

**PROCEEDINGS  
of the  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
AMERICAN LOBSTER MANAGEMENT BOARD**

Sheraton Atlantic Beach Hotel  
Atlantic Beach, North Carolina  
October 23, 2006

## **ATTENDANCE**

### **Board Members**

Pat White (ME)	Sen. George Gunther (CT)
George Lapointe, ME DMR	Gordon Colvin (NY)
John Nelson NH F&G	Pat Augustine (NY)
G. Ritchie White (NH)	Brian Culhane, proxy Sen. O. Johnson (NY)
Rep. Dennis Abbott (NH)	Pete Himckek, Proxy for David Chanda (NJ)
Dan McKiernan, proxy for Paul Diodati	Erling Berg (NJ)
Bill Adler (MA)	Roy Miller, Proxy for Patrick Emory (DE)
Vito Calomo, proxy Rep. A. Verga (MA)	Bernard Pankowski, proxy Sen. R. Venables(DE)
Mark Gibson RI DEM F&W	Howard King (MD)
Everett Petronio, Jr. (RI)	Bruno Vasta (MD)
Eric Smith CT DEP MF	Russell Dize, proxy Sen.R. Colburn (MD)
Lance Stewart (CT)	Harry Mears (NMFS)

### **Ex-Officio Members**

David Spencer (AP Rep.)  
Penny Howell (TC Rep)  
Joe Fessenden (LEC Rep)

### **ASMFC Staff**

Bob Beal  
Vince O'Shea  
Toni Kerns

### **Guests**

Bob Ross (NMFS)	William Sullivan (RI DEM)
John Nelson (NHMF)	David Simson (CT DEP)
Janice Plante (CFN)	Jessica Coakley (MAFMC)
Nicole Mihnovets (NYSDEC)	Andrew Karanozinsky
Bonnie Spinazzola (AOLA)	T.C. Huss (NYSDEC)
Chris Moore (NMFS)	John Tulik (MA Env. PD)
Tom Meyer (NMFS)	Chip Lynch (NOAA)
Robert Sadler (NMFS)	Elizabeth Kordowski (RILA)
Bob Ballou (RI DEM)	

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The meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Fear/Outlook/Atlantic Room of the Sheraton Atlantic Beach Hotel, Atlantic Beach, North Carolina, on Monday, October 23, 2006, and was called to order at 8:00 o'clock, p.m., by Chairman John I. Nelson Jr.

CHAIRMAN JOHN I. NELSON, JR.: Let's bring our meeting to order. Welcome everybody. This is the American Lobster Management Board. I trust everyone had a good trip down. It's nice to be in North Carolina where it's a little warmer than up in New England. For those that don't remember who I am, I'm John Nelson.

MR. PATTEN D. WHITE: Who?

CHAIRMAN NELSON: Thank you. I'm chairing this. Next year at that time you can start saying that. You have the agenda before you. Are there any changes to the agenda? Eric, hi.

MR. ERIC SMITH: Good morning, Mr. Chairman, only in the sense in other business if we have the time I would like to update the board on the status of the developing lobster v-notch program in Connecticut, if we have time.

CHAIRMAN NELSON: Okay, yes.

MR. SMITH: Thank you.

CHAIRMAN NELSON: Yes, thanks, Eric. Anything else to modify? Mark, yes.

DR. MARK GIBSON: Yes, also at the end of the meeting, Dr. Michael Sullivan, Director of DEM is here. I'm not sure if he wants to address the board relative to Addendum VII implementation but if he comes in and shows up I'd just like that opportunity at the end. I don't think it would take more than a couple of minutes.

CHAIRMAN NELSON: Well, we do have the implementation under Item 8.

DR. GIBSON: Oh, you do?

CHAIRMAN NELSON: If he wants to address it at that time, that would probably be the spot.

DR. GIBSON: Very good.

CHAIRMAN NELSON: Just remind me.

DR. GIBSON: Thank you.

### Approval of Agenda by Consent

CHAIRMAN NELSON: You're welcome, sir. Not a problem. It says draft agenda on it so don't worry about it. Anything else to be modified? All right, without objection, then we'll adopt the agenda.

I would just point out that we do have a final action under Item 9. I'll try to remember to say it at that time also but for the approval of Draft Addendum IX, it's a final action and therefore any meeting-specific legislative or governor appointee proxies are not eligible to vote.

I'll try to remember to say that again at that time but just to give everybody a heads up. As part of our overall policy that's how we handle this for final action.

### Approval of Proceedings of August 2006 by Consent

Proceedings. Has everybody had a chance to go through the proceedings from the August meeting? Any modifications, adjustments to that? All right, **seeing none without objection they are adopted.** Thank you.

Public comment. Any public comment at this time for items that are not on the agenda and keeping in mind that we will take public comment on the various agenda items as necessary or motions when they come up. Okay, why don't we go to Item Number 4, that's the technical committee review of stock trends. Penny.

## Technical Committee Review of Stock Trends

MS. PENNY HOWELL: There wasn't time to generate updated values in the same manner as was done in the last assessment. What I'm going to present briefly this morning is an approximation of values presented in the assessment.

And for that reason I'm going to be showing you trends in abundance and harvest rate which I'm going to refer to as relative F translated into percent deviation from their own median values for 1982 to 2003.

I want to point out to everyone here that these medians were not the same numeric values as were generated in the last assessment. But the relative trends that I'm going to show are valid reflections of how the stocks have changed in the last two years; and that's really the only point I want to make is the movement in the various stocks, in the three stocks, since the assessment was completed in 2003, with 2003 data in 2005.

Starting with Southern New England I'm going to show you the index trends. They're available from the Rhode Island Trawl Survey, the Connecticut Trawl Survey and the NMFS Trawl Survey for the offshore strata in Southern New England.

You can see that there is a little bit of variance in those trends. As was done in the last assessment, Connecticut indices were paired with landings from Statistical Area 611. Rhode Island indices were paired with landings from Area 539.

And the NMFS indices were paired with landings from the remaining Southern New England statistical areas. The highest line is the total landings from all three or all the statistical areas.

Following the procedure that was used in the last assessment these three were blended. I just briefly show you the way that the numbers were computed. Each one for relative F which is the landings divided by the trawl survey index for recruit and legal size animals sex is combined.

And each series is presented as a percent deviation from their long-term median. So that's why the X axis is kind of in the middle. That's the zero percent deviation so that represents the median. And years below the X axis are where the abundance trend was below the median and above, obviously, is above the median.

So you can see — that's not a very clear picture. If you could see the last, maybe people close up can see, the 2004 and 2005 numbers, the — I'll point it out for those that can't see — the top line is the Rhode Island data showing a modest increase from over the last two years.

Offshore strata fall right on the combined heavy line which is the one blended for all areas showing basically a flat response since 2003 at the 50 percent below the median value. And the pink line which may not show up very clearly at all is the 611 data for Connecticut/New York, showing a continued small, small drop.

So overall the abundance trend for, blended for the Southern New England area is unchanged since 2003 with a slight deviation in the sub areas. The next is the relative exploitation. This shows even more movement amongst the areas.

Again, the data is presented as deviations above and below each sub-area's median value. Again I'm not sure that you can see this very well. The large blue hump line is a corresponding, that's the 539 which went way high in the early, from about 1998 to 2003, but since then has shown a large drop. And for the last two years their relative exploitation is quite a bit below their median value.

The pink line is the 611 data showing variations near the median. And the 2005 number goes above the median. And again the offshore data tracks the blended heavy black line more or less fluctuating above and below the median. So as a summation for the whole area the relative exploitation is essentially unchanged with the slight differences in the sub areas.

Blending that all together and getting rid of the

sub-area lines, in summary the red line is the relative exploitation and it hovers around its own median. The heavy dark line, black line, is abundance.

And you can see that they, all of the areas showed an increase in the '90s and have decreased since 2001 below their median and still are hovering around 50 percent below their long-term median. Rhode Island has shown a slight, modest recovery and the other areas have not.

Moving to Georges Bank we have only one abundance index which is the NMFS Trawl for that area. There is a sort of troublesome sawtooth which the technical committee discussed in a conference call. We're going to look into what's causing this up-down-up-down -- where 2001 it went down; 2002 it went up; 2004 it went down -- and what is exactly going on there.

The procedure for calculating relative F sums over a two-year average so some of this data fluctuation goes away but it is a little troublesome that that is going on. The landings data has shown a recent increase.

The long-term average is very steady but the last two years showed an increase in the landings. If you follow the same procedure and compute a relative F in abundance, that is the trend you see.

The red line, again, is relative exploitation which is very near it's long-term median, having been below it until 2004-2005 numbers, just a bit above it. And the abundance is still well above the median but for the last two years has shown a little bit of a decline.

Moving on to Gulf of Maine, normally we have always just used the NMFS Trawl Survey for abundance. Again, you see the sawtooth effect which we're going to be looking into what the cause of this, whether there is some kind of a systematic error.

I've superimposed, the red line is the Maine Inshore Trawl Survey which started in 2000 to see whether this sawtooth was seen in the

inshore trawl survey in Maine against the offshore NMFS Trawl Survey data.

They track fairly closely together until 2004 and 2005. And especially in 2005 the inshore index was very high and the offshore, again, showed a sawtooth drop. The landings -- next slide -- have been steadily increasing. I wanted to point out something that did come up within the committee.

There is some concern that the increase in landings in the Gulf of Maine, well for the State of Maine, for the State of New Hampshire and for the State of Rhode Island to a much lesser extent but particularly in the State of Maine, may be a bit overestimated because of improved reporting.

So these numbers actually, the more recent numbers are more accurate and the older numbers may have under-estimated the landings. That's another thing that the committee is going to be examining over the next couple of months. But for now that's the way the data has been compiled and it shows an increase in the landings.

Again, putting the two deviations from the medians together, the red line is the relative exploitation which was very close to its median value. It went up slightly in 2004 and dropped again in 2005.

If you include the Maine index -- and this number does include the inshore data -- for abundance, the abundance is still high. There was a dip in 2004. But including that inshore data for 2005 indicates that the stock abundance is essentially unchanged since the last assessment. That's it.

CHAIRMAN NELSON: Thanks, Penny. Any questions on the trends?

