

**PROCEEDINGS**  
**of the**  
**ATLANTIC STATES MARINE FISHERIES COMMISSION**  
**INTERSTATE FISHERIES MANAGEMENT PROGRAM**  
**POLICY BOARD**

**November 3, 2005**

**Marriott Seaview Resort and Spa**  
**Galloway, New Jersey**

Approved February 23, 2006

## ATTENDANCE

### Board Members

George Lapointe, Maine DMR	Bernard Pankowski, proxy for Robert Venables
Patten White, Maine Gov. Apte.	Howard King, Maryland DNR
John Nelson, New Hampshire F&G	Bruno Vasta, Maryland Gov. Apte.
Ritchie White, New Hampshire Gov. Apte.	Jon Siemien, DC Fisheries and Wildlife
Dennis Abbott, NH Legislative Comm.	A.C. Carpenter, PRFC
Paul Diodati, Massachusetts DMF	Jack Travelstead, Virginia MRC
Bill Alder, Massachusetts Gov. Apte.	Kelly Place, proxy for John Chichester, VA
Mark Gibson, Rhode Island DEM	Preston Pate, North Carolina, DMF
Eric Smith, Connecticut DMR	Damon Tatem, North Carolina Gov. Apte.
Lance Stewart, Connecticut Gov. Apte.	John Frampton, South Carolina DNR
Gordon Colvin, New York DEC	Malcolm Rhodes, South Carolina Gov. Apte.
Pat Augustine, New York Gov. Apte.	Robert Boyles, Jr. South Carolina Leg. Comm.
Brian Culhane, Proxy for Owen Johnson, NY	Spud Woodward, Proxy for Susan Shipman, GA
Bruce Freeman, New Jersey DFG&W	Gil McRae, Florida Marine Research Institute
Erling Berg, New Jersey Gov. Apte.	Mitch Needleman, Florida Leg. Comm.
Ed Goldman, Proxy for Robert Smith, NJ	Jaime Geiger, USFWS
Eugene Kray, proxy for Curt Shroder, PA	Anne Lange, NMFS
Roy Miller, Delaware Div. of Fish and Wildlife	

### ASMFC Staff

Ruth Christiansen	Lydia Munger
Bob Beal	Brad Spear
Tina Berger	Nancy Wallace
Vince O'Shea	Mike Howard
Julie Nygard	Toni Kerns
Vince O'Shea	

### Guests

John Merriner, NMFS	Brandon Muffley, NJDFW
Linda Mercer, Maine DMR	Tom McCloy, NJDFW
Shaun M. Gehan, Collier Shannon Scott	Charles Givens, Stakeholder
Michael Doebly, Recreational Fishing Alliance	Paul Wesighan, NJDEP
Bill Goldsborough, Chesapeake Bay Foundation	Michael J. Kennish, Rutgers University
Wilson Laney, USFWS	Jon Siemien, DC Fisheries and Wildlife
Jim Joseph, NJDFW	

## TABLE OF CONTENTS

Welcome; Introductions.....	5
Approval of Agenda.....	5
Approval of Proceedings from August 18, 2005 Meeting.....	5
Public Comment.....	5
Review Staff Strawman Response to MRAG Report.....	6
Update Non-Native Oyster Activities .....	10
Law Enforcement Committee Report.....	17
Stock Assessment Committee Report.....	20
Management and Science Committee Report.....	22
Other Business; Adjourn.....	36

## Summary of Motions

November 3, 2005

**Move that the Policy Board adopt the October 21, 2005, document “Recommendations for Modifications to the Stock Assessment Process” and forward it to the Management and Science and Stock Assessment Committees with request to consider report and advise on further improvements and implementation.**

Motion made by Mr. Colvin, second by Mr. Lapointe. Motion passes unanimously.

**Move to approve the 2006 Stock Assessment Schedule.**

Motion made by Mr. P. White, second by Mr. Nelson. Motion passes without objection.

**Move to approve the 2006 Benchmark Peer Review Schedule.**

Motion made by Mr. Augustine, second by Mr. Nelson. Motion passes without objection.

**Move that the Policy Board task the Committee on Economics and Social Sciences with evaluating the costs and elements needed to provide estimates on socio-economic effects of a horseshoe crab harvest closure on horseshoe crab fishery and other fisheries.**

Motion by Mr. Freeman, second by Mr. Lapointe. Motion passes.

**Move that the Commission send a letter to NOS to continue to fund the Beaufort Bridge Net tow Survey.**

Motion by Mr. Carpenter, second by Mr. Woodward. Motion passes without objection.

**Move to adopt the recommendation of the MSC to form a fishing gear technology group with initial charge to develop a comprehensive report of past and present gear development along the coast, evaluate the work to see if it is ready to be implemented in the management process and identify research recommendations, and to determine the feasibility of such studies to other species and geographical areas.**

Motion by Mr. Diodati, second by Rep. Abbott. Motion passes without objection.

The meeting of the ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Salon C of the Marriott Seaview Resort and Spa, Galloway, New Jersey, on Thursday, November 3, 2005, and was called to order at 9:20 o'clock, a.m., by Chairman Preston Pate Jr.

**-- Welcome; Introductions --**

CHAIRMAN PRESTON PATE, JR.: Can the Policy Board come to order, please. Okay good morning. I will call the ISFMP Policy Board to order. Welcome everybody to this morning's session.

**-- Approval of Agenda --**

You have the agenda before you. And are there any changes to the agenda to be considered? Any objections to approval of the agenda? Seeing none, I will **consider it approved**. I know under other business we have several items that have been brought to my attention that are in need of discussion.

Gene Kray wanted to bring up a point about the Magnuson-Stevens proposed changes and some of that language. Howard King wanted to revisit Maryland's proposal for striped bass. I wanted to give an update on the oyster ESA listing.

And there was one more. Spud had something. All of those are very short so don't panic that we're adding four different items under other business. I think we can dispense with those very quickly.

**-- Approval of Proceedings --**

You also have before you the minutes from the August meeting. Any recommendations for changes to the minutes? Any objections to approval? Then **so approved**. Any comments from the public? Yes, sir.

**-- Public Comment --**

MR. MICHAEL DOEBLY: Thank you, Mr. Chairman. My name is Michael Doebly with Recreational Fishing Alliance. Good morning to

the members of this commission. Recently the National Marine Fisheries Service proposed revisions to various terms and ways it implements the Magnuson-Stevens Act.

One of these terms proposed for revision was moving away from the term "overfished" and moving toward the term "depleted." Recreational Fishing Alliance supports this change. We believe that it is a scientifically more accurate description of the status of a stock and how it applies to the commission.

We think some perfect examples may be, for instance, croaker -- there is general recognition of the natural cycles of abundance -- eel and river herring where other factors besides fishing have a significant role in leading to the status of being determined as overfished.

What we're requesting is that the Policy Board and the commission as a whole consider moving in the same direction and moving away from the use of the term "overfished" in commission documents, peer reviews, stock assessments, whatever the case may be, and begin using the term "depleted."

I'm not quite sure, frankly, the process of how you would consider that and may or may not ultimately decide to use that term but we would certainly like you to take it up and give it serious consideration. Thank you very much for your time

CHAIRMAN PATE: Thank you, Mike, and that's the very same point that Gene Kray wanted to bring up under other business this afternoon. I appreciate your sharing your opinion with us. Before we go to the agenda I also wanted to take this opportunity to recognize Mr. Marvin Moriarty who is the Region 5 Director for the U.S. Fish and Wildlife Service in Atlanta.

Welcome. I was confused. Six is in Atlanta. Five is in the northern part of the country that I don't go to a whole lot. Four. I'll get it right in a minute. (Laughter) Region 4. Five is in Atlanta, right?

Four is in Atlanta? Five is in somewhere else. And I didn't even get whacked on the head like my vice chairman here. (Laughter) Welcome, Marvin. Yes, sir, I hope you are learning something from this experience that's positive.

Having been here all week I question whether or not the balance is on that side, but welcome nonetheless. (Laughter) I hope it's a good sign that that region is trying to stay engaged with our process and actually increase your involvement and participation.

Okay, the next item on our agenda is Item 5, review of staff strawman response to the MRAG report. Dr. Cuomo is going to present the staff position on that item.

**-- Review Staff Strawman Response to MRAG Report --**

DR. CARMELLA CUOMO: Thank you, Pres. Last August the initial response was presented to the Policy Board and we received extensive and good comments on it.

We incorporated those comments into the second draft which went out to all of the commissioners and you've all read it and basically were there any questions or any discussion? We're here to do that.

CHAIRMAN PATE: Okay, any questions or comments to Carmella or any of the other staff? Ed.

MR. EDWARD GOLDMAN: Thank you, Mr. Chairman. I'd just like to comment that in reading this it occurred to me that I think it's a pretty good direction that we're going on, that we can recognize areas where we need to improve. And it seems to me that we're wasting no time in doing that. And I would just like to comment that I think that's a really good thing. Thank you.

CHAIRMAN PATE: Thank you, Ed. What we will be doing today on this item is approving it to be sent forward to the Management and Science and Stock Assessment Committees for their consideration of the recommendations that

are included therein to improve the process. Is there any more comments? Eric.

MR. ERIC SMITH: Thank you. Three or four comments. First, since at least the state directors among us know of my, the concerns I voiced in September on this I wanted to publicly comment the staff for the second draft.

How they approached it was a totally different and very beneficial and much appreciated approach. And I do appreciate that. So compliments to everyone who has been involved. The thing I see in it that I would ask us to keep our mind on, my concern in all of this has always been I think the same that Vince voiced when we first went out to the MRAG group.

How do we make our assessments and more timely? And all of what we're doing in my view is trying to get to that goal. As I read this and went back and read the initial report and the first staff draft I think there is a hierarchy of things that have been reasons that we haven't all been satisfied with the outcome of our assessments.

And there is a hierarchy of how economical or how efficient we can be in meeting some of those needs. And the first one in my view.

And I guess I'm saying this so that if anything as we send this out to the groups that we ask to review this we might want to give them a hierarchy of the things we think are most prominent and most economical ways to fix the process down the ones that may be very important to do but may be very laborious, time consuming and expensive.

So when we're setting priorities on what we want them to comment on, it ought to be economic and staff efficiency as well as functional improvements. The first one, in my view, is the communication drop that often occurs between technical and stock assessment groups and boards.

And we had a good example with lobster which was paralyzed for a while. How Vince handled that was to get the state directors who had staff

on those groups in a room and talk over the problem and then exhort us to go back and prop up our staff and get them moving -- instead of just focusing on a detail of an assessment that maybe was not productive, focus on getting a job done and make the science the best it could be.

And I think if we could end up out of this process with a communication strategy for dealing with the inevitable paralysis that happens when strong-willed scientists get in a room and they just want to pursue science for the sake of science, if they can't get past the hump with a staff nudge or a chairman's nudge, then we need to get together, whether it's a conference call or a meeting or however, and know that here is where we need to nudge our staffs.

And so that may be a little procedure thing we can do and in terms of economic efficiency it's probably the least expensive of all the things we could do in this whole process. The last on my list, and I won't give you the whole list.

The only other, the last on a list of three or four is I'm very wary about developing a large-scale, centralized data warehouse-type approach that supports assessments. And in saying that I have to also say it's a workload issue.

It's a commission staff members' workload which as a commissioner I'm concerned about but also a state agency's workload issue. But if you're a state you're going to look at it in two different ways.

If you have a large database of your own and a large survey effort that has gone on for years, this looks like an additional workload to get your data into form to meet the common standards and that's something you have to view with apprehension because there is no extra way to do that so it comes on top of all your other responsibilities.

If you're a state with little or no survey effort, this looks like a panacea. It's like, hey, somebody is going to do this stuff for us and we can be part of the whole process but we haven't

been able to generate the funding to do it ourselves. So depending on where you are in that realm you're probably going to look at this differently.

I would urge that we make sure that we don't bite off a workload issue like this unless it's absolutely necessary. So in a minute I'll talk about the topic in the staff draft that goes to that point.

My only other point before I talk about the document is as we go to these groups for advice we need to find a way to make sure that a lot of how we guide ourselves comes from the bottom-up instead of a top-down approach.

I don't know if that means going to every technical committee or every stock assessment group we have. I mean that would be a cumbersome process in its own right. But, I want to make sure that at the end of the day what we have to do to get good stock assessments on time is no more effort laden than it needs to be to get that.

And we'll probably benefit from talking to a few example stock assessment groups to say, okay, you do your stock assessments this way; what kind of data do you need to support that, what kind of process.

And then another group may use an entirely different approach because the data supports that approach or the species requires a different approach.

They may have entirely different data and analytical needs so we need some representative samples so that we don't set up one system and then decide after the fact that, you know, we needed two systems or we didn't need that one because most of our work is in the other approach. So, a sense of a bottom-up review is important in my view.

