

Atlantic States Marine Fisheries Commission

American Eel Management Board

*August 5, 2015
8:00 – 8:45 a.m.
Alexandria, Virginia*

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*J. Clark*) 8:00 a.m.
2. Board Consent 8:00 a.m.
 - Approval of Agenda
 - Approval of Proceedings from October 2014
3. Public Comment 8:05 a.m.
4. Technical Committee Report (*S. Eyster*) 8:15 a.m.
 - Review Recommendations on Maine Life Cycle Survey Design
5. Update on Addendum III Implementation (*M. Waine*) 8:35 a.m.
6. Elect Vice-Chair (*J. Clark*) **Action** 8:45 a.m.
7. Other Business/Adjourn 8:45 a.m.

The meeting will be held at the Westin, 400 Courthouse Square, Alexandria, Virginia; 703.253.8600

Vision: Sustainably Managing Atlantic Coastal Fisheries

Atlantic States Marine Fisheries Commission

MEETING OVERVIEW

American Eel Management Board Meeting

August 05, 2015

8:00 a.m. – 8:45 a.m.

Alexandria, Virginia

Chair: John Clark Assumed Chairmanship: 8/15	Technical Committee Chair: Sheila Eyler (USFWS)	Law Enforcement Committee Representative: Cornish
Vice Chair: VACANT	Advisory Panel Chair: Martie Bouw	Previous Board Meeting: October 27, 2014

Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, D.C., PRFC, USFWS, NMFS (19 votes)

2. Board Consent:

- Approval of Agenda
- Approval of Proceedings from October 2014 Board Meeting

3. Public Comment:

At the beginning of the meeting, public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign-up at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Board Chair will not allow additional public comment. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Technical Committee Report (8:15– 8:35 a.m.)

Background

- Addendum IV requires that any state or jurisdiction with a commercial glass eel fishery must implement a fishery-independent life cycle survey covering glass, yellow, and silver eel life stages within at least one river system.
- Maine developed a life cycle survey for TC review. The TC formulated recommendations to the Board regarding Maine's Life cycle survey proposal (**Briefing Materials**).

Presentation

- Technical Committee Report by Sheila Eyler, TC Chair

5. Update on Addendum III Implementation (8:35– 8:45 a.m.)

Background

Addendum III implemented the following management changes in January 2014.

- Commercial Glass Eel Fisheries – Pigmented Eel Tolerance
- Commercial Yellow Eel Fisheries – Increase Minimum Size Limit and Gear Restrictions
- Commercial Silver Eel Fisheries – Seasonal Closure

<ul style="list-style-type: none"> • Recreational Fisheries Measures – Reduction in Bag Limit with Party Charter Boat Exemption
Presentation <ul style="list-style-type: none"> • Update of State Implementation of Addendum III by M. Waine
Board Actions for Consideration <ul style="list-style-type: none"> • Address any compliance issues if necessary

6. Elect Vice-Chair (8:45 a.m) Action
Background <ul style="list-style-type: none"> • Vice-Chair seat is vacant.
Board Actions for Consideration <ul style="list-style-type: none"> • Elect a Vice-Chair

7. Other Business/ Adjourn

**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN EEL MANAGEMENT BOARD**

Hilton Mystic
Mystic, Connecticut
October 27, 2014

These minutes are draft and subject to approval by the American Eel Management Board.
The Board will review the minutes during its next meeting.

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of August, 2014** by Consent (Page 1).
3. Move to approve North Carolina's proposal for one year (Page 6). Motion by Louis Daniel; second by Loren Lustig. Motion carried (Page 9).
4. **Motion to adopt the working group's recommendations for both yellow and glass eels and for the sustainable fishery management plans** (Page 25). Motion by Rep. Walter Kumiega; second by Ritchie White. Motion amended (Page 39).
5. **Motion to amend to use the soft cap of 978,004 pounds and Trigger Number 2 from the working group recommendations. If the cap is exceeded in two years, then the allocation would be as specified as Option 2-A from Draft Addendum IV** (Page 32). Motion by Adam Nowalsky; second by Emerson Hasbrouck. Motion defeated (Page 35).
6. **Motion to amend by striking Option 8 from the main motion for glass eels** (Page 39). Motion by Bob Ballou; second by Dan McKiernan. Motion carried (Page 39).
7. **Main Motion as Amended: to adopt the working group's recommendations for yellow and glass eels and for the sustainable fishery management plans, excluding Option 8 for glass eels.** Motion carried (Page 41).
8. **Motion to approve Addendum IV as modified today and in August 2014** (Page 41). Motion by Bill Adler; second by Pat Keliher. Motion carried (Page 43).
9. **Move to adjourn** by consent (Page 44).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)
Rep. Walter Kumiega, ME (LA)	Loren Lustig, PA (GA)
Steve Train, ME (GA)	Leroy Young, PA, proxy for J. Arway (AA)
Doug Grout, NH (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Roy Miller, DE (GA)
G. Ritchie White, NH (GA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	Bill Goldsborough, MD (GA)
Rep. Sarah Peake, MA (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
William Adler, MA (GA)	Tom O'Connell, MD (AA)
Robert Ballou, RI (AA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
David Borden, RI (GA)	Catherine Davenport, VA (GA)
Rep. Craig Miner, CT (LA)	Louis Daniel, NC (AA)
Lance Stewart, CT (GA)	Mike Johnson, NC, proxy for Sen. Jenkins (LA)
Dave Simpson, CT (AA)	Sen. Ronnie Cromer, SC (LA)
James Gilmore, NY (AA)	Ross Self, SC, proxy for R. Boyles, Jr. (AA)
Emerson Hasbrouck, NY (GA)	Malcolm Rhodes, SC (GA)
Katherine Heinlein, NY, proxy for Sen. Boyle (LA)	Nancy Addison, GA (GA)
Adam Nowalsky, NJ, proxy for Asm Andrzejczak (LA)	Pat Geer, GA, proxy for Rep. Burns (LA)
Russ Allen, NJ, proxy for D. Chanda (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Tom Fote, NJ (GA)	Sherry White, USFWS
	Martin Gary, PRFC

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

Ex-Officio Members

Joe Fessenden, Law Enforcement Committee Rep.
Sheila Eyler, Technical Committee Chair

Marty Bouw, Advisory Panel Chair

Staff

Robert Beal
Toni Kerns
Kate Taylor

Mike Waive

Guests

Kelly Denit, NOAA
Chip Lynch, NOAA
Derek Orner, NOAA
Steve Meyers, NOAA
Jack Travelstead, CCA
John Cornish, ME DMR
Lynn Fegley, MD DNR
Brandon Muffley, NJ DFW
Raymond Kane, CHOIR

Darryl Young, Maine Elver Fishermen Assn
Angela Young, MEFA
Jeffrey Pierce, MEFA
Arnold Leo, Town of East Hampton, NY
Bill Sheldon, Woolwich, ME
John Sheldon, Woolwich, ME
John McIntosh, Scarborough, ME
Julia Beaty, Integrated Statistics
Joseph Gordon, PEW

The American Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the Grand Ballroom of The Mystic Hilton, Mystic, Connecticut, Monday morning, October 27, 2014, and was called to order at 11:15 o'clock a.m. by Chairman Thomas O'Connell.

CALL TO ORDER

CHAIRMAN THOMAS O'CONNELL: Good morning, everybody; and welcome to the American Eel Management Board Meeting. My name is Tom O'Connell. I'm a representative for Maryland and will be chairing today's meeting. I will note that given some of the issues that pertain to Maryland; that I may need to step down. If I need to, Bob Beal will come in; but I'm doing to do my best to stay up here for the duration of the day.

APPROVAL OF AGENDA

CHAIRMAN THOMAS O'CONNELL: Everybody should have received an agenda and would ask the board's consent of that agenda. Are there any suggested changes to it? Seeing none; the agenda will stand approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN THOMAS O'CONNELL: We also have our Proceedings from our August meeting. Are there any suggested changes to those Proceedings? Seeing none; our Proceedings from August will stand approved.

DISCUSSION OF CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE POLICY

I'm going to turn it over to Bob Beal, our executive director, who is going to comment on the Conflict of Interest Policy that was approved at the August meeting.

EXECUTIVE DIRECTOR ROBERT E. BEAL: As the chairman mentioned, this is our first meeting of the full coast after the new Conflict of Interest and Financial Disclosure Policy was approved by the Policy Board at the August meeting. Part of that was that all the legislative

and governors' appointees fill out disclosure forms on their financial interests and involvement in fishing and the NGO community.

I think all of the commissioners that are participating in this board have done that. Those forms are available on the ASMFC Website as well as in the notebook out in the hall. If anyone wants to review the financial disclosure forms of the commissioners, those are available for review. I think there is only one individual, Mitchell Feigenbaum, that has indicated that he processes more than 10 percent of the coast-wide harvest of American eel.

What means is that under the new procedures, Mitch will be able to fully participate in the dialogue of this board and ask and answer questions and comment on motions. However, he will not be able to make motions, second motions or participate in the state caucus prior to a vote.

That is the new procedure that has been identified; and I think this is the first board that it has impacted this morning. The only other procedural issue is meeting-specific proxies aren't able to vote on any final actions that are being considered by this board. If we get those, we can identify those individuals.

CHAIRMAN O'CONNELL: Any questions related to that? Mitch.

MR. MITCHELL FEIGENBAUM: I just had one question; and that is Bob mentioned that commissioners who were recused cannot caucus or vote. I'm certain that at least in the legislative and governors' appointees discussions about the issue it was fairly widely accepted that commissioners are free to confer with guests or folks in the back or really anyone that they choose during caucuses.

We've seen over the years many times where folks at the table refer to a colleague or some other person in the back. Recognizing that during the time that there is a caucus on a vote, I will in fact step back from the table; but I just was wondering if we needed to clarify the fact

that commissioners are free to seek advice, guidance, opinions, counsel from pretty much anyone they want. Is that in fact the policy; and if not, I would suggest that it should be.

EXECUTIVE DIRECTOR BEAL: The commission doesn't have a policy on who the commissioners can seek guidance from during a caucus or during any of the deliberations of the commission. That is up to the individual commissioner. There have been instances when individuals have approached commissioners at the board during a caucus; and I think the commissioners have not necessarily always appreciated that.

I think that is not the position of the public to approach commissioners during a caucus. If the commissioner gets up and seeks guidance or counsel, I think that is appropriate. It seems to be maybe not desirable for the public to come to the table and approach commissioners during a caucus.

CHAIRMAN O'CONNELL: Any other questions? Craig.

REPRESENTATIVE CRAIG A. MINER: As I follow this, a commissioner would not be barred from participating in that conversation away from the table even if they were prohibited from the vote based on their ownership?

EXECUTIVE DIRECTOR BEAL: I'm not sure I understand your question, Craig; is it that you can go to the audience and talk to your fellow commissioners or is it discussion with audience members?

REPRESENTATIVE MINER: Well, I think the point that Mitchell was making to the commission was that it seems like there is a different – and I don't want to speak for him; but it seems like there is a different threshold for a commissioner who may have an ownership level that they've declared. I don't remember exactly what you said with regard to this new rule; but it seemed to me that what you were saying was that the individual could participate in the conversation here, couldn't vote and couldn't

participate in the deliberations of the caucus prior to the vote.

The scenario that I think Mitchell was bringing up was that there are occasions when someone actually might leave the table, go to the audience and ask a question. I don't know if that is so or not so; but I thought your response was that we don't restrict someone from doing that prior to a vote as part of their caucus. In this case I think the rule for a commissioner would be different or am I wrong?

EXECUTIVE DIRECTOR BEAL: Well, I'm not sure I still understand the nuance that you're speaking of. It sounds like if a commissioner wants to go to an audience member and ask them questions prior to a caucus; I think that is appropriate.

I think if the three commissioners or the commissioners that are eligible for the caucus put their heads together before a vote, be it one, two or three, depending on recusals and attendance – if there is an individual that has an identified conflict of interest, he or she should not participate in that state-specific discussion prior to a vote. It would be best if they removed themselves from the table and let the remaining commissioners decide how they wanted to vote and then come back to the table once the vote is cast.

REPRESENTATIVE MINER: Thank you; so from that I'm taking that individual would then still be out of bounds no matter where they are in terms of the remaining caucus members seeking out advice?

EXECUTIVE DIRECTOR BEAL: Now I think I get the nuance. Let's use the example of the real world we're in right now. If Leroy wanted to know Mitch's opinion on how he should vote before a vote and Leroy wanted to seek that out from Mitch, I think that is up to the commissioner or that's up to Leroy, for example. The policy did not go into that level of detail.

PUBLIC COMMENT

CHAIRMAN O'CONNELL: All right, moving forward we've got a public comment period. Anybody that wants to provide a brief comment to the board on items that are not on the addendum? As we go through the deliberation on the addendum, if time allows we may seek public comment; but recognizing that we've already had extensive comment, we may not either. Anybody want to speak on something that is not on the addendum? Yes, if you'd come up, sir, and introduce yourself and your affiliation, please.

MR. JEFFREY PIERCE: My name is Jeffrey Pierce. I'm with the Maine Elver Fishermen's Association. I was just asking for some consideration today on Maine staying status quo. We've done a tremendous job in cutting gear reductions and licensing reductions over the years.

CHAIRMAN O'CONNELL: Excuse me, sir, it sounds like you're going into an item that is in Addendum IV. Can you clarify to me how this is not related to Draft Addendum IV?

MR. PIERCE: I was going to discuss with all the cuts we've taken, turbine mortality is considered the number one threat to the species. I don't see it on the agenda.

CHAIRMAN O'CONNELL: Okay, if you want to make a brief comment related to turbine mortality; that's fine.

MR. PIERCE: At the last meeting in August we had handed out a thing requesting for turbine mortality to be put on the agenda or outward migration. U.S. Fish and Wildlife cites this to be the biggest problem for American eel. The fishermen seem to taking it on the back; and I see nothing happening on turbine mortality. We would like that to be an agenda item or considered.

CHAIRMAN O'CONNELL: For today?

MR. PIERCE: If possible. We did request it be put on the agenda at the August meeting.

CHAIRMAN O'CONNELL: Well, let's see how the meeting goes today; and if time allows, we can have a brief conversation on that under other business. At this point we understand the issues related to turbine mortality; and we've been working with the standing bodies to try to advocate those issues back in our states. I know in Maryland there is a lot of conversation related to some of the FERC relicensing of some of the major dams in Maryland. If time allows at the end of the meeting, we'll allow a brief conversation to see if the board wants to take this issue up in a different manner at this time; okay?

MR. PIERCE: Thank you for your consideration.

CHAIRMAN O'CONNELL: Anybody else from the public that would like to comment at this time? Seeing none; we're going to go into other parts of the agenda.

**DISCUSSION OF NORTH CAROLINA'S
PROPOSED ADDENDUM III
REGULATIONS**

CHAIRMAN O'CONNELL: You will see that Item Number 4 relates to a proposal from North Carolina. I think, Louis, you're going to present that proposal to the board.

DR. LOUIS B. DANIEL, III: Hopefully, this will be fairly simple. Kate has done a good job sort of summarizing it in the three bulleted points on the thing; and I'm just going to go over it briefly. In Addendum III there was a requirement for a ½ by ½ inch mesh requirement. What North Carolina has had for years is just have a ½ by 1 inch four-inch escape panel; and the pot can be constructed of 1/16th, 1/32nd, 1/64th inch mesh.

What we wanted to do go back and go with the ½ by ½ inch pot. Some believe that may be less restrictive than what we had in place prior to Addendum III. Based on some of the discussions I've heard is that you probably get as good a culling in a full ½ by ½ inch pot as you do if you have 1/32nd inch pot with one

panel; but a lot of it depends on where the panel is actually located.

What we wanted to do was we'd move forward with rulemaking to go ahead and codify the rule in Addendum III to go with the half by half; and that is when we were informed that we were not supposed to become less restrictive than we were when the addendum was approved. I think you could argue either way.

If it is less restrictive or equal to the – I mean, if it is equal to the current conditions required in Addendum III or whether it is less restrictive, I don't know that it really is less restrictive. I had a talk with my technical committee representative, who is our chairman to the advisory panel. They like the ½ by 1-inch escape panels; and what it would be my intent to do would be to require those panels – allow the fishermen to use those panels and maybe even proclaimate requiring those panels if we run into a concern. My hope was to be able to continue with our rule-making process, go with the ½ by ½ inch panels, which is required in Addendum III and then move on.

TECHNICAL COMMITTEE REPORT

CHAIRMAN O'CONNELL: It is my understanding, Sheila, that the technical committee has not had a chance to review this proposal; but if not, do you have any thoughts you would want to share with the board?

MS. SHEILA EYLER: No, we have not reviewed this proposal and we have no recommendation for the board.

CHAIRMAN O'CONNELL: All right, board discussion on North Carolina's proposal? Rob.

MR. ROB O'REILLY: I just know that in I think it was 1995 our eel harvesters approached us and made the request to the half by one inch. Although I don't know of any study that shows the effectiveness of the half by half versus half by one; they were certainly were concerned about having too many small eels.

Now, again, there is no study involved; but that has been the case in Virginia since about 1995. On the other hand, I know that if the technical committee hasn't looked at this, it is certainly something that would have been status quo for North Carolina had it been in effect at the time Addendum III measures were adopted.

CHAIRMAN O'CONNELL: Thanks for that perspective, Rob. Mitch.

MR. FEIGENBAUM: It seems fairly simple that if at present North Carolina fishermen in any significant number are in fact using a smaller mesh than half by half; then by going to the half by half, they're going to become more conservative, in which case letting them take away the escape panel seems to be a fair approach that would probably be somewhat neutral – you know, somewhat balance in terms of the overall take.

On the other hand, if the technical committee assesses the situation and finds out that 99 percent of the fishermen are at half by half already; then all that is really going to happen from this request is taking away the panel, which would then be less conservative. That is the one piece of information that I'd be curious to hear; how many people are under the half by half presently. I hope that was clear.

MR. G. RITCHIE WHITE: I guess I'm a little confused. Is this not a request for conservation equivalency? If that is the case, the normal process would be to go to the technical committee first and then to the board. Am I missing something in that?

CHAIRMAN O'CONNELL: I'm not sure if this viewed as conservation equivalency or not; but based upon the limited comment already, it seems like the board could be better informed if the technical committee had a chance to review it. I was going to ask Louis as to the timing that you need this decision?

DR. DANIEL: Well, I didn't realize we had made a goof. If we had been compliant with Addendum III with the ½ by ½ inch pot, we wouldn't be here. Again, the question is – and I

understand Mitch's question; I don't know what percentage of our potters have less than the ½ by ½ with the 1 by ½ inch panel. I would imagine most of them are fishing half. Marty might know.

