

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

**Loews Annapolis Hotel
Annapolis, Maryland
October 29, 2007**

Approved May 2, 2102

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ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for Geo. Lapointe (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
John Nelson, NH (AA)	Catherine Davenport, VA (GA)
Paul Diodati, MA (AA)	Steve Bowman, VA (AA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Kelly Place, VA, proxy for Sen. Chichester (LC)
Eric Smith, CT (AA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
James Gilmore, NY (AA)	John Frampton, SC (AA)
Pat Augustine, NY (GA)	Robert Boyles, SC (LA)
Tom McCloy, NJ, proxy for Chanda (AC)	Malcolm Rhodes, SC (GA)
Erling Berg, NJ (GA)	John Duren, GA (GA)
Dick Herb, NJ, proxy for Asm. Fisher (LA)	Spud Woodward, GA, proxy for Susan Shipman (AA)
Eugene Kray, PA (GA)	Steve Meyers, NMFS
Craig Shirey, DE, proxy for Patrick Emory (AA)	Wilson Laney, USFWS
Bernie Pankowski, DE, proxy for Sen. Venable (LA)	A.C. Carpenter, PRFC
Howard King, MD DNR (AA)	

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

Ex-Officio Members

Staff

Vince O'Shea
Robert Beal

Nichola Meserve
Erika Robbins

Guests

Dorothy Thumm, NYSDEC
Dan McKiernan, MADMF

Jack Travelstead, VMRC

The Sturgeon Management Board of the Atlantic States Marine Fisheries Commission convened in the Ballroom of the Loews Annapolis Hotel, Annapolis, Maryland, October 29, 2007, and was called to order at 5:05 o'clock p.m. by Chairman Eric Smith.

CALL TO ORDER

CHAIRMAN ERIC SMITH: This is a meeting of the Sturgeon Board. As you recall from meetings past, we cover both species. I am the chairman of this group. Pat Augustine is the vice-chairman. We hold 19 votes on the management board, the states and the two federal agencies, so it's a species of a very widespread coastal interest.

As with every other board, I'll simply say for the benefit of the audience when we have issues that have already gone out to public comment, we may limit debate so that the board has enough time to deal with the issue because the comment period is over. We have not had any of those issues; so in the event there is something of a burning desire, we will take limited debate on the agenda items as we get to them.

APPROVAL OF AGENDA

But, bear in mind that I may have to cut back on comments or limit them as I did with the board a moment ago to make sure we do our business in our allotted time. There is only one item on the agenda of substance, but we have a couple of business issues. First is the approval of the agenda. Are there additions that people would like to add to the agenda? Seeing none, without objection, we'll approve the agenda as written.

APPROVAL OF PROCEEDINGS

Is there a motion to approve the proceedings of the August 2007 meeting? John Nelson makes the motion; Terry Stockwell seconds. Are there comments on the proceedings? Seeing none, we'll call them approved.

PUBLIC COMMENT

Is there public comment on issues that are not on the agenda, other sturgeon issues that you would like to bring before the board? Okay, seeing none, the first and only substantive item, if you

recall our August meeting, there is an issue of potential inconsistency between the federal agency guidelines on handling controlled propagation of species that are listed under the ESA and our ASMFC guidelines for stocking cultured Atlantic sturgeon for supplementation or reintroduction.

We had asked Erika to do a side-by-side comparison of the two documents, and she did that. It was a memo distributed to us on the meeting week CD, but Erika will now go through and hit the comparison of the two documents.

REVIEW OF THE ASMFC GUIDELINES FOR STOCKING CULTURED ATLANTIC STURGEON FOR SUPPLEMENTATION OR REINTRODUCTION AND THE USFSW-NMFS POLICY REGARDING CONTROLLED PROPAGATION OF SPECIES LISTED UNDER THE ENDANGERED SPECIES ACT

MS. ERIKA ROBBINS: Thank you, Mr. Chairman. As mentioned already, Atlantic sturgeon was listed as a candidate species in 2006, and the status review team recommended that distinction population segments of Atlantic sturgeon be considered for listing as threatened under the Endangered Species Act. We received a letter from the National Marine Fisheries Service at our August meeting requesting that we consider using their policy regarding controlled propagation of species listed under the Endangered Species Act as guidance for stocking programs.

DISCUSSION OF GUIDELINES FOR STOCKING CULTURED ATLANTIC STURGEON FOR SUPPLEMENTATION OR REINTRODUCTION

In 2006 the commission adopted its own guidelines for stocking of cultured Atlantic sturgeon for supplementation or reintroduction, replacing an earlier 1996 set of guidelines. This presentation compares the National Marine Fisheries Service and Fish and Wildlife Service

controlled propagation policy and the ASMFC guidelines for stocking.

ASMFC's guidelines provides guidance relative to the production of Atlantic sturgeon for collection of biological and behavioral data and for use in restoration and enhancement efforts. ASMFC recognizes that natural stock rebuilding has not occurred and most populations are at depressed levels. There is concern that additional decreases to resident populations are possible.