Now, where in the document I think we ought to place this to be in context of the staff draft, on Page 1 under ASMFC Recommendation 1.1, I would suggest that that statement be broadened to say "evaluate and standardize data sets and

data needs for assessments.”

And then in the body of the task — and I’ll read these quickly for tone but then I’ll give the copy to the staff. If you agree with the tone, then they can work out the words.

In the task right below 1.1.1 I would add a sentence that says -- the workshop that’s referred to in this task -- “the workshop will also examine whether assessment participants need raw data or simply survey indices from the partners” et cetera.

And at the end of that paragraph where they talk about two goals of the workshop a third goal might be to develop a list of standardized needs for assessment. So I would just broaden that recommendation to be need based as well as data set specific. My only other -- that is my only other substantive comment on it. And, again, my compliments on a job well done.

CHAIRMAN PATE: Thank you, Eric. Anyone else? Yes, Mark.

DR. MARK GIBSON: My question, I’d like to hear a little bit more about how the management and science, not so much the management and science but the technical committees are going to be approached.

What is their actual charge going to be? And I guess my concern stems from it was clear from yesterday’s weakfish proceedings that there are at least some members of the assessment and technical committee that are uncomfortable — if that’s the best word to use — about the nature of this review process.

And I just want to make sure you get structured and meaningful comments back out of those groups as opposed to independent sets of comments. So I’d just like to know more about what their charge is going to be and how that’s going to function.

CHAIRMAN PATE: Okay, thank you, Mark. Vince, do you want to comment on how we’re going to present this to those committees?

EXECUTIVE DIRECTOR JOHN V. O’SHEA: Sure, Mr. Chairman. I think the Stock Assessment Committee and the Management and Science Committee are both the appropriate venues to look at this. And I think the board ought to charge them to look over what the staff has drafted here.

And symbolically what’s going on, this draft is not, when we’re completed here today my vision is this is no longer the staff draft, this is the Policy Board’s draft, this is the way you all are thinking and the direction you all are moving and now what you’d like to do is have your expert advisors in those two other bodies look through that, give it a credibility test and look for their good ideas on ways to improve it.

And I think what’s important here is that you’re not taking the contractor’s report and simply dumping it on the Stock Assessment Committee and saying, “hey, fix the problem.” I think by this process you all, at the Policy Board, are accepting ownership for this and are sort of sending it down for their comment.

I don’t know if that’s enough structure but I think for their review and comments and to get back to the Policy Board, Mr. Chairman, is how I’d answer the question.

CHAIRMAN PATE: Thank you, Vince. That’s sort of the way that I envision it. And will you see that happening with their recommendations or report at the next meeting?

EXECUTIVE DIRECTOR O’SHEA: Well, I think part of it is going to be how comfortable they feel of being able to do it through correspondence or whether they’re going to feel that they need a face-to-face meeting. I think certainly you all would task them and then we’d get a sense for that.

But obviously this came out of a situation that’s been brewing for a couple of years now and the sooner that we move forward, but in a deliberative way so that we have good things. So I guess I don’t have a real timeline in my mind. If they can do it by correspondence I think the sooner the better.

CHAIRMAN PATE: But if not they could discuss it, send it to them to review by correspondence between now and our next meeting and if necessary they could meet and discuss it during the meeting week.

EXECUTIVE DIRECTOR O'SHEA: Yes, Mr. Chairman.

CHAIRMAN PATE: Okay, thank you, Gordon.

MR. GORDON C. COLVIN: Are you looking for a motion, Mr. Chairman?

CHAIRMAN PATE: Yes, I am.

MR. COLVIN: Thank you. Then I'll offer a motion and then I have a comment, if I could. I would **move that the Policy Board adopt the October 21, 2005, document recommendations for modifications to the stock assessment process and that the board forward this to our Stock Assessment Committee and our Management and Science Committee with a request that they consider this report and advise us of further improvements that can be made and their recommendations on how to implement the recommendations in this report.**

CHAIRMAN PATE: Thank you, Gordon. Seconded by George Lapointe. And George, I had recognized you for some comments. Oh, I'm sorry, Gordon.

MR. COLVIN: I do have one comment and I'd like to specifically support the first thing that Eric said, just in terms of the need which may or may not yet be and may not even be appropriately incorporated into this document, for the managers, and that's the people sitting around this table, to better engage the stock assessment process than we have in the past.

I think this Policy Board I think consists of 49 members. And I think all 49 of us too often in the past have looked at the stock assessment process as a black box out there that in the end spits at us what we need. And we've -- and I've

certainly been guilty of this -- too often not paid attention to how that process is working and the fact that it is conducted by people.

I think all of us, every one of us, needs to bear that in mind and just as we do everything else that we do in our jobs and our personal lives understand that as the people who are the responsible managers of these fisheries, we need to manage that part of the process as well.

And in some cases that requires managing the people and paying much more careful attention to the process itself and what is working and what isn't working and to intervene as necessary as managers and help guide the process to successful completion.

And I, too, will acknowledge the good job that Vince and the staff did -- Vince and Bob and Toni and their predecessors to a degree -- on this last lobster stock assessment. This was a, I was chairman of the Lobster Board the last time we did an assessment.

It's a beast. It is the worst. It's unbelievable. And this one was rolling out no better than the last one except that we had a little bit better data since we had the database in place.

And it could have blown up on us and yet it was brought to successful conclusion and a consensus that was supported in peer review that now can support improvements to the management process.

And I'll hold that up as a model to anybody on how to get through something. And it's something that we're all going to have to do. If you're going to be a board chairman, you're going to have to get your hands dirty in the stock assessment process.

Everyone of us, not just the state directors, needs to pay more attention to this stuff and to what is making it succeed and what is impeding success and get involved. Thank you.

CHAIRMAN PATE: Thank you, Gordon. George.

MR. GEORGE LAPOINTE: Mine is a bit of a follow up on Gordon's comments. I'm glad this review was done and it's a recognition of the hard work we ask people to do in the assessment process. We ask all of our staffs to do too much with too few resources.

And as we move forward with reports like this and improvements to the assessment process -- and we certainly saw it in lobster before Gordon was chair where people saw criticisms of the assessments as criticisms of their career or their professional life.

And another part of engaging in the assessment is making sure that we look at it, at improvements as constructive criticism and building our process. I mean I certainly, I've been at arms length from weakfish very purposefully but I observed some of that yesterday and I certainly saw it in lobster so we just need to pay attention to that as we continue to roll on.

CHAIRMAN PATE: Thank you, George. Any more comments on the motion? Seeing none, do we need to caucus? Seeing no interest in that, all those in favor of the motion please signify by raising your right hand; all opposed, like sign; abstentions; null votes. The motion passes, all in favor. Gordon.

MR. COLVIN: Sorry, but one last comment on the subject, Mr. Chairman, and, again, this builds on something Eric said. He makes a good point with his comment on the sharing of data. And it comes right home because Connecticut has a long-term trawl survey in Long Island Sound and New York does not.

And I understand exactly what he is talking about in that context. At the same time, there is something really, really important in here in terms of the issue of sharing data among the managing partners and sharing the analytical tools with which the data is used, the models and the assessments.

We haven't always done that in the past. We've had real problems. And what George said about reminding us about what happened with lobsters

before and, sadly, during the time I was chairman, hit me right between the eyes where we had models and we've had other models in the past.

And you know I'm not picking on anybody but the harvest control model comes to mind where this commission is making decisions on how to manage species that affect users up and down the coast with using models that were not in custody of the commission but with individuals and we had limited access to them. If we were ever challenged in court, for instance, what would we have done? We couldn't have generated an administrative record.

So this prospect of sharing everything that is the basis of our management is incredibly important and it's very consistent with, frankly, how our culture has evolved over the last 10 or 15 years.

CHAIRMAN PATE: Thank you, Gordon. Okay, before we go to the next item let me mention that you were each given a draft letter that was formulated out of the Management and Science Committee yesterday to be sent to each of you regarding the opportunity to take advantage of the FERC re-licensing process to enhance upstream passages of diadromous fish.

That was mentioned earlier this week in the Eel Board I think -- well, it was in one of the board meetings anyway, same subject. And we'll be discussing this draft letter in the report from the Management and Science Committee today so if you can multitask a little bit and familiarize yourself with that between now and then that will be helpful. Update on non-native oyster activities. Bob Beal.

**-- Update on Non-Native Oyster Activities --**

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. So, as you folks read your letters I'll go over the update. (Laughter) No, I'm just kidding. The update on the non-native oyster project is pretty straight forward.

The project delivery team that's developing the environmental impact statement is continuing to work on it. The timeline has slipped a little bit.

They're hoping to get, they were hoping to get done in early 2006. It probably won't be done until sometime later that year. The timeline hasn't been really firmed up other than we know it's not going to be ready in early '06.

The big news on the commission front, I guess, is that our Interstate Shellfish Transport Committee will be meeting December 15<sup>th</sup> and 16<sup>th</sup> to start their deliberation and review of the environmental impact statement working or process.

This will be a two-day meeting. The first day of the meeting will be a number of the primary investigators and the coordinators of the EIS development will come in to present to the Shellfish Transport Committee on progress so far on the research that's being done and some of the initial results of that research.

And the second day of that meeting will be time for our committee to get together, deliberate, and determine if there are any recommendations, comments, or any feedback that they might want to provide to this Policy Board.

And the process we've set up is the Transport Committee provides feedback to this board. This board then decides if they want to forward anything to the project delivery team that's developing the environmental impact statement.

So that was the process that was agreed to I think probably two years ago by this board when this project was just getting started. So, you know we've kind of gone through stops and starts of getting our shellfish committee involved and they've been invited to a number of meetings.

They haven't sat down for an extensive meeting and review of the progress to date but they're going to do that in early December now that there is some preliminary results coming out of the research efforts for non-native oysters. So that's the quick summary of where we are. I think we'll have a lot more to report back at the February meeting once that group gets together, Pres.

CHAIRMAN PATE: Thank you, Bob. Any questions? Jaime.

DR. JAIME GEIGER: Thank you, Mr. Chairman. Bob, I don't believe I've seen an updated membership list of the Shellfish Transport Board. Is it possible for us to get a list and, again, make sure we get notices of that intended meeting as well. Thank you.

MR. BEAL: Sure, I'll send that around as well as the meeting notice.

CHAIRMAN PATE: Gordon.

MR. COLVIN: Bob, as I recall, this activity was generated at the suggestion of the state of Maryland in the context of an Army Corps led effort to develop a federal NEPA EIS in conjunction with the evaluation of introduction of *ariakensis* in Maryland.

I read something recently and I wonder if the commonwealth of Virginia could comment on it with respect to indication that things may be going forward in Virginia in a different timeline or in a different process. I wonder if there is a disconnect between what we've been doing and what may be going on elsewhere.

CHAIRMAN PATE: Jack.

MR. JACK TRAVELSTEAD: I'd be glad to respond. In fact, I had wanted to bring this up after Bob finished his report. There is currently before the Commissioner of Marine Resources a new proposal from the Virginia Seafood Council.

It's a little bit different than their prior three or four proposals that resulted in the placement of triploid *ariakensis* overboard in Virginia under very controlled and monitored conditions.

Their latest proposal requests that the Marine Resources Commission place 10,000 triploid *ariakensis* on state owned bottom lands and leave them there until they reach market size, at which point they could be harvested.

There is, within their proposal there are no

provisions for monitoring or containment in any structure. And it was noted during a public hearing a few weeks ago that part of the intent of the Seafood Council is to determine or at least clarify through court proceedings whether or not the Clean Water Act and the Rivers and Harbors Act have any jurisdiction on the placement of a non-native oyster overboard when structures are not involved.

And so this request is sort of being reviewed as something that will lead to a test case. We also have a new law in Virginia now that was implemented last July that grants the Commissioner of Marine Resources sole authority in decisions of this nature at the state level.

The public, the required public hearing has already been held on the proposal but the commissioner cannot make a decision no sooner than 30 days following that hearing and no later than 60 days.

So sometime between Thanksgiving and Christmas he will have to make a decision but he has announced that he will continue to take public comment on this proposal up through Thanksgiving. So I realize there is not time perhaps for this board to deliberate but I would certainly encourage the individual states to send public comment to Bill Pruitt on the proposal.

I will be glad to share, if you don't have a copy of the Seafood Council's proposal I will be glad to get that out to you. It's a simple, one-page document so we'll get that faxed out to you if you don't have it.

CHAIRMAN PATE: Thank you, Jack. I would like to have a copy of that. It sounds like Bill is going to have a happy holiday. (Laughter) Gordon.

MR. COLVIN: Thank you. I, too, would. I would just suggest maybe it would be appropriate to send it to all the board members, Jack. I also wonder whether it would be useful or helpful since we have an upcoming meeting of our Transport Committee scheduled, to suggest that a review and discussion and perhaps

recommendations on the Virginia proposal be added to the agenda of that meeting.

CHAIRMAN PATE: Yes, so that meeting will be during the comment period if it's December 15<sup>th</sup>.

