservation Management Institute at Virginia Tech.

We decided to continue with efforts to offer the ASMFC Tagging Program Certification, which, if you recall, you approved in 2003, as did the Management and Science Committee. We began a test of the application process for the Tagging Program Certification, and we're using the American Littoral Society as our guinea pig, if you will, in that regard.

The ALS application review is in progress. We picked three of the multiple species that they tagged, those being striped bass, summer flounder, and tautog. Those technical committees are providing input to us. We got the ALS Certification Package in September, and those technical committees are currently reviewing it. We estimate that we'll have a decision on that application sometime in the December/January timeframe.

For 2008 the activities planned are to evaluate the Tagging Program Certification Process and make any necessary revisions in that; obtain Management and Science Committee and Policy Board approval of any changes to that process; and then open up the certification process to all tagging programs that desire such certification.

We plan to update the Cooperative Tagging Website and Registry Data Base and Webpage Design if we can get funding from outside sources. There are some major updates needed, including restoring the functionality of the data base search engine so anglers will be able to search by tag type, color, fish species, and so forth and so on to help them identify unreadable or partially damaged recovered tags.

We also would like to expand the data base to include photos of each program's tags and also the radio telemetry frequencies. This would help the scientists who are out there doing a lot of radio telemetry work

to avoid overlapping frequencies between their research projects.

Finally, we'd like to improve the graphic design so the webpage is easier for visitors to find the information they need; and, lastly, provide outreach to the tagging community to encourage use of the Cooperative Tagging Website and Registry. That constitutes the report, Mr. Chairman. I do have one action item that requires board attention. Do you want to take questions first or go ahead and present that?

CHAIRMAN LAPOINTE: Why don't you present your action item, and then I'll take questions.

DR. LANEY: The action is that we have five nominations for Interstate Tagging Committee membership to replace members who had to drop off for one reason or another. I don't know if we have those on the screen or not.

Those are Gary Shepherd with the National Marine Fisheries Service to replace Frank Almeida; David Bogardus who will replace Kay Davy from the Billfish Foundation; Dr. John Hoenig to replace Dr. Rob Latour of VIMS; Donna McDowell to replace Paul Medders of Georgia DNR; and then John Clark to replace Craig Shirey of Delaware Division of Fish and Wildlife.

CHAIRMAN LAPOINTE: Thanks, Wilson. Any questions for Wilson on his report? In regard to the action items, is there any objection to the change in membership nominations? Seeing none, it is done. Our next agenda top is review of non-compliance findings, which we have none of, right? That's good, yes, and Maine is not on that list. The next agenda topic is an update on non-native oyster activities, Megan Caldwell.

#### **UPDATE ON NON-NATIVE OYSTER ACTIVITIES**

MS. MEGAN CALDWELL: Thank you, Mr. Chairman. Since the commission last met in August, the Project Delivery Team for the Chesapeake Bay Non-Native Oyster EIS has met three times. They've been working on a number of issues. As you may recall from my last report to you, the Oyster Advisory Panel had done a peer review of the demographic model for this EIS. This is one of the main projects in forming the various alternatives in the EIS.

The group that's working on writing the EIS is reviewing those comments from that peer review and evaluating the implications for the EIS. The PDT has also heard an update about the approach for the ecological risk assessment. The peer review of the cultural and economic assessments will be going on in the next couple of months.

We also heard an update on the accidental release of triploid ariakensis on the Severn River earlier this summer. Plans are being made to document incidents of accidental release in the EIS. Additionally, there are some plans underway to include some additional information in the EIS about applicable laws on legal liability within that document.

Of interest to you all is probably the last bullet, which is the target release dates for the various stages of the EIS. The pre-draft EIS should be completed in March of 2008. The draft will be released for public comment in May 2008. The target release date for the final EIS is October of 2008.

The next several slides address the Commission's Interstate Shellfish Transport Committee. This group hasn't met in nearly two years, but they did get together on September 12<sup>th</sup> and 13<sup>th</sup>. They reviewed a number of presentations. They had an overview of the various NOAA-funded research efforts from Dr. Paynter. They heard about the Maryland and Virginia Sanctuary Programs. They received a report on the Larval Transport Model which is being incorporated into the EIS. They also heard about the demographic model which I just mentioned; and, finally, the ecological risk assessment and the relative risk model.

On the second day of their meeting, they received a presentation on how the EIS is going to approach potential implications beyond the Chesapeake Bay if these escapements do happen. They also reviewed the EIS development progress, as well as timeline. They discussed the presentations and developed a number of recommendations.

The way this committee works, if you don't recall, is that they make a series of recommendations to the Policy Board. The Policy Board evaluates these recommendations and then decides what to do with them, whether or not they should be forwarded on to the PDT or acted on otherwise. The next couple of slides are the recommendations that fell out of that meeting.

Prior to this meeting, you should have received a memo from myself which included a draft letter that

the ISTC has put together. If you don't have a copy of that, we do have some additional copies up here and just let us know and we can get you those. The intent of this letter is to send it to the Secretaries of Maryland DNR, Virginia, and U.S. Army Corps of Engineers.

The letter expresses concern about the potential introduction of *ariakensis* to the Chesapeake Bay or beyond the Chesapeake Bay and recommends that the Army Corps does not issue additional permits for industry commercial trials in 2008 and until this activity is specifically approved in the environmental statement. I don't know if you want to take these one by one, Mr. Chairman.

CHAIRMAN LAPOINTE: Board members, what's your pleasure, one by one? All right, any comments on Recommendation Number 1? I have Jack Travelstead.

MR. JACK TRAVELSTEAD: Thank you, Mr. Chairman. The draft letter that Megan has referred to unfortunately didn't hit my radar screen until I got here this week, and I regret that. I do have some concerns about pieces of the letter. I want to apologize to Megan for not bringing those to her attention sooner than now, but nonetheless I would like to share them with you.

Part of my concern is the first read of the letter leads me to believe that we haven't done a very good job in keeping this board apprised of all of the activities that are going on to produce the EIS and to update you on the trials that the Virginia Seafood Council has undertaken over a period of years. I blame myself for part of that. And, also, in looking at the letter, I think there are some errors in fact that I would like to bring to your attention as well.

Let me make it clear I am not at all opposed to this board sending a letter expressing your concerns. In fact, we have encouraged the board to do just that on many, many occasions, and we hope that you will continue to do that. I mean, my impression is that some of you don't have all of the facts and don't have all of the information that perhaps you need.

