

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

**Radisson Hotel Old Town  
Alexandria, Virginia  
May 9 & 10, 2007**

Approved August 12, 2007

## TABLE OF CONTENTS

### **May 9, 2007**

Call to Order .....	1
Approval of Agenda.....	1
Approval of Proceedings.....	1
Public Comment.....	1
Reauthorized Magnuson-Stevens Act Funding.....	1
NEAMAP Funding Subcommittee Update.....	9
Bi-national Coordination of Eel Management.....	12
Committee on Economics and Social Sciences .....	14
Assessment Science Committee Report.....	18
2008 Stock Assessment Schedule .....	18
Retrospective Pattern Recommendations.....	20
Management and Science Committee Report.....	22
Non-Native Oyster Activities Update .....	24
Multi-species Technical Committee Report .....	24
ASMFC Strategic Plan Update .....	25
Overview Document .....	28
Other Business .....	28
Law Enforcement Committee Report .....	28
NERS Survey .....	30
Maryland Striped Bass Issue.....	30

### **May 10, 2007**

Call to Order .....	36
River Herring Issue.....	36
De Minimis Discussion.....	41
South Atlantic Board Issue .....	41
Adjourn .....	42

## INDEX OF MOTIONS

**May 9, 2007**

1. **Approval of Agenda by Consent.** (Page 1)
2. **Approval of Proceedings of February 2007.** (Page 1) Motion by Patrick Augustine; Second by John I. Nelson, Jr. Motion Carried. (Page 1)
3. **Motion to approve NEAMAP Near Shore Trawl Survey.** (Page 10) Motion by the John I. Nelson, Jr.; Second by Patten D. White. Motion Carried. (Page 12)
4. **Motion regarding MOA for American eel.** (Page 13) Motion by Gordon C. Colvin; Second by Malcolm Rhodes. Motion Carried. (Page 13)
5. **Motion to approve 2008 stock assessment schedule.** (Page 20) Motion by Patrick Augustine; Second by William A. Adler. Motion Carried. (Page 20)
6. **Motion regarding Maryland's striped bass proposal.** (Page 39) Motion by Jack Travelstead; Second by Patrick Augustine. Motion Carried. (Page 41)
7. **Motion regarding southern kingfish.** (Page 41) Motion by the South Atlantic State and Federal Fisheries Management Board. Motion Carried. (Page 42)
8. **Motion to adjourn.** (Page 42)

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## ATTENDANCE

### Board Members

George Lapointe, ME (AA)	Howard King, MD (AA)
Patten White, ME (GA)	Russell Dize, MD, proxy for Sen.Colburn (LA)
Ritchie White, NH (GA)	Jack Travelstead, VA, proxy for S.Bowman (AA)
John Nelson, NH (AA)	Kelly Place, VA, proxy for Sen.Chichester (LA)
Rep. Dennis Abbott, NH (LA)	Louis Daniel, NC (AA)
Paul Diodati, MA (AA)	Damon Tatem, NC (GA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Jimmy Johnson, NC, proxy for Rep.Wainwright (LA)
Bill Alder, MA (GA)	John Frampton, SC (AA)
Mark Gibson, RI (AA)	Robert Boyles, Jr., SC (LA)
Eric Smith, CT (AA)	Malcolm Rhodes, SC (GA)
Gordon Colvin, NY (AA)	April Price, FL (GA)
Pat Augustine, NY (GA)	Gil McRae, FL (AA)
Brian Culhane; NY, Proxy for Sen Johnson (LA)	Spud Woodward, GA, proxy for S. Shipman
Peter Himchak, NJ, proxy for D. Chanda (AA)	James Sanders, GA, proxy for J. Duren (GA)
Frank Cozzo, PA, Proxy for Rep. Schroder (LA)	Wilson Laney, USFWS
Roy Miller, DE, proxy for P. Emory (AA)	Chris Moore, NMFS
Bruno Vasta, MD (GA)	

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

### Ex-Officio Members

#### Staff

Bob Beal	Vince O'Shea
Tina Berger	

#### Guests

David Perkins, USFWS	Steve Meyers, NMFS
Peter Himchak, NJ DFW	Dick Brame, CCA
David Pierce, MA DMF	Joe Grist, VMRC
Doug Grout, NH Fish & Game	Alexei Sharov, MD DNR
Bob Sadler, NMFS	Jay Odell, The Nature Conservancy
Tom Meyer, NMFS	Bonnie Williams, USFWS
Bill Goldsborough, Chesapeake Bay Foundation	

The meeting of the ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, on Wednesday, May 9, 2007, and was called to order at 1:30 o'clock, p.m., by Chairman George Lapointe.

### CALL TO ORDER

CHAIRMAN GEORGE LAPOINTE: Good afternoon, everybody. Please take your seats; we'll get started. Early in, early out. Good afternoon. My name is George Lapointe. This is a meeting of the Interstate Fisheries Management Policy Board. Staff is handing out agendas.

And there are four items of other business that I'm aware of: a Law Enforcement Committee report; an issue with Maryland and striped bass; Megan is going to talk about a national estuarine reserve system survey; and Dr. Daniel wants to talk about river herring. Are there other items of other – does anybody have anything else under other business – other, other, other, other, other? You're on. You're already on there. All right, well, I'll wait until the agendas get handed around.

### APPROVAL OF AGENDA

CHAIRMAN LAPOINTE: Other business items? **Seeing none, I'll consider the agenda approved.** Oh, Roy, I'm sorry.

MR. ROY MILLER: Mr. Chairman, I would like a brief discussion, if I may, if time allows, on the subject of de minimis.

### APPROVAL OF PROCEEDINGS

CHAIRMAN LAPOINTE: De minimis is Number 5. Other business items? Seeing none, we'll move to the approval of the proceedings from February. Those were included in your binder or not your binder, on your CD. Was that a **motion for approval** by Pat Augustine? Second by John Nelson. Is there any objection to the approval of the proceedings? Seeing none, they are approved.

### PUBLIC COMMENT

This is, the next agenda topic is public comment. If there are members of the public who want to give comments to the Policy Board on issues not contained in the agenda, this is the time to do that. Are there public comments? Seeing none we will

move to Agenda Topic 4 and that is the reauthorized Magnuson-Stevens Act funding discussion. I believe Vince is going to tee us off with that, right?

### REAUTHORIZED MAGNUSON-STEVENSONS ACT FUNDING

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. Last week at the NOAA State Directors' Meeting in San Diego there was a broad discussion about funding issues and the need for the states to or the interest in the states seeking or receiving additional help from our federal partners.

And in that discussion with Dr. Hogarth one of the suggestions might be that the arrival of the additional requirements of the Magnuson-Stevens Act might be an occasion to consider pursuing additional funding. Now, some of our state directors had sent some e-mail on this maybe six months ago when we were looking at a rationale to do a plus-up with ACFCMA and they were saying to help the states carry out Magnuson.

And I think that correctly morphed into the discussion in San Diego that says if you're going to use it for Magnuson maybe we ought to pursue it under Magnuson. There seemed to be support from NOAA Fisheries to at least consider it. They reported they had a deadline of 1 June for their fiscal year 2010 budget bill.

And there was the sense that the three commissions would consult with their states and provide an estimate of what their states would, what a number would be for their states for forwarding to the National Marine Fisheries Service. So we thought that the occasion of our meeting this week might be a good opportunity to have that discussion, Mr. Chairman. And about three-quarters of the state directors that are on the board here now were present in San Diego during that discussion. Thank you.

CHAIRMAN LAPOINTE: Thank you. And for those who weren't there the estimate I believe that the National Marine Fisheries Service gave for implementation of the new provisions of Magnuson was \$60 million – 60 big ones. And the, what is your deadline for getting comments from the states?

EXECUTIVE DIRECTOR O'SHEA: I guess I don't really have a deadline, Mr. Chairman. I was thinking just depending on the general sense of this discussion but I would hope that it would, we could get it in

within two weeks in case there is a need to do some negotiation with the other two commissions.

CHAIRMAN LAPOINTE: Absolutely.

EXECUTIVE DIRECTOR O'SHEA: And the last thing, I apologize, Mr. Chairman, I sent an e-mail out Thursday night following that discussion in San Diego. I addressed it purposely to the administrative commissioners because they were present in the room about this discussion but since we would have all our commissioners here at this Policy Board I directed staff to provide copies to everybody and that's in front of you now, Mr. Chairman.

CHAIRMAN LAPOINTE: Thank you. Any comments on the Magnuson-Stevens funding issue? Eric Smith and then David Pierce.

MR. ERIC SMITH: Thank you, Mr. Chairman. Yes, Vince summarized the way this thing evolved very nicely. It really, the discussion was focused on states' management needs and science needs, principally, not that there aren't other good things that could be folded in. But those were the two principal ones that were discussed at the time.

I'm trying to collect my thoughts on all of this since it was so long ago, just a week. The other point I guess I'd make is in addition to a discussion of the process to get the information together there is, and I'll speak a little bit about that in a minute, there is also the issue of whether we should, what type of vehicle we should use to accomplish this.

And there were two approaches offered. One was the states that are aware of how the joint enforcement agreement process works, I'm not even sure how that evolved but I know that has been very successful on behalf of supporting law enforcement efforts in the states. And that's one model to basically create a whole new model for state agency support related to Magnuson management and science needs.

The other way that was proposed, and there are strengths and weaknesses of both, was to take the Inter-jurisdictional Fisheries Act as was done 20 years ago when it was 88309 Commercial Fisheries Act, and retool it and re-up it and re-fund it to meet the new needs of the states. The problem with that is right now that's a relatively low funded item. You can see what is happening with the Anadromous Fish Act. I want to say something about that today.

We're having to fight harder to keep those things that maybe important to us but don't look like much from

a Congressional point of view. So the weakness of using the Inter-jurisdictional Act is it may be something that is targeted for eventually not staying in the law; whereas, if you go with a whole new approach you have to fight for a whole new approach instead of amending an existing one.

So the process that we use is important to consider the pros and cons of any of the reasonable processes. The final thing I want to make a point on is we're going to need some kind of a standard format to put all of this into because we're going to get 15 states that are going to be all across the board of how they describe their needs and what they describe as a budget need. And I would urge everybody to be very realistic with that. The worst thing we could do is all put in a global wish list and have \$100 million budget item which will go exactly nowhere.

Alan Risenhoover at the time of the meeting last week said that he would send out a template, he or Steve Murawski would send us a template that would sort of show what they need to have the information into their contribution to the NOAA budget on June 1<sup>st</sup> which means we have, as Vince pointed out, we've got to get that information collected before the first so it's in their federal format.

I have not seen that yet. I don't know if anybody has but one of us better e-mail Alan and get him to send that template so that we have the standard form to know what they need. Thanks.

CHAIRMAN LAPOINTE: Thank you. David Pierce.

DR. DAVID PIERCE: All right, I heard what Vince had to say and I must admit I'm still unclear as to what is being requested of each and every one of us state agencies. We're told that in this letter that was made available to us that Dr. Hogarth has said there is a narrow window of opportunity for states to have additional fiscal resources provided in the President's budget. So with that said, that narrow window is before us but what are we supposed to throw through the window?

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, you know in the San Diego meeting some of the, a number of the states raised the issue that the increasing burden of the Magnuson Act even before reauthorization was in fact resulting on mandates to the states, maybe some characterized as "unfunded mandates" to the states and that with static state

budgets and increasing Magnuson demands and fishery management council activities that this is creating a burden on the states and a gap is developing.

And then on top of that with the new Magnuson Act requirements to set catch limits and additional requirements for science and other things the discussion around the table was this is adding to the burden of the states. So Dr. Hogarth said, well, you know, maybe one of the things to get you guys some help is if we package it in the context of helping the states comply with the new requirements and in a broad, generic sense what sort of things would you guys want to do and roughly what would be a number to accomplish that.

A couple of other things – and I'm glad we brought up the JEA discussion. It was pointed out by somebody, and it may even have been the director from Massachusetts, that noted the growth in JEA funding and contrasted that to the amount of growth that, in funding going to the states for support for participation in the fishery management council process.

So, the notion of JEA was for some reason this idea got together, it got political traction and it turned out to be a very good deal for the states and to the extent that they're deputized to do federal enforcement. But it was just a notion of, I got from it the notion of this is something new, it's catching and it could get political traction.

So the bottom line for the question of "what do you expect to throw through the window" is, bluntly, a number from the Atlantic states of what we'd like NOAA to consider go to bat to get some help to the states to carry out the Magnuson Act. Thank you.

CHAIRMAN LAPOINTE: I have in order Gordon, John Frampton, Lou Daniel and then Paul, Paul Diodati.

MR. GORDON C. COLVIN: I thought Vince framed the sequence of the discussion very well. There was one other thing that was in the background in addition to the things that he mentioned and that thing in the background was this notion of the history, a little bit of the history of the support that the states have had from the NOAA budget for fishery management activities.

We all lost our council liaison support years ago. You know that used to be very, very helpful. Then eventually inflation eroded away at it. Then NMFS

put it in the council budgets rather than granting it to us directly. Then the councils gradually took it away from us, so that went away.

Bill pointed out that the President's budget for, you know, the one submitted this year for consideration by Congress now, zeroed out the anadromous. And when that question was asked, why, in effect what he said was that they were under pressure to identify things in the budget that had gotten below the point of diminishing returns and so they had to pull that one out.

The distinct impression I got is that the next shoe to fall will be IJ for similar reasons. I may be wrong but that's what I thought I was hearing between the lines. So the discussion initially focused on, well, you know, we have this short-term opportunity to propose something in the budget that's being submitted very, very soon and probably the best hook for that is the new Magnuson-Stevens Reauthorization Act. Everything lines up timely.

There was some ensuing discussion going past that that maybe an even larger initiative that attempted to construct a comprehensive state/federal fishery management partnership might be in order as a successor to IJ, the way IJ succeeded 88309. I know Larry Simpson threw that idea out. I offered some follow up on it and reminded everybody that Jack Dunnigan had proposed exactly that six or seven years ago.

And for many of you this is why we shouldn't allow state directors and commission executive directors to fly across the country and have six or seven hours of time on their hands to sit around and compose stuff on their laptops and their Blackberries. I threw some ideas that surrounded that and attempted to just get them committed to writing and send it out to many of you today.

I know, I apologize to those who didn't get it. Basically if you didn't get it I either got it bounced back – state directors – I either got a bounced back message or my Blackberry e-mail address for you is bad and it didn't get to you. So that, you know, that was just kind of for discussion.

Now, coming back to the issue of this short-term "what do we throw through the window," this is a hard thing to get our heads around because you know there is an awful lot in the Magnuson-Stevens Act. And Vince is right, it's not just the Reauthorization Act, it's what baggage came even before then.

And so there is this incredible Chinese menu that we could select from of needs that we all have. And each one of us, each state, each individual, would approach that menu from the perspective of our unique resource base that we have at home so it's very, very hard to surround.

I'm wondering whether, as Eric kind of implied, some initial effort at identifying some of the key subject areas, content areas of the Magnuson Act and the Reauthorization Act that each of us could focus on from the perspective of our needs wouldn't be helpful in coming up with a more consistent approach. I'm not sure what those would be but maybe that's something we can discuss as this goes forward today.

CHAIRMAN LAPOINTE: Thanks, Gordon. John.

MR. JOHN FRAMPTON: Thank you, Gordon. What you said is essentially what I wanted to say. I'm very concerned about some of the directives that are going to come from this reauthorization. And I don't think we really understand what they're going to be at this point, I mean, whether we're talking about a registry, whether we're talking about compliance issues, assessment issues.

I think it is imperative that we get together and come up with some type of template, as Eric said. You know, we're looking at the 2010 budget and we're looking at 2011 before we get any funds. If you look at some of the time elements within the reauthorization, things are going to have to occur before 2011.

And I think it's going to be imperative that Vince you get together with the other two commissions and we get some kind of a report that's consistent and we're asking for the same thing because it's going to take a lot of pressure on Congress to get the kind of dollars we're going to need to comply with that reauthorization.

CHAIRMAN LAPOINTE: Thank you, John. Dr. Daniel.

DR. LOUIS DANIEL: Yes, I'll get a little bit more specific I guess and just impress or try to impress upon the board the importance of the data collection programs. I thought Vince did a good job outlining some of those in his second e-mail. We've had those discussion today. We have no scup data. We don't, things are getting left out. We don't have black sea bass data. There is problems with the river herring data. States are unable to meet their compliance

requirements for samples.

And so I think one opportunity for us to look at is the ability to do some of the things that Gordon I think outlined which is to try to make sure that we have a solid backbone for our fishery management plans and we have the programs set up to collect the information that we need. And they're all contained in our priority research needs in our fishery management plans and so I think that's a good first step to look at.

CHAIRMAN LAPOINTE: Thanks, Lou. Paul Diodati.

MR. PAUL DIODATI: I think we've addressed a few of the things that I wanted to point out, one was that this isn't a unilateral action for ASMFC, it's the three commissions that we're going to work on. And it's clearly a legislative initiative, not an administrative one with NMFS, although we want NMFS to support this legislative action.

So it would be my recommendation since we have a Legislative Committee for Vince to work with that committee. And I guess we need to prioritize this, given that there is a time-sensitive issue. And maybe the Legislative Committee could work on this and put together something, a White Paper or something, for the other two commissions to look at.

CHAIRMAN LAPOINTE: Robert.

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman, just to follow up on something that Louis had said and just a word of, I don't know, caution, the past several years the President's request for the fisheries service has included plus-ups for improvements in stock assessment. I mean what I read is "improved data collection."

I don't know what, you know, what the rest of the states have seen as a result of that but in South Carolina we have not seen a lot of the fruits of those labors so however we move forward, Vince, I guess I'll look to you working with the other two executive directors, that we stipulate clearly what this is intended for it and it just doesn't get folded up into a larger budget initiative that gets subsumed and then forgotten about.

CHAIRMAN LAPOINTE: I think that was a good comment. Chris Moore, I want to ask a question. Do you know the \$60 million number, was that just NMFS' cost or the entire cost of implementation, and recognizing it's an estimate?

DR. CHRIS MOORE: Yes, I was trying to remember, too, George. I think that was just an overall estimate for implementation, state and federal combined. But you know it's an estimate.