MR. COLVIN: Correct.

CHAIRMAN PATE: Is that correct, Jack?

MR. COLVIN: It may be after.

MR. TRAVELSTEAD: Knowing Bill Pruitt, I think he is going to take as much time as the law allows before he makes the decision which would be, you know, a day or two before Christmas.

CHAIRMAN PATE: Okay, thank you. Bruce.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. I'm looking at several comments made by the National Academy of Science when they did their report on this issue and one of the recommendations was that an inter-jurisdictional decision making group with binding authority over the introduction of such non-native species actually be formed.

And I'm curious if there was any discussion, Jack, in the Management and Science Committee relative to this aspect of the academy report. Was that an issue that was raised at all? Did anyone discuss that? And then the question would be, if in fact it was, was their discussion whether in fact the commission would or would not be appropriate for such an action?

MR. BEAL: Bruce, I'm not aware of any discussions that took place at the Management and Science Committee. I can see the chair of the committee is in the back of the room kind of shaking her head no, that that did not occur at the Management and Science Committee. And I'm not familiar with anyone making that recommendation or proposing that in any of the other boards and committees that have been discussing this issue.

MR. FREEMAN: If I may, this also may be an

appropriate item to raise at that Shellfish Transport meeting.

CHAIRMAN PATE: Okay, thank you, Bruce. A.C.

MR. A.C. CARPENTER: To that point, I think that the, and let me back up for just a second. For those people that weren't here a few months ago, Gordon characterized it as a Maryland proposal. The EIS is a bay-wide proposal that is joint with Maryland, Virginia and the Corps of Engineers acting as a federal partner to that.

And PRFC is involved in contributions to this entire process. But I think to Bruce's point, when we reviewed the document that had the recommendation, there is no interstate authority except this commission that has any, well, I don't know that this commission has authority to rule on it but we viewed this commission as the legitimate place to bring in the multi-state East Coast opinion into this process.

And we did not take it to the Management and Science Committee. We had a discussion around this table as the most appropriate place and the decision was that we would reconstitute the Shellfish Committee to act in that capability to address the very concern that was raised in the review that was done by the National Academy. Does that help clear up?

MR. FREEMAN: It does to a point, A.C. But it's unclear as to what weight a recommendation of the ASMFC would have on this whole process. I mean essentially the commission does not have decision making authority under the recommendation of the academy.

And some group could be formed. It could be this group. It could be a completely independent group that is formed especially for this occasion. And it's just simply unclear as to what the Shellfish Transport advice or recommendation would carry, just as a recommendation. Is it more binding than that?

CHAIRMAN PATE: Well, yes. Just my opinion, Bruce, I don't think it could be binding but it would be a recommendation to the

interested and involved states on how they might carry out activities or respond to those proposals from the bay.

In North Carolina we have a similar issue that's not burning quite as white hot now as it was a year ago but we would draw from the guidance of the Transport Committee on how to respond to these problems at home. Jaime.

DR. GEIGER: Thank you, Mr. Chairman. Again, I share some of Bruce's concerns. And, again, I think the National Academy of Science document is pivotal to be provided for our Shellfish Transport Board as one of the keystone documents as they get more engaged in this issue.

And certainly I know there is a lot of policy implications in this issue that I think do indeed need to be vetted out in more detail and I think a more inclusive nature by probably this Policy Board.

And certainly I think some of the issues that Bruce has raised and others have raised about the appropriate role of ASMFC in issues such as this I think are right for discussion and right for the debate. Thank you, sir.

CHAIRMAN PATE: Howard.

MR. HOWARD KING III: Just to let the commission and the board know that Maryland and Virginia are still about ten months away from concluding the biological, ecological and risk assessment portions of the environmental impact statement.

There is an international, independent advisory panel that has been formed to guide this process, particularly on the research side as far as the validity and competency of the research. Maryland is making a concerted effort to do as much outreach as we can.

So from a Maryland standpoint, and I think Virginia would join us in this, we would certainly come to the Transport Committee or any other group and keep them fully informed as we move through this. But we're still about ten

months away from a resting point with a preferred alternate established from the EIS.

CHAIRMAN PATE: Okay, thank you, Howard. Bob, you had one more comment to make on this.

MR. BEAL: Mine is real quick. Just based on Jaime Geiger's comment earlier requesting a list of members of our Shellfish Transport Committee and some of the other comments around the table that, you know, people may be interested in asking them to do different tasks, I will send out the list to everyone.

Please look it over. I think we established the committee or revitalized the committee probably two years ago so it may be a little bit dated right now so look it over.

If you want to make some changes to your membership on that committee or recommend other people that should be included that aren't from universities or something, kind of outside the normal state structure, just let us know and we'll try to accommodate those requests.

CHAIRMAN PATE: Roy.

MR. ROY MILLER: Thank you, Mr. Chairman. Let me share with you a few concerns that have occurred to me as a result of this discussion. I guess I have some uncertainty in my mind perhaps due to my ignorance of the process.

But it would appear to me that maybe Virginia is a little out in front. Is that a fair characterization, Jack, of Maryland in regard to their field investigations and field deployment of ariakensis? Is that a fair characterization? And if so I'm wondering why.

I appreciate Jack's willingness to send out to the members of this commission the one-page description of this deployment of triploids. But any deployment of triploids, as many of us know, is not totally without risk of reversion to diploid state, albeit at a very, very low percentage.

I think it's fairly well documented that such reversion is known to occur. So, any deployment at this stage in time of triploids does carry a very small element of risk. And it concerns me a little bit that perhaps Virginia is out front of Maryland in the process. Can you help me with that?

CHAIRMAN PATE: Jack.

MR. TRAVELSTEAD: Well, I guess for the last four years there have been three proposals that were offered by the Virginia Seafood Council that went through both the state and federal permitting processes successfully that resulted in the placement of up to one million triploid ariakensis oysters overboard in Virginia.

There were some, I believe, 35 state and federal permit conditions associated with those deployments, most of which had to do with extensive containment structures, monitoring, and disbursement of the animals within the containment structures to a level that reduced the risk to acceptable levels.

It's not so much a problem of reversion of the triploids to a diploid state. It is a, the biggest issue is the fact that the process that is used to create the triploids is not 100 percent perfect; and in fact, it typically results in one animal out of a thousand not being a triploid but a diploid.

And so if you're deploying tens of thousands of these animals, you have to assume that one in a thousand is actually capable of reproduction. And so to minimize two diploids from being within a certain proximity of one another and then potentially successfully spawning there has to be conditions that keep these animals spread out geographically so that doesn't occur.

And those conditions are part of all of the prior and current experiments that the Seafood Council has permission to operate. There is only one current project underway now and it's similar to all the others. It has all these project conditions on it. It's an attempt to determine if the ariakensis animals can reach market size in less than a year.

One of the permit conditions, in fact, is that all these animals, if they don't reach market size, will come out of the water prior to the next spawning season next spring. So, I mean we are reasonably confident in that those projects are safe.

They were reviewed by, you know, all the appropriate federal agencies and of course that's what resulted in all these permit conditions. Now, this latest proposal is something entirely different because it does not contain you know any type of -- any of these permit conditions are not being proposed. I mean there is no containment structure.

These animals would be placed loose on the bottom. And there is no time restrictions in terms of pulling them up during spawning season. So, yes, I mean that proposal if it were to be approved would put Virginia well out in front of the EIS process and that's why I brought it to your attention.

CHAIRMAN PATE: Okay, thank you, Jack. Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. I just wanted to offer a couple of comments from the standpoint of the Habitat Committee, first to remind the board that the commission really initiated its involvement in this issue with a workshop about two years ago, Bob?, that was jointly hosted by the Habitat Committee and the Management and Science.

And I do recall that one of the motivations for that was the feeling of those committees that this commission could and should serve a very important role -- echoing A.C.'s comments -- in bringing the input of the states all along the coast who obviously have a stake in this to the table in that decision making process, albeit -- responding to Bruce's comments -- without actual authority.

But the committee, the Habitat Committee I know feels strongly that the commission's voice should be heard. And I, personally, am confident that it will be.

Also I wanted to just reinforce the comments from the committee at previous board meetings, Policy Board meetings, that it continues to have concerns and interest in the habitat implications of a possible introduction and would like to continue to be involved as the commission deliberates.

So, perhaps there is a way for a liaison between that committee and the Shellfish Transport Committee or at least have it be informed of those proceedings one way or another. Thank you, Mr. Chairman.

CHAIRMAN PATE: Okay, thank you. Jaime, you had a last comment on this, perhaps.

DR. GEIGER: Yes, sir, thank you very much, Mr. Chairman. I appreciate Jack's comments and further explanation on the previous Virginia Seafood proposals.

Certainly the service was engaged very heavily in providing some of those permit conditions and certainly although that certainly to be very fair we were not totally satisfied that many of our concerns were taken into account and I certainly appreciate that.

But, at some point in time one has to take a level of notice about what is the acceptable amount of risk. We have taken that acceptable amount of risk over some of the previous proposals. At some point in time you get the information, draw the line and make a conclusion.

In our minds, we are continually adding additional risk with each proposal into the overall situation. That does raise concerns for us and it speaks directly to some of Roy Miller's concerns as well. This continues to be a concern for us and I would hope also be an issue that the Shellfish Transport Committee should also be engaged in and discuss. Thank you.

CHAIRMAN PATE: Thank you, Jaime. Gordon.

MR. COLVIN: It occurs to me, Mr. Chairman, that there is another issue here that may be of concern to the state fish and wildlife agencies,

generally, and that Jack alluded to in his discussion and that is the question of the extent of appropriate federal regulatory jurisdiction over the introduction of animals into state waters or into state ecosystems. And you know that is a horse of a different color.

And I suspect that if we step back from the oyster issue and look at the broader ramifications of that as marine resource managers, if we expand the scope of the consideration of that issue to our inland fisheries and wildlife agencies and the International Association of Fish and Wildlife Agencies, we might see that in a somewhat different and more important light.

And I'm wondering whether some separate discussion and inquiry into that policy issue itself ought to be considered. There is a concern in my mind about assertion of federal regulatory authority for simple introduction of animals. Where does that stop? That's a real slippery slope.

And I think we ought to give some thought to that, perhaps initially by reaching out individually. And I'm wondering, Jack, if you can send us some more information -- it would be helpful to me -- that I can share with others about that specific issue and how it has been scoped and how it might get decided.

And I'm going to suggest that I, at least, will be certainly talking to others in my division about the ramifications of that with our council's office and suggest that perhaps the international might want to engage as well.

CHAIRMAN PATE: Yes, I agree, Gordon. And I think Jack alluded to the possibility that out of this proposal that he just described that there would grow some legal challenges and some court decisions on just the jurisdiction that you're talking about.

And I attended one of the first meetings that the EIS development group had and that was one of the points of debate, just what jurisdiction the Corps of Engineers and the other federal agencies had over that introduction and how that

could be addressed through the EIS process.

I think it's extremely important and it sounds like they might have designed this current proposal to test that very point of authority. Jack.

MR. TRAVLELSTEAD: There is a paper that was prepared by a private attorney in Virginia that I think sort of describes the Seafood Council's thinking on these issues. And I think that's in the public domain and I'd be glad to share that with you if I find that's the case.

CHAIRMAN PATE: Jack, if you will send that to the staff they will distribute it out.

MR. TRAVELSTEAD: That'd be great. Appreciate it.

CHAIRMAN PATE: Thank you. Okay, any more comments on the non-native aspect of this agenda item? And I had mentioned earlier an update under other business of the environmental, the Endangered Species Act listing of the Eastern Oyster and I'll go ahead and do that now while we're into shellfish.

You may remember that Dieter Busch who used to be a member of the ASMFC staff filed a petition with the National Marine Fisheries Service last year to list the Eastern Oyster as an endangered species.

The National Marine Fisheries Service accepted that petition to the extent that they formulated a status review team to do, as the name implies, evaluate the health and status and distribution of that stock throughout its range.

I have a staff participating on that staff review team and know a little bit about their deliberations so far, to the extent that he can share. It's quite confidential, as I understand it.

But they've had one or two meetings and were well underway with the process when Mr. Busch wrote a subsequent letter to National Marine Fisheries Service withdrawing his petition after he realized the ramifications of what he has asked to be done, putting NMFS in somewhat of

an awkward position with the investment and recognition that they had already made into that, with the investment that they have made into the process and the recognition that the advancement of that review was necessary under the provisions of the Act.

So they accepted the request to withdraw but decided to go forward with the process of the status review team and hopefully out of that would be some useful document that the individual states could use in their shellfish management program. Is that a correct characterization of it, Anne?

MS. ANNE LANGE: Yes, it is. The review will be finished, since it was started and I think there are specific reasons in that, but it will provide further advice. Yes, you're right.

CHAIRMAN PATE: Thank you. Okay, moving on to the next item on our agenda. A.C., I'm sorry.

MR. CARPENTER: If I can ask Anne a question, then, for clarification.