For instance, the executive committee, which is made of these three gentlemen who are responsible for the EIS, a couple of months ago revised the schedule for the EIS to allow for a formal review of a pre-draft of the EIS by the ISTC. That was not there before. It was added a couple of months ago. So, the ISTC will get a shot at looking at and commenting on that

document before the public sees it. It will be a pre-draft. I think that's important.

I note the concerns in the letter under number one there that the ISTC has expressed concerns and frustration about a public policy process. Well, we've have tried to make this as transparent as possible. We've invited everyone's comments. We're providing an opportunity for formal comments. We're using the Federal EIS Process. It is what it is. We're abiding by the laws that surround the preparation of that type of a document. I am not sure what else we can say there.

The second point in the letter that is numbered expresses concern about the eventual spread of the non-native oyster along the Atlantic coast. This will be evaluated in the EIS to the extent that data allow it to be evaluated. The EIS will not ignore that issue.

Under Item 3, the letter starts to get into where it's expressing concern about the current trials that are underway with the triploid *ariakensis* by the Virginia Seafood Council and expressing concern about some biosecurity breaches. The group that is preparing the EIS has agreed to formally document in the EIS all such occurrences of biosecurity breaches. There have been a handful of them, some larger than others, although at this point we haven't found any lost *ariakensis* as a result. I mean, they've been cleaned up every time it's occurred.

I would note at least it's my impression that there have actually been more biosecurity breaches by the managers and scientists who are doing the research projects than by the industry in their testing of the animal overboard. In fact, the Seafood Council has worked with us. It's just been phenomenal how much they have been willing to work with us and agree to, it seems every year, additional biosecurity protocols that are designed and offered.

Over on the second page, if you look under Item 5, the ISTC acknowledges that research with triploid *ariakensis* is necessary for completion of the EIS, and they are willing to accept the risks that are associated with conducting that overboard research, so that information is available to the EIS. But then in Paragraph 6 they indicated that they cannot support the industry's commercial trials, and yet it's the risk models that are being used to place these animals overboard by both the scientists and the industry.

There is a statement in the middle of Paragraph 6 that says the fact that the commercial trials have provided very little needed input to the EIS process, that



statement blows me away. In fact, the industry trials have provided an enormous amount of information that is absolutely critical to the preparation of the EIS. I received two e-mails just yesterday, one from Doug Lipton, who is the economist, and Dr. Paolissi, another economist, who are working on the economic evaluations for the EIS.

They both indicate to me in those e-mails that were it not for the industry trials they would not have been able to evaluate one of the alternatives in the EIS; that is, the allowance for triploid aquaculture of *ariakensis*. I'm just not quite sure why that statement is in the letter at this point. There have been, as I said, a number of additional protocols that seem to be added every year to the industry trials. The industry has willingly accepted those.

Most recently we have required several of the participants in those trials to move from their original sites. Based on the models that are used to assess risk, there is concern that if you repeatedly conduct the experiments at the same site because there may be some release of diploids at the site, if you continue, then you increase the probability that a spawning might occur. Well, we've actually required a couple of those sites to move several kilometers away to greatly reduce the probability that situation would occur.

My only other comment, back on the bottom of the first page under Paragraph 3, there is a statement that with existing standards, it can be expected that one oyster in one thousand is fully functional reproducing diploid individual in an otherwise triploid population. That statement was true about five years ago.

The technology that is now used to produce these triploids for deployment both in research and by the industry has changed considerably, to the point that in the current experiment that is now overboard, 10,600 animals were tested for ploidy, and there were no diploids in that sample of 10,600, so it's changed considerably from us seeing one per one thousand to now seeing zero in 10,600. Things have changed quite a bit with the technology to greatly reduce the risk associated with these experiments, and it's something apparently that the ISTC wasn't aware of.

I guess my bottom line is that -- and I think Eric yesterday, in one of the board meetings suggested sometimes we need to filter some of these letters before they get sent out, and that's all I'm look for here today is that perhaps staff could do a little bit of filtering and updating some of the information contained in the letter and send it on.

MR. MILLER: Thank you, Mr. Chairman. I'm wondering in the spirit of the intention of this letter and in Jack's reaction to it if an appropriate way to proceed might be to provide the state of Virginia and the other jurisdictions so mentioned an opportunity to respond to this letter, just as Jack has done verbally to us today, and then take up this particular letter at a future meeting after the Shellfish Transport Committee has had an opportunity to read the written response from the state of Virginia or whomever; and, perhaps, if it's their desire, then change some of the verbiage in the letter prior to having it sent. Thank you.

DR. GEIGER: Thank you, Mr. Chairman. I certainly appreciate Jack's comments, and, again, I think all of us want to make sure that whatever letter we send is factually accurate and complete. I will say that risks or violations of biosecurity protocol, be it researchers or managers, is unacceptable, whether it be from a research manager or whether it be from an application manager or from a production manager.

Given the concerns about this organism, no biosecurity violation should or could be tolerated, especially when one is dealing with a non-native species that has the potential to basically repopulate various areas along the coast. In addition, I think we need to be sure that we realize that, yes, technology has improved, but we also have a realistic fact that we need to consider that in any cases of triploidy there is no 100 percent guarantee that the organisms are triploid.

In addition to that, we have reversion of triploids back to diploid situations. This is something that we need to strongly be concerned about. And, again, I think it's our opportunity to raise accurate and appropriate concerns to these three agencies as part of the EIS process. Certainly, we're well aware of both unintentional introductions or non-native species and the havoc that can occur among native species, but we also need to be equally cognizant about intentional introductions of non-native species.

It needs to be a thoughtful and scientifically based process, but we need to realize that there have been escapements, there have been violations of biosecurity, but I think we have basically all the information we need to have in terms of the economic viability of production of *ariakensis*. From my personal perspective, from the information that I have, I seriously question any additional production trials will add any additional information yet still

significantly increase the risk of biosecurity. Thank you.

MR. PETER HIMCHAK: Thank you, Mr. Chairman. My comment follows on the line of what Roy had suggested, and, again, on the theme of filtering letters before they're sent. I would think it would be most appropriate if the particular agencies addressed in the letter had the opportunity to comment and the Shellfish Transport Committee hear Jack's comments as well as Jaime's, and perhaps through a conference call come up with a revised letter to bring to the ISFMP Policy Board in the first week of February. Thank you.

MR. CARPENTER: Thank you, Mr. Chairman. I was fortunate enough to be attending the first day of the session. One of the things that struck me, in talking with the people that were there, is that we have continually, at every Policy Board meeting since we started this process, been trying to update the Policy Board with what our progress was and where we were in this process.

It struck me that some of the members that were at the committee meeting I don't think were aware of the fact that that kind of action had been going on, that we had been keeping everybody or at least the Policy Board up to date as possible. I think I would encourage the Policy Board members who have members on this committee to communicate with them as we go through this process.