CHAIRMAN LAPOINTE: And that's fair enough because that's all you can do at this point. It strikes me that Vince asked for things in two weeks. We might want to at our state level accelerate that a little bit because you will need time. If you break the two weeks into one week segments, if we can report back to our staffs, as them what they need, and if, in Maine I think about all the staff members who do council stuff now, you know, and participate and put a significant amount of time in.

And the thing that really got me going at the discussion about Magnuson implementation was the need for acceptable catch limits, the ACLs, and the OFLs – the “awfuls” I call them – for all the other fisheries on an accelerated timeframe. And so our staffs are going to be under, we're going to pressure them to help us on council things because and that we should make our best estimates in terms of what it would take our staffs.

Cycle that in both to Vince and to the other states because some people will find things or put things down that we will have forgotten. But if we get a list together in a week you could then coordinate with the other two councils or commissions, rather, to do it in a more coordinated way. I don't know where that leaves us in terms of the Legislative Committee but it seems like a place to start. Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman, I think you know the reason for my hesitancy on the Legislative Committee is, and I think just the interchange of the two e-mails makes the point, that the individual states' perceptions about what their needs are and their ideas on where the strategy is, quite frankly, they're all over the place, both in what they need and how they want to pursue getting those resources.

And just the composition of the Legislative Committee as we have right now really doesn't, isn't, I don't think, reflective of the broader group. Now, if we want to use the legislative, if you want me to work with the Legislative Committee once I get some input from the states to try to find a common theme and kind of blend this together, I'm sort of happy to do that. I'm getting nervous, though, about getting something to Randy and Larry in two weeks, working through a committee. But I'm certainly happy to do that.

But it seems to me that the state directors and their staffs are the primary thing but I think it's good that we're having this discussion with the full commission because, as somebody else said, this eventually is going to end up to a legislative thing and we're going to need the political commitment from our LGA folks to help work with us.

CHAIRMAN LAPOINTE: I guess a couple last thoughts from me, one is that in the short-term we might not need the Legislative Committee but how we move forward thereafter you could engage the Legislative Committee. And then the second thought kind of responds to what Eric said, that he made a comment about not going “pie in the sky” but let's not start too low either. I mean we need to be realistic about the costs that we think are going to be imposed on our states.

And then the last comment was Paul Diodati sent out an e-mail talking about this being state oriented there, and I'm certainly going to put in things for the State of Maine. It also strikes me that if there are things that the commission, we want to rely on the commission for that there should be a commission component as well as the state component to the list we put together. Eric.

MR. SMITH: I agree with that and I know we can't take all afternoon on this one topic. I think this has been very helpful. One thing I think we need to decide on, though, before we can go back home and identify our needs and cross them out, there are two approaches here. One is the way it was designed last week it was focused on Magnuson-related management and science.

Those of you who have had a chance to read Gordon's document, which is very useful and beneficial, there is a different approach there – and if I muff it I know he will correct me with great glee – but fundamentally he has a list of all the kinds of things that we're involved in where we need funding.

And the list is the Anadromous Fish Act, the Inter-Jurisdictional Act, Marine Mammal Act, ESA Section 6, law enforcement, new management Magnuson-Stevens requirements, fishery independent data, and fishery dependent data. We need to decide whether we're going to look at Magnuson only as it was last week or the larger list as Gordon has suggested because it will fundamentally change how we put our needs together. One is going to be a much bigger number, and harder to get at.

CHAIRMAN LAPOINTE: Other board members. Chris Moore.

DR. MOORE: Just quickly, George, in terms of that template that Alan promised, I don't know if he promised Vince or the, all the state directors, Alan is at the council chairman's meeting this week so as soon as he gets back I'm sure he'll get that to you.

CHAIRMAN LAPOINTE: Great, thank you. Lou and then Vince.

DR. DANIEL: I guess a question and a request, you know I'm thinking you know a quarter of a million dollars per state or \$100,000 per state. I mean I really don't have a good feel for what I'm supposed to try to come up with.

You know, I have some ideas but I don't know what the rest of the board feels and I don't want to develop a million dollar budget and I have a hundred grand to play with. And then the other one is just if I could ask Gordon to add perhaps MARFIN, I mean MARMAP, to those lists of subject items. That is a critical one in the southeast and that would be one that would be very nice to have some help with as well.

CHAIRMAN LAPOINTE: Vince and then Robert.

EXECUTIVE DIRECTOR O'SHEA: I was thinking, Mr. Chairman, it might be helpful for me, we had this early discussion about IJ, you know the feelings around the room. I know certainly in the discussion in San Diego there were different feelings. One of the things I didn't bring up at San Diego but keep in mind my understanding is the IJ formula is weighed toward states with commercial landings.

And I think right now that means Alaska gets about half of the IJ money on that formula. So I don't know if it's possible at this meeting to get a sense of could we even get consensus of whether you want me to be advocating for the IJ approach or the innovative approach.

CHAIRMAN LAPOINTE: I had Eric and then Robert and then Gordon. And, Paul, did you have your hand up again? Eric Smith, I'm sorry.

MR. SMITH: Yes, Vince is right. We're going to have to decide that, too. We may not have to decide that one by June 1<sup>st</sup>, though. We may just have to tell the service, here is the Atlantic States' Coast or the nationwide coastal states' needs for these purposes with a budget figure and then work with them to

figure out the best vehicle.

And John Frampton is right, their approach means we don't see any money until 2010 and we have needs that are going to occur sooner so we may be looking for our own different vehicle, whatever that may be. And the other point I wanted to make, I already did this based on last week, you know.

Just to meet the Magnuson management and science, it came out to a quarter of a million dollars. So when he threw that number out, I thought, isn't that interesting. I don't even know what it would cost to do the eight item list. I'd be willing to do it if that is what everybody else is going to do but that's a much harder one so that's why I say we need to decide the policy of that and then we can all go back and scratch our heads.

CHAIRMAN LAPOINTE: Robert.

MR. BOYLES: Yes, thank you, Mr. Chairman. And to follow on both Eric and Louis' comments, and Louis, I appreciate the comment about MARMAP, I mean the fishery independent sampling program in the southeast, those on the South Atlantic Council have heard me make this comment before, there are programmatic needs, there are also infrastructure needs.

And in my case in South Carolina we're subsidizing MARMAP to the tune of about \$100,000 a year via vessel charges. And I've got a 25-year old boat that's got a 25-year design life that we have got to make some very, very hard decisions very, very quickly.

Now I look at this as a good way to at least begin that discussion and look to the fisheries service and some of our sister or our partner organizations to talk about how we address these things. But that's something that 25 years ago when we got into this business, 35 years ago when we got in this business and the game was decidedly different. And there is going to be some very, very difficult infrastructure issues we've got to deal with as well.

CHAIRMAN LAPOINTE: Gordon.

MR. COLVIN: A couple of points, getting back to Louis, it's already done, Louis. I think that those lists that I identified were not necessarily intended to be complete lists and because I knew I was forgetting stuff, but I'll, you know, if it's helpful to anybody for me to elaborate on what I threw at you, anyway, I'd be happy to do so.

And then I'll be leaving it with you shortly and hopefully it will be helpful. And Louis mentioned two numbers and the first number was far closer to the need than the second one, I absolutely agree. And I wouldn't even be bashful about if we had to pick a number today suggesting that's it just as kind of Eric got at.

But I think in terms of the short-term exercise it might be helpful for us if – and I know this exists, I just don't know where to put my fingers on it right now, that some list of the measures included in the Reauthorization Act that might have relevance to states in terms of implementation to help frame our thinking about what our needs are, a checklist that we could work off would be helpful to me.

The other thought, you know this idea of going with something bigger, I think that you know right now there is a need in the short-term to provide some kind of a response to the invitation Bill gave to us last week to influence the President's budget upcoming. But we know and we said at the time that we would be undoubtedly going to Congress ahead of, well, you know, years ahead of the submission of that budget, to seek some of that as well.

And it's as we start thinking in that context that we may want to think even more broadly and you know so whatever approach we might want to take I think we probably want to kind of get that sorted out in a matter of months but not necessarily within a matter of weeks, in consultation with the other commissions.

CHAIRMAN LAPOINTE: Thanks, Gordon. Paul Diodati.

MR. DIODATI: Just on those same lines based on last week's discussions I got the impression that the total amount of money might be five million for the coast so that's for all the coastal partners. So that puts it in the realm of, I don't know, if you were going to divide it up there is probably around 30 players around the coast but. And as far as what Vince asked about the strategy, I don't support using that one that you mentioned but I would support a minimum/maximum number with something in between as well.

I also got the impression last week that although we're talking about the next budget cycle that it puts us a little bit behind in terms of timing it seemed to me that NOAA Fisheries is sitting in a pretty good position during this year because they did get money to implement Magnuson. They do have that money.

They're going to have money to implement recreational registries that they don't have to spend on states that already have one; that's more money they're going to have. They're going to make money if they don't implement that registry in the states that implement it between now and 2009 so that's additional money that they're going to have

And they're not doing earmarks this year but they did get earmark money so that's a discretionary fund that they have. So, maybe Bill would like to demonstrate what a great partner he is going to be with us, the states, and on his own just come across with a couple hundred thousand for each of us.

CHAIRMAN LAPOINTE: Is Santa Claus in the room somewhere? Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, two things, and maybe I got this wrong but it's my understanding that any money that they're going to collect on the registry is going to go into the general fund and not into their budget. And I think the second is I think that identifying our needs in response to this then supports any other strategy you decide to do for the '09 or even the '08 budget.

Now, historically we've always tried to go back in and work the budget after NOAA submits it. That's how we got the ACFCMA plus-up. But I, and I think this doesn't limit you from doing that. Actually it strengthens that strategy because we've already put it down on a piece of paper saying, here is what it is; we need it; actually we need it now; it's in the '010 budget and maybe we could try to you know do it. So I think that one feeds into the other.

CHAIRMAN LAPOINTE: So we're going to put together a short-term Magnuson Act list and we're going to cycle it to you. You're going to cycle it back to us. You'll work with the other executive directors. And then we will start working on a larger, a longer, a more comprehensive list I'll just say right now based on the eight points Gordon has put together and that may grow and try to come up with a more comprehensive strategy which we'll really have to work with the other commissions on because if it isn't, you know, a three-coast initiative it's going to be much harder. Vince.

EXECUTIVE DIRECTOR O'SHEA: Just one thing for clarification, one of the things I heard was this, you know, specific money amount. And I got the message of 250k but then I'm not exactly sure I understand the other suggestion that said a minimum and maximum and what the reaction of the group was

to that. I know it was in I think it was Paul's e-mail you said a minimum/maximum with a sharing formula but could you just, what's the sense of the group on where we are on that?

MR. DIODATI: I don't have anything more to flesh that out but there is plenty of sharing formulas that we're all familiar with. I just felt that rather than rely on them religiously that we should set a minimum so a state knows it's going to get a minimum amount of say 100,000 and a maximum probably not to exceed 300,000 and an average might be somewhere in the middle.

But that's something I thought that I would certainly be agreeable to if it gets to be a negotiating item with the other two commissions. I wouldn't want to support the type of agreement that gives Alaska half the total amount of available because of the scale of their fishery. I wouldn't want to support that but I would go with some other kind of range.

CHAIRMAN LAPOINTE: Gordon and then Roy.

MR. COLVIN: Yes, I'm supportive of Paul's suggestion. I thought that was a good one. One interesting point that was made last week and I don't know the details so it might be worth looking into, during the initial discussion of the Cooperative Law Enforcement funding which I believe is in for 17.7 million was the number and that started around 16 about 3-4 years ago, the point was made that that money is distributed to the states on the basis of an equitable formula, no details, that it is perceived as being passed out fairly.

And the impression I got, of course I haven't gone home and asked, and we could ask our Law Enforcement Committee while we're here, is that by and large the state enforcement agencies are fairly accepting of how that money is distributed. It might be worth finding out how it's distributed and see if there is a model there that can be used more broadly.

CHAIRMAN LAPOINTE: Thanks, Gordon. Roy.

MR. MILLER: Thank you, Mr. Chairman, just taking off on what Paul said and Gordon reiterated, if it was structured like the Walt-Beaux program where there are minimum states and maximum states, something like that could work it seems to me. Small states like mine obviously have certain minimum needs.

If we're to come into compliance with new requirements regardless of the size of a state there are

some minimum needs that would have to be met for the small states so I appreciate your comments, your suggestion in that regard. I'm just thinking more or less off the top of my head as everyone is talking of what we might need and, you know, my short list includes a stock assessment scientist, a data manager/biologist.

The one area that I have a question about and perhaps you can help me is should we also be budgeting for enforcement staff for this particular purpose? I know that's kind of not always our concern at this particular board level but it's certainly a concern. Thank you.

CHAIRMAN LAPOINTE: I guess if you add enforcement they're going to say, well, does JEA flow into this and so we just have, we don't want to cannibalize one program to feed another one so we just, but clearly enforcement issues if you're working on cooperatively with the feds I suspect will – well, I mean I'd have to ask my folks – it's logical to assume that would increase as well. So do I – Mr. Colvin.

MR. COLVIN: I don't disagree but there is potentially, again, probably long-term an enforcement need and the JEA money isn't useable for staff now but to get to a point where it could be out of that same funding source would be helpful. Again, I think that's part of that longer-term strategy. But, you know, right now it's basically used for equipment.

CHAIRMAN LAPOINTE: We should have a discussion on how JEA is used because I think the State of Maine does use some of it for staff and so we might want to look at that, the issue of equity in this regard. Vince.

EXECUTIVE DIRECTOR O'SHEA: Maybe I'm more direct than I ought to be, I'd just exercise caution here. I mean the context of what I heard last week was if we could just get the plus-up to support science and management like the enforcement guys have gotten with JEA, it would be like three scoops of raisins and maybe that's just for now. Let's get that problem solved and not get spread too wide out.

CHAIRMAN LAPOINTE: I think we need to wrap this up, otherwise we'll be here until nine o'clock. But I do think it would be important and if you could look through, work with staff to look through to see what we think are the big categories in Magnuson because, yes, it was they were talking about science and data but if they missed something our other difficulty will be is if we come up with a list and we

leave something out they'll say, how come you didn't put it on the list before. So we don't want to be too narrow, either.

Do we need further discussions? Did I see a lot of affirmative head shakes on the minimum/maximum with some kind of formula? Yes, I see some head shakes yes and some head shakes no so we'll just have to play that by ear I guess. Anything else? Eric.

MR. SMITH: I would suggest on that point while it's a good point for the long-term it will take some time to negotiate and June 1<sup>st</sup> will be on us in a moment. We'd be better off getting our number together and worrying about that stuff downstream.

CHAIRMAN LAPOINTE: I agree with that.

MR. SMITH: Thanks.

CHAIRMAN LAPOINTE: Anything else on this agenda topic? Seeing none, we will go to Agenda Topic 5 and that's NEAMAP Funding Subcommittee update. I think Megan is going to give that to us.

### **NEAMAP FUNDING SUBCOMMITTEE UPDATE**

MS. MEGAN CALDWELL: Thank you, Mr. Chairman. You are going to receive a handout, a one-page handout that is going to summarize what I will have in the presentation up here on the screen. I also want to quickly mention that we are going to pass maybe six copies of this report around the table.

Chris Bonzek and the crew at VIMS have put together a final report on the pilot survey that took place this last fall. I encourage you all to take a look at it. It's very well done, lots of great information in there. We have probably a copy per state on the back table if you'd like to take one home with you. If your state needs another copy just let either myself, Melissa or Chris know and we can get you another copy.

So the purpose of this presentation today is to let you guys know where we are with funding for a full-scale NEAMAP survey. At our last meeting Vince requested some help with a subcommittee and we had a few volunteers for that. And a few funding sources have been identified since our last meeting.

As you all do know, our plus-up funds have \$278,000 available immediately but the contingency there is that it needs to be spent by next summer. We have

also heard from the Northeast Fisheries Science Center that there is \$300,000 available immediately as well through their cooperative research program to use towards NEAMAP.

We've also heard that there is a possibility of additional funding from the State of New York in the amount of \$275,000. And then, finally, VIMS has submitted a proposal through the Mid-Atlantic Fishery Management Council's Research Set-Aside Program. And the value of that proposal kind of is contingent upon the market price of the species requested. And if that proposal is awarded, then those funds would be available in early 2008.

You will notice that there is an asterisk next to the \$300,000 from the Northeast Fisheries Science Center. That's because there is a contingency that this money would be provided if the area that is surveyed is expanded. The current survey area is from Cape Hatteras North Carolina to Montauk, New York. And the expanded area would go from Cape Hatteras, North Carolina, through Martha's Vineyard so that there would be coverage in Block Island Sound and Rhode Island Sound.

As a result of that contingency we had the NEAMAP Trawl Technical Committee to get together to tell us what this would do to the survey design and the cost of the survey itself. In addition to that we have heard that there is the possibility that the fishing survey vessel Bigelow may be able to survey between the 60 and 90 foot depth contour and so we asked the Trawl Technical Committee to consider whether or not it's necessary for the NEAMAP Near Shore Trawl Survey to have an overlap with the Bigelow in that depth contour or could we scale back the survey area.

So the technical committee got together and Vince put together a nice presentation for them on what the potential impacts are and the recommendation from the Trawl Technical Committee and with the blessing of the NEAMAP Board is that the Near Shore Trawl Survey should not continue to sample between 60 and 90 feet provided that the Bigelow actually does survey in that area.

The overlap just isn't necessary because we haven't or we don't plan to do any side-by-side tows. Additionally, the Near Shore Trawl Survey should sample up to the 60-foot depth contour, including this expanded area. The recommendation from the technical committee is that we should have a higher intensity of sampling, that is one station per 30 square miles, which did not happen in the pilot survey.

I can provide more details on why that didn't happen but they want to rectify the situation and actually meet the standards that were intended for this survey. So those were the recommendations from the NEAMAP Board and the Trawl Technical Committee. This table shows you actually what the implications of the expanded area are and the line that is in yellow is the actual recommendation from the Trawl Technical Committee.