CHAIRMAN PATE: Certainly, go ahead.

MR. CARPENTER: Does that mean, then, that the National Marine Fisheries will not be ruling on the petition at all? You will complete the study and it will be an informational document but there will be no ruling with regard to endangered species?

MS. LANGE: I don't think a decision has been made on that. I think that's the direction things are going but of course it depends on what the status review shows. If there is some, you know, grave problem, then I'm sure -- a decision hasn't been made yet, but I think that they're not expecting that.

MR. CARPENTER: Thank you.

CHAIRMAN PATE: Okay, the next item on the agenda is the Law Enforcement Committee report by Mike Howard.

**-- Law Enforcement Committee Report --**

MR. MICHAEL HOWARD: We resemble that remark. Thank you, Mr. Chairman. It's an honor to be here as a law enforcement representative. We have a new chair this year. Our chair starting officially yesterday was Jeff Marston from New Hampshire with a vice chairman of Steve Bowman from Virginia.

Mr. Chairman, we appreciate North Carolina's allowance of the use of Colonel Joe Lynch who has done an admirable job for the last two years as chairman. We also want to thank members of this committee and their predecessors, most likely, and others who had the foresight to recognize that law enforcement potentially had the values and the contributions necessary to receive the David Hart Award.

As everyone knows, Colonel Rob Winkel, now retired, received that award. And listening to his accomplishments I can only think that Captain Hart would be very honored that Colonel Lynch received that. So, again, thank you. I'm sorry, Colonel Winkel received that.

We do want to thank -- it was Colonel Winkel retired. And we do want to thank, the impetus of that was thanking everybody for allowing law enforcement to participate once again in the process.

The LEC's work is centering on how we can best support management's regulatory enforcement efforts. We, as a committee, continue to recommend compliance measures that we feel are easily understood by the public, officers and managers and easy to enforce. Simplicity is the real key to public support and compliance.

We educate officers, fishers, and contacts at each one of the stages of new regulations. Although we have many concerns in the field of difficult to enforce regulations, some current ones in FMP enforcement include: lack of funding to enforce new regulations and efforts.

Anytime a new initiative is undertaken that requires additional resources or additional time to enforce, we almost never get additional

funding, similar to the way managers are being tasked to do certain things and the funding concerns they have.

Current possible proposals that emphasize these difficulties are things like: identifying males only in a spiny dogfish and weighing 600 pounds and identifying each of those as male which we can enforce but it will require more time and is more difficult; current thought processes that may lead to proposals or options of measuring eels and identifying their life stages. As an enforcement officer, can it be done? Yes, it can. It will be very difficult, time consuming and expensive.

The LEC will soon report on proposals in this EEL FMP plan and the American Lobster Plan which we have also demonstrated to be very difficult to enforce and ever-changing and problematic to achieve compliance.

FMPs that are easily understood are easily handled by judicial process and supported in courts. These efforts resulted in several jail sentences this past year for egregious offenders. The laws they violated were simple. The violations were egregious.

We're working with the NOAA Office of Law Enforcement to increase penalties for striped bass violations in the EEZ. This was brought up at the spring Striped Bass Board. We voted to support those efforts.

I saw it wasn't on the agenda but in the meantime the NOAA Office of Law Enforcement has agreed in principle to raising summary penalty fines for recreational fishers and reviewing all other penalty structures in the EEZ.

Under Magnuson, the law enforcement of both the federal and state patrols are requesting access to data, access to data that will allow us to help manage enforcements efforts. To date there are many problems with states not having access to any of the data unless it relates directly to a Magnuson fishery.

One specific example of how useless VMS is on

a boat is in the herring fishery. Herring closures are a state rule off New Hampshire and Massachusetts. Access to where those boats are fishing is not available to state officers who must enforce it.

We are simply working to ensure that data received through VMS and other aspects can be used to seek compliance with the FMPs through the Magnuson reauthorization. We ask for your support in changing sections of Magnuson that will assist us in doing our job.

CHAIRMAN PATE: Mike, excuse me, can I ask you a question. Would that availability be contingent upon a JEA with the state?

MR. HOWARD: The current wording requires that we have a cooperative enforcement agreement. And I understand your asking that question. No, it does not require a JEA which is where you have to be deputized, et cetera.

It does require a cooperative enforcement agreement which says, if we're going to work together these are the parameters which we will work. If we give you this information you can use it for X. It does not require the subsequent JEA and funding.

CHAIRMAN PATE: Okay, thank you.

MR. HOWARD: JEAs, speaking of which, have become an important funding component of many states' law enforcement efforts. We certainly hope this funding can remain stable. It has become a significant part of some states in an effort to make up for those portions of new regulations they are required to enforce without additional funding from their state.

There is also some funding that is available and has been taken advantage of to enforce marine protected areas, marine sanctioned areas, sanctuaries and marine mammal protected species.

These funding sources are vital but still fall short of new requests to enforce these MPAs, closed areas, and labor-intensive efforts of new regulations. The examples of these are many.

However, overall the enforcement group feels that they have remained a very important part of the process. They appreciate the opportunity upfront to comment on whether things are more enforceable or less enforceable. And with that I will take questions.

CHAIRMAN PATE: Okay, thank you, Mike. Any questions for him? Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. Mike, could you provide us with specifics on how you would like help in getting the support to change so the states can get the VMS data.

MR. HOWARD: Yes, sir, I will. I would have done that except our meeting has left an open-ended phone call to the federal entities to find out the exact status and there are 1,800 comments, I understand, that have come in. So in the near future this board will receive a formal request outlining that. Thank you.

CHAIRMAN PATE: Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. I would suggest that that specific request, if approved by the commission, be sent on to our councils because they, too, are asked to comment on the reauthorization of the Act and they may also be very supportive of such an action.

CHAIRMAN PATE: Okay, thank you, Bruce. Pat.

MR. PATTEN D. WHITE: Could anybody enlighten me as to what the interaction is between Homeland Security now and the JEAs and some of the states getting severe cutbacks in Homeland Security this year?

CHAIRMAN PATE: Mike.

MR. HOWARD: To the limited degree that I know -- and I have reviewed at least one JEA funding request and a Homeland Security request -- they are independent funding sources. The duties of Homeland Security and the

funding of that are separate from Joint Enforcement Agreements.

They are a Joint Enforcement Agreement but they are under Homeland Security and not through the funding sources for fisheries. The cutting back of Homeland Security is yet to be seen how it is going to affect.

I think everybody knows there was a lot of dollars thrown out there. There was a lot of responsibility thrown out there. Many of those dollars did not go to marine resources. They are separate.

The cutting back of one will ultimately result in cutting back of those specific duties of Homeland Security and not fisheries enforcement. I don't know if that answers your question.

CHAIRMAN PATE: Okay, any more questions of Mike? Yes, Ed.

MR. GOLDMAN: Thank you, Mr. Chairman. Mike, you mentioned that, if I got this right, that the committee did recommend substantial fines for recreational fishermen in the EEZ.

MR. HOWARD: Recommended to support Eric Smith's motion which was suspended at the spring meeting to substantially increase fines for striped bass violations in the EEZ.

MR. GOLDMAN: I thought that's what you meant. Did your committee come up with a number figure on that or just to increase them substantially?

MR. HOWARD: Numbers, violations, deterrents were discussed. General counsel is weighing options and without me giving you a specific number now, there is a weighing and a balancing, something that is reasonable, that provides a deterrent but also will not penalize and require someone to go to court and jam up the court systems.

MR. GOLDMAN: Understand. Thank you.

MR. HOWARD: We're trying to bring them

inline with other states in a general way.

CHAIRMAN PATE: Okay, thank you, Mike. Next item on the agenda is the Stock Assessment Committee report. Patrick Kilduff is going to give that on behalf of the committee.

**-- Stock Assessment Committee Report --**

MR. PATRICK KILDUFF: Thank you, Mr. Chairman. I am here on behalf of John Carmichael who is now chair of the Stock Assessment Committee. He couldn't attend the meeting today to give the report.

The staff has just passed out the Stock Assessment Committee report as well as the Management and Science Committee report. There is, each of them are a single page. There are front and back but each page is part of the report for each committee.

The Stock Assessment Committee met on September 27<sup>th</sup> and 28<sup>th</sup> in Alexandria, Virginia. And they addressed several items. At this time there is only one action item which is the review of the 2006 benchmark stock assessment schedule.

The Stock Assessment Committee is always reviewing the upcoming assessment schedules for workload concerns. In 2006 we have, there are three scheduled benchmark stock assessments. The American shad assessment will be finished up in 2006 and it's going to go through an ASMFC external peer review process.

Spiny dogfish is scheduled for a 2006 assessment and it's going through the Northeast Fishery Science Center's SARC process. And Atlantic herring is scheduled for a 2006 assessment that's going to go through the Transboundary Resource Assessment Committee which is a joint process between Canada, DFO and the National Marine Fisheries Service.

And I also want to note that it's not, the Weakfish Management Board did request that the weakfish stock assessment go through a peer

review in 2006. And as far as the workload concerns, since the stock assessment is complete it shouldn't require any additional workload on the stock assessment scientists for that group.

So, I guess we need, at this time I'd like to request to see if -- we need approval of the stock assessment schedule for 2006. And it's on the back of the committee report if you'd like to take a look at it. There are several updated assessments that will occur.

The annually updated assessments include striped bass, northern shrimp, summer flounder. And the weakfish assessment is not scheduled for an assessment update in 2006. The menhaden will be an interim assessment between peer review and it's also on the schedule for 2006 as well.

CHAIRMAN PATE: Okay, thank you, Patrick. Are there any questions of Patrick about the schedule, the species that are cued up for that? Yes, Robert.

MR. ROBERT H. BOYES, JR.: Mr. Chairman, my question is not about 2006 but about later on. Is it appropriate to ask that question now?

CHAIRMAN PATE: Yes.

MR. BOYLES: Mr. Chairman, we, at the South Atlantic Board, discussed the red drum stock assessment and I was under the impression the date was 2008. I see here from the stock assessment it is scheduled for 2009. Can I get some clarification on exactly when we're talking about the red drum stock assessment.

CHAIRMAN PATE: Patrick.

MR. KILDUFF: I received the update for this. Red drum is scheduled to go through the SEDAR process through the South Atlantic Council and I received the updated schedule from John Carmichael and the schedule simply had moved red drum from 2008 to 2009. I do not know why that occurred at this time. It was just on the schedule.

CHAIRMAN PATE: We can find out. Thank

you. Any more questions on the schedule? I need a motion to approve it.

MR. WHITE: **So moved.**

CHAIRMAN PATE: Moved for approval by Pat White. Second by George Lapointe. Oh, I'm sorry; they do live in the same place. Second by John Nelson of New Hampshire. Yes, George.

MR. LAPOINTE: With the approval are we including the peer review of the weakfish assessment in 2006, I assume? Or is that not part of that because that's assessments and not reviews? No, that's a peer review schedule so that should include that, right?

CHAIRMAN PATE: Yes.

MR. LAPOINTE: Maker of the motion? Thank you.

CHAIRMAN PATE: And that is scheduled for 2006, right? If I'm reading this right. Yes, Patrick.

MR. KILDUFF: It's under the purview of the Management and Science Committee to discuss the approval of the peer review schedule. This is, the Stock Assessment Committee has purview over the stock assessment process. So you can consider the weakfish peer review schedule when the Management and Science Committee report is given or you can do it at this time as well.

CHAIRMAN PATE: Okay, thank you, Patrick. But I think the record from the discussion during the Weakfish Board is clear that it will be done next year. So, Roy.

MR. MILLER: Mr. Chairman, would you clarify me, who will do the weakfish? Was that an external review or a SAW/SARC?

MR. BEAL: Roy, I think the, essentially the only option is an external peer review. The SARC schedule has been set for 2006 and the timeline that we set to get back to the management board by the May meeting with the

peer review will probably require an external peer review that the commission can set up outside the normal SARC timeline.

MR. MILLER: Thank you.

CHAIRMAN PATE: Anne, did you have a? Gordon.

MR. COLVIN: Thank you, Mr. Chair, and I apologize if this came up but I stepped out of the room for one minute. This is kind of consistent with my comments earlier about needing to pay attention to what is going on and manage the process. American shad, how are we doing?

I've heard discouraging reports about our ability to assemble the information necessary to complete this peer review. And it didn't come up in the Shad Board meeting. I wonder if we could just take a second to get a status report now.

MR. BEAL: Gordon, my understanding is the Shad Technical Committee has put together a new timeline for completion of that assessment. They are, as you mentioned, still working on compiling the data to support the assessment. I think they're going to try to have that done by the end of November. Joe, is that the right timeline or Lydia? I'm not seeing any nods but I think --

CHAIRMAN PATE: Patrick is saying yes.

MR. BEAL: Patrick is saying yes. Okay, so they're going to try to get the data compiled by the end of November, start the modeling work, and get the assessment finalized summer of next year I think is the timeline.