We're in the process of rulemaking to implement this; and so it has already gone through public hearings and various other things. I'm kind of in a scrape. If I can't do this, I'm not exactly sure what I do. We can't go back and modify it without having to start the process all over again; and that will be another year and a half. I really don't think it is – I think it is conservation neutral.

Like I said, we have no problem encouraging the escape panels for those that are concerned about having smaller eels and really wouldn't even have trouble proclaiming the required. I would like to talk more with Marty about that and talk with my fishermen; but if they're in agreement, we could maintain the ½ by 1 inch panel down the road. I kind of need something quickly. I'm sorry, that was my fault.

I think it was Kate discovered it that we had done a little bit of a misstep; but it is kind of strange that you're held to more restrictive standard because you were more restrictive; and then when plan comes out and you want to be compliant with it, you can't without board approval. I'd sure appreciate your support in this request.

CHAIRMAN O'CONNELL: All right, Marty, I saw you nodding; can you provide a little information as to how many guys may already be using the half by half inch?

MR. MARIUS "MARTY" BOUW: The law has been an inch by half in North Carolina for quite a while. Those had those four-inches patches put on the wrong side. They put them on the bottom end instead of the top end, which there was no requirement where they put the patches. The other problem, of course, you're going to get is North Carolina produces a lot of male small eels that are about 12 inches, 13 inches in size. They will escape out of the 1 by half.

They will not escape by half by half. What you're going to create is a lot of the males that actually need to go out; they become half silver in the fall; they will not escape. We have no market for it; we can't buy them because there is no market for those eels. Really, the fisherman is wasting his in fishing those eels. I don't know how many people fish half by half. I haven't seen anybody that fishes less than half by half in North Carolina.

MR. JOHN CLARK: Between the slide and what Marty just said; that answered a lot of my questions. I was just curious as to whether any escape vent studies have been done. It just seems that from what Marty said there; that you definitely will catch more small eels with the half by half inch other than the one by half inch.

MR. DAVID SIMPSON: I guess I just wanted to make sure I was remembering correctly were we one year into a three phase-in period for this? I raised my hand before Louis explained how deep they are into a rule-making process; but these are the kinds of things we want to hear from the technical committee on before we make a decision; at least I do.

REPRESENTATIVE WALTER KUMIEGA, III: What if we approved this for the coming year pending technical committee review, for next October or something, where they can continue with the process and hopefully come up with something that is okay and we'd have plenty of time for review for 2016. If the technical committee doesn't like what North Carolina comes up with, we can just do it for one year.

CHAIRMAN O'CONNELL: That is going to be up to the board. In listening to some of the feedback in Maryland in regards to mesh size changes; it requires an investment and different gear. If we allow this one year and then decide not to; it is going to be a lot of potential investment losses. Louis.

DR. DANIEL: Well, the requirement is a half by half; is anybody more restrictive than that?

CHAIRMAN O'CONNELL: Kate is saying yes; Georgia, at least.

DR. DANIEL: I'm perfectly happy with a one-year reprieve and then be able to work with Marty and the industry to come up with the addition of that panel; but is everybody going to have escape panels in their pots, too? If I'm the only one; that's fine, because we had it before; but that is something we could work on and report back.

CHAIRMAN O'CONNELL: I think one of the struggles of the board is later this afternoon we're going to be looking at Draft Addendum IV for which we're being asked to reduce harvest. I think that is the question that I've been hearing from several board members today as to whether or not this proposal will result in an increased harvest or not at a time that we're trying to decrease harvest. I've got Rob and Mitch; but I think after those two comments, it would probably be good to make a motion and see how the board votes on this issue.

MR. O'REILLY: Mr. Chairman, my comment was only to Dr. Daniel that they wouldn't be the only one. Again, in 1995 we implemented the panel, the inch by a half, but also have half by half in the pots; so I just wanted to just respond to that.

MR. FEIGENBAUM: Mr. Chairman, I just want to point out that I believe Representative Vereb and certainly in some of our communications to the commissioners over the last two meetings; I've pointed out that the relationship between the mesh and the size limit is not working out perfectly.

We have been pretty candid in our state as well as telling commissioners or officials in other states that there are still a lot of eels that are being harvested below the limit. Maybe I shouldn't say a lot, but there are eels being harvested below the size limit that are nonetheless coming from the half by half mesh.

It just raises the point that as a management measure for the future we need to try to tighten this up and make sure that we have a regulation

in place that matches the conditions on the ground. If I was in the position to make motions, which I'm not, I would be happy to make a motion to extend the North Carolina the following year – you know, an extra year to resolve this.

I would also be suggesting that North Carolina, just as the chairman suggested that North Carolina takes up the issue with the industry as well as with the technical committee with the thought being that at the end of the day the goal should really be even broader than just what is North Carolina's rule going be.

It is not part of Addendum IV so we can't go far astray on that issue today. There hasn't been public comment; but in a conservation neutral or even conservation positive way, I think we can work on this issue of mesh sizes and size limits and have a more effective management measure. I can't make that motion and I can't vote on that motion; but if someone did make that motion and I was allowed to vote, I'd be voting for it. All I can do is offer my opinion; but I would urge people to follow that approach.

CHAIRMAN O'CONNELL: Louis, do you want to make a motion?

DR. DANIEL: I'd rather Mitch make it, but I'll make it. **I'll move that the North Carolina proposal be approved for one year.**

CHAIRMAN O'CONNELL: Seconded by Loren. We've got a motion and a second by Loren to approve North Carolina's proposal for one year. Deliberation on the motion? I think we've already heard a lot of the different perspectives on it. Is everybody clear on what the motion is? Emerson.

MR. EMERSON C. HASBROUCK: I have a question on the slide that was just up there relative to I think it was 7 percent retention with 1 by ½ and 13 percent half by half for eels. Is that significantly different; is there a statistical significance there between those two? I mean just because one is 7 percent and one is 13 percent, there may not be any statistical significance there.

CHAIRMAN O'CONNELL: I don't know if Kate or Sheila could answer that question.

MS. KATE TAYLOR: That was an analysis that was provided by North Carolina and was included in Draft Addendum III. I would have to go back and check with the report if there was a statistical significance in that difference, but I can get back to you on that.

CHAIRMAN O'CONNELL: Dennis, do you want to speak in favor or against the motion?

MR. DENNIS ABBOTT: I think just a question. I think it just relates to the answer; but I was going to ask if this business of a 13 percent reduction or a 7 percent reduction was reviewed by the technical committee. It obviously hasn't so that influences I think my decision-making.

CHAIRMAN O'CONNELL: Any other comments on the motion? Bob.

MR. ROBERT BALLOU: Mr. Chairman, just so I understand the intent and upshot of this motion; if it were to be approved, it would allow North Carolina to move forward with a change to its regulations to enact a ½ by ½ inch regulation, which would be consistent with the standard set forth in the addendum.

As such, I feel comfortable approving it for that reason. I understand currently that would be a less conservative approach than what you have now, but I think from an equity and fairness standpoint I'm comfortable with the approach. Thank you.

DR. DANIEL: At my peril I will speak again. The size limit is nine inches; so I don't know that we're seeing a lot of undersized eels in either of the two panels, to get to Emerson's comment. Again, my intent would be to go home and find out how the industry would like to promote this. I have no problem going with the culling panel, Marty, and requiring that through proclamation and that would maintain our compliance.

I just need the time to do it; and this year would give me that time to do it. In terms of what we're getting ready to do in Addendum IV, I'm assuming that we're all going to go home with quotas. Once we catch our quota, we're going to have to close, so it is not going to result in more or less harvest above and beyond our quota. Thank you for your support on this motion.

CHAIRMAN O'CONNELL: John, do you want to speak in favor or against the motion?

MR. CLARK: More of a question, Mr. Chair. I was just curious as to if this is approved and North Carolina eelers go through the expense of changing their pots; how are we going to come back next year and tell them it was just a mistake and we want you to change back to the escape panel. Even so we're saying for one year, I think if this is approved it will be permanent. Thank you.

MR. O'REILLY: I'm in favor of the motion but I also would hope that when the technical committee looks at the information, this idea of statistical significance can be looked at; but at the same time it would good to know why exactly the recommendation was to maintain management measures that were in place even though they were more restrictive than those that were advance by Addendum III. I would supposed part of that might be a landings' issue, to keep landings from increasing, but I don't know that. It would be good to know that response when the technical committee goes through this deliberation.

MS. TAYLOR: I can briefly speak to the PDT's deliberation in the development of Draft Addendum III. We did look at that issue. It was consistent with the initial FMP. Also in recognition of the fact that the modifications to gear can be costly, the PDT recommended maintaining that same language from the FMP that states that have more conservative measures be required to maintain those; and we'd basically with the half by half inch mesh requirement bring everyone up to a baseline while providing that little bit of conservation benefit. The PDT had discussions where they did not want to see all states revert down to the

half by half and potentially lose some of that conservation benefit that was gained through the addendum.

MR. ADAM NOWALSKY: I think both of the last speakers touched on the two issues I was going to address. One is that if we're going to approve this motion, it is not going to be for just one year. By having that in here, we're just leaving ourselves more work for the future, quite frankly. I think it would behoove the board to remove that moving forward.

Secondly would be what was previously in the addendum; I would encourage the board to revisit that. If we're going to say half by half is good enough, there is no point in leaving in the stipulation that if you're currently more conservative; that you have to stay there. We're basically setting a precedent here that is saying we're moving forward with saying everybody should be at half by half; and this board should find some way to move forward, again, so we don't have to take up our time taking these up individually moving forward.

CHAIRMAN O'CONNELL: Adam, was that a suggestion to amend to remove for one year or not?

MR. NOWALSKY: I'm not going to make an amendment to the motion, Mr. Chairman; but I'm going to leave that low-hanging fruit out there.

MR. PATRICK C. KELIHER: Mr. Chairman, I think I can support this; but I do have two questions before we vote. I think Marty said that some of these pots, people are actually putting these escape panels on the bottom of the pots. Is North Carolina going to deal with that through the regulations to make sure that the escape panels can actually be used as escape panels?

If they're on the bottom, I think the efficiency is going to be impacted. Two, to several of the comments that were just made, specifically Adam's, can North Carolina, if we do this for one year, are they going to be able to – and we reverse the decision, are you going to be able to

make a change and ensure this isn't a two-year proposal.

DR. DANIEL: Yes; I think as Marty said, I think a lot of the pots are already half by half; so requiring an escape panel be incorporated into the body of the pot in a certain location where it is effective, I could implement in 48 hours through proclamation if that is what was required to maintain compliance with the plan.

CHAIRMAN O'CONNELL: Marty wanted to say something, recognizing that the technical committee and AP hasn't had a chance to look at this go ahead.

MR. BOUW: The question I have to all of you is why would you catch something you can't sell?

MR. RUSSEL DIZE: Mr. Chairman, I support this motion. The buyers control what you're going to sell. You can have all the small eels you want and you can't sell it. For instance, if you go to spiny dogfish, we've got loads of spiny dogfish but we can't sell it. We can't make anything with it. The fishing industry is controlled by what the buyers will buy.

Marty can say, well, they're there; but if he won't buy it and if he won't give any price for it, you won't catch it. For instance, a friend of mine, Tommie Ludden, didn't go eeling this fall because the price of eels was low. He went oystering. That is what happens in the market. I don't see why North Carolina has to be more restrictive than Maryland or anyone else. If it is half by half, I think that is what it ought to be, half by half. You should be able to go to that. I just don't think it is fair to make them be at a higher gauge of wire. Thank you.

MR. CLARK: Over the past few board meetings we've had about eel, we keep coming back to let's follow the technical committee recommendations on these things. This was in the previous addendum that we passed. It went through the technical committee; it went through the PDT review to keep in that more restrictive language; and we've done that. As I said, we keep hearing people saying we should follow

technical advice; and yet time and time again with this eel plan we're talking about doing things that are very different. Just something to consider there.

CHAIRMAN O'CONNELL: Is there anybody that has not spoken on the motion that would like to speak? All right, I'll allow for a 30-second caucus on the motion.

(Whereupon, a caucus was held.)

CHAIRMAN O'CONNELL: **Okay, all those in favor please raise your right hand; all those opposed please raise your right hand; any abstentions; null votes. The motion carries.** One follow-up question given the board has passed this motion for clarification going forward; what would the board like to see in one year to evaluate this plan? Do you want the technical committee just to review the proposal; do you want North Carolina to submit information after this year? Any suggestions on that so we give some direction to North Carolina and the staff? Dave.

MR. SIMPSON: Yes; I think get that input from the technical committee. If there is more information that North Carolina can or wants to provide, great; but I'd like to hear from the technical committee on it.

CHAIRMAN O'CONNELL: Any objection to that? Doug.

MR. DOUGLAS E. GROUT: This discussion that we've had here and we've had in previous meetings have left me a little concerned here that maybe we didn't pick the right mesh size here for a nine-inch size limit. The comment that we received both at the AP and some of the commissioners here was that this was an appropriate size limit. Didn't we have an option of half inch by one inch in the plan originally; and we chose half inch by half inch.

At least I made the decision because I heard half by half inch is the best one for a nine-inch size limit. This is making me a little concerned that maybe we should have gone with the half inch by one inch. The point of me making that is I'd

like to have the technical committee comment on what is the appropriate mesh size for a nine-inch minimum size limit.

CHAIRMAN O'CONNELL: Kate is going to provide a response; but if there is that question out there, perhaps when the technical committee reviews North Carolina's proposal they can include that evaluation and bring it back to the board as well.

MS. TAYLOR: We did look at the evaluation of that; and the half by half was a little bit lower than a nine-inch minimum size. The board was made aware of that and had discussions on a tolerance for undersized eels at the last two meetings. I think it is an 11/12th maybe. It is very close to nine inches, but it is under nine inches that is associated with the half by half inch mesh.

CHAIRMAN O'CONNELL: We'll do that and we'll ask the technical committee to reexamine that if there are some concerns related to that objective being met with the half by half when they look at the North Carolina proposal.

TECHNICAL COMMITTEE REPORT

CHAIRMAN O'CONNELL: Next on the agenda is the technical committee report and just to kind of manage our expectations for today; we're going to try to break at 12:30 for lunch.

Ideally we were hoping to get through the working group recommendations so everybody could have that before them as we break. We'll see if we can get that far. It is taking a little bit longer with some of the earlier agenda items. Before I turn it over to Sheila in regard to the technical committee report, I just want to recall that we had a lengthy meeting at the last August meeting related to yellow eels.

We ended that meeting with the board asking that a working group be formed to look at options that would achieve the technical committee's recommendations for yellow eels and also for glass eels. There was some discussion about a discrepancy in Draft

Addendum IV as to what that baseline for a reduction shall be.

Should it be based upon landings in 2010 given that was the last assessment? Should it be based upon the '98 to 2010 average landings? To offer clarity to the working group, the technical committee was tasked with clarifying what baseline period the reduction shall be made off of. Sheila is going to report on that. There was also the issue related to the multiple species of eels that may be encountered. I'm going to turn it over to Sheila and she is going to provide us the foundation of information for our discussions later this afternoon.

MS. EYLER: Tom gave a good overview of the information that we were tasked with. We had to look at the quota recommendations from the stock assessment; the identification of glass eels if we have confusion with other species; and finally a review of Dr. Cadrin's white paper that was given out at the last board meeting.

We will start with quota recommendations. The technical committee met earlier in September and we discussed the recommended quotas. The technical committee continues to recommend that the quota be an average of landings from 1998 to 2010 for both life states of the yellow and glass eel fishery. The time period was considered for the entire stock assessment. It also includes some variability in the fishery, which you wouldn't get if you just picked one year out of that time series.

The technical committee also recommends a reduction from those average landings. The average landings for yellow eels during that time period would be 907,669 pounds. For glass eels it would 5,293 pounds. When the technical committee was asked whether or not we had a recommendation for how much reduction should be taken from that level; the stock assessment did not identify a reduction amount.

We have no amount that we can tell you that would ensure benefits and rebuilding of the fishery stock. However, looking at the variability in the harvest from 1998 to 2010 in the yellow eel fishery; a coefficient of variation,

a CV, was assigned to those values. It considered a 12 percent reduction from the average landings would be what we would consider a measurable reduction in the fishery.

This slide shows the harvest landings from 1998 to 2010 in the blue bars; and then the more recent landings in the red bars. The technical committee wants you to consider the average landings from 1998 to 2010; and that is indicated by the black bar all the way on the right. With a 12 percent reduction; that would ensure that the fishery is reduced from most years of harvest between 1998 and 2010; and that would be down to 798,750 pounds.

When looking at the glass eel fishery, we used the same analysis, looking at the variation in harvest from 1998 to 2010. That analysis showed that a 70 percent reduction would be necessary to achieve the same kind of measurable results in fishery harvest. However, the technical committee looked at that and felt that was probably unnecessary because we could not ensure that level of reduction would result in stock rebuilding; and that we thought it was more appropriate that the glass eel reduction should be considered something similar to the yellow eel reduction, which would be 12 percent again.

This slide just indicates again the harvest for glass eels from 1998 to 2010 in the blue bars. The red bars are the more recent landings. The average from 1998 to 2010 is 5,293 pounds; and that is indicated in the black bar. Finally, a 12 percent reduction from that would 4,658 pounds indicated in the green bar.

Moving on to identification of glass eels; there was a question at the last board meeting whether or not there may be some other eel species besides American eels being collected in our young-of-the-year surveys. The most significant concern would be the speckled worm eel, which has a glass eel phase that may be confused with the American eel glass eel phase.

It appears that the issue might be most significant from North Carolina and south down to Florida. However, the North Carolina survey

at the Beaufort Bridge Net Survey indicates all species collected are all fish collected to species so there should be no confusion between American eels and speckled worm eels in that survey.

In Florida all glass eels are also identified and they do collect speckled work eels; and those are removed from the analysis when they do they do their young-of-the-year survey. In Georgia as part of Addendum III, their annual assessment is now on yellow eels, so there is no confusion there with the speckled worm eel in that survey.

Finally, in South Carolina, their surveys are conducted about 40 kilometers upstream; and the technical committee feels that it is likely that speckled worm eels are not involved in those collections; but the state of South Carolina has not actually assessed whether those eels are in the young-of-the-year American eel collections are not. They will look at that in the future; but we don't think this is a significant issue.

In the future we will also consider looking at our northern collections of young-of-the-year surveys to see if they might be in states north of North Carolina. Likely with ocean conditions warming, we might see that population of speckled worm eels become more popular in the northern states. We will just keep an eye on that, but we don't think that this a significant issue at this time for the young-of-the-year surveys.