Jack made the point that we have tried to make this an open and complete process, even to the extent that we have contacted the Gulf States Marine Fisheries Commission to formally let them know what's going on and the status of where we are and invited their comments and concerns be brought forward. We have not heard anything back from them yet. So for those members that also share borders, maybe you can see if the Gulf States is going to reply to us. But, I do think that Mr. Miller's suggestion and Pete's followup I think is a very good course of action to follow at this point in time.

MR. BOYLES: Thanks, A.C. Would the Policy Board indulge me? Jeff Tinsman is in the audience and has raised his hand to make a statement. Jeff is on the ISTC.

MR. JEFF TINSMAN: Thank you, Mr. Chairman. I am a member of the committee, and if it pleases the board to get an official response from the state of Virginia, that certainly would be an appropriate approach. But just as a matter of the public record,

I'd like to address some of the comments that Mr. Travelstead made regarding this letter and try to convey to you the intention of the committee in noting these six points.

I think, number one, addressing the public policy aspect of this, the comment was not a reflection or not based on the fact that the EIS process is not legal and transparent and going along as would be expected, but rather that there is no apparent overarching federal guidance in this area as there might be in a case of water pollution for a downstream state. A state cannot permit a discharge that's going to affect a neighboring state based on the Clean Water Act.

There does not appear at least clearly to be the federal oversight for this type of issue, the introduction of an exotic species. I think that what was intended there. The same way with number two, the spread of exotics along the coast I am sure will be covered as well as they might be based on the data in the EIS, as Mr. Travelstead said, but that still remains an uncertain process.

We must remember that this process started with another oyster, *Crassostrea gigas*, many years ago, which, after six or eight years of study was determined to not be an acceptable commercial oyster for the east coast of the United States; and, keeping in mind that *Crassostrea ariakensis*, the current candidate, does not support a major commercial fishery anywhere in the world. It is just one of many species in Asia. It's not the most favored species over there.

Unlike *gigas*, it hasn't been introduced all around the world, so we know much less about it. There is more uncertainty, so number two just expresses the concerns of committee members for the spread of that oyster into their state with those associated uncertainties.

Number three, about the testing of ploidy in the experimental animals, I'm very pleased to hear that the latest batch has apparently less than one diploid per 10,000. That's certainly above the standard, but what is referred to here is the standard by which batches of triploids that are produced are accepted or rejected for use in research, and that is that the base number is at 3,000 individuals are sacrificed and tested, if more than four individuals out of 3,000 test diploid, then the batch is not used for field work.

So, that statement is accurate. Certainly, when a particular batch tests better than that, that's a good

thing, but that wouldn't necessarily always be the case. I think the comment about concern about lost oysters certainly speaks for itself. The committee, in number five, certainly accepts the very limited risk associated with most research studies. The difference between research studies and commercial trials in number six is that generally the most important is the scale of the studies.

Many research projects are putting over several hundred oysters at a site. These can be separated, kept in very low densities, separated to minimize any potential, but when you're talking about one diploid in one thousand individuals, and you only have three or four hundred in a research project, certainly the risks are much lower than a commercial trial where you might have a hundred thousand individuals as a particular site and a hundred normal reproducing oysters, as many as a hundred at that site.

Just to touch on the risk model which is used for these things, the model is based certainly on the number of ariakensis that are deployed, the density at which they're deployed at a given site either for research or for a commercial trial on a suite of about ten biological variables that are all supposed to be for *Crassostrea ariakensis*.

None of those variables are known for that particular species and so, as we do in modeling efforts, we take the best available information that we have, so in many cases the variable for *Crassostrea virginica*, our native oyster, is used in lieu of the unknown variable for ariakensis. That may or may not be a good assumption, but it's sort of like the MRFSS data, it's the best data we have or the best information we have, so we plug it into the model.

In one case the variable for gammy dispersion through the water, the rate at which they disperse, an organism from a completely different phylum is used, the sea urchin sperm is used, I believe, for that variable. So you can see there is a great deal of uncertainty in each of these numerous variables within this model, and essentially you take all these bad numbers and multiply them by each other and come out with an output of this model that you can't even have confidence intervals put around it based on the comments of the researchers that developed it.

We're all used to dealing with numbers, but we like to have confidence intervals. We like to know how sure are we of that number. In this case we're monumentally unsure. That is the reason for concern; and when you add that uncertain model, which I believe some folks are placing way too much

confidence in, to the large number, larger density and the repeated use of sites, that's why the objection to the commercial trials.

Now this meeting was held in September. Jamie King attended that meeting, and she is in charge of the NOAA Research Program, which has organized and delegated the money to researchers to provide the inputs for the EIS. Her personal comments to me were that the only commercial trials that have been of any value to her in collecting data for this environmental impact statement are the very few where triploid *virginica* native oysters were raised side by side with triploid *ariakensis*. That was her opinion being expressed in number six.

I guess that brings me pretty much to the end of the letter. I hope I have clarified that some of these statements are not inaccuracies but just looking at things in a different way or having a different opinion.

CHAIRMAN LAPOINTE: Thank you, Jeff. John Nelson, I believe you're next.

MR. NELSON: Thanks, Mr. Chairman. I am going over to the handout that we got for the recommendations from the Interstate Shellfish Transport Committee. Recommendation one was should a letter be sent and who should send the letter. I think it's clear that there are a lot of issues out there. I think I heard from Jack that he certainly endorses a letter being sent, et cetera. The question of who sends the letter, I think that's pretty clear. If it's representing something from the commission, it should come from the Policy Board; i.e., the Chair, Mr. Chairman, and therefore it shouldn't come from a committee to represent the commission.

No offense, of course, to any committee like that; it's just that ultimately the commission is responsible for what they say, and therefore they should held accountable. It sounds to me like this is a draft letter. Obviously, there are some points that some of the board members wish to have clarified. My suggestion is I think exactly what I heard before. It was that the states or commonwealths that have a concern should be forwarding those to the staff to have a draft revised.

The draft should then, I would think, be circulated, depending on timing. If this needs to go out before the winter meeting, then what I would suggest is that it go to you, Mr. Chairman, and you can circulate to the – I think the entities around the Chesapeake

would be the ones to take one last look at it and give you the okay as far as they're concerned.

I'm happy if all their issues have been addressed. Then you forward it on. If not, it can certainly wait until the meeting in February in which we all have a chance to look at it once last time. But, if it needs to go out quickly, that's what I would suggest, Mr. Chairman.

CHAIRMAN LAPOINTE: How does that sound to board members? Jeff, you had a comment?