MR. COLVIN: May I make a suggestion? Because I've heard that there had been substantial delays on the part of some of the entities that we need assistance from to compile the data, can we get a progress report and an indication of, and maybe even an informal indication to Shad Board members about where we need some help to make that happen you know by the time of this end-November deadline?

The other thing is, and I may be misinformed on this but, it was indicated that part of the problem involved the need to get some data from folks who aren't actively partnering with us in the shad program, inland fisheries agencies, for instance, and so on and so forth. If we need to make connections there to get what we need it would be helpful to know that.

MR. BEAL: We will do that, Gordon.

CHAIRMAN PATE: Okay, thank you. Any more discussion on the motion? Any objection to the motion? Seeing none, so approved. Thank you. Are you through, Patrick?

MR. KILDUFF: I have two updates.

CHAIRMAN PATE: Okay. Go ahead.

MR. KILDUFF: The first update is on the scheduled stock assessment training workshops for the technical committee and stock assessment committee members of the states and federal partners.

The commission conducts stock assessment trainings on two levels and they have an advanced level and a basic level for our technical staff and throughout the commission's process. And the first workshop that is approved is already within the action plan for 2006 is the tagging workshop.

And then the advanced workshop that's scheduled is one that has been through, the stock assessment committee recommends and it is to conduct a workshop on sampling theory, that focuses on the design of fishery independent surveys and biological sampling programs for commercial fisheries.

The basic workshop is the standard two-week stock assessment training course that has been conducted, it's going to be conducted this year and finish up next year. There was a high demand for that course so as long as there is sufficient demand we'll conduct a subsequent rendition of that course.

The next update that, is on the multispecies VPA assessment. The Stock Assessment Committee reviewed the work of that has been done by a subcommittee of the Stock Assessment Committee, the MSVPA Assessment Subcommittee.

That group has worked very hard this year to develop a stock assessment that's using assessment data for 2002 to really rigorously test and evaluate the multispecies VPA. And it has been approved to go to the SARC, I believe it's SARC 42 that's scheduled to meet November 29<sup>th</sup> through December 2<sup>nd</sup>. Thank you.

CHAIRMAN PATE: Thank you, Patrick. Any more questions of Patrick before he gets away? Okay, thanks. Good job. Yes, Roy.

MR. MILLER: Thank you. This is not for Patrick but for just general consideration. I'm reminded, the last time we had a stock assessment workshop for commissioners was a couple years ago, if memory serves, in February over in the D.C. area.

I'm wondering if there is any plans to have another stock assessment introduction workshop for commissioners, new commissioners, in particular, any time in the immediate future. Thank you.

CHAIRMAN PATE: We're looking in the action plan to confirm that it's there. I believe it is, Roy. It's Task 2.2.7 on Page 8 of the action plan. It's to conduct a commissioner workshop to improve understanding and application of stock assessments.

MR. MILLER: Does it have a date on it?

CHAIRMAN PATE: No, this is just in the plan for next year a some date yet to be determined. Okay, next item on the agenda is the Management and Science Committee report. Linda Mercer.

**-- Management and Science Committee  
Report --**

DR. LINDA MERCER: Thank you, Mr.

Chairman. The Management and Science Committee met on October 31<sup>st</sup> and November 1<sup>st</sup> to address a number of issues. Our first action item that we have is to approve the 2006 benchmark stock assessment peer review schedule.

Patrick just informed you of that schedule but to go over that quickly: the American shad is scheduled for an ASMFC external peer review; spiny dogfish, the Northeast Fishery Science Center SARC process; and the Atlantic herring, a TRAC process.

In addition, you've also heard that weakfish will go through an external peer review process. So that is the first item that we're requesting action on.

CHAIRMAN PATE: Okay, any questions of Linda? Yes.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. And when would we see preliminary data on the spiny dogfish stock assessment? Do we have an idea? Six months? Nine months?

CHAIRMAN PATE: Linda, do you?

DR. MERCER: I don't have an answer for that. Patrick may.

MR. KILDUFF: My understanding is that it is scheduled for a spring SARC so -- and that usually meets in early June, as well.

MR. AUGUSTINE: Okay.

CHAIRMAN PATE: Someone else hand their -  
- yes, Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. I know Dr. Mercer was in the audience during Gordon's comment but I was just wondering if the Management and Science Committee had any discussion about potential problems with the American shad assessment and if you all had a feel of whether or not they're going to be able to have that completed in 2006.

DR. MERCER: We did discuss that. It was my understanding that they were going to be able to finish that work. So I knew there were problems with it but we did not hear that they wouldn't be able to finish it.

EXECUTIVE DIRECTOR O'SHEA: I mean, if I could Mr. Chairman. I mean, that's great. And we'll certainly take Gordon's comment to heart and try to get down there and expedite that. But I think one of the tones that we had in an earlier agenda item was linking our science advisors with the policy guys and here is a good example of the need to do that. Thank you.

CHAIRMAN PATE: Okay, any questions of Linda? And I need a motion for approval of the assessment peer review. **So moved** by Pat Augustine. Second by John Nelson. Yes. We just accepted that without objection, Joe. Are you clear?

Okay, we've got the other motion to approve the benchmark peer review schedule by Pat Augustine; second by John Nelson. Any objections to the motion? So approved. Go ahead, Linda.

DR. MERCER: Our next action item for your consideration concerns authorship credit for external peer review panel reports. Recently an ASMFC external peer review panel requested, members requested to be listed as authors of the report.

In the past credit has generally been given to the panel as an acknowledgment in these reports. We had quite a bit of discussion about this and felt that external peer review panel reports stand alone as an independent expert review of the stock assessment.

The peer review panel composes the report and it's their consensus opinion evaluating the stock rather than staff, for example. So the MSC recommends that the peer review process document be amended to allow the option for members of the ASMFC external peer review panel reports to receive authorship credit for their reports.

And we said “option” there because there may be times when panel members do not want to be authors of the report. (Laughter) I can’t imagine what circumstance that would be.

CHAIRMAN PATE: Okay, Gene.

DR. EUGENE KRAY: Mr. Chairman, I would like to make a motion that the authorship credit for external peer review panel reports be authorized so that the appropriate academic people can receive their credit, academic and others can receive the appropriate credit.

CHAIRMAN PATE: All right, thank you for that motion, Gene. It might be better just to get some sense of direction to the committee for them to go forward and develop that amendment to the plan to come back for us for approval, specific approval, at a later date, approval of the document. A.C.

MR. CARPENTER: I’ve got a question on this option. I understand the word “option” but if there are two or three or generally three or four scientists who are involved in this would it be all had to agree to be listed or one could opt out and say, “no, I don’t want my name associated with this?” How would that work? (Laughter)

DR. MERCER: That could get messy, I guess.

MR. CARPENTER: Well, I’m guessing then that the policy ought to say either everybody agrees or they’re not listed or they all agree to be listed. It’s either an all or nothing kind of deal I think is where it should go.

DR. MERCER: Well, if it’s the pleasure of the Policy Board for us to come back with a specific development of a policy for the peer review we could discuss that further and come back with that change.

CHAIRMAN PATE: Okay. Vince.

EXECUTIVE DIRECTOR O’SHEA: Yes, I had a question for Dr. Mercer. I think I know the answer to this but in the eyes, I think where this is going is in the eyes of the scientists would this then make serving on an external peer review a

more prestigious professional event? And I assume it then feeds into CVs and other reporting requirements to universities and so forth.

DR. MERCER: Absolutely.

EXECUTIVE DIRECTOR O’SHEA: So, is my understanding correct?

DR. MERCER: That is correct. We had quite a bit of discussion about the need for academics and others to receive credit for work they’re doing in this nature. It wouldn’t be a peer review publication for them but it would be important on their resumes. And I would suspect in most cases they would want to have that authorship. I really can’t imagine that they wouldn’t but.

CHAIRMAN PATE: Okay, George.

MR. LAPOINTE: I don’t think A.C.’s question was related to the desirability but the question would be from a policy perspective. What happens if George Lapointe doesn’t put his name on? Does it indicate non-endorsement?

Does it show dissention on the part of the peer review panel? And I think that is an important policy question. If we have people who we’ve paid or are paid to do a peer review and we’re putting on authorship I want them all on there to show that they’ve been part of the reporting process.

DR. MERCER: It’s my understanding that they have to develop a consensus report so in developing that I would assume that they would all concur.

CHAIRMAN PATE: Okay, Gene.

DR. KRAY: Mr. Chairman, Vince’s comments are right on. It has particular impact on younger faculty members who are maybe not yet tenured and they need the additional documentation or of things being published for their curriculum, when it goes before the appropriate process of granting tenure and promotion.

CHAIRMAN PATE: Gene, would you be willing to withdraw your motion and let the committee?

DR. KRAY: Yes, that was the other thing I was going to say. I'll withdraw my motion.

CHAIRMAN PATE: Okay, thank you. Anne.

MS. LANGE: Well, I have a bit of a different question. My question is, how does this relate to the authorship of the scientists, our staffs who actually conduct the assessment? The language here says "consensus opinion, evaluating the stock."

Are they evaluating the stock or are they evaluating the stock assessment? And who gets credit for the assessment itself? You know, again, is it the reviewers who go out and get authorship for having conducted the review -- which I don't disagree with that but I'm just wondering what it is they get credit for.

Because the people on the stock assessment committees do the work and they should be able to get credit later on. I mean hopefully they'll do it you know after they've provided the advice then carry it further.

CHAIRMAN PATE: Linda, would it be possible to answer those types of questions in the drafting of the actual amendment to the document?

DR. MERCER: Yes, we can take that up for discussion.

CHAIRMAN PATE: Okay, thank you. Any more questions of Dr. Mercer on this point? Okay, thank you, Linda, keep going.

DR. MERCER: Okay, the next item was discussion of a multispecies workshop. The Management and Science Committee has reconvened its Multispecies Subcommittee to plan a workshop for the commissioners. The goal of the workshop would be to assist the commission in developing a process to integrate multispecies information within its management structure.

As you know, we have the multispecies model that is out for peer review this fall and so topics to be addressed at this workshop would include: results and findings of this expanded multispecies VPA and an overview of how other fishery management bodies are handling multispecies management issues.

CHAIRMAN PATE: Linda, did you discuss a timeline for developing this workshop? I was just asking Bob if it's in the action plan for this year.

DR. MERCER: We planned to work on it over the coming year at a subcommittee level. I don't know if it's in the action plan or not. We'd certainly like to have a workshop in the coming year if possible.

MR. BEAL: The language in the action plan currently does not specifically refer to a workshop, the commission-level workshop. There is recognition of analysis of how multispecies information can be included in the ISFMP charter and the other guidance documents that the commission has.

So the action plan doesn't specifically say workshop but there is recognition that we're going to do some work next year on shifting toward multispecies or consideration of shifting toward multispecies management.

CHAIRMAN PATE: Okay, Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. I was just trying to remember how many workshops we've got proposed for commissioners now. And what have we been doing, trying to get two workshops a year scheduled?

MR. BEAL: I think that has been our average, Vince, about two a year. I know right off the top of my head we've got the workshop on stock assessment that we just mentioned, potentially the multispecies workshop. We've got the habitat workshop on water quality issues. Those are the three I can think of right away. There may be one more but I don't, I can't think of it.

CHAIRMAN PATE: Okay, we don't need any action on this. Linda, anything else on that point? Any questions of Linda? Are you through with that one?

DR. MERCER: Yes, through with that one.

CHAIRMAN PATE: Okay, keep going.

DR. MERCER: Next point had to do with the social and economic impacts of horseshoe crab fishery closures. The Management and Science Committee is recommending that the Policy Board charge the Committee on Economics and Social Sciences with the evaluation of the social and economic effects of fishery closures in the horseshoe crab fishery on that fishery and other fisheries.

As you may recall, the Committee and Economics and Social Sciences has recently finished a report on evaluation of social and economic effects of fishery closures I think broadly. So we thought it might be appropriate for them to look at this specific issue. And this analysis should include looking at the use of horseshoe crab both for bait and biomedical purposes.

CHAIRMAN PATE: Bruce.

MR. FREEMAN: I'd like to make a motion. It's a recommendation to us so I would **move that the Policy Board charge the Committee on Economics and Social Science with evaluation of the social and economic effects of fishery closures in the horseshoe crab fishery on that fishery and other fisheries.**

CHAIRMAN PATE: Okay, thank you, Bruce. George Lapointe is going to second it and then has a question.

MR. LAPOINTE: I seconded it to get it on the table for discussion. It strikes me that we should remember Paul's comment the other day about what it costs to do an economic evaluation of the fishery and that it is, to do a good one, requires a substantial investment, a financial investment and a time investment.

And we should recognize that as we charge the Committee on Economics and Social Sciences with moving forward. Just, you know, Paul, did you use \$50,000 or \$60,000 as a discussion or what your survey was?

MR. PAUL DIODATI: It was sixty.