Finally, at the last board meeting Dr. Cadrin had released a white paper; and it was the day before the board meeting so the technical committee did not have time to review that paper prior to the last board meeting. The technical committee has since reviewed that paper and found that it does not present any new information from the stock assessment; and it does not change the recommendations from the 2012 stock assessment that the stock is depleted.

There were some issues that were identified in the white paper. One was the geographic range for the stock assessment. It indicated that we only considered U.S. stocks in the stock assessment. That was made very clear in the

stock assessment report as well as the peer review that it did not encompass the entire geographic range of eels.

We intend down the road in future stock assessments to try and bring in Canadian indices as well and possible Gulf of Mexico indices in new stock assessments. It also indicated there are some positive indicators in recruitments in that paper. We were unsure how familiar Dr. Cadrin was with some of the surveys that he cited. He also did not cite some of the indicators that were showing negative indices.

It looked like it was kind of biased and just showing the indices that might show some positive recruitment. The technical committee feels that even if the stock may be improving, it is a very slow upturn from some very low level, and there is still much uncertainty with that. Then, finally, the Fish and Wildlife Service ESA review; there was the suggestion in that paper that the ESA review in 2007 was more encompassing than the assessment.

Frankly, the stock assessment looked at data more thoroughly than the endangered species review in 2007. The endangered species review was also for a different purpose. Looking at reductions for a fishery is a very different assessment than what you do to look at endangered species status. It wasn't an appropriate comparison at that time. That is the end of the technical committee report.

CHAIRMAN O'CONNELL: Questions for Sheila? Rob.

MR. O'REILLY: This may be a slight follow-up, Mr. Chairman, if that is okay. Sheila, the 907,671 baseline amount of yellow eel harvest; what is the benefit of that in terms of – is it looked at as a cap basis, as a place to reduce from? Does it capture the variability among the states that have been the largest harvesters over that time? Does it also represent what happened back in 1998 forward?

I guess what I'm asking is it seems on the one hand 907,671 pounds is a place to start; it is a baseline; and you can make reductions from

there, which the technical committee has come up with different scenarios; and the latest one is 12 percent. What would be the best way, since the technical committee hasn't done this, to take a 12 percent reduction?

This could be a board decision as we go through the working group today; but can you give an idea from the technical committee? You have established a baseline; you know there is variability not only inter-annually but through the 1998 to 2010 period; and you know there is variability state by state; so do you have any comments on maybe the best suggestion on how to take 12 percent reduction? That is a long gone.

MS. EYLER: That is a question of allocation and that is not something the technical committee would comment on.

MR. O'REILLY: Mr. Chairman, I contend that is not allocation. It is a question of there is a baseline. The technical committee has recommended a 12 percent reduction. Does the technical committee think it should have any advice on how the 12 percent reduction should be taken? Just as the technical committee has advice on other issues such as Dr. Cadrin's paper that you just did were on issues of perhaps how the mesh sizes should stay in place or not stay in place; so I think the technical committee might have a comment; but if not –

CHAIRMAN O'CONNELL: Rob, are you asking are there other management options than setting a quota for achieving a 12 percent reduction?

MR. O'REILLY: No, Mr. Chairman, I'm just trying to figure out that this latest information on a 12 percent reduction – I'll give a hint. One simple way would be to just take 12 percent from every state. I mean that is certainly something to think about. What I want to know is would that satisfy the technical committee? Do they think that is a way to have a 12 percent reduction?

The reason I ask that is because the fisheries have changed. We looked a lot about 2011 to

2013 data. We know the fisheries have changed and yet we're using a stanza as a baseline which encompasses 1998 to 2010. A lot of those years no longer pertain. For example, last meeting Dr. Daniel there was no way that he could go home and say there would be a 50 percent reduction to North Carolinians. But at the same time you have to go back in time to see that type of harvest. Perhaps this is too encompassing right now and I will bring it a little bit more later; but my real idea is if there is a 12 percent reduction, why can't we be simple about it?

CHAIRMAN O'CONNELL: Yes, I think I understand and we will probably have further deliberations when we get to the final actions of Draft Addendum IV. It sounds like it comes down to what baseline do you take that 12 percent from; and it comes back to an allocation discussion. Do you use recent landings, historic landings, a mixture, a blend? I think the technical committee is saying that you should reduce your landings from that '98 to '10 average and specifically now a 12 percent reduction from that. Rob.

MR. O'REILLY: Very quickly; then does the technical committee think it is the amount of landings? Because the assessment ended in 2010, the assessment years were in there for 1998 to 2010; is that really the driving force for the technical committee?

MS. EYLER: Yes; because those years were used for the stock assessment, 1998 to 2010. The stock was determined depleted from that status and we recommend a reduction occur from those harvest landing. Instead of taking one year, we took an average of all years within the stock assessment time period.

MR. O'REILLY: Last one; has the dynamics of the fishery changed compared to that baseline time period 1998 to 2010?

MS. EYLER: State-by-state variability each year changes a lot; but overall the coast-wide harvest has been relatively stable right around a million pounds. The technical committee views this as one population; so we're concerned about

coast-wide harvest as a whole and not necessarily what individual states are harvesting.

MR. JAMES J. GILMORE, JR.: Sheila, that was a good report. I don't want to get into the quota discussion yet; but I want to get one question answered. I know it has been brought up at the technical committee that particularly for the New York situation; that we weren't recording landings for those earlier years – the landings were actually lower – and that we couldn't include 2011 and beyond because that was not part of the stock assessment.

I understand the reasoning behind that; but the problem we have, though, is that the data is wrong in the assessment then because we excluded a lot of landings. The simple question at this point is if those landings had been included – and in New York's case you would have maybe gone up another 50,000 pounds, whatever. I know you can't quantify it, but how would that have affected the stock assessment? Would it have been higher, lower or what do you think?

MS. EYLER: I don't think the landings themselves would have changed the outcome of the stock assessment or the depleted status. It may change this graph potentially if you have more landings to be included in that; but without those numbers, there is nothing more that we could do with this assessment other than an average of what landings we had reported.

CHAIRMAN O'CONNELL: Sheila, I had one question. You had mentioned that the technical committee did not believe those 70 percent reductions in glass eels would ensure stock rebuilding and defaulted to a 12 percent recommendation. Can you explain how the technical committee came to that recommendation?

MS. EYLER: I want it to be clear that even that even a 12 percent reduction and because we don't have targets established in the stock assessment won't guarantee stock rebuilding either. We felt that a 12 percent reduction just accounts for the variability in the harvest and that most years, if they went under the average

harvest from 1998 to 2010, you would have a reduction in the fishery.

If you go with just the average level of 907,000 pounds, it means half the years you're still going to harvest more than what you would have harvested, anyway. With a 12 percent reduction in the yellow eel fishery, because there is – there is some variability in the yellow eel harvest, but it is not a great variability.

You're still bouncing around a million pounds. That would be something we could consider measurable but still not necessarily something that would ensure stock rebuilding. Doing the same analysis for glass eels – that fishery is much more variable and the pounds landed are much smaller – we didn't see that it would be very consistent to apply that same methodology of a 70 percent reduction to that fishery; and that it might be easier just to hold it across the board because we're still looking at one species and one population. The glass eels are not a different species; this is still the same species; and we felt that 12 percent was still appropriate.

CHAIRMAN O'CONNELL: All right, seeing no other questions, we'll move on to – Mitch.

MR. FEIGENBAUM: Sheila, you have sort of indicated this with your last comments a little bit, but I just want to be clear. The technical committee cannot point to any analysis that indicates how a 12 percent reduction in yellow eel or glass eel catches would impact the overall populations; is that correct?

MS. EYLER: That is correct; there are no targets established in the stock assessment so we cannot ensure that 12 percent reduction would make a change in the population.

MR. FEIGENBAUM: In fact, isn't it true that the technical committee does not have any population estimate in the first place? Not only do we not have targets; we don't have an estimate of what the population is at this time; isn't that correct?

MS. EYLER: Yes, that is correct.

MR. FEIGENBAUM: The stock assessment included a DBSRA model that purported to estimate the total population of eels in the U.S.; but in fact that model was rejected by the peer reviewers so we can't rely on that to estimate what the total population is; am I right about that?

MS. EYLER: Yes, that is correct.

MR. FEIGENBAUM: Sheila, I only have one other question. You indicated that even at 12 percent, the technical committee can't assure anybody that populations will rebuild with a 12 percent reduction; I heard that right, didn't I?

MS. EYLER: Yes, you did,

MR. FEIGENBAUM: Okay, but my question is last year at about this time the technical committee chairman indicated that it was of the mood of the stock assessment committee – he said I think the SAS feels that period really contributed to our present level of abundance, which we do consider depleted. He said that you can see we've come down to a low level from that and we are rebuilding.

Then he presented us various models based on just the DBSRA; that depending on certain assumptions that were plugged into the model, that rebuilding would continue but at different levels. He didn't question a year ago that stocks currently were rebuilding. Has the technical committee concluded at this point that is not true; that stocks are not rebuilding?

MS. EYLER: The only thing that has changed since last year as far as the stock assessment is concerned is that we've reevaluated the young-of-the-year survey; and we are seeing no trend in the young-of-the-year survey. That is the only indices that has been updated since the stock assessment.

MR. FEIGENBAUM: And in fact we have two young-of-the-year indices, coast-wide GLMs, and neither one of them show a trend up or down for ten or twenty years; is that correct?

MS. EYLER: Right; there is no trend in any of the state indices at this time.

MR. FEIGENBAUM: Okay, and what about when you aggregate all the state indices and create a coast-wide index?

MS. EYLER: That has not been updated since the assessment in 2012.

MR. HASBROUCK: Thank you, Sheila, for your presentation. In terms of the 12 percent; you came up with a 12 percent based on the CVs to account for the annual variation for total landings or the state-by-state landings?

MS. EYLER: It was for total landings each year, combining all states together.

MR. HASBROUCK: So that 12 percent figure, then, just accounts for the variability, really; it has no other basis, is that right?

MS. EYLER: Yes; that is correct.

MR. O'REILLY: Sheila, if you have covered this already, my apologies, but I'm so used to control rules, and they give you a lot of comfort to have controls; so if a depleted status – I don't think I've never heard exactly what that is. Is it something that is quantitative that you can tell us not only what level of depletion there is; but also with another assessment or an update or however that is planned, will the technical committee be able to know whether or not it is still depleted, not depleted; how does that all work at this point? What are the deliberations on that?

MS. TAYLOR: The depletion recommendation coming from the assessment was based on the overall indices that the SAS and the technical committee were reviewing in light of the recognition of the reduction in landings, neutral or downward trends in some indices at the state level and aggregated; so at that time we were not working under a standard definition by the commission of a depleted designation; but in light of the fact that the model was rejected by the peer review panel, the SAS and technical committee still felt that the situation still

warranted the depleted status rather than the overfishing status, which was taken off the table.

Then moving forward with how an update could occur, if one was planned from the board, the technical committee and SAS would have to review the information and compare it to what was compiled at the time of the assessment and then try to make the best determination. They did do a review of the young-of-the-year indices at the board's request and presented that information. That was just the state-specific ones looking at that information that wasn't aggregated and still felt that the depleted designation was appropriate.

MR. FEIGENBAUM: Thank you for that clarification, Kate, because I think Rob had asked a pretty important and fair question. We noticed in the – you know, the press has reported on the ASMFC actions regarding eels. Basically, to some extent the press treats depleted as something that is awfully dramatic. I haven't seen anyone use the word "extinction" or "endangered" in connection with depletion, but that is the tone that a lot of the press takes. Now here in the commission's primary eel meeting itself, one of our commissioners who voted to accept that stock assessment, as we all did, acknowledges that it is not even clear what depleted means. Kate, you said that the stock – the peer reviewers, after they had rejected the DBSRA, nonetheless accepted the conclusion that the stocks are depleted.

I would ask you like you've cited the Mann-Kendall analysis as the primary source for supporting the contention that we have depletion. As I looked at the stock assessment this weekend; I saw that the Mann-Kendall analysis showed 34 trends were neutral, 12 trends were downward and 4 were upward. Is that the primary indicator upon which the SAS concluded that we're in a depleted status?

MS. TAYLOR: That was one of many different types of analysis that the SAS used. It was not the primary one; and taking into account all of the different analysis, that was how the peer review panel and the SAS and the technical committee came to the recommendation.

MR. FEIGENBAUM: And the peer reviewers were aware that the Lake Ontario populations had completely collapsed 20 or 25 years ago; is that not correct? In fact, one of the peer reviewers was Gerald Chaput from Canada.

MS. TAYLOR: We select qualified peer review panelists. They were aware of the history of some of the Canadian background; so I cannot say how much knowledge they have of it, though.

MR. FEIGENBAUM: And my last question is the Geological Service says – and I think our friends at Fish and Wildlife Service or maybe the technical committee itself has presented to this commission before statistics indicating that some huge percentage – and don't quote me on numbers, but it was 80 percent, 90 percent of all freshwater habitat to eels has been blocked over the last half a century because of obstructions. That was presented also as part of the stock assessment; yes?

MS. EYLER: Yes; I believe there is information in the stock assessment about habitat loss.

MR. FEIGENBAUM: All right, so it is quite possible that when the peer reviewers accepted the – they rejected the model as for management use, but they accepted the conclusion that we're depleted.

It is possible they're just saying, well, based on the fact that Lake Ontario populations collapsed 25 years ago and never came back; and based on the fact that we blocked almost 80 to 90 percent of the freshwater habitat for eels, who would argue that the stock is depleted from historic norms? Is there really any – did they say anything more than that to indicate that they felt in the U.S. Fishery, including estuarine populations; that the stocks were down?

MR. ABBOTT: Tom, a point of order.

CHAIRMAN O'CONNELL: Yes, Dennis, I was just getting to that myself. I think –

MR. ABBOTT: I think we're having a debate between two people; and you haven't even

recognized the gentleman for follow-up questions. This, in my opinion, has gone a little far and a little far afield.

MR. FEIGENBAUM: I will leave my further questions until we discuss the management options in the working proposals. Thank you.

MR. ROY MILLER: Mr. Chairman, I just wanted reiterate what I thought I heard this morning. It was concluded based on the juvenile eel surveys that we can't show a significant increase or decrease; that there is too much variation in the annual abundance of the glass eels. We've also heard that the commercial landings have varied from '98 to 2013 with no apparent trend. Am I correct in both of those assumptions?

CHAIRMAN O'CONNELL: That is my understanding, Sheila, correct?

MR. MILLER: And yet our technical committee is still suggesting to us, nonetheless, a 12 percent reduction. I just wanted to make sure I understood that. Thank you.

CHAIRMAN O'CONNELL: Sheila, do you have any comment to that; is that a correct characterization?

MS. EYLER: We did not look at trend in harvest from 1998 to 2013; so we aren't saying it is increasing or decreasing from then.

MR. MILLER: Well, I didn't look at from a statistical point of view; but just glancing at the landings' figures that are in our document package, I see no apparent trend in the landings from '98 to 2013; at least none I can discern. Thank you.

**DRAFT ADDENDUM IV:
REVIEW OF THE PROPOSED OPTIONS**

CHAIRMAN O'CONNELL: All right, let's move forward and Kate is going to give an overview of the options in Draft Addendum IV.

MS. TAYLOR: A very quick overview, Mr. Chairman. As a refresher moving forward

through the options in the addendum, it does address glass, silver and yellow eel fisheries. For the glass eel fishery, Option 1, the status quo; Option 2, the 2014 management measures where Maine would be held to their approximately 11,000 pounds quota with South Carolina maintaining their permit system as they have in place.

Option 3 is the closure of the glass eel fishery; and this is either immediate, delayed or at a time frame as specified by the board. Option 4 would implement a quota for the glass eel fisheries. There are options that are contained in the addendum for different quota amounts. Option 5, if the board chooses to implement a quota system, then they have a mechanism to address overages.

Option 6 was a glass eel harvest allowance based on stock enhancement programs. Essentially this would allow states to harvest glass eels for improvements to, for example, passage or increased glass eel survivability. Different options are presented to cap that harvest based on the restoration amounts that are able to be quantified.

Option 7 was the aquaculture quota. This would allocate a portion of any quota if the board moved with a quota for the glass eel fishery and allocate it for aquaculture purposes. Option 8 deals with aquaculture permitting and specifies that any harvest of glass eels for aquaculture purposes must be collected through an aquaculture as opposed to commercial or research permits. Option 9 would implement daily trip level reporting for states with a glass eel fishery. Option 10 would require states with a glass eel fishery to implement a life cycle survey.

Moving through to the yellow eel fishery, Option 1 is the status quo. The next four options deal with quota and allocation. Keep in mind all the quota options use 2010 as the starting point for the development of the total coast-wide quota. The base years for determining allocation do vary by option.

The PDT notes that there a significant number of alternatives in setting the allocation years; but the four that are presented really do represent the range potentially that could be considered. For each of one of these alternatives, there will be states will be negatively impacted or will be benefitted as a result of the sometimes large annual variability in harvest, as we have seen.

Options 2 and 3, I would also like to point out, use a filtering method. This filtering criteria is a way to increase the equity in the allocation given the variability in the state landings. These three filtering criteria include that states be allocated a minimum quota of 2,000 pounds to prevent any administrative burden; although we do note that this might result in a large increase in the poundage that is given to some states. For example, New Hampshire started out with 134 pounds and would move up to 2,000 pounds.

The second filtering criteria is that no state is allocated a quota more than 10,000 pounds above its 2010 harvest. The third criteria is that no state would be allocated a quota that is more than a 15 percent reduction from its 2010 harvest. The different tables; Table 5 presents the quota options under Option 2 with a 10 and 20 percent reduction.

Option 2 uses 2011 through 2013 as the base years. Option 3 uses 2002 to 2012 as the base years with same filtering method as under Option 2. Again, here is the table with the 10 and 20 percent reductions. Option 4; this is again using the coast-wide quota set at the 2010 harvest levels. The allocation here is based on the average of the three highest landing values from 2002 to 2012 with no filtering. Table 7 includes those quota options with a 10 and a 20 percent reduction.

Lastly, Option 5 is a weighted yellow eel quota where the three highest landing years from the period 2004 to 2013 were averaged and then weighted at 30 percent, which was combined with the average landings from 2011 to 2013, which was weighted at 70 percent. This is described in Table 8 in the document.

If the board chooses to implement the quota system, Options 6 and 7 addresses quota overages and quota transfers. Option 8 focuses on a catch cap. This is based off of the 2010 harvest levels that we just saw in all of the quota options. Under this option, states and jurisdictions would be allowed to fish until the cap is reached.

Once the cap is reached, all states and jurisdictions would be required to close all directed fisheries and prohibit landings. A catch cap does help to control the amount of mortality that is occurring on the species without needing the difficult decision of allocations by states. However, the PDT notes that we would still need timely reporting. There is no state-specific payback mechanism. It may promote a derby-style fishery; and there could be the potential loss of the historic fall and winter fisheries. The graph provided in the document just shows the variability by month in landings averaged out on the coast.