With the sampling intensity of one station per 30 square miles we would have 144 stations sampled and the cost for a fall and spring survey would be \$820,000. Though the, I can go through the other ones but you can also see them on the piece of paper. The next slide is a recommendation on how to proceed.

We do have funding available. If you add up the numbers I showed you before we should have adequate funding to proceed with the 60-foot contour and the expanded area to do a full survey in both the fall and the spring. So the recommendation to this board is to initiate via VIMS the full two-season NEAMAP Near Shore Trawl Survey this fall and continue with the spring survey as well.

The last slide is, I'm hoping you guys will take that up for consideration but the last slide also is to consider beyond just these two surveys that I've mentioned. We hope to create a time series here so we need to think about the future of it. And so just tossing out a few ideas for discussion with the board is the possibility of pursuing a line item in the NOAA budget, continue to pursue RSA funding in future years, and then we're certainly open to additional ideas as well.

CHAIRMAN LAPOINTE: So we are looking to approve the recommendation which was highlighted in yellow based on the funding sources that are listed at the top of the page, obviously contingent on getting those funds.

MR. NELSON: **So moved.**

CHAIRMAN LAPOINTE: That was a motion by, moved by John Nelson; seconded by Pat White. And that is, just so we're all clear, so we would approve the 60-foot contour, the one station per 30 square miles, and we would initiate that contract through VIMS, I think. Questions or comments. Roy Miller.

MR. MILLER: Mr. Chairman, my quick calculation shows that we don't have quite enough to support the two-year effort at \$820,000 using the funding sources

at the top of the page, that we'd run a couple hundred thousand short if, and I assume that the research set-aside, if it provided the smaller of the two numbers there for the research set-aside. Thank you.

CHAIRMAN LAPOINTE: Is Roy correct? I thought, actually, if we get research set-aside we'd be okay for fall of '07 and spring of '08. One year, that's correct, a two-season survey. Vince.

EXECUTIVE DIRECTOR O'SHEA: Actually I'll defer until after the chairman of the NEAMAP Board speaks.

CHAIRMAN LAPOINTE: David.

DR. PIERCE: My question is with regard to the research set-aside. It seems that this set aside is going to take on some great importance for continuation of this survey. There are many Mid-Atlantic Council members, state directors around the table.

I have very minimal involvement with that research set-aside, being from New England; however, it would be useful if we could get some sentiment expressed as to whether or not the council, from the perspective of those who are here today, is that the way in which the research set-aside may evolve, to the point where the majority of it may be devoted to this particular endeavor? Just curious as to whether this is something that's long-term or just a flash in the pan.

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. I, there was a discussion at the Research Set-Aside Committee of the need to have that exact discussion of the long-term strategy. And they've committed to having that in the near future. There has been no decision or commitment made but they are certainly aware of that and the Research Set-Aside Committee intends to bring that discussion to the Mid-Atlantic Council.

I think, quite frankly, that folks are kind of sitting back and seeing what the commission is going to do with NEAMP and whether it's actually going to get going. And I think the timing on this is really good. I think they're willing to look at it, especially seeing the commitment that is coming from the mixed group of partners that are in this funding proposal.

DR. PIERCE: All right, thank you very much. I'm also happy to see the 60-foot in there since if indeed

we were obliged to consider 70-foot, 80-foot or 90-foot, then my goodness, what is the Bigelow all about? It would be a true offshore survey and that would be a real shame since anything 60-foot and less, yes, indeed, you know, the states should get involved in that in a major way and from 60-foot out, that's got to be the commitment from the National Marine Fisheries Service.

And I hope that, indeed, they do believe that they can get it down to 60 feet. The board, NEAMAP Board, has heard for quite a long time now that, how shallow they will go will be up to the captain. Okay, I hope the captain gets some directions regarding how shallow he is supposed to go. And it had better be 60 feet, otherwise, as I said, we've got a real problem with this whole bottom trawl survey, state and federal, and of course NEAMAP itself.

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. You know in looking at this in terms of the numbers I think in fairness the schedule that we've outlined and the discussions we've had in this money working group, if you will, is, you know, we really don't know how much this is going to cost and we don't know what other future funding sources are going to be for sure.

We haven't nailed any of that down. I think what is important here is the mix of sources have different expiration dates on them. And I think the intent here is that some of that money is two-year money and that gives us some flexibility here to get this project going.

And I guess what I'm kind of building at, if we have some money left over after spring and fall that that would be a good thing because I'm pretty sure we're going to be looking for money in the following year. And I think we need to be sensitive, I mean sensitive to that reality. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: Gordon.

MR. COLVIN: Thanks, Mr. Chairman. I just want to bring everybody up to date on the status of the funding support from New York. I think the good news is that as time goes by it becomes more and more likely that the final decision will support making that funding available. The funding as I think I indicated at the last Policy Board meeting we expect to receive is part of a \$3 million appropriation in this year's state budget that has been appropriated for the new New York State Ocean/Great Lake

Ecosystem Conservation Act.

The agency designated representatives who will be providing advice to the council of state agency secretaries and commissioners who will make these decisions meets Friday and at Friday's meeting they will receive staff recommendations on the structure of the budget and the allocation of the funds.

The 275 line for NEAMAP is in that recommendation. I'm pretty confident that the designee group will support, you know, pretty much what the staff recommendations are across the board and so we'll have a pretty good sense after Friday whether we can go forward with a contract through ASMFC to provide that funding support for NEAMAP.

That said, I would recommend that we do look toward a funding strategy that secures a line in the NOAA budget that will ultimately become an alternative to bootstrapping funds out of the Research Set-Aside Program or other things of that nature. In fact, that little white paper I threw around earlier identified NEAMAP and that's, you know, I think Vince managed to get that through to me at some point in the last few months that we need to have that sort of line in there.

I would also hope that maybe some of the other states in the region can think about whether there are some means by which they can begin to identify funds. You know we have this happy opportunity in New York that is provided by this new legislation and the funding that comes with it.

I know other states are doing trawl surveys now and I can't help but wonder if the day may come when NEAMAP becomes the supplier of data by preference for all of us, enabling states to make some savings in their current fishery independent work that could be shared with this common effort. I'll just throw that out there and hopefully folks will think about it.

CHAIRMAN LAPOINTE: Thanks, Gordon. When I think about – it's not part of the motion but – pursuing a line item in the NOAA budget, I'm speaking selfishly from being a little east and north of Martha's Vineyard, that in fact we need to make sure that we support the other trawl surveys that are going, ongoing and so that we don't cannibalize ongoing programs to develop new ones.

Any other questions or comments? Are we ready for the motion? The motion reads, move to initiate via

VIMS, the Virginia Institute of Marine Science, the full two-season NEAMAP Near Shore Trawl Survey in fall of 2007 at the 60-foot contour – what’s SNE?

MR. ROBERT E. BEAL: Southern New England.

CHAIRMAN LAPOINTE: – and Southern New England areas to be covered. Motion by Rich White and second by Pat White. Are we ready for the motion? All those in favor raise your hands; opposed, like sign. The motion carries. Thank you. The next agenda topic is the discussion of the bi-national coordination of eel management and Bob Beal will kick us off on that.

### **BI-NATIONAL COORDINATION OF EEL MANAGEMENT**

MR. BEAL: Great. Thank you, Mr. Chairman. At the February meeting of the American Eel Management Board Max Stanfield and Rob McGregor came down and presented kind of the status of activities in the Great Lakes Region and the Canadian provinces on American eel management.

A follow up to those presentations was a discussion at the American Eel Board of the need for some bi-national coordination of American eel management. The eel population you know is panmictic. It’s from Florida all the way up through the Maritime Provinces and Canada and through the Great Lakes Region so we need to all be on the same page if we want to effectively manage the American eel population.

Following up on this discussion there was a meeting held on April 25<sup>th</sup> in Mystic, Connecticut. This meeting had representatives from ASMFC, from the Great Lakes Fishery Commission and the Canadian Department of Fisheries and Oceans. The general layout of the meeting was that the, each of the states or each of the jurisdictions gave a brief on what is going on as far as eel management within their jurisdictions, what activities are occurring and what is pending as far as management programs for American eel.

Each of the jurisdictions also gave a review of what science structure exists. There are a number of technical working groups and technical committees at ASMFC and just a lot of different scientific bodies that exist for American eel. And then the meeting progressed into a discussion of a White Paper that was prepared by ASMFC staff in conjunction with the Great Lakes Fishery Commission staff and we, and this White Paper presented a series of options for

scientific coordination and management coordination for American eel in the future. Following up on the options in that paper the group came up with a recommendation.

I guess as background I should just let you guys know who was there from ASMFC was Vince O’Shea as Executive Director; Gordon Colvin as the New York State rep, and New York is one of the states that serves on the Great Lakes Commission and the ASMFC, obviously; A.C. Carpenter was there as Chair of the American Eel Management Board; George Lapointe intended to go but he wasn’t able to make it due to some instate conflicts but he had a couple of representatives there from Maine DMR so that was kind of a cross section of the ASMFC; we also had Dr. Jaime Geiger from the Fish and Wildlife Service and a member of the Eel Board as well as the Policy Board, so a pretty good representation from the commission.

So the recommendation that came out of the discussion at this bi-national meeting and as a result of that White Paper was that an MOA, a memorandum of agreement, should be developed between the ASMFC and the Great Lakes Fishery Commission. This MOA would have co-signors of Canada, the Canadian DFO, and that would include the Quebec and Atlantic Provinces in Canada. We would also have Fish and Wildlife Service and National Marine Fisheries Service as signatories to this memorandum of agreement.

What this MOA would do would be a number of things. First, it would establish a plan development team. This plan development team would essentially develop the MOA. They would put the meat on the skeleton of how or what bi-national coordinated eel management and coordinated scientific efforts would look like but also develop a technical working group which would be a, you know, just that, a group that works on technical issues, stock assessment issues and other scientific issues that come before the jurisdictions.

The MOA would also define the relationships and structure of a coordinated eel management and it would detail the principles of agreement within the overall program. The MOA, you know, in a further description of what it would do, there would be essentially three outputs of this, of the MOA if this is developed.

The first would be a North American or North American and Atlantic Coast Management Plan so there would be one coordinated eel management plan

or program from the Canadian Provinces through the Great Lakes all the way down through Florida would be the ultimate goal. This would also, you know, result in coordinated management and shared and integrated science. The ultimate outcome of all this effort is we've got more eels, you know, enhance the eel population.

The tentative timeline that the group came up with as a recommendation out to the groups would be this board right now in May, the Policy Board, would review this idea and this recommendation and concept and decide how they should move forward. The Great Lakes Commission is going to have their annual meeting in June and they're essentially going to do the same thing.

They're going to be presented with the concept of developing an MOA and decide what direction they want to move forward in. If both groups agree this is where we need to go we'll start drafting the MOA in July and August. The ASMFC could approve this document at its Annual Meeting, assuming the document is far enough along.

If not we'll get an update at the American Eel Management Board just to let folks know what the status of the MOA is. And then the Great Lakes Commission would also consider approval of the MOA at their fall meeting. So that's kind of a quick summary. As I said, a number of people that are here today were also at that meeting. If they wanted to add something, you know, feel free.

CHAIRMAN LAPOINTE: Gordon.

MR. COLVIN: I don't really have anything to add. I think Bob did a terrific job of succinctly summarizing what went on. I want to express appreciation to the commission staff, Bob, Eric and Vince, for their effort at pulling this meeting together. It came together quite quickly and our staff really I think picked up the ball and ran with it in terms of pulling together meeting materials, organizing, logistics and facilitating a very effective discussion with the Canadians and the Great Lakes Fisheries Commission folks.

Mr. Chairman, if it's in order, **I'd like to offer a motion and my motion would be that the Policy Board conceptually approve the plan outline in Mr. Beal's report and authorize the staff to begin the development of the text of an MOA with the Great Lakes Fisheries Commission.**

CHAIRMAN LAPOINTE: I have a motion. Do I

have a second? Malcolm seconds it. Thank you. My only question is it talks about a plan development team or an MOA development team. I hope that's a small working group, a couple people from the Great Lakes Commission and a couple people from the ASMFC. I see head shakes, yes, and I'll let Bob respond.

MR. BEAL: Yes, exactly. That's the intention is, you know, a couple people on our staff, a couple people on their staff to do most of the work via correspondence. We don't envision a lot of traveling or financial expense associated with this.

CHAIRMAN LAPOINTE: Great. Gordon.

MR. COLVIN: Now I'm really going to enjoy this and on behalf of my boss who has said this on numerous occasions if there are some extra expenses that need to be met to help pull this off New York State DEC will be very happy to help the commission with them.

CHAIRMAN LAPOINTE: All right, thank you. We'll really note that for the record. Dave.

DR. DAVID PERKINS: Along those lines I think the U.S. Fish and Wildlife Service would also be more than welcome to contribute whatever the commission might see fit in terms of our resources in helping develop this MOA so –

CHAIRMAN LAPOINTE: I think the chair of the commission needs to go to the next meeting at the Chateau Frontenac in Quebec City on your guys' ticket. I'm up for this. Well, thank you both for those generous offers. Any other questions or comments on the motion? Any opposition to the motion? Seeing none, the motion carries. And my apologies to the folks at that meeting. It's a little thing called "saltwater license" got in my way and so I was in Augusta and not in Connecticut but I'm glad the meeting was held.

MR. COLVIN: You were well represented, Mr. Chairman.

CHAIRMAN LAPOINTE: Thank you. And I'm glad of that. Our next agenda topic is – is Dr. Kirkley here? There he is – a discussion or a Committee on Economics and Social Sciences report and it's going to be given by Jim Kirkley.

MR. SMITH: Mr. Chairman, while Jim is coming to the microphone I would only point out that if you were in Connecticut during that meeting we probably

would have subpoenaed you to testify to our legislature on a saltwater license so you couldn't have gotten away from it.

CHAIRMAN LAPOINTE: There will probably be opportunity for that still.

DR. JIM KIRKLEY: Can I go?

CHAIRMAN LAPOINTE: You can.

DR. KIRKLEY: Thank you, sir.

CHAIRMAN LAPOINTE: You're welcome.

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

DR. KIRKLEY: I suspect most of you by now, and if you don't know you can realize I'm not Madeline. Madeline Arber was scheduled to do this so I'm doing it. And before I get too far I want to extend my thanks to the staff for preparing this presentation for me. They did a fine job. In any event -- we haven't rehearsed this, either.

All right, the bottom line is that we were asked by the Policy Board to review some work done by Rob Southwick and Associates I guess which was commissioned by Stripers Forever to take a look at ways to make the striped bass fishery a recreational only fishery.

At the present time Maine has a rec only fishery, New Hampshire has a rec only fishery, New Jersey has a rec only fishery and Connecticut seems to -- I haven't figured out Connecticut. It looks like you can harvest in Connecticut waters but you can't sell the product in Connecticut. It's kind of an odd arrangement. But striped bass is kind of like a mother -- I mean "motherhood and apple pie" in America, you know.

All right, so in this report what they attempted to do, they compared the economics of the recreational and commercial fisheries. They then attempted to assess changes in the recreational fishery that would be incurred because of elimination of the commercial fishery. And they, of course being relatively smart, they said, well, we have people who love striped bass and, therefore, aquaculture can fill the void if you got rid of the commercial fishery.

Some of their baseline conclusions is that the recreational fishery harvest more stripers than the commercial fishery. That's really not a shocker

there. It's probably very misleading in that the commercial catch in the states that allow the commercial fisheries is usually under some type of quota and is regularly monitored so it can be quite misleading.

New economic activity generated from the recreational harvest they say is about 26.5 times greater than the commercial fishery. That's, yes, you will tend to find that the economic impacts of recreational fishery typically exceed that of commercial fisheries but when you start factoring in social aspects, community disruptions, whatnot and the other, things start changing.

Recreationally-caught stripers are more valuable than commercially harvested stripers, that's debatable. And the study doesn't really demonstrate that clearly. Regardless of the fact that an angler, I'm a good case in fact of one, I spend maybe sometimes up to \$1,000 to catch one stupid striped bass because I didn't do too well the other trips before that. All right?

Now I could go down to the grocery store -- in the past, not today -- and buy a striped bass for \$2 a pound, \$3 a pound, whatever. This year, however, if any of you have been to the grocery store, particularly in the early January-February-March period, you might have seen striped bass going anywhere between \$9 to \$14 a pound.

It's a real shocker. I'm not quite sure what happened in the market but it brings into question the timing of this study, when this study was done, and the data collection and compilation relative to the current period. You're starting to read my mind. I'm getting scared. All right, so what are they saying?

Okay, basically get rid of the commercial fishery, reallocate everything to the recreational fishery. Not to be a person to stand up and preach, I think every state is going to be looking at this issue more and more relative to their fisheries when a species is exploited by multiple user groups. This issue is not going to go away, this allocation issue. All right?

They conclude that you'll get about \$1.8 billion in new economic activity. Economic activity via the approach used in here typically is defined in terms of changes in total sales generated in the economy, changes in total income, changes in employment. This states it's 14,400 new jobs will be generated.

Keep in mind that the methodology used for this assessment projects employment in terms of full and part-time jobs, numbers of jobs. And we all -- in

other words, if you have 10,000 people and those 10,000 people are working six months a year, that's 5,000 fulltime jobs versus 10,000 total jobs. So there are issues there to look at.

There are also issues of importance to consider which we attempted to incorporate in our assessment is what is the quality of these jobs? How much are these people going to be making? Now is this a good deal, not a good deal if you took everything out of the commercial sector and put it in the rec sector?

All right, the other side of the story here dealt with the assessment in the Southwick Study of the use of aquaculture to displace the commercial fishery should the commercial fishery be eliminated. Their conclusion that they offer is that the aquaculture sector is already producing in excess of the domestic wild fishery.

The experience some of us have had is that aquacultured striped bass has not taken hold like gangbusters. It just hasn't gone through the roof like some people might have predicted it would. Average price of the wild striped bass, ex-vessel equivalent, \$2.78; farm gate, \$2.75. Yes, they're kind of like "big deal."