DR. MARK GIBSON: John.

CHAIRMAN NELSON: Yes, Mark, go ahead.

DR. GIBSON: Not so much a question but just to enhance that report in the 539 area, which is

where Rhode Island state waters are and where we conduct our trawl surveys, we just concluded our 2006 trawl survey.

And both the spring, summer and fall legs of that are increased over 2005 so we have four straight years of increase in state waters since the low point reached in 2002. And with the landings down that's why that relative exploitation index has plunged so much.

I have provided the report to the technical committee which I believe documents the reduction in fishing mortality. That's probably due to this large-scale v-notching of females as result of the North Cape program.

So I think we're seeing some real strong benefits of that which went beyond the original intent which was to replace the juvenile lobsters lost. So I think we're on our way to a much better situation at least locally in 539. Thank you.

CHAIRMAN NELSON: All right, thank you, Mark, and let's hope so. Anyone else, any questions? Yes, Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman. A question for Penny. There were like three different slides that showed landings trends. And I think the one for the Gulf of Maine for 2005 showed something in the neighborhood of 75 million pounds.

Could you comment, maybe go back to a couple of the slides for comparison purposes. If that in fact was 75 million pounds for 2005, what were the estimated landings for Georges Bank and Southern New England?

MS. HOWELL: Yes, I can give you the numbers. If you don't mind I've got them printed here in metric tons. The total for Southern New England in metric tons for 2004 was 2,318 which is down. The 2003 number was 2,758. And the 2005 number is 2,270.

I should have the pound conversion in front of me but I don't. That's in metric tons. The Gulf of Maine, the 2003 number was 29,198 metric tons. The 2004 number was 36,478. The 2005 number was 34,237.

The distribution by statistical area and state was unchanged except for some movement with Rhode Island fishery increasing in Georges Bank. Did you want the Georges Bank numbers as well?

MR. MEARS: If you could, thank you.

MS. HOWELL: Georges Bank landings totaled, the 2003 number was 1,426. The 2004 number increased to 1,963. And then in 2005 it went to 2,302, again, principally because of an increase with the State of Rhode Island going from 100 or so metric tons to 242 in 2004 and 342 in 2005. The State of Massachusetts landings also increased on Georges Bank a slight bit. That was what caused that increase at the end.

MR. MEARS: Thank you.

CHAIRMAN NELSON: Anyone else for any questions for Penny? All right, well, let's -- thank you, Penny. Let's move on, then, to the Agenda Item Number 5 and that's the Amendment 5 public information document.

We'll review the public comment and then after that we'll, after Toni goes through it we'll go to the advisory, David, to the advisors. David will give his update. And then we'll look for guidance for any of the issues for a draft amendment. So, Toni.

#### **Draft Addendum 5, Public Information Document**

MS. TONI KERNS: Thank you, Mr. Chairman. On the briefing CD you had a copy of the hearing summaries as well as the written comment summaries. The last page of that has the table that summarizes the individual written comment which sometimes can be helpful.

We held hearings in all of the states New Jersey north to Maine. Maine had a total of four hearings and Massachusetts had a total of two hearings. All the hearings were fairly well attended, ranging from I think about a maximum of 36 attendees to a minimum of 7 attendees.

In terms of the written comment, we had a total of 36 written comments submitted; 10 of those were from groups or organizations that are included up here on the list. And then to get straight into the issues.

Issue 1 was the changing of the management area boundaries. The majority of the comments were in favor of staying status quo, although in some of the northern states, Maine especially in the hearings, we heard a positive feedback in terms of managing the Gulf of Maine as one area but they did not comment on the other stock areas.

For Issue 2, looking at the v-notch possession rule, the majority of the commentors were in favor of changing to the new language with a one-eighth-of-an-inch definition. There was also support in the northern states of New Hampshire and Maine for zero tolerance as well as some support in Rhode Island for zero tolerance as well.

For Issue 3, looking at the minimum size, the majority of the commentors were in favor of remaining status quo. There were some states that wanted an option that would have a minimum size of 3¼ inches for all areas but the majority did not want us to look at changing this issue.

Issue 4 was looking at a maximum size. The majority of the commentors were in favor of status quo, although in the northern states there was some comment in favor of having a maximum size. The range of that size was not consistent.

Some wanted to see a 5-inch maximum size in all areas. Others wanted to see a maximum size on the upper end of the boundary. The upper end of the boundary was 7 inches. In New Jersey and in written comments from New Jersey recreational fishermen they were strongly opposed to having any maximum size for the recreational fishery.

Issue 5 is looking at ways to control effort through permitting. The majority of the commentors were in favor of status quo,

although in Maine and New Hampshire there was support for the option that would not allow any transfers into Area 1 for permits.

Issue 6 is looking at the non-trap sector. The majority of the commentors were in favor of status quo. In some of the northern states there was support for either giving the non-trap sector a set number of pounds to fish off of -- a majority of those comments were a low set of poundage.

There was also support in many of the states to at least have the non-trap sector declare their area and then be set to the most restrictive rule as the trap sector already does.

And Issue 7 is looking at changing the goals of the amendment. The majority of the comments were in favor of status quo. And many of the comments that I heard, that if we change this goal of the FMP then we would be conflicting with some other goals that are already in the FMP.

And that's the public comment. David Spencer is going to go through next the AP's comments on the amendment and then Joe will follow David with the law enforcement comments.

MR. DAVID SPENCER: Thank you, Toni. Thank you, Mr. Chairman. The AP on October 3<sup>rd</sup>, Durham, New Hampshire. We had representation from the states of Maine down to New Jersey. We had a very well attended meeting.

We also had in attendance the chairman of the board, John Nelson, chairman of the technical committee, Penny Howell; and we were very pleased that they came. It made for a very productive and informative meeting. And we certainly hope that this becomes a regular practice.

Having said that, we reviewed the Amendment 5 and reached consensus on some issues and non-consensus on the others. And I'll briefly go through item-by-item. On Issue 1 we were not able to reach a consensus.



On the one hand there was support for managing by a biological stock area to provide better management advice based on more precise science. For example, the Gulf of Maine stock would be the Gulf of Maine management area.

There was also another camp that supported status quo and felt that we did not want to compromise the tools that we have created with area management or the individual practices of the different management areas.

On the second item we were able to reach a consensus and there was strong support that we need to move away from the ¼-inch definition of the v-notch. We reached a consensus to approve a 1/8<sup>th</sup>-inch definition with the ability of states to be more restrictive if they desired. That was essentially the way we reached a consensus on that issue.

Issue 3, the minimum size, we reached a consensus, status quo. They felt minimum sizes should be adjusted for biological reasons by management areas; therefore, the one minimum size would not fit all.

Issue 4 was the maximum size. We were not able to reach a consensus on that. We did have support for status quo, allowing individual management areas to set regulations based on their stock conditions.

There was support for the recreational fishery to be managed as currently managed by the individual states. And there was support for a maximum size that can be area specific to utilize the conservation benefits from a maximum size.

Issue 5, restrictions on effort, we did reach a consensus on this. We felt that most of these options were specific to Area 1 and that areas that had gone through an historical allocation did take most of these options in the problem statement and address them. But our recommendations on this were to have Area 1 look into Option 2 to see if a problem does exist.

And in Option 4 there was support for a moratorium on the transfer of federal permits into Area 1. This would intend to limit the

expansion of effort into Area 1, include a control date for the moratorium for Option 4 as an interim measure until NMFS can implement their plan.

Issue 6, there was non-consensus. We did have support for a zero catch limit in the non-trap sector. And if that was not attainable then those people would opt for status quo.

And there was, the other camp was we supported status quo. There is continued support for the historic distribution of the catch among gear types and a strong feeling that better law enforcement would remedy the concerns addressed in the problem statement.

There was support for Option 3 that all commercial fishermen, no matter what the gear type, should be held to the most restrictive rule. And on Issue 7 there was a consensus. The support was for status quo. And there was concern that this objective would undermine area management. Thank you very much.

CHAIRMAN NELSON: Thank you, David. Joe.

COLONEL JOSEPH FESSENDEN: Okay, I guess in the CD, your CD, there is a copy of the law enforcement report dated October 1<sup>st</sup>. We had a conference call. Several members of our committee from New York to Maine met and discussed the PID.

And basically we got the same old thing about uniformity. Since we went to this multiple management area we've had, law enforcement has had a lot of issues enforcing the different rules for the different management areas, especially in a state like Massachusetts where they have up to four different areas where people are landing lobsters from. So increasing the number of lobster management areas would be a problem for law enforcement. That would be on Issue Number 1.

Issue Number 2 on the v-notch definition, a uniform definition across all lobster management areas, I'd like to bring your attention to a little gauge that Commissioner

Lapointe had provided us, we had passed out earlier to everybody.

On this little brass gauge it shows the ¼-inch, the 18<sup>th</sup>-inch and 1/16<sup>th</sup>-of-an-inch v-notch. Law enforcement right now are being required to measure a ¼-inch V. It's pretty easy to do with this type of gauge that's in front of you.

When you start getting down to the 1/8<sup>th</sup>-of-an-inch or a 1/16<sup>th</sup>-of-an-inch it's much more difficult to enforce for law enforcement. So this is a good illustration of what we're talking about and a significant difference between the 1/8<sup>th</sup>-inch and ¼-inch v.

Law enforcement, as far as Issue Number 2, law enforcement prefers Option Number 5 which is a uniform v-notch definition throughout the range, basically providing for a zero tolerance definition. It is enforceable. Maine and New Hampshire enforce it now without any problems. The industry accepts it. It protects a lot more lobsters.

On Issue Number 3, uniform minimum size, uniformity, again, is a big issue for law enforcement. Because people are fishing in multiple fishing areas it would be a lot easier for law enforcement to apply one gauge to all lobster harvesters. So we're in favor of having the same minimum size throughout the range.

The same thing with Issue 4 on maximum size. Whatever the board comes up with we'd like to see the same maximum size throughout the range. On the Issue Number 6, the non-trap sector, Option 3 was the preferable option for us. It provides for uniformity throughout the range. That's it. Thank you.

CHAIRMAN NELSON: Thank you, Joe. Does anyone have any questions for any of the presenters? All right, let's, our next part of that agenda is to provide guidance to the staff on any issues.