The addendum also addresses the silver eel fishery. As you remember under Addendum III, New York was granted a one-year exemption from the time closure requirements that were implemented. Option 1; let me just make it clear that this would maintain the status quo and so New York's exemption would expire on December 31st; and they would have to revert to the Addendum III requirements.

Option 2 would be an extension of the sunset provision at a time frame specified by the board and allow the continuation of New York's silver weir fishery in the Delaware River. Option 3 deals with effort reductions, which would essentially limit the weir fishery from August 15th to September 30th. Option 4 is a transferable license cap.

There are three alternative management frame work plans contained in the addendum; the first being the fishing mortality plan, which essentially is that states must assess mortality that is occurring within their jurisdiction; and once assessed, they could reallocate a portion of that mortality to any fishery or for aquaculture

research purposes provided there is an overall net gain in conservation.

Under the aquaculture plan, states would be allowed to harvest a maximum of 200 pounds of glass eels annually from within their waters for use in domestic aquaculture purposes provided they can objectively show that the harvest will occur from a water shed that minimally contributes to the spawning stock of American eel.

The last plan is if the board implements a quota, a state may request a transfer from one live stage to another; so, for example, from a yellow eel quota to a glass eel fishery based on the life history characteristics inherent in that state of jurisdiction. That concludes my brief report on Draft Addendum IV. Thank you, Mr. Chairman.

CHAIRMAN O'CONNELL: Any burning questions for Kate? We will obviously be talking about this afternoon. It is 12:35. I really think it would be beneficial for the board to hear the workgroup recommendations before we break. It probably would take like ten minutes. Is there any objection with going through those recommendations before we break? Tom; objection?

MR. THOMAS FOTE: Some of us have been sitting here since eight o'clock this morning. What seems to take ten minutes this morning ends up being twenty and thirty minutes the way we're going right now. I'm just saying if we're going to make it ten minutes, make it ten minutes.

WORKING GROUP RECOMMENDATIONS

CHAIRMAN O'CONNELL: It is my suggestion that we give the report but hold the questions until after lunch. All right, following our last board meeting the working group was formed as charged. You should have a memo dated October 23rd. We had really good representation. We had Terry from Maine, Ritchie from New Hampshire, Russ from New Jersey, John from Delaware, myself, Louis from

North Carolina and Ross Self from South Carolina.

I think we had a really effective and efficient set of meetings. A lot of that goes to Kate's work in between when we met. We did have one conference call and then we did have a face-to-face meeting for which everyone thought that having that face-to-face meeting was very beneficial. What I'm going to do is I'm going to go through our recommendations for glass eels and then yellow eels -- what we tried to do in this report is we tried to clearly identify the guidance that has been provided to the board from the technical committee -- what our working group recommendation is and then our rationale for that.

In regards to glass eels, when the workgroup had a conference call and met, the technical committee guidance at that point in time was to reduce harvest from 1998 to 2010, which was just under 5,300 pounds. As you heard today, the technical committee sent a memo last week now suggesting a 12 percent reduction.

That information was not available when the working group met; so the guidance we had was going off of the baseline of '98 to 2010. We had a lot of discussion in regards to the glass eel fishery, taking into consideration the socio-economic importance, the uncertainty and what the conservation benefit would be by taking a reduction to the technical committee recommendation.

We ultimately came to a recommendation to support Option 2 with modification that would set a quota for Maine at 9,688 pounds. That is what was harvested in 2014. It is below their current quota but what was harvested in 2014. The working group did note that this was above the technical committee recommendation; and we wanted to explain our rationale for that recommendation.

One is that there is uncertainty in the added conservation benefits with going beyond that level of reduction; recognizing the socio-economic importance to that fishery; expected increased levels of poaching that would occur

with significant cutbacks; and the expected inability for Maine to complete the important life history study that has been recommended by the technical folks.

We do recommend that this quota be reevaluated after three years, at a time which Maine hopefully will have information from their life cycle monitoring program. As you can see, the working group really tried to find that balance with one of the important values that we adopted in our strategic plan, which is balancing that conservation benefit with the important economics related to our local economies.

We did agree that there should be a quota overage payback provision. I should also mention the South Carolina measures; the recommendation was they would remain the same as were in 2014. There would be a quota payback provision under Option 5. The workgroup did support Option 6, which is the glass eel harvest allowance based on stock enhancement programs.

It would support Option 6-C, which would allow a 25 percent harvest of glass eels based upon the contribution expected from that stock enhancement. It supported Option 8, aquaculture permitting; supported Option 9 and 10 related to reporting requirements and monitoring requirements; but did recommend that a state that harvests less than 750 pounds of glass eels would be exempt from the reporting and monitoring to alleviate the economic burden that would require.

Moving on to yellow eels; again at the time we met, the recommendation from the technical committee was to reduce landings from the '98 to 2010 average, which was 907,000 pounds. We had a lot of discussion in regards to this allocation. On our first conference call we tried to take off our state-specific interests and talked about what are the principles by which we should base these allocation decision. It was like fairness; no one state should be disproportionately impacted positively or negatively, items like that.

We took a glance at the allocation options, Options 2, 3, 4 and 4; and Kate provided some information that was very insightful. It allowed the working group on the first conference call to remove Options 3 and 4; because it was clear that it was unfairly treating certain states. For example, Option 4, which reduce the coast-wide harvest by about 92,000 pounds, Maryland's harvest would drop by 130,000 pounds.

It was very clear that some states were being disproportionately impacted and other states were positively benefiting from those options. We also asked Kate to look further into Option 5 by applying these filters to Option 5 to try to address those disproportional impacts. The group did think that the coastal cap was an option worth pursuing.

When we got back together for our full meeting, we were able to work through those limited options and come to a recommendation. That recommendation was to support Option 8, which is a catch cap, a soft coastal cap for yellow eels. It was largely recognized that this fishery, as Roy Miller had said, has not varied much over the last fifteen years.

But recognizing that there is a need to keep that harvest from expanding, we did look at an option that would look at a 16 percent reduction that would get us to the baseline recommendations of the technical committee at the time we met, which was 907,000 pounds. We set forth some triggers. As we monitor the landings under this soft coastal cap, we wanted to ensure that landings don't increase substantially.

We decided that it would be good to set some triggers. The first trigger would be is that if the coast-wide landings exceeded 10 percent of that '98 to 2010 average, we would immediately go to a state-by-state quota allocation; and that would be based upon Option 2. The other trigger was if the coast-wide cap exceeded that 907,000 pounds in two consecutive years, whether it exceeded it by 1 percent or 9 percent; if we saw that for two consecutive years, we would also go implement a state-by-state quota system.

Given the amount of time we've had discussing these issues, we thought it would be really beneficial for this board to hardwire that state-by-state quota system into the actions that we take today. Based upon our review of the different options, we felt that Option 2 was the most equitable option for all the states.

With Option 2 with a 16 percent reduction, we would keep the state-by-state quota at the 907,000 pound baseline recommendation. When we used Option 2 and applied the 16 percent reduction, the overall landings by the quotas left just under 14,000 pounds. The working group recommendation was to reallocate that 14,000 pounds to those states that have been negatively impacted below the 2010 landings.

New Jersey, Delaware, Potomac River, and North Carolina, with not allocating more to Maryland given the high allocation that Maryland already has; so it allowed those states that were negatively impacted to receive a little bit more up to their 2010 level.

The working group does recommend, to avoid us going forward with this recommendation and the coastal cap triggers being tripped – we don't want to find ourselves in a situation that we're not prepared to act – the workgroup recommendation was that states should go forward with development of rulemaking that would allow them to implement the state-by-state quotas if the triggers are tripped. That could be as early 2016 if again we exceeded that 10 percent landings' trigger.

Also in regards to reporting, we need to ensure that we have the reporting systems in place to monitor state-by-state quotas if we to go down that path. We recommend that states would move forward under this coastal cap to come back to the board at the annual meeting next year to demonstrate that they would be prepared to implement a state-by-state quota if the trigger was tripped.

The working group did support the state-specific sustainable fisheries management plans under Section 3.1.4. It does recommend that all requests for aquaculture harvest be first filed

through the state and not directly to the commission. Lastly, we talked about the silver eel management measures that the board took at the last meeting.

You see by that working group's recommendations that silver eels, glass eels and yellow eels are all being treated differently in regards to the level of reduction. We tried to explain the rationale behind that.

We recommend that since the management measures have already been adopted for silver eels; that be reevaluated when New York has some more information in regards to some of the life history studies that are being performed in New York; and that would likely be in three years.

In closing, we felt like we should encourage the board chair and the commission staff to begin looking at when the next timeline would be for the next stock assessment; looking at when there would be new information and to invest those resources to complete another stock assessment, which we can use to reevaluate the management measures that we moved forward in Addendum IV.

That's it; I think I probably went a little over ten minutes, Tom. I apologize for that. We won't take any questions at this point, but hopefully that gives you some information to digest over lunch. I encourage you to speak some of the working group members if you have questions. We will reconvene at 1:45.

(Whereupon, the meeting was recessed at 12:45 o'clock p.m., October 27, 2014.)

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MONDAY AFTERNOON SESSION

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The American Eel Management Board of the Atlantic States Marine Fisheries Commission reconvened in the Grand Ballroom of The Mystic Hilton, Mystic, Connecticut, Monday afternoon, October 27, 2014, and was called to order at 1:55 o'clock p.m. by Chairman Thomas O'Connell.

**DISCUSSION OF WORKING GROUP
RECOMMENDATIONS**

CHAIRMAN O'CONNELL: We're going to go ahead and get started. Welcome back. What I wanted to do is just open up for questions in regards to the workgroup's recommendations and myself and the working group will try to address those. Any questions on the working group recommendations? Rob.

MR. O'REILLY: Mr. Chairman, there was a table the working group introduced on Page 5 of the October 23rd document. It shows the updated quota. Is that the working group recommendation for yellow eel?

CHAIRMAN O'CONNELL: Yes.

MR. O'REILLY: The reason I asked, there was discussion earlier during your presentation using the filters and not disadvantaging too much and not advantaging too much, that type of an approach; but some of these updated quotas are still pretty harsh in terms of a reduction. Notably Virginia is about a 24 percent reduction; PRFC is about a 52 percent reduction.

I would like to ask Kate, if she could, if it would be all right with chair, to put up a table. I won't dwell on it very long, but I think it might help if you have that or if this is an opportune time to give us an idea – there it is –

CHAIRMAN O'CONNELL: Rob, obviously this was an item that the workgroup really struggled with was trying to find that balance with each state's high periods being somewhat different and trying to account for recent fisheries versus historical fisheries; so when you referenced the reductions that you did, what time frame are you referencing?

MR. O'REILLY: I'm referencing 1998 to 2010. In the case of PRFC, the average was 125,803 pounds and the updated quota is 52,358. For Virginia the 1998 to 2010 average was 102,070 pounds and the updated quota is 78,702. I bring those together because when we talked about buyers earlier – and certainly there is central

buying within the bay jurisdictions; so that is why I brought that up for PRFC and Virginia.

The table, which is hard for me to even see what is up there but I have it here, indicates that there are certainly several states – and I'm going to go through them very briefly – that if you compare the working group quota to 1998 to 2010 – and there is a reason I'm saying 1998 to 2010 because earlier when I asked the technical committee chair of the basis for the 12 percent; that was based on 1998 to 2010.

So as I look across the states, on the top table, since you probably can't focus in on it, Delaware is a reduction of 45 percent; PRFC of 58 percent; Virginia 23 percent. Those are all decreases. The increases are Maryland at 43 percent and North Carolina at 25 percent; Florida 42 percent. I think the bottom table also shows a little bit about what we haven't talked about at length.

We've talked about ways to bring in the 2011 to 2013 as an allocation basis and to not disadvantage those states that have had recent upturns in their landings; but when I look at that, looking again at Virginia specifically, it is a 24 percent decrease from the working group quota from the 2011 to 2013 average.

Virginia doesn't cut a break no matter what in these types of scenarios nor in the working group updated quota. I'd like to come back later and follow up on something different concerning the 12 percent; but the premise I have right now is I'm not certain why the various working groups that have formed have spent so much time – and I think it is good they have. I understand why they have and I understand the intent; but really it is a difficult challenge no matter how you try to work out the winners and losers in all this.

In the case of Virginia, I just can't see where if we have a long-term average, 1998 to 2010, of 102,000 pounds and in fact we continue that in recent years, even if you add in 2013, that we're headed towards a 24 percent reduction. We're not alone. There are other states that are in that situation no matter what we do. Thank you very much.

CHAIRMAN O'CONNELL: I'll ask the workgroup members to comment; but I think it came down to in order to account for more history, you're going to have a more substantial on the current fisheries. Option 3 and 4 looked at a way to incorporate historical harvest; but in order to achieve that, you're going to see substantial impacts to current fisheries. I think Ritchie wanted to comment, perhaps.

MR. WHITE: Yes; we certainly struggled with trying to be fair. There is no scenario by which somebody doesn't gain something and somebody doesn't lose something; but we tried to lessen that as much as possible. I think what to concentrate on is that we're not going to these quotas. We're going to a soft TAC and that gives every state the ability to catch what they caught last year, basically, without going to these quotas. If we stay under that number; then we can continue on. Some states; their harvests will vary from one year to the next. That is what we focused on is to try to have the fishermen stay within the overall coastal quota so we don't have to go to these individual state quotas.

MR. GILMORE: Ritchie, those are good comments; and I'm good with the first part because I think that is a good first step and it gives us a little time. Getting to Rob's comment, first off, Rob, you characterized like 2011 through '13 as an uptick. In our situation it is not an uptick. We just were not requiring harvest landings before 2011.

As I said earlier, we actually had higher landings that are not in the stock assessment. If I look at any of the options, well, it doesn't look so bad because we're looking like we're in maybe the higher percentage, the 25 percent reduction; but if I look at what our actual landings are based on the last three years than what we thought before, I'm at a 65 percent reduction.

My concern with this is if we get to that point next year where I've got an actual landings around 50,000 pounds but I've got a quota of 12 or 13,000 pounds; I have to shut my fishery down probably early in the season. The idea of like reducing poaching and all that stuff; that is

going to go through the window. It is going to have rampant poaching going on.

The prices in the adjacent states are going to go up and we're going to shut ourselves in the foot. We really need to get something for 2016 that is going to actually work. I have no problem taking a hit; and I think most of the states understand that they're going to have to have a reduction. I know you guys tried to get equity under this; but right now it is pretty far away from that.

MR. MILLER: Mr. Chairman, I was wondering if you or perhaps Kate could help review for me the difference in the filtering mechanisms between Section 3.1.2 out of the plan and the working group filtering mechanisms. I'm not sure that I understand what they are in relation to each other.

MS. TAYLOR: Under the filtering method as it was described in the draft addendum; no state could be allocated a quota that was more than 10,000 pounds above its 2010 harvest level. The working group, after deliberation, felt that this number should be reduced to 2,000 pounds in light of the fact that there was a minimum allocation of 2,000 pounds given to some states that had less than this number; and so they thought that would equitable to allow the increase up to 2,000 pounds above the 2010 harvest level.

Then also just point out when this new filtering method was applied, the initial allocation was 893,00 pounds, a little over, and then the working group used the difference between this 893,000 pound level and the technical committee recommended baseline of 907,000 pounds; and this difference was just 14,000 pounds.

This was distributed to the states that were negatively impacted by the quota distribution as a way to provide a bit of a buffer to them and bring their quota up. The states of New Jersey, Delaware, PRFC and North Carolina each received just over 3,000 pounds and the state of Rhode Island was brought up to their 2010 harvest level.

CHAIRMAN O'CONNELL: Rob, I have you but let give a few other people first chance at their questions. I have got Bob.

MR. BALLOU: Mr. Chairman, I just want to thank the working group for their efforts on this program. I think they've made some good headway; and I generally support the direction they're advocating. However, I'm not sure I follow the process leads to the Table 1 figures for the updated quota based on what I understand to be the approach that is advocated.

If I could, I'm just going to walk through what I think are the two or three, four or five steps that I think lead to those updated quotas; and I want to find out where I might have been misled in my analysis. First of all, we're talking about a pie that needs to be sliced up. The first question is what size is the pie? As I understand it, it is a 907,669 pound coast-wide quota that the working group started with; is that not correct?

MS. TAYLOR: The allocation years was the 2011 to 2013 time period.

MR. BALLOU: If I could; that might lend itself to what percentages are applied to the coast-wide quota; but if I follow the working group report, the first recommendation is to adopt a coast-wide quota of 907,669 pounds and then allocate it. Maybe I'm getting this backwards, but it seems to me that the first issue is what is the recommended coast-wide quota for yellow eels; and I'm led to believe the recommendation is 907,669 pounds.

MS. TAYLOR: The initial starting quota was the 2010 harvest level. The allocation comes from the average years of 2011 to 2013; and from that 2010 harvest level, they're taking a 16 percent reduction.

MR. BALLOU: I guess I'll just acknowledge I'm confused. I appreciate the answer and I guess I just need to get my head around this. As I read through the report, it seems clear to me that the first recommendation was a recommendation to adopt – and I'd have to go back and find it in here; but to adopt a new

coast-wide quota – or adopt a coast-wide quota of just 907,000 pounds.

Maybe that is my problem because I had started from there and I worked through the percentage allocations, which I understand are the same percentages or would be as shown on Table 5, Page 19 of the draft addendum; and so I applied each of those to that coast-wide quota and then I applied the filtering mechanisms as adjusted.

Then I found that there was actually some issues as I moved on down the line. It struck me that I must be doing something wrong in trying to figure this out; and I would appreciate any guidance. I know, Kate, you've answered my question twice; so I don't want to ask for a third shot. Maybe I'm just the one that's confused here. Thank you.

CHAIRMAN O'CONNELL: I'll take a shot at it, Bob. As much as I've looked at this, I still ask the same question at times. Kate just check me on this; the 2010 landings are the starting point. Then what the working group did was determine what level of reduction to the 2010 landings would get us to the 907,000; and that resulted in needing a 16 percent reduction.

Then from that 16 percent reduction from 2010, the quota gets allocated based upon a state's average landings between 2011 and 2013. From that point you apply the filters that Kate described; and when you do that, you fall about 13,000 pounds short of that 907,000. Then that is where the working group's suggestion was to reallocate to the states that have been negatively impacted from 2010 landings. I think it is that initial part that maybe you weren't following. You take the 2010, take the 16 percent off of that and then allocate it.

MR. BALLOU: I think we're saying the same thing. I think if you take 16 percent off 2010, you get your 907,669. No?

