

**PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SPINY DOGFISH AND COASTAL SHARK
MANAGEMENT BOARD**

**October 24, 2006
Atlantic Beach, NC**

ATTENDANCE

Board Members

Terry Stockwell (ME), Proxy for George Lapointe
Pat White (ME)
John Nelson (NH), marine fisheries
Ritchie White (NH), governor's appointee
Dennis Abbott (NH), legislative commissioner
David Pierce (MA), DMF proxy for Paul Diodati
William Adler (MA), governor's appointee
Vito Calomo (MA), proxy for A. Verga
Mark Gibson (RI), DFW/DEM
Everett Petronio, Jr. (RI),
Eileen Naughton, gov. ap.
Eric Smith (CT), DEP
Gordon Colvin (NY), DEC
Pat Augustine (NY), Gov. ap
Brian Culhane (NY), proxy for O. Johnson
Peter Himchack (NJ) proxy for D. Chanda
Erling Berg (NJ), Gov. ap.
Roy Miller (DE), DF&W
Timoth Targett (DE), U of Del.

Bernard Pankowski (DE), proxy for Sen. Venerables
Howard King (MD), DNR
Bruno Vasta (MD) Gov. ap.
Russell Dize (MD), proxy for R. Colburn
Rob O'Reilley (VA), MRC
Catherine Davenport (VA), Gov. ap.
Kelly Place (VA), proxy for J. Chichester
Red Munden (NC), NCDMF
Damon Tatem (NC) Gov. ap.
Jimmy Johnson (NC), proxy for Sen. Wainwright
John Frampton (SC), DNR
Malcolm Rhodes (SC) Gov. ap.
Robert H. Boyles (SC), DNR
Spud Woodward (GA), DNR
Bob Lane (GA), Leg. Com.
April S. Price (FL) Gov. ap.
Bill Archumbault-USFWS
Pat Kurkul, NMFS-HMS

ASMFC Staff

Chris Vonderweidt
Bob Beal

Vince O'Shea
Toni Kerns

Guests

Elizabeth Griffin, Oceana
David Whitaker, SC-DNR
Helen Takade, NC-DMF
Harry Mears, NMFS-HMS
Mike Clark, NMFS-HMS

James Fletcher, UNFA
Tom Meyer, NMFS
Dewey Helmright, NC comm. Fisherman
Janice Plante, Comm. Fish News

There may have been others in attendance who did not sign the attendance sheet.

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1. Move to: 1. Increase the spiny dogfish quota this fishing year, it's May 1 through April 30th, 2007, from 4 million to 6 million pounds; 2. Set an 8 million pound quota for the next fishing year, that's May 1, 2007 through April 30, 2008; 3. Annually distribute these quotas with 58 percent being allocated to states from Maine through Connecticut and 42 percent from New York through North Carolina; and, 4. Allow states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery.

Motion made by Mr. Pierce, second by Mr. Petronio. Motion divided. (Page 14)

2. Move to: 1. Increases the spiny dogfish quota this fishing gear (May 1, 2006, to April 30, 2007) from 4 million to 6 million pounds; 2. Annually distribute these quotas with a 58 percent being allocated to states from Maine through Connecticut and 42 percent from the York through North Carolina.

Motion by Dr. Pierce, second by Mr. Petronio. Motion carries (Page 27)

3. Move to allow states to allow states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery for 2006/2007 fishing season.

Motion made by Dr. Pierce, second by Mr. Petronio. Motion carries (Page 27)

4. Move to 1. Set an 8 million pound quota for the next fishing year (May 1, 2007, to April 30, 2008); 2. annually distribute these quotas with a 58 percent being allocated to states from Maine through Connecticut and 42 percent from New York through North Carolina; and 3. allow states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery.

Motion made by Dr. Pierce, second by Mr. White. Motion postponed (Page 28)

5. Move to amend to change 8 million pounds quota to 6 million pound quota for 2007/2008 fishing season.

Motion made by Mr. Smith, second by Mr. Boyles. Motion carries. (Page 29)

6. Move to separate item 3; to allow states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery for 2007/2008 fishing season.

Motion made by Mr. Smith, second by Mr. Colvin. Motion carries. (Page 30)

7. Move to: 1. Set a 6 million pound quota for the next fishing year, May 1, 2007-April 30,2008; 2. annually distribute these quotas with 58 percent being allocated to the states from Maine through Connecticut and 42 percent from New York through North Carolina.

Motion by Dr. Pierce, second by Mr. Petronio. Motion carries. (Page 30)

8. Move to allow the states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery for 2007/2008 fishing season.

Motion by Dr. Pierce, second by Mr. Petronio. Motion postponed. (Page 30-31)

**ATLANTIC STATES MARINE
FISHERIES COMMISSION**

65th ANNUAL MEETING

**SPINY DOGFISH AND COASTAL
SHARK MANAGEMENT BOARD**

**SHERATON ATLANTIC BEACH
ATLANTIC BEACH, NORTH
CAROLINA**

October 24, 2006

The meeting of the Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Fear/Outlook/Atlantic Room of the Sheraton Atlantic Beach, Atlantic Beach, North Carolina, on Tuesday, October 24, 2006, and was called to order at 1:15 o'clock, p.m., by Chairman Patrick Augustine.

WELCOME & INTRODUCTIONS

CHAIRMAN PATRICK AUGUSTINE: I'd like to welcome you all to the Spiny Dogfish and Coastal Shark Management Board. We have a very full agenda today. There are some items on here that are going to require your concentration and your full effort so we can move along through the process.

APPROVAL OF AGENDA

At this time I'd like to have you review the agenda. I do have one suggestion from Dr. Pierce on Item Number 8, to move it ahead of Number 7 in view of the Item 6 is to review the 2007-2009 spiny dogfish specifications then consideration of the Massachusetts spiny dogfish proposal which may or may not have some impact on seven which would be the setting of the 2007-2008, possibly through 2009, spiny dogfish specifications.

Does anyone have a problem with that? Seeing none, we'll go forward with that. Are there any other suggestions, recommendations, or corrections? If not, the agenda stands. Under new business -- I

apologize for that. Under new business I am hoping that we will time.

We have Margo Schulze-Haugen here and Mike Clarke from the Highly Migratory Species Division and they have a presentation they would like to make, not a debatable one. You could ask questions if we have time. However, it's a presentation on the most recent work they've done with the new plan.

**APPROVAL OF PROCEEDINGS FROM
AUGUST 15, 2006**

So, okay, here we go. Item 2, approval of the agenda. Any questions? Changes? Seeing none, they stand approved. Item 3, approval of proceedings from the August 15, 2006, meeting. Do I have a motion from the floor? Mr. Adler.

MR. WILLIAM A. ADLER: So moved.

CHAIRMAN AUGUSTINE: Any discussion? Any questions? All right, all in favor say aye; opposed, same sign; abstentions; null votes. The proceedings have been approved. At this time I will entertain public comment, Item 4.

PUBLIC COMMENT

Are there any comments from the audience at this particular point in time? If not I remind you that you can enter into public discourse later on as motions are put on the table. And at the appropriate time you will be recognized. Item 5, Spiny Dogfish Technical Committee report. And Bob Beal is going to give that to us.

**SPINY DOGFISH TECHNICAL COMMITTEE
REPORT**

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. It's a little bit awkward in having staff give the technical committee report but the Spiny Dogfish Technical Committee doesn't have a chair or vice chair at this time, given some changes in responsibilities and jobs for those folks.

Some have moved on and the group needs to elect a new chair and vice chair which they will do at the next meeting. We were hoping possibly to get Paul Rago down but there are some federal travel restrictions that keep him from coming to the meeting as well.

I've give the technical committee reports. They're not the view of the staff; they're the view of the technical committee. And I can try to answer any questions that you have from the perspective of the technical committee.

I think there may be a couple of tech committee folks in the room that we may be able to go to with some questions should they arise that I can't handle from my memory of the technical committee deliberations.

So with that, the technical committee report that I'm going to give summarizes the meeting on, a face-to-face meeting that took place September 26th and then a follow-up conference call that was held on October 5th.

During these two meetings the technical committee addressed two different things. The first was the recommendations on the '07-'08 specifications and the second objective was to review the Massachusetts proposal that was presented at the last board meeting.

The first thing that the technical committee did during their face-to-face meeting was get a lengthy and detailed summary of the stock assessment, very similar to what this board received at its last meeting in August. Dr. Paul Rago came and gave the presentation findings of the stock assessment plus the results of the peer review.

Some of the main points that the technical committee wanted to reiterate and bring forward to the management board is that the stock is not overfished and overfishing is not occurring.

But there are still a number of concerns that remain regarding the status of the spiny dogfish stock.

The other thing is that the 2006 estimate of biomass is strongly influenced by the 2006 survey numbers. So if you remember the report that Paul Rago gave at

his last meeting, the '06 survey number was substantially higher than the previous year's numbers. And this recent survey number strongly influenced the recent estimate of biomass.

There still remains a strong imbalance of the sex ratio in the spiny dogfish population. There is about a six-to-one ratio of males to females, if my memory serves. So there is still a lot more males in the system than there are females.

Continuing on the stock assessment, the other point is that for the recent years, the last six or eight years or so, there has been really poor recruitment to the spiny dogfish population, not many recruits entering the system.

The overall length range of the stock is contracting which shows that there is not as many new fish entering the system. It's just the older fish are just kind of progressing along through the population and the ranges, we're not seeing the wide range of older, large females and younger male and female fish entering the system.

The total level of mortality is strongly influenced by the level of discards in the fishery. The overall mortality is, the overall discard mortality is a significant portion of the total mortality.

And also the size of the females in the population is declining which is resulting in fewer and smaller pups coming out of the females that are in the system.

The technical committee also put together a series of projections and those are included in the technical committee report that was on the CD and I think there are copies in the back of the room. These five scenarios just kind of projected what would happen. They're five different kind of "what if" scenarios for the next five years. And I will go through those quickly and I think I have one of the figures here that I can explain.

The first projection is essentially status quo. You take the fishing mortality rate that was estimated from 2005 and you apply that to the entire rebuilding timeframe for the next 30 years or so.

This results in the stock rebuilding in about the 18 years. And it also assumed -- in this projection it is also assumed that the level of discards would be similar to the 2005 level. Under this scenario only 14.5 percent of the total mortality comes from the U.S. commercial harvest.

The remaining mortality comes from discards and Canadian harvest. So the point of that is saying, is indicating that a change in the U.S. commercial quota doesn't have a large impact on the total mortality on the stock.

Projection Scenario 2 is essentially is closing U.S. commercial harvest. And what this does is that it essentially removes that 14.5 percent of mortality that I just mentioned in the previous slide.

And what happens now is you apply, you know, a lower F rate throughout the 30-year rebuilding time frame. And it takes about 17 years to rebuild to the SSB target. And this, again, assumes the same level of discards as 2005.

Scenario 3, this is an increase in landings to 6 million pounds. And what happens -- if the quota were increased next year to 6 million pounds the F rate is estimated to be about 1.53. And the way this scenario worked was applying that 1.53, the F equals 1.53 or 0.153 throughout the entire 30-year rebuilding time frame.

So the initial year's quota would be 6 million pounds but the quota would continue to go up as the population rebuilt. So it's a constant F strategy rather than a constant quota strategy. So it's 6 million pounds in the first year. It then fluctuates with or grows as the population grows.

Under this scenario it would take about 28 years to rebuild the stock, again assuming the 2005 discard level. This scenario essentially doubles the impact of the mortality from the U.S. commercial harvest.

Scenario Number 4, this is kind of the highest level of harvest or the highest fishing mortality scenario. What happens in this scenario is you increase the

quota to 6 million pounds and you also assume that the discards are going to increase proportional with the level of fish that are harvested.

Under this scenario the F rate remains at about 0.25 throughout the rebuilding schedule and the population does not rebuild to the spawning stock target within the 30-year time frame of the rebuilding projections.

Scenario Number 5 is what the technical committee was calling probably most similar to the Massachusetts proposal. What would happen in this scenario is that you would increase the quota to 6 million pounds which would apply that F rate that I mentioned earlier which is the 0.153 to the next year.

And then the fishing mortality rate would decrease over time as the population rebuilt to maintain the 6 million pound quota for the first, through year 2010 so for the next six years or I mean next four years you would have the or assumed quota would be about 6 million pounds.