MR. TINSMAN: Yes, I just had one addition. If we wait until the winter meeting for this, the timeliness of the comments with regard to the spring/winter trials may be lost, essentially.

CHAIRMAN LAPOINTE: That's fair enough, thank you. Jack Travelstead.

MR. TRAVELSTEAD: It's not a problem timing-wise if you approve the letter at the February meeting. There is a lengthy process we have to go through in the state to approve any requests from the Seafood Council. It does require a public comment period, at which point we would welcome comments even from the individual states.

At this point we have not received any requests from the Seafood Council for a 2008 trial. They, historically, have come in I think late February or March, and they typically don't look for deployment until May. I think the timing will be fine.

CHAIRMAN LAPOINTE: There are a couple of issues. My sense of the timing is we'll find out what the right timing is and comment accordingly; and if we can bring it to the February meeting as you suggest, that's good. If it needs to happen earlier, we've got a process for that as well.

The key to the letter reflecting the concerns of the board members and the ISTC is making it reflect the valid scientific concerns and with the most up-to-date information. Is that a logical course of action from board members? Any objections? Great, thank you. And, Jeff, thanks for coming and paying attention to this issue because it is important. Board members, do we want to go Recommendation 2, or do you want to get a lunch and have a working lunch.

(Whereupon, a recess was held.)

CHAIRMAN LAPOINTE: We're going to get started again. I think all of the usual suspects have

their lunches, so we can get going. Megan, Recommendation Number 2.

MS. CALDWELL: When the ISTC got together back in September, they talked about how important it was for everybody to start engaging now. As I mentioned earlier, there are several target dates for releasing the draft and the final for next year. This is the opportunity for the states to engage and have voice in the process.

I have listed up here on the screen the states that currently have a member on the ISTC. The ISTC wanted to convey to you all to encourage your members to attend if they did not attend the September meeting. Further, there are a few states that don't currently have a member on the ISTC. If your state is interested in having a voice in this process through the ISTC, please see me with your nomination for this committee, and we'll get them engaged in the process.

CHAIRMAN LAPOINTE: Any questions or comments? You have reminded members about getting people on the committee, because I seem to remember a couple of e-mails.

MS. CALDWELL: Yes, and, in fact, we have had a few additions in the last several months.

MR. HIMCHAK: A quick question for Megan; is there a substantial budget for the continuance of the Transport Committee to meet?

MS. CALDWELL: The budget that we have right now allows for the committee to get together twice in 2008. The idea behind that was one meeting would be to review all the research because that would be completed in early 2008 that's going into the EIS, as well as review the draft EIS. The second meeting will be reviewing the final EIS.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. Knowing that there are certain states that have particular interest in this issue, since Pete brought up the activity, I have approached certain states to see if they were interested in helping finance this, and I have gotten at least a preliminary encouraging response. With that, I will be sending letters to those states, asking them for some help on this.

CHAIRMAN LAPOINTE: Great! But, the question before us isn't how to fund the activity; the question before us is participation. I think it's just incumbent on our member organizations to look and if you're

one of those, the bus is leaving the station, and if you want to be on it, you better put somebody on it. Recommendation 3.

MS. CALDWELL: Recommendation 3 ties somewhat back to the letter and specifically the bolded sentence that was included in the letter that was drafted by the ISTC. The ISTC is recommending that the commission engage in the comment period for the permit applications for these commercial trials. Again, the reason is that they're concerned about the continued risk of escapement posed by aquaculture research and commercial trials.

They're concerned about the current presence of *ariakensis* in the Chesapeake Bay as well as North Carolina due to the accidental escapements that have happened thus far. Therefore, the recommendation is that the commission should comment on permit applications when they're available. The ISTC indicated that the comment period typically happens in February or March.

CHAIRMAN LAPOINTE: Board members, comments? It strikes me it's pretty important for the board to pay attention. The first letter we're talking about is discussing the overarching policy of the process, and that's a fundamentally different premise than commenting on every permit that comes along. How permit applications do we expect? Jack, do you know the answer to that?

MR. TRAVELSTEAD: Well, the Seafood Council only puts in a year usually, and I'm not even sure they're going to put one in yet for 2008. They haven't talked to me about it. There are, I suppose, other permit applications that could come along associated with research, but as of right now all the money that was available for research has been spent. The projects are coming to an end rather than starting up, so I don't think you'll see any new applications there.

CHAIRMAN LAPOINTE: I guess my concern is would the comments on individual applications be substantially different than the comments on the overall program, and so are we being redundant? I am clearly reluctant about this particular recommendation, but I'd like to get the views of other board members as well. Vince.

EXECUTIVE DIRECTOR O'SHEA: Maybe with the exception of a sturgeon aquaculture thing, I can't recall the commission responding to permits for other culture-type things. I'm thinking of the Atlantic salmon, you permit in Maine Atlantic salmon

operations, and I don't know that the commission has comments on those permits, so why would this be different?

CHAIRMAN LAPOINTE: Well, I wish we were worried about the spread of Atlantic salmon as opposed to them receding. Roy.

MR. MILLER: Thank you, Mr. Chairman. I'm not certain if I understand if you're soliciting comments from the ISFMP Board, whether that board should be commenting on these permit applications or whether the Shellfish Transport Committee should be commenting on the permit applications.

If that's what you're asking, then I would recommend the latter, because, frankly, I might not be qualified to comment on the details of the individual permit application. I would feel more comfortable with our Interstate Shellfish Transport Committee member making those comments. Thank you.

CHAIRMAN LAPOINTE: I was probably using shorthand. The second recommendation is that they send a draft letter to the Policy Board and then it gets passed on, so we'd just have the imprimatur of the whole Policy Board and not the ISTC. The sense I want from people or from the board is do we think this is the right activity for the Policy Board to be engaged in or not? A.C.

MR. CARPENTER: I think each state, independently, has the option of commenting on an individual permit, and now that they're all aware that there is – if a state has a particular concern, then I think it's incumbent on the state. I don't think it's the place of the ASMFC to get in the middle of an application for a trial at this point in time in the middle of this EIS process.

MR. NELSON: Thanks, Mr. Chairman. I kind of agree that it's probably the individual states that should be providing comments on aquaculture permits or scientific permits like that. Probably what can be done, though, is the Interstate Shellfish Committee could have highlighted the various issues associated with the permitting process that's going to be going on, and we could circulate that to the states, and then they could pick up on it and decide how they wanted to respond.

I'm not sure, because, again, I'm thinking back to my state, and we have aquaculture permitting that goes on, and I wouldn't expect ASMFC to provide any comments, but I wouldn't be surprised if my

neighboring states might occasionally pipe in. I would leave it at the state level.