CHAIRMAN O'CONNELL: You actually get a little less than that, I think.

MS. TAYLOR: 902.

CHAIRMAN O'CONNELL: 902; and then when you apply the filters, it jumps up and down a little bit. John.

MR. CLARK: I know Rob and several of the others have pointed out how the state-by-state quotas – Delaware is a state that did not benefit under any of those. I know that is the problem we've had with this from the beginning is how to allocate this fairly; and I think that is why I think the important that we have the cap and that we stay within the cap. I just had a question for Jim in New York as to how come New York didn't have landings being that the original required mandatory reporting and the first addendum in 2006 required mandatory reporting?

MR. GILMORE: We had reporting but the compliance with it was pretty low. When we finally changed the regulations in 2011, we encouraged better compliance with them. We're still probably not catching them all but we're getting more accurate.

MR. DAN McKIERNAN: Can I assume that if the working group's recommendations are adopted, there would be transferability to coverage overages between states?

CHAIRMAN O'CONNELL: Yes; if the triggers for the cap were tripped and we went to a state-by-state quota, there would be quota transfers allowed.

MR. McKIERNAN: Okay, could I recommend that this group consider the black sea bass style of overage and underage reconciliation instead of allowing individual states to simply make phone calls. For example, if I have a 2,000 pound overage in the year 2017, I may have no fishery the following year; whereas, if Maryland has a 2,000 pound overage, they won't even blink.

In the black sea bass system if all states combined come pounds short, then any state that goes over doesn't have to pay overage because the overall quota was not exceeded. If the overall quota is exceeded, the payback is proportional to the allocations. I think that

would be fairer way to do it. Otherwise, you might be looking at a lot of scrambling and phone calls.

CHAIRMAN O'CONNELL: Thanks, Dan; I think it is a good suggestion. Rob, back to you.

MR. O'REILLY: Mr. Chairman, I think the flaw in the table up there and one that has persisted is giving 2010 any status whatsoever as we go through these reductions. Earlier today the technical committee substantiated that it is the 1998 to 2010 years that are in the assessment; the 1998 to 2010 years where a reduction should start from.

2010 has done really nothing to cause anything but problems in these analyses just because it happens to be the terminal year in the assessment. I've never understood the emphasis on 2010. If you fall back to 2009, which in my mind has as much credence, then the landings go from 978,000 to 778,000 and certainly more conservative. Virginia had 119,000 pounds instead of the 78,000 pounds from 2010.

I'm not pointing that out for Virginia; I'm pointing that as an example that 2010 really is not something that should be part of our determination of quotas. I appreciate what Ritchie said on the soft cap; but I worry with what New York has indicated and the fact that we did have 1.2 million, 1.1 million and 907,000 pounds coastwide from 2011 to 2013.

It is certainly not inconceivable that we wouldn't go beyond 10 percent of the cap, which is shown up there in the table; and really all that is is the starting point, anyway. We haven't moved at all. That 907,000 is the zero point. There are a lot of little problems here.

If it were possible, I think the best solution would be to follow the advice of the technical committee, take your 12 percent reduction from 1998 to 2010, then get the working group to figure out how to work around that for states that have situations that other states don't. I'm really not at all taken with the working group recommendations. I'm pleased that they tried to

do all this; but I think the 2010 year causes some real problems.

CHAIRMAN O'CONNELL: Other questions before we perhaps ask for some motions to get us going? Seeing none; anyone have a motion? Walter.

REPRESENTATIVE KUMIEGA: **Mr. Chair, I move that we adopt the working group's recommendations as part of Addendum IV for yellow and glass eels and also the recommendations on state-specific management plans and on the conservation measures.**

CHAIRMAN O'CONNELL: Just to recap that, the motion is to adopt the working group's recommendations for both yellow and glass eels and for the sustainable fishery management plans?

REPRESENTATIVE KUMIEGA: Yes.

CHAIRMAN O'CONNELL: Ritchie for a second. Let's get that motion on the screen and then we will open it up for deliberation. What I'm going to try to do is to try to implement our Robert's Rules of Order with asking one for and one against and try to balance this conversation. You can look at that motion, Walter and Ritchie; does that look good? Ritchie, you're good. The motion is move to adopt the working group's recommendations for yellow eels and for the sustainable fishery management plans. Motion made by Walter; seconded by Ritchie White. Walter, do you want to make a comment to the motion?

REPRESENTATIVE KUMIEGA: Yes. I look at this kind of like a budget deal that has been worked out by an appropriations committee. There is a lot in there that individual states probably don't like, but I think the likelihood of us coming up with something that is more agreeable is almost non-existent.

A lot of work went into this; and I think it is something that at least most of us can live with. When a budget comes to the floor of the House, everybody and their uncle has amendments that

they think is going to make it better. The leadership pretty quashes them because once we start changing it and starting picking it apart; it just falls apart and you end up with nothing. I'm afraid if we start trying to change this or improve it or fix it, we're going to fix it to death; and we're going to be here until six o'clock tomorrow night and we won't have anything. Thank you.

MR. WHITE: Walter said it best. Having worked on this as part of the working group; we spent a lot of time and went around and around and around. I think this is the best of a difficult situation. I did want to make one point or ask for a point of clarification. During our working group the state of Maine assured us that as part of the approval of the glass eels; that they would institute the life cycle study.

I just want to make sure that is part of this; that it is mandated that the state of Maine begin and continue to carry out the life cycle study of eels. I don't know if we need to have that as part of the motion or whether if Maine wants to go on the record saying that is going to take place.

CHAIRMAN O'CONNELL: Pat, would you like to comment on that?

MR. KELIHER: It is Maine's intention all along to begin a full life cycle study associated with this fishery. I think it is going to give not only the state of Maine but all states a really good indication on the health of the resource. At the levels that are committed within the working group recommendations, we will certainly support that life cycle study work.

If we start to whittle away at the overall quota, then I would reserve comment for that; but it puts us in a tough place to prioritize that work within existing resources; so anything less than what is on the table would be problematic.

CHAIRMAN O'CONNELL: Thanks, Pat, for clarifying that commitment with the quota that the working group is recommending. All right, I will open up for deliberation. Bob, are you for or against?

MR. BALLOU: I'm against; and I'm against because I am, as I understand it, aware that the working group recommendation was issued subsequent to the – I'm sorry, prior to the technical committee offering their recommendation. There is a very stark difference. I'm speaking now specifically with regard to glass eels, and I'd like to start with that. With regard to the glass eel recommendation from the technical committee, they're recommending a total quota, as I understand it, of 4,658 pounds.

4,658 pounds is the technical committee recommendation, which equates to 9.3 million eels. The working group recommendation is 9,688 pounds, which equates to 19.4 million eels. That is a lot of eels and a big difference between the two. I just find myself wondering out loud are we really prepared to sanction an elver fishery in one state that would be harvesting 20 million eels, which is 20 times the total coast-wide quota or a harvest that we're likely to be seeing with regard to yellow.

It strikes me as being a very, very high number and one that I think can and should be reduced in accordance with the technical committee's recommendation. I would be inclined to not support this recommendation based on the technical committee's report and recommendation; rather I'd be inclined to support their recommendation with regard to glass eels. Thank you.

MR. GILMORE: Mr. Chairman, if you're going to follow Robert's Rules, I'm in opposition to the motion, so do you want to go for support of the motion first?

CHAIRMAN O'CONNELL: Yes, thanks for reminding me, Jim. Rob, are you for or against?

MR. O'REILLY: Against.

CHAIRMAN O'CONNELL: Louis, for or against?

DR. DANIEL: I'll be for. I understand where Bob is coming from with the glass eels. I'm not particularly happy with the glass eel quota in the

working group's recommendation; because I feel like that fishery needs some stability for the long term. I just don't see a problem with the current status quo on the glass eel fishery.

Just speaking when I used to be an early life history biologist in marine fisheries and looking at those 20 million glass eels don't give me a lot of concern at all from the population standpoint. The natural mortality rates on those things are so incredibly high that to equate them to one yellow eel I think is really not in the best interest of this fishery management plan.

Does that mean I think we should have a wholesale opening of glass eels; no, but simply because of the potential problems that creates and not necessarily from the detriment to the stock. I also recognize the need to show some good faith effort in reducing harvest in the face of an endangered species listing.

I think, as Walter said, it is about as good as we're going to get on yellow eels. It is less than I'd like to see on glass eels. I would speak in favor of the motion with one final caveat – and thanks to Kate for the clarification at lunch – just to make sure everyone is clear with the aquaculture provision, you would have to show – in order to get 200 pounds of glass eels for aquaculture operations, you would have to show that those eels coming from an area or in a body of water that would not contribute to the overall population.

I think that is going to be an interesting effort. For those states that are interested in pursuing that aquaculture permit, maybe a group of us getting together to discuss how we might do that would be a big help. I'm not exactly sure how we're going to do that, but that approach is going to be approved by the technical committee I think apriori even doing the study. Those are my comments, Mr. Chairman, and I would urge support of the motion.

MR. GILMORE: I'll start off by first off I don't disagree with you, Walter, there is probably going to be losers in this; but as probably the biggest loser on this, I'm going to have to speak in opposition to it. When I left the room in

August and we tabled this until now; I think I was staring down the barrel of a 22,000 quota on a harvest of about 45,000 pounds; so I was trying to figure out we're going to make that work.

One of the suggestions was do transfers or whatever and coming up with different ideas. When the working group came out – and I commend them for the idea of at least a cap for the first year. I think that is a big help; it gives us some breathing room. But, again, at the end of that cap, I'm looking at no fishery.

Again, I've said this at several meetings now, the idea of this was to reduce harvest and not eliminate fisheries, and this almost eliminates New York's fishery. So we're taking, again, a 65 percent reduction if this thing comes down; so we need something else. The something else can be looking at some of those recent landings and using a percentage surrogate of those years to maybe spread out the wealth.

I think some of those numbers may work; I haven't crunched those yet. There were winners and losers; we're the big losers. Louis made an argument at the last one; he said he was taking a 50 percent reduction. Well, because he won the lottery, in 2010 you guys hit a really high number; so, yes, it is 50 percent off of 2010, but it is probably not 50 percent off of your average harvest.

If he hits that number again and he wants to transfer 30,000 pounds to me; I think that will be a great solution for next year. It is really hard for me to support this in general; and unless I know exactly what we're going to do with quota transfers, I really can't support it because I'm not going to have a fishery maybe in 2016. Thank you.

CHAIRMAN O'CONNELL: Thanks, Jim, and understanding your perspective is something the workgroup tried to figure out; but absent your suggestion of looking at some surrogate of recent landings to account for maybe underreporting; we weren't able to come up with anything. Mitch, are you in support or opposition? Go ahead, Mitch.

MR. FEIGENBAUM: Before getting into my main comment, I just wanted to react to Bob's concerns about a 19 million eel harvest in the state of Maine. It was a few meetings ago that Wilson Laney testified about the extraordinary work that the power companies, with the support of the Fish and Wildlife Service, have done on the Roanoke Rapids System.

Then informed us that the average for the two first years that the ladders had been put in place; those ladders as we may recall had been designed to support 30,000 eels a year. These are not glass eels; these are first-year eels; you know, fingerlings that are now pigmented and survived the first year. They expected that ladder to deliver 30,000 eels in a year.

In fact, in each of the first two years the average was something more around the order of 800,000 per year. We know that glass eel mortality estimates range somewhere from the high nineties to the 99.X numbers. But even if we just assume that the survival is 1 percent, and it might much less than that; those 800,000 eels would have represented 80 million eels. 800,000 eels if we assumed that even 90 percent – I'm sorry, that even 10 percent of the glass eels survive; that in fact those 800,00 eels would have represented a glass eel run of 8 million.

That is just on one river. I respect your concerns about numbers; but I guess just putting the natural mortality in perspective with the typical run on a large system, I think adds a little bit more to the picture. That being said, there are many glass eel fishermen in the room here today. I think they would be livid at me if they heard me say that I think the working group's compromises is a reasonable one.

Just last year Maine imposed the first quota on the glass eel fishery that the state's fishermen had ever had. Of course, that resulted in a 50 percent reduction from where they were the previous year. It wasn't officially a 50 percent reduction, but in practice it was a 50 percent reduction. Now, I know the response to that, which is that the '12 and '13 levels were artificially high and therefore that reduction was not as severe.

So be it, they took a big hit; and none of them would want me to say that working group's recommendation seems fair and modest; and as Tom used the exact words "balanced"; but when you consider the socio-economic factors that these folks could talk about much more effectively than me, it does feel like a balance view.

The only other thing I wanted to say was with regard to the yellow eel fishery. I'm not sure how the vote is going to go today – and I'm not going to contribute to that vote, as we all know; but it seems to me that if there is not a positive vote on the yellow eel fishery today, it is only going to be because the state allocations of a quota that might be imposed a year or two down the road are not acceptable to a majority of the commissioners.

If in fact we find ourselves going in that direction; I just would like to recommend that we could leave here today passing the working group's recommendations, establishing a Maine glass eel quota firmly, establishing a coast-wide cap firmly, and letting the public see just how serious we are about further reductions and further conservation of eels without having to have the entire fight about what happens if the cap is reached.

I think I heard one or more folks say we don't want the cap to be exceeded; and hopefully as a group, whether our working group continues to exist as a working group or our commission as a body of the whole, we have three more meetings or four more meetings before we have to see the results of the first year where these numbers are going to matter.

If in fact we can't agree today, there is a lot of time to still work out those issues while still imposing the cap today and leaving here with the comfort that we've made great progress and we've made good accomplishments and that we can satisfy our federal partners that we're taking their concerns seriously, we can satisfy the public we're taking their concerns seriously and at least accommodate through the balanced approach the technical committee's measures.

The final point I'm going to make on that is Rob was asking the questions in the morning session about – he was Sheila like how did we get these reductions; and it was suggested there are management tools, really effective, workable tools that if we establish a cap of 907,000 pounds coastwide, we could get to that cap without having to implement state quotas, whether it be shortening seasons both at the beginning and at the end, increasing size limits even further consistent with some of the conversation this morning. I guess I'm supporting the working group recommendations as a whole because I respect Representative Kumiega's about bargaining and not unraveling a deal. It seems to me if the deal seems like it is going to unravel, we can still establish this cap as well as the Maine quota today and all go home with at least some clarity for the future.

CHAIRMAN O'CONNELL: Assuming that Louis and Mitch didn't change your opinion, Rob, you're up.

MR. O'REILLY: Mr. Chairman, I don't think we should let expediency promote what we're doing here as far as decisions. I would have thought that the yellow and glass eel issues should have been separate issues that we looked at. That is typically what the board tries to do rather than lump them together.

There are certainly some differences to talk about for both; not to mention the reduction scenarios. If I get an opportunity later on, we'll see if we can maybe do that. The other idea is that I can support the soft cap. I recognize that we have another year to take care of what the quota should be. I don't think that I hear a lot of good things about the quotas except for to let's just go ahead and get something done today; and that is the wrong way to do things.

If you didn't listen to Jim Gilmore the problem in New York is with the approach now, you would think that New York, based on the table that was up there from the working group, gets a 13 percent increase; but you're talking about New York going from 13,518 pounds average from 1998 to 2010 up to 15,220. What is being

missed there is New York has a 46,000 pound average for 2011 to 2013.

There are some complications here, to say the least, that we should be able to work out. There is a year's time so I hope that maybe we split that as well. I'm not ready to recommend the quotas as the working group has proposed them for the 2010 situation, using that as an incremental of this, and also – throughout this process, I'm wondering why there is emphasis on the past.

In other words, I would think the last three years of the eel harvest tell us something about the trends along the coast. I understand there are bait problems; that some states don't have the bait. I know you tried to figure that all in; but Virginia does not have a pivotal position here. Virginia could be somewhere from 78,000 to 93,000 pounds, depending on what the outcome is. It is the process that I think, after several attempts get equitable distribution of the quota, that needs some more work. Thanks a lot.

CHAIRMAN O'CONNELL: Being involved with the allocation discussions for about a year now; I think whatever scenario you look at there is going to be a few states that make the same arguments as we're hearing today. I'm not saying that we should have to go forward with this current allocation; but just recognize that if the board continues to discuss allocation, there is always going to be a few states that are going to be making the case that they're negatively impacted. I just throw that out there. The soft cap does get us going in the right direction. The allocation is a struggle given that all the states have very different peaks in their landings. Dennis, are you for or against?

MR. ABBOTT: Walter Kumiega had it right from the very beginning that we should be looking at what was brought before us and looking at it very favorably because if we try to undo it or change it, we will never accomplish anything. I think that we should need to have respect for the work that was done by the subcommittee that we put in place.

I think that we have to look at the people who were on the subcommittee. Terry Stockwell,

who has a big oar in this water, glass eels in particular. I can only imagine the heartburn that Terry Stockwell had when they came up with a significant reduction of probably about 1,800 pounds of glass eels representing anywhere from \$2 million to \$4 million to their economy.

We have to look at the socio-economic problems that are presented by this. Tom, our chair, Maryland had a significant effect on their yellow eel fishery. These people that sat down and did this hard work for us; I think their work needs to be respected. I think that we should support the working group's work and the paper that they presented us and the motion that is before us.

I hope that we can find it in our hearts to vote this because this is just a political thing here; and it is the art of compromise. Everyone doesn't get what they want. I can sympathize with Mr. Gilmore from New York that probably as often happens he seems to be on the losing end of these kinds of things; but maybe there are reasons for that, Jim. That was meant to be lighthearted, Jim.

CHAIRMAN O'CONNELL: Pat, are you for or against? Doug, go ahead.

MR. GROUT: Mr. Chairman, just one clarification; I keep hearing the term that we have this cap for one year; but the way I read the recommendation of the committee is that if we stay under 10 percent – if we stay under the cap continuously, it stays in place; or if we don't go over more than twice up to 10 percent; so it would continue to stay in place. ‘

I think it gives states an incentive to try and keep within the cap without having to go with the state-by-state quotas, which I was hoping would help out some of the states that are being disadvantaged by going to state-by-state quotas. The other thing is it sounds like the working group's recommendations here is that we would have quota transfers. I think that can help some of the states that have come up short.

Jim, I'm willing to give you a thousand of my 2,000 pounds or maybe that is not allowed on this; but I'd certainly be willing to the same way

I gave you some of black sea bass quota if they will allow me. The other question – and I agree this definitely was a compromise; and I think I give the working group, who I knew had some very strong differing opinions, a lot of compliments and kudos for coming up with compromises here that I took they kind of learned from of our past workings with other species and tried to avoid some of those pitfalls that we got on with some other species. I want to comment them.