After 2010 you would apply the status quo fishing mortality rate which is the, you know, the fishing mortality rate from last year of 0.128. Excuse me. Under this scenario it takes about 19 years to rebuild.

So, as you can see, there are, you know, the first, second, and fifth scenario, the 17, 18, 19 years to rebuild, they're all fairly similar in the total time to rebuild, but the discard assumptions have a lot to do with it. Under this scenario, Number 5, it's assuming the 2005 level of discard as well.

This is Figure 2 out of the technical committee report. It summarizes Scenarios 1, 2, and 3. The horizontal black line on the center of the figure is the SSB target. The important thing in this slide, other than the rebuilding timeline, is the fact that under all these rebuilding scenarios the population actually dips down before it starts to rebuild.

And the reason for this is that, as I mentioned earlier, the level of recruitment has been low in recent years and all these projections assume average recruitment

or the recruitment will be essentially better than it has been for the last few years.

So, the population dips down as these, as we sort of address the poor recruitment and the recruitment gets back to average. And then as those new females enter the system, then the population begins to rebound, 2015 or so. So I think Figure 3 in the technical committee report is the other two scenarios that have a very similar pattern, just different trajectory in the rebuilding timeline.

With regard to the 27 or 2007 and 2008 quota, the technical committee made a number of comments. They did not come out with an actual recommendation on a, you know, a poundage for the quota but they did give a number of comments or a number of issues as feedback to the management board.

The first comment was that the board should consider setting specifications for only one year. They felt that given the uncertainty and the dependence of the current biomass on the 2006 survey number the board should set the quotas for '06 and then decide you know, in the out years if that 2006 survey number is consistent with the future survey numbers and see what the biomass estimate looks like.

Again, as I mentioned, the biomass estimate right now is strongly influenced by the 2006 number. As you saw through those projections, any increase in quota extends the rebuilding timeframe. Some of them aren't very significant but the discards have an important role in the rebuilding timeline.

Also, recruitment is a key part of this. So all the rebuilding scenarios that I went through a minute ago, if we don't experience average recruitment or if we experience recruitment below average, I guess is a better way put it, it's going to take longer to rebuild.

If the recruitment is above average, then some of those rebuilding timelines can be accelerated. And again, discards is another key part of the total mortality so depending on how discards go, so goes the rebuilding schedule, essentially. Modest

increases in quota, we're only going to have modest delays in the rebuilding timeline.

And the final statement that the technical committee gave on the quota is that, you know, given the uncertainty in the system the status quo quota is more conservative but ultimately it's a policy call as to the level of risk that the board is comfortable with given it's difficult to project what the discards will be as well as what the level from recruitment is going to be in the future.

A couple other comments on the quota for next year, a 2 million pound increase is within the margin of error. You know there is some margin of error in this stock assessment and the projections as with all stock assessments.

And 2 million pounds either way just kind of, it falls within those error bars. And the resolution of the current assessment doesn't allow you to pick that apart. And, again, without improved recruitment the stock is not going to fully rebuild.

With regard to trip limits, the technical committee had a number of comments there as well. The first thing that they noted was that the first period for 2006 closed about five weeks, actually we're closed right now, closed about five weeks prior to the end of fishing period so all the quota was landed and we still had about five weeks to go.

And during that time or during this time we're in right now any dogfish caught are essentially turned into discards because we're not able to bring them back to the dock. And then their comment is that if you increase trip limits then without an increase in quota the quota will likely be landed quicker, resulting in longer closures, which result in more discards.

And they also commented that the trip limit has a large influence on total mortality. And what they were saying here is that if you increase the trip limit significantly so that the quota is landed, you know, very quickly, then you'll have the fish landed as part of that quota plus you'll have the discards throughout the entire closed period.

And that kind of increases the total mortality on the stock. The technical committee recommended the 600 pound trip limit for 2007 and 2008 given the current level of quota.

The second objective that the technical committee addressed was the Massachusetts proposal. There are copies of that proposal I think on the back table as well as the CD that was distributed before the meeting.

In that proposal there is a series of or actually based on that proposal the management board came up with I think seven different points that they wanted the technical committee to look at. And the technical committee cycled through those points and commented on all those and gave some feedback.

The first question was what is the impact of the Massachusetts proposal on total mortality. The technical committee noted that a 2 million pound increase really has no significant impact on total mortality.

A 4 million pound increase, which is kind of the second year of the Massachusetts proposal, only has a marginal increase on fishing mortality. This, again, assumes the level of discards is continued into the future.

The one thing that the technical committee was not able to do was predict how much of the quota increase or increased quota would be simply a transfer of discards to landings.

So if, for example, if the quota is increased 2 million pounds are a million of those pounds just fish that are converted from fish that would have been thrown back actually to landings or is it a situation where all the 2 million pounds are added to the total fish killed in a year which would increase mortality as well.

Regarding the trip limits in the Massachusetts proposal, the technical committee simply reiterated what I mentioned about trip limits earlier in that increasing the trip limit significantly has the potential to increase the time that this fish is closed. And then

during the closed period anything caught is, obviously becomes a discard.

The next question the board asked to comment on was the reliability of the 2006 biomass estimate and the impact on the Massachusetts proposal. Again, they reiterated that the recent biomass estimate is strongly influenced by the 2006 survey.

They made a comment that the change in biomass that was displayed in the most recent assessment is not biologically reasonable. And what they meant here is that if you look at where we thought we were in 2005 and where we think we are in 2006, given the life history of spiny dogfish we could not have made that big of a jump.

So either the 2005 number was too low and underestimating the biomass or the 2006 number is too high, overestimating the biomass. And with only one point or one new survey number at the higher level they are unable to predict which one of those is not, you know, essential which one doesn't add up with the data.

And they also mentioned that given that there is such a large increase or a large change in the biomass estimate, that just increases the uncertainty of the whole assessment, the whole spiny dogfish stock assessment.

The next question was the variable selectivity pattern for the fishery, in other words, what happens or as the fishery changes based on changing quotas and trip limits, what is that going to do to the selectivity pattern of the fishery? Are we going to harvest more big fish, more small fish, what is it?

The technical committee did note that the selectivity pattern does have a strong influence on the fishing mortality rate. However they're not able to predict how the states would implement an increase in quota or what the fishermen would do necessarily in response to that changing quota. So they said, you know, it's uncertain as to what the change in the fishing pattern would be.

The next question is what is the likelihood of targeting adult females with a quota increase. And the technical committee simply stated that increasing the trip limit will increase the directed harvest.

So at some point as the quota up, or as the trip limit goes up, more fishermen will shift over to actually directing on dogfish once it becomes financially feasible to do that. And once it becomes somewhat of a directed fishery on spiny dogfish the, it's going to be hard to avoid the large females that are out there so they will probably, they will become part of the catch stream.

There was a question regarding the feasibility of a male only fishery. At this point the technical committee said it's unknown if this is feasible or not to do a male only fishery, that additional studies were needed.

There was a processor at the technical committee meeting that we had and he mentioned that the processors are unsure what to do if a lot of smaller males started, you know, were coming out of the fishery exactly how they would process those fish.

They need to do some experiments and you know figure out how to handle those smaller males entering the processing plants. Again, this is only the comment of one individual but it's kind of interesting.

The next question was what is the potential for other fisheries to close due to dogfish discards. In other words, will other fisheries potentially have to be closed down due to the significant level of dogfish discards.

The technical committee noted that current FMPs don't include dogfish bycatch caps. So unless there is a change in other fishery management programs it's unlikely that there will be a closure due to the dogfish discards or bycatch.

The final question that the board posed to the technical committee was regarding some recent scientific articles on the impacts of spiny dogfish, the predatory impacts of spiny dogfish.

The technical committee noted that the 2002 article indicated that the impacts are not significant; however, they felt that it's a very difficult to evaluate. A lot of spiny dogfish before they are caught they regurgitate everything in their stomach so their stomachs are empty so it's kind of impossible at times to tell what they're eating.

So the technical committee felt that a lot more studies are needed. Clearly they, you know, have the potential to have a strong ecosystem impact but at this point it's unknown what that is. So that's the technical committee report, Pat.

CHAIRMAN AUGUSTINE: Thank you, Mr. Beal. Mr. White, Ritchie White, had his hand up a while back. I wanted Bob to complete the whole report so you could get a feel for the whole flow of it and what the thoughts were behind it. So, Mr. White.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. First a question and then a comment, did I understand it correctly that the technical committee does not see a correlation between increased quota and a drop in discard mortality?

CHAIRMAN AUGUSTINE: Mr. Beal.

MR. BEAL: The technical committee was unable to predict how much transfer from discards to landings there would be. In the words, you know, if the quota goes up are all the fish that are landed, would they have all been discards before or, you know, are people directing and harvesting some fish that they would have -- were more dogfish caught than would have been under a smaller quota I guess is the way to put it.

MR. WHITE: My comment is my sense is in talking to our fishermen that the discards would drop substantially with an increase in the quota. So I think you could increase the quota, drop discard mortality, and still reach your objectives.

CHAIRMAN AUGUSTINE: I'm sorry. Mr. Beal.

MR. BEAL: Yes, Ritchie, you know if an increase in quota results in decreased discards, obviously the

total mortality, you know, essentially remains unchanged because -- but that's an if. And the technical committee was unable to make that prediction and really left it up to the managers as a policy call.

CHAIRMAN AUGUSTINE: Thank you, Mr. Beal. I had Mr. Himchak, Dr. Pierce, and Mr. Pat White.

MR. PETER HIMCHAK: Thank you, Mr. Chairman. I have a question either for Bob or somebody from the technical committee. And in light of discussion yesterday at the Management and Science Committee on retrospective analysis of F estimates and SSB, could somebody clarify or expound on the biomass estimate, the 2006.

You're saying that 2005 may have been too low; that 2006 seems biologically improbable. Is there a retrospective analysis on the annual estimates that would show a trend as to whether they come out high or low? Is there any kind of a pattern?

CHAIRMAN AUGUSTINE: Mr. Beal, do we have an answer for that or can we go into that depth?

MR. BEAL: I don't know if there is a pattern in the retrospective bias. I'll try to find that out and get back to you, Pete.

CHAIRMAN AUGUSTINE: Dr. Pierce raised his hand. Could you respond to that Dr. Pierce since you're a part of that group?

DR. DAVID PIERCE: There wouldn't be any way for us to determine whether there was a retrospective pattern because dogfish abundance is assessed not through the analytical techniques such as the virtual population analyses.

It's done by swept area biomass. And that calculation is done from one year to the next using the bottom trawl survey in the spring. You know, the opening of the net, the amount of square nautical miles covered, extrapolated up across all the strata that is sampled by the service, so there is no way to get any insight into retrospective patterns.

CHAIRMAN AUGUSTINE: Thank you for that, Dr. Pierce. And before you respond to your opportunity at the mic I'd like to at least welcome Pat Kurkul to our meeting. And I wanted to recognize you when you walked in -- and Harry Mears both are here. Welcome. And participate any time you want. Dr. Pierce.

DR. PIERCE: Thank you, Pat. It's very tempting to ask a lot of questions about the technical committee report but that really wouldn't be productive for me personally and it would be a waste of this board's time.

There's a lot of business for us to cover here today. My preference is to wait until the appropriate time on the agenda, which is coming up very soon, for me to provide some introductory remarks, brief remarks, Mr. Chairman, introductory remarks that would relate specifically to some of my comments on the technical committee report. And that will then lead me into a motion that I would like to make, Mr. Chairman, that is specific to the Massachusetts proposal.

CHAIRMAN AUGUSTINE: I keep hitting the wrong button. Thank you, Dr. Pierce. And you did say you would be brief. I think the biggest concern we have here is that you, again, articulate clearly the message and the support.

I know you and I talked about this and you have an awful lot of information that is important to of us. But if you can itemize them for us so we can follow them through very quickly -- well, not quickly -- thoroughly and then I'd entertain your motion as quickly as you can put it on the table.

You may interject one more before you get into your motion. We had talked about before you really got into a flow on your presentation was to review the 2007-2009 federal spiny dogfish specs. Would that be more appropriate? Is that okay with you?