MR. HOWARD KING: My thoughts exactly.

DR. GEIGER: Thank you, Mr. Chairman. I think any intentional introductions of a non-native species, especially in any kind of situation that reflects an interjurisdictional boundary or waters should be a concern to each and every one of us. Thank you.

MR. MILLER: I could offer the comments that we should have been having this particular discussion a couple of years ago. I can't recall any of these permit applications having come across my desk previously for my comment or review, even though I certainly acknowledge that as a neighboring state we have the right to comment on these from an individual state basis.

However, notwithstanding that, I think we're looking for a path forward here in the spirit of cooperation, and I do think that we should – if there are to be additional field trials prior to the release of the EIS, then those permit applications should be brought to the attention of the Shellfish Transport Committee. They, in turn, can convey their comments back to the board at the next available board meeting. Thank you.

MR. POPE: Thank you, Mr. Chairman, my thoughts exactly. Just like in Recommendation 1, if there was any kind of formal letter, you know, regarding permits or whatever, it should come from the Policy Board or from the commission.

CHAIRMAN LAPOINTE: Does that make sense to board members, that if the Transport Committee looks at applications, they come back to the board? Well, I think what Roy was offering, that comments on individual applications come back – be done by the Transport Committee and then come to the Policy Board, and we can figure out what to do with them. I think what you were arguing was that the Shellfish Transport Committee comments would be distributed to the individual states, and they could comment accordingly. What's the pleasure of the board? John.

MR. NELSON: Well, why don't we have it come before the board, Mr. Chairman, but what I think will be more timely is the comments also going to the states so that at the time the board meets, they can say, "Have the states that were concerned about this seen this? Have they commented? Therefore, there is no need for the board to do anything further." That probably would be the process.

CHAIRMAN LAPOINTE: So that would be that the comments come to the board and to states?

MR. NELSON: Yes.

CHAIRMAN LAPOINTE: Does that sound all right to people? All right, that's what we'll do. Recommendation 4.

MS. CALDWELL: I'll take four and five together. Both are recommendations for additions to the EIS. Since the ISTC's meeting, the PDT has met and got wind of these additional recommendations and are already taking steps to incorporate them into the EIS. The first suggestion is to include an escapement events table. Basically, it would list out the different escapement events for all triploid ariakensis, an estimated rate of reversion, estimated number of diploids, and the likelihood of these oysters establishing a viable population.

The second suggestion for inclusion into the EIS a discussion on legal liability. It would just basically describe any applicable laws and then also a discussion on legal liability associated with accidental introductions. A staff recommendation that may be considered is maybe just a letter of endorsement that they have already taken this on and that we encourage them to continue to move in that direction.

MR. TRAVELSTEAD: Both of these issues came up at a recent PDT meeting; the group that is providing oversight in the preparation of the EIS. Actually, I think they were raised by the EPA member of the PDT. I think the PDT has agreed already to accept these recommendations, so these two elements will be a part of the EIS document.

There will be a chapter on these escapements that have occurred and how they were dealt with to show what the risks are; that you are going to have escapements even when you try to take the kind of care you need. Then there will also be a chapter on the legal issues.

CHAIRMAN LAPOINTE: I think we should exercise caution on Recommendation Number 5 myself, not about the applicable laws and whatnot, but the legal liability issue is in the eye of the beholder. You know, if I get one lawyer to write it, it writes one way; and if I get an opposing lawyer, it writes the other way. So, I am reluctant to – and this is my own personal view – is I am reluctant to encourage what I could characterize as legal speculation as something that our commission wants to get engaged in. Comments on that? A.C.

## DISCUSSION ON DE MINIMIS PROVISIONS

MR. CARPENTER: I totally agree with you. That's how lawyers stay in business, each of them has a different idea. I think the point here is the fact that the project delivery team has already acted on this recommendation, and there will be a chapter in the EIS or a section in the EIS that will deal with the issue of liability and legal ramifications of this thing. We have already committed to that.

CHAIRMAN LAPOINTE: So, what you're saying actually is that we don't need to take action on Recommendation 4 and 5 if it's already being done?

MR. CARPENTER: Essentially, that's it. It sounds just like Megan's staff suggestion there at the end of her presentation; we have already done this.

CHAIRMAN LAPOINTE: All right, then does anybody see a need to take action on Recommendation 4 and 5, given that, particularly because – I mean, the one thing that strikes me as being extraordinary about this process is a Draft EIS, that's pretty incredible, so there will be plenty of shots at seeing what is in it. We will just not act on Recommendation 4 and 5. Gil.

MR. POPE: Has this kind of thing happened before as far as escapements and so on; is there any history to it? And if so, is there a brief little blurb, if it has happened before, what the consequences were?

CHAIRMAN LAPOINTE: I think that's the intention of the inclusion in the document; my comments about lawyerly speculation notwithstanding. Other issues?

MS. CALDWELL: I have actually mentioned the latter bullet point on here, but the ISTC is going to get together one more time in 2007. They're going to hold a Web-X Conference Call, and they're going to review the cultural and economic assessments, which are a component to evaluating the alternatives that are in the EIS. We have the two researchers that are involved with those assessments presenting to the committee on November 19<sup>th</sup>. Then, as I mentioned before, the commission is planning on getting the group twice in 2008.

CHAIRMAN LAPOINTE: Thank you, Megan. Any questions or comments before we move on? Thanks for the report, and, Jeff, thanks for coming and listening in and sharing your information as well. Our next agenda topic is discussion of de minimis provisions in FMPs. Bob Beal.

MR. BEAL: Thank you, Mr. Chairman. This issue was first introduced, I believe, at the May meeting of this year, and then the Policy Board had a discussion it at the summer meeting of the commission. It is sort of evolving over time. There was a white paper that was included in the briefing materials and also a table of all the de minimis provisions in the FMPs. There are extra copies on the back table if you guys don't have your briefing CD handy.

The brief background is that there was some concern raised in May that the de minimis provisions within the FMPs varied quite a bit, and there was not a lot consistency between the fishery management plans that the commission has. There was interest in looking into streamlining the process and increasing the consistency across the FMPs.

The Policy Board, as I said, had a fairly lengthy discussion during the summer meeting. During that discussion, there were really two different strategies that could be employed to standardize some of the de minimis provisions. One approach was to establish an overarching policy that would modify the de minimis provisions in all the FMPs, and the other was that each species management board would work to modify the de minimis provisions and work towards some consistency.

During that discussion, there was a motion that was initiated. There also was some discussion at the Policy Board that they would like more information on de minimis provisions in the fishery management plans. Staff has pulled together the table, which is two-and-a-half pages long, that's included in the briefing materials. It highlights what the de minimis provisions are, the qualification requirements, as well as what the states are exempted from if they are declared de minimis.