MR. LAPOINTE: Sixty. And it strikes me that's a lot of money we don't have in the budget and we should recognize that if we pass this motion.

CHAIRMAN PATE: Vince.

EXECUTIVE DIRECTOR O'SHEA: With that in mind I'm wondering if it makes sense that maybe it would be appropriate for them to develop some criteria for what sort of data other groups could submit that would then allow consideration.

That's one of the issues that it seems to me we always have is people come in with, chambers of commerce or fishing groups or whatever come in with data and we say, "where does that data come from; where is the standards."

And a more basic thing would be if they had a framework that said data of this standard or data of this type should be submitted and then it could be used. Just a thought.

CHAIRMAN PATE: Yes, George.

MR. LAPOINTE: So we don't get too far ahead of ourselves -- and the Committee on Economics and Social Sciences might be the place to do this -- rather than doing the study it would be interesting or be most useful for me for them to put together a proposal on how the study be conducted first so that we know what we were looking at and we wouldn't raise expectations unrealistically that we couldn't follow through on.

CHAIRMAN PATE: Gene.

DR. KRAY: Thank you, Mr. Chairman. I would agree with George on that and also we

ought to also include some impact on birds. We all received those documents related to the red knot and what impact the or the need for horseshoe crabs to support them. So that's also an ecotourism — that was a phrase I hadn't heard in a long time but ecotourism aspect of this.

CHAIRMAN PATE: John.

MR. JOHN I. NELSON, JR.: Mr. Chairman, since we haven't gotten to, at least in this committee, the Policy Board, I think we should be making a recommendation for consideration of adding this to the action plan because we already have a whole series of things for social economic concerns that are built into the action plan.

And this should be discussed at that particular point and decided what are we going to add or what are we going to drop out in order to be able to do this and how we're going to be able to address it.

So, rather than you know say that this is what we want to have done, I think we ought to put this forward as a recommendation to be considered in the action plan.

CHAIRMAN PATE: Okay, I'll get back to that, John. I had a couple of other hands that were up. Jaime Geiger.

DR. GEIGER: Thank you, Mr. Chairman. I certainly agree with all these comments. I think they're extremely good. And the clarification that I would seek is certainly there is going to be significant cost differences between collecting socioeconomic data and evaluating the existing socioeconomic data.

I think Paul Diodati made an excellent point and I certainly support that. I think requesting a proposal on how to do this would be extremely valid.

And also given the significant fact and usage of horseshoe crabs by the biomedical industry and, at least in my sense, some of their apparent reluctance to contribute to the support and

scientific information related to that public resource that they are indeed using for commercial gain, I think it would be very appropriate. Thank you.

CHAIRMAN PATE: Thank you. Paul.

MR. DIODATI: While I'm generally supportive of moving forward with conducting these kind of studies I guess I am a little bit uncomfortable that we seem to be distinguishing a need for this study to be done relative to the horseshoe crab closure while we've had closures in many of our fisheries or depletions of fisheries such as spiny dogfish, depleted landings and weakfish that we saw this week, what we're experiencing with river herring right now throughout the Eastern Seaboard. So, I don't know why we're distinguishing this separately as a special need.

CHAIRMAN PATE: Bruce.

MR. FREEMAN: To answer Paul's comment, I think we need to start somewhere and this is a start. And if you recall, when we talked about the action plan this issue was raised and I think the amount we had budgeted was very modest so it's certainly not going to cover an extensive evaluation.

But I would offer to **change some wording in that motion where it reads "the social science with evaluating the cost and elements needed to provide an economic, social, socioeconomics effects of the horseshoe crab"**. I agree to simply ask for that to be done.

There is no funding. But I think it's appropriate for that committee to start costing this out. What are the elements necessary? What would be the projected costs so then we could add this to the action plan at some time?

CHAIRMAN PATE: I hate to even offer this suggestion for fear of making it even more complicated but to address Paul's point, would it not be as helpful to have something generic along those lines, not necessary directed at horseshoe crab but just to outline a process by which you could make that evaluation for any species that is being depleted or, you know, in

which the fishery is shut down? Just a suggestion. By the way, the seconder said is agrees with that change to the motion.

MR. BEAL: So just as a comment, the Committee on Economics and Social Sciences recently put together a paper evaluating the effects of seasonal closures and long-term closures. It was focused on seasonal closures so it's not a harvest moratorium but there was, they have put together a paper, that is not species specific that was brought forward to this board I think at your last meeting.

CHAIRMAN PATE: Okay, any more discussion on the motion? All those in favor please signify. Oh, do we need to caucus? Gene, you've got a question.

DR. KRAY: Yes, are we going to leave it at horseshoe crab or are we going to make it more generic?

CHAIRMAN PATE: Well, nobody bit. I assume it was going --

DR. KRAY: Well, I would be, it would be a friendly amendment to modify instead of horseshoe crab harvest closure it would be for any species under our management and take out "horseshoe crab harvest closure".

CHAIRMAN PATE: I'm looking for an agreement with the maker of the motion.

MR. FREEMAN: I'm just somewhat resistant and the reason being, it appears to me unless the Economic and Science Committee has some specific species to deal with, each fishery is so unique I'm just, I'm just troubled that a generic thing will just be somewhat almost useless.

It will just give us a broad idea. I would rather deal with specific fisheries. If we want to add the river herring as also as another specific issue. But the items here are unique with the horseshoe crab.

I mean it's unique the way we manage because the driving force here are the shorebirds. It does not seem to be the horseshoe crab population

itself. And I'm just resistant to making it so generic that there is not much use to it.

CHAIRMAN PATE: Okay, that's fine, Bruce. So you're not accepting that proposal for amendment. George.

MR. LAPOINTE: I think keeping it specific to horseshoe crabs is useful in the perspective of a proposal because it will then provide a template for work on other species.

I'm not at all in favor of moving ahead with funding this right now but it will give us more information from which we can use it as a springboard to do the same kind of thing in other species and just to get some idea of what this would cost: 25,000, 50,000 100,000. So I actually think using this as a template is a good idea.

CHAIRMAN PATE: Okay.

MR. FREEMAN: Mr. Chairman, may I also add to comment on George's comments, that if we got some price there may be people interested in getting this done and that money could be provided to the commission to do that so it does give some benefit to coming up with some cost figures.

CHAIRMAN PATE: Okay, thank you. Paul, did you have a comment? No. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I would see if we're going to specialize or get down to one species such as horseshoe crab harvest closures I really would look at something that has a much more dire aspect and that would be the cutback of quotas in summer flounder, for instance, if you want to talk about socioeconomic impact.

We're going down a long, slippery slope there. So I think George is right on point, not fund it but look at putting together a plan that could be applied to other fisheries. And then I'd like to call the question. Thank you.

CHAIRMAN PATE: Bob reminded me we hadn't set a quota yet so we haven't hurt

anybody. (Laughter) Mr. Doebly, a comment from the public. Yes, sir.

MR. DOEBLY: Thank you, Mr. Chairman. Michael Doebly, Recreational Fishing Alliance. A question which may lead to a comment, when it talks about the social and economic effects of not only of horseshoe crab fishery closure, potential closure, and when it says “and other fisheries” currently if I remember correctly the state of New Jersey is denying access, for lack of a better word, for a few weeks each spring along certain sections of the Delaware Bay shore to recreational fishermen because of the horseshoe crab/red knot interaction.

Would recreational access to areas be included in such an evaluation of the social and economic impacts? And if not, we would certainly like to see it included.

CHAIRMAN PATE: If the record shows that that is a point of interest, then we can include that in the evaluation. I’m not sure that it’s intended to at this point, not knowing the discussion at Management and Science. Linda, do you have anything to add to that?

DR. MERCER: Not really. We didn’t have a specific discussion about that but I think “other fisheries” would cover that.

CHAIRMAN PATE: Okay, thank you.

MR. DOEBLY: Thank you, Mr. Chairman.

CHAIRMAN PATE: Yes, sir. George. Howard.

MR. KING: One quick question for Jaime. If the U.S. Fish and Wildlife Service would ultimately list the red knot as endangered and the horseshoe crab fishery was shut down, would the service conduct this economic and social impact?

DR. GEIGER: We would have to look at those particular impacts and socioeconomic threats to the species, yes.

CHAIRMAN PATE: Paul.

MR. DIODATI: I guess I’m going to repeat that I’m a little bit uncomfortable with this motion because I just don’t think that horseshoe crabs are the normal fishery that this commission deals with and so to use this as a template I think is going in the wrong direction.

I think that fisheries like fluke, fisheries like weakfish, fisheries like spiny dogfish are more common to the goals and objectives of this commission. And I think that the socioeconomic impacts of the horseshoe crab fishery are going to be very, very different compared to those that we would see in these other fisheries. So I’ll offer an amended motion if I may.

CHAIRMAN PATE: Yes, sir.

MR. DIODATI: I’ll move that the Policy Board task the Committee on Economic and Social Sciences with evaluating the costs and elements needed to provide estimates of socioeconomic effects of fishery harvest closures and resource depletions on coastal fisheries.

CHAIRMAN PATE: Okay, seconded by Pat Augustine. Gordon.

MR. COLVIN: I can support the motion but there is something imbedded in the horseshoe crab thing that I don’t want to see us get lost and that is that the simple question that closing horseshoe crab fisheries has a direct and immediate affect on the associated fisheries that use horseshoe crabs as bait.

And I think that was, you know, a simpler and clearer intend that this was directed at getting at and I would hope that it — you know, it may be that there is more than one model that needs to be developed and I would not like to see that get lost.

CHAIRMAN PATE: Okay, thank you. Jaime and then Anne.

DR. GEIGER: Thank you, Mr. Chairman. Again, I would not like to get lost in the process the original recommendation from the

Management and Science Committee. Thank you.

CHAIRMAN PATE: Anne.

MS. LANGE: I was just wondering if Bob could give us a little more information on what he commented about a few minutes ago about what CESS did provide us already on socioeconomic and cost analysis.

MR. BEAL: Sure. The CESS put together, as I mentioned, a paper on the socioeconomic impacts of seasonal closures. It was, you know, for example when some of our recreational fisheries were closed down for two-three-six months a year, whatever it is.

So they evaluated those socioeconomic effects which I think is a little bit different than the potential -- anyway -- the horseshoe crab and river herring examples of potentially a complete moratorium in some areas.

CHAIRMAN PATE: Bruce.

MR. FREEMAN: I can understand the arguments. I seemed to me that we could task that committee with both of these things. It's really going to, I mean it will take time but I don't see one as having precedent over the other. And I would suggest that we pass two motions if that's what it takes.

I mean we have interest obviously in both. Horseshoe crab is unique. It's unique in a number of ways that have already been indicated. And I'm just leery of just simply doing a generic one. I just think we lose some of those aspects.

CHAIRMAN PATE: George.

MR. LAPOINTE: I favor sticking with horseshoe crabs right now and using Paul's question and probably posing that back to the Management and Science Committee.

If you thought I had concerns about long-term commitments with the \$2 million under ACFCMA, asking a bunch of social sciences

how much money it would take to study the impacts of whatever, strikes me as a black hole which we want to avoid at all costs. (Laughter)

And so I would be in favor of tasking the Management and Science Committee, working with the Committee on Economics and Social Sciences, to ask the broader question that Paul has posed.

CHAIRMAN PATE: Jack.

MR. TRAVELSTEAD: I prefer the first motion as well. I'm wondering, Linda, if you could explain why the Management and Science Committee recommended, makes this recommendation specific to horseshoe crabs and not some of the other issues that have been brought up around the table.

DR. MERCER: It was just, it was brought up at the meeting by one of the members who was very concerned about this issue. And we just, we focused on that particular species and did not expand our discussion to other species. Obviously I think there are needs.

CHAIRMAN PATE: Gordon.

MR. COLVIN: George convinced me. I'm going to vote against the substitute motion.

CHAIRMAN PATE: Roy.

MR. MILLER: I'd reflect Gordon's comments. I find myself probably going to vote against the substitute motion, even though I don't disagree with it's intent.

CHAIRMAN PATE: Jaime.

DR. GEIGER: Mr. Chairman, I certainly don't disagree with the intent of the substitute motion but at this point in time I think the primary motion is most important. Thank you.

CHAIRMAN PATE: Do you want to vote it up or down, Paul?

MR. DIODATI: To save time I'll withdraw the amended motion.

CHAIRMAN PATE: Thank you. Thank you, both. Okay, ready for the question on the original motion, then? All in favor please signify by raising your right hand; all opposed, like sign; abstentions; null votes. The motion passes 16 in favor, 3 opposed. Thank you very much. Linda.

DR. MERCER: We have one more action item which is listed under the first item listed under updates. And this refers to the letter that was handed out to you a while ago. Hopefully you've had a chance to run through it quickly. But we support this draft letter that concerns ASMFC involvement with the federal hydropower re-licensing process.

And the discussion here centered around the opportunity with a large number of hydropower facilities coming up for license renewals in the next few years that this is an opportunity for members of ASMFC as well as water management and other member organizations or non-member organizations in the states to engage as much as possible in the re-licensing process.