And what I'd like to do is just go down through each issue and have a determination made whether or not you want to continue to move forward with that issue. I think that way we can

kind of keep it a little bit organized.

As we go through each one we'll also point out how we could do it if you were going to move ahead with it. Some you can do through addendum; others have to be done through an amendment, so we'll update you on that, also. Okay?

All right, starting with Issue Number 1, changing the boundaries of the lobster management area. And that has to be done through amendment. Does anyone wish to suggest including that in an amendment? Go ahead, Bill.

MR. WILLIAM A. ADLER: Is it appropriate to take a motion to not include it in any amendment?

CHAIRMAN NELSON: No, if I see nobody raising their hand and, you know, great enthusiasm for including it then we'll move on to the next one and we will not include it in the - - so with that --

MR. ADLER: Okay, thank you. I didn't say anything.

CHAIRMAN NELSON: -- I know Pat is anxious to second them but I'm trying to -- all right, seeing --

DR. GIBSON: What issue are we reviewing?

CHAIRMAN NELSON: I'm sorry, go ahead.

DR. GIBSON: I was having a sidebar. Which issue are we reviewing?

CHAIRMAN NELSON: Number 1 and that is changing the boundaries for lobster management areas. The question is whether or not to continue including that in a draft amendment. And the question is --

DR. GIBSON: Does anybody support that and, yes, I do.

CHAIRMAN NELSON: You do?

DR. GIBSON: Yes.

CHAIRMAN NELSON: All right, you'll have to make a motion.

DR. GIBSON: Okay,

**I would move that we include in the draft amendment the management area boundaries issue.**

CHAIRMAN NELSON: Is there a second to that, though?

MR. PATTEN D. WHITE: I'll second.

CHAIRMAN NELSON: Okay, Pat. Okay, let's have the discussion. We'll have the pro and con until I'm sure that we've heard all points. Go ahead, Mark.

DR. GIBSON: Well, I mean this issue has just been around for a long time and we've had repeated scientific advice on this about the management, the problems that are being created by not having our management units aligned with rational stock boundaries.

Distinguished peer review panels have admonished us about this. The technical committee has several times. I'm still at a loss to explain to people where the original, how the original boundaries came about.

And I just think that this needs to be in there given all that I've heard given my time with the management board. And this may be our last, best chance to fix what's an obvious problem to me. Thank you.

CHAIRMAN NELSON: Okay, Mark, thank you. Opposed to the motion. Go ahead, Bill.

MR. ADLER: Yes, I'm opposed to the motion. I think that we went through an awful lot here to try to get the areas where the people fish. And then they had to work on their plans. And I think that rearranging these things is just going to cause more trouble than what we're trying to solve.

And I think that it also betrays what the fishermen and the ASMFC have been working together with, with this local management. And I don't believe that this will be ultimately any good. So I will not support this particular motion.

CHAIRMAN NELSON: Thank you, Bill. Opposed. Opposed? Oh, I'm sorry, Eric. It's going to be a long morning, apparently, for the chair. I'm for the motion, sorry, for the motion. All right, opposed to the motion. Oh, I'm sorry. Well, you've got to get those hands up quick, folks, and high, nice and high, otherwise I'm going to pass you by so fast.

MR. WHITE: You don't look over at this side.

CHAIRMAN NELSON: Well, I very seldom.

MR. WHITE: In support of the motion at the last meeting we discussed the opportunity to still maintain somewhat of the integrity of area management that currently exists but still being able to tailor it to the new stock areas.

And I think the reason I've supported Mark's motion is because I think it does give us an opportunity to get better data and make better management decisions and maybe not destroy the integrity of what we'd established in area management.

CHAIRMAN NELSON: Thank you, Pat. All right, opposed. I had Eric.

MR. ERIC SMITH: Thank you. I'm not so much opposed in philosophy to the motion as I think we have another solution that might not be as readily apparent. It has come along more recently.

Mark is absolutely right. This is a long-standing disconnect that we get out of technical reviews and peer reviews. And we've been challenged over the years to try and fix it. We understand how the fishermen feel and even some of the agencies that have put a lot of effort into finally getting to these boundaries. And I understand all of that concern.

Where I depart, though, from the motion -- and this is where the newer question and answer is influencing me to think a little bit differently about it -- my understanding is that if we can get catch and effort statistics by three digit areas, essentially from the offshore fleet, that solves 99 percent of the technical concern in doing assessments and all sorts of updates on the fishery and the resource.

And if that were to be the case then we wouldn't have to go through the heavy lifting to try and push everybody around into new management areas after it has taken us ten years to settle into the ones that we have now. So I would ask the chairman of the technical committee if I basically have that right or if I missed the point because it largely influences my view on how I would see this motion.

CHAIRMAN NELSON: Penny, go ahead.

MS. HOWELL: Yes, that's going to solve a lot of the problems. The law enforcement issues will still be there of conflicting regulations but if we got the data consistently by statistical area we could give you a much better assessment.

CHAIRMAN NELSON: Okay, thank you, Eric. Thanks, Penny. For the motion. Go ahead.

MR. PETER HIMCHAK: Peter Himchak. You can't see me down here.

CHAIRMAN NELSON: No, I'm sorry, Peter. Even my glasses can't make it down there.

MR. HIMCHAK: I'm a relatively new player in this game and we are a smaller state in the lobster fishery but the disconnect between the stock identification areas and the LCMTs just is incomprehensible to me and I would support the including redesigning the management zones on the basis of unit stock.

CHAIRMAN NELSON: Okay, thank you, Peter. Everett, I think you were next for opposed.

MR. EVERETT PETRONIO: I agree with Mark that there is no question that the present

management structure by area or cobbled together area is something that needs to be looked at. And there is no question that the scientific advice that we've gotten is to redo this along stock lines.

I'm thinking that what we have in front of us is going to create a lot of heat and light and upset folks and I'd like to have a more narrow definition of where we're going.

I think that we're going in the right direction but we're going to create a lot of angst because no one is going to know where we're eventually going to land so I don't support the motion only because I'd like to see the direction mapped out a little bit more before we move forward with this.

CHAIRMAN NELSON: Okay, thanks. Let me take some, any public comment for the motion. Bonnie, for the motion? Okay, anyone for the motion? Anyone opposed the motion? Opposed, Bonnie. David, you want to speak for the public or make a public comment?

MR. SPENCER: This is not part of the AP. This is my own so I'd be happy to go out there if you prefer.

CHAIRMAN NELSON: It looks like you have Bonnie, you know, saying "go ahead" to you.

MR. SPENCER: Okay. Thank you, Mr. Chairman. I just want to be very clear. This is not coming from the AP. This is my personal view. First and foremost, I think if we want better science at the last board meeting we threw out the option of the one that makes the most sense is three distinct management areas that line up with three distinct stock areas.

Seeing that that doesn't exist any more this is, in my mind, the breakup of Area 3. That's what this is about. All three options include breaking up Area 3. Had we done this in the beginning I'm not, with a straight face I have to tell you it probably makes more sense to do it that way.

However, I think there are some compelling reasons not to do it, not the least of which -- we

just finished an individual allocation system, as well as did five other areas in the last four or five years. Disruption of that process is going to have tremendous financial consequences. It's going to throw the system into chaos in my mind.

Secondly, I think we all want better science, better management. And I think it's important to recognize that currently Area 3 is managing to the most restrictive of its stock areas. And what that means is we're managing currently to the Southern New England stock area.

We have gauge increases, minimum size increases that are currently at 3-7/16ths going up to 3-1/2. That is not just in the Southern New England area. That goes into the Gulf of Maine or the Area 3 portion of the Gulf of Maine, into the Area 3 portion of Georges Bank.

We have 30 percent active trap reductions again that span all three stock areas in Area 3. We have proposed a maximum size that will span all three stock areas. I think that we have demonstrated that we are doing the best thing for this resource and for the management process.

And we're trying to make the best of this situation. We are certainly willing to report in any format, statistical area, whatever the technical committee recommends.

We've already put mandatory reporting in as a requirement or a recommendation. I feel strongly that we should not break Area 3 up and to proceed with status quo. Thank you.

CHAIRMAN NELSON: Thank you, David. All right, let me come back to the board for one more pro and con. Anyone else want to speak for the motion? Okay, anyone else want to speak — for the motion, Gordon? Yes, you can have the quasi; you can have the last quasi. I'm sorry, anyone else want to speak for the motion who hasn't already spoken? All right, opposed. Gordon.

MR. GORDON C. COLVIN: I'm wondering if there is a way we can go forward and capture the suggestion that Eric made that I think David

spoke to as well such that we don't make any specific changes in the boundaries, per se, but we do make some identified, required changes in reporting such that we capture the data that solves, in Eric's words, "90 percent" plus of the problem.

And I mean I don't know if that rises to something that needs to be in an amendment but I'd like to make sure that something is done to formalize that procedure, that process, as a solution to the problem.

CHAIRMAN NELSON: Thank you, Gordon. And I would point out that I think that approach is what we would be looking at under Addendum X which is Agenda Item Number 7.

The reporting systems that we want to have put in place, if I'm not mistaken, should address -- or we certainly could make sure it addresses -- the issues that were raised and perhaps is the solution for how we could solve this particular problem without getting industry totally upset.

I'm going to really call the question. We have quite a bit. We've got to go through all of this and we have a bunch of addendums so I apologize to those that won't get a chance to fully express their points of view; but we have a lot to do in a short timeframe so I'm going to call for the caucus to take place and then we're going to vote.

Is everyone ready for the vote? All right, all in favor of including Issue 1 in an addendum please raise your hand; opposed; keep them way up; null; that's fine; abstentions. All right, the motion fails.

Let's move on to the Issue 2 which is the v-notch definition. And that has to be done through an amendment. Okay, those that would like to speak for including a uniform v-notch definition, which we do have but changing it. For, George.

MR. GEORGE LAPOINTE: Do you need a motion, Mr. Chairman, or can we do it?

CHAIRMAN NELSON: Let me just check and see if there is anyone going to disagree. I think

we had consensus that they'd like, the industry said that, from my read of it was the industry was supportive of the one-eighth definition.