What's the margin here? That's what counts. What's the profit margin. And there is no assessment of that. If you're selling \$2.75 and it's costing you \$2.70 versus wild \$2.78 and \$2.25 cost, one would say, hey, the wild is a pretty good deal; it's actually better. All right? It is true that the aquaculture sector does have the ability to meet an expanding demand which was one of the conclusions offered by the Southwick Study.

The other aspect is that because there is a commercial fishery and we all know that the commercial fishery is generally highly seasonal, both because of biological availability and because of reproductive activities and because of regulatory strategies, it's going to be seasonal and then the prices are going to be seasonal in it.

By and large that doesn't tend to bother a lot of American consumers when they go out to buy lobster that is highly seasonal or swordfish which is often seasonal. Many of our wild products in the United States are seasonal and sometimes it's their seasonality that actually leads to benefits for our industry to be able to exploit that seasonality.

It ensures a dependable supply of fresh fish. Okay. All right, they, the Stripers Forever group is calling

for basically legislation at the state or federal level to

eliminate all commercial striped bass fishing. I imagine everybody here knows that presently all fishing for striped bass in the EEZ is prohibited regardless of commercial or rec. It's a no-go.

There are questions and I see Chris Moore down there from Sustainable Fisheries who may have an answer. No one else has been able to give this to me yet. I don't know with the current Magnuson Act can the federal government make an allocation that is rec only? I don't have an answer to that.

States can do basically what they want, providing they're not violating their own state constitutions, codes and rules. The feds on this one here, I can't find a case where we have a rec fish only but there may be. All right, they also suggest to have a - oh, I see Steve Meyers. He may have the answer to that as well.

All right, they also propose a recreational striped bass stamp. You get a revenue from that and you're going to buy out the commercial harvesters with proof that a significant portion of income has come from the striped bass fishery. I don't know about many of you, a "significant portion" of my income, if you cut it 2 percent, that's pretty significant to me because it hurts. Fifty percent, forget it, I'm going on welfare; I'm out of here.

Okay, a critical thing here, again this gets to how ASMFC, how the states and how the federal government regulates and manages their fisheries, they are two different worlds. The federal government and the Magnuson Act along with NEPA, Executive Order 12866 and the Reg Act and so forth and so on, you know the rules, ad nauseam, they require an assessment of net benefits, benefits and costs and that various decisions about management and regulation at least be partly based on these benefit metrics.

States, on the other hand, depending upon their state constitutions and whether or not they have certain codes, they can manage their fisheries any way they want. All right? So in this case here Southwick Associates suggested they use a what's called an input/output model and subsequently economic impacts for the basis for allocation.

States can do that. If they want to states can say we want to maximize employment; we want to maximize our tax revenues. The federal government is not on the same game plan with that because they're subject

to other pending, I mean existing legislation and policies that require consideration of net benefits. The bottom line on something like this is that impacts are simply transfer payments. That's all they are, are transactions. You go out and you spend \$50 on a dinner and that generates \$60 in sales for the economy. That is not a metric or a measure of the true value of that \$50. You might have been willing to spend \$90 for that dinner and instead spent \$50 so what happened is you got \$40 in net benefits. This study does not use or consider net benefits for making decisions about allocating a resource.

The second statement up here, whatever, you can – it doesn't matter if you go back but the second statement on IO models being suitable if inputs were comparable, it's not a complete truism but the basis is that you should never be really and truly making, at a federal level and in a quote – and I know nobody here is "Ivory Tower" but in an Ivory Tower, theoretical level of economics – making these decisions based on economic impacts.

If you want to make decisions on economic impacts and where your goal is to, say, generate the most for the economy, what it really suggests, then, is you get the heck away from fisheries altogether and move into vice commodities. What do I mean by that? Drugs, alcohol, other illegal activities, youth drinking, anything that generates huge economic activities, lawyers, doctors and oddballs. Need a little reality here.

Okay, we have this other issue of where, in the report the terms "directed effort" and "targeted effort" are used interchangeably. One of our recommendations is that it would be nice to have a common language from which to base a discussion. I don't view this – keep in mind these are not my comments; these are consensus of collaboration of the committee members. There is some validity to that.

I think the real thing here is that how in the heck do you define "targeted effort" on a single species? You might be able to do it on striped bass but in many cases anglers go out and target multiple species for a given trip. If you're up in New England, maybe off of Massachusetts, you might clearly target striped bass and you might clearly target bluefish. As you get down, further down here you're glad to get bluefish, trout or striped bass on an outing so there is an issue of targeting.

There is another issue here, expenditure of data versus, from the recreational versus commercial sector. The committee made the argument that the

data were not completely comparable, not comprehensive one-for-one type of line item. You have the kitchen sink in the rec sector and less in the commercial sector.

There is probably some validity to that but it's not likely an artifact of the researcher who did the work, it's more likely the fact the data just aren't available. All right? Recreational demand and equilibrium, no additional trip demand. The argument here was basically made that by eliminating the commercial sector you don't really know what the anglers are going to do in terms of demanding more trips or making more trips.

There is some validity to that but there is also some literature that's quite widespread that shows that as the quality of the angling experience goes up the demand for number of trips goes up. But there were concerns here that this wasn't adequately substantiated and the MRFSS data available for making these types of analysis are very weak.

And depending upon where you are in the MRFSS thing they previously were condemned for being inadequate and a recent re-assessment says, well, they're all right. I don't have an answer to that but it calls into question the validity of the data for that purpose.

Allocation versus harvest, part of the issue here, that was going on was the reporting that the anglers take considerably more striped bass than does the commercial sector. Again, the question arises is if you took the quotas off of the commercial sector would they take more? Or if you put on a free-for-all, not that anybody is advocating that but if you put it into a free-for-all then who would take the most? So that's just kind of like another limitation on this.

The other thing, aquaculture versus wild striped bass, there is not really substantial evidence in the report itself to say that the aquaculture product would displace the wild domestic product. We don't really know consumers' preferences as to whether or not they prefer a wild product versus an aquacultured product.

Consumers on one product after the other tend to be very finicky. For example, you take a cod, put it in a hold and age it for ten days while you're out on Georges Bank, a consumer taste panel studies have shown they prefer that aged 10 day-old product to one caught today. I don't know. You go figure. Is there any more there? That's it. Thank you very much. I'll take any questions.

CHAIRMAN LAPOINTE: Thanks, Dr. Kirkley. Any questions? Rich.

MR. G. RITCHIE WHITE: Is it possible to get a copy of the full report, Number 1. And then, Number 2, the summary that was handed out to us, could that be provided on commission stationery, you know, showing that it's a report from the commission?

CHAIRMAN LAPOINTE: I don't see why not. I think the value of the report is to provide an objective evaluation of the report because, as Bob said, it's been waived around in public quite a bit. It reminds me, and I'm showing my age in this process, that there was a study done about a decade ago that showed the rec fisheries in our country were worth \$28 billion a year.

And somebody, I think it was NFI, went out and did a study the next year and they came up with a study that showed that the commercial fisheries in the nation were worth \$28 billion a year. And so that you can build the numbers you want to reach the conclusions you want and print in the report. Questions, other questions for Dr. Kirkley? Pete.

MR. PETER HIMCHAK: Yes, Dr. Kirkley, the last slide you have up there and based on the analysis of the methodology, is this statement applicable to all fisheries or just the striped bass one as far as using economic and cost benefits, whatever, for allocations?

DR. KIRKLEY: This statement really is more or less along the semblance of a theoretical rigor. Again, like I said, states can use any basis they want for making allocation decisions. If you want to base an allocation decision on the fact that, you know, the majority of recreational anglers own Cadillacs – not that they do – and the majority of, say, commercial guys own Mercedes – not that they do – you can do that. You could make that. At the state level you could use that. It's stupid but you could do it.

You can do anything you want at the state level other than violate your constitution and your laws. In this case here if you're really trying to enhance or generate the maximum benefit to society, more or less the thing that makes your group the happiest, you would argue that you would want to use a benefit metric or what we call "economic value" rather than economic impacts.

To make it and to apologize for any offense about illegal activities, a parallel to that for impacts is the Exxon Valdeze, huge economic impacts but a terrible

thing. So the premise is you really don't want to be using these input-output models in general for a sole basis for making allocations of resources.

And also, hopefully, as an economist, and economics itself, we've moved forward beyond the rigors of traditional textbook economics and into the world of society and social dimensions realizing that there are many community impacts and social impacts that you just can't quantify well with economics so you have to balance and consider those as well.

CHAIRMAN LAPOINTE: Dr. Moore.

DR. MOORE: Just in response to Jim's question, billfish comes to mind and, you know, and obviously and I think Jim pointed this out, any species managed under the Magnuson-Stevens Act, those sort of questions would have to be addressed through an evaluation of that proposal through the National Standards.

CHAIRMAN LAPOINTE: Thank you. Board members, other questions? I see you, Arnold. I'll get you in a minute. Board members. Arnold Leo, please come forward and then we'll wrap up.

MR. ARNOLD LEO: Yes, thanks. Arnold Leo, I represent the commercial fisheries of the Town of East Hampton, Long Island. And I think some of you will guess that I can never miss an opportunity to comment on striped bass. I've been involved in it for over 30 years. But I wonder, sir, thank you very much for this extremely interesting report.

I do wonder if you might include also the question of access to the fishery. It's the commercial fisherman who actually provides the public access to the fishery. For those who don't choose or can't go fishing themselves, the commercial fisherman provides them the opportunity to enjoy striped bass. And that certainly is a, you know, a social value if not an economic one.

And, also, I think that regarding the quality of aquaculture raised fish, first of all, it's not a striped bass, it's something or other with a perch and a striped on it, you know. But it also is fed the equivalent of cat food and I think the recent news of you know the melamine found in the fish food that they're feeding aquaculture raised stock shows you the problem.

I mean there is also problems with antibiotics and hormones and you know. But I just think that you know the wild fish provided by the commercial

fisherman is so infinitely superior a product it would be a sin to take it off the market. Thanks.

DR. KIRKLEY: Real short. Aquaculture product usually is a hybrid between white bass and striped bass. This particular study didn't include addressing your point, which is why we said you'd want to do economic value because the inclusion of economic value would get directly at net benefits to the consumer as well. There is two sides. You and I as consumers of striped bass receive benefits. You and I as recreational anglers receive benefits from striped bass. Again, that's why we argue the need to consider economic value.

CHAIRMAN LAPOINTE: Thank you. Other questions or comments. Pete.

MR. HIMCHAK: Mr. Chairman, a quick question to Megan, I'm sorry, are we finished with the striped bass?

CHAIRMAN LAPOINTE: Not yet.

MR. HIMCHAK: Oh, okay. It's still on the CESS activities.

CHAIRMAN LAPOINTE: Well, I want to thank Dr. Kirkley for taking the time to present the report and I want to thank the Committee on Economics and Social Sciences for giving us information that we can use to balance, you know, a report that's out in the public. So it's very valuable for the commission. Thank you. Okay, Pete, go ahead.

MR. HIMCHAK: I had a quick question for Megan on the progress of the contract. You were looking for \$20,000 to, for the contract to assess the economic impact of horseshoe crab moratoriums. How is that progressing?

MS. CALDWELL: We do have a contract with Industrial Economics to work on that horseshoe crab proposal. And we're currently working with ACCSP and some of the individual states to get some of that data that we need to do the analyses. In terms of the funding, I've contacted each of the states to talk to them about it, met with some success and not in other areas but it will happen. We'll make it happen.

MR. HIMCHAK: I'll keep asking for at least \$5,000 for our share from New Jersey. That's all I can do is ask.

CHAIRMAN LAPOINTE: Thanks, Pete. Anything else for the Committee on Economics and Social

Sciences? Seeing nothing else our next agenda topic is the Assessment Science Committee report, Melissa.

## **ASSESSMENT SCIENCE COMMITTEE REPORT**

MS. MELISSA PAINE: Thanks, Mr. Chairman. I'm providing this report for our chair, Mike Murphy, who couldn't be here today. The Assessment Science Committee met on March 27<sup>th</sup> and staff is passing out right now a summary of what was discussed at that meeting. On the back of the summary is a copy of the stock assessment schedule and if you will notice for 2008 this is what the Assessment Science Committee discussed.

## **2008 STOCK ASSESSMENT SCHEDULE**

First they focused on changes to the schedule from the last time they had seen the schedule late last year and those changes include the black sea bass may be delayed for a spring SARC in 2008 or the next available SARC opportunity to allow for refinement of tagging work. And that issue will be taken up at the next NRCC meeting coming up at the end of this month.

Additionally, weakfish, the Weakfish Board approved a peer review hopefully to occur for the fall SAW/SARC in 2008. And, again, that issue will be taken up at the NRCC meeting later this month. Very recently, today, the Summer Flounder Board approved going forward with an external commission peer review set to occur in early 2008.

The major decision that the Assessment Science Committee came to and a change to the schedule is with river herring which was scheduled for an external review in 2008 but after reviewing this issue ASC thought that there would just be more time needed to compile data and to conduct this assessment and so they recommend referring the timing to the Shad and River Herring Technical Committee to delay that assessment. And so with that we ask for your approval of the 2008 stock assessment schedule.

CHAIRMAN LAPOINTE: Before we get approval do you have question? Eric Smith.

MR. SMITH: This is probably sort of, I don't think it's out of order but it might not be the – well, let me

ask the question. It may be the best place to ask it. It's come, I have a kind of a growing sense that the shad assessment is maybe not quite going to make the schedule that it's intended to make here and was this something that this committee considered?

I see the river herring is proposed to be postponed but I wondered how the shad thing is coming. I think it's on a, you know, in the next few months several very important things are supposed to happen and I don't know where that is.

MS. PAINE: We're actually making pretty good progress. The Stock Assessment Subcommittee is meeting next week to go over the reports. And then the technical committee will meet at the end of the month to approve those stock assessment reports. And the additional good news is that we have all five peer review panelists identified and agreed to participate in this peer review and that has been scheduled the middle of July. So we are on track.

CHAIRMAN LAPOINTE: Pat White.

MR. PATTEN D. WHITE: Could someone be a little bit more explicit as to why we're delaying the river herring assessment?

CHAIRMAN LAPOINTE: Megan.

MS. CALDWELL: The, well, river herring is the same group of people that are doing the shad stock assessment and considering the number of years it took us to get as far as we are right now with shad we're anticipating it's going to be quite a bit of work to get the assessment together for river herring. And since we're just completing shad now they're going to need some time to get all that information together and next year is probably a little too tight for a peer review.

CHAIRMAN LAPOINTE: John Nelson, then Gordon – Gordon.

MR. COLVIN: I just point out that another issue with the river herring, I should think, is that you know the river herring assessment is going to have to be a lot like the shad assessment and, you know, it's a whole bunch of assessments, really. And I think we'll know better after the peer review about approaches.

We may need to go back to the drawing board on some things with shad and with river herring so I think that you need to recognize that. Plus, you've got a lot of people out there who are going to need

just a little bit of time to decompress once the shad is done. I can guarantee you that.

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. You know, I see this issue on the, which we dealt with on summer flounder and I know that the service voted against the motion to go to external peer review but a question that didn't come up during that meeting was would the service then be prepared to use our external peer review or would they have other reasons why they've got to send summer flounder to SAW/SARC, anyway?

CHAIRMAN LAPOINTE: Dr. Moore.

DR. MOORE: Thanks, Vince. I thought that I'd never have to talk about summer flounder again in public but it looks like I'm going to have to. I talked to Bob briefly about this issue and I was a little perplexed by the discussion this morning because if you think about the SAW/SARC process the way that it's currently structured it is an external review.

The service pays for independent experts to attend that SAW/SARC to look at these stock assessments that come out of these various work groups. So I was kind of, again perplexed, that in fact the commission would then come forward with yet another sort of review that would involve, you know, external individuals.

So I'm not sure if that helps with your question, Vince. I think that the service is very interested in having a thorough review of the summer flounder stock assessment. And, again, I think that if in fact there was an external review that was funded by the commission then I think the service might question whether or not they would have, you know, independent experts do it through the SAW/SARC process.

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. It occurred to me because we're talking about a substantial amount of money to have this thing done and, on the other hand, this is a species that has had a history of litigation with it so if the – I could see an argument where if the service has got to defend itself they may have some, get some advice as to which science they're going to rely on, you know, relative to what the Mid-Atlantic Council does and what the service does.

And I think if we're going to make a decision about funding an independent one, it would be good information to know that there is going to be a high dollar similar exercise being done by the SARC process at the same time, just so the board would be aware of that in making that decision. Thank you.

CHAIRMAN LAPOINTE: Chris.

DR. MOORE: Yes, another consideration, don't forget about the new Magnuson-Stevens requirements that involve the SSCs. So we're going to have a recommendation that's going to be reviewed, a stock assessment that's going to be reviewed by the SSC in their recommendation for the summer flounder TAL. So you'll have yet another group reviewing stock assessment information for summer flounder. So the question would be how many groups do you need to give you the advice that you want for summer flounder?

CHAIRMAN LAPOINTE: I guess within the context of the list put forward we do want an assessment on summer flounder in 2008, which is on the schedule. And we can continue those discussions about exactly how this happens so we don't have to fix that this afternoon, I think. Now, Mr. Augustine, I'll take a motion if you will.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. **I move approval of the 2008 stock assessment schedule.**

CHAIRMAN LAPOINTE: Do I have a second? Second by Bill Adler. Do we need other discussion on this list? John Nelson.

MR. NELSON: Yes, Mr. Chairman, fortunately I have stayed away from summer flounder for my career and but, and I was hoping I would not have to ask anything about it but explain to me again. We're talking about doing a stock assessment on summer flounder and the service and the council, Mid-Atlantic, is also looking at it at roughly the same time?

CHAIRMAN LAPOINTE: I can't explain it to you because if you're north of the summer flounder line, I'm north of you and so –

MR. NELSON: And we're both very fortunate.

CHAIRMAN LAPOINTE: Let's have Bob fill us in.

MR. BEAL: I don't know if I can fill you in but I can at least make a comment. There is, in two weeks

there is going to be an NRCC Northeast Region Coordinating Council meeting and that's the group that schedules the SARC peer reviews and coordinates, generally, all the northeast activities.