DR. PIERCE: If you care to, Mr. Chairman. It's only a review. We're not taking any action on them. The action that we take --

CHAIRMAN AUGUSTINE: Thank you very much. Then we can get right into the meat and potatoes. So, who is going to do that? Bob is going to do that so go ahead, Bob.

REVIEW OF 2006-2009 FEDERAL SPINY DOGFISH SPECIFICATIONS

MR. BEAL: Sure. It's actually really straight-forward. The federal government, National Marine Fisheries Service has I believe it's a proposed -- I don't think it's final yet -- on spiny dogfish. The proposed rule included a 4 million pound quota for the next three fishing seasons.

CHAIRMAN AUGUSTINE: It's final.

MR. BEAL: It's final? All right, the final rule include a 4 million pound quota for the next three fishing seasons and a 600 pound trip limit for both quota periods within those years. So it's a pretty straight-forward package but just so everyone knows where the federal government is on this one.

CHAIRMAN AUGUSTINE: Are you ready, Dr. Pierce?

DR. PIERCE: Yes.

CHAIRMAN AUGUSTINE: Okay, you've got it.

DR. PIERCE: All right, I thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Dr. Pierce, I screwed up, a senior moment. I recognized Mr. Pat White and then skipped right back over him. So, Pat, would you please go forward.

Mr. PATTEN D. White: This may be more relevant after his motion Mr. Chairman so I'll succeed to him.

CHAIRMAN AUGUSTINE: All right, thank you. Back to you, Dr. Pierce.

DR. PIERCE: All right, thank you, Mr. Chairman. The technical committee review indicated that increasing the quota by 2 million to 6 million pounds will not have a significant impact on fishing mortality

or on the overall mortality of dogfish. And increasing it to 8 million pounds will have just a marginal impact.

Now, this question of the impact on fishing mortality was the principle issue identified by this board at our last meeting. Therefore, the Massachusetts proposal will have an insignificant effect on fishing mortality.

Remember that we proposed an increase of 2 million pounds for the current fishing year, thereby revising the quota to 6 million pounds. This will be especially advantageous to the Mid-Atlantic states because we're about to enter the next seasonal period, that's November through April, when the fishery in areas like off of North Carolina is to be prosecuted.

Any benefit that would occurred to Massachusetts from this change for the current fishing year and benefit to the more northern states such as New Hampshire would come from an increase in the quota to 8 million pounds for the next fishing year. That's an important point for me to make right from the get-go, the fishing mortality.

The technical committee expressed caution about the 2006 biomass estimate which was around 250,000 metric tons of large females and that brings us over our one-hundred-and-some-odd-thousand metric ton target by a considerable amount. But, again, it's one data point. It's the 2006 biomass estimate.

They say, and this was pointed out by Bob, that a large change in biomass from one year to the next is not biologically reasonable therefore be cautious.

Well, let's remember that through the entire time series that we've been using for dogfish management and assessment we've seen large changes from year to year that have been biologically unreasonable.

And that's the nature of swept area biomass estimates for a species like spiny dogfish. No surprise. Frankly, we've accepted and used those previous years' data. So to be consistent we need to use these new data, this new data point.

And, importantly, and I think you may have mentioned this, Mr. Chairman, the technical committee did state that the previous estimates, '05, for example, even '04, just as well could have been too low. And this is a point that actually was made by Paul Rago, Dr. Rago, at the Monitoring Committee meeting a short while ago that was held in concert with the technical committee meeting.

As a matter, he expected the '04 and '05 estimates to have been higher than what they actually turned out to be. And if they were higher than it makes the '07 data point more reasonable, more sensible, more understandable.

Now, if my office hadn't been inundated with phone calls, faxes, letters, e-mail's, photographs and videos from commercial and recreational fishermen expressing their plight caused by huge abundance of dogfish of all sizes, I might be a bit hesitant to embrace the '06 biomass estimate and all it implies.

Now we're not overfishing for dogfish and we're not overfished. But my office has been overwhelmed and I think the offices of many state representatives here have been overwhelmed by these observations.

We've heard nothing but concern bordering on complete desperation that dogfish continue to impact recreational fishing and commercial fishing -- extensive damage to catches and fishing gear. I have the photos with me if anyone cares to see them. It's rather remarkable.

And remember yesterday's meeting with the North Carolina Fisheries Commission. You know, bear that meeting in mind. Remember the comments that were made by at least one commission member regarding North Carolina, the commission's specific concerns and alarm about what is happening with spiny dogfish and its impacts on many other fisheries.

Also, you're well aware of the Division of Marine Fisheries concerned about the impacts of dogfish predation on cod and other ground fish and on fluke, young of the year and one-year-olds. Even though the technical committee did address our question

about predation, they really did so in the very unsatisfactory way.

That's my conclusion. They stated, and it was up on the screen, that the 2002 article that referenced regarding dogfish predation on ground fish, you know, they stated that spiny dogfish did not have a significant predatory impact on New England ground fish species.

However, it's obvious to me that they only looked at the article's abstract and they did not pay attention to anything beyond the abstract such as Table 3 in that document that I referenced at our last meeting that shows the numbers regarding what dogfish have been preying on, 1998 being an example of that.

In addition, there is one very important statement in that document that I need to reference. And I'm almost through, Mr. Chairman. I can see you're getting a little antsy.

The statement is, "We recognize the possibility for localized events" -- that is predation -- "beyond the scale of our surveys. It is feasible that intense elasmobranch and ground fish interactions occur at these smaller scales. Such small scale events can have a significant impact on a stock but are difficult to detect and quantify."

And this is exactly our point regarding the inshore Gulf of Maine dogfish-juvenile codfish interactions, and especially in light of the consumption data in Table 3. And to quickly highlight that, in 1998 dogfish ate 2.15 million Age 1 codfish. That was the mean estimate, 2.15.

Age 1 numbers of codfish from the VPA total 5.77 million. The maximum eaten was 4.67 million fish, again, out of 5.77 million. That's, to me, quite significant. In fact, it seemed as if the technical committee downplayed that article and frankly that's to my amazement.

And for the benefit of the Mid-Atlantic representatives, I should also highlight that our concern about cod as prey is quite justified, as is our

concern about -- and this is the ASMFC concern about fluke.

In 1998 dogfish consumed 19.9 million Age 0 and Age 1 fluke, a maximum of 43.1 million fish. And the VPA indicated 62.88 million.

So, Mr. Chairman, we continue to insist that any uncertainty that there may be about the dogfish assessment is not strong enough to warrant setting aside our legitimate concern about the effects of dogfish on ground fish, especially cod as well as fluke.

SETTING OF SPINY DOGFISH SPECIFICATIONS

We feel our proposal moves us in the right direction. Fishing mortality, the increase will be insignificant. And, again, no overfishing. Dogfish, not overfished. Therefore, Mr. Chairman, I would move -- and we should have this available up there -- okay, on the screen.

I would move to: 1. Increase the spiny dogfish quota this fishing year, it's May 1 through April 30th, 2007, from 4 million to 6 million pounds; 2. Set an 8 million pound quota for the next fishing year, that's May 1, 2007 through April 30, 2008; 3. Annually distribute these quotas with 58 percent being allocated to states from Maine through Connecticut and 42 percent from New York through North Carolina; and, 4. Allow states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery.

If that is seconded, Mr. Chairman, I'd like to very briefly comment on a couple of the specifics of the motion and the reasons why I've included them.

CHAIRMAN AUGUSTINE: Let's get a second.

MR. EVERETT PETRONIO: Here's a second right here.

DR. PIERCE: All right, thank you. Now, I wanted to make it quite clear to those here today in this beautiful North Carolina forum that in putting this

motion together we've given a great deal of concern, attention to the interests of North Carolina, the comments made by North Carolina representatives yesterday, certainly by the commission members.

And we focused on some correspondence that was sent to -- what was it, it wasn't Pres Pate; it was you, Pat -- to the chair, correspondence sent to you, Pat, from the chair of the North Carolina commission regarding their desire to make sure that any percentages that were considered would be, for example the 58-42 percent -- which is not new; we've had that before; we've had that in place in previous ASMFC actions -- but they wanted to make sure that the states of Rhode Island and Connecticut were included in the so-called northern state mix.

So that's what I've done with this particular motion. So that is the motion, Mr. Chairman. And I'm hopeful that the board will see the merits of it.

CHAIRMAN AUGUSTINE: I thank you for that, Dr. Pierce. Mr. Beal would like to respond and maybe give us some clarification as to what we can do next.

MR. BEAL: Well, just a parliamentary process question I guess. This motion does a number of things, the first of which is change this year's quota. So under the rules we would have to, under the commission rules that would take a two-thirds vote to change the current year's quota because you're amending or rescinding a previous final action by a management board.

The remaining parts of this motion only take a simple majority. So you've got a a little bit of apples and oranges situation within one motion because you're changing a current year and you're setting the next year's specs.

So you can either split it and deal with the two-thirds vote for this year's portion or, I assume you could also apply two-thirds standard to the entire motion if that's what you chose to do. It's up to the group, but that's kind of the parliamentary spot we're in, I guess.

CHAIRMAN AUGUSTINE: Thank you, Mr. Beal. We could either ask you, Dr. Pierce, to split it or I think Mr. Pat White would like to do it. One way or the other, whichever is easier, clearer, either as a friendly amendment or do it yourself. Your choice, Dr. Pierce.

DR. PIERCE: I don't mind splitting it because of this necessary parliamentary procedure. I know it's a policy. This conflicts with Roberts' Rules regarding the need for a two-thirds majority to revisit an issue, especially if the revisiting will not have any real consequence on the management in place.

But it's a policy call and that policy was made. So I would split it just to make sure that, you know, we have an opportunity to, you now, vote on the second part of the motion now without there being the need for a two-thirds majority.

CHAIRMAN AUGUSTINE: Is that all right with the seconder, Mr. Petronio? Fine. Mr. White, did you want to split it further or are you willing to move on to the next step?

MR. WHITE: I guess just procedurally, Mr. Chairman, I wondered if the percentage thing should be a separate issue because the question has been split and I guess I'll leave that up to the maker of the motion.

CHAIRMAN AUGUSTINE: Thank you for that, Mr. White. Dr. Pierce, do you have a problem with that?

DR. PIERCE: Let me look at the screen first, Pat, to make sure that I see what has happened here.

CHAIRMAN AUGUSTINE: Could we get a little space between that?

DR. PIERCE: Well, the second part belongs in the second part of the motion.

CHAIRMAN AUGUSTINE: That's a separate one.

DR. PIERCE: That's right. The first motion would be just to increase the spiny dogfish quota this fishing

year, May 1 through April 30, 2007, from 4 million to 6 million pounds. And, as I said in my introductory remarks, in light of the way dogfish are distributed I would say that you know this provides you know the opportunity for states farther to the south to benefit from that increase.

CHAIRMAN AUGUSTINE: And the third one?

DR. PIERCE: You know, then the second one would be -- I don't want it split into three. I think it gets too complex. I would rather just, you know, unless someone wants to make a motion to split it themselves I would rather leave it as is. I think it just simplifies the discussion.

CHAIRMAN AUGUSTINE: We have comment from Mr. O'Shea. I know where he's going with this. Go ahead.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I really think that you ought to take these items one by one, consider them independently, and resolve them. But trying to do a multi-part, multi-motion thing here is, I think is going to get complicated very quickly.

CHAIRMAN AUGUSTINE: Thank you for your recommendation, Mr. O'Shea. I think we were going to try to split it into three separate motions independent of each other. Mr. Munden.

MR. FENTRESS MUNDEN: Did you call on me, Mr. Chairman? I think you did. Thank you, Mr. Chairman. I would ask the maker of the motion if he would consider in the first motion which would increase the quota from 4 million pounds to 6 million pounds for this fishing year if he would also include the same percentage allocation as in the following motion, 58 percent for the states from Maine through Connecticut; 42 percent for New York through North Carolina.

DR. PIERCE: That would be fine. My intent is to make sure that North Carolina and the southern states are not disadvantaged by any continued landings in the New England area. So that would be fine. Now I'm missing from --

CHAIRMAN AUGUSTINE: Let's hold it right there for a minute. Mr. Petronio, is that okay with you?

MR. PETRONIO: Yes.

DR. PIERCE: And I am missing, I don't see another part of the motion unless it's down further regarding the 2007 to 2008 fishing year and 8 million pound quota. I need to make sure that that is still up there.