There are seven areas that the guidelines address. The first is planning, monitoring and reporting. Management jurisdictions are instructed to provide a detailed proposal to the commission's technical committee for review and recommendation to the management board before initiating any stocking programs.

The plan should goals, objectives, population surveys, brood stock sources, selection criteria, numbers, sizes and locations to be stocked and timelines for stocking. Annual monitoring of and reporting of these programs are requested to be presented to the technical committee.

The second is habitat quality and population surveys. These should be conducted prior to stocking programs to evaluate the presence or absence of sturgeon and the quality of the habitat in the area to be stocked. The third is tagging. All sturgeon released into the wild are to be tagged, including the brood stock sources.

The fourth is the source of the brood stock. Programs are requested to use brood stock native to the systems that will be stocked; or if that's not possible, to use fish from geographically similar or close locations. The fifth is the number of spawners. The stocking plan will incorporate brood stock collection and progeny of production components to meet the genetic criteria for maximizing effective population size of brood stock while achieving an in-breeding rate of less than 1 percent.

It also addresses the fate of post-spawn brood stock. They should be typically spawned only once unless there is genetic justification to reuse them. Afterwards they should be tagged and returned to the river of origin. The seventh is fate of progeny. This basically says that if you produce more progeny than you consider you'd like to use, you need to outline how you will dispose of those extra fish. The guidelines also

address such issues as acquiring juveniles, stocking proportions, in-breeding and selection criteria for reintroduction.

The Fish and Wildlife Service and the National Marine Fisheries Service for their policy regarding controlled propagation of species listed under the Endangered Species Act is intended to address candidate proposed and listed species. Again, Atlantic sturgeon are currently a candidate species.

It focuses primarily on activities involving gamete and subsequent development and grow-out. The Services support controlled propagation when recommended in an approved recovery plan or necessary to prevent extinction. The approved recovery plans that are referred to in the federal policy are for listed species. That only happens after a listing is in place, so currently there is not a recovery plan for Atlantic sturgeon.

The ESA recognizes that controlled propagation is a tool to restore species to their natural habitats. The Fish and Wildlife Service and the National Marine Fisheries Service support controlled propagation when recommended by an approved recovery plan or when necessary to prevent extinction or as a tool for restoration in natural habitats.

This slide outlines the appropriate uses identified in the policy, including supporting recover-related research, maintaining refugia populations, providing animals for reintroduction and conserving species at risk of imminent extinction. The policy seeks to avoid the spread of disease to populations that are maintained in isolation or out in the wild, negative genetic effects and negative responses to essential behaviors.

The Fish and Wildlife Service outlines several requirements for controlled propagation; do not use it unless it's absolutely necessary, coordinate it with other recovery measures such as habitat improvements, and base it on recommendations of the recovery plans. The National Marine Fisheries Service policy also requires that any propagation program be based on sound scientific principles, create a genetics management plan prior to initiating it, and to prevent escapement outside of the native range of the species.

They also recommend using multiple facilities when using controlled propagation so that if you have a catastrophe at one facility you don't wipe out all the brood stock you have; and also to coordinate with multiple agencies; namely, the Fish and Wildlife Service and the National Marine Fisheries Service, but also other state agencies.

The Fish and Wildlife Service and the National Marine Fisheries Service also requests that you provide them information on a regular basis as to what is occurring in your controlled propagation program, and that any program not be implemented until funds for that program have been secured. They also request that a reintroduction plan be developed prior to beginning any propagation program. They also require the ESA and other applicable laws be followed in any program.

In comparing the two documents, it's important to know that the intentions of them are different. The Fish and Wildlife Service and the National Marine Fisheries Service policy is intended to address all candidate, threatened and endangered species under the ESA, and this includes plants, so they specific to fish. It's a little more general than ASMFC's policy.

The policy is mandatory for all listed species, so if Atlantic sturgeon were to be listed as threatened or endangered under the ESA, then all the states would have to follow this policy at that point. The guidelines that ASMFC currently have are recommendations that do not contradict with the Fish and Wildlife Service and the National Marine Fisheries Service policies, which is important to note.

There are things that the guidelines that ASMFC has do not address that the policy from the Fish and Wildlife Service and the National Marine Fisheries Service does address, and that is that habitat improvement is required prior to stocking; that a genetics plan be developed before you initiate controlled propagation; that you prevent accidental reintroduction and spread of disease to species that you have in your own program; and that you have explicit accordance with federal laws.

Again, the Fish and Wildlife Service and the National Marine Fisheries Service policy must be followed if listed. The National Marine Fisheries Service Protected Resources Office has let me know that they're willing to work with

any states prior to the potential listing of sturgeon, which may smooth the transition in those programs from pre-listing to post-listing if the species is listed. Thank you.

CHAIRMAN SMITH: Thank you, Erika. Are there questions before I'm going to summarize what seems like four pathways to deal with this, but are there questions on the report first? Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. What would it require – maybe it wasn't that one, the one before, where the differences are between the state and federal policy, the one that talked about the four major differences that we would have to comply with the guidelines versus the policy.