One of the charges to the staff from that meeting was to perfect the motion. I think the motion is – it is at the bottom of this paper. I think we will try to get it up on the screen as well. The motion suggests – I know it's perfected from the discussion as well as the motion that was initiated in August that we could look at modifying the ISFMP Charter and charge the species management boards with modifying the de minimis provisions to allow for de minimis status to be declared or requested by the states for the recreational sector or the commercial sector or the state's entire fishery.

This is one of the main provisions that vary across fishery management plans right now. Some are kind of all or nothing. The Eel Plan, for example, is life stages. There is a lot of different qualifications or ways to qualify different sectors of fisheries for de minimis status. The staff has just perfected this motion from the meeting, and it's not recommending this as a good or bad direction to go, but just to move forward with the discussion.

CHAIRMAN LAPOINTE: Questions or comments?  
Eric Smith.

MR. SMITH: Well, the first thing that occurs to me, after what Bob just said, although we may have had a good idea at the time when this whole idea was spawned -- just to think of eels; if the Eel Board and the technical committee thinks that the fishery specific or the life stage specific fisheries are important enough to be able to be dealt with independently, and we were to adopt this, then the commercial would aggregate and you wouldn't have that life stage benefit anymore.

It almost seems like, although it's complicated, the case-by-case determination of what is right is better than aggregating, although I think -- I agree with the disaggregation that is recreational or commercial in those cases where it isn't that way now, but I would also leave open the possibility to do it further like eel. Maybe something that says the Policy Board authorizes each species board to make the determination based on the species they are managing, and then act accordingly, and that's much what we have now.

DR. KRAY: Mr. Chairman, picking up on Eric, I think Eric started me on the idea that maybe what we need, instead of a template for all fishery management, maybe there should be an overarching policy as it relates to de minimis status, but allow for fluctuations such as Eric has just indicated in the American Eel Plan.

MR. POPE: Thank you, Mr. Chairman. One of the things that always bothered me was, say, in our weakfish. A lot of the times we'll vary year to year. We'll either be just above it or just below it. I'd like to figure out a way, especially in something where it's that close, to where you can go for a two- or a three-year period or something like that; and out of those years or whatever, you're just like right on the cusp, either back and forth, that you can declare de minimis over that period of time, so you don't have to, you know, revamp up the program and then have it go for two years not doing that.

I'd like to see something along those lines. And, also, I don't know if it's constant because I didn't get a chance to read it, but in a lot of these plans it's 1 percent, and I don't know if that varies in a lot of the plans, whether it's 2 or 3 in others or whatever, but sometimes it would be nice to have it as a strict percentage. Thank you.

CHAIRMAN LAPOINTE: I favor a broad definition. I don't favor what you proposed about a fixed percentage because different fisheries are different. But, in regard to the draft motion, I think how I read it was that in each plan you'd have to identify -- or states would have to identify whether it was in the context of a plan they were seeking de minimis status on the commercial or the recreational or both, broadly, and that would be a plan requirement.

Then the specifics of the plan would take over, so in the case eels they could still do life stage differentiation, for lack of a better term, on de minimis status. I was looking at it pretty broadly, just saying you have to do commercial, recreational or both; and under that, we would leave the broad policy that we've currently got now. John Nelson.

MR. NELSON: Thanks, Mr. Chairman. I think I'm inclined to agree with you as I'm trying to search back on why we were really doing this. I couldn't remember whether there was a big problem or we had too much time on our hands and we were just refining things as we sometimes do. But whatever the case, we're allowed de minimis at the present time, and I think it's probably more of a clarification to the boards as to when they discuss a fishery management plan, to keep in mind that they can require it or they can have it for various components or the entire fishery.

Since we already have that flexibility, it might be, rather than going back into the Charter -- unless Bob is going to tell that I'm wrong and it's not that flexible in the Charter, but I think it is; and if it is, I think this was a good exercise and, okay, thanks, and let's say we have looked at it and move on.

MR. MILLER: Thank you, Mr. Chairman. I think I can take the blame, perhaps, for bringing this item up at a previous ISFMP Board meeting. My intention at the time, and still remains, is I was concerned about the inconsistency from plan to plan. Weakfish, for instance, is different from Striped Bass, different from other species with regard to the definition of de minimis, whether it refers to commercial or recreational or both.



So all I was interested in at the time, and still interested in, is a broad statement of guidance in the Charter that de minimis status will be considered in each plan and defined so that we all understand which sectors of the fishery the de minimis status applies to. Now, if that can be encompassed in the existing wording of the Charter, as John Nelson suggests, then I'm fine with that. Thank you.

MR. CARPENTER: The issue of de minimis I think this morning came to light in the South Atlantic Board meeting where several states were requesting de minimis and were granted de minimis, but at the end of the day, since there were no management provisions, it really didn't make a difference.

I think that one of the things that we might want to consider here in this motion, if it's to move forward, is that maybe as a policy level you have to decide what the criteria – for a board to use the de minimis feature, it has to define what gets you to de minimis or what level, whether it's two years, three years, one year, one percent or one-tenth of one percent, and it must clearly state in the plan which things you are exempt from or which things that you would be required to still comply with. Maybe it already does that.

CHAIRMAN LAPOINTE: Bob, can you fill us in on what the Charter says about de minimis now?

MR. BEAL: If you look at the third and fourth paragraph in the white paper, that's the language out of the Charter. The Charter is very open ended right now. The boards have a lot of flexibility. It essentially just defines what de minimis is and then says that FMPs will have de minimis criteria, and they will specify what the states may be exempted from.

As some of the plans have been developed that we have in place right now, the management board has decided that even if a state is de minimis they still need to essentially maintain all the management measures, minimum size limits, seasons, whatever it is, in order to not create a loophole in that fishery.

We have a discussion on tautog, I think, at the last meeting where one state was declared de minimis, and they were considering getting out of the plan, but the board was concerned that if they left the plan, there would be a loophole and fish could go to that state to be landed. That same logic is in place where if you're de minimis you can't remove the minimum size because neighboring states could then land fish that would be illegal in their state.

There have been a lot of questions as to what the Charter currently allows, and I think it provides maximum flexibility to the states. If this motion were to pass, I think it would actually put more restrictions on the management boards and they would sort of be required to make sector determinations within the plan.

Back to Gil's point about weakfish, some of the boards have started working towards three-year averages, two-year averages, those sorts of things, to prevent states from kind of going in and out of de minimis status year after year. I think weakfish has been changed to a three-year average.