And so this is a draft letter for your consideration to send out to various appropriate agencies in your states. There are a couple wording changes. In the third paragraph we wanted to change that first sentence to say, "Consistent with the recommendations in its fishery management plans for diadromous species, the commission encourages" et cetera, et cetera.

So, this is already something that is in most of the or all of the fishery management plans for diadromous species and it's just a reminder of the opportunity to engage in this process.

And if you look down at the fifth paragraph there is another issue right now, that states may further wish to file supporting briefs with the U.S. Supreme Court in the S.D. Warren and Company versus Maine Department of Environmental Protection case wherein the court will issue the, will address the question, "does the mere flow of water to an existing dam

constitute a discharge under Section 401 of the Clean Water Act."

And the state of New York has accepted lead responsibility for drafting the amicus brief for the states. So this is also an opportunity for states to engage in this issue. Thank you.

CHAIRMAN PATE: Thank you, Linda. Any questions of Linda? Does anybody have any objections to using this letter? Vince.

EXECUTIVE DIRECTOR O'SHEA: I don't really have an objection to the letter but I'm looking at the first paragraph and I'm trying to do the math here.

And it looks like each state, the saltwater person, the freshwater person, the water allocation person, the water quality person, that's 4 times 15 is 60; and then they want copies to the EPA and U.S. Fish and Wildlife and NMFS directors; 60 times 3 is 180 letters. That's what I'm reading here and I'm not clear what we're trying to do.

CHAIRMAN PATE: Well, and just for my clarification on the same points, I sense that the intent was for me to send this to the individual state directors and then the state could use its own judgment on to whom to send the letter from that particular state.

DR. MERCER: That's correct.

CHAIRMAN PATE: Is that correct? Does that answer your question, Vince? So we'd only be sending 15 letters.

EXECUTIVE DIRECTOR O'SHEA: So you'd all be writing a letter to yourself. Got it. (Laughter)

CHAIRMAN PATE: Yes, but it's a template. Any objections to using this template? Any objection to each of you receiving the letter from yourself? (Laughter) So approved. George, did you have a question?

MR. LAPOINTE: I don't have a question, I have a comment. This is an issue obviously that

the state of Maine is deeply involved in and as your attorney general's office contemplate an amicus brief, if they want to contact the Maine Attorney General's office they probably already have done so.

I just want to make sure that we facilitate that as much as possible because the implications for anadromous fish restoration along the entire East Coast are huge.

CHAIRMAN PATE: Thank you. Okay, thanks. Linda, are you through?

DR. MERCER: I have three quick updates. The MSC recommends support of long-term fishery independent data collection programs, in particular the bridge tow survey that's conducted by the National Marine Fisheries Service in Beaufort.

We had some discussion about that survey in particular that where there is funding jeopardized and being able to continue this long-term survey. This has been conducted I know for twenty-plus years and it's the longest time series of its sort.

There is another one here conducted by the Rutgers Marine Lab but this is the type of very valuable time series that provides recruitment information on a number of commission-managed species.

American eel is one of those so we're just recommending support for that in any way that member states or the commission might be able to help with. The next item, we had some additional discussion about the fishing gear.

MR. LAPOINTE: Linda, hold up for a minute.

DR. MERCER: Oh, sure.

MR. LAPOINTE: Gordon.

MR. COLVIN: Thanks, Linda. I appreciate the direction that's coming from. Let me suggest that there are undoubtedly a number of examples of long-term fishery independent data sets of this nature out there that have probably not been

catalogued completely.

And it may be useful for the committee to consider reaching out through its members to the states in an effort to catalogue them. And I'll give you one example of something that has concerned us a great deal in New York.

Historically, going back to the historic settlement of the Storm King Mountain pump storage generation station case back in the '70s, New York state's utilities that operate a number of power plants on the Hudson River have conducted fishery independent monitoring along the Hudson River, the data from which has been an indispensable part of our database that enables the management of anadromous fisheries.

In the modern era of utility deregulation and the sale of many of these plants to other operators who were not part of the original settlement, it has been a real struggle to maintain these long-term databases, including things like the Long River ichthyoplankton survey that is critical in our understanding of the Hudson River anadromous and estuarine fisheries.

So, I suspect that there are a number of other data sets of this nature that we ought to catalogue somehow and develop a basis for common support and mutual support for their maintenance. Thank you.

MR. LAPOINTE: A question to staff based on Gordon's suggestion, is that something you could work with the MSC on, in providing the cataloguing he suggests? I see heads shaking yes. Linda, is that?

DR. MERCER: That also might be appropriate for NEAMAP to take on as well. And I think there has been some work in the past done on cataloguing some of these data sets in the past so it may be an update.

MR. LAPOINTE: Rather than getting into the detail, just the idea that it's a good thing to accomplish and staff can work starting with the MSC and then whoever else they need to, to get it done strikes me as a good way to move

forward. Any head shakes no? I don't see any. A.C.

MR. CARPENTER: Well, I don't disagree with that in trying to catalogue the others but I think this particular one is, to my knowledge, very important to the weakfish plan.

And I would be willing to support a motion or to put a motion that the Policy Board draft a letter to the National Marine Fisheries Service encouraging them to fund and continue that particular study while we get the other catalogues done. So I would like to make a motion to that effect.

MR. LAPOINTE: We have a motion by A.C. and do we have a second?

Second by Spud. Discussion on the motion. Vince, we'll get it up on the board. Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks. Just I think you said National Marine Fisheries Service but I think -- is it National Ocean Service that is actually doing this? And then the second issue would be the intent would be the chair of the commission would sign this letter?

MR. LAPOINTE: I believe.

MR. CARPENTER: That is correct. My motion was specific to the bridge tow survey.

MR. LAPOINTE: The motion would read something to the effect we recommend a letter be sent to NOAA for the continued funding of the bridge --

MR. CARPENTER: Bridge tow survey.

DR. MERCER: Bridge net.

MR. LAPOINTE: Bridge net survey in Beaufort. Did I hear that?

DR. MERCER: Yes.

MR. LAPOINTE: They said NOS. You made the motion, does that look all right?

MR. CARPENTER: As long as it gets to the right people and covers the right subject, yes. And the chairman of the commission would sign it.

MR. LAPOINTE: Other questions or comments. Is there objection to the motion? Oh, Joe, you need it read. Gees, I was going to say, the ISFMP has expanded once again.

The motion is: **moved that the Policy Board or actually it would be the commission -- would it not be? -- the commission send a letter to the National Ocean Service to continue to fund the Beaufort Bridge Net Tow Survey.** Moved by Mr. Carpenter; seconded by Mr. Woodward. Is there objection to the motion? Linda, you're objecting?

DR. MERCER: No, I'm not objecting. I wondered if we could please cc Dr. Hogarth on that as the laboratory used to be National Marine Fisheries or the program was under the National Marine Fisheries Service originally.

MR. LAPOINTE: That's fine. We'll give that as staff direction. Objection to the motion? Seeing none, the motion is approved. You're back on, Mr. Chairman.

DR. MERCER: Two more updates. The MSC provided additional guidance to assist staff in forming the Fishing Gear Technology Workgroup. The Fishing Gear Technology Working group is in the 2006 action plan and will be charged: to identify and evaluate studies of fishing gear selectivity, bycatch reduction, gear effects on habitat, and impacts of a single gear used in multispecies fisheries; also, to develop an annual report of gear work along the coast, evaluate the work to see if it's ready to be implemented in the management process and identify research recommendations; and finally to determine the transferability of such studies to other species and geographical areas.

Obviously, more work than they can do in the first year but a starting place for their discussions. Any questions?

CHAIRMAN PATE: Paul.

MR. DIODATI: I'm pleased to see that the commission is going to support this kind of work. I've been looking forward to this kind of gear advancement work for quite a while through the commission.

But I think that the charge seems to be a bit hefty and given that many of us in our state agencies already have ongoing programs I think it might be a little bit redundant for folks to get in there and act as though they're starting from Day 1 in this area of work. They're not. Some of them have been ongoing for decades.

I would suggest reducing the charge to somewhere in the middle of the end of that paragraph "to develop an annual report of gear work", somewhere along there. In fact I would say to develop not an "annual" report but to develop a "comprehensive" report of gear work along the coast.

And I would include the rest of that paragraph. And that way the commission could take a look at what is going on right now. Maybe I would go further and say to develop an annual report, I mean to develop a comprehensive report of past and present gear work along the coast. And then I think we have a good basis to help these folks and coordinate.

DR. MERCER: Thank you. And I think that is the intent, for them to start with that, to put together a good comprehensive review.

CHAIRMAN PATE: Paul, why don't you put that in the form of a motion so it will be crystal clear in the record what we're asking them to do.

MR. DIODATI: I'll move to adopt the, this is a recommendation of the committee, I suppose.

DR. MERCER: Yes.

MR. DIODATI: So I'll **move to adopt the recommendation of the MSC to form the Fishing Gear Technology Workgroup with its initial charge to develop a comprehensive report of past and present gear work along the coast, to evaluate the work to see if it is**

**ready to be implemented in the management process and identify research recommendations, and to determine the transferability of such studies to other species and geographical areas.**

CHAIRMAN PATE: Second by Dennis Abbott. I don't know why Brad doesn't have that up there already? (Laughter) I think everybody has the gist of the motion and it doesn't necessarily need to be on the screen unless somebody wants to wait and see the exact language. Any objections to the motion? Seeing none, consider it approved. Thank you very much. Linda, keep going.

DR. MERCER: Our final update, the MSC along with the Habitat Committee recognizes the potential impacts on fisheries populations from LNG and other energy production facilities.

Since these impacts have important habitat implications, the MSC recommended convening a joint meeting in 2006 with the Habitat Committee. And to address these issues the MSC recommended forming a joint subcommittee with members from the Habitat Committee to prepare for this meeting.

CHAIRMAN PATE: Okay, Gordon.

MR. COLVIN: I think this is a good idea. I think we're facing the, you know, just an increasing challenge in the scope and the number of energy production and transmission facilities that may have a potential to impact our fisheries. I do want to emphasize the importance of including tidal hydro projects in this.

I know there is a lot of concern about LNG facilities, wind farms and so forth, but the thing that really concerns me and -- here we are with petitions pending for listing American eels and Atlantic sturgeon, our long-term investment in striped bass and shad and river herring -- is the what we've heard about the potential for proliferation of tidal hydro facilities. Thank you.

CHAIRMAN PATE: George.

MR. LAPOINTE: I want to echo Gordon's

concerns. He and I have been talking about a tidal generation project, the ones in the East River and there is about 20 sites identified in Maine. And when people talk about their impacts on fishery they say there is no impact which is like asking me to go to the moon tomorrow.

I might be able to talk about it but I can't tell you how I'd do it. And so I want to make sure that -- I love the idea of the subcommittee and that in fact from my perspective LNG should not get a priority.

It should be all energy sources as we move forward because I think it's important. The LNG gets so much attention that I'm not so worried about the review of that but these smaller projects people are going to try to slip under the crack in the door.

CHAIRMAN PATE: Linda, which committee would be the lead committee on forming that and making it work?

DR. MERCER: We didn't identify a lead committee; we just said we would work jointly with the Habitat Committee. We would form a committee of two subcommittees from each group.

CHAIRMAN PATE: Is there any objection to that idea? I think it's a good approach. Seeing no objection we'll just -- Paul.

MR. DIODATI: I don't object at all but I would like it to be broadened to include desalination facilities as well which is a lot different than energy facilities. Is that something that could be included in that discussion?

CHAIRMAN PATE: Linda, any opinion?

DR. MERCER: Sure.

CHAIRMAN PATE: You're okay with that?

DR. MERCER: That's fine.

CHAIRMAN PATE: Because we did discuss desalination earlier in the week and that's

another good idea. Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman, some of these projects have the potential to impact two or more states and I'm not sure I understand exactly where we are in the process.

I think what we're talking about now is just sort of evaluating, getting a process to sort of evaluate impacts and that the decision as to whether or not the commission is going to engage comes afterwards.

I'm thinking that's where we are right now but I'm just wondering if it would be helpful to have Bob sort of review for us what the commission's policy is in getting involved in these projects that may span or impact multiple states.

MR. BEAL: All right, sure, just to review. If the commission is, if a request is made to the commission to comment on a specific project that is being proposed or considered what we do is we consult with the three commissioners from that state.

And if any one commissioner from any of the impacted states says, you know, stay out of it, the commission does not need to comment on this or it won't be productive for the commission to comment on this, then we do not comment on it. But if all the commissioners from all the affected states are comfortable with the commission commenting on that project, then we do that.

CHAIRMAN PATE: George.

MR. LAPOINTE: My sense of what the MSC was talking about was that this was not a project-specific review; it was in fact looking at LNG broadly, looking at tidal power broadly, looking at desalination broadly, so I don't think it would impact at this point, Vince, your concern.