But areas that wanted to have more restrictive, such as zero tolerance, are certainly able to do that. Anyone disagree with moving ahead with including options for the v-notch definition to be changed in an amendment? Okay, Bill, go ahead.

MR. ADLER: It's not that I'm opposed to having a uniform v-notch definition but I don't think we need an amendment do it. I know in the amendment you have, the current plan you have a base of the 1/4-inch, no setal hairs.

And I see no reason why that couldn't just stay there because changing a v-notch definition -- which we have done through addendums -- can still be done by an addendum if you so desire or could be done by the states themselves after the consultation with the fishermen and the states getting together.

We don't need to go through this massive amendment process to change that. So I would oppose including this in an amendment mainly because it doesn't need an amendment to be done.

CHAIRMAN NELSON: Okay, Bill, I'm afraid that staff doesn't agree with you. And I don't really want to have a big debate on it but I will have staff just quickly say what they need to say on it and then I want to decide whether or not people want to pursue it.

MS. KERNS: Thank you, John. If you go into Amendment 3, Bill, it will tell you the things that are amendable and the things that are addend-able. And while, yes, a state has the right to be more conservative at any time -- they don't even need to have an addendum to become more conservative; they can just go ahead and change that rule -- they also have the ability to go ahead and change back to the less restrictive definition at any time without asking the board.

So in order to change the definition so it stays consistent where each state has that 1/8<sup>th</sup>-of-an-

inch we would have to do an amendment to change the possession rule for v-notching to make it on the books so that it's the requirement for each state.

CHAIRMAN NELSON: Okay, any objections to -- to a different point, Bill?

MR. ADLER: First of all, where in the amendment is that?

CHAIRMAN NELSON: Bill -- Bill, let me just say we've had that clarified. Whether you agree with that interpretation or not, that I don't think is the issue here. If you want to vote for not including it, you know, that's fine.

But the ruling right now is that we need to do it through an addendum, I'm sorry amendment, for all the states have a uniform approach. That's the research that the staff has done and I don't want to spend the time going over that particular one. Is this over that?

MR. ROBERT E. BEAL: Not debating.

CHAIRMAN NELSON: What?

MR. BEAL: Not debating.

CHAIRMAN NELSON: All right, go ahead.

MR. BEAL: Sure, just a quick point. I think you know if folks are worried about the cumbersome process associated with an amendment versus an addendum, we've already taken Step 1 for the amendment which is the first round of public hearings, the public information document, and we've solicited comments.

So to complete the amendment that we've already initiated or to initiate a new addendum really takes the same amount of time to put together. So, worrying if this issue is included in an amendment or an addendum really doesn't, the process and the outcome is the same.

We have to draft a document. We have to go out for one round of public hearings and the board would have to come back and make a final

decision. So the completion of this amendment is no more cumbersome than initiating a new addendum.

CHAIRMAN NELSON: Okay, thanks. All right, Gordon, go ahead.

MR. COLVIN:  
**I move we include Issue 2 in the amendment.**

MR. WHITE: Second.

CHAIRMAN NELSON: Pat White seconds.

MR. WHITE: Call the motion.

CHAIRMAN NELSON: Any objection to including it in the? All right, let me take a pro and con. For the motion. Okay, go ahead, Gordon.

MR. COLVIN: As we framed the issue to date and the options to date, has it been made clear or can it be made clear that at the end of the day, at the conclusion of the amendment process at a minimum we can make this an issue that does not in the future require a plan amendment to make adjustments?

CHAIRMAN NELSON: Well, if we do an amendment on this we would have it as one of the addend-able items I would hope for the future.

MR. COLVIN: Good, Toni is nodding. That's all I needed. Thank you.

CHAIRMAN NELSON: All right, opposed. Opposed, Bill, go ahead.

MR. ADLER: I won't reiterate what I said before but I still think that we did change v-notch definitions after the Amendment 3 came out. There were changes made to various areas and it didn't require another amendment to change it.

I'm certainly not expressing the thought that it would have to get more lenient than what was in the Amendment 3. I mean, I'm not going that way. And we did make more restrictive without an amendment through process, whatever the

process was. So I'm opposed to it being in an amendment, as I'm opposed to an amendment. Thank you.

CHAIRMAN NELSON: All right, thank you. Pat.

MR. WHITE: Just a point of clarification, if I could, Mr. Chairman. Is the motion, then, to just continue discussions of something other than a straight-sided setal haired ¼-inch v or are we more specific?

CHAIRMAN NELSON: Go ahead.

MS. KERNS: Pat, the motion is just to then, staff and the plan development team will then flesh out each of the issues that you would like to see remain in the document.

So at the February meeting we'll bring to the board a draft amendment document that will have the issues much more defined than they were here in the PID and you will vote whether or not to take that draft amendment out for public comment.

MR. WHITE: So it would then include the different options of the type of v-notch?

MS. KERNS: Yes.

CHAIRMAN NELSON: Okay, my sense is that we're ready for this particular question so I'll give you five seconds to caucus. Okay, ready for the vote? All those in favor of including Issue 2 in an amendment, please raise your right hands; opposed, likewise; null; abstentions; one abstention. The motion passes. Thank you. Issue 3 is -- as soon as I find it again -- is a minimum size, uniform minimum size across all management areas. Staff indicates that that is addend-able. Now, I guess it's a question of whether you want to have an addendum and an amendment running around at the same time.

And we could do it through an addendum or we could stick it right in an amendment and make it addend-able again for the future. But let's see, first, if we want to move ahead with it at all. Anyone want to include this in either an

amendment or an addendum? No?

All right, are you ready to move on to Issue 4? That's the maximum size. And that is by addendum possibility also. Anyone opposed to, anyone wishing to -- let's see, how am I doing this? Anyone wishing to include this in an amendment? I'm sorry. Anyone wish to include it in the amendment? Okay, make a motion.

MR. WHITE:

**I move that it be included in the amendment.**

CHAIRMAN NELSON: Or addendum if we so decide to do an addendum.

MR. WHITE: **Or addendum.**

CHAIRMAN NELSON: Okay, second to that, though. Second? All right, we do have a second. Mark has seconded it. Discussion for.

MR. WHITE: I think especially now that Area 3 had supported a maximum gauge I think I would like to see the discussion continued, be it that it isn't all what I'd like to see in the 5-inch but if they are willing to go to a 7-inch and down, whatever their proposal is, I think it's a good beginning. It is a good conservation measure. And I absolutely support it.

CHAIRMAN NELSON: Thanks, Pat. Opposed to including it. Peter.

MR. HIMCHAK: Yes, Mr. Chairman. We have a very well-organized dive council in New Jersey and their major comment at the public hearing was in opposition to this maximum uniform size limit because of the non-pot portion of the fishery. And they liken this to their being allowed to take a trophy fish.

And if there could be some distinction between a uniform maximum size limit for all commercial fishing and have a different size maximum or no maximum size limit for the diving community that's what we would prefer in New Jersey.

They have pretty good records on how many large lobsters they catch and they are willing to keep track of all their catches for us as well.

They're a nice group to work with.

CHAIRMAN NELSON: Okay, thank you, Peter. For the motion, whoever has not spoken for it, not spoken for it.

MR. WHITE: No, I had a question.

CHAIRMAN NELSON: Oh, was it a question? What kind of a clarification do you need, sir?

MR. WHITE: In going forward with the discussion on this it might be an option that would possibly exclude the recreational divers. I just think it would move it forward. I think there is strong biologic benefit to doing this for us in the commercial industry and we might have that as an option somehow in there to accommodate what he is talking about.

CHAIRMAN NELSON: Thanks. Peter, to that point.

MR. HIMCHAK: Yes, Mr. Chairman, I would support including it in the public hearing document if there was the distinction made between the non-pot portion of the fishery, specifically the divers.

CHAIRMAN NELSON: Okay, thank you. Okay, let's see, I was back to for, wasn't I? Thanks. Eric, go ahead.

MR. SMITH: I guess I have a question before I decide whether I'm for or against it. Is this intended, is the motion intended to keep the issue alive in the amendment to have one size throughout the range? Or is it to keep the issue alive to have a size by stock area, for example, or a maximum size everywhere but it could be a different measurement? It's not clear to me from the motion.

CHAIRMAN NELSON: Okay, the intent, again, would be to bring back various options for the board to consider in February which would include, as you've already heard, including or not including recreational. And it certainly could be uniform across all management areas as a single maximum size or it could be unique to those areas. That's my



understanding of it.

MR. SMITH: Thank you.

CHAIRMAN NELSON: Let's see, let me do a con. So that was a clarification. Let me do a con. Okay, Ritchie.

MR. G. RITCHIE WHITE: A clarification as well, a question for New Jersey. Is the dive recreational only?

MR. HIMCHAK: Yes, Mr. Chairman, it is. And they're not allowed to sell their catch. And they're willing to work with us to monitor their own catches.

CHAIRMAN NELSON: Okay. Let me to go the audience then for a for and against and then I'll come back to the board again. All right, for. How about opposed? All right, Bonnie, go ahead. Try another one, Bonnie.

MS. BONNIE SPINAZZOLA: Thank you, Mr. Chairman. As the board knows, Area 3 has already put in the maximum gauge recommendation for their LCMT for 7 inches to go down to 6-3/4. We realize that that might be large to, say, Maine which is 5 inches and that sort of thing.

However, we believe that a 6-3/4-lobster is something that you do find in Area 3. We don't believe it; we know it. So we will have lobsters that actually get to that size and will get past that size because they're not all caught at that point.

So we believe it's a significant increase to the egg production and the conservation for the fishery. We understand that -- we have no problem having a maximum size; however, the problem is once it's in an amendment and you have all of those several options you then are, or we are then faced with the possibility of having one size across the range which, again, with all the three stock areas, the same as a minimum size just doesn't make sense.

So, therefore, we feel that this is a threat to what could possibly happen considering we are being very conservation-minded, considering we've

already put those measures in place. And we just would like not to see this in an amendment since we are managing to the most restrictive of all the areas and that sort of thing. Thank you.

CHAIRMAN NELSON: Thank you, Bonnie. Anyone else in the audience want to speak for or against? All right, back to the board. Bill, I think you had your hand up.

MR. ADLER: Against. Okay?