I also want to commend the state of Maine for agreeing to again at least in the working group recommendation lower their quota, which I think is heading in the right direction even though it doesn't meet the technical committee's recommendations. I know Ritchie asked Commissioner Keliher – let me put it this way; Commissioner Keliher said it was his intent to start the life cycle study; and I think that is good and should be tied to that 9,000 pound quota. Would you be comfortable with it being a compliance measure that you have to continue to do it as long as your quota is at that level?

MR. KELIHER: Yes.

MR. GROUT: So if we could make that a compliance measure as long as the quota is at that level.

MS. TAYLOR: The motion, as it reads, would accept the glass eel recommendations that the working group put together; and that would include the Option 10 monitoring requirements with some modifications so that any state that has a commercial glass eel fishery that is above 750 pounds would have to complete the life cycle monitoring survey as it is specified in Draft Addendum IV.

MR. GROUT: Good; and as you can tell, I support the working group's recommendations here.

CHAIRMAN O'CONNELL: I don't have anybody on the list – well, let me go through a couple of people who haven't spoken yet. I've got Pat and then Russ.

MR. KELIHER: Doug covered a lot of what I was going to say, so I am not going to bother to repeat it. I would remind the board from Maine's perspective with our glass eel fishery; that we have done a tremendous amount of work which we have reported to the board in the past several meetings regarding our swipe card system, all the rule and law changes that we put in place.

The one piece that I don't want to go unnoticed is the fact that we all but gave up our silver eel fishery back in the nineties in order to move forward with the understanding at the time that we were going to maintain some semblance of a glass eel fishery. Obviously, at the time nobody ever envisioned it becoming what it has over the last several years.

With the silver eel changes to the last three remaining licenses that were grandfathered, they're all but gone based on the changes that we've made now. There is one fishery that even though it was classified as a weir fishery in the state of Maine; that harvest is actually done prior to the September 1 date as defined within the addendum.

We have now completely eliminated all of our silver eel fisheries in the state, which I think is also a step in the right direction as far as the sustainability of the species. Frankly, I'm reluctantly in favor because I wanted to see status quo with our fishery with all the work we did; but in the spirit of compromise and trying to move forward, at this time I'm willing to support the motion.

CHAIRMAN O'CONNELL: Roy, did you want to speak in support or opposition?

MR. MILLER: Mr. Chairman, I had a question concerning the issue that was raised about the 750 pounds. I need some clarification, if that can be handled quickly. Who does that refer to? In other words, what state would have a glass eel harvest under 750 pounds other than South Carolina or Maine?

CHAIRMAN O'CONNELL: It would be South Carolina and then if a state came forward with a

plan that the board would allow a development of a glass eel fishery, if that glass eel fishery went above 750 pounds, that would also have to do a life cycle study under the sustainable fishery management plan or Option 6, which is the stock enhancement program under the glass eel fishery. Right now it would only impact South Carolina; but there is the potential for other states to develop a glass eel fishery; and if those fisheries exceeded 750, they would have to do a life cycle study.

MR. MILLER: May I follow up just to comment? I think it is a poor idea to open a glass eel fishery for any state that is thinking about doing so – contemplating one less than 750 pounds. I say that not from a biological standpoint but just from an enforcement standpoint. I think it opens too many doors to poaching and monitoring and enforcement; and that would concern me.

MR. RUSS ALLEN: Mr. Chairman, just to say a few things about the working group; and as you know and is well documented, New Jersey was against having any type of catch cap in the beginning. We were also against getting any kind of quota. For me to be a part of that working group and to come back to our fishermen with a cap and a quota; it doesn't go over very well.

But I thought that was part of what we were trying to accomplish as a working group to come up with the best options we could possibly come up with. Through hard work, as other people have already said, we did that. I don't think that we can sit back now and say, okay, well, let's try to change the way we came up with the allocations for all the different states.

It is really not going to affect New Jersey all that much overall; but it could affect other states and make them either bounce one way or the other. I thought the working group did a fine job trying to come up and take care of everybody and every state as best they could with those recommendations. Again, I want to thank everybody that was a part of that.

The best part about that was having that face to face; because without that, I don't think we would have even got this done. It hasn't been we just came up with some new numbers here to do this. We've been talking about this quota and cap system since a year and a half or two years now. I don't think it is going to get any better.

I appreciate Walter and his viewpoint on making sure that if we do this, this is it. I mean, we're not going to go through this again. I don't want to be a part of a working group to come up with another set of numbers and do this again. That is two already that we've done. I'm just hoping that we can move this forward. I think everybody did a great job; and I hope that is the way it works. Thank you.

CHAIRMAN O'CONNELL: Before I come back to people that have already spoken, and I have Craig and Adam. Craig, are you for or against?

REPRESENTATIVE MINER: I've not yet reached a decision; I have a question. When I look at the numbers, one of the things that kind of jumps out at me is that if we adopt a set of guidelines that is so far away from what the most recent norm has been, what is the message? Now, I think from the standpoint of conservation, there is certainly a message to that.

When I look at the state of Maine in terms of the effort that they've made in the last couple of years to get a handle on what I think we've all understood to be a pretty significant illegal harvest in many cases and worked very hard to get people licensed, regulated and under the control of an agency; what is the message now?

Is the message now going to be we went along with this in an effort to try and have some sustainability of what we thought the numbers would be and now it is far less? I think most people I would hope would be honorable and live within the framework of the rules that we have; but it is such a reduction that I wonder whether we're going to have the conservation impact that we're hoping for; or is that going to go the other way, whatever savings we have assumed in the management is not actually

going to be the fact; that there will be a lot of illegal activity.

I'm not on the law enforcement end so I don't know where the numbers are. I know when we talk about licensing, if we have a doubling of a license number, there are some statistics that clearly state that you'll have a percent reduction in the amount of licenses purchased so you have illegal fishing with unlicensed fishermen. Those kinds of assumptions are out there. I don't know whether we take that into account when we make these adjustments here.

CHAIRMAN O'CONNELL: Adam, are you for or against?

MR. NOWALSKY: I'm against. I've listened very carefully to the comments here; and my next comment comes with great consideration of the work that was done by the working group. I have to preface it by saying that with our earlier comments about not being able to put a tangible benefit on what a significant cut from recent landings would mean; I can't leave here, looking at the people in the audience, the number of public comments, and people in the home state, saying this is how we're going to go forward with that.

To that end I would like to move to amend the motion as it currently is with a modification to the yellow eel. I would move that we use the soft cap with a number of 978,004 pounds. We would use Trigger Number 2 if we exceed it in two years; and the allocation we would fall back on was the allocation schedule as set sort in Option 2-A in the document.

CHAIRMAN O'CONNELL: All right, we'll get that typed up on the screen. Emerson seconds the motion. Adam, just for clarification, Option 2-A as described in the addendum versus the work group's recommendations?

MR. NOWALSKY: Yes, the work group recommendation for allocations were based on a number around 907,000; 2-A is 980-something-thousand and provides the breakdown of the

percentage and the state-by-state poundages there as well.

MS. TAYLOR: Adam, just to clarify, the 2010 landings here which would be the soft cap of 978,004 pounds; if this was tripped after two consecutive years of exceeding this quota, then we would revert to Option 2-A, which specifies the quota is actually 986,000 pounds.

MR. NOWALSKY: That was the closest I could come to something, recognizing that the working group wasn't an exact match for the numbers, also. They were off by a couple thousand pounds; and that was the closest I could come to something that I thought matched the number that we had.

CHAIRMAN O'CONNELL: Thanks, Adam; we're just asking for clarification on that. When we get that motion on the screen, let's take a look at it and see if we've captured that thought. Move to amend to use soft cap of 978,004 pounds and Trigger Number 2 from the working group recommendations. If the cap is exceeded in two years, then the allocation would be as specified as Option 2-A from Draft Addendum IV. Motion by Mr. Nowalsky and seconded by Mr. Hasbrouck. Does that look good, Adam?

MR. NOWALSKY: Yes, thank you.

CHAIRMAN O'CONNELL: All right, we've got deliberation on the motion. Ritchie.

MR. WHITE: Speaking in opposition; and I would just remind the board that the task to the working group was to come up with an option that was 907,000 pounds; and the majority of the board voted for that. The majority of the board supported 907,000 pounds at the last meeting; and this clearly exceeds that by a substantial amount. I just think that the whole working group plan starts to fall apart when we go down this road because then there will be another amendment, another change, and it will fall apart. I strongly oppose.

CHAIRMAN O'CONNELL: Other comments? Jim.

MR. GILMORE: It kind of goes to both motions. I was going to ask you before this was made, but say we get to the end of either the year or the two years with either one of these motions – and then in the past when we've done allocation schemes there was an ability to correct it based upon new data; and there was two ways to do that.

There was either to submit data that would just be considered at the board and then there would be a reallocation based upon that that; or, there it would have to go through a full addendum process. If we get to the point where we go to a quota and that – all right, in my situation I'm very clearly going to have good data that is going to say I need to change my allocation. How are we going to go about doing that? Is that going to have to be through a full addendum process or is that something that could be handled in a shorter, you know, maybe individual board discussion?

CHAIRMAN O'CONNELL: Jim, if I understood you correctly and I guess maybe something the board to think about is if we go forward with an allocation scheme; is there a provision in which a state can come forward with documentation of updated numbers that could result in a potential allocation change; and if so, that would have to be another addendum or not. We will give that some thought. Rob, are you for or against?

MR. O'REILLY: I'm against. It is an improvement in some cases. If you're strictly looking for improvements, for Virginia it improves things. Instead of a 24 percent reduction or 23 percent reduction, it is 14 percent. New York is almost a 50 percent reduction to Signal 2. It states there the problem; I agree you've got the 907,000 as the standard, 907,669 which the working group came up with. I certainly disagree with some of the data they used and I'm sorry about that; but 2010 was a poor choice to put into any of these analyses. I can't support this one either.

CHAIRMAN O'CONNELL: Louis, are you for or against?

DR. DANIEL: I'm against.

CHAIRMAN O'CONNELL: Mitch, are you for or against? Go ahead, Mitch.

MR. FEIGENBAUM: I want to thank Adam for making that motion. I think that motion shows a lot of sensitivity to commercial fishermen in the eel industry who are among some of the least wealthy, least prolific fishery participants in what is really one of the smallest fisheries managed by this commission.

I'm very mindful of Ritchie's point that if we start altering the working group recommendations, it might be a road that we go down that we can't get out from under. I know everyone is mindful of that; nonetheless, if I believe this is substantively a better approach, I think I have to speak for it; so I'm speaking for it. The number of 978, obviously it is 7, 8 or 9 percent higher than what the working group is recommending.

I think from some of my questions this morning, I made clear that my position is that this fishery – and there is a lot of evidence to this effect; but that the fishery is not a substantial cause of declines in eel populations. I understand that being the case we still have to do things to restrain this fishery in order to satisfy public sentiment and sentiment from some of our federal partners.

The key is to remember that when you don't look at the landings from '98 to 2010, but look at the landings for as far as we've been measuring them significantly; that takes us back to like the sixties, seventies and eighties. This is a fishery that existed in the range of two to three million pounds a year for much of that time.

The overwhelming message that I've received from the various attempts at stock assessment, whether it be in the U.S. or Canada, whether it be the federal agencies or ASMFC is that – and one of our technical committee chairmen, also Brad Chase, who made very clear that the DBSRA model reflects the fact that when catches are low for a long period of time, we can assume that populations are going to be higher

in the ensuing years; and when catches are very high for quite a few years in a row, we can assume that populations are going to be lower in the ensuing years.

It is not really rocket science. That is what DBSRA tells us; that we've had a series of fishing up and fishing down events; and the fact remains, colleagues, that we're now in the midst of a 15-year trend where we've really been at the low end of historical catches. Again, in 13 years I think we've never gone above 1.2 million pounds.

You have to back 10 and 20 years earlier before we were in those kinds of numbers; so locking in a coast-wide cap at 978 versus 907,000; it is a lot of window dressing but substantively it is not really changing things. Finally, I do think that no matter how the board votes on this, relying on only Trigger 2 is far superior than the two triggers.

The year 2014, the year that we're currently in, I can almost assure my colleagues on this commission that the total harvest coastwide is not even going to exceed 600,000. Last year, 700,000, we're not going to reach those numbers the way this season is going. It has nothing to do with catch. It has nothing to do with stocks. It is purely economics pure and simple. The price of eel is right now at a long-range low. Effort is way down.

We've heard anecdotal evidence from state after state about people that haven't been fishing. If we have a 500,000 harvest this year then next year we have a 999,000 harvest, that means our two-year average was something like 600, 700,000, well within the range we want to be. Yet the way the working group recommendations are read, we would have to immediately implement a quota after 2015 if those harvests went up to the 990,000 without taking into account that just one year earlier we were at 400,000. I think that basing the trigger on a two-year analysis as opposed to one is a significant improvement. Thank you.

DR. DANIEL: I think the 907,000 was the direction from the board at the last meeting; and

we're heading in a direction of going home with nothing again. An attempt to substitute a moratorium; maybe that would get people moving a little quicker. To go now to something substantially at least the original technical committee recommendation; that is substantially higher than the most recent technical committee recommendation, I believe, which was another 16 percent below the 907, I think.

You're going to lose a lot of votes just because of that; that is so contrary to the technical committee's position. I didn't get the trigger situation quite like Mitch did; that you would have to exceed by 10 percent in a year and then exceed again in a year it wouldn't average out. If that is the way that it would work, that is a different question. I think we've got to at least stick with the original technical committee guidance on the 907 or else we're making a big mistake.

MR. CLARK: I just wanted to say that the cap that Adam suggested there was actually the first soft cap that the working group discussed. I was very much in favor of that, but the great thing about working with the working group was we got the full range of opinions there and what kept coming through clearly was how many people could not support a cap that was not based on the technical committee recommendation.

That is why we moved to using the technical committee recommendation with the 10 percent buffer on that, which is actually higher than the 978. I was also in favor of going for the two years; but through the compromise we went through, we came up with that one-year cap. It is not perfect. I know nobody is thrilled with what we came up with, but I think given the circumstances it does pretty much what you want it to do with your amended motion except for the one-year trigger there. Thank you.

CHAIRMAN O'CONNELL: I don't have anybody else on my list here. Let's take a 30-second caucus and vote.

(Whereupon, a caucus was held.)

MR. ABBOTT: Mr. Chairman, could I request a roll call vote?

CHAIRMAN O'CONNELL: Sure. Bill.

MR. WILLIAM A. ADLER: Are you going to let the public comment on this or what?

CHAIRMAN O'CONNELL: After this, we will consider that but not right now. All right, a roll call vote was requested so Kate is going to go through that.

MS. TAYLOR: Maine.

MAINE: No.

MS. TAYLOR: New Hampshire.

NEW HAMPSHIRE: No.

MS. TAYLOR: Massachusetts.

MASSACHUSETTS: No.

MS. TAYLOR: Rhode Island.

RHODE ISLAND: No.

MS. TAYLOR: Connecticut.

CONNECTICUT: Yes.

MS. TAYLOR: New York.

NEW YORK: Yes.

MS. TAYLOR: New Jersey.

NEW JERSEY: Yes.

MS. TAYLOR: Pennsylvania.

PENNSYLVANIA: No.

MS. TAYLOR: Delaware.

MR. CLARK: This is the amendment, right?

MS. TAYLOR: This is the amended motion.

DELAWARE: No.

MS. TAYLOR: Maryland.

MARYLAND: No.

MS. TAYLOR: District of Columbia. (No response) Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: No.

MS. TAYLOR: Virginia.

VIRGINIA: No.

MS. TAYLOR: North Carolina.

NORTH CAROLINA : No.

MS. TAYLOR: South Carolina.

SOUTH CAROLINA: No.

MS. TAYLOR: Georgia.

GEORGIA: No.

MS. TAYLOR: Florida.

FLORIDA: No.

MS. TAYLOR: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

MS. TAYLOR: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

CHAIRMAN O'CONNELL: **Motion fails; thirteen opposed, three in favor. We're back to the initial motion. I'm sorry; I was corrected; fifteen opposed, three in favor.** Emerson.

MR. HASBROUCK: I have to speak against the motion. I appreciate all the hard work that the working group did on this; but I can't go back to New York with greater than a 50 percent cut from what our harvest has been. Also, in terms of what the total quota may be, there isn't anything magical really about 907,000 pounds or 978,000 pounds or some other number that is similar to those. We heard from the technical committee earlier that the reduction was based on just taking into account or making up for the variance in the annual landings; so there is nothing magical about that quota in terms of what it is going to do for the resource.

CHAIRMAN O'CONNELL: I go back to Bob for a second time around.

MR. BALLOU: I have a question regarding what is embodied in this motion with regard to aquaculture. As I understand it, it includes a recommendation to move forward with Option 8, aquaculture permitting; as well the sustainable fishery management plans, which have an aquaculture plan provision or option.

When I read those two, I'm not sure they're saying the same thing; so I'm wondering what this motion would actually allow for with regard to glass eel fisheries for aquaculture purposes. Option 8 is very broad. It simply says that under this option any harvest of glass eels for commercial aquaculture purposes must be done under an aquaculture permit.

It doesn't say anything along the lines of – or reference, I should say, domestic aquaculture facilities; so it seems to me it could be as open-ended as allowing for the glass eel fishery that currently exists in Maine, which as I understand it ultimately is for aquaculture purposes, albeit overseas.

I'm just concerned about the open-ended nature of Option 8, what it actually allows for since it just simply broadly allows – since it states in the addendum that an aquaculture permit can be granted for commercial aquaculture purposes with really no other strings attached. I would just note that in the addendum it is noted that it is not possible at this time to propagate

American eels in captivity; and as such that option is not recommended by the technical committee. Notwithstanding that technical committee comment, I'm really mostly interested in what this option would allow a state to do given its open-ended nature. Thank you.

MS. TAYLOR: As to the Option 8 aquaculture permitting, I can speak for the PDT that the intention there was for domestic aquaculture purposes. It was not targeting, say, a Maine glass eel fisherman that was selling to a dealer for then shipment overseas for aquaculture purposes. It was specifically for harvesting where that harvest is going directly to an aquaculture facility domestically.

That was the intention of the PDT; and the board can certainly provide that clarification if they would like to include that. With the aquaculture plan, this is allowing 200 pounds to be harvested; and there are a number of specifications that states would have to submit in order to have a plan approved by the technical committee or recommend approval by the technical committee to the board before the plan could be implemented.

MR. BALLOU: Thank you, Kate, for that; and I would say therefore in my view Option 8 should be struck from this motion. It seems to me the aquaculture plan provision under the sustainable fishery management plans covers the issue with more specificity, more clarity and with the sideboards necessary I think to move forward appropriately.