CHAIRMAN AUGUSTINE: It's still up there but further down on the page.

DR. PIERCE: It's further down?

CHAIRMAN AUGUSTINE: Yes. She's got it captured already.

DR. PIERCE: Okay.

CHAIRMAN AUGUSTINE: Does that read appropriately now, Dr. Pierce?

DR. PIERCE: Yes.

CHAIRMAN AUGUSTINE: Thank you. Is that okay with you, Mr. Petronio?

MR. PETRONIO: It's fine.

CHAIRMAN AUGUSTINE: Mr. Munden, okay. Mr. White, did you want to speak again now or do you want to pass?

MR. WHITE: I'll wait.

CHAIRMAN AUGUSTINE: Okay, and I have Mr. O'Reilly.

MR. ROB O'REILLY: North Carolina covered our question.

CHAIRMAN AUGUSTINE: Thank you. Mr. Beal has a question. We're going to wait to go to the audience but we will get there.

MR. BEAL: I guess I'm getting tangled up in process today, David. If the quota in this fishing year changes from 4 million to 6 million, the FMP has essentially hardwired into it an allocation formula that says the current period that we're in right now gets a certain percentage and then the second six-month period gets a certain percentage of the total quota.

If is motion were to pass are you assuming we would apply that formula to the 6 million pound quota? In other words, we've landed on the order of 2 million pounds so are you indicating you would like to have 4 million for the second six-month period which is different than what we currently have in the fishery management plan?

Or do you want to reopen the fishery from now through October 31, that quota period ends and then we start with the, I think it's, you know, the remaining essentially 50 percent, 3 million pounds through your second six-month period? Does that question make sense?

CHAIRMAN AUGUSTINE: Yes, Dr. Pierce, your intention.

DR. PIERCE: My intention is not to tinker in any way with the plan as it exists right now, sort of complicate matters. In other words, we do have a seasonal split already. So that seasonal split would be in place and it would affect all states.

However, for example, if, once November 1 comes then Massachusetts would be entitled to take, well, New England states, Massachusetts, New Hampshire, Maine, Connecticut and Rhode Island would be entitled to take the balance of the -- this gets a little tricky to say -- we've all taken -- a certain amount has been landed from now.

Well, the first quota period has been taken. Therefore we would determine what the additional poundage would be with the 6 million pound quota and anything that is in excess of that which was landed during this first seasonal period would be taken then in the second period. Okay?

CHAIRMAN AUGUSTINE: Thank you. So are we okay, Bob? Bob doesn't understand that. Do you want to try one more time or can we hold on that? Let's hold on that, sort through it, try to figure out how you're going to clarify it and let's get on to two other people to ask a question of them. Mr. O'Reilly and then Mr. King.

MR. O'REILLY: You already covered me, sir.

CHAIRMAN AUGUSTINE: Thank you. Mr. King.

MR. KING: Thank you, Mr. Chairman. Could someone tell me and others whether and how the federal final rule of 4 million pound coastal quota could affect the implementation of this motion if it is approved?

CHAIRMAN AUGUSTINE: We'll ask Ms. Kurkul.

MS. PAT KURKUL: Well, I'm actually trying to figure out how the two relate. The federal quota has been approved at 4 million pounds. The first period is already closed. It closed on October 31st. And so we're in the second period quota now. The trip limit is 600 pounds for both periods. This would not in any way change that. So I'm not sure how the two fit together.

CHAIRMAN AUGUSTINE: Does that answer your question, Mr. King? Okay. Any other board members? Malcolm showed me a comment that Mr. Mears made on page 54, "Thank you, Mr. Chairman. In response to that question anyone who would have a federal permit would be obligated to abide by the more restrictive of either state or federal. If these were less restrictive state regulations they nevertheless would have to abide by virtue of having the permit to abide by the more restrictive." Is that correct, Mr. Mears? All right, Ms. Kurkul.

MS. KURKUL: You turned me off. That's absolutely correct. So that when the federal quota closes there would be no fishing or possession in federal waters and federal permit holders couldn't fish in state waters, either. But the part that I'm not quite understanding is if you increase it since Period 1 has

already closed, how does that -- yes, how does that happen?

CHAIRMAN AUGUSTINE: Mr. Pat White.

MR. WHITE: A question to that, can you only declare in or out of the fishery once in a calendar year?

CHAIRMAN AUGUSTINE: Ms. Kurkul.

MS. KURKUL: Well, you don't have to declare into this fishery. And you can, currently anyway -- they're working to fix the but currently you can turn in your permit. But it does take an additional 30 days to get your permit back.

MR. WHITE: How many times a year can you do that?

MS. KURKUL: There is no restriction on the number of times.

MR. WHITE: Okay.

CHAIRMAN AUGUSTINE: Did everyone hear that? There is no limit on the number of times you can turn your federal permit back in. And you will have a 30-day waiting period in order to get it back. Dr. Pierce, does that change your first motion in any way, shape, form or manner?

DR. PIERCE: No, it doesn't. This is not the first time we've had different state versus federal quotas. And as Pat has described it, that is essentially how fishermen managed to continue to fish under the higher state quota in previous years. In addition, some states do have fishermen with just state permits and not with federal permits so it's no problem for them, of course.

CHAIRMAN AUGUSTINE: Thank you for that, Dr. Pierce. Mr. Beal has another question for you.

MR. BEAL: Hopefully, to make sure everybody is on the same page, if the quota goes up from 4 million to 6 million, the second quota period receives 42.1 percent of the quota, David? So that, yes, do the

math, 6 million times 42 percent, you get about 2.5 million pounds. That would be the quota that you would expect for the second half of this fishing season?

DR. PIERCE: That's right.

MR. BEAL: Okay.

DR. PIERCE: Right. You take the 6 million and then of that you would take the 42 percent and that would be the quota for the second period, November 1 through the end of April.

CHAIRMAN AUGUSTINE: Further comments from the board before I go to the public. Mr. Smith.

MR. ERIC SMITH: Thank you. This seems a little - - this is not a normal specification setting process. We actually already did that for this year. It's a mid-year adjustment. Here is my question. If we vote for this motion today does that induce us to have to make changes to the plan or the specifications by a plan addendum?

CHAIRMAN AUGUSTINE: Mr. Beal.

MR. BEAL: No, Eric, it would take a two-thirds vote since it's part of the specification process. It's very similar to what we did in Atlantic herring this morning. It was just an annual quota.

MR. SMITH: I understand, if I may, I understand it's a two-third vote on this one. I'm trying to figure out whether it's only a change in the specifications and then everything tomorrow starts up with this being in effect or whether it requires some more protracted process.

CHAIRMAN AUGUSTINE: Mr. Beal.

MR. BEAL: Of course the answer is not simple, but the quota increase is amending or rescinding a previous action. That part is relatively straightforward, two-thirds. The allocation portion of this motion, actually at the previous times the board has considered altering the allocation they've always

done that through an agreement outside the ASMFC process.

The states have kind of put their heads together and decided what the allocation would be and they've essentially lived up to that agreement. The only allocation that's currently in the plan is the 58/42 percent division into the two six-month periods.

So, you know, the question for the board is, you know, are you as a board comfortable with making an allocation decision through a motion or is that something you want to do as a state agreement outside the ASMFC process? Or, the third option is do you want to initiate an addendum to memorialize this regional allocation?

CHAIRMAN AUGUSTINE: Any comments? Mr. Smith? Okay, he's pondering it. Dr. Pierce.

DR. PIERCE: Just a reminder to everyone that we did have this strategy in place for year and it worked rather well, this split. And that time around, however, we did have Rhode Island and Connecticut in with the southern states, oddly enough.

And now I'm saying that to be consistent with the request from North Carolina let's not do that again. So this is not a new approach. It's not an untried approach. We did it and it worked.

We abandoned it about a year-and-a-half ago only because we decreased the quota down to the 4 million pounds and we ended up with a 600 pound bycatch limit. That just upset the applecart, so-to-speak. And now it's an entirely different situation in light of the assessment picture and prospects for the near future at least.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Mr. Nelson and Mr. Colvin.

MR. JOHN I. NELSON, JR.: Thank you, Mr. Chairman. Again, it's just a clarification. In the plan, Bob, is there a geographic split that would have to be dealt with? Or is the change of Connecticut and Rhode Island to the different, the 58 percent, not a problem? I don't have it in front of me and so I can't

remember whether that is in writing there or is it something new that would have to be done by an addendum?

CHAIRMAN AUGUSTINE: Mr. Beal.

MR. BEAL: The plan does not currently include a geographical split that this would alter so this would be a new way of allocating.

CHAIRMAN AUGUSTINE: Okay, thank you. Mr. Colvin and Ms. Kurkul.

MR. GORDON C. COLVIN: Just a question for the maker of the motion. Part of the justification has been related to reducing the effect of dogfish as predators on juvenile cod and other fish. And I won't repeat that discussion.

And you know looking at the paper that Dr. Pierce referred to, clearly there is a substantial number of juvenile cod and other fish that were estimated as consumed by the authors of that paper.

At the same time, we're only talking about adding two million pounds to the removal from the stock. And I wonder what effect that is likely to have on actual consumption, food consumption, by the entire spiny dogfish biomass. Do you have some insight on the proportionate decrease in mortality?

CHAIRMAN AUGUSTINE: Do you want an answer to that question by Dr. Pierce?

DR. PIERCE: Well, there's no way to calculate that, Gordon. I raised the issue of you know predation and prey on cod and on fluke if for no other reason than to make the point that if there is any concern about the uncertainty that there may be with the most recent assessment, then from my perspective, you know, that uncertainty could be set aside because of concern about predation by dogs on, you know on ground fish and in this particular case on fluke.

Now, you know where many dogfish would be extracted through continued bycatch landings and of course small-scale directed fishing -- it's in Mass Bay which is where we have great concern about codfish,

specifically, a high abundance of juvenile codfish in Mass Bay and Cape Cod Bay.

There is no way to do any calculations that would enable us to determine the absolute, you know, benefit of it but it stands to reason, it makes sense, to at least consider it as a valid reason for removing more dogfish, but within a reasonable amount.

CHAIRMAN AUGUSTINE: Good answer. Thank you. Ms. Kurkul.

MS. KURKUL: Thank you, Mr. Chairman. I don't see anything in either the technical committee advice or the stock assessment that would indicate a change in course in this fishery right now. There continues in both of those to be significant caution about the status of the resource.

Recruitment is still low. The average size of the females is declining. And any increase in fishing mortality does in fact delay the rebuilding program and this is a rebuilding program that is already much longer than what we had originally anticipated when this fishery management plan was adopted.

But just as importantly or perhaps even more importantly, one of the primary goals was to reduce fishing mortality on large females. And this not only increases overall mortality but as a result of the liberalization of the trip limits which have been the primary control on that it would allow a directing on the large females which is completely contrary to the direction that we've historically taken on this.

And remember, it wasn't that long ago that we were talking about 2 million pounds instead of 4 million pounds. And there is nothing that should have that thinking and the approach that we've been taking on these stocks.

CHAIRMAN AUGUSTINE: Thank you, Ms. Kurkul. Mr. Pat White and then Dr. Pierce.

MR. WHITE: Thank you, Mr. Chair. And I fully understand where the region is coming from in this with this because it was highlighted in the technical

committee report the imbalance between males and females.

One of the confusing things to me was that they weren't able to analyze if there was a male only fishery the benefit of it. To me that seems fairly logical. We're going into something now, pretty soon, that is going to be reduce the days at sea to a two-to-one ratio, which, as I would understand it, would then reduce the availability of a 600 pound trip limit by half.

And as I continue to look at it, we're looking at the imbalance. And what was just said is all directed at females. I know we can't solve this problem today as far as getting into how we better avail ourselves of the male portion of this resource.

But we've got a serious problem out there with dogfish, with primarily male dogfish. And I wondered if there is any way that the trip limit portion can be looked at in relation to the reduction in days at sea, too.

CHAIRMAN AUGUSTINE: Thank you, Mr. White. Before you come on, Dr. Pierce, let's try to get some other points of view. We've heard it kind of one-sided so far. Mr. Himchak.

MR. HIMCHAK: Thank you, Mr. Chairman. This goes back to a number of points from the technical committee report. And it, I'm extracting a 2006 data point from this or the impact on F. And I just lined up my dominos here to figure out the overall strategy of where this is headed.