CHAIRMAN NELSON: Thank you, Bill.

MR. ADLER: The main thing is that I'm not against maximum sizes. I think Bonnie just made a very good point that perhaps a little bit different maximum sizes might work better in some areas. And I, once again, this is one of these things that I don't believe needs an amendment.

They were put in before by addendum and they could be put in as the LCMTs decide through an addendum so you would have a maximum size for whatever is printed on your permit for an area. So I don't think it needs to be in an amendment and I will not support this.

CHAIRMAN NELSON: Thank you, Bill. You know, as usual, Bill, you are correct, as usual -- not all the time but as usual. And as I said this can be done by an addendum but quite frankly this is the only other item that could be done by an addendum.

I don't see it's worth it to have two pieces of paper duplicating themselves. But you are correct as far as it could be done by an addendum. All right, any other comments for and opposed? One more for each. George, go ahead.

MR. LAPOINTE: Thank you, Mr. Chairman. I support including this option in whatever action we take forward -- excuse me, I don't want to get into that. I think that, as Pat mentioned, the biological benefit of increased number of eggs and increased quality of eggs is something worthy of consideration in all management areas, particularly those areas that need a boost biologically.

And although Maine likes the 5-inch size limit for a maximum the idea of having different maximums in the different areas to allow some flexibility and get the biological benefit I think is worth including as this moves forward.

CHAIRMAN NELSON: Thank you, George. Anyone else want to speak opposed to it? Okay, why don't you caucus and then I'll call the question. Okay, everyone's caucus is complete?

All right, all those in favor of including Issue 4 in an amendment/addendum, please raise your right hand; opposed, likewise; null; abstentions; one abstention. Okay, the motion passes. It will be included in the amendment/addendum. Okay, Issue 5, restrictions on permits -- yes, go ahead, Mark.

DR. GIBSON: Yes, given that when we bypassed the minimum size issue, does that mean that the current amendment operational minimum stands?

(Whereupon, Toni Kerns nodded affirmatively.)

DR. GIBSON: Thank you.

CHAIRMAN NELSON: We didn't bypass it; nobody wanted to include it. Okay, on Issue 5, Gordon.

MR. COLVIN: Thank you, Mr. Chairman. I noted that the advisory panel suggested what might ultimately be construed as an additional option here and I would hope that that would be taken into consideration by the PDT but **I will move to include the restrictions on permits to control effort issue in the amendment.**

CHAIRMAN NELSON: Second by George. Discussion for the motion. Anyone want to talk about it? Harry, go ahead.

MR. MEARS: I have several points of view about this motion. I think it attempts to discuss current frustrations with some of the logistics at the state level and federal level with permit,

primarily in the field of administration and coordination.

At the same time I see these identify problems which have been essentially repeatedly discussed, not necessarily addressed, as paramount to being solved as we go forward. But judging from the comments that Toni summarized earlier there was considerable public confusion, I believe, that I read into what the responses were in terms of what we were trying to do here.

And I continue to see an issue here that is really not really well articulated for us to go forward. I think permit administration and especially as it relates to controlling effort could have a rightful place in the forthcoming amendment or addendum.

But I think we have to be very -- we have to craft a clearer description of the problem and the options. As I read it, the problems statement talks about three distinct problems. One is we currently have limited entry in Areas 3, 4, 5 and 6.

And the problem as articulated here indicates that anyone not qualifying in 3, 4, and 5 and 6 can still go and choose to fish in Areas 1 and 2, at least at the federal level. That is correct.

And I believe that first paragraph addresses the need to look at that situation and entertain public comments and also board decision on where do we want to go with that? Leave it as is or change it or whatever. But I see that as one clear subset problem of what is being addressed under Issue 5.

The second sub problem is again directed at the federal level in as much as anyone not fishing with trap gear, those that have a non-trap gear authorization to catch lobster, can switch over to trap gear -- again, where they would be otherwise not limited by historical participation requirements.

Again, we're talking about Area 1, Gulf of Maine. We're talking about Area 2, Southern New England. The rest of the federal areas,

Management Areas 3, 4 and 5 are restricted. We've been through the process.

So this second problem entertains the switching of user groups from non-trap gear to trap gear and then specifically into Areas 1 and 2 where they would otherwise not be restricted. Then we talk about a third sub-problem in the third paragraph, about the pregnant boat syndrome.

And, again, looking at the public comments there was considerable confusion or at the very least lack of understanding what is this problem. We've discussed it as long as we've discussed trying to match management measures to stock areas.

And without going into a lot of detail those of us that are involved in it very well know what it is. It's because the federal government licenses vessels; states license individuals. And between various iterations of selling to transferring permits it is potentially possible to double the number of traps currently being fished by an individual.

There is considerable dialogue going on at the current time to address this. I'm hoping we're working toward a solution. I think we're certainly aware of the problem, more so than ever. And I think we're essentially all committed to try to solve this.

Whether or not we need an amendment to do that, I'm not so sure. But if it's what is needed to give the needed amount of attention to all jurisdictions, I certainly would be in favor of it.

But my main problem here is I've identified three sub-problems. And then when you look at the options, it's a mix-or-match which of the sub-problems they're trying to address. So, again, I think we're looking at areas.

It's like a catharsis of frustrations or misunderstandings on state and federal permit administration. So my bottom line is I'm not really sure how I'm going to vote on this.

I do recognize problems but I don't have a good sense of what exactly the specific problem statement is, especially as you try to mix a

problem statement with an option, because there is not a clear relationship. It depends on which of the three sub-problems you're trying to address.

And I hope I haven't confused many others. I know I've probably confused myself here in trying to read this problem statement again. But I do think we need to be very careful if we go forward and include this in Amendment 5 in terms of what the specific problem is we're trying to address. And if it's more than one, let's break it down. Thank you.

CHAIRMAN NELSON: Okay, thank you, Harry. And I think the latter is what if this moves ahead we would work with the service to revise their problem statement to reflect your concerns and address it accordingly with various options that address them. So, having said that, opposed. Bill.

MR. ADLER: Some of what Harry has said with the confusion I think I agree with. And actually some of the things in here aren't bad ideas. But, once again, part of the -- federal part actually could be worked through on a federal level and the ASMFC would not have to do it.

And I've heard before things like, well, the feds don't want to move forward with something unless the ASMFC asks them to. Well, I think that you don't need that excuse. You could go ahead with something like that.

Of course, Massachusetts already has handled the pregnant boat syndrome, at least for its areas. And I, therefore, don't support it being in an amendment. I know some of this stuff would need an amendment. I agree. But I think some of this stuff can be worked out without an amendment so I would not support including this.

CHAIRMAN NELSON: Okay, for. George.

MR. LAPOINTE: The only thing in Harry's statement that confused me was figuring out what a "catharsis of frustration" was, so if you can help me out with that I'd appreciate it. I think that what Harry discussed argues for this being in here in a reorganized fashion, as people

have mentioned.

And I think that given the workload on the part of the federal agencies the additional attention provided by direction from the commission is helpful. And that's not a criticism; that's just an observation that if we focus on the issue and put our energy behind it, it will help them as well. So I would urge its inclusion. Thank you.

CHAIRMAN NELSON: Thank you, George. Opposed. Okay, let me go to the audience. I will come back to the board. For -- and opposed. And David, if you'd like to speak as a public.

MR. SPENCER: Yes, these comments are individual, not a reflection of the AP. And to clarify, it may not be a strict opposition. I just want to highlight a few things that I think could be potentially problematic.

Two of these options I think could have implications on soon-to-be-implemented transferability plans that are designed to have flexibility within management areas. And that also means that among states a couple of these provisions might needlessly hinder the ability of fishermen in those areas to be able to accomplish that.

And most of the transferable plans are put in place as a conservation measure in order to get rid of effort. So I'm just urging that that be kept in mind as, if this is adopted.

The other thing I've, at least to the best of my knowledge Option 5, anybody is, you can have both trap and non-trap on your federal permit at the same time so I don't really see what that option is accomplishing. There is no need for anybody to designate. You just put trap and non-trap. Those are my comments. Thank you.

CHAIRMAN NELSON: Okay, anyone else in the audience? Okay, coming back to the board, for. I had Pat over here had his hand up earlier so let me deal with that.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I thought Harry articulated the issues

very clearly and there is no question that if in the makeup of how this is broken out those three major items are identified I would suggest that either the technical committee, PID, or whoever is going to look at which one of those overlapping issues is the largest, that has the greatest impact.

And as George indicated it's kind of dumb to have come this far, recognizing that it's an issue that has got to be addressed sooner or later, and if it's not addressed now, when? So I would hope that through Toni and the group that she's working with that they'll work with Harry and identify those three areas as clearly as possible and then let's move forward. So I support it for those reasons.

CHAIRMAN NELSON: Thank you. Okay, opposed.

MR. WHITE: A point of clarification.

CHAIRMAN NELSON: Okay, go ahead.

MR. WHITE: Just to take care of my dumb commissioner here. Is this -- well, what's what he said. As I understand it the direction that we're headed now, are we going to divide this into three issues or?

CHAIRMAN NELSON: We are going to clarify it. It's going to be clarified. However the staff needs to clarify it, they will clarify it, if it's voted to be included. So it will come back to the board. If you're not happy with what's in there, you can tell the staff again what you'd like to see.

But I think staff has gotten a lot of direction if it's going to be included and so I wouldn't worry about that. All right, let's have a caucus and we'll take a vote. Okay, ready for the vote?

All those in favor of including Issue Number 5, please raise your right hand; five in favor; opposed, likewise; you've got to get them way up there; I can't see down that far; thank you; I was looking for the third one; all right, null votes; abstentions; one abstention. All right, the motion passes to include this issue.

Okay, the next issue is the non-trap sector allowance. Does anyone wish to include this in an amendment which we would have to do by amendment? Okay, seeing none, Issue Number 7, goals and objectives. Does anyone wish to include a change in the goals and objectives in the plan, a twelfth objective? George.

MR. LAPOINTE: I call this the “love my mother” objective and so I have no objection to it being put in. And if we’re going forward with an amendment we might as well add it as another objective so

**I would make that motion.**

CHAIRMAN NELSON: Is there a second to this? Oh, Gordon. Thank you, Gordon. All right, for. Let’s hear about motherhood.