DR. GEIGER: Mr. Chairman, my memory of this is the same as Roy's, and I believe he was, indeed, the likely suspect to initiate this discussion. I think the language that is in the draft amendment is very appropriate, and I like your broad brush interpretation of that as well. I think that is most appropriate. Thank you.

CHAIRMAN LAPOINTE: What is the board's pleasure; do we want to have Bob to work on this a little bit and come back with a definition that reflects kind of the conversation, or do you want to act on the motion? I'm failing in my time-management skills again today, so I'm trying to move this along. John Nelson is advocating not taking action right now. All right, I see heads shaking yes. Thank you.

## OTHER BUSINESS

We're into other business, and right now I have Pat White, who is not here because his wife is going in the hospital, is interested in whether the Dogfish Plan contains a provision for a male-only fishery. I suspect that's been discussed, and so my thought is not to get into it, but just to make sure the information is made available to Pat at this point about what has been considered in the past. Does that make sense to people? Good. John Nelson.

MR. NELSON: Just to facilitate it, I think it's been discussed on the New England Council quite a bit. I think if the staff doesn't have a lot of information from ASMFC discussions, they certainly could contact the council staff and get that information from them.

CHAIRMAN LAPOINTE: Thank you. The agenda topic, Jaime Geiger wanted to give us an update on cormorant depredation orders.

DR. GEIGER: Thank you, Mr. Chairman. I'm passing around some frequently asked questions that I've asked our Division of Migratory Birds to prepare about cormorants and cormorant management. I only have 20 copies, so I would ask if the divisions or the delegates can sort of share copies so everybody that is interested may get a copy.

Again, it just gives you an update on the cormorant depredation order, the results of the DEIS, as well as various websites and answers to some of the specific questions that one or more of you have asked over the last couple of years. There are some regional cormorant management plan activities being undertaken, primarily through the Atlantic Coast Joint Ventures of the bird folks. So, again, if there are any further questions or comments on this, I would appreciate it. Thank you very much.

MR. NELSON: It might be helpful at some point in the near future – has the service done a survey of the population of cormorants? My sense is that in the flyaway of New Hampshire, in which we were enjoying watching the migratory activities headed south, I just want to warn my southern partners that we are sending thousands of cormorants your way.

I mean, those populations have blossomed; they're exploding, and every one of them likes to eat fish and everything else that's down there. So, really and seriously, I think that we ought to be taking a look some time at what is the service's management plan regarding cormorants; has it been reviewed lately and whether or not there is a need to try to start looking at a control of an extremely efficient predator.

DR. GEIGER: Yes, sir, I believe the population status is addressed in the first part of the handout, at least a cursory amount. There is also some additional information about what regional management activities are ongoing. And, again, the Atlantic Flyaway Council has agreed to participate in the regional population management of cormorants, but nothing has happened yet in that flyaway.

I bring this to your attention because we're seeing more and more linkage between obviously the folks in the bird community and in the fisheries community. I think this is good. This commission certainly has taken a leadership role ala the Horseshoe Crab Management Board and the Shorebird Technical Committee. We're certainly seeing this activity spread more and more, and our migratory bird folks are very interested and I think willing to work with us to help us address these

issues that one or more of you have raised over the last couple of years. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: And will the service continue to bring us updates as that plan goes forward?

DR. GEIGER: Yes, sir, Mr. Chairman.

CHAIRMAN LAPOINTE: Great! And I think I'll order John Nelson as a private citizen to be the first member of the advisory panel on the cormorant management plan.

DR. GEIGER: Mr. Chairman, I think that's an excellent suggestion.

CHAIRMAN LAPOINTE: Other comments or questions or cormorant management? Thanks very much. The South Atlantic Board had something for us, I believe. Robert.

MR. BOYLES: Thank you, Mr. Chairman. The South Atlantic Board, this morning, discussed the issue of funding for FY 2008 and 2009 for SEAMAP. The South Atlantic Board would like the Policy Board approval to send a letter – actually two letters, one for 2008 requesting funding as it is currently slated in the Senate Bill of \$5.09 million, but also to put it in the priority list for the commission for FY 2009 for \$7.4 million. We would like the blessing of the Policy Board for that to move forward.

CHAIRMAN LAPOINTE: Is your second request that it be considered with the other priorities of the commission and included in the letter at the right amount? It's got to be treated fairly with the other requests that we make.

MR. BOYLES: Yes.

CHAIRMAN LAPOINTE: Okay. Vince, did you have a comment?

EXECUTIVE DIRECTOR O'SHEA: Well, I think with regard to the first part of saying that we would encourage the president's request of \$5 million, I think that's relatively benign, and I'd be happy to send a letter under my signature to Dr. Hogarth to do that. I think the other part would be we'd include it in a broader discussion about our '09 budget bill, so, sure.

CHAIRMAN LAPOINTE: Any objection to that course of action? Thank you. Bob is going to talk about menhaden talking points.

MR. BEAL: During the Atlantic Menhaden Management Board earlier this week, there was a brief discussion under other business of the two bills that have been introduced to congress. Part of that discussion centered around the commission's response to that and how states should respond to the bills that have been introduced.

During that discussion, staff offered to put together some basic principles that are currently included in the commission's management program for menhaden and general principles of the commission. William is passing those around right now. They have been pulled together by staff. They're just to provide some background for the states if they wish to use it when they're talking about these bills or responding to any requests for information.

MR. CARPENTER: Mr. Chairman, as the former chairman of that Menhaden Board, I want to express my appreciation to the staff for getting this together as quickly as they did and having this ready for today. If it needs any kind of formal endorsement from the Policy Board, I would move that we accept this and use it to the extent that each of us are able to interact with our congressional staffs and liaisons.

CHAIRMAN LAPOINTE: Well, people are still looking for it. Pete.

MR. HIMCHAK: Likewise, I very much appreciate the talking points from the ASMFC. We have an Outdoor Writers Workshop in mid-November on marine fisheries issues. And, considering the sponsor of one of the bills in congress, we would rather objectively present information on Atlantic menhaden from an ASMFC point of view. Thank you.

CHAIRMAN LAPOINTE: This kind of ties into an issue that Eric asked to be put on the agenda. He hasn't had much of a chance to look at it, but if you want to comment now, Eric, I think that would be appropriate.

MR. SMITH: I think that's fine. I want to discuss menhaden in a slightly different context, and it's not just menhaden, frankly. There is a short list now. There is obviously the striped bass and red drum issue, the executive order that we've all discussed in bits and pieces this week. There is a bill for gamefish status for striped bass and one for tautog and now these two menhaden bills.