And it just seems perplexing to me. I mean, you know, the sex ratio is heavily favoring males. The female mean size is getting smaller. Recruitment is low and will be getting lower because the anticipated increase in the fishery would be 84 percent on the females.

So, obviously the rebuilding is, yes, it's going to be limping tremendously. Now, if you could prosecute a fishery on, you know, the females, that's your resource capital for rebuilding. And it seems that all this is directed to essentially subtract from the capital

that you need for rebuilding. I find that very difficult to go along with.

CHAIRMAN AUGUSTINE: Thank you, Mr. Himchak. Any other comments before I get back to you, Dr. Pierce? Any other comments from any other board members? Mr. O'Reilly.

MR. O'REILLY: Thank you. I guess just for background I noticed in the letter that Massachusetts sent they referred back to 2003, at a time when this board adopted an 8.8 million pound quota. I guess what I would be interested in knowing for a relative sense would be at that time, three years ago, what was the status of the stock?

What was the female biomass? What was the fishing mortality rate? What was the sex ratio? What was the proportion of females that were harvested? I mean that would help me at least to tie this together a little bit better. And I know we don't have a technical committee chair and so I don't know whether those answers are readily available.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly. Mr. Colvin.

MR. COLVIN: This discussion on the effect of the proposal on harvest of females is important, in light of the motion's incorporation of Subdivision 3 which allows states to set their own trip limits. And it's difficult to support that way for just the reasons that Pete Himchak mentioned. I think he said it very well.

And I'm wondering whether there is some other option that would set a default trip limit that would maintain at 600 pounds and then enable different trip limits up to some cap provided there was some very clearly articulated requirements for sampling the landings as to sex ratios and a trigger that adjusts it.

Now, all of this bespeaks of the difficulty of jumping into the middle of a fishing year with a change of this nature, but, you know, I think that the seriousness of the proposal warrants the discussion. And I offer that suggestion to the maker of the motion and others who are interested in it for further discussion.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Did you have specific language that you might want to consider offering up to Dr. Pierce relative to the motion as we move forward with this? Well, why don't you make it as an amendment? Okay, thank you. Any other commenters from our board members? We're going to hold you for the last one, Dr. Pierce, and then we're going to go to the audience.

DR. PIERCE: All right, I just wanted to make a couple of points regarding a few important issues. One was raised by Pat regarding the average size of females dropping. That's not true, Pat.

The average size of mature females is increasing which one would expect in light of the fact that we've had a tremendous biomass of females out there for quite a few years and that biomass has been growing.

Spiny dogfish do grow. So the assessment itself does indicate that the size is increasing. At a minimum it's stable. And once again I'll point out that we do have this data point, spring 2006.

And it's a data point that's not the result of the catch of dogfish at one tow. If you all recall, we had this problem with scup a few years ago where the assessment was ruled by one large tow of scup that was caught in the Mid-Atlantic area.

Dogfish have appeared in large numbers in many areas in many tows and then of course that gets expanded upwards consistent with swept area biomass. And we're at 250,000 metric tons of mature females. The target is 175, approximately 180,000, approximately -- 250,000.

That point is not going to be rubbed out and it's not going to be erased. It stands. And when we have the survey for next year guaranteed that the point, that biomass estimate is going to be on the high side so the three-year moving average will be at 150,000 metric tons-plus, guaranteed. It's a mathematical certainty.

And, as I said, this particular motion, this particular action, if it is approved -- I have to highlight this -- this is sensitive to the concerns expressed by North Carolina's Fisheries Commission and their specific, the urgency that they expressed yesterday regarding what ASMFC needs to do with dogfish.

If this motion is approved it certainly sends a signal to North Carolina that indeed we are on track, that we are seriously addressing their very legitimate concerns.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. No further comments from the board? Mr. Ritchie White.

MR. WHITE: I would ask the maker of the motion after listening to some of the discussion and talking to some of the commissioners on this side to a friendly amendment if it's not, and I will make an amendment, and that would be to eliminate Number 3 and to add in a daily trip limit of 800 pounds.

CHAIRMAN AUGUSTINE: Dr. Pierce, your choice.

DR. PIERCE: Well, I understand where you're coming from, Ritchie, but let's face it, the discarding that's going on now in all of our different fisheries, ground fish, notably, is very significant.

One-hour tows, for example, in Mass Bay, 10,000 pounds of dogfish discarded. We're talking about increasing the amount of bycatch that can be landed or indeed having a small-scale directed fishery. Eight hundred pounds doesn't do the trick. It's only 200 more pounds.

To be sensitive to the fishermen's specific concerns that they have expressed and to our own desire to allow more landings of dogfish, reasonable levels, I would rather leave it as is and provide the states with the ability to make their our call on this, recognizing that there will be some overall constraints, those constraints being the seasonal split and the geographic split.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. The answer to the question, I believe, is "no." So if you want to make a friendly amendment, or unfriendly, however you want to make it, amend accordingly. Mr. Abbott.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chairman. Obviously, a long discussion. And I hope I'm keeping up. But we talked about dividing this question several ways. And in my mind before we go to step 2, 3, 4, we have to decide whether we want to go from 4 million to 6.

Why can't we decide that question and find out if we're going to go further on trip limits, etcetera and etcetera? So I'd like to, if the motion on the floor is to increase from 4 to 6 million pounds I think it's probably about time to call the question and take a vote.

CHAIRMAN AUGUSTINE: Sounds like it is but this looks like it's all lumped together under 1, 2, 3. And what you are asking to do is to vote only on the first item and not deal with Item 2 and 3.

So it sounds like, Mr. Abbott, you're suggesting that we just split it as we talked about to 1, 2, and 3. So if you'd like, you might want to recommend to us or the chair or the board that we divide that and separate out the first line item which is move to increase the spiny dogfish quota this fishing year, as is said Up there, from 4 to 6 million pounds. Mr. Nelson.

MR. NELSON: Mr. Chairman, there is a little bit of confusion. Is the motion split?

CHAIRMAN AUGUSTINE: Is it split now?

MR. NELSON: Yes.

CHAIRMAN AUGUSTINE: I don't believe it is. The way it's written up there it's not. Dr. Pierce.

DR. PIERCE: I believe if you scroll down you see basically the same motion repeated again but for the next fishing year with 8 million pounds.

MR. NELSON: Did we split the first motion?

DR. PIERCE: We did split the first motion out which was both the current fishing year and then the next fishing year. And then at the request I think of North Carolina's representative the percentages, 50 percent and 42 percent, were included along with the trip limits to make it a complete package.

MR. NELSON: Okay, a clarification, then.

CHAIRMAN AUGUSTINE: Mr. Nelson.

MR. NELSON: This is the current motion and so Mr. White's suggestion was not accepted by the maker and so it's whether he wants to amend this particular motion. Thank you for clearing that up, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you. Okay, so are we clear now? There is the motion up there on the table. Mr. Ritchie White.

MR. WHITE: I'd make an amendment to this motion to change what is the Number 3 to a daily trip limit of 800 pounds.

CHAIRMAN AUGUSTINE: Is there a second to the motion? Do we have a second to that amended motion? Do we have a second to that amended motion? Seeing none the amended motion fails.

MR. VITO CALOMO: Call the question, Mr. Chairman.

CHAIRMAN AUGUSTINE: The question has been called by Mr. Calomo. Caucus time. Mr. Colvin, please.

MR. COLVIN: Were you going to go to the public, Mr. Chairman?

CHAIRMAN AUGUSTINE: Oh, thank you for that correction. Jim, I'm' sorry. How could I miss you back there? Come on up and announce yourself and tell us who you are and what you're all about today. And we're talking about the motion. We're not talking about the North Atlantic Constellation today. Thank you.

MR. JAMES FLETCHER: First off, a clarification -- James Fletcher United National Fisherman's Association -- under the technical report where it says the stock is not overfished and overfishing is not occurring, is that specific to the female biomass of the dogfish stock since both ASMFC and the federal plan goal is to rebuild the biomass of the female dogfish? So the question is, is that statement that the female biomass is rebuilt?

CHAIRMAN AUGUSTINE: My understanding is the answer is no, unless someone wants to refute that. Mr. Beal tells me it's no. Go ahead.

MR. BEAL: We're above the threshold but not to the target, Jim, between those two.

MR. FLETCHER: Okay, then to this amendment, why don't we put in 600 pounds of female and a number, 5,000-10,000 pounds of male fish? Since the plan is to rebuild the female biomass and males aren't then come in this amendment and put in a number of males that can be landed.

We have never addressed it. I do not understand how a scientific and technical report can come up and not address a male fishery by stating it is unlikely to avoid large, landing of large females.

Apparently the technical committee is totally ignorant of the selectivity of mesh size. But the question is, is go back, can this amendment put in a number of dogfish males that can be landed per day? Thank you.

CHAIRMAN AUGUSTINE: Thank you for that consideration, Mr. Fletcher. We have another gentleman. Please come up to the microphone and tell us who you are and who you represent, other than yourself; if it's yourself, please so state.

MR. DEWEY HEMILRIGHT: My name is Dewey Hemilright and I'm a commercial fisherman from here in North Carolina. I live and fish out of Wanchese. I'm also the chairman for the advisory panel for North Carolina for the compliance panel.

Just sitting around the room here today there was a couple interesting questions. People talk about males and females and different reductions we're seeing. In North Carolina, in the state waters of North Carolina every study that has been done has been from 15 to 1 to 8 to 1 females. So, this male phenomenon about the so many males, maybe they just don't come here in the winter time in North Carolina state waters.

Another thing I wanted to address is as we're watching the reduction of flounder quotas and different things, what is the amount of bycatch 6 to 10 million pounds of flounder quotas would have on dogfish?

Meaning that if you're catching 10 million pounds of fluke, flounders, and you're not going to catch them again, that's going to be, there has to be some type of a positive or whatever effect there.

I like Mr. Pierce's motion here. And for me as a fisherman I hope it passes, just looking at the thing. The thing that's kind of interesting here is about you all talked about the permits and being able to change your permits.

Well, if you live in Massachusetts and you only fish so far from the docks and you have gutters there you probably could change and get with the federal program or the state program and get a little bit of both which would be great.

In North Carolina I don't see really anybody utilizing the federal program for the 600 pounds which is pretty much nothing. So I don't see that being a problem of switching permits. Most of us have already gave our, I believe we gave our federal permits up.

When I look at the, your ratios of the 42 to 58, is it my understanding when I look at that that if in a year it would be 42 percent of the 6 million pound quota -- if that's the biggie -- would go from New York to North Carolina?

CHAIRMAN AUGUSTINE: Bob, is that your understanding?

MR. HEMILRIGHT: Okay, and that pretty much sums up my comments. But I, when you look at the bycatch people are talking about in Number 3 about the adoption of trip limits you also have to go again to think about where people are fishing and your processors.

An 800 pound trip limit, you'll still be nothing in North Carolina. In Massachusetts it would probably be, you know, there but it would still be, your southern states wouldn't be harvesting the quota because of packing and places to go unload and, well, not unload but places to harvest or to clean the dog sharks and stuff. So an 800 pound trip limit would still be nothing, if that helps anybody out with the trip limits or something that. I thank you for your time.

CHAIRMAN AUGUSTINE: Thank you for your comments. Another gentleman here and then would you follow him, please. Come on up to the microphone and tell us who you are and the organization your represent or yourself.

MR. LOUIE JULLIARD: I'm Louie Julliard, EML International. I am a processor in New Bedford. I'm just -- I agree with what the fishermen say. If you have a trip limit of 600 pounds down south, it will be very difficult for us to truck the fish back.

If we have a 2,000-3,000 pound limit for each boat we can fill a truck and bring it up and process it. The second thing that I want to say is the Canadian fisheries, this year the Canadian fish I would say probably 10 million pounds.

And when I was at the technical committee all fish is going up there. So, nothing has been done to encourage them to fish that fish and that's, I think it's a little unfair. That's why I think we have to today to really reopen this fishery.

And the third thing is to close the fisheries for one month, on my point of view as a processor is very difficult. Because what do I do with the people that cut the fish? I don't know what to do with them so during a month they are not working.

And you know, we should have a continuity in the season, even if we close earlier; this is done; this is done. Okay, that's all I have to say today.