MR. LAPOINTE: I do love my mother. I just, again, if we’re moving forward and this helps clarify the objectives of the plan and the need for cooperation and it helps the management process, why not include it, again because we’re going forward with other things.

We got absolutely no comments on it but it doesn’t, you know, slow us down or harm anything to include it. And if we’ve got a management action let’s put it in.

CHAIRMAN NELSON: Okay, just to that point, though, I think there were comments to that. The advisors said no. And I think in many of the public hearing comments it was no. Just so you are aware of that.

MR. LAPOINTE: I apologize.

CHAIRMAN NELSON: That’s all right. You don’t have to apologize to me. Opposed. I had Eric.

MR. SMITH: I wouldn’t mind leaving it in. I’m opposed to the motion because it’s clearly inconsistent with some of the other goals in the plan. If we leave it in, if the motion passes, I don’t have an objection to that, as George points out, in order to get the discussion.

But you have to realize the outcome at the end

of the amendment process is we either decide to go ahead with coordinated, consistent management or we decide to stay with regional LCMT-based management, because you can’t have both.

And that’s the disconnect that this suggestion puts into the mix. So we’re going to end up having to do one or the other, which will be a radical departure. And that is an amendment-type of a discussion. Thank you.

CHAIRMAN NELSON: George, to that point again.

MR. LAPOINTE: To that point, Mr. Chairman. I think this just embodies the tension that we discussed in earlier, as has been outlined, about management areas and assessment areas. It’s not saying we have to do it; it’s just saying it’s something we should think about.

And I think it’s a mistake that we made early in Amendment 3 was not to discuss cross-area impacts and to try to make them compatible where practicable. We kind of let the, you know, the reins run loose and this just says we shouldn’t have done that and we shouldn’t do it in the future. So I think it’s worth including.

CHAIRMAN NELSON: Okay, opposed. Bill.

MR. ADLER: We can think about it and that’s fine. We can think about it without it being in the words in an amendment which always seem to, when they come into an amendment they seem to sort of get focused on more heavily.

Certainly thinking about this is not bad but I don’t believe that we should add this to the objectives of an amendment, i.e., the lobster plan, the official lobster plan of the ASMFC because I do think it will undermine.

Eventually it will undermine the other part that we’ve been trying to work with which is fishermen and ASMFC working together for the resource. And I think the words here would lead to undermining that so I will oppose it.

CHAIRMAN NELSON: Thank you, Bill. All right, let me go to the audience. Anyone want to

Speak for the motion? All right, opposed, Bonnie.

MS. SPINAZZOLA: Thank you, Mr. Chairman. I would agree with Bill. I believe it's the sense of the board to have cooperation and compatible measures as when practicable throughout the range of the resource.

I think that putting something like this in an amendment can be very dangerous. I think that it is incompatible with goals that are already stated in Amendment 3. I also think that it's a very ambiguous type of statement.

You don't really know where it's going. The public didn't really know where it was going. And I just think that it's already the sense of the board so therefore I really do believe that it's not really the place for this statement. Thank you.

CHAIRMAN NELSON: Thank you.

MS. SPINAZZOLA: Oh, further, can I just say there are other goals and objectives in Amendment 3 that have not yet been met. And I think that really we need to focus on where we need to go before we can start adding things. Thank you.

CHAIRMAN NELSON: Thank you, Bonnie. Anyone else from the public want to speak? All right, back to the board, for. Go ahead.

MR. DAN McKIERNAN: Just to respond to Bonnie, when this was drafted it wasn't intended to necessarily create uniform measures throughout the range. But certainly within a stock unit if you have two LCMTs side-by-side that insist on different regulations, I think the language here would force those LCMTs to reconsider that and try to come together for common measures within a stock unit. I think that's the intent.

CHAIRMAN NELSON: And one more opposed that hasn't spoken. Okay, Gordon.

MR. COLVIN: I seconded this motion because I support the idea but I have some difficulty with the objective language as it's framed in the PID.

It seems to me -- and some of the issues that concern me have come out in this discussion.

It seems to me that we probably have not, despite some of the comments, sufficiently addressed in the history of our management under Amendment 3 any affirmative recognition and expressed a desire on the part of the board to address the effects of incompatibility of management measures between and among lobster management areas within a stock unit.

One of the problems I have with this objective is that it doesn't seem to recognize that there is one level of problem within a stock unit, which is where all this started from the last assessment, versus the entire area. And I think that's a distinction I would have preferred to have seen made.

And the other thing is that my concern is not so much about compliance, which is the word that's used in this objective; it's about the issue that was expressed earlier about -- I think by Dan -- that the real issue here is facilitating a scientifically-valid assessment and making sure, most importantly, that measures taken in one lobster management area are not undermined by actions taken in the adjoining management area.

There are things that we could have done to improve this situation that we have not done. And that's why I think some kind of an objective in the management plan would be appropriate to move us in the direction of pressing adjacent LCMTs, for instance, to communicate with each other and to open a dialogue and try to coordinate better and at least not interfere with each other's management operations. They've operated completely independently.

So I would support doing something, I just have a problem with the words that I see here. And I'm wondering whether George would agree with anything that I've said and be open to some language in the motion that enables us to work with, to enable the PDT to play with the language a little bit and come back with some options that are different than just what we read here under Option 2.

CHAIRMAN NELSON: Do I hear any

objection from the maker?

MR. LAPOINTE: No, you hear a concurrence but I think it's also important in that that when there is an increased discussion and potentially different options under the objective is to include the issue of the stock area boundary and adjacent LCMAs.

I think for those states that have multiple LCMAs the issue of enforcement and compatibility, you know, within different LCMAs for a single jurisdiction for enforcement is something that just needs to be discussed in that as well. So, I think that's an important addition.

CHAIRMAN NELSON: All right, I think if this measure passes staff has got the sense that they would look at the language of the objectives and try to deal with them in a slightly different manner. The board will have an opportunity, obviously, to see if they captured that sense. That's, again, if it passes.

All right, I'll give you five seconds to caucus. All right, ready for the question? And that is to include a twelfth objective in the amendment. All those in favor please raise your right hand; four; opposed, likewise; okay, null; and abstentions; one abstention. The motion fails to get a majority.

All right, that concludes the direction to the staff to develop the amendment, items in the amendment. They will come back to us in February. And thank you very much. We are ready to go on to the next agenda item, Bill.

MR. ADLER: At what point can there be a vote as to whether to do an amendment at all?

CHAIRMAN NELSON: Next meeting in February.

MR. ADLER: Thank you.

CHAIRMAN NELSON: All right, the next one is review of Draft Addendum XI for public comment. Toni.

## **Review Draft Addendum XI for Public Comment**

MS. KERNS: Earlier in the meeting staff passed out to you the draft of Addendum XI. They are going to now be passing out to you the individual LCMT plans that were sent to me that go along with this addendum.

Addendum XI is looking at the rebuilding timeframe for Southern New England as well as management programs to rebuild Southern New England. The timeframe for this addendum would be having public comment from November through December, ending December 15<sup>th</sup>, and then the board reviewing public comment and taking final or considering final action at the Winter 2007 meeting.

Again, the purpose of this addendum is to explore establishing a rebuilding period for Southern New England and to explore establishing a rebuilding program within Southern New England. The 2006 stock assessment showed poor conditions in Southern New England.

It indicated that the stock is depleted and overfishing is occurring. The assessment review panel warranted that further management restrictions would be necessary to rebuild this stock.

The abundances in Southern New England is relatively low compared to the 20-year time series. And the fishing mortality is relatively high. But fishing mortality is fairly close to the targets that we set with the biological reference points, that abundance is, I think we're about 70 percent off the abundance target.

So, the process that we have been moving forward in establishing this addendum is the LCMTs were supposed to be convened for Areas 2, 3, 4, 5, and 6 to advise the board on management strategies that would help to achieve these biological reference points.

And at the same time the TC was putting together the information that Penny presented to the board earlier today. That information took a little bit longer to gather and collect and so the

TC was only able to look at that information and come to a consensus on what the information was stating last Friday.

Some of the LCMTs have not met yet to provide a plan. Areas 4 and 5 have not met to give us any information. Area 6 gave us a plan on Friday. And Areas 2 and 3 handed in their information on time but because the TC hadn't been able to evaluate the stock trends they have not been able to evaluate those proposals.

So the proposals that have been handed out to you have not been reviewed by the TC yet as they were, as we had planned on doing. So this draft amendment I think is still a little bit of a work in progress because we are still missing two of the area plans and two of the plans have not been reviewed by the TC.

But I will continue to move forward because I still would like to get some guidance from the board on the rebuilding timeframes that I have put forward. The PRT has not fully, has not evaluated this yet, though, because we don't have an entire addendum yet.

The first option under the rebuilding timeframe is status quo, which is the plan that we have in place until we replace it which is restoring egg production by the end of 2008. The second option that is in the addendum is looking at a ten-year rebuilding plan.

This is one of the plans that the technical committee had put together. We would need to reach the abundance target and the fishing mortality target by the end of 2017. And from the guidance from the board at the last meeting I put together an adaptive rebuilding program. I put in a 15-year adaptive rebuilding program.

We would reach the target reference points by 2022 for both abundance and fishing mortality. The program, in the adaptive program we would have the TC evaluate the stock trends every two years and then we would, after five years, look at where we are in the rebuilding program.

If we feel, if the board feels that there needs to be adjustments in the program they could do so

after Year 5 and Year 10. If there were adjustments in the rebuilding program the board would also need to implement additional management measures so that we would be able to make sure we were moving forward in rebuilding.

In terms of rebuilding programs that have been turned in that have management measures to be included, Area 3 has put together a program and they wanted to take the one-step process where they would implement measures that would bring them to the target fishing mortality as well as target abundance.

Status quo is Option 1. We would just continue with the rebuilding program that is currently in effect for Area 3. Option 2 is the new strategy developed. This strategy would include the measures that they have in place currently as well as putting in trap reductions.

There would be additional trap, active trap reductions of 2.5 percent for year 2009 and 2010. This would immediately follow the current trap reductions of 5 percent in 2007 and 2008. They would also be looking at gauge and vent sizes.