I'm just concerned about – and I appreciate the explanation, but it is not in the addendum. It is really sort of an anecdotal comment as to what was intended; and unless we can get something on the record that clarifies or corrects that, my suggestion is we strike Option 8 from this motion. Thank you.

CHAIRMAN O'CONNELL: Well, let's see if others comment on that; and if be, we can come back to that, Bob. Dennis.

MR. ABBOTT: Mr. Chairman, if you believe as I believe that we've probably had enough

discussion on this matter; would you now think that it would be time to bring this to a vote?

CHAIRMAN O'CONNELL: I think we're getting there. I don't have anybody else on my list. I've got Marty.

MR. MARTIN GARY: Mr. Chairman, I'm trying to be a good listener here today. I'd like to speak in favor of the motion. Before I do that, I would like to reiterate what others have said and thank the workgroup for their hard efforts on the plan. I would like to speak in favor of the motion even though with regard to yellow eels, if the trigger is fired, there could be significant impacts to PRFC. Part of the reason why I don't have misgivings about that is I don't necessarily like the trends that I'm seeing in the river.

It may not apply to other jurisdictions, but PRFC's long-term landings are closure to a quarter million pounds. We've had highs in excess of 600,000 pounds in the river. We're nowhere near that in recent years. In fact, we are near all-time lows. The time frame from '98 to 2010 is front-end loaded so the impacts that are contributing to a large negative delta if the trigger fires is because of the harvest in the years '98 through, say, 2001; but in recent years we're not seeing anywhere near that.

It certainly wouldn't be at the core of our mission statement to be an inherence of that to conserve and enhance our resource to take a less – you know, I'd be okay dealing with that trigger if that came to fruition. I just don't like what we're seeing in the river with yellow eels. I do agree with Bob that I don't think the plan goes far enough with glass eels; and I do agree with Rob it is unfortunate that the plans are bundled together.

In the effort to have some progress, any progress, I would just encourage the board to consider this and let's move this forward. Let's have some progress forward. Since I came here and relieved my predecessor, A.C. Carpenter, I've heard nothing but feedback from the staff that this animal needs some at all life stages; and we have the ESA listing in progress. The signals are pretty clear. There is some uncertainty; but it is less than optimum, for sure;

and I would like to see some progress, any progress, and I'd speak in favor the motion. Thank you.

CHAIRMAN O'CONNELL: I've got Rick Bellavance and then I think what I'm going to do is I'm going to provide a brief opportunity for the public and then we'll come back to the board.

MR. RICK BELLAVANCE: In general I do support the motion. There is just one little part of it that kind of rubs me a little bit is the exemption for the reporting requirements for states harvesting less than 750 pounds. I guess I feel like we're moving in a great direction with swipe card reporting systems and modern technology that can be used inexpensively to create daily trip reporting and timely data collection.

I see examples like that and it just makes me think we're going down the wrong road. We're trying to get better data and not less data. That is the only part; and I just want to make that as a comment more than anything. Maybe as these tools develop, those states will voluntarily jump on to them; but putting something like in there just seems counterproductive in my mind.

CHAIRMAN O'CONNELL: Before we go to the public, in regard to your question, Bob, about Option 8, Kate's suggestion would be to either add "domestic" to Option 8 or strike Option 8. We can come back to that perhaps after listening to the public. Those that are in the public audience; how many would like to speak, if you could raise your hands.

PUBLIC COMMENT

CHAIRMAN O'CONNELL: We're going to provide a brief opportunity for public comment. We've already taken this plan out to public comment; so I would ask that you keep your comments to less than two minutes. If there is a representative from your industry that could speak on behalf of a couple or more of you, that would be great.

MR. ARNOLD LEO: Arnold Leo. I am a representative of the fishing industry of the Town of East Hampton, Long Island, New York. My concern with the motion that is up before is that as it points out in the draft addendum itself and discussing Option 8, it is going to create a derby fishery, which, of course, tends to glut the market, drive the price down and results in reaching the end of the quota early; thereby very much being inequitable for the fisheries that depend on fishing later in the season. It seems to me an extremely unwise fishery management approach; and I would oppose it. Thank you.

MR. PIERCE: Thank you, Mr. Chair, for allowing public comment. My name is Jeffrey Pierce. I represent the Maine Elver Fishermen's Association. We're uncomfortable with this. We've gone through a lot of cuts. In the late nineties we did a 75 percent gear reduction in this fishery. In the early 2000's we did a 70 percent license reduction in this fishery. Last year we addressed a very difficult subject of poaching. We worked with Commissioner Keliher and you guys for a 40 percent reduction. It seems to us no good deed is going unpunished.

We feel we're being punished with an 18 percent reduction again. There are 500 guys in this fishery that have less than three pounds. You're going to take 18 percent from them? It just doesn't seem right. I think Maine should stay status quo for the next three years to give some economic stability for our buyers and our industry.

We have a potential client of industry coming to Maine for a grow-out facility. If we keep getting cut, why would they come? We've already seen a reduction and halving our price in the last two years. We look at the low quota numbers from the early 2000's, that is because there was no price; nobody fished; there was no effort. We just feel like we're being punished again. Thank you.

MS. JULIE KEANE: My name is Julie Keane. I'm from Maine. I've been an elver fisherman for 22 years. Last year I lost two-thirds of my income with the cuts; and I'm very distressed by

all this. We were put on the quota system and our commissioner wisely held back 500 pounds; so that is 500 pounds that nobody could catch.

There were people that were very bad and they're lost their license to fish last year. They get them back this year. Their quota was kept back; we weren't allowed to have that. We also had people in the industry that just started fishing that didn't know what they were doing; so they didn't catch their quota either.

We're being given a quota based on what we caught last year; and we have people coming with licenses that they lost last year; but now that now we've got to share that with. I just don't know how many more cuts we can endure. There is no other work where I live at all except for digging clams and picking periwinkles. I'm too old to do that anymore; and I'm just really scared. I care deeply about the eels in the future. I'm a conservationist at heart.

I fight with our commissioner all the time about other things that I would like to see left alone. I support all the work that has gone into this. I hope we have a future in all our states for our eels. I have seen biblical runs of eels in the last three years where I couldn't even believe it; and I wish to God I had had a camera.

I would encourage somebody somehow to find some money to send a federal observer. I know that money is tight everywhere; but if we had a federal observer and we could say please come to the river, come because when they run like that, they run for maybe three or four days. People would be shocked if they could just see what we're seeing.

CHAIRMAN O'CONNELL: If you could just wrap up your comment, please; thank you very much.

MS. PATRICIA BRYANT: My name is Patricia Bryant. I am from Nobleboro, Maine. I have been a glass eel fisherman since 1978. I've fished for approximately 25 years and as general manager for W.R. Livingston Eel Farm for a couple of years in the mid-nineties. This fishing industry has been my entire life. I have for the

last several years – since 1998 I have been an independent buyer/exporter as well as fisherman.

I do agree Commissioner Keliher did a really good job last year volunteering our quota. We kept that. We could not fish our quota simply because we weren't allowed to fish our quota; because the people who held licenses that had their licenses suspended, like Julie was saying, we never got credit for that and we couldn't fish those eels.

That's why the fishery was down to the number that it is. Unfortunately, if we do have to take this particular digger again – and I didn't understand the part about wanted to keep this where you said that you're afraid poaching would be – you kept the number the low because you were afraid this would increase the poaching.

Well, if the numbers by being reduced is going to increase the poaching; then why are we reducing numbers because then you're just going to increase the poaching? This is going to make just a tremendous hardship on not only the fishermen but on the exporters and the entire industry as a whole. It really seriously not necessary. We've done a good job. We can keep it below the quota.

I don't see any reason. Over the years I've seen ups and downs and a 10,000 pound quota, before we had the report, was not a big deal. You're using reported landings from 1990 to 2010; and I think it is only four of those years was mandatory reporting. A lot of people didn't report because it wasn't mandatory; so I don't think it is even right to use those particular numbers. I appreciate your time and thank you very much.

CHAIRMAN O'CONNELL: Thanks all of you who have come from the public to listen to our deliberations today. We're going to bring it back to the board deliberation on the motion. Bob.

MR. BALLOU: **Mr. Chairman, I would like to move to move by striking Option 8 from**

the main motion. If I get a second; I would just like to add a clarifying comment.

CHAIRMAN O'CONNELL: I've got a second by Dan McKiernan; move to amend by striking Option 8 from the main motion. Motion by Mr. Ballou and seconded by Mr. McKiernan. Bob.

MR. BALLOU: Again, I just want to emphasize for the board's edification that I do think aquaculture initiatives might be worthy of pursuit. I just think that they're better addressed under the aquaculture plan provisions under the sustainable fishery management plans, which already part of the main motion. This is just a way of clarifying what we mean by aquaculture with regard to glass eels. Thank you.

CHAIRMAN O'CONNELL: Walter, do you support or oppose?

REPRESENTATIVE KUMIEGA: I was going to ask if you – I'm willing to accept it as a friendly as is Mr. White. If you want to ask for objections from the board and if there none, we can just accept it.

CHAIRMAN O'CONNELL: Since we have the motion on the table, let's finish the deliberation; and if there is no objection, we can nail this quickly. Anybody else that wants to comment on the amendment? All right, seeing none; is there any objection to the motion we do a roll call vote? **All right, seeing none, the motion carries.** This motion carries and it becomes part of the main motion. We've had quite bit of deliberation on the main motion. Not seeing any hands raised; let's take a 30-second – Rob.

MR. O'REILLY: We have had some conversation here at the table; and although it is disappointing that none of the tables – I went back through again just to make sure. None of the tables that are in our document or that the working group looked at used the 1998 to 2010 baseline for reductions.

Although that is disappointing – although it is disappointing that 2010 has had such a prominence, I think at the same time, after listening to comments around the board, that this

is a starting point for everyone. I don't think we should say this is progress. I think we should say this is setting a standard and then we're going to monitor the standard.

I hadn't commented on the glass eel issue, but a couple of practical things that stick with me; I don't think we've decided yet or had the information as to natural mortality versus fishing mortality with glass eels. I brought this up a year and a half ago. I used to correspond with Dr. Brian Jessup in Canada about this issue.

I know when I brought it up that Mitch Feigenbaum had mentioned it is system-specific. I heard some comments today that probably with that type of a system we're looking at through Maine; that maybe is part of the natural mortality. I think that is an issue that some point needs to be looked at. It is a tough issue to look at; I recognize that.

On a practical standpoint about glass eels, although I know the technical committee recommendation varies widely from what the working group did, I do understand the effort Maine has made. I also understand just listening to New Hampshire, which probably a year ago was not thinking the same way about what was going on with poaching and law enforcement and everything else; that there certainly had to have been some really marked improvements; and I think that has been recognized several times. I do think we're setting standards for both the glass eel quota and as well as for the soft cap for yellow eel and we'll just see how those standards stand for the future. Thank you.

CHAIRMAN O'CONNELL: All right, let's take a second caucus and we will do a roll call vote.

(Whereupon, a caucus was held.)

CHAIRMAN O'CONNELL: **All right, move to adopt the working group's recommendations for yellow and glass eels and for the sustainable fishery management plans, excluding Option 8 for glass eels.** We're going to take roll call vote. Kate.

MS. TAYLOR: Maine.

MAINE: Yes.

MS. TAYLOR: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. TAYLOR: Massachusetts.

MASSACHUSETTS: Yes.

MS. TAYLOR: Rhode Island.

RHODE ISLAND: Yes.

MS. TAYLOR: Connecticut.

CONNECTICUT: Yes.

MS. TAYLOR: New York.

NEW YORK: No.

MS. TAYLOR: New Jersey.

NEW JERSEY: Yes.

MS. TAYLOR: Pennsylvania.

PENNSYLVANIA: Yes.

MS. TAYLOR: Delaware.

DELAWARE: Yes.

MS. TAYLOR: Maryland.

MARYLAND: Yes.

MS. TAYLOR: District of Columbia. (No response) Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MS. TAYLOR: Virginia.

VIRGINIA: Yes.

MS. TAYLOR: North Carolina.

NORTH CAROLINA : Yes.

MS. TAYLOR: South Carolina.

SOUTH CAROLINA: Yes.

MS. TAYLOR: Georgia.

GEORGIA: Yes.

MS. TAYLOR: Florida.

FLORIDA: Yes.

MS. TAYLOR: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

MS. TAYLOR: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

CHAIRMAN O'CONNELL: **The motion carries fifteen for and three opposed.** Jim.

MR. GILMORE: I was going to suggest that one step we need to take would be to handle the quota transfer issues, which will near and dear to New York's heart now. I would have a motion if you're ready for that unless you want to do something sooner.

CHAIRMAN O'CONNELL: In regards to yellow eel quota transfers, included in the workgroup's recommendations was to allow quota transfers. The last motion approved the transfer provision. I think the next step is to look at compliance requirements with submitting plans; so I'm going to ask Kate to go over that, please.

MS. TAYLOR: Just so the board is aware, as specified under Addendum III, January 1, 2015, the dealer and harvester reporting will go into effect. The working group recommendations specified that the states and jurisdictions will be required to approve the regulations for the

implementation of any quota management, should it need to be implemented, by March 2016. In order to meet that timeline, states will need to submit for the annual meeting next year in Florida their implementation plans to meet those regulations.

CHAIRMAN O'CONNELL: Kate, is there anything in regards to the glass eel fishery given that Maine's quota will change from 2014? Do they have to submit a plan?

MS. TAYLOR: If we could likely have an update from Maine at the February meeting or just submit the regulations as you will be working on them probably likely at that time to meet the requirements; that would be helpful.

CHAIRMAN O'CONNELL: So is everyone clear that moving forward states need to begin developing some rulemaking so if a trigger is tripped related to the yellow eel coastal cap; that we will be in a position to implement the state-by-state quota allocation by March 2016. When you go back, begin developing your rulemaking to come before the October 2015 annual meeting for approval. Walter.

REPRESENTATIVE KUMIEGA: I just had a question based on the stock enhancement programs, which is Option 6 under glass eel harvest. Is that under the state-specific – could that be applied to the yellow eel fishery under the state-specific sustainable fishing plans?

CHAIRMAN O'CONNELL: Walter, I missed the first part; are you asking whether or not states have the ability to submit a plan –

REPRESENTATIVE KUMIEGA: If stock enhancement programs could be applied to the yellow eel fishery as well as the glass eel fishery?

CHAIRMAN O'CONNELL: That is not allowed under that option for glass eels; but under the sustainable fishery management plans,, they could submit a plan related to yellow eels. What we need to do is we need to approve Draft Addendum IV as modified today. Bill.

MR. ADLER: Yes, I'll make the motion to approve it as modified today. I do have a question.

CHAIRMAN O'CONNELL: And Kate just reminded me what we need is as modified today and at our August meeting because it pertained to silver eels. We'll get that up on the screen and make sure you're comfortable with it. Do we have a second to that motion; Pat from Maine. We have a motion; move to approve Draft Addendum IV as modified today and in August 2014. Bob.

EXECUTIVE DIRECTOR BEAL: Just a couple of points. Since this is a final action by this board, a roll call is required and any meeting-specific proxies are not eligible to vote on this motion.

MR. ADLER: If I could just return to the compliance thing, I did not understand – you said 2016; so does that mean that the – we're in 2014 – okay, does that mean that the 2015 year will be status quo or the new rules?

CHAIRMAN O'CONNELL: For yellow eels the 2015 season will be under the soft cap; but knowing that there is a trigger with the 10 percent; that if we exceed the coastal cap by 10 percent, we are going to implement a state-by-state quota for the 2016 season – to prepare for that possibility, states need to develop their rulemaking to be allowed to implement a state-by-state quota in 2016 if that trigger is tripped.

MR. ADLER: How about the glass eels?

CHAIRMAN O'CONNELL: For glass eels, for 2015 their quota will be reduced to the working group recommendation. All right, we need a roll call vote. Since we have not had unanimous support, let's do the roll call vote on the addendum.

MS. TAYLOR: Maine.

MAINE: Yes.

MS. TAYLOR: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. TAYLOR: Massachusetts.

MASSACHUSETTS: Yes.

MS. TAYLOR: Rhode Island.

RHODE ISLAND: Yes.

MS. TAYLOR: Connecticut.

CONNECTICUT: Yes.

MS. TAYLOR: New York.

NEW YORK: Null.

MS. TAYLOR: New Jersey.

NEW JERSEY: Yes.

MS. TAYLOR: Pennsylvania.

PENNSYLVANIA: Yes.

MS. TAYLOR: Delaware.

DELAWARE: Yes.

MS. TAYLOR: Maryland.

MARYLAND: Yes.

MS. TAYLOR: District of Columbia. (No response) Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Yes.

MS. TAYLOR: Virginia.

VIRGINIA: Yes.

MS. TAYLOR: North Carolina.

NORTH CAROLINA : Yes.

MS. TAYLOR: South Carolina.

SOUTH CAROLINA: Yes.

MS. TAYLOR: Georgia.

GEORGIA: Yes.

MS. TAYLOR: Florida.

FLORIDA: Yes.

MS. TAYLOR: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

MS. TAYLOR: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

CHAIRMAN O'CONNELL: **Okay, the motion carries seventeen for, none against, and one null vote.**

OTHER BUSINESS

All right, we have one other item under other business that was brought before us by the public in regards to turbine mortality. I asked Kate just to provide kind of an overview of how the commission is handling turbine mortality issues and perhaps we can provide an additional update at our next meeting.

MS. TAYLOR: I would just like to refer the board members back to Addendum III, which does have a section for habitat recommendations. In that it is included that the technical committee should work with the appropriate ASMFC committees to develop materials to support states interested in making recommendations to the Federal Energy Regulatory Commission for upstream and downstream passage provisions for American eel in the hydropower licensing and relicensing process.

Additionally, our FERC Working Group and our Fish Passage Working Group and our Habitat Committee all do at some point address some of these issues. I can have our technical committee

work with these organizations and we can provide an update on what progress has been made and what recommendations can come from this group at the next board meeting.

MR. ADLER: I think that is fine and I think it is an important part of this whole thing; but do we have any expectation that we will get anywhere with this and what will they – whoever they are – what they will be willing to do about it. I know we are all for doing something and we will press through letters or meetings or whatever; but do we have any expectation that we will get something out of this? I would hope we would but I don't know.

CHAIRMAN O'CONNELL: That's a really good question. If we're going to invest the time to try to influence some of these policy changes, we also need to evaluate how successful or not successful we are. If we're not being successful, we've got to think about different strategies to address this issue.

I think it would be good, as our commission's teams and as our state teams begin to address issues, to try to figure out a way how we can evaluate how successful in advocating these issues and provide that to the board periodically so we can determine if we need to change course or not. Pat.