CHAIRMAN PATE: Okay, Linda, then with this board's endorsement you may go forward with the cooperation with the MSC or the Habitat Committee.

DR. MERCER: Thank you. That ends my report.

CHAIRMAN PATE: Gordon.

MR. COLVIN: If I can also offer a suggestion, Mr. Chairman. There was a recommendation that came forward from the Eel Board and was discussed I think briefly during the action plan workshop that suggested some work on development of a coordinated approach to a workshop on diadromous fisheries and hydro projects.

And that might well be something that could be dovetailed right into this effort as well because I think we said we needed to engage Management and Science and ask them to work with the Habitat Committee and the diadromous species boards in framing that. I think it could be added to this task and made part of it.

CHAIRMAN PATE: Thank you, Gordon. Is everybody and particularly Linda, are you good working without a motion on this? I'm just trying to keep things simple.

DR. MERCER: Yes, that's fine. I think we have enough direction.

CHAIRMAN PATE: Okay, thanks. Yes, Eric.

MR. SMITH: Actually, I wanted to make that point. We all know what we just did but the next time we read the record of this the only thing where this will show up is in the minutes which sometimes we don't read as carefully as we might.

Could I ask that on the list of motions we commonly list at the beginning of the proceedings from the previous meeting, in that list of motions could we have this identified as a consensus item that, and frame it out how we've just agreed to it?

CHAIRMAN PATE: Sure.

MR. SMITH: Then we have it all, all of our decisions on one page.

CHAIRMAN PATE: Good point and that's why I brought it up. You were a little bit more concise in how it's going to be presented but I did want the record to be clear of what we were asking. Linda, are you through?

DR. MERCER: I'm done. Thank you.

CHAIRMAN PATE: Thank you very much.

DR. MERCER: You're welcome.

**-- Other Business --**

CHAIRMAN PATE: That concludes all the agenda other than other business. And I'll recognize – Paul, did you have a? Okay, let me go to Gene Kray first. He had something cued up.

DR. KRAY: Thank you, Mr. Chairman. Michael Doebly indicated what he and I had in a conversation talking about the phrase recommended in the reauthorization of Magnuson-Stevens Act, moving from "overfished" to "depleted."

I won't belabor that any more. I think it's something we all, I believe we all need to move in that direction, particularly since we know some of the fisheries, like weakfish, also, that are suffering from natural mortality as opposed to overfishing.

I also want to expand just slightly into the, and the action plan covers this, the commission taking a look at the reauthorization of Magnuson. Many of you know that I chair the council's ad hoc committee on Magnuson.

And we have recommended 13, we made 13 recommendations to specific Congressmen and Senators who were involved in this as well as Dr. Hogarth. And these 13 were prioritized in terms of how important we thought they were. Just giving you a very quick update on where Magnuson is now, there is an Administration version that is out.

There is a Senate draft that is out. The House

recommendation is expected within the next few weeks. And we are, our committee is considering reconstituting in December to take a look at it if this House recommendation does come to fruition.

I also would ask and I don't know whether you would want to take this up under an action plan but just consider Oceans 21. It's on the radar. It has been signed on to by about four Congressmen.

There are ramifications for the council but there are also considerable ramifications for the commission, particularly when they talk about state waters and estuaries, et cetera. That's all I have.

CHAIRMAN PATE: Okay, thank you, Gene. And as you rightly noted that is in the action plan and we'll be working with the Legislative Committee to come up with some positions for the commission. Any questions of Gene on that point? Howard King. Ed.

MR. GOLDMAN: On that point about the depleted stocks, I was just wondering if we needed to make a formal motion or a white paper or something to go in that direction? I was thinking it might have, we were discussing in fluke yesterday about the legal, you know the big legal case and how we had to react to that.

And I think that might help us manage fisheries a little better if we're talking about you know a broader scale and these environmental groups don't want us fishing. So I think that's important.

CHAIRMAN PATE: Ed, it is important. We're dealing with some of the same problems in North Carolina, the wording of our law, which we're considering changing along the same lines.

But, I think it's not necessary to make that specific motion today. There may very well be other comments that the commission would want to submit in addition to that so we'll just reserve that particular point for that time, Ed, thanks. Howard King, striped bass.

MR. KING: Thank you, Mr. Chairman, I'll be brief. Earlier this week Maryland introduced a proposal for the spring 2000 striped bass fishery that included a retrospective calculation for our spring quota.

And although there was some justification for that, it raised policy concerns which are perfectly understandable. Maryland would like to collectively move in a different direction. I reviewed Amendment 6 and under Amendment 6 Maryland or the Chesapeake is not required to maintain a cap on that spring fishery.

So, Maryland would propose to the technical committee to manage that spring fishery without a cap under the target F with the addition of conservation equivalency through increased minimum sizes, reduction of effort, or other measures that might be necessary and the conservation equivalency would be designed to pay back any previous overages and set the stage for some normalcy for that spring fishery to operate within weather conditions and increased or decreased stocks of that age class.

I would hope that such a proposal could be constructed that would give a level of confidence to the commission and to the Striped Bass Management Board that we could go forward with something like this.

What I'm looking for today is an acknowledgement from the commission, any staff of the commission, that this would be a legitimate proposal under Amendment 6 and a sense of the commissioners, or preferably members of the Striped Bass Management Board, if there is any reason why such a proposal shouldn't be considered. And so I ask that of the commission and of the members of the Striped Bass Management Board.

CHAIRMAN PATE: Okay, thank you, Howard. Bob had a question of you on that proposal.

MR. BEAL: Sure, just real quickly, Howard. The proposal that Maryland submitted had a series of I think four or five different parts and the last part of that proposal was doing

something comparable to what you're proposing now.

Would Maryland be submitting a new proposal or should we just kind of revitalize the fifth portion of the proposal that you submitted?

MR. KING: We can take a look at that proposal but I would intend to submit a new proposal and be in communication with the commission and the Striped Bass Management Board prior to the next meeting about the proposal.

CHAIRMAN PATE: Jaime.

DR. GEIGER: I think Howard just answered my question. Thank you.

CHAIRMAN PATE: Thank you. Any questions of Howard? Any objections to sending this forward to the Striped Bass Technical Committee? Okay. Thank you very much. Spud.

MR. SPUD WOODWARD: Thank you, Mr. Chairman. My item has already been addressed in the motion on the Beaufort bridge net survey. Thank you.

CHAIRMAN PATE: I like it. Thank you. Paul.

MR. DIODATI: Just a request for clarification on a component of the ISFMP charter that I'll ask either the board to provide or maybe commission staff. It has to do with Section 7, compliance, in the charter.

And I was hesitant to raise this but this is one of the few meetings that Massachusetts has not been found out of compliance with any of the plans so I think it's a good time for me to get the answer. (Laughter)

And I prefer to have the answer now when we're in compliance with everything. But the section, which is on Page 21 and 22 of the charter, and it is in the disk of documents that we all have, it talks about the process for finding a state out of compliance.

And it says that the management board will make that determination and forward that determination to this board, the ISFMP Policy Board. And this Policy Board after its review, if it agrees, within 30 days it would also forward that recommendation to the full commission. That's my understanding.

And at that point the state has an opportunity to address the full commission in something reflective of an appeal to whether or not they're in compliance or not. In fact, they could request a full vote of the commission.

I guess my concern is that we now have, the management boards, the ISFMP Board and the full commission through its business meeting meet all at the same time or within about 30 minutes of each other at times.

And so that doesn't really allow a lot of opportunity for the state to prepare its appeal if that's what we're calling it. So is that correct or is my interpretation wrong?

MR. BEAL: Paul, your interpretation is correct. Usually within the same meeting week if a management board were to recommend a state be found out of compliance the Policy Board would deal with that finding during the same week and then the Business Session later, usually later the same day, would deal with that finding as well.

And you know there are some -- you brought up the logistical concern about the, kind of the short turnaround time between the Policy Board and the full Business Session.

The other logistical concern is that the full commission review has to be done within 30 days so we'd have to reconvene the full commission you know a few weeks after a Policy Board meeting if a state were to be recommended to be found out of compliance if the commission weren't able to address that at the same meeting.

I'm not saying that's right or wrong; I'm just, you know that just would be an outcome of delaying that decision by the full commission.

MR. DIODATI: Well, then, because of logistics or default of the logistics the state is really denied the opportunity to prepare its defense to the full commission, where you have about 30 minutes to do so. And you know I think that's probably not an appropriate way for the commission to operate, especially if a state has a reasonable basis for not being in compliance.

It triggers the whole process I think too quickly. And if that's the case we might as well just eliminate from the charter the language that the state has an opportunity to appeal. And so that we all understand exactly how this process works.

CHAIRMAN PATE: George.

MR. LAPOINTE: I guess, just to talk about the actual timeline a little bit, when we make a noncompliance recommendation it's based on a recommendation of the Plan Review Team and so if the state needs time to prepare the information needed for the full commission to evaluate that, what Paul calls an appeal, it actually has more than 30 minutes because the PRT acts in advance of the meeting.

And so if the state of Maine is recommended for non-compliance and I want to, I think I'm going to need to prepare the materials, arguments, et cetera, for an appeal, I actually have more time than that.

You know, these aren't things that happen as a snap decision. They actually occur over the course of a number of weeks. So I just wanted to clarify that. That doesn't mean we shouldn't clarify the charter in that regard but I don't think the compressed timeframe is that short.

CHAIRMAN PATE: Okay, Paul, it's a valid point and if I may I can work with staff and see if there is any need to make any changes to it and work with the AOC on any proposals to do so to address your concerns.

MR. DIODATI: And normally I would agree with George, that you kind of can anticipate whether you're in compliance or not, but there

are times when a state is coming to a Policy Board meeting to make a case that you know what they're proposing is a legitimate component of an amendment and to find out that a majority of the board members don't agree and then the next day you're found out of compliance and then 30 minutes later you're expected to go to court. So, I think either we eliminate it or we expand the opportunity for a state to defend itself.

CHAIRMAN PATE: Well, in that case you may very well be disadvantaged by that process. Vince. George.

MR. LAPOINTE: Paul brings up a good point about just the charter in general. It's been a while since we've looked at the charter and I would encourage -- I raised this with Bob the other day -- just encourage members to look at the ISFMP charter which I have not done but I intend to, just to make sure it meets our contemporary needs.

You know our program continues to evolve and it merits a look by all of us to make sure that if there are changes to consider we identify those.

CHAIRMAN PATE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. Just so we're clear here, the term "appeal" has been used and I want to make sure that the section that we're looking at right now really talks about the process of going from the Policy Board to the full commission, that there is a separate section that deals with appeals. And the commission, as you know, we've spent, you all spent quite a bit of time dealing with the appeals process so thank you.

CHAIRMAN PATE: Thank you. Paul, you have?

MR. DIODATI: I used the word "appeal" loosely. I think I even indicated that it really wasn't an appeal. It was an opportunity for the state to make comments or defend itself to the full commission.

CHAIRMAN PATE: An opportunity to address

the finding. Eric, real quickly. We've got a check out time coming up.

MR. SMITH: Very quick. How do you intend to proceed with this point because I know we don't want to debate it a lot further today. I have a somewhat different view on all of this than Paul but I'd rather hold it until we have what kind of discussion we have.

CHAIRMAN PATE: We'll evaluate -- actually I think George's suggestion is good about looking at the entire charter which would be a much broader task and more labor-intensive task than just this one point but I'd like to start with looking at this one point through the AOC and getting some direction from them as to how to proceed at the next meeting with some amendments on this point and maybe others also.

Is that okay? Okay, good. Paul, are you cool with that? Okay, any other questions? Any other matters of business to come before the board? Jaime. (Laughter)

DR. GEIGER: Thank you, Mr. Chairman. I just wanted to briefly say that I heard a terrible rumor that one of our members is going to retire imminently and I understand Ms. Anne Lange is looking for greener pastures.

I just wanted to again thank her on her behalf of all the work she's done on this Policy Board and the management boards and how strong a friendship and a partnership that she has established with the U.S. Fish and Wildlife Service and indeed with us all. So thank you very much, Anne. (Applause)

MS. LANGE: I'll get you later, Jaime. (Laughter) I want to express my appreciation for all the partnership efforts and the acceptance that I've received from every board member, from the Policy Board as well as each of the management boards.

I firmly believe and have throughout my entire 34 federal career that we can't do anything without working together. The states and federal agencies are partners in all of our marine

resource endeavors and I hope that whoever my successor is will continue with that same attitude and philosophy. And I will encourage them to do so. Thank you very much for accepting me as part of the family here. I appreciate it.

CHAIRMAN PATE: Thank you, Anne. And good luck in the future on behalf of us all. Does anybody need to check out? Okay, let's take -- let's reconvene, just like the schedule says -- well, let's move it up some -- at 12:15.

(Whereupon, the meeting adjourned at 11:50 o'clock a.m. on Thursday, November 3, 2005.)

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