CHAIRMAN AUGUSTINE: Thank you for your comments. This other gentleman, please come on up. Tell us who you are and who you're representing.

MR. PAUL PARKER: Thank you very much. My name is Paul Parker. I'm the Executive Director of the Cape Cod Commercial Hook Fishermen's Association. We're an organization that work with a group of longline fishermen, gill netters, mobile gear fishermen, on Cape Cod.

I'm principally here for the first time before you because the dogfish have become a comprehensive issue in almost all of our operations. And at least for the longline fishery and for a lot of the gillnet fleet we're no longer able to target our principle species because of interaction with dogfish.

It is especially problematic with long lining where your expenses are fixed. You put the gear in the water and if you catch dogfish, you're going backwards. That used to be a big problem for our fleet. And if you read the literature it was a problem historically for long liners from the '50s and '60s.

And it was something that happened in May and June and again in the fall. And it was typically a problem in coastal waters between 15 and 30 fathoms. It's now something that we face from about May until November or December, from about 15 to 90 fathoms. That's comprehensive out to about 60 miles.

The reason I bring all of that up is because I place a lot of faith in the fishermen that I work with and they're all convinced that these survey points that you're seeing are accurate and that there is a large body of dogfish.

And I'm here because I think the ASMFC has a great opportunity to begin to work with the fishermen from the coastal states towards addressing what we see as an increasing problem. And I think the backbone of some really important progress is up there.

I can only speak for the fishermen in my port that a cap on the state's discretion to create a bycatch fishery would work for us, because it would allow us to try to regain some of our traditional fisheries if that number was somewhere between 1,500 and 2,000 pounds.

I think the concepts of allowing the landings of males is also very important. In conversations with Paul Rago it's clear that if we don't do something about the disconnect between the number of males and females we're going to continue to have a problem into the future.

I would also say that breaking up the question may be helpful to gauge the willingness to work in this issue in the room. I know that my hope today is to be able to report back to my fleet that the ASMFC acknowledges that we're facing a very large problem here and that they're willing to work with us towards a solution.

I really don't think that holding the course on this fishery is going to get us where we need to be long-term. And I think if you look at what we've accomplished from 1999 to the present, we're really not on par with what we're hoping to accomplish.

We want to rebuild the stock and right now it is at least my personal belief that the very large biomass of males is starting to impact the rebuilding of the stock.

And I hate to take up this time right now but if I could -- well, I'll hesitate to even do that but if you get into looking at the production curves I think you will find that one of the things that is taking place right now is when you have smaller numbers of females you would expect higher productivity.

And we really don't, you know, in talking with the science center perhaps what is happened is the large volume of males is starting to impact production.

And so, for that reason I think that we should explore the question that the gentleman said before about landing more males and taking that and putting it

outside of the quota as well as perhaps capping the states' trip limit as a way of moving this issue forward out of this body today. Thank you very much for your time.

CHAIRMAN AUGUSTINE: Thank you. And thank you very much the time and input. Sean, would you come on up and tell us who you are and who you represent.

MR. SHAWN MCKEON: I'm Sean McKeon, North Carolina Fisheries Association. First I want to say that we entirely support the motion that is there. As most of you know, yesterday the North Carolina Marine Fisheries Commission met with an ad hoc committee from ASMFC.

And in this new spirit of cooperation that was established yesterday I think this is a perfect example of how this body can in fact come together and cooperate and do what is right not only for the resource but what is right for the various states.

And I appreciate the maker of the motion's considerations for our state's relationship to this fishery. So we support it. I think it's good. I think it's a solid amendment. It moves in the right direction. We're not in favor of any type of male-only directed fishery. Thank you.

CHAIRMAN AUGUSTINE: Thank you for your comments. Jeff, would you come on up and introduce yourself, please, and tell us who you represent.

MR. JEFF KAELIN: Thank you, Mr. Chairman. I'm Jeff Kaelin from Portland, Maine. I'm here for Ocean Spray Partnership. We operate two midwater trawlers. And we really have a serious problem in the herring fishery whether you're trawling or seining getting away from dogfish in the summer months.

And I came to the microphone fully in support of the motion, whether it's bifurcated or done in its entirety. I just wanted to make that statement. And the other thing is just so you guys know about this, we don't have any bycatch allowance in the herring fishery at all.

And that's really, we were asleep at the switch I guess some time ago when we got our haddock bycatch allowance. We now understand that we have to wait for the next ground fish action before we're even eligible for one dogfish as bycatch. So this moves in the right direction.

We've been told by federal enforcement agents that our entire herring catches may be forfeited for catching one dogfish which puts us in an untenable situation. That has backed off a little bit but this is a problem that is affecting the herring fishery as well. And I just wanted to make that statement. Thank you.

CHAIRMAN AUGUSTINE: Good. Thank you for that input. Greg, would you come on up and tell the board who you are and who you represent.

MR. GREGORY DiDOMENICO: Thank you, Mr. Chairman. My name is Greg DiDomenico. I represent the Garden State Seafood Association. And I just have a few words to tell you or I guess to explain to you why we do support this motion.

We firmly believe that there is a trophic issue going on with predation of other very important fish, both from the recreational and the commercial side. And we think that this might be a good way to possibly deal with some of the predatory issues and trophic issues that may be occurring with high numbers of dogfish.

I also am compelled to tell you that we have a small gillnet fleet in Barnegat Light that might be able to take advantage of an increased quota and subsequent increased trip limit in New Jersey.

We, or I should say these vessels, approximately 30 of them in one home port, of course have lost their access to several other fisheries such as shad, such as, notably, striped bass. And it's hopeful or we are hopeful that this, I should say this increase in quota could possibly cause a larger trip limit in New Jersey and we might be able to take advantage of that.

And I think the last thing, truthfully, is even if the potential benefits don't go to the fishermen who I know and whom I represent, it's possible that we will all feel the benefits of an increased quota.

And certainly I speak on behalf of my commercial fishing compatriots throughout all the states and hopefully they will be able to take advantage of this as well. So we're compelled to support this motion and thank you very much.

CHAIRMAN AUGUSTINE: Thank you for your comments, Greg. Any other comments from the public at this time -- for, against, editive? Okay, seeing none we're back to the board and time for a caucus. Mr. Colvin, before move forward.

MR. COLVIN: Mr. Chairman, I move to divide the question by dividing Paragraph 3 and voting on it separately.

CHAIRMAN AUGUSTINE: Please do. The motion has been made by Mr. Colvin. Do I have a second? We have a second by Mr. Stockwell. Discussion on the separation. We're taking three. I'm sorry. Go ahead.

MR. TERRY STOCKWELL: Thank you, Mr. Chairman. I generally like the concept of this proposal but I've been sitting here listening to a lot of conversation and I've got a lot of agony about Number 3. And I'm glad that Mr. Colvin made the motion to separate. The provision that allows states to adopt their own trip limits to promote bycatch and small-scale fisheries is troublesome.

I think it's going to enable a directed fishery which is what we don't want. I'm concerned about having any proportion of the fishery allocated to an area and it has some kind of derby. And I'd like to address this issue and still enable the rest of the proposal to move forward.

CHAIRMAN AUGUSTINE: Thank you, Mr. Stockwell. Against the division of the motion? Seeing none, going to call the question someone?

MR. WHITE: Call the question.

CHAIRMAN AUGUSTINE: We've got to read it. Can we read it?

MR. SMITH: Mr. Chairman, this motion is just on the question of dividing the question, not on the substance?

CHAIRMAN AUGUSTINE: Yes, it's on the division of the question. And it's being asked to be divided at Number 3. So we're going to move, I'm sorry, we're going to either have a caucus or vote on it. Do we need a caucus? Do you want a caucus?

MR. WHITE: No, a question. Is this a majority or two-thirds?

CHAIRMAN AUGUSTINE: The motion to divide is a simple majority. To change the quota, that's two-thirds. All right, all in favor raise your right hand and let's get a count, please; hold them high; thank you; opposed, same sign; okay, thank you; null votes; none; abstentions; none. The motion to divide carries.

Okay, so we now have a divided motion with the first two parts. And there is the second part. So let's go back to the second part and we'll address that one. This motion takes two-thirds. Would you like a caucus? Caucus, 2 minutes.

Okay, we are back and ready to go. Are all you voting states around the table? All right, ladies and gentlemen, this motion takes a two-thirds vote of the board. And I will read it into the record for you.

Move to: 1. Increases the spiny dogfish quota this fishing gear (May 1, 2006, to April 30, 2007) from 4 million to 6 million pounds; 2. Annually distribute these quotas with a 58 percent being allocated to states from Maine through Connecticut and 42 percent from the York through North Carolina. Motion by Dr. Pierce, second by Dr. -- by doctor, he'd love to be -- Mr. Petronio. So that's our motion. Is this a point of information, Mr. Smith? Please.

MR. SMITH: Yes it is, for the chairman or staff to please clarify that it's two-thirds of all members

regardless of whether they're present. We need a count of who exactly are on the board so we know what the number of votes are before we pass this.

CHAIRMAN AUGUSTINE: Officially, Mr. Beal.

MR. BEAL: Sure. It is two-thirds vote of all the voting members. There are 14 states on the board, all the states of the commission minus Pennsylvania and then the two federal services so a total of 16 votes so it will take 11 votes. Eleven votes would be a two-thirds majority.

CHAIRMAN AUGUSTINE: Does everyone understand that? Okay, a show of hands for those in support of the motion, right hand up, please so we can get a good count; one more time, real high; we have 11; all right, and we have to get you, those that have a no, against it, please raise your hand, those opposed, on the record; 3; are there any abstentions; one abstention; are there any null votes; one null vote.

Okay, final, 11 in favor, 3 opposed, 1 abstention, 1 null. The motion carries. We will now go on to the next motion. And this is just a regular motion. Bob is going to make a comment on this, the next part of this.

MR. BEAL: Okay, just regarding the trip limit, this motion does not take a two-thirds majority vote. Even though it was previously set by the management board, it's not considered a final action under the commission's process.

Trip limits are not listed as one of the items that are considered a final action. The quotas and other things are but trip limits are not, so a simple majority to approve an adjustment to trip limits.

CHAIRMAN AUGUSTINE: Does everyone understand that? I'll read the motion and then we will have a moment or two for a caucus. The motion is to move to allow states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery. Motion by Dr. Pierce, seconded by Mr. Petronio. Take a couple minutes to caucus.

MR. SMITH: Again, this means it requires a majority of members present and voting? So, is there any state that's missing?

CHAIRMAN AUGUSTINE: I don't know. Bob?

MR. BEAL: To first point, yes, all the members present and voting. And I do not believe any states are missing.

MR. SMITH: Pennsylvania?

MR. BEAL: Pennsylvania is not on it.

MR. SMITH: Not on it. Okay.

CHAIRMAN AUGUSTINE: Do we need a caucus? Does anyone need a caucus? Raise your hand. We need a caucus. Okay, ready to vote? All right. Okay, we're ready. Okay, you have a motion in front of you. All in favor please raise your right hand; I count 9; opposed, same sign; 7; abstain; null. The motion carries.

Okay, now we're up to next year's quota. We'll read that into the record. Move -- is that it? Okay, that's it. Thank you very much.

Okay, move to: Number 1, set an 8 million pound quota for the next fishing year (May 1, 2007, to April 30, 2008); Item 2. annually distribute these quotas with a 58 percent being allocated to states from Maine through Connecticut and 42 percent from New York through North Carolina; and 3. allow states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery.

Motion by Dr. Pierce, seconded by Mr. White. Was it Mr. Ritchie White or Mr. Pat White? Mr. Ritchie White. So there is the motion. Caucus. Mr. Colvin, point of information.

MR. COLVIN: Mr. Chairman, we haven't discussed this motion yet.

CHAIRMAN AUGUSTINE: Okay, first before we caucus discuss it.

MR. COLVIN: It feels like we have but we haven't. And I would just point out, and I guess it is repetitive, that the concern I have involves Paragraph 3. And the concern basically is twofold.

One, as discussed in the prior motion, there is a concern about the prospect for harvesting females disproportionate to their proportion of the population. And that concerns me greatly. The second thing is there is no top end on this so we could see trip limits of 20,000-30,000 pounds. I wonder if everybody on the board is really comfortable with that. I'm not.

CHAIRMAN AUGUSTINE: Thank you. Mr. O'Reilly and then Mr. Smith and then Dr. Pierce.