The Area 3 would implement a maximum gauge of 7 inches and reduce it 1/8 of an inch per year for two years and resulting in a 6-3/4 maximum gauge. They would also like to delay the implementation of the vent increase that corresponds to the implementation of the 3.5-inch gauge until 2010 to allow measures to be able to catch up.

With the conservation tax Area 3's transferability plan would be changed to read, "A 20 percent conservation tax would be imposed on any partial allocation transfer and a conservation tax of 10 percent would be imposed on any full allocation transfer."

The final management measure that they would implement would be changing the v-notch definition to read "1/8<sup>th</sup>-of-an-inch with or without setal hairs" as well, including the mutilation language.



And so that is all the information as well as we always recommend to the National Marine Fisheries Service to adopt all the necessary regulations in the addendum.

CHAIRMAN NELSON: Thanks, Toni. Any clarifications for Toni? Pat.

MR. WHITE: I'm just a little confused because it seems to be putting Area 3 and Southern New England into the same category of mortality targets and abundance levels. And is that true based upon the southern part of Area 3 or is? It seemed our objectives -- it is true? Okay, thank you.

CHAIRMAN NELSON: They're managing to the more restrictive. Any other clarifications? Peter.

MR. HIMCHAK: Thank you, Mr. Chairman. I had a quick question for Toni. When will the technical committee meet to go over the LCMT recommendations? And then I have a couple of comments on LCMT meetings.

MS. KERNS: Well, I'd like them to meet as soon as possible but I also don't want them to have a meeting without the Area 4 and Area 5 plans. I don't want to have to get them together another time just to go over two plans so I'd like to have all the plans in place and until I have those I can't give an exact date.

MR. HIMCHAK: Okay, to that end can I give a progress report of where we are with the LCMTs? Back in September I sent an e-mail. This is regarding Area 5, now. And I sent an e-mail to the administrative board members and their proxies to try and arrange a meeting for Area 5.

And recognizing that everybody south of New Jersey is de minimis, we will take the lead on setting up the meeting. We're anxious to have one in the Cape May area for our divers and the Garden State Seafood Association. So I know I have to follow the protocols of guidelines for LCMT meetings, I just can't have one in New Jersey.

So I'm going, I extended the offer for representatives and designees to attend. We're going to set up a meeting and invite all the other states, recognizing that whether they want to, you know, if they send somebody or not they will have the opportunity. But we want to move on this.

At the same time I contacted Gordon in New York about Area 4 and we are compiling a list. Our technical committee members are going to have a number of representatives to meet shortly. I don't know the exact timeframe but we'll try and pull it off in November, I hope.

I think we're going to meet in the Tavern of the Green in Central Park. Gordon, is that okay? So we didn't make this round for proposals but we'll definitely have something by the end of the year, hopefully in November.

MS. KERNS: Pete, if we can have something by the end of the year that would kind of be the back end of sort of the deadline that I would be looking at because I'll still need to have the TC meet and then I would have them meet at the very beginning of January.

And I need to have the PRT go over this document before we bring it back to the board at the February meeting. And so that edges up pretty close to that January-February meeting. So the sooner that we can get these groups together, the better it will be for me to enable to get the document to the board before the meeting as well as to get the TC to review those proposals.

MR. HIMCHAK: Yes, I don't see why we couldn't meet in the next month, just a matter of -- as I said, we're ready to set up a meeting in Cape May courthouse and invite all the other states. And, sure, we can work something out expeditiously with New York.

CHAIRMAN NELSON: All right, yes, because it is slipping the schedule so whatever you can do, Peter, would be very helpful. I had over here, to that same point, Gordon, and then Mark. Go ahead, Gordon.

MR. COLVIN: Thank you. Just to reassure the board, this is not a question, this Area 4 situation, of foot dragging. It's a question that this is an area where there is not a lot of lobster fishing going on.

And every time it seems that it's time to reconvene the LCMT whoever was on it the last time we met has left the fishery and we have to reconstitute the LCMT out of a declining body of active fishermen.

And I think we're down now to two able-bodied members from New York and one who is in the hospital. So it has been that kind of a situation for us just to get the members together.

CHAIRMAN NELSON: Okay, Mark.

DR. GIBSON: Thank you, Mr. Chairman. Is it my understanding that we're going to see another version of this that has rebuilding programs for LCMA 2 and 6? That's going to come forward?

MS. KERNS: What I'll do, Mark, is I'll present the rebuilding programs for 2 and 6. If it's my understanding both of those areas did not propose -- Area 2 did not propose to put forth any management measures in this one because Area 2 believes they've reached the F target already and the TC just needs to review that program before I discuss it.

And then Area 6 had said they wanted to change the v-notch definition. But the v-notch definition would not be something that would have to go in the addendum because that's changing the possession rule and that's not addend-able.

DR. GIBSON: I haven't looked at what Area 6 recently proposed but I don't think that that's correct. I think Area 2 has made the case that the fishing mortality rate reductions have, for the 10 percent have been met and they should be included in here. I can't speak to Area 6.

What I'm troubled by most I think is the notion of this one-step and two-step plan and where management areas might want to fit into that. I think that's a mistake to have that alternative.

And I think both Eric and Gordon have spoken at length before at board meetings about the problems in an abundance rebuilding program.

I think where we ought to be on this is this addendum -- what number is it? Eleven? -- ought to focus on measures that meet the mortality targets for all the LCMAs in Area 2, I mean in the Southern New England stock area and then the next addendum, whatever the number is, ought to speak to the mortality, I mean the abundance rebuilding program.

They ought to be clearly cleaved and they ought to be different for the reasons that have been articulated before. We can propose measures to meet mortality rate targets and we'll be measuring those.

Abundance increases come not only because of fishing mortality. They come about as, also, other factors out there. We don't necessarily know how that's, if and when that's going to happen. So I think this is problematic at this point from those two perspectives.

It doesn't have the mortality rate measures for the other two LCMAs and Southern New England area. And I think the abundance rebuilding program for this is going to be problematic. But those are my comments at this point.

MS. KERNS: Well, the reason why we continued to include the one-step process is because one of the areas has already proposed a one-step process, Area 3. And so therefore I wanted to make sure that they still had that ability because they've already given us their program, unless the board feels otherwise.

CHAIRMAN NELSON: Yes, Area 3 is ready to move ahead and there is no reason not to move ahead with their program. So that's why we're doing it, at least from that standpoint.

DR. GIBSON: If I could follow up, so we won't see anything from Area 2 and 6 until Addendum XIII or XII? Is that where that's going to be embodied in terms of mortality reductions and abundance rebuilding?

MS. KERNS: Well, because for Area 2 it's just status quo, because you felt that you've already met your F targets, we would wait until the next addendum when you actually have measures to be put in place -- unless the board would like me to go ahead and include the measures that have brought you to the F10 that are already happening. They're already in place so it would just say status quo.

CHAIRMAN NELSON: Mark, you okay?

DR. GIBSON: I'm anticipating that Dan is going to consider adding something to this amendment or this addendum that speaks to the mortality in Area 2.

CHAIRMAN NELSON: Yes, Dan, go ahead.

MR. McKIERNAN: Yes, I'm actually quite confused by an addendum that only addresses one LCMT. I guess I'm -- obviously the LCMT Area 2 tried to put on the table all of the measures taken to date but there is still Area 6 where those same measures haven't been taken.

And it's not clear to me why this would go forward without getting some concessions from some of those other LCMTs or from those states to get at kind of a logical, more uniform management scheme in this area.

MS. KERNS: Dan, the reason why I brought this addendum forward is because the board asked me to bring an addendum to the table at this meeting. So this is more like a progress report on this addendum.

The Area 6 plan came to me on Friday afternoon. And I'll talk to Eric about whether or not we need to include the v-notch change which is the measure that they proposed for reaching the F goal.

But that came on Friday afternoon so therefore it didn't make it into this document. I'm waiting for the Areas 4 and 5 which we're trying to get those LCMTs together so this document is not complete. It's a progress report where you asked for it to be in.

CHAIRMAN NELSON: All right, it's a progress report. Anyone else want to add to the progress? Eric.

MR. SMITH: I've got a ton of stuff, Mr. Chairman, but I'm going to be very quick and hopefully brief. And we are commenting on the draft document now as opposed to different groups' views? All right, thank you.

I will note that the status quo option is really rebuild by 2008. By a previous action we have all -- in other words rebuild to our new targets, not to the egg production. We've replaced egg production as a target.

So status quo is by 2008 you meet your median biomass and your median F rate and that ought to strike terror into anybody's heart so we ought to put that clearly in there.

I think we need to have -- and Mark alluded to this before -- we need to have a way in Option 2 and Option 3 to talk about a decisive or a deliberative rebuilding of abundance without having a deadline on it.

And all anyone has to do is know about fluke to know what 10-year deadlines or 15-year deadlines do. Now I say, we shouldn't just be paralyzed and do nothing. We need to be moving forward to get our abundance back to the median level.

But when we put a finite numbers of years on it, that's not adaptive management; that's painting yourselves into a corner, potentially. So somehow we have to recast those to not be hanging so much on an arbitrary deadline and more towards making real progress from an immediate point onward.

And how we do that step-wise, you know, adopt measures that you anticipate are going to get a certain amount of increase in abundance but not put it in the context of a deadline. I think that's very important.

I don't feel the same way about the fishing mortality target. I read in Option 2 and Option 3 both of those saying to decrease the fishing mortality to the reference point in 10 or 15 years and I think that's beyond unwise.

I think that's the thing we ought to get to as quickly as reasonably possible. So the two things in each one of these options, abundance versus fishing mortality, I have absolutely different points of view: abundance not limited by a deadline; fishing mortality rate we should do something in the next, with this addendum in a year or two to get ourselves to the target F.

I will only point out at the top of Page 4 the strategy, that very first sentence states, "following a two-step process we would propose a management program to reach the fishing mortality target."

That was intended to be in this addendum. And the next addendum would be developed to design this non-deadline-based plan to achieve the abundance target. It doesn't say that and I think we ought to. But having you all hear that I can make that comment to Toni so she gets it in the text.