So I think that's probably one of the discussion items for that group is that, you know, we've had a management board recommendation to do an ASMFC external peer review on the updated summer flounder stock assessment, we've got summer flounder scheduled on the SARC for 2008, how do we reconcile those questions. And I think that's probably, I mean, that's kind of exactly what that group was formed to deal with, those sorts of questions.

MR. NELSON: All right, so then really this motion is approving this but contingent upon the discussion that comes out of that group, for the summer flounder, anyway? We don't have to have, we don't have to spend the money on it if we have other, the service or someone else doing a peer review?

CHAIRMAN LAPOINTE: I think that's correct.

MR. NELSON: Because the stock assessment is, as Chris said, it is a peer review.

CHAIRMAN LAPOINTE: I think your interpretation is correct. Other discussion on the motion. Seeing none, is there opposition to the motion? Seeing none, the motion carries. Thank you. Melissa, retrospective patterns.

## **RETROSPECTIVE PATTERN RECOMMENDATIONS**

MS. PAINE: The other discussion, major discussion that the Assessment Science Committee held was focusing on how to deal with retrospective patterns. And this came out of the recommendation from the Management and Science Committee for the Assessment Science Committee to take up this topic.

So we've got listed here on the screen the recommendations that the ASC came up with and the first was that they did, they agreed with the Management and Science Committee on one of their recommendations and that was to include a term of reference to the commission's generic terms of reference that explicitly address retrospective patterns.

Secondly, another way to incorporate this issue into the commission's process is to include retrospective

patterns in the benchmark stock assessment document. The third recommendation is for when a long-term consistent retrospective pattern is observed, that the assessment analysts should make efforts to try to identify the underlying causes of this pattern and possibly try to quantify it.

If this is not possible, then qualitative or quantitative advice should be provided for managers on how they might account for this pattern in establishing measures. Finally, if a retrospective pattern is detected, alternative models should be explored, if possible. And so the next topic is workshops that are going to occur in 2007. And so I should say I guess with the retrospective patterns that that topic will be taken up again and these issues will try to be incorporated into those documents that I just mentioned. And so that's just an update for now.

CHAIRMAN LAPOINTE: Okay, thank you.

MS. PAINE: So on tap for 2007 for advanced stock assessment workshops, the first one to occur will be on maximum likelihood estimation and that will happen in July. In the fall we have scheduled a fisheries dependent sampling workshop. And, lastly, the Science Department is planning a stock assessment workshop for commissioners and this will occur during the August meeting week. And so we would appreciate any suggestions you might have for topics that can be covered concisely in a three-hour period.

CHAIRMAN LAPOINTE: Thank you. Questions for Melissa. It strikes me that, are we far enough along that we can take the ASC and the MSC recommendations and try to work those into our management process and does that make sense to everybody? And we didn't look at it for nothing. And so that, we'll work that into the management process as we go along. David.

DR. PIERCE: A question regarding the stock assessment workshop for commissioners that is being scheduled for our next meeting you said? How will that differ from the workshops that we've had in the past where we had Dr. Dealteris come and provide us with a series, actually, of workshops to help us understand the stock assessment process? Is this a repeat or is this something new with a different emphasis?

MS. CALDWELL: We'd like to do a different emphasis, although we are open to suggestions from the commissioners themselves. One topic we are thinking of covering was retrospective bias in a little

more detail for commissioners. We can cover topics that Dr. Dealteris covered in the past. Like I said, we'd like to hear from you guys what you're interested in learning about.

DR. PIERCE: Yes, if I may, I think first on the list would be the retrospective patterns because we've been haunted by those patterns, created for a number of reasons and those who put together the White Paper did a good job. How to handle the retrospective patterns in terms of management actions, that's going to be the ultimate challenge.

And I suspect we may get some guidance on this – in quotes “guidance from this” – from the National Marine Fisheries Service as they continue with their development of the revised National Standard Number 1 guidance and how that fits in with the reauthorization of the Magnuson Act.

Retrospective patterns, I think, will factor in, in a major way relative to that particular advice. Perhaps we'll have that advice from the service prior to the workshop that we have scheduled to deal with that particular, well, with retrospective patterns. So, thumbs up on that. I think it's an excellent choice.

CHAIRMAN LAPOINTE: Pat.

MR. AUGUSTINE: Mr. Chairman, a follow on, would this be a four-hour seminar type thing, a half-day and how much would it cost?

MS. PAINE: We haven't set the schedule for the August meeting week just yet. We are envisioning possibly a three-hour window. And in terms of costs we have some great new capabilities on staff with Dr. Nesslage so we are hoping to use her for that.

MR. AUGUSTINE: I just wondered how expansive it was going to be and how much capability we did have in-house and I'm glad we do and you mentioned that. Thank you.

CHAIRMAN LAPOINTE: It's free for everybody but you. You have to pay 50 bucks to get in the door.

MR. AUGUSTINE: I'm not going. I'm not coming. I'm going fishing.

CHAIRMAN LAPOINTE: Vince O'Shea and then Roy Miller.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. This is in response to the action plan that the commission approved at the Policy Board last

fall, so it's your idea, your guys idea to do this. Thanks.

CHAIRMAN LAPOINTE: Roy.

MR. MILLER: Thank you, Mr. Chairman. Since this will be my opportunity to go back to graduate school – it's been a long time – I would also suggest that some emphasis be placed on things like a forward projecting model, models that incorporate fluctuating natural mortality, that kind of thing, that seem to be coming to the forefront recently. Thank you.

CHAIRMAN LAPOINTE: Thank you. Another thing that came to my mind was, again when we were out at the meeting in San Diego, when we start having to do assessments or we're already doing them for data-poor species, we get in the realm of voodoo from this commissioner's perspective. And so if we could spend some time on, if it's possible, on what kind of assessment techniques you can do on data-poor species I think it will help us all as we move forward into the next couple of years. Vince.

EXECUTIVE DIRECTOR O'SHEA: I think, Mr. Chairman, that the initial approach ought to be more emphasis on sort of what these models can do for you and what you need to feed them as opposed to saying how exactly do they work would be my gut feeling. But if it's something, if that's not the right perception and there is other thoughts on that, we'd be happy to consider that. But I think you need, you'd be interested in saying if you do one of those forward projection models what type of answers would it give you and what do you need to put in to get those answers.

CHAIRMAN LAPOINTE: Roy.

MR. MILLER: Just to follow up on what Vince said, for my purposes and perhaps this is shared by many of us in the room, I think we need to know what these particular models can do for us and also what are the data needs for these particular models because that's where our decision making comes in. Thank you.

CHAIRMAN LAPOINTE: Other comments or questions? John.

MR. NELSON: Thank you, Mr. Chairman. I got the sense that you were starting to talk about the retrospective patterns and the recommendations and were they, were the recommendations far enough along for us to just adopt and add them to our, as terms of reference into the document and so I, I'm

not swift enough to capture whether or not they are far enough advanced and I would ask the staff what else needs to be done to really, if they need to be fleshed out further or can we adopt them now and move ahead with them.

MS. CALDWELL: Our plan for next steps was to go ahead and include that in the benchmark stock assessment document. We were going to bring that back to you at the next meeting because you guys have to approve that document each time we make changes to it. So you would see it again in August and from that point forward we would start to include that in our future assessments.

MR. NELSON: And so the details that we have here are basically what you're going to include in there? Okay. Thanks.

CHAIRMAN LAPOINTE: And the paper that was in the, on the CD also has MSC recommendations. Is Doug going to tell us about those in a minute, if we give him time?

MS. PAINE: The sequence of events was that the MSC discussed this first at a previous meeting. The ASC reviewed MSC's recommendations and added to them. MSC reviewed ASC's recommendations yesterday. Anyway, the whole point being everybody is comfortable with the recommendations that were put forward. They have the blessing of both committees.

CHAIRMAN LAPOINTE: And my question or my comment was, not just incorporating them in the future assessments but there is a number of recommendations for boards, can we incorporate those recommendations into the ISFMP process? Bob says, "I think we can" which is good. That's the right answer from my perspective. Other questions or comments. Thank you.

Next is Doug Grout and the MSC report. The chair is not doing a good job of keeping us on schedule so we've got a lot more agenda topics than we're going to get to this afternoon. We have a 4:15 South Atlantic Board meeting so I do intend to adjourn at 4:00 and we'll pick up the other agenda topics tomorrow. I'm going to take about five minutes at the end of the meeting for, to make some general comments as well.

## **MANAGEMENT AND SCIENCE COMMITTEE REPORT**

MR. DOUG GROUT: Thank you, Mr. Chairman.

An overview of our report here is being handed out to you. We have a couple of action items for you. The first one, just as a reminder, at our last, at the last meeting of the Policy Board MSC brought forward the idea of an eel working group – sound familiar from earlier? – to address research needs for American eels.

The Policy Board then included this working group in the 2007 Action Plan and tasked MSC to develop a proposal for how this group would be formed, frequency of meetings, etc cetera. Now since then, as you just heard, a memorandum of agreement has begun to be developed for coordinating eel management and shared science between the ASMFC and the Great Lakes Fisheries Commission. And MSC heard about that at our meeting yesterday.

And as a result we thought that the technical working group that's included in that MOA that you, the draft MOA that you saw would be an ideal place to put what you had originally charged us so we are, we endorse the technical working group proposed under the MOA and serve and this should serve in lieu of the eel working group proposed in the 2007 Action Plan.

And in our deliberations we recommend to the Policy Board that the technical working group should be allowed, should allow membership from each of the signatories but specific to ASMFC we're recommending that the members be the Eel Technical Committee chair, the FMP Coordinator for eels and the AP chair or their designees.

And underneath this larger technical working group we also felt that there needs to be smaller research working groups that would focus on developing specific research questions and these groups may require specific expertise outside such as from academia. Some of the ideas we came up with is a life history research group, eel passage working group, stock assessment research group.

We further went on to develop a mission for this eel technical working group for your consideration and they are listed here as: solicit research needs from academia, conservation organizations, and fisheries management communities; provide a forum for refinement and prioritization of the research needs; identify potential funding sources for research; encourage and support peer review and publications of results; and provide scientific basis for management recommendations. So I'll take any questions on this and we do need an action on this.

CHAIRMAN LAPOINTE: Questions for Doug. Seeing none, Megan says that we can, rather than taking action, unless there is objection we'll forward the concepts to the group that's going to put the MOA together. Is that acceptable? I see lots of heads nodding the right way so the next agenda topic, please.

MR. GROUT: As part of the ASMFC plus-up funds one of the recommendations was for an upriver creel survey and at our meeting we took under consideration several options for this portion of the funding and made a recommendation to the Policy Board here that they develop a creel survey template for three small but regionally-important systems and the funds would be used to carry out development and use of the template for those creel surveys.

And, Megan, I also understood that we were, they were going to actually fund the surveys for the states who would be responsible for undertaking these surveys. And the Shad and River Herring Technical Committee will be consulted to decide which of the three river systems would be most appropriate.

CHAIRMAN LAPOINTE: Questions. Roy.

MR. MILLER: Just quickly, Doug, will the group be looking at the study that was done in the Delaware system by Versar five years ago as a possible place to take off from?

MR. GROUT: That's certainly a potential. The intent was to try and contract out the template that was going to be developed. There is a whole list of in-river recreational creel surveys that have been done in the past and the staff had developed that list and references for those particular things and I think that would be one of the things that would be looked at along with the other creel surveys.

CHAIRMAN LAPOINTE: Other questions for Doug on this agenda or this item? No –

MR. AUGUSTINE: Mr. Chairman, is this going to be done in 2007 or will it be implemented in 2008? Will there be effort on this done this year?

MR. GROUT: No, from what I understood the monies have to be spent by June 30<sup>th</sup>, 2008 and so given that most of the anadromous fish runs are in, underway, it would be for 2008 winter-spring.

CHAIRMAN LAPOINTE: Thank you. Updates.

MR. GROUT: Well, as you can see, we had several updates. We're working on a report card of our peer review process. We also had an offer to, by Wilson Laney of the Fish and Wildlife Service to do a 20-year report of the striped bass winter tagging cruise. And there has been some discussion of once that's completed of having it published as an ASMFC document. It would be, all of us felt that that would be a very valuable piece of information for everybody and it's great work that needs to continue.

We also formed a subcommittee along with the Habitat Committee to draft a source document that came out of some of the recommendations of the energy workshop we talked to you about last year and then a variety of other updates, including looking at the stock assessment schedule. Any questions?

CHAIRMAN LAPOINTE: Is that the end of the report?

MR. GROUT: Yes, sir.

CHAIRMAN LAPOINTE: Thank you kindly. Any other questions for Doug? Seeing none, thanks for the report. Our next agenda topic is Megan is going to give an update on non-native oyster activities.

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

MS. CALDWELL: I'll try to make up for some lost time here. Since the last ASMFC meeting the Non-native Oyster EIS Project Delivery Team has met about three times to review progress towards the delivery of a Draft Environmental Impact Statement for public comment. The PDT has actually begun to review a few chapters of that EIS, the Intro and the Chapter 3, which is the environmental setting and were expected to get a look at Chapter 4 which is the affected environment very shortly.

The big news, though, is that the Draft Environmental Impact Statement was expected to be available by the end of May-early June, and due to difficulties with the demographic model that's being used to analyze the different alternatives in the EIS the delivery date for the draft EIS will be delayed.

The extent of that delay is yet to be determined but it is likely to be about six months. The executive committee for the EIS process will meet at the end of May-early June to determine the revised schedule for the delivery of the draft EIS. There is supposed to be a June status report on the EIS progress and process.

We will be sure to share that with all of you once it's been released.

And then the last bit of news on this is that the Oyster Advisory Panel which is a panel of independent experts reviewing all the science that's going into the EIS will meet in late May-early June to review the documentation on the demographic model. We plan to have the Interstate Shellfish Transport Committee meet with that group so they have an opportunity to also review that science. And they will meet the day after that meeting so that they can provide some comments back to the Policy Board on the development of that draft EIS.

CHAIRMAN LAPOINTE: Questions for Megan. Seeing none, thank you and we will put it on the next ISFMP Policy Board agenda as well. Our next agenda topic is an update on the report of the initial meeting of the Multi-species Technical Committee, Melissa.

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

MS. PAINE: Thanks, Mr. Chairman. The Multi-species Technical Committee held their inaugural meeting on March 27<sup>th</sup> and this committee focused on discussions of the current status of the commission's multi-species model development and they mainly focused on the MSVPA-X model.

And what they did was to form two subcommittee to deal with updating this model. And the first subcommittee's role will be to incorporate recommendations from an external review of that model through SARC. The second subcommittee's role will be to evaluate the status of the inputs to that model as well as coming up with a timeline for updating it.

Additionally, the committee talked about how, what kind of a process they would use for looking at alternate stock assessment models that include environmental or ecosystem factors in single species assessments and such as the Steel Henderson model that was used in weakfish and may also be used in the lobster assessment.

And so this process would be first for the MSTC to review the model, secondly for the MSTC to provide input to the technical committee, and finally that model would ultimately be reviewed as part of an external peer review process. And the next meeting for this group will be in September during the technical-committee meeting week.

CHAIRMAN LAPOINTE: Questions for Melissa?  
Pat Augustine.

MR. AUGUSTINE: Mr. Chairman, will we have a preliminary report at that time as to where any of this action is or is it just a follow on from where you are?

MS. PAINE: We will be sure to keep you all apprised of progress as they move forward with updating the MSVPA.

MR. AUGUSTINE: Thank you.

CHAIRMAN LAPOINTE: Other questions or comments. This is one of those – oh, John Nelson. I'm trying to get back at you for this situational blindness that you had for me yesterday. Mr. Nelson.

MR. NELSON: It was for the benefit of all, George. So, actually this is a very straightforward question. What do you think about the model?

MS. PAINE: I'm looking for Patrick – Patrick.

CHAIRMAN LAPOINTE: The correct answer is you think it's the best thing since sliced toast and we need to keep developing it.

MS. PAINE: It's the best thing since sliced toast. Patrick, they're just asking very concisely what was the peer review's thoughts on the MSVPA, was it useful? Can it be useful?

MR. PATRICK KILDUFF: To summarize concisely, they thought it was useful as providing supplementary information, not to provide specific benchmarks for any of the species. But it can be used to do things like provide information like on predation mortality for prey species like. And the predation mortality is an age-specific vector that's used in the menhaden assessment currently.

So those are – but as far as providing specific reference points, it's not designed to do that so it's more – the SARC's point was that it could be used to, you know, look at alternative scenarios and provide some insight in support of single species management.

CHAIRMAN LAPOINTE: It strikes me from the commission's perspective, this is likely to be a very necessary but aggravating process, long-term process just that it would, our conclusion in the past was it's the right place to be and we just have to let it develop as it will and when it, you know, when it's ready for prime time then we'll use but that's going to take

some time.

MR. NELSON: Yes, and really that's what I was, that's what I thought was going to be the answer, Mr. Chairman, probably more technically than I would have thought. But, nevertheless, yes, you know, I've seen models from the science center presented to the council, New England Council.

And all of these are in the developmental stage. And I think that's exactly what we should expect from them. It's going to be a long process before we have, actually have something that we're going to be very comfortable with in using as in its predictive mode. Thank you.

CHAIRMAN LAPOINTE: Other questions or comments on the Multi-species Technical Committee update? Seeing none, thanks, Melissa. Mr. O'Shea, are you going to tee off the strategic plan?

#### ASMFC STRATEGIC PLAN UPDATE

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. Prior to the meeting and in your meeting materials there is a memo that I wrote to all commissioners on 16 April 2000 and it's a gentle reminder that our strategic plan expires at the end of 2008. And in order to have a new plan ready to go in 2009 you would need to approve a new plan at the Annual Meeting in 2008.

In order to meet that deadline we need to start thinking about a strategy to attack our task. And I reviewed for you the steps that we followed when we went through this exercise back in 2003. I also gave commissioners, at your direction, Mr. Chairman, a copy of the current strategic plan. From a staff perspective I think it's an excellent document. It gives us the guidance that we need to prepare your action plans every year.