Now, how difficult is it for the states to address any of those four items. Have we identified what the impediments are to getting that done to any degree; and if so, are there any of those that could be knocked out of that list of four to be consistent?

MS. ROBBINS: All four could be added to our current guidelines for stocking. They also could be done on a state-by-state basis. As a state comes up with its own program for stocking, they could address these issues. It would take an amendment – if we wanted to change our guidelines, it would take an amendment to that current document.

MR. AUGUSTINE: A follow on, Mr. Chairman, and then I'll shut up. It just seems to me if we want to be consistent and keep the sturgeon in those possible bodies of water as pure as possible, it just seems to me that we should follow what would be a true guideline, and that would mean that we should have those measures of the states follow the federal guidelines.

If we're going to do it, let's do it right. We get one or two groups out there, we screw up the whole genetic change, and that sure as hell doesn't make sense. So if we could add those in some way, Mr. Chairman, I would like to have others weigh in on it.

CHAIRMAN SMITH: Other comments? John Nelson.

MR. JOHN I. NELSON, JR.: Thank you, Mr. Chairman. Actually to Pat's point, I guess the

question is these are not addressing the guidelines. Is it necessary to actually have them in our guidelines where you do have federal policy and other items that provide the guidance, if you will, for a threatened species or even a listed species? Would we be going through an exercise just for the sake of doing it as the exercise versus having something really meaningfully put into our guidelines?

CHAIRMAN SMITH: Frankly, although I take Pat's point, I was looking for questions to make sure people understood rather than suggestions on how to make a change. Rather than the board try and massage these two documents here, one of the pathways, if we decide to pursue it, is to send it to the technical committee with some ideas, like Pat's, that we then fold into and get advice from them as to a revised document.

Let me run the four ways I see us proceeding past you and see if any one of them resonates. By the way, I neglected to introduce my partners in crime up here. Dottie Thumm is the law enforcement captain for the marine patrol in New York. She is our law enforcement committee representative on this board. Welcome. Gene Kray you know; Frank Cozzo you know.

DR. EUGENE KRAY: We're sitting here because there is no place else to sit.

CHAIRMAN SMITH: Well, yes, except I thought Frank was AP. He is not an AP chairman?

DR. KRAY: No, he is a proxy.

CHAIRMAN SMITH: Okay, so you guys are just sitting there. I was looking for technical committee chairs and didn't have any. John.

MR. JOHN DUREN: Thank you, Eric. I would like to just try to clarify something. Over the last two or three years, we've heard several good reports about restoration of Atlantic sturgeon in various locales. My perception is that we're not trying to solve a problem with this issue today. We're trying to prevent any kind of problem in the future. Is that correct?

CHAIRMAN SMITH: Well, it was precipitated by one instance of a fish being handled in a way that got people asking whether we really were either following our own policy or whether we should have our policy revised to conform with

the federal one, our guidelines and the federal policy. This is something that went back to the spring or last fall. So, it was precipitated by an instance as opposed to just being a theoretical let's try and fix something.

Here are the four ways we could proceed. We could decide, hearing what we've heard from Erika that the federal policy is only guidance for candidate species, and in effect decline to change our guidelines, because it's not required that we comply with the federal policy; or, we could refer this to the technical committee for their recommendation on either adopting the federal policy instead of our guidelines; or, taking the document that Erika produced, the ideas that Pat has had and fleshing them out into a proposal to come back to the board. Okay, that's number two.

Number three, we could just adopt the federal policy as it is instead of ours, even though it's not required for candidate species. The fourth one is to hold off for now until we find out what the agencies decide on the question of listing. Right now it's a candidate; there is still discussion underway as to what actually will happen. That's the four ways I see of approaching this. I'd welcome a fifth if people thought there was another idea. Jack.

MR. JACK TRAVELSTEAD: Thank you, Mr. Chairman. I guess I like a combination of your options two and four. Because the federal services are currently evaluating whether to list sturgeon, I think we ought to hold off on taking any action on this day, but I certainly it's appropriate to go ahead and task the technical committee with looking at the federal policy and determining how it should be meshed with what we have.

CHAIRMAN SMITH: Thank you. Anyone have an additional comment or is there objection to the suggestion that Jack has made as the course of action? Okay, seeing none, that would be the course of action we would pursue. Thank you. We're at other business. Are there other issues to come before the Sturgeon Board? Steve Meyers.

OTHER BUSINESS

MR. STEVE MEYERS: Good afternoon, Mr. Chairman, thank you. I just want to reiterate a sense of partnership and cooperation among the

federal agencies and also with the states in this issue. I think together we can work something out here to the benefit of the resource while also meeting our individual management needs.

I sit here with my colleagues from Region 4 and Region 5 and the U.S Fish and Wildlife Service to guarantee successful cooperation among the agencies in our efforts in working with the states. Thank you very much.

ADJOURN

CHAIRMAN SMITH: Thank you, we look forward to that. Is there any other issue of other business? Seeing none, we are now adjourned.

(Whereupon, the meeting was adjourned at 5:25 o'clock p.m., October 29, 2007.)