MR. O'REILLY: Thank you. I just wanted to find out if there is any more information -- I realize it's limited -- that might come forward by early 2007. So I'm not sure about the timing of the survey data, for example, or if there is anything else that is ongoing that would have any more information, say by February of 2007.

CHAIRMAN AUGUSTINE: Mr. Beal

MR. BEAL: I'm not aware of any, Rob. I think, you know, for this board to take action, obviously I think as you mentioned they will have to take action at the February meeting and I am not aware of any additional survey information that will be available and processed in time for that meeting.

CHAIRMAN AUGUSTINE: Thank you. Let's see, Mr. Smith.

MR. SMITH: Thank you. I think two things need to happen here. I'm going to offer a motion to amend on one of them but then I hope somebody else will move to divide the question after or before Number 3, just as we did before, because I think that's key.

Number 3 is obviously the part that is most troublesome about this. So I'll leave that to someone else. My motion to amend is in the first line to change the 8 million to 6 million. And if I get a second on that I'll explain why.

CHAIRMAN AUGUSTINE: Okay. Mr. Boyles seconded. We got a second for you, go ahead.

MR. SMITH: The reason for that is in the technical committee report there was an important distinction in my mind. It said that a 2 million pound increase from, 4 million to 6 million, would have no effect on mortality; an increase to 8 million would have a marginal impact on mortality.

And I think the thing we need to do is stay away from anything that's an increase in mortality. So 6 million, to me, stays inbounds; 8 million goes out of bounds.

CHAIRMAN AUGUSTINE: Thank you, Mr. Smith. Dr. Pierce.

MR. SMITH: That is the motion to amend for this group.

CHAIRMAN AUGUSTINE: Yes. It has been seconded by Mr. Boyle, or Dr. Boyle, whatever you want to be. Dr. Pierce, your turn, to the point.

DR. PIERCE: Well, there is a motion to amend. Was it seconded? I didn't catch that.

CHAIRMAN AUGUSTINE: Seconded by Mr. Boyle.

DR. PIERCE: Okay, I understand the concerns expressed by Eric, in particular about the 8 versus the 6. However, the technical committee did say "marginal." And, frankly, I'm convinced that 8 is quite appropriate in light of a point I made earlier on.

And that is, no one is going to take an eraser and get that 2006 data point off the board. It exists. It's real. And spring of 2007 "dollars to doughnuts," as the saying goes, we're going to see another large biomass estimate.

So it will be at 150,000 metric tons plus the large mature females; thus, the 8 million pounds perhaps is going to be too low. But I'll start off modest. And I think it's a reasonable step forward. It doesn't bite the whole apple. It's a very small bite.

CHAIRMAN AUGUSTINE: Okay, to that point of changing from eight to six. We're talking about the amended motion. Anyone opposed to that -- besides Dr. Pierce? In favor? Well, I could go anywhere I want to go.

I asked if there was anybody else opposed to that, going from 6 to 8 million pounds. I wanted to get the opposite side on the table. I did a Mr. Nelson. Those opposed to the motion -- I'm asking for someone opposed to the motion besides Dr. Pierce. Mr. Himchak, do you want to speak to it?

MR. HIMCHAK: I wanted to, I had a question regarding the, I mean would we know the sex composition of the increase to 6 million pounds before we went up to 8 million pounds?

CHAIRMAN AUGUSTINE: I think the answer is we don't know. Do we, Mr. Beal?

MR. BEAL: Based on the board's previous motion, that increase in quota, that period is going to end, you know, the before this one kicks in so you're really not going to be able to evaluate the sex ratio between these two quota periods.

CHAIRMAN AUGUSTINE: Okay, let's go to the public. Any comments from the public on this one? Seeing no comment, let's go to a caucus. Caucus? Anyone need a caucus? Let's caucus for two minutes.

All right, let's go. Fifteen seconds to count down here. Is everyone ready? Okay, we'll read the motion. Move to amend to change 8 million pound quota to 6 million pound quota. And that refers to the 2007-2008 season. Motion made by Mr. Smith, seconded by Mr. Boyles.

Okay, all in favor show by your right hand; 12; all right, put your hands down, please; those opposed, same sign; 3; abstain; none; null; none -- oh, I'm sorry one null. The motion carries 12-3-0-1. All right, there is the new motion. Discussion on the new motion. Mr. Smith.

MR. SMITH: I see no takers but just to make this action consistent with the one we took on the previous pair of motions I'll move to divide the question to separate Item Number 3 from the other two.

CHAIRMAN AUGUSTINE: Thank you.

MR. COLVIN: Second.

CHAIRMAN AUGUSTINE: Mr. Colvin seconds that. Motion by Mr. Smith, seconded by Mr. Colvin to separate Item 3. Discussion on that by the board to divide, only to divide. Dr. Pierce.

DR. PIERCE: Well, in light of the vote on the first motion that we took I don't see the sense in making a motion to divide. If everyone sticks to their position the motion as it stands right now should pass so I would oppose motion to divide.

CHAIRMAN AUGUSTINE: Okay, that's fine. Any other discussion around the table? Okay, are we ready for a vote to divide. Do we need a caucus? No one needs a caucus? Okay, seeing none, those in favor of the motion as being read, move to divide -- please wait, move to divide the question to separate Item Number 3.

Motion by Mr. Smith, seconded by Mr. Colvin. Show of your hands, right hand up; 11 in favor; those opposed, same sign; 5; abstentions; none; null votes; none. The motion passes 11-5-0-0.

Okay, we're back to discussing the divided question which is Part 1 and Part 2 which reads move to: 1. Set a 6 million pound quota for the next fishing year, May 1, 2007-April 30,2008; 2. annually distribute these quotas with 58 percent being allocated to the states from Maine through Connecticut and 42 percent from New York through North Carolina. Motion by Dr. Pierce, seconded by Mr. Petronio.

Okay, that's the question. Do we need to caucus? Seeing no need to caucus -- a point of information, Ms. Kurkul.

MS. KURUKL: I thought we were going to discuss next.

CHAIRMAN AUGUSTINE: Ms. Kurkul would like to discuss it, please.

MS. KURKUL: I just want to express my concern, again, for both for the motions that passed as well as these motions. I think this board is going in exactly the wrong direction.

We're basically undoing a lot of the things that have been done for rebuilding of dogfish over the last several years and actually reverting to a management program that is similar to the one that caused the problems in the first place.

I think it's incredibly unfortunate. I would strongly recommend against either of these motions, the increase in the TAC or the, or more importantly maybe the potential increase in the trip limits by allowing them to be set by the states.

It's contrary to the scientific advice which basically still says that there is a lot of reason for caution in this fishery and you need to avoid anything that will allow an increase in fishing mortality on large mature females.

So I want to express my serious reservations about the direction the board is taking. And I think if this motion passes and certainly as a result of the last motions at the federal level we're going to have to rethink our management options for dogfish.

CHAIRMAN AUGUSTINE: Thank you for those comments, Ms. Kurkul. Are we ready to vote now? Caucus? Seeing no move to caucus, all right. We've already read the motion. All in favor of the motion as stated on the board show by right hand up, please; 11; those opposed, same sign; 3; abstentions; 1; null votes; 1. The motion carries 11-3-1-1.

This is the third and final part. The motion reads move to allow the states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery. Motion by Dr. Pierce, seconded by

Mr. Petronio. Do you want to caucus? Mr. Colvin, a point of information.

MR. COLVIN: I have an amendment, Mr. Chairman. Unlike the previous motion which was, which committed us to a course of action in the middle of a fishing year, this motion that we're working on now is for implementation of a fishing year that begins some months from now.

And we have a little bit of time to address the concerns and engage in a dialogue about how to address the concerns that have been very thoroughly brought up with respect to the prospect for the quota increase that we voted in the absence of some management, alternate management to the motion offered for trip limits to promote increased harvest or even directed harvest on adult female dogfish.

I don't think we need to come to closure on this issue today, Mr. Chairman. I think we can avail ourselves of a little bit of the time between now and the beginning of the fishing year in which to see whether, in consultation with our members and our technical advisers, we can come up with a different than "anything goes," which I'll characterize the motion as, approach to setting trip limits that will help us address this problem.

With that in mind, Mr. Chairman, I move to table this motion until next meeting of the Spiny Dogfish Management Board -- postpone, I'm sorry, Mr. Executive Director, until the next meeting of the Spiny Dogfish Board.

CHAIRMAN AUGUSTINE: Motion by Mr. Colvin and I have a second by Mr. Abbott. Thank you. I've been informed that we can only discuss the time or date. What does that tell us? You said the advisory panel or the board?

MR. COLVIN: The board.

CHAIRMAN AUGUSTINE: The board. Okay, so that will be -- can we project when that will be?

MR. BEAL: Well, the next week is the last week of January-first week of February.

CHAIRMAN AUGUSTINE: Okay, that will be January of 2008, the end of January-first week in February of next year -- 2007. I want to go to 2008; get this behind us -- 2007. Is that okay with you, Mr. Colvin?

MR. COLVIN: That would be correct Mr. Chairman. And as I indicated in my preamble, it would be my hope that in the interim the commission staff could talk to the service and council staff and the maker of the motion and see whether there are some alternatives that can be brought forward that address the concerns that we all share about the prospects for increased harvest of adult females.

CHAIRMAN AUGUSTINE: Thank you for that, Mr. Colvin. Any other comments or questions, discussion around the table? Seeing none, are we ready to vote? Do we need to caucus? No? Okay. Mr. Boyles.

Mr. ROBERT H. BOYLES Jr.: Thank you, Mr. Chairman. Just make sure I'm clear on what we're doing. What does that do to the vote we just took?

CHAIRMAN AUGUSTINE: That's a good question. Bob, what does that do to the motion we just took? We're postponing the previous motion. Go ahead, Bob.

MR. BEAL: Sure. My understanding is that the management board set the '07-'08 quota at 6 million pounds and they're deferring action on the trip limit until the January meeting to allow staff to go back and talk to the National Marine Fisheries Service, the councils, and advisory panel, potentially, the technical committee, potentially, and come back with some recommendations.

CHAIRMAN AUGUSTINE: Okay. Thank you for that clarification, Mr. Beal. Okay, I would like to read the motion into the record. Move to postpone the motion until the next meeting of the Spiny Dogfish Board, the Winter 2007 ASMFC meeting week. Motion made by Mr. Colvin, seconded by Mr. Abbott. Okay, further comments. Seeing none,

do we need a caucus? Mr. Abbott, point of information.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. Is it necessary, it says to put postpone the motion. Should we not say what motion we are postponing in the motion?

CHAIRMAN AUGUSTINE: Could we capture that motion

REPRESENTATIVE ABBOTT: Setting trip limits --

CHAIRMAN AUGUSTINE: Setting trip limits by individual states. Go ahead.

MR. FRAMPTON: Is this basically a motion to table? The second motion? Is this basically a vote to table that amendment?

MR. COLVIN: Yes.

MR. FRAMPTON: Is that not a simpler way to do it?

MR. COLVIN: I believe this is the equivalent. And this is the convention that the commission follows, that we postpone it.

MR. FRAMPTON: It may be easier to word it by just tabling it.

CHAIRMAN AUGUSTINE: Okay, all in favor of tabling, please raise your right hand please; 15, thank you, 15; same sign, opposed; 1; abstaining; none; null; none. The motion carries 15-1-0-0.

At this time we're going to move on to one of our new staff members who has jumped into the fire from having been into the frying pan observing all of this activity that went on. By the way, thank you all for your intense participation in the discussion and debate in addressing these very sensitive issues.

We have with us Chris Vonderweidt who is now going to try to follow that dog and pony show. Chris, it's all yours. You'll cover review issues matrix on the Coastal Shark FMP.

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. The following presentation is a summary of the possible areas that will need addressing in the Atlantic.

CHAIRMAN AUGUSTINE: Ladies and gentlemen, could we have it quiet in here. There is still business to attend here. And if you're just going to talk in the back please remove yourself from the room. Thank you. Chris, please.

REVIEW ISSUES MATRIX ON COASTAL SHARK FMP/REVIEW OUTLINE AND TIMETABLE FOR COASTAL SHARK FMP

MR. VONDERWEIDT: The following presentation is a summary of the possible areas that will need addressing in the Atlantic States Shark FMP. It is a summary of technical committee and advisory panel recommendations and public comments based on the public information document.