But I still think there is value in looking at that. And the points that need to be looked at or should be looked at when you look at strategic planning books or documents I've outlined in my memo. So I think one idea here would be that the sense, if not now in the near future, about the interest in how extensive an exercise the board would like to go through, Mr. Chairman, whether you want to give this a lick and a head or whether we want to go through a more involved process.

The second issue is whether we want to bring in a facilitator and, if so, to do what. As a reminder, our strategy last time was to say we had a good strategic

plan to begin with, we brought a facilitator in for a couple of meetings, we kicked around some ideas, we revised the existing strategic plan, actually made it shorter, and I think improved it quite a bit, and we actually had the staff draft the strategic plan for you all through a series, a couple of drafts. You reviewed it and eventually approved it. So that was the strategy we used last year.

If folks are thinking of bringing in a facilitator, we also need to have some input on Mike Fraidenburg who was the fellow we used last time or some other, another approach. That would also be helpful. And that's because at some point we'll have to budget for that next year, Mr. Chairman. Thanks.

CHAIRMAN LAPOINTE: Board members, comments. Eric Smith.

MR. SMITH: I read it over last night to remind myself and I thought it was pretty relevant right as it stands, not that it couldn't get some improvement or some additions. You know, the state funding thing we had talked about today, that could have been made, could be made more prominent. But by and large I think it's a pretty good model and it's relevant to the kinds of things that are our issues in the future.

So for that reason if we're looking for head nods on yes or no on facilitator and things like that I would say it probably, in my view, doesn't need that type of effort this time and it might be better if everybody reads it and writes in suggestions to staff and we'll see what kind of suggestions we get. If they tend to complicate the thing, then we could, you know, reassess whether a facilitator would be useful. I personally don't see the need for that right now. Thanks.

CHAIRMAN LAPOINTE: Other board members. John.

MR. NELSON: Yes, having kind of had to go through it last time from its infancy, I tend to disagree with my esteemed colleague from Connecticut. I think that – and for one reason, there is going to be a number of folks that probably won't be here that were, participated in the last strategic plan. And you're going to have new faces and probably, I hope, great and new ideas on what the commission needs to do.

And I think it might be helpful with a facilitator to actually get the background and go over things and then elicit new ideas or areas, I should say, for attention by the commission. So I think we ought to

keep that open for the time being and I would endorse thinking about having the facilitator.

CHAIRMAN LAPOINTE: Vince, what's the timeline for making changes?

EXECUTIVE DIRECTOR O'SHEA: Well, I think you know if we looked at, looking at the schedule we used last time if we had a workshop say in February, a first workshop, and then hit it again in the spring, come to consensus on key issues, staff scramble to get you a first draft at the August meeting, get your inputs, refine them and something like that is what I'm thinking but I'd suggest coming out of the gate in 2008 with a plan and that we'd start meeting on this thing in February, depending on how much work you want to put into it.

CHAIRMAN LAPOINTE: It strikes me it might be worthwhile to keep it as an agenda topic for the August meeting and for members to look at the strategic plan for things they either think we haven't done well or things that we think we need to add, like this morning's discussion.

And I could work with you to highlight, you know, from the staff's perspective things that we may need to tune up as well. And if we could concentrate on what changes we think we need to make and highlight those it may spur some discussion. Does that make sense to people? I see a lot of heads shaking again, so. Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. I think another issue, and this ties in with what came up during the state directors' meeting last week, I mean we have a pretty visible goal out there of you know stocks well restored or well in the process of being restored by 2010.

And I note – I know, and we still have some time but keep in mind if we do this for 2009, five years, we're moving close to the 20 and it's appropriate for us to look at what the slope is of those lines and of whether we're setting, how we're setting ourselves up on that. So we may feel it appropriate to back off on some of this stuff or push harder on some of this stuff, but that's one of the types of things that I think would be valuable to validate.

CHAIRMAN LAPOINTE: I agree. Does that sound like a good plan? We'll do that. For those folks who, make sure you take time to look at it and make comments, critical comments, critical additions and we'll do the same and come back in August. Our next agenda topic is ASMFC involvement in cunner

management. I'll let Bob start and then Pat and then we'll cycle around.

MR. BEAL: Well, just very briefly, you know the idea of ASMFC involvement was brought up by Pat Augustine. I think he brought it up at the Mid-Atlantic Council as well. Just as a bit of background, included in the briefing materials on the CD is about the last decade of commercial and recreational landings from the cunner fishery.

You can see the, on the recreational side they bounce around quite a bit. You know, a low of around 2,000 pounds all the way up to around 100,000 pounds. On the commercial side they've, I don't know, probably averaged a little under 10,000 pounds for the last decade or so. So it's just, you know, kind of a point of reference as to what scale fishery we're talking about.

CHAIRMAN LAPOINTE: And before I go to Pat, we establish our action plan at the fall meeting, right? And so, I mean, we'll hear from Pat and the idea would be, if the commission was going to make a move it would be at the fall meeting but I'll give you a couple of minutes.

MR. AUGUSTINE: That's all I need. Thank you, Mr. Chairman. The reason this issue was brought up is, as you fishermen know, these fish are in the Wrasse family. They are found with blackfish, tautog. They're found in the same kind of reefs, in the same areas.

And what happened in the last several years on Long Island is the party boat and charter boat people have decided that as long as the or whenever they can't catch blackfish for the live market they've been keeping these creatures and selling them live. And recent reports in this last year around and just recently these creatures are selling for \$6 to \$9 a pound.

And all of the inshore fish, you know we used to use them for bait. But all of the inshore reefs by and large have been picked clean of all the big ones. And I'm finding now that there have been charters – I know of several charter boats – that have gone off in the 20-30 and 40-mile ranges away to, any wrecks they can get to, they'll have a crew of four, and they'll take as many as they can.

They have live wells and they'll bring them back to the live market. And I just see this as another fish that's heading down that long, long path of near extinction over time. So my concern was and

following through with the Mid-Atlantic to see who would be responsible for this and Dan Furlong looked up the information, the same that Bob Beal presented, and showed that there haven't been a lot of them reported but this live market is alive and well and we do have recreational fishermen selling them as they are selling live blackfish.

It just seems to me here is a species of fish that is of high value and someone should pick it up. The Mid-Atlantic is not interested in doing it. The New England Council is not interested in doing it and so this is the last resort. All of the reports indicated – and this in particular – the breakout was that the bulk of these fish are landed in state waters.

Well, naturally. If you have a vessel and you come from shore and you go out 40 miles and you bring it in, it's landed in state waters but not reported through the NMFS, to the NMFS commercial landings. So, my thought is that we take a look at this and see if it's worth going forward with it.

I see this as another species similar to blowfish. I don't know why blowfish are not protected. They're of very high value. They're cyclic and it's just another one of those species that I think is going to disappear in time. So I'd like to get other board members' thoughts on this, Mr. Chairman, and see if it's worth pursuing or we'll just drop it.

CHAIRMAN LAPOINTE: Glossing over your comment about us being the "last resort" we have three people on the list, Dave Pierce, Mark Gibson and Roy Miller.

DR. PIERCE: Well, we have a lot on our plate already and as a consequence of that I can't see our getting into management of cunner. Certainly if there are specific problems within a state's waters regarding fishermen targeting cunner because they can't target tautog, then it would seem to me that the individual state, itself, should take management action on its own to deal with that concern.

In Massachusetts we've had some interest in targeting of cunner with pots and, you know, we have not allowed that. Again, it's in our waters. It's our own stewardship of this particular resource and these fish don't move very far afield. As a consequence, let's stay out of that, stay out of the management of cunner and focus our attentions and resources on those species for which we're already overstretched.

CHAIRMAN LAPOINTE: Thanks, David. Mark.

DR. MARK GIBSON: Thank you, Mr. Chairman. I saw this on the agenda and just happened to have my trawl survey database with me so I put it up on the screen for you. Those are the results of our seasonal trawl survey.

And you can see that cunner is not doing very well in the Rhode Island state waters, essentially down to nothing, zero catch, you know, compared to some fluctuating catches we had earlier so I think Pat is you know on the right track relative to identifying a problem. Whether the commission can take this on at this time, you know, I can't speak to that very thoughtfully but there is clearly a problem going on out there. I'd be interested to see what other states' resource surveys look like.

CHAIRMAN LAPOINTE: Roy Miller.

MR. MILLER: My comment isn't specific to cunner but I'm just trying to recall, didn't we at one time, Bob, do a priority list of additional species for consideration by ASMFC as time allowed? I seem to recall such a list from the dim past. I remember black drum being on that list. I remember blue crab being on that list. There were other species as well. I'm trying to remember if cunner was even on that list. Thanks.

MR. BEAL: Yes, we did do that. It was probably, I don't know, I may have inherited that from George or something when I took this job but it was, it's pretty old but, yes, it was blue crab, black drum, smelt, shrimp, southern shrimp may have been on there. There are one or two other species but it was pretty, but I do not think cunner was on there, but, like I said, it's been a while since I looked at it.

MR. MILLER: Maybe as an exercise we should attempt to update that list sometime in the next year or two and then use that as guidance unless, of course, everyone feels that this cunner issue is a crisis that demands our immediate attention. Thank you.

CHAIRMAN LAPOINTE: Thanks, Roy. It strikes me that – Vito.

MR. VITO CALOMO: I heard Pat Augustine very well. In fact, I've been hearing him very well all day. But he says it's recreational people selling them.

CHAIRMAN LAPOINTE: Yes. They're having fun when they're selling them. From the context of our program it strikes me that we do an action plan in the fall. And if we take the list that Roy talked about and discuss the two together we'll figure out if the

commission wants to do something with them or not, regardless of whether recreational fishermen are selling them or not. I'm going to jump right over that.

MR. CALOMO: That's law enforcement.

## OVERVIEW DOCUMENT

CHAIRMAN LAPOINTE: Is that all right for people? Yes. Good. Our next agenda topic is just feedback on the overview document. Bob and I talked about the overview document that's at the beginning of each, behind each binder. It's being used at each board meeting to show the action items and people who are involved.

I think it's a very useful document but how about other board members? If there are suggestions for improvements, we don't need to take a lot of time with that today. I see a lot of head shakes that it is useful and if there are things that you think you can suggest to make improvements just give them to Bob.

## OTHER BUSINESS

Thank you and thanks to staff for providing those because they're helpful. Bob talked to Spud and we can take until 4:30 he said for the South Atlantic Board. I thank you for that so we'll keep going. Under other business we have first the Law Enforcement Committee report, Mr. Howard.

## LAW ENFORCEMENT COMMITTEE REPORT

MR. MICHAEL HOWARD: Thank you, Mr. Chairman. As always I will keep it brief. The ASMFC Law Enforcement Committee met yesterday under our Chair Jeff Marston. There were several issues that I think were pertinent to share with you today, the first is VMS training and updates.

As you know, the ASMFC Law Enforcement Committee spearheaded a wording change in the data collection and sharing of VMS data, which would allow state law enforcement officers to receive that data. That language was in and out, in and out, but ultimately resulted in wording that allows that access to data.

All of our states now have received training as to what VMS is, the various units onboard the vessels, and at least an interim way that this information can

be received by state officers. As recently as a couple of weeks ago Massachusetts obtained data in reference to a gear conflict and in this case was able to clear a suspected offender of the gear conflict by recall of VMS positioning data.

We have developed a committee. The chairman has appointed a group. Our ultimate goal is to have real time access on the strategically located patrol boats so that this information can be obtained real time, of course with proper safeguards and for public interest. That committee will be working on that over the next year. There are several roadblocks to that but we are optimistic that we can carry this one step further to get real time data on boats instead of Monday through Friday 9 to 5.

Striped bass enforcement, again the ASMFC Law Enforcement Committee for almost two years has lobbied to get increased fines in the EEZ. This past winter those fines did go into effect. They were doubled for the summary punishment. It has given a shot in the arm to law enforcement efforts.

States like Virginia this winter – I'll use Virginia because it was a state that has made a few cases right along and has been working hard. With the new emphasis on fines went they out there with new vitality and made over 60 cases in January and February in the EEZ. And that's just one state. Several states are doing that. And in some instances JEA monies are available for that offshore enforcement for striped bass and I heard you discussing JEAs earlier.

The issue of illegal tautog harvest and sales was thoroughly discussed at our meeting and through a series of e-mails and phone conversations has been explored over the past year. Five years ago New Jersey made law enforcement efforts when they realized that live tautog were being illegally sold by unlicensed sport fishermen to a live market. And they have made several efforts to reduce that.

There were several things that were realized in this and since the board at our last meeting in the winter had asked some questions, I'd like to just go over it. The committee concluded that the issues concerning illegal harvest and sales of tautog centered around four states, primarily. They're Connecticut, New York, New Jersey, and Pennsylvania.

Pennsylvania was a potential outlet for undersized tautog that did not have a size limit. Although undersized tautog shipped to Pennsylvania were a Lacey Act violation, it was difficult for field officers

to take quick action on the violator. Pennsylvania was right on this a year ago and recently I think the legislation has gone through or right at the eminent part of going through so that loophole has been closed.

The next issue was illegal sales of tautog to live markets in the greater New York area. Connecticut and New York have teamed up and coordinated enforcement efforts to reduce the trafficking of undersized live tautog and sales of tautog by unlicensed dealers. These efforts have resulted in significant cases, hundreds of fish, even thousands in totality, and many cases being made from the catcher to the dealer to the transporter to the store to the ultimate restaurants.

In New Jersey targeted efforts are being made to reduce sport fish violations for over-the-limit and undersized fish being retained. Officers report that violations by this group may be exceeding currently over 40 percent. As with New York and Connecticut, New Jersey has increased enforcement efforts in this area where tautog are harvested to apprehend violators and eventually reduce the rate of violations.

An extensive discussion was held about the live market, recreational catches and the tautog fishery in general to determine if there were ways further to reduce illegal harvest and increase compliance. There are several different points of view among the states on how to do this and ultimately some responsibility for each state in their own specific fishery, the results of their activities are going to be within the state and not joint efforts.

However, the final consensus was reached. A prohibition on live wells is impractical and unenforceable in any form. Prohibition on the possession of live tautog by recreational fishermen would require specific language for the taking of tautog and reducing them to a euthanized state.

V-notching the tail of live tautog retained by non-commercial fishers may be enforceable but may not be practical since law enforcement officers only spot-check a very small percentage of recreational fishermen on any given day. And a contributing factor to the violations are the availability of undersized tautog in widespread areas near shore while legal numbers are scarce. These contribute to the low compliance rates.

The last item that we thought would be of interest to you all would be our Interstate Violators Compact. Four states along the coast are a part of 25 states

nationwide that can charge someone on a citation and not arrest them, not take the officer out of the field, and not take the citizen. They can give them a citation and if they return to their state and they fail to pay the fine, then a warrant is issued.

And the states have joined into a compact that is both a benefit to a fisherman who may have a small violation and it keeps the officer in the field. Also, if a person is revoked in one state, any member state of this compact will recognize that revocation and not license the person during the period of that revocation.

The four states that participate currently are New York, Florida, Georgia and Maryland. Other states are trying to get this legislation through. And we would ask that any members here that feel like this would be appropriate, all the law enforcement representatives have a packet and you should ask those folks to share it with you, but it does take legislative action. And, like I say, 25 states across this country have it. Ten states are pending and we would like to see all states participate. Thank you very much, Mr. Chairman.

CHAIRMAN LAPOINTE: Thanks, Mike. Any questions for Mike about the Law Enforcement Committee report? Vito.

MR. CALOMO: Mike, have they seen any illegal cunners?

MR. HOWARD: Vito, I have to be very honest since I'm being recorded. I don't believe I ever heard of a cunner before I read it at this meeting.

MR. CALOMO: Thank you, Mike.

MR. HOWARD: I come from a commercial background and that's all I can say.

CHAIRMAN LAPOINTE: Other questions for Mike. Mike, thanks very much. The next item under other business is – I'm going to get to the next short item and that's the NERS survey, Megan.

### **NERS SURVEY**

MS. CALDWELL: You guys should all be getting a handout. Okay, good, you've already got a handout. We were asked to distribute this handout by Jeff, from Jeff Pollack of the National Estuarine Research Reserve System. This handout explains that they are going through an effort where they plan to survey state and federal folks on your research needs on

estuarine habitat and water quality.

They want to know what type of information would be most useful to you. This group collects a whole group of information that could be useful to fisheries management. And they are going to be doing electronic needs assessment survey in May to get a better idea of your specific science data needs and to also capture your preference for the ways in which the models and other data products are delivered.

So we plan to distribute that survey, the electronic link to you, via e-mail. It is up to you whether or not you want to participate in that survey. This is a heads-up that you will be getting that e-mail. There is more information about the National Estuarine Research Reserve System in this handout, what type of data they collect and the survey itself.

CHAIRMAN LAPOINTE: Thank you. Any questions for Megan? Pat.

MR. AUGUSTINE: Mr. Chairman, will our Habitat Committee be involved or work closely with Jeff on this or with that group?

MS. CALDWELL: We actually shared a very similar handout with both the Habitat Committee and the Management and Science Committee. Jeff felt that it was also important to engage this level within the states.

MR. AUGUSTINE: Thank you for that. I'm glad we are.

CHAIRMAN LAPOINTE: Other questions or comments for Megan? Megan, thanks very much. What's the timing on the whole thing? Do we know? How long are those surveys going to be open if it's an online?

MS. CALDWELL: I only know that the survey is supposed to be available later this month. I don't know how long it's open.

CHAIRMAN LAPOINTE: Thank you. The next agenda topic is Maryland and striped bass, Howard.

### **MARYLAND STRIPED BASS ISSUE**

MR. KING: Thank you. That's like "ham and eggs" isn't it, Maryland and striped bass. Thank you, Mr. Chairman. The Striped Bass Management Board approved the Maryland spring season at the last board meeting. And that season included a migratory stock component. It required technical committee

approval.

Following the board meeting the technical committee generously gave their time and went through a lot of deliberations. They actually whittled our plan down a little bit and approved it. For your information our spring season so far is nothing this year like it was last year or the year before. The bight is way off. The fish behavior is more like it was in 2004. The take of migratory fish is very low so far and we just have about a week and a few days left where we'll have access to those big fish.