The implications of all this new activity or this growing activity are noteworthy. The one that

troubles me the most is menhaden, and I'll tell you why. At the outset I'll also say that one of the sponsors is someone that we all owe a debt of gratitude for his continued commitment to have habitat and fisheries conservation, and that's Congressman Gilchrest.

So, by no means am I being critical of authors or sponsors in this regard, but the point I want to raise is the essential fundamental difference between this commission as a compact of the 15 Atlantic coast states versus all of the other things that might be managed by an act of congress, such as under the Magnuson Act.

When congress passes the Magnuson Act, they basically can undo anything they want, but when congress authorized this compact in 1942 the 15 legislatures of the Atlantic coast states ratified it, and it became that component of state law. The Menhaden Bills recommend the prohibition of a fishery in state as well as federal waters.

And, without criticism of any of the folks involved in sponsorship, I'm reaching for a way that we find a way to convey that this body is authorized differently than if it were just an act of congress, and somehow we have to make that point, recognizing that sometimes we get a sense of too much of ourselves and we're really the instruments of our state governments that send us here for these meetings.

How we convey that back home to our administrations in a productive way and then how that message may be – and, Vince, I took his point; he made a great point the other day in the Menhaden Board meeting when it was raised, and he was right on the mark, that, you know, communications with the congressmen's staff. That's the most appropriate thing we could do in the near term.

In the longer term I think we're failing in our communications of explaining to the public at large and, maybe in this case, congress just what they authorized and what the states approved 65 years ago, and that's important that we not ever miss the opportunity to explain the fundamental difference here. So, I thought long and hard.

I didn't say anything at the Menhaden Board meeting because I didn't think it was any longer a menhaden issue. That was just the trigger that raised the debate. This Policy Board I thought was the right place, and I think you for the time.

CHAIRMAN LAPOINTE: Thanks, Eric. I apologize to the board for getting us slightly off track from this menhaden brief. I don't get any sense that anybody is opposed to it being used and then distributed to people, as we need to, to give the facts to people who are in decision-making positions or have questions about this, so we'll distribute that.

And to Eric's point about how we interact as there are congressional actions, he raises a very good point; and because of the time, I don't want to get into a protracted debate, but it's a very good issue for us all to consider about how to communicate those things well to our congressional partners as they consider actions. Vince, did you have your hand up?

EXECUTIVE DIRECTOR O'SHEA: Yes, I did. Thanks, Mr. Chairman. When we pulled these points together – two comments – one was we were careful to try to give you all points that individually could be used without – you don't need to use all of them. You could just use one or two.

And the second is we were sensitive to – there are some good reasons why Congressmen Gilchrest may actually be on our side on this one, and we were careful about – one point we debated on is the strong commitment that there are resources under the sovereign jurisdiction of the individual states, and that applies across the board on the positions we have taken on the striped bass gamefish thing, the tautog thing, and I testified to that effect as well.

So, my comment is just to assure you all that the commission has already taken that position, and we'll continue to take that. It's just a question of when is the right place to insert that into the debate. Edith Thompson from Congressman Gilchrest's office was here for two days this week, and she and I are committed to getting together later in the month when the congress slows down a bit. I have offered her help on this, and she has been willing to accept that. Thanks, Mr. Chairman.

CHAIRMAN LAPOINTE: Thanks, Vince. I have no other items before the Policy Board. The Strategic Planning Process, our intention is I will work with staff to hire a facilitator, not the same facilitator we used the last time, and at the February meeting have a session to begin the revision of the Strategic Plan. Be prepared for that in February. If there are materials to be sent out in advance, staff will do that.

EXECUTIVE DIRECTOR O'SHEA: As we're putting this together, the basic assumptions that

we've gotten from you all is that our plan is basically sound and we're looking to validate and update it. The length is about right, so we're going to come at this with a zero sum, that if we're going to put more in it, we'll try to take some out to keep it in a useable, flexible format.

George has already mentioned an outside person, and we'll use our staff to provide the admin list on this, both to record and to draft the plan, which will help keep the costs down. We see this in a workshop that mentioned in February. The tasks of the workshop are to look at your results over the past year, revalidate the mission vision, principles and values.

Let's try to scope out opportunities and challenge for the future and then identify goals and strategies to achieve those goals. We would use the input from the February workshop to modify the existing plan and then in your spring meeting we'd have a workshop basically to walk through the staff's first cut on the rough draft, make changes, send it out for public comment over the summer, and at the Policy Board – not at a workshop but in the Policy Board – in August, we'd bring back to you the public comments and seek your direction on how to do that.

If we do our job right, my sense is that the public comments will be pretty close to what you've produced as a product, and I think that could go pretty smoothly. Then we would tweak your direction in August so that prior to your annual meeting next fall you would read the Strategic Plan and formally approve it.

The timeline that we're looking is February, June, August and at the annual meeting approve the Strategic Plan for the next five years. Thanks, Mr. Chairman.

CHAIRMAN LAPOINTE: Thank you, Vince. Any questions or comments? It's a pretty straightforward process. John.

MR. NELSON: Mr. Chairman, having had the pleasure of chairing on the last Strategic Plan, I think this is a great approach. It worked well for us in past, and it provides that opportunity for participation by our commissioners and other groups. I think that was very helpful in our last go-around, I think then you have the opportunity to have buy-in by all. And of all groups that have developed the Strategic Plan, I think ours is the one that is probably the most utilized and best dynamic plan that I've seen.

CHAIRMAN LAPOINTE: Thanks for those comments, John. Any other comments? Gil.

MR. POPE: Thank you, Mr. Chairman. I'm just curious does anybody have any idea as to the amount of modification that it's going to need, just a little bit, or is it going to be a lot, it's going to be a major overhaul?

CHAIRMAN LAPOINTE: It depends on what we say. Again, I think people are pretty comfortable with our current plan, but that doesn't mean we should gloss over the chance to be critical and change it as we see fit. Other business before the board? Jaime Geiger.

DR. GEIGER: Very quickly, Mr. Chairman, I do want to congratulate ASMFC staff. I think the staff presentations, interactions, and logistics have just been purely outstanding, and I just want to thank them for an extremely great job well done. Thank you.

### **ADJOURN**

CHAIRMAN LAPOINTE: Actually, Bob reminded me of something that I want to do before we lose too many more members. We have a staff member who has moved upriver in Connecticut on a spawning run, Megan Caldwell. This is Megan's last meeting, and I want to offer, on behalf of the commission and myself personally, my thanks for your work for the commission and your friendship and your hard work and all the best to you and your family. (Applause) I'll close the Policy Board.

(Whereupon the meeting was adjourned at 1:25 o'clock p.m., November 1, 2007.)