This presentation is solely meant to start the discussion about what we want in our Interstate Shark FMP and should not be considered all-inclusive by any means.

Timeline. Present the first draft, May, 2007. Present the draft to the Board for public comment, approval August, 2007. Public comments, fall, 2007. Review the comments, annual meeting, 2007. Final approval, winter, 2008.

Regulations. The simplest approach may be to mirror existing federal that. It has been suggested that states should be able to create their own complementary regs or that the state FMP would only have to be complementary to the federal FMP.

Another approach that may be easiest to enforce would be implementing consistent regulations among the states. Finally, should allowance of less-stringent regulations for states who can prove no conservation problem be made?

Management. Should the interstate FMP use species or group-specifics size limits? Is fork-length or total

length the most appropriate criteria? Are species-specific minimum size length regulations the most appropriate?

The technical committee agreed that the federal minimum size limits for small coastal shark species essentially eliminate catch of blacknosed and finetooth shark species because they rarely grow large enough to be legal for their group.

Should states have mandatory reporting requirements with a minimum identification rate to help with data deficiencies? What kind of gear restrictions should be imposed? How should finning be addressed? Should habitat protection be addressed in the interstate FMP, possibly including time closures?

Species groupings. The existing federal FMP puts shark species into three groups for management purposes: Large coastal, small coastal, and pelagic. Are these groupings sufficient or should we create more groups with fewer species that are closer together in their biology?

Which species should we list as protected? Should the interstate FMP mirror the list in the federal FMP? If we include all species now, we may remove the need to create another FMP for pelagic species that get landed in state ports. Part of the advisory panel suggested poor, beagle and white tip sharks to the protected list.

Research. All three input groups have listed research as a priority for the Atlantic States Shark FMP. The advisory panel suggested setting minimum data collection standards, including which models are considered acceptable for stock assessment in the FMP, while the technical committee recommended collection of detailed state landing information requiring numbers, size, and location.

Bycatch. How should bycatch addressed? The AP identified three main bycatch areas of concern: Bycatch of shark species in other fisheries; bycatch of protected shark species in shark fisheries; and bycatch of smalltooth sawfish. Please note that your presentation handouts differ slightly from this one on the slide labeled "bycatch."

Quota management. There are several ways to address quota management. Some constituents would argue for real-time quota monitoring while others would question its feasibility and practicality.

Real-time monitoring could prevent large quota overages that end up taking from the following year's quota. Finally, individual species' quotas may allow fishermen to legally land mature individuals of species that do not regularly meet the federal group minimum size limits.

Last major consideration for the Atlantic States Shark Fisheries Management Plan is fishery promotion or where do we want to go with this fishery. Obviously, this FMP has to move in a sustainable direction. But for which shark species are sustainable fisheries in state waters the most likely or probable? And should we focus on their development? Thank you.

CHAIRMAN AUGUSTINE: Are there any questions for Chris? Very clear, concise, straightforward report, thank you very much, Chris. We have a couple of other items to wind up here.

Bob is going to handle Number 9 which is review the issues matrix on Coastal Shark FMP and then he will follow that up immediately unless you have questions with Number 11 which will be provide guidance to the Coastal Shark PDT on development of that FMP. So, Bob, would you go ahead with Number 9.

PROVIDE GUIDANCE TO THE COASTAL SHARK PDT ON DEVELOPMENT OF FMP

MR. BEAL: Sure. Just real quickly, the issues matrix was just handed out. It's the document in color. What this is, at the last board meeting some folks indicated that, you know, hey, we've got public comment, advisory panel input, and technical committee input.

They all seem to be going in different directions. There is a lot of different information to absorb from these three groups, if you want to call them that. So they asked us to pull together sort of a matrix that

summarizes everything we've heard up to now regarding coastal shark management.

So this document is, that Chris put together is formatted based on the public information document. It's, you know, states the question in the far left-hand column and then it gives the public comment, advisory panel and technical committee input for each of these issues.

These issues or this summary was used to develop Chris' presentation that he just gave which is a summary of what staff thinks probably should be included in a first draft of this document.

There is probably some issues that people may not be comfortable with finally going forward but we feel that they should be put in the draft and then the board can kick them out later if they so choose.

But, you know, getting on to I guess Number 11 on your agenda, you know the question now before the management board is given the items that Chris listed in his presentation and the information contained in this matrix, what guidance do we want to give to the plan development team to go home and work on this document for about the next six months?

The idea is to, as Chris mentioned, is to come back at the May meeting of next year with the first draft of the Coastal Shark FMP and, you know, right now we kind of think these are the items that should be included which are in Chris' presentation.

So if there are other things that should be included or things that should be kicked out of that list -- and I think you guys all have copies of the slides that Chris went through -- just let us know.

So we're at the point where, you know, the FMP right now is a blank document. There are no words on paper so we need to get some direction to start moving.

CHAIRMAN AUGUSTINE: Okay, I saw a nod from Mr. Daniel back there, or Dr. Daniel. Would you like to make a comment on this?

DR. LOUIS DANIEL: Well, yes. First, I just would say that I appreciate staffs' efforts to put together as comprehensive a list of the various issues that have gone around. We just had an HMS Advisory Panel meeting several weeks ago. And the state of the regulations that are getting ready to come down on large coastal sharks, particularly, are pretty onerous.

We're looking at the high likelihood of even further restrictions, particularly and primarily on sandbar sharks because that's the assessment that we have that has been peer reviewed. There is a lot of concerns and issues on that assessment.

The rest of the sharks, the blacktips which were rebuilt, are now unknown. And the large coastal complex that was overfished is now unknown. So, really the way that we're managing in the federal system is based on sandbars, to a large degree.

I think NMFS will argue dusky but the dusky assessment was done with a model that hasn't been peer reviewed. And neither has the full assessment been externally peer reviewed. So, I think to just mirror the federal regulations in state waters disadvantages us from what we know and see in our state waters' fisheries.

And so I think the idea of trying to maximize utility of the small coastal complex through some of the things that were mentioned previously by looking at developing a sustainable small coastal fishery, looking at the size limits that do essentially make blacknose and finetooth sharks a prohibited species, has a lot of utility for the PDT to look into and determine whether or not that's a reasonable thing to try to accomplish.

Also I think blacktips could be added into that coastal state waters' fishery. I know in the southern part of North Carolina we do have a fishery right now that's operating principally on finetooths, blacknose and blacktips. And it's a new fishery since we reopened state waters. And it has been lucrative for some people.

But I'd be very interested to get the opinion of the technical committee, the PDT, and the advisory

panel, mostly, to get their feel on how can we best utilize under-utilized quota in the small coastal shark complex and not disadvantage the federal program on sandbars.

So that's point Number 1. And the second point, Mr. Chairman, is just the critical nature behind a recommendation from this group to National Marine Fisheries Service for some type of real-time monitoring program to assess these quotas.

We've just discovered that there was a problem in the Gulf with some reporting issues with a fisherman in the Gulf that has resulted in perhaps even exceeding the quota in the Gulf. The first trimester will not open in 2007 because we went over by 140 percent.

So we've got to come up with a real-time monitoring program to manage these quotas like we all do for fluke and other quota-managed species. So I think those are some major issues that I would like to see addressed in the forthcoming plan.

CHAIRMAN AUGUSTINE: Thank you. I hope we've taken some notes on that. Bob, do you have any other comments that you might want to make on that?

MR. BEAL: I think, Louis, those were generally, you know, in Chris' presentation or at least reference to those and we'll work those into the draft for sure.

CHAIRMAN AUGUSTINE: Yes, Dr. Daniel.

DR. DANIEL: I just wanted to make sure that the reason behind that was clear, and what it is we're trying to accomplish because I don't know how to advantage this small coastal fishery and how to do this.

I think there's a way. There may not be but I'm going to look to the technical committee, the PDT, and the advisors to let me, to let us know whether or not it's reasonable or not.

CHAIRMAN AUGUSTINE: Very good point, Dr. Daniel. Any other comments from around the table? Mr. Nelson.

MR. NELSON: Thanks, Mr. Chairman. On the handout for the slides there is a number of items under each one of these, as we saw. As I'm going through them I didn't see anything that would be dropped out.

And I would assume that we would, as a, to give the board flexibility of evaluating what might be left in that we would see all of these flesh out. Is that what kind of is the intention? You're looking for what, in addition to these things, might be added to the workload of the technical committee?

CHAIRMAN AUGUSTINE: Mr. Beal.

MR. BEAL: Well, sure, yes. I mean the intention is that we're going to go forward and draft an FMP based on the bullets in this presentation and include anything else the Board adds.

But, I mean, if there are things that clearly are non-starters that are on this list we should just kick them out now before the PDT spends any time on them. But, you know, I think the intention is to go forward with that whole list unless we hear different.

MR. NELSON: Okay. Thank you.

CHAIRMAN AUGUSTINE: Mr. Nelson.

MR. NELSON: That's fine. You know, from my limited understanding of sharks and whatnot I think I'd probably need to look to most of these things anyways fleshed out so I'd be able to make a better decision.

Let me just ask you one thing, though, under the management slide. It's got habitat protection, nurseries, HAPC. Has any area been designated as HAPC for sharks?

CHAIRMAN AUGUSTINE: Yes, Margo, please.

MS. MARGO SCHULZE-HAUGEN: Yes, we have a couple of areas. Chesapeake and Delaware Bay I think have been identified as HAPCs for sandbar sharks. I'm sorry. I'm saying that there are a couple

of areas for some shark species, I believe Chesapeake and Delaware Bay, as HAPC for sandbar sharks. We don't have a lot but we do have some.

MR. NELSON: All right, so the Mid has going through that process and designated HAPCs?

MS. SCHULZE-HAUGEN: No, this is for the Secretarial FMP.

MR. NELSON: Okay, so the Council has not done anything on this yet. All right, that's what I was curious about because that's usually where we are seeing HAPCs designated. Thanks.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson. Any other comments around the table? Yes, Dr. Daniel.

DR. DANIEL: Well, this is an HMS plan so the councils wouldn't designate anything as anything. And Margot is correct. There is -- Delaware Bay and Chesapeake Bay have been designated HAPCs.

There is also a lot of work that was done out of the Gulf and South Atlantic Foundation through their observer program that identified HAPCs and EFH for other species as well, particularly dusky sharks.

So there are those data available through various research programs that we could glean information from to use in state waters, which has been one of the issues and difficulties that NMFS has had protecting EFH/HAPCs in their plan.

CHAIRMAN AUGUSTINE: Thank you for that input. Any further -- yes, Margo.

MS. SCHULZE-HAUGEN: Just a couple of points. The final HMS Consolidated FMP that was released this summer includes all of the updated information that we have at this point on EFH for all species and obviously sharks being included in that. So that would be a reference document that you could look to for the informational that we currently have.

And just a couple of other points, in addition, Louis mentioned the dusky shark assessment that has been

finalized. And we've also had our Science Center folks review the Canadian assessment for poor beagle sharks to determine its appropriateness for use for domestic management.

And they have responded that it is appropriate and does include all of the management reference points for U.S. management so we'll be moving forward on those two assessments as well.

CHAIRMAN AUGUSTINE: Thank you. The person just speaking was Margo Schulze-Haugen. She is responsible for the HMS activity with the National Marine Fisheries Service.

And hopefully she and Mike Clarke who are with us today will have an opportunity, if we kind of cut our little sidebar conversations down they will have an opportunity to make a presentation to us that I think will be very informative to all of you. Any further comments on what we discussed? Any further advice to Bob to give to the PDT? I'm sorry? Yes, Margo.

MS. SCHULZE-HAUGEN: Sorry, just one more point. We are, because of the statutory requirements when a stock status change is made we are moving forward with changes to the shark regulations. And actually the timing of the coastal plan and the HMS federal plan might work out quite well.

We expect to have a pre-draft early spring-late winter, with a proposed rule sometime in late spring-early summer. So it matches the timing of the commission plan pretty well.

OTHER BUSINESS

CHAIRMAN AUGUSTINE: Thank you, Margo. Is there any other business to come before this board? If not we can do it one of two ways. I'd like to adjourn the board, unless I have a motion contrary to that, and I'd like to turn it over to both Mike Clarke and Margo to make their presentation.