But the technical committee also approved another recreational fishing opportunity which we had proposed as a two-week season, May 16<sup>th</sup> to May 31<sup>st</sup> in the area identified as the Susquehanna Flats, a one-fish, resident striped bass, 18 to 26 inches, one per person per day for that two week period. And that fishery would follow the existing catch-and-release fishery on the Susquehanna Flats.

There was no Striped Bass Management Board scheduled for this meeting so I brought it to the Policy Board, had asked Bob Beal today to advise on what approval would be necessary. I believe he is of the opinion, and rightly so, that the Striped Bass Management Board would have to approve this. Do you concur with that, Bob?

MR. BEAL: Yes.

MR. KING: All right, and thank you for your advice. If the chair of the Striped Bass Management Board would agree then I would ask for a fax vote on this proposal as soon as possible. And in fact I would be hopeful that we would begin to compile a written record of that vote as early as tomorrow and possibly conclude it by Monday. That's my proposal and that's my request.

This one fish per person per day, 18 to 26 inches, would be concurrent with our down bay fishery which, as you may remember, would be two fish 18 to 28 inches, only one of which over 28 could be retained. So it's a two-week add-on in a different geographical area but more conservative. It would not impact the migratory stock. Thank you.

CHAIRMAN LAPOINTE: Before we get to Paul, I want to have Bob and Vince talk about from the policy perspective if this is kosher or not. And I think it is but I think that's the important point for us is, is this the right – and it came up because of the timing issue but how do we do it from a policy perspective to keep consistent with the commission's

policies.

MR. BEAL: Well, as Howard mentioned, the Amendment 6 to the Striped Bass Fishery Management Plan does require that states get approval of the species, of the Striped Bass Management Board before they enact management changes. So, you know, by that definition the Striped Bass Board would have to take affirmative action and approve the proposal that Maryland has put forward.

We can, we have done similar things in the past and, you know, the Policy Board has been sort of a venue to introduce the idea but ultimately the decision is being made at or through the Striped Bass Management Board rather than the Policy Board so it's similar to a course we have taken in the past.

CHAIRMAN LAPOINTE: Thank you, Paul Diodati.

MR. DIODATI: I don't oppose this recommendation. However, I don't think I've ever sat through a Striped Bass proposal that didn't have various questions associated with it. And so a fax poll would suggest that the board would have to have a good understanding of both Howard or Maryland's proposal plus the TC's response, otherwise, you're going to get a lot of abstentions or no votes.

And so given that's been my experience I would recommend some type of a telephone or a conference meeting to deal with that. But if you're comfortable with the fax poll, I'm not opposed to it. But I caution Maryland that there might be enough questions and I don't know how to filter those questions.

CHAIRMAN LAPOINTE: Howard.

MR. KING: Would it be helpful if we included the TC report with the fax poll?

CHAIRMAN LAPOINTE: Paul.

MR. DIODATI: Well, I would have gone on to recommend that regardless of what we do that the TC report should be in the hands of the Striped Bass Management Board as well as a motion from Maryland indicating exactly what it is that you want to do.

CHAIRMAN LAPOINTE: The other thing we'd miss is any advice from the advisory panel. Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, there is another issue just to keep in mind, Mr. Chairman, and that is we did have another request by another state

for a meeting of the Striped Bass Board that had an issue. And we gave them the same advice that we gave Maryland with their late request so I think there needs to just be some sensitivity to you know the potential here of how often this becomes a way of doing business.

CHAIRMAN LAPOINTE: I agree. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. I'm just wondering, these are all post-spawned fish I assume, by the middle of May.

MR. HOWARD: Yes, and by this time they are pretty much feisty males that are left there post-spawn.

MR. AUGUSTINE: Okay, and do you anticipate, what kind of harvest do you anticipate based on your experience so far this year in this particular season?

MR. KING: Probably 60 to 90 fish per day between 18 and 26 inches.

MR. AUGUSTINE: And it's how many days? Two weeks?

MR. KING: Two weeks.

CHAIRMAN LAPOINTE: Arnold Leo, you had your hand up for a comment? Oh, John Nelson. Okay, come up.

MR. LEO: Yes, Arnold Leo, on this occasion I'm going to speak as a member of the Striped Bass Advisory Panel. And I think you can do this by fax or by conference, you know, with the board. I think you could do the same with the advisory panel. And I think it would be appropriate, you know.

CHAIRMAN LAPOINTE: Thank you. John Nelson.

MR. NELSON: Thanks, Mr. Chairman. I think Paul has you know laid out the problems with dealing with a proposal this way and it is not the ideal way of doing it. And I've got to refresh my memory and what was the proposal and review the TC recommendation. I would just also criticize myself as a member of the Striped Bass Board.

I think the Striped Bass Board put the technical committee in a very awkward situation. We conditionally approved – and I'm not critical of Maryland right now, I'm just saying in general – we approved something with the condition that the TC

review it and that they approve it too.

And I think that was well meant but what it boiled down to is we had the technical committee being put in a management predicament. And that's totally inappropriate and I hope we never do that again. If a proposal comes in late, you know, that's the way life is going to be. We should not have the technical committee deciding on a management issue.

They should be providing recommendations to the, to us for our evaluation and, as you know, we usually ask a lot of questions of the technical committee's recommendations. So I would point out that exactly what we're going through now is our own fault and we should, as a Striped Bass Board we should make sure we avoid that in the future.

CHAIRMAN LAPOINTE: Other board members. I think, I don't mind doing it once but I share Vince's concern about the precedential nature, you know, just making sure that this doesn't become a common practice because it's turning our process sideways or backwards, I'm not sure which. Is there objection to this process?

It strikes me they're trying to get it done starting tomorrow and finishing up in a day would be or whatever it was it was going to be incredibly difficult. People are here, people are on travel, getting the information together. And if we engage the advisors you need to give them a day in advance, if they're available, before the board you know because if we get the advisory panel advice at the same time the board does that's going to be hard to incorporate their comments as well. I had Pete and then Eric.

MR. HIMCHAK: Yes, Mr. Chairman, that was my problem is the timing of this fax vote. It seemed rather unrealistic given that you know people are here. They need to confer with their technical committee and the advisory panel as well.

CHAIRMAN LAPOINTE: Eric Smith.

MR. SMITH: Thank you. The last time Maryland had a proposal for their spring season before us I voted for it and I felt comfortable doing it. I'm not comfortable with this process, with all due respect to their need. You know the way to avoid having a precedent set that will cripple you in the future is to not vote for it in the first place.

This would make our process so abbreviated and so without review and Q and A and things like that that I

can just envision the next five groups probably led by the Connecticut lobstermen, for lack of a better statement of any other group that would do it, that would want something on a fast track that was, you know, proposed a week ago to be implemented a week later.

And it's a slippery slope. So it really troubles me. I understand it's a huge need in Maryland, probably a huge issue, I should say. And if there was a way to do it inbounds of our process, I would want to but this doesn't sound even close and so it really, it bothers me. Thank you.

CHAIRMAN LAPOINTE: Other board members. Mark.

DR. GIBSON: Is it my understanding that this element was not conditionally approved? It didn't surface at the last board meeting? It wasn't conditionally approved? You know, it wasn't approved on condition of technical committee review.

MR. BEAL: Yes, that's correct, Mark. This Susquehanna Flats proposal was not part of Maryland's other spring trophy season proposal that the board had reviewed at the last meeting.

DR. GIBSON: Why did the technical committee take a position on it if that wasn't their charge?

MR. BEAL: Maryland brought forward the proposal and asked them to review it, you know, in anticipation of at a future date being interested in implementing the proposal.

CHAIRMAN LAPOINTE: Board members, with that information we either let it go by or we don't. And I think people have raised legitimate points. What's the pleasure of the board? Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. How long would it take us to get the advisory panel on a – realistically – on a conference call? Three days? Say three days. And how long would it take to follow up with a conference call or a fax by the board? Another three days? It just seems to me that if the process that the technical committee went through showed that indeed what they're asking to do would not create a major problem and still be within the purview of what we're doing, however, I'm like Eric.

Boy, I hate this abbreviated business and that's the biggest concern. I'm looking at the timeframe as to

how long would it take to turn this process around and then I'd like to make a motion that we don't allow this to happen in the future.

CHAIRMAN LAPOINTE: I think, I mean I think you're correct that the timeframe would be incredibly tough. But I had John Nelson and then Paul Diodati.

MR. NELSON: Well, Mr. Chairman, again going back to what the board did, the board conditionally approved a plan for Maryland. And as Bob has and Mark has pointed out that another component was also looked at by the technical committee. I'm not comfortable with moving ahead with that other component.

That should be going back to the board for their consideration for whatever it is in the future next year, apparently, unfortunately for Maryland. But that was not discussed at the board level and, therefore, the technical committee didn't have any direction to discuss that. So, therefore, that should not be part of our consideration, I feel.

So, if the technical committee has already approved the first – and I'm afraid I can't even remember what that first component was, Bob, and if you could concisely describe what it was, then I can just say what I'd like to say about it if you could, Mr. Chairman, have Bob do that.

MR. BEAL: Well, the technical committee, well, the board tentatively approved Maryland's spring trophy season, which is harvests migratory fish. And the technical committee, after some modifications were made the technical committee then kind of gave final approval to that plan. This proposal that Maryland has brought forward now is for resident fish on the Susquehanna Flats so it's kind of a different segment of the striped bass population.

MR. NELSON: Okay, well, the board, the Striped Bass Board had already approved conditionally the trophy, the spring trophy fishery. The technical committee did what they were asked to do and they have, as far as I'm concerned that's a done deal. We followed a process. As I said, I was critical about what I as a board member allowed to happen on that process but, nevertheless, that's done.

Maryland can move ahead with their spring survey. I don't think this board needs to do anything associated with that. I would not support moving ahead with any other recommendation on another component of this until the Striped Bass Board has had a chance to review it.

CHAIRMAN LAPOINTE: I had Pat Augustine and then Eric Smith.

MR. AUGUSTINE: Not a debate, the other side of the coin is the fact that Maryland did something bad last year. They went way the hell over their quota, caused themselves and all of us a lot of grief and problems. Mr. King and staff came forward with a very extensive effort and plan as to how he was going to address the issue. From what I can understand in talking to him earlier they have been very successful.

They had some help from nature because the fish weren't available but the reality is he did what we asked him to do and he did it very successfully. Now, here we're at a point in time now where he has already submitted and our technical committee reviewed, in good faith, this possible option to open the season for another couple of weeks.

And it just seems ludicrous to now say we think our technical committee did something bad because they approved it conditionally or their original program, and then followed up with Mr. King's presentation to the technical committee again and they, in good faith, gave him an assessment and said, yes, this is acceptable.

So I think let's be big. Let's be adults. Let's not be picky. Here is a situation that clearly points to the fact that Maryland has gone forward and done everything they possibly could within the confines of the rules and regulations with the exception of the timeframe of it going before the board before.

And I think we're missing an opportunity for a member state to get a fair share at this particular point in time. It's not going to do any major harm to the fishery. We should support this. I do not agree that we should go forward with this in the future. I think our FMP or our policy should be that there is a minimum amount of time that any change can come before the Policy Board or never come before the Policy Board before clearing the actual FMP board in the future.

This has happened several times now but only several times since I've been around here since 1998. But the exceptions are becoming more frequent and I think that's the bad part of it. But I think with all good conscience we should take a look at this.

There is a high level of honesty with that group over there from Maryland and I don't think they're doing anything devious. And I just think it's one time that we have to step up to the plate and make the

exception and I would support this 100 percent. I'm not sure my compatriots would but that's where I'm going.

CHAIRMAN LAPOINTE: I think the chair made a mistake by trying to fit this in before 4:30 and it's, by my watch it's 4:25. And so with, I'd like to hold this over until the ISFMP Board tomorrow morning because I don't think we're going to deal with it in five more minutes so with people's – Paul.

MR. DIODATI: Yes, if I could just make a final statement because I won't be here tomorrow morning on this issue.

CHAIRMAN LAPOINTE: Please.

MR. DIODATI: I agree with John and I think what Pat just said kind of convinced me that we may in good conscience want to stick with our process. I was not aware of some of the details until it went around the room here that this was a completely different proposal that came up in an ad hoc fashion, I guess, during the technical committee meeting or something like that, or outside of the board.

And I think even Pat would agree if Massachusetts was to change this fishery to spiny dogfish and let's change the topic and it's Massachusetts and it's David Pierce presenting to the technical committee, and we were coming back to this board, not the Spiny Dogfish Management Board but to the Policy Board and asking for a fax vote tomorrow on our proposal, I don't think it would go very far. So, I think although we want to do it this once and never again I just don't think the process is capable of withstanding that.

CHAIRMAN LAPOINTE: Thank you.

MR. KING: George.

CHAIRMAN LAPOINTE: Howard.

MR. KING: Yes, thanks. I really appreciate the time and the concern you've shown. You've raised some good points. It seemed a relatively more simple matter to me.

CHAIRMAN LAPOINTE: Yes.

MR. KING: But the process issues are significant. I understand that and I apologize for putting you in that position. If it wasn't so important to our upper bay stakeholders I wouldn't have come forward with it at all. So I'll revisit this with our stakeholders this afternoon and if you want to take it up tomorrow, I

would certainly be willing to discuss it.

CHAIRMAN LAPOINTE: That's what we will do so we give it more time. I do want to – I'm going to close the session for now but I want to take the time, we've got a couple of people who won't be with the commission at our next meeting.

The first person I want to recognize is Tom Meyer with the National Marine Fisheries Service. As I understand he's got some 82 days left or something like that or 81 or something. And, Tom, I want to thank you both personally and on behalf of the commission for your friendship and your long service in cooperative management with the commission.

And the other person I want to recognize is this will be Gordon Colvin's last commission meeting as a commissioner, as I understand. And I want, I mean I suspect there will be other events and you will be more formally recognized, But when I started working for the commission 20 years ago you were a commissioner and this process, our process, has benefited greatly from your wisdom and your honesty and your commitment. I have benefited personally from your mentorship of me over the years and so I really want to give you a round of applause and my thanks.

MR. COLVIN: If you don't mind, George, I really appreciate the remarks and I would like to say a couple of words perhaps tomorrow at the business meeting and I think that might give me a chance to reflect on a little bit overnight and hopefully not overburden you with a, with too long a comment but have something to say that we're both comfortable with the length and the spirit of so I would like to do that.

CHAIRMAN LAPOINTE: Great, thank you. And we'll start the South Atlantic Board in five minutes.

(Whereupon, the meeting recessed on Wednesday, May 9, 2007, at 4:30 o'clock, p.m.)

The meeting of the ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Washington Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, on Thursday, May 10, 2007, and was called to order at 1:15 o'clock, p.m., by Chairman George Lapointe.

### CALL TO ORDER

CHAIRMAN LAPOINTE: Is there any objection to working through lunch to try to get people in and out quicker? I see many nos, shaking their heads no so we will get started. The Policy Board will bring back into session. We have three items still before us. One is the issue with Maryland and striped bass that we started yesterday. The other is river herring. Dr. Daniel has an issue. And the third is de minimis.

I'm going to take the river herring one first just because I think we can get to it pretty quickly. Lou came to me with the idea that he wanted to have the amendment for a coastwide moratorium, either a complete coastwide moratorium or in the ocean only and I said, "Well, have you considered an emergency action rather than an amendment?"

And he said, "No." And so with the board's concurrence we will get the Shad and River Herring Board together in August to discuss that issue because how it proceeds should come from the board. Does that make sense to everybody? I see many heads shaking yes. Good. Now we're - oh, you have a comment, Gordon?

MR. COLVIN: Absolutely. There is one reservation, and I speak as the guy who has to answer to the chairman of the stock assessment subcommittee, we would want, I think, some technical committee input to support action to vet this issue which I agree is a critical issue and needs a hard look.

But we have to remember that our technical committee and our stock assessment folks have as their un-abiding, Number 1 commitment and obligation to us to complete the American Shad Stock Assessment. Let's not distract them from that until it's done.

CHAIRMAN LAPOINTE: And what's the schedule for that?

MR. BEAL: We hope to have most of the technical work done in the next month to six weeks. Peer review, I think, is scheduled for the third week of July? The third week of July is the peer review.

CHAIRMAN LAPOINTE: Gordon.

MR. COLVIN: And, of course, I promised Andy that he could take a little bit of a break after that.

CHAIRMAN LAPOINTE: Two days.

MR. COLVIN: And I'm sure I'm not the only one.

CHAIRMAN LAPOINTE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Two things I'm thinking about, Mr. Chairman, and I don't know if this is going in the right direction but the first is certainly landings data should be available and around that we can pull together that does paint one picture. And the second is there were a number of papers presented at the Northeast Fish and Wildlife Service on river herring and I'm wondering if we could, if it would be of help the staff could pull those together and make them available as well, if that would be helpful.

CHAIRMAN LAPOINTE: I have Lou and then Pete.

### RIVER HERRING ISSUE

DR. DANIEL: Thank you, Mr. Chairman, and I appreciate the Policy Board discussing this issue. We just completed our updated assessment on river herring in North Carolina and in it we are seeing the lowest values on record for our JAIs. I think alewife went to zero for the first time.

We've gone from 30 million pounds to less than 100,000. And we've gone from raging in the 10 to 20 percent repeat spawners to in 2006 we saw zero repeat spawners in the population. So, we implemented a moratorium this year. There was no river herring harvesting in North Carolina. I know there are three other New England states that have implemented moratorium.

It's very difficult, though, for us to, you know, rebuild this fishery while as soon as they leave North Carolina they're open for harvest in the ocean. And so while I'm sensitive to the needs to get the shad assessment done I think waiting any longer to take some severe action on this fishery is a disservice to the fishery.

And so I would concur with Mr. O'Shea's suggestion. All the states can put together various information, a lot of states have programs for this fishery, so that we can make an informed decision at

the August meeting.

CHAIRMAN LAPOINTE: Pete Himchak and then Mark Gibson.

MR. HIMCHAK: Yes, thank you, Mr. Chairman. I appreciated Dr. Daniel's bringing this topic up at was it yesterday's breakfast or lunch. And I have talked to our Shad and River Herring Technical Committee member at length on this issue. Every year there is a push for lower possession limits on the river herring.