MR. KELIHER: I think the issue of turbine mortality is one of the most serious issues that the specie faces. I think the Habitat Committee and the Fish Passage Working Group can play a strong role here; but this really boils down to state-by-state actions when we're dealing with FERC relicensing. Turbine mortality has been one of the most difficult issues for us to deal with per license and per hydropower facility. Each facility is very, very unique.

Eels travel through each facility at different water heights; and depending on if is a bottom-fed turbine or depending on how tail races are configured, they become incredibly, incredibly challenging. I think the more we can do at the commission to encourage stronger requirements as these licenses are renewed and the more we

do from the state-by-state perspective, it will benefit the species in the whole in the long run.

MR. FOTE: When I first got on the commission in 1990, Al Goetz from Maryland, we had to hold him – he says we have to start a habitat committee. Of course, basically what we are doing is regulating fishermen, cutting back recreational and commercial fishermen, and we weren't dealing with some of the real problems with the fisheries.

Example, the striped bass; there is a power plant down in the Delaware Bay that has been killing enough eggs and embryos to produce 50,000 striped bass a year according to DEP. When we have to make a reduction on striped bass fishermen, we never make a reduction on the power plants that you have to reduce your kill by 25 percent.

That happens with all the plants that have water intakes and everything else. This a most important issue. We can only manage fishermen and they have taken the full brunt of this. A lot of these fisheries are in decline because of sewer plants, power plants and other users of the marine resource water.

I support this 100 percent and we should make this not just on eels but every other species that we're dealing with, whether it is winter flounder up in Jamaica Bay because of the sewer plants discharging and affecting their sex or other species. We should do this for every species to make sure they basically are handled under the new permit restrictions.

CHAIRMAN O'CONNELL: Any other comments on the turbine mortality issue? Mitch.

MR. FEIGENBAUM: Yes; I want to echo the sentiments of the previous speakers. I just would also like to point out to my fellow commissioners that we just voted for Option 6 in the glass eel part of the addendum, which actually allows for quota allowances for habitat restoration. I want to commend the working group for embracing that option; because we've

all heard it said we can't really manage the habitat issues; we can only manage the fisheries.

But here is a case where we're using our management capacity or management potential to the fullest of its capacity by giving our legislatures an additional tool or at least an additional incentive to push the habitat issues to the maximum because now there is an actual reward or potential reward at the end of the process. Again, I thank the working group for all their work; but on this particular issue I commend them again for embracing this recommendation.

CHAIRMAN O'CONNELL: Going forward I will work with Kate to try to find opportunities to bring updates and assess how we're doing on those issues within the states. Any other business to come before the board today? With just in closing, I just want to thank Kate and Sheila and Marty and Joe. Draft Addendum IV has been a long process. I know everyone is not leaving here today completely happy. I commend the working group for the amount of work they did.

If you look at it as a whole, I think, as Rob said, we've set a standard for going forward for glass eels and yellow eels. Yes, we didn't satisfy the technical committee recommendation; but I think we found that right balance between conservation needs and economic needs. I don't think we should at today as an endpoint. We still have a couple states that have some challenges with New York and we've got to try find ways where we can perhaps address those issues going forward.

ADJOURNMENT

I just want to thank all of you and meeting adjourned.

(Whereupon, the meeting was adjourned at 3:50 o'clock p.m., October 27, 2014.)



Atlantic States Marine Fisheries Commission

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MEMORANDUM

July 20, 2015

To: American Eel Management Board
From: American Eel Technical Committee
RE: Recommendations on Maine's American Eel Life Cycle Survey Proposal

Addendum IV to the Interstate Fishery Management Plan for American Eel requires that any state or jurisdiction with a commercial glass eel fishery must implement a fishery-independent life cycle survey covering glass, yellow, and silver eel life stages within at least one river system. To meet this requirement, the State of Maine developed a life cycle survey proposal for Technical Committee review and Board approval. This memorandum documents the TC's discussion and recommendations on Maine's life cycle survey.

In brief, Maine has proposed a three-year survey on glass, yellow, and silver eel life stages in the Cobboseecontee Stream drainage. The survey will use methods to estimate or develop the following: (1) an index of abundance; (2) biomass; (3) mortality; (4) prevalence of the parasitic nematode *A. crassus*; and (5) average length and weight of eels in the survey for each life stage (glass, yellow, and silver eels), as well as (6) age of entry into the survey; and (7) age structure of yellow and silver eels. The study will use various field sampling and tagging techniques based on eel life stage and sampling habitats to accomplish its objectives (see enclosed proposal for more details).

The TC commended the State of Maine for the development of a comprehensive survey design, but expressed concern about the use and applicability of the current survey design results for science and management. Specifically, the TC had the following concerns:

- 1.) The survey design should span at least one life cycle of American eel so that a cohort analysis can be conducted.
- 2.) The survey should extend across the watershed to be more representative of the scale of the fishery.
- 3.) The survey should verify that tagging model assumptions are not violated prior to implementation: (1) no marks or tags are lost (2) marks or tags are recognized and accurately recorded when recaptured (3) no animals die due to capture and tagging (4) tagged animals are thoroughly mixed with untagged animals and represent a random sample of the untagged population.

Based on these concerns, the TC recommended further development of Maine's life cycle survey design prior to implementation. The TC re-established a subcommittee that previously worked on life cycle survey designs to help address the concerns expressed by the TC. This subcommittee will continue to work with Maine on the survey design and report back to the American Eel Management Board at ASMFC's annual meeting with the goal of implementing a well-designed usable survey in 2016.

M15-63

Maine's American Eel Life Cycle Survey Proposal for ASMFC TC Review (June 2015)

Introduction

Addendum IV to the Interstate Fishery Management Plan for American Eel requires that any states or jurisdiction with a commercial glass eel fishery must implement a fishery independent life cycle survey covering glass, yellow, and silver eels within at least one river system. If possible and appropriate, the survey should be implemented in the river system where the glass eel survey (as required under Addendum III) is being conducted to take advantage of the long term glass eel survey data collection. At a minimum the survey must collect the following information: fisheries independent index of abundance, age of entry into the fishery/survey, biomass and mortality of glass and yellow eels, sex composition, age structure, prevalence of *Anguillicola crassus*, and average length and weight of eels in the fishery/survey. Survey proposals will be subject to TC review and Board approval.

Study area

The Maine Department of Marine Resources (MDMR) will conduct a fishery independent life cycle study of American eel in Cobbooseecontee Stream drainage (Figure 1). West Harbor Pond, location of the glass eel survey (Figure 1) was excluded as a potential study site, because the pond has become increasingly anoxic due to salt water intrusion, and Boothbay Harbor is drawing increased amounts of water from the upper drainage. Cobbooseecontee Stream drainage was selected for its configuration, its proximity to MDMR's office, and the presence of three dams (Figure 2) that provide places to monitor and sample eels. In addition, MDMR previously conducted a study of glass eels and tested upstream eel passage designs in the lower portion of this drainage. Glass eels have been harvested at the mouth of Cobbosseecontee Stream annually since 1996; therefore MDMR will close the stream to elver fishing for the duration of this study. A silver eel fishery existed at the outlet of Messalonskee Lake (Figure 2) until the mid-1990s.

Methods –general

The life cycle study will be conducted over a three-year period. Sampling typically will be conducted from April through October and life stages will be sampled with different gears at different frequencies and at different locations throughout the drainage (Table 1) to accomplish life stage-specific objectives. Between November and March, biological samples will be processed and data will be digitized and analyzed.

Methods – glass eels

The specific objectives for the glass eel study are to 1) develop an annual index of abundance and determine 2) biomass, 3) mortality, and 4) average length and weight of eels in the survey. Age, sex composition, and prevalence of *A. crassus* will not be determined for glass eels.

To accomplish objectives 1, 2, and 4, glass eels will be captured daily just upstream of the mouth of Cobbosseecontee Stream with fyke nets that will be set on either side of the stream. Nets will be deployed in spring when glass eels begin migrating upstream in this area (approximately mid-May through mid-June) as soon as spring flows have subsided. Similar to the mandatory young-

of-year surveys, the daily catch will be weighed to obtain total biomass, and the weight and number of glass eels in a subsample will be used to estimate the number of eels in the catch. Once a week, 60 glass eels will be individually weighed and measured and pigment stage assessed.

Mark-recapture methods will be used to estimate natural mortality (objective 3). The daily catch of glass eels will be batch marked with calcein using techniques developed by the USFWS (Appendix A; Appendix B; Appendix C). This method of marking eels was selected because it can be accomplished in the field in minutes and it will allow rapid assessment of marked versus unmarked fish in the field. After a short recovery period, marked glass eels will be released a short distance upstream of the capture location to reduce fallback. A recapture site will be located at the head-of-tide, approximately 317 m upstream of the stream mouth, where one or two fyke nets will be set and fished daily to capture upstream migrating glass eels and small yellow eels. The daily catch of glass eels will be examined with a special light source to detect marked fish. Marked and unmarked fish will be weighed separately to obtain total biomass, and the weight and number of glass eels in a subsample will be used to estimate the number of eels in the catch. Once a week 60 glass eels will be individually weighed and measured and pigment stage assessed. Small pigmented eels will be treated similarly.

Methods - yellow eels

The objectives for the yellow eel studies are to 1) develop an index of abundance; 2) determine age of entry into the survey, 3) biomass, 4) mortality, 4) age structure, 5) prevalence of *A. crassus*, and 5) average length and weight of yellow eels in the survey. In order to accomplish these objectives, yellow eels will be sampled using three methods. At the lowermost dam (Figure 2, dam 1), upstream migrating eels will be captured at the top of one or more eel passages from approximately June through September. This is an effective method of sampling small yellow eels; 99% of the yellow eels using upstream passage at this barrier from 1997–1999 were ≤ 150 -mm TL (Wippelhauser unpublished data). In wadeable fluvial habitat, three-pass depletion sampling with a backpack electroshocker will be conducted at each site; a blocking net will be installed at the upstream and downstream end of the area to be sampled. Electrofishing will be conducted in the area between the mouth and third dam (Figure 2) once a month in from June through September. Oliveira and McCleave (2000) successfully used this method to capture eels ranging from 100–580-mm TL in four river systems in Maine. Because there are numerous large lakes in the drainage that cannot be sampled within the three-year study period, MDMR will focus on sampling Pleasant Pond (746 acres). A total of 36 baited eel pots made of 0.5-inch mesh will be deployed in a grid pattern throughout the pond and allowed to fish for 48 hours before being tended. This mesh size is expected to provide an unbiased sample of eels ≥ 30 -cm TL (Morrison and Secor 2003).

For yellow eels captured at the lowermost barrier, the daily catch will be examined for calcein marks, weighed to obtain total biomass, and the weight and number of eels in a subsample will be used to estimate the number of eels in the catch. Once a week, 60 eels will be individually weighed and measured and euthanized for later determination of age and examination for the presence of *A. crassus*.

For yellow eels captured by electrofishing or in pots, each captured yellow eel will be weighed, measured, and PIT tagged (12 mm tag) if > 150 mm TL, with the exception of a subsample that will be euthanized for later determination of age, sex, and presence of *A. crassus*.

Methods – silver eels

The objectives for the silver eel studies are to 1) develop an index of abundance; 2) determine age of entry into the survey, 3) biomass, 4) mortality, 4) age structure, 5) prevalence of *A. crassus*, and 5) average length and weight of silver eels in the survey. In order to accomplish the first objective, silver eels from the entire drainage will be enumerated with a DIDSON at the American Tissue Project downstream eel passage (Figure 2, dam 2). The DIDSON will be aimed at the deep gate through which eels pass downstream (the turbine intake is screened), and will record during the nighttime. This method of visualizing migrating eels was tested successfully at the site in 2007 (Gail Wippelhauser unpublished data). A fyke net will be set downstream to capture eels for biological sampling (length, weight, otolith for ageing, and swim bladder parasite).

Analysis – glass eels

1. For each of the three years, the total number and weight of unmarked glass eels caught at the mouth of Cobboseecontee Stream and at the head of tide will provide an annual index of abundance and of biomass.
2. For each of the three years, the average length and weight of glass eels will be calculated from the weekly measurements made on individual glass eels.
3. For each of the three years, survival will be estimated from the number of glass eels caught at the head of tide compared to the number caught at the mouth and from Peterson mark-recapture estimates of abundance at two times (Jessop 2000).

Analysis – yellow eels at upstream passage (≤ 150 -mm)

1. For each of the three years, the total number and biomass of eels using upstream passage at the lowermost barrier will provide an annual index of abundance of recruitment into inland waters of eels .
2. For each of the three years, the average length and weight of glass eels will be calculated from the weekly measurements made on individual eels.
3. Sagittal otoliths will be aged. Annular rings in each otolith or otolith section will be counted at least twice by two readers.
4. The presence and number of *A. crassus* nematodes found inside the swim bladder of each subsampled eels will be recorded.
5. Because there is no commercial fishery for yellow eels in the watershed, natural losses will be estimated from catch curves.

Analysis – yellow eels ≥ 150 -mm and silver eels

1. For each of the three years, the abundance of yellow eels in Cobbosseecontee Stream will be estimated from multiple pass depletion (electrofishing) and of yellow eels in Pleasant Lake (baited pots) from marked and recaptured eels (equations in Lockwood and Schneider 2000).
2. For each of three years, the number of silver eels emigrating from the watershed will be counted at the second dam.
3. For each of the three years, the average length and weight of yellow eels and silver eels will be calculated from the weekly measurements made on individual eels.
4. Sagittal otoliths from yellow eels >100 -cm TL and silver eels will be aged using the sectioning and dyeing techniques described by Oliveira (1996) and Graynoth (1999). Annular rings will be counted in each otolith section at least twice by two readers.
5. The presence and number of *A. crassus* nematodes found inside the swim bladder of each subsampled eels will be recorded.
6. Because there is no commercial fishery for yellow eels in the watershed, natural losses will be estimated from catch curves.
7. Gonads will be examined macroscopically and by the squash method of Guerrero and Sheldon (1974) and classified as male, female, or undifferentiated. Oliveira and McCleave (2000) reported that sex in 95% of the American eels sampled in four river systems in Maine could be differentiated by 250–270 mm TL, depending on the river system.

References

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Table 1. Schedule of field activities to be conducted annually over a period of three years.

Activity	Apr	May	Jun	Jul	Aug	Sep	Oct
Glass eel fyke netting							
at stream mouth	daily	daily	daily				
at head-of-tide	daily	daily	daily				
Yellow eel US passage			daily	daily	daily	daily	
Yellow eel e-fishing			biweekly	biweekly		biweekly	
Yellow eel pot fishing			biweekly	biweekly		biweekly	
Silver eel DIDSON					daily	daily	daily

Figure 1. Location of proposed study area for life cycle study in Cobboseecontee Stream drainage (large oval) and location of glass eel survey in West Harbor Pond drainage (small oval).

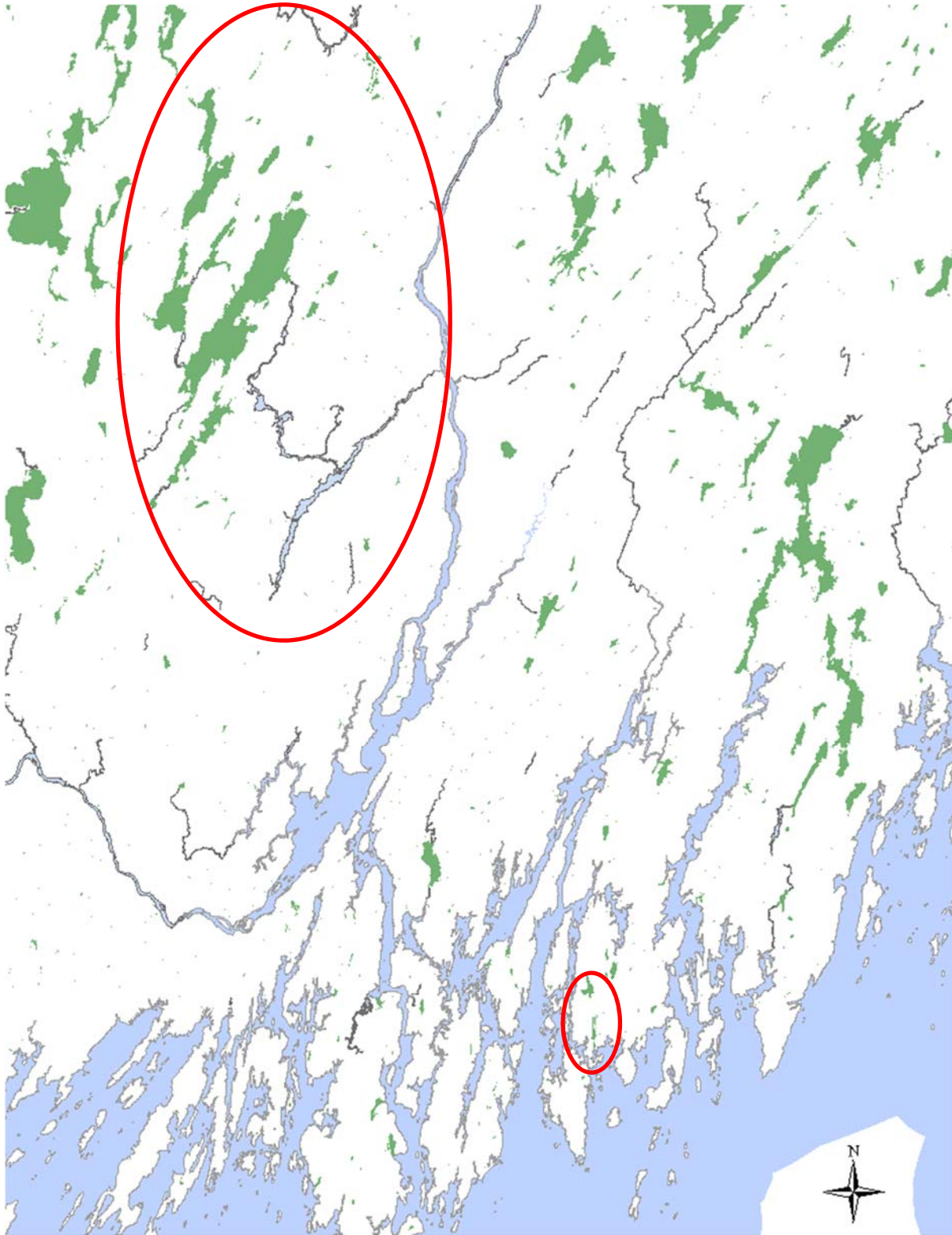


Figure 2. Detailed map of Cobbosseecontee Stream drainage showing location of major water bodies and dams (red circles). None of the dams have upstream eel passage. The American Tissue Hydropower Project (dam 2) has a downstream eel passage facility.