And the unfortunate part of the board, the Shad and River Herring Board, deferring any action to the technical committee is that the technical committee is – they're obviously going to know we've spend so much time on shad that we have paid particularly no attention to the river herring issue.

And I was hoping that the symposium that was conducted at the Northeast Conference could at least accelerate the process and not, you know, defer it to the technical committee and then they're going to say, well, we're essentially going to start from scratch here. So I'm sensitive to the time issue on this and I'd rather not delay it unnecessarily.

CHAIRMAN LAPOINTE: Thank you. Mark Gibson.

DR. GIBSON: Thank you. I am in agreement with Louis. I support a board consideration of this at the next meeting, even if it's absent a formal technical committee review. I think there is sufficient information that the various states have developed, and in particular the tri-state working group in New England has generated a significant amount of summary information I think that would justify taking this position.

CHAIRMAN LAPOINTE: It strikes me that we can schedule this for the August meeting and we can have staff work on what data is available, being sensitive to the needs of the technical people to have a pause and seeing what information is out there.

And it also strikes me that with the emergency action capability in our charter that we can take action based on the information that we have and it doesn't have to be as data heavy as other actions. So, do I have concurrence around the board that this is the way to go? Roy, did you want to say anything else?

MR. MILLER: I was just going to put on the record, Mr. Chairman, that our concerns are not only with the offshore migratory component of the river herring

stock but once they're in inland waters we're very concerned with this bait fishery that has arisen in recent years to the point we think, strictly anecdotally, that they may be decimating localized runs of our few remaining river herring.

Now, we can either deal with that on a state level with two mechanisms, one, pursue legislation or, two, encourage the ASMFC to prepare an addendum providing some additional protection thereby giving us regulatory authority to deal with this issue. So I think it's appropriate for the commission to take this up. Thank you.

CHAIRMAN LAPOINTE: Great. Thank you. David.

DR. PIERCE: The, I do agree that there is a need for us to move forward and fast. And as part of that effort to better prepare ourselves to determine what we might want to do to deal with river herring, shad, I would ask that the technical committee be given the responsibility of working with the Northeast Fisheries Science Center and the staff of the New England and the Mid-Atlantic Council to delve deeper into the question of the amount of bycatch of these river herring and shad in the pelagic fisheries, notably sea herring and mackerel.

There may be other fisheries as well but we certainly have enough information in-hand to suggest that at times and in certain areas you know the bycatch can be rather significant. And that needs to be looked into very carefully, very closely. Let's not forget that. Back in the 1970s and certainly before that we did have foreign fishing fleets off of our coast, Southern New England, Mid-Atlantic, and we managed their catch of river herring, specifically, by foreign fishing windows and bycatch quotas by vessel and by window.

It's been a long time, of course, since the 1970s but we do have a pelagic fleet out there working out of the Mid-Atlantic and New England ports that, frankly, needs some further monitoring. So that's what we need from, I suggest, from the technical committee. I would hope that would be a charge they could undertake.

CHAIRMAN LAPOINTE: And that's something we can discuss at the August meeting and we have to pay attention to what people have said about their workload on shad but it's certainly something we can put, stage in so that it doesn't, they get their other jobs done and they don't get overburdened in the interim. Other discussion. That is what we will do.

Mr. King, are we ready for Maryland's striped bass again?

MR. KING: Yes, thank you, Mr. Chairman. Well, I want to restate what our request is again and following the discussions on policy and process yesterday. The spring season in Maryland, as you know, is a far different season than the prior two years. We're looking to geographically distribute recreational fishing opportunities.

We would like to be able to make use of the Chesapeake Bay resident fish quota that we have. Last year, for instance, we were a million pounds under that quota. Yesterday I proposed a short resident fish fishery in the upper bay and the area known as the Susquehanna Flats, 18 to 26 inches, one fish per person per day, estimate less than 100 fish per day would be taken.

When I proposed it yesterday I was talking about two weeks but realizing that conditions may be placed on us for this first trial season I would suggest now that we postpone that until the 21<sup>st</sup> of May and run it through the 31<sup>st</sup>. That would give us next week to satisfy whatever conditions you might place upon it.

I think this would be a good idea. It would be an entry level for us for this season and then at the next Striped Bass Management Board meeting when we propose our 2008 season we may decide to propose continuing this or not. But it would give us a chance to test these waters and be able to report back to you on how the season evolved. And that is my request.

CHAIRMAN LAPOINTE: Thank you, Howard. And the other discussion, for people who weren't here yesterday, was just how it, that intersects with the policy of going, using the technical committee, going to the board, etc cetera, that the commission wants to do. Board members, do we have any pleasure in this? Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. It would seem to me that if we could reach a consensus that there is time that the advisory panel could be brought together by a conference call to have an opportunity to weigh in on this, good bad or indifferent, Arnold Leo stopped before he left, he had to take a flight back, and said that he felt that they would like to have an opportunity to have a shot at this. And if it were to happen before we took any further action, he thinks that that would be the right way to go.

Secondly, that this appeared to be, again, an unusual

situation. And as I indicated yesterday for the record we've had several of these special instances this year, in particular, and I think our policy should be clearly stated again that in the future all the activities that we consider doing similar to this – no reflection on Maryland's problem here but – there has got to be a clearly defined date, 30 days, 60 days, whatever it happens to be, that all the steps of the process must be met according to the process because it just, it just is turning things into a turmoil.

We've established an advisory panel for the purpose of being just that. We have a technical committee process and so on. So that's how I feel about that. So if we can move forward with this it would make sense. If we do decide to approve the Maryland proposal I have one concern that I have been reading about mortality rates of catch and release or just striped bass in particular.

And there are many of them out there on the record. And one I reviewed recently indicated that once the water temperature gets somewhere above 58 degrees the mortality rate goes, shoots sky high. It's almost like one-for-one. So I'm just wondering, in view of the fact that this is in the Susquehanna Flats and that water temperature – I asked Howard about it and he said the water may get up as high as 70 degrees.

I'm just wondering if there is some consideration as to whether they may want to do this only this year and again review it for further years because I think the potential for fish that are, although they're spawned out they're still, you know, they're still adult and sooner or later it's going to have a detrimental impact on the stock. So those are my comments, Mr. Chairman. Thank you.

CHAIRMAN LAPOINTE: Howard, do you want to respond?

MR. KING: Yes, Pat had mentioned that to me and we have done some mortality studies. We have real time and water temperature sensors that we view telemetrically and we have the ability to shut this down with 48 hours notice. And if we see a mortality, believe me, we will shut it down.

CHAIRMAN LAPOINTE: Rich White.

MR. WHITE: Thank you, Mr. Chairman. I think this issue really comes down to the process issue that we discussed yesterday. And I think Paul Diodati really put it in context when he said if this were a different species and a different state, such as dogfish and Massachusetts coming forward with a change in

quota by a fax poll in a couple of days that you know we wouldn't even be discussing it. So I think this, as hard as we could try for it not to set a precedent, I think it does. And therefore I can't support it.

CHAIRMAN LAPOINTE: David Pierce.

DR. PIERCE: I thought we had about 45 minutes worth of discussion on this issue yesterday and as was already indicated by Ritchie, you know, Paul Diodati, chair of the board, Striped Bass Board, made his concerns clear. John Nelson when he was here, he also made his concerns clear, as did many other members of the Policy Board.

So here we are again at the Policy Board the next day and it's back on the table again. The conclusion I recall was that the process needs to be respected, regardless of the merits of the particular proposal from Howard. And, Howard, I thought yesterday you pretty much agreed that you know the process was such that it couldn't be done and now you're bringing it forward again today, slightly modified, I see, but still it's the same thing.

It's about the process and I know that if Paul was sitting here he would be speaking very firmly against our acting favorably with regard to this particular proposal. Once again, the proposal that went to the technical committee was not the one that was eventually offered up yesterday and now today in somewhat of a modified fashion so I could not possibly support this question.

CHAIRMAN LAPOINTE: It was brought up again today because I didn't, we didn't have enough time to finish it yesterday and that's why we're back before us. So, and we had the request from Maryland and so we either have to approve it or not and so if somebody is willing to make a motion one way or the other, we will bring it to closure. Jack, did you have your hand up?

MR. KING: I'll make that motion.

CHAIRMAN LAPOINTE: I called on Jack Travelstead, sorry.

MR. JACK TRAVELSTEAD: I'm not ready to make a motion, Mr. Chairman, I had an additional question for Maryland.

CHAIRMAN LAPOINTE: Please and then we'll get to Howard.

MR. TRAVELSTEAD: Howard, I'm not sure I

understand the Maryland proposal. You're talking about changing seasons, some shifts in season, the total harvest of which is controlled by a quota, correct? You're not proposing to change quotas?

MR. KING: Not proposing to change quotas but staying within the Chesapeake Bay quota. And remember, that the time that I'm proposing we do this on the flats the full bay spring fishery is being prosecuted down the bay so it's not even changing the season, it's adding an additional area, essentially, to the season.

MR. TRAVELSTEAD: So there is no quota change, there is no real season change, you're simply opening a new geographic area within state waters to the fishery, still controlled by a quota? I just don't – that seems so simple to me. I just don't see it as precedent setting. I mean the example you know was Massachusetts asking for a change in the dogfish quota. I mean there is no comparison here. This is a no-brainer to me and if it will help move things along **I would move approval of Maryland's proposal.**

CHAIRMAN LAPOINTE: And the proposal is for the additional area that you talked about now later in May on the Susquehanna Flats, as I remember.

MR. KING: That is correct and to exclude any migratory stock.

CHAIRMAN LAPOINTE: So we have a motion by Jack Travelstead. Do we have a second? We have a second by Pat Augustine. Discussion on the motion. Kelly and then Roy and then Mark.

MR. KELLY PLACE: One small question for Howard – Howard.

MR. KING: I'm sorry, what did you say, Mr. Chair?

MR. PLACE: I was going to ask you.

CHAIRMAN LAPOINTE: You have a question from Kelly Place. Turn your head the other way. Thank you.

MR. PLACE: Just one small question, that new geographic area, that's not part of the spawning grounds, is it?

MR. KING: It is not a spawning region. I wanted to make a correction. No, okay, that's fine. That's fine.

MR. PLACE: I just wanted to make sure it was still

not in the spawning ground. That's it. Thanks.

CHAIRMAN LAPOINTE: I had Roy Miller. You're okay. Mark.

DR. GIBSON: Thank you, Mr. Chairman. I think Jack is right in terms of his analysis of the practical implication of this but it falls back to the process part of it. I had occasion to, you know, speak with the chair of the Striped Bass Board and his vice chair. I agreed with him that this is a process problem. The board never authorized this to go to the technical committee. We don't even know how it got to the technical committee. For that reason I can't support it at this time.

CHAIRMAN LAPOINTE: Thank you. Other board members. Bill, do you want – Bill Windley, did you want to make a comment and then we'll go back to the board?

MR. BILL WINDLEY: Thank you, Mr. Chairman. I will be brief. First I'd like to thank the chair and the committee and the commissioners for extending the extreme level of patience that you have done in listening to this thing and your attempt to be so understanding about it. As you know, I'm president of the Maryland Saltwater Sport Fishermen's Association but I'm really here in front of you today representing Cecil County, Maryland.

And Cecil County is the county that borders on the north side of the Susquehanna Flats. We're one of the poorest counties in Maryland. And your allowing us to prosecute the catch-release fishery on the flats has done a wonderful thing economically for our county. And if the board could look at this as a pilot program this year only as opposed to a change in policy and we could bring this thing back to you in August with all the T's crossed and the I's dotted, the people of Cecil County, Maryland, would really appreciate it if you could help.

Five hundred anglers have worked on this for four years. They didn't bring it to you at the last minute. Unfortunately, due to severe understaffing and other major concerns in Maryland this has been pushed back to this point and it would have normally been brought forth in a more proper manner.

And, quite frankly, when we were looking at it in terms of something to approve long-term yesterday and the concerns started to arise about the process and about the AP being part of the process, as much as I support the APs, I personally had reservations about going down that road myself.

But, I really believe that if we looked at it as a pilot program then it would be an exception to the normal policy and something appropriate for this board to look at on a one-time basis to acquire data to bring back to you for an even better analysis at the next go-around. If you could help us I'd really appreciate it.

CHAIRMAN LAPOINTE: Thank you, Bill. For the maker of the motion and the seconder, what we were discussing yesterday was bringing this, cycling it through the advisory panel and then doing a fax poll with the Striped Bass Board. Is that not correct?

MR. AUGUSTINE: I was going to amend the motion to include that if that would be the more appropriate way to do it, Mr. Chairman.

CHAIRMAN LAPOINTE: Jack.

MR. TRAVELSTEAD: That's acceptable to me, Mr. Chairman. Roy.

MR. MILLER: Mr. Chairman, I am comfortable with the biological consequences of this particular motion but to get us to avoid this becoming precedent-setting I was wondering if some wording, small wording insert in here to the effect that this is a one-time proposal, not to be precedent-setting, something to that effect, would at least put a marker in there that this is not how we propose to do business in the future? Thank you.

CHAIRMAN LAPOINTE: I think we can put the wording in if we want to but people's votes will reflect whether they think it's precedent-setting or not. Are we ready for the question? Mr. Boyles.

MR. BOYLES: Just a question if I may process-wise, we fax poll the Striped Bass Board, is that then the decision that carries the day on this decision?

CHAIRMAN LAPOINTE: That's correct. It would be, it would involve cycling in the AP somehow, as best you can, and then doing a fax poll with the Striped Bass Board members. Mr. Augustine.

MR. AUGUSTINE: That was the clarification I was looking for, Mr. Chairman, that the advisory panel gets an opportunity to see this before we take any further action.

CHAIRMAN LAPOINTE: Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. I may be anticipating where Mr. Boyles'

question is. It seems to me that the reason this is, one of the reasons this is before the Policy Board and it would affect all the states is because of the process issue and voting on this is an appropriate issue at the Policy Board for all the members. Thank you.

CHAIRMAN LAPOINTE: Do we need to caucus? Rich is done. Are the states ready? We have a motion before us and I'll read it, Joe. You've got me trained. The motion is to approve sending the following Maryland proposal for review by the Striped Bass Advisory Panel and a fax poll by the Striped Bass Board: a recreational striped bass fishery in the Susquehanna Flats from May 21 through 31, 2007, size limit 18 to 26 inches, one fish per person. Motion by Mr. Travelstead; second by Mr. Augustine.

Those members in favor please raise your hand; I have seven; opposed, like sign; I read that as approving this motion seven to six. Thank you.

MR. KING: Thank you. This is an amazing commission.

CHAIRMAN LAPOINTE: Let's not do it again, remember.

MR. AUGUSTINE: Be careful of payback, Howard.

CHAIRMAN LAPOINTE: Now, the next, the last item before the Policy Board – no, we have two more items. Do we have the South Atlantic Board issue?

MR. BOYLES: Yes.

CHAIRMAN LAPOINTE: First Roy Miller wanted to discuss something about de minimis.

### DE MINIMIS DISCUSSION

MR. MILLER: I would just like to put this out there that perhaps we could discuss this next time we get together and that is the confusion that has arisen in my mind this week and in prior meetings over the definition of de minimis and how it appears to vary from plan to plan, specifically.

Some plans' de minimis states are not required to implement size limits, creel limits, etc cetera, where other plans they are. There appears to be no consistency in this regard and so I think we need to at some point in time need to have some discussion in this regard. Thank you.

CHAIRMAN LAPOINTE: I just ask Bob if you

could put, grab some stuff from the charter for the broad de minimis language and then some definition based on the different plans as a springboard for that discussion. Great. We have one more agenda topic and Mr. Boyles.

### SOUTH ATLANTIC BOARD ISSUE

MR. BOYLES: Thank you, Mr. Chairman. The South Atlantic State and Federal Fisheries Management Board met yesterday and had a discussion and I have a motion for consideration by the ISFMP Policy Board.

That motion would be to **move on behalf of the South Atlantic State and Federal Fisheries Management Board that the ISFMP Policy Board authorize the South Atlantic State and Federal Board to begin development of a fishery management plan for southern kingfish in the 2008 Action Plan.**

CHAIRMAN LAPOINTE: That's a committee motion so I guess we don't have to get a second on it. Isn't it more, isn't the right time for this in the fall? Or help me out Bob or Vince.

MR. BEAL: The action plan is approved at the Annual Meeting. We, you know, start the development of that sometime around August-September, something like that. But I would, you know, we can review the impacts or evaluate the impacts on the resources and time and finances and see what this would mean as part of that planning process and then a final decision could occur during the October review of the action plan.

CHAIRMAN LAPOINTE: Is that acceptable? Does that, do we need to – I mean, you've got a motion to we should act on it. Robert.

MR. BOYLES: I think, Mr. Chairman, the idea here is just to let the Policy Board know that there is a fishery out there that is developing and we'd like to move as a board to develop an interstate fishery management plan on it. So the reference to the action plan was simply to put a marker in there that expresses the sentiment of the South Atlantic State and Federal Board that we'd like to do something along those lines. So, as a result, yes, this is acceptable.

CHAIRMAN LAPOINTE: So, I mean, because we have a motion should we, I mean to deal with it formally should we table it until the fall meeting, Vince? Or am I making this too complicated?

Should we just vote on it and get it out of the way?  
All right, no, I hear people saying they want to vote  
on it, which is fine.

EXECUTIVE DIRECTOR O'SHEA: Maybe the  
context here is to, you know, get a sense from the  
Policy Board whether staff is, you want the staff to  
go out and start to put together what it's going to,  
what is going to be needed to develop a management  
plan and have that built into the proposal for the  
action plan and then have you guys decide on it then.  
But the issue is to get a sense, does the Policy Board  
want to explore us doing this?

### **ADJOURN**

CHAIRMAN LAPOINTE: Is the Policy Board ready  
to give them that sense? All right, is there any  
opposition to this motion? Thank you. Thank you,  
Robert. Sorry for being confused. We have – that's  
it for the Policy Board agenda, is it not? So we'll  
move right into the business session.

(Whereupon, the ISFMP Policy Board meeting  
adjourned on Thursday, May 10, 2007, at 1:45  
o'clock, p.m.)

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