My last point, really, other than a question of Toni is if we do what I think I heard Mark suggesting which is use this addendum to adopt a fishing mortality strategy I really think it's important that it not be stated that we just have to reach F target and with this addendum then sort of pat ourselves on the back and say, you know, we did what we needed to do because of the sorry state of the abundance in the Southern New England stock.

So if we're going to do this in a one-step -- and, frankly, that's what our LCMT proposed but I think they did it because they saw it as a way to postpone the inevitable. If we do this in a one-step I would suggest that we need an option in here that says we will reduce the fishing mortality rate or relative exploitation, either one, by some percentage, 10 percent or something, from where we are right now.

If you think back to Penny's presentation, the technical committee has produced where they think we are in relative exploitation. And we ought to have in this addendum some deliberate action.

Even if we're at our F target, we know we're not at our abundance target so we know we're going to have to adopt some other measures to get back the abundance that we've lost. And this would be my view of the way to do it.

In this addendum we would have a deliberate reduction in F, call it that for now, with the understanding that that's the first step towards the measures that we will eventually need to do to get abundance back.

So that's my five points on this addendum. I guess my question to Toni, actually it's more than a question. I guess I confused the issue with the way we drafted the LCMT plan. The 1/8<sup>th</sup>-inch definition of v-notch is not intended to be the LCMT plan for reaching the fishing mortality target. Clearly not.

Their plan is to achieve what we need to achieve with a v-notch program, which we're well underway to having the grant, if you will, available to do it as I had proposed and discussed with you back at the May and the August meetings.

What they decided to do and what is included in our report is there were two what I call "pinch points" in the Connecticut Lobster Restoration Committee's designed plan versus how the New York advisors on the LCMT saw that plan. There were two big disconnects.

They did not like the idea of, they were concerned about the v-notch definition and they were concerned about our notion of notching mature female lobsters. Well, in Long Island Sound, unlike a lot of other places, they're mature at 3 inches so our plan included notching lobsters that are 3 inches and larger. They had difficulty with that.

We hashed it out at the LCMT meeting and in the report I pointed out that the LCMT unanimously agreed that they would agree to the 1/8<sup>th</sup>-inch definition with or without setal hairs and they would agree for Year 1 of the Connecticut notching effort that we would do lobsters 3 inches and up.

And if we did a substantial number of those lobsters then we could back off and then just do only legal-sized lobsters in subsequent years. So we left ourselves the opportunity in implementing our plan to cut back in that way.

But the unanimous view was start from scratch with those two things. That's separate from the plan to achieve your fishing mortality target. They want to do that through v-notching.

The agencies are supporting or at least our agency is supporting that. As I've said to them, until I see the point where if it's not successful we have to do something different but for now we're going to try and make this successful. Thank you.

CHAIRMAN NELSON: All right, Eric, we'll have staff talk to you. There are several points and I think that they just need to, it's specific I think to your LCMT and they can clarify that afterwards.

MR. SMITH: Okay.

CHAIRMAN NELSON: Mark.

DR. GIBSON: Thank you, Mr. Chairman. I hope I'm getting close to where Eric was and maybe where Dan wants to get to but my view of what this addendum should look like is I understand the needs of area -- but for those LCMAs that are pursuing the one-step process to meet both the fishing mortality rate target and the long-term abundance rebuilding, that should be identified specifically in their program: here are the steps that meet the short-term mortality rate reduction; here are the steps to contribute to long-term stock rebuilding.

For those areas that are not going to pursue that, that are going to pursue the two-step process, they should only be stated in here what the short-term mortality rate reductions are, the measures that achieve those, and then the long-term abundance rebuilding measures would come in a later addendum.

But each area has to have those two elements stated, one, well, to be defined in a subsequent addendum or these are the short-term mortality

rate for any of the LCMAs in this Southern New England area. That's my guidance to what this ought to look like.

CHAIRMAN NELSON: All right, we can clarify that. I kind of thought it was clear but, you know, obviously it's not so we will deal with that. Staff has a question, though.

MS. KERNS: I just want to, Eric, you said that in this addendum you would like to see that every area take a 10 percent reduction in mortality based on where they are from what Penny just presented which is different than taking a 10 percent reduction to reach your F target. Is that not what you just said?

MR. SMITH: No. Yes, there were some things mixed up in there. That's not the LCMT view so I probably should have kept them more segregated. My view of this addendum as it develops is if we're going to take some more time to deal with the abundance issue, in other words the two-step approach, then we ought to do something deliberate with the fishing mortality rate in the first step.

The LCMT, aside from my view, wants to do one-step and develop it through 2007 for implementation in 2008, both addressing the abundance, rebuilding, and fishing mortality rate. So I hope that clarifies it.

MS. KERNS: That's clear. And that one-step process that the Area 6 LCMT wants to do is inconsistent with the one-step process that was outlined in the memo to the LCMTs and I just want to make sure that that is clear for everyone else.

But I guess what I'm looking for guidance from the rest of the board members is whether or not you all want to include the additional 10 percent fishing mortality reduction that Eric has brought up on his own view, not the LCMT view. Because if so then I'm going to need some additional measures from each of the LCMTs or each of the areas to get that 10 percent on top.

MR. SMITH: Well, if I may, if the board agrees to have that in as an option -- it's not on paper

yet in the addendum. It's one person's thought. It needs to be added if it's going to be. And I guess would move that if I generate any other interest from other members. But if nobody else picks up the ball and wants to run with it a little then I wouldn't.

CHAIRMAN NELSON: Well, let me. Eric, let me go back to this for a second. This is, the two-step requires a 10 percent reduction in mortality already. You're proposing -- if you were going to propose something you were going to look for an additional 10 percent?

Was it 10 percent? And that's already one of the steps that's already required in there. The clarification would be the 10 percent reduction is based on what was presented today, then?

MR. SMITH: Yes.

CHAIRMAN NELSON: Okay.

MR. SMITH: And, thank you. I'm reading my document with my penciled in comments that clarified that point for me. The unedited text was unclear to me. But, again, if it's a two-step where Addendum XI gives you the 10 percent reduction and then Addendum XII is the abundance, the biomass rebuilding, then I agree with it right the way it is. It wasn't clear to me from the document, which is why I made that point earlier.

CHAIRMAN NELSON: Okay, unless anyone objects we'll make that clarification and make sure it's clear. Okay, seeing no objections it will be taken care of. Pat.

MR. WHITE: Just, Mark gets my head going and I just, our focus in this whole discussion is around F10 and I thought, I guess my question would be to Penny. Aren't we -- okay.

CHAIRMAN NELSON: Time out. Boy, you got reaction on that one.

MS. KERNS: It's not F10. It's just that your fishing mortality needs to be reduced by 10 percent.

MR. WHITE: I understand that part. I understand that part but the focus seems to be on that and not in working on abundance. And as we move forward with the way the new assessment is working I would think we'd be more all-encompassing to what Mark is headed for. I just didn't understand.

MS. KERNS: The focus is on the fishing mortality because this addendum is supposed to either focus, if they're going to do a two-step process then they need to reach their fishing mortality target through this addendum and then their abundance would be reached in the next addendum and so that's why we're talking a lot about fishing mortality here.

Although Area 3 has gone ahead and proposed a plan that would reach both their fishing mortality target as well as their abundance and so that is also included in this Addendum XI. Is that clear?

CHAIRMAN NELSON: All right, again, it's a progress report. We thought it was going to be more than that but we haven't got the information in that we wanted to have in. So, therefore, any other advice to staff for clarifications or whatever? And then we're going to move on. Okay, Bill.

MR. ADLER: Thank you. I'm confused. Therefore, this particular document has Area 3 proposals in it and it has options for a rebuilding program for other areas but no specific measures to go to public hearing with in this document.

And is this, are we assuming that this is going to go out and come back in February, whatever this is, for a final vote? I just don't know, because that's what the timeline says. Okay, go on.

MS. KERNS: This document will progress and it will come back to you to be voted on to go out for public comment at the February meeting. I brought this "as is" because I was asked by the board to have an addendum document ready to go for public comment, to be voted on for public comment at this meeting. So that's how I developed the document.

And knowing that you probably would wait, get the rest of the information and so we'll get some new options for Area 2. We'll have some new options for Area 6. We'll have some options for Area 4.

We'll have some options for Area 5 to be included in here to be approved for public comment at the February meeting. And then we'll go out for public comment in February-March-April-ish timeframe. And we also will involve the timeframe for actually rebuilding based on the comments that I've heard today.

CHAIRMAN NELSON: Okay, David.

MR. SPENCER: Thank you, Mr. Chairman. Just, I just want to make the board aware that the quicker that this gets moved on for Area 3 the better. We do not have the luxury of states implementing our measures.

Everything that gets approved here has to go through federal rulemaking so we're trying to propose measures that are continuous, without breaks in them. And that's why we want to see this go ahead as quickly as possible. We have additional active trap reductions that we're trying to get to NMFS so they can incorporate into the ones they already have. Thank you.

CHAIRMAN NELSON: And I think Area 3 is to be commended for being very proactive on this. Anything else for insight to staff for this addendum? All right, we will have a -- oh, sorry. I will get some public comment. Let me just say that we are, as Bill had asked, the timeline is changing so it will be in February that we will be looking at the other proposals.

So the other LCMTs or the other areas need to move ahead and provide concrete measures; otherwise, quite frankly, we're going to have to move ahead without those areas in here. And I think that that is what needs to be done. And unless there is going to be a major objection -- we'll see in February -- that's our plan to move ahead. So let me get some public comment. Yes.

MS. ELIZABETH KORDOWSKI: Elizabeth

Kordowski, Rhode Island Lobsterman's Association. Thank you. I just wanted to reinforce that the Area 2 LCMT has worked diligently and fully expected for their recommendations as proposed to be included in this addendum. Thanks.

CHAIRMAN NELSON: Okay, great, we look forward to it. Yes, I know we have them in but we'll take a look at them in February. Anything else? Okay, let's move on to the next agenda item which is Addendum X and that's the collection, data collection of, coastwide data collection for American lobster. Toni.

### **Review Draft Addendum X for Public Comment**

MS. KERNS: Okay, this is Addendum X. At the last board meeting the board asked to have staff put together an addendum that would address monitoring and reporting requirements. This addendum is going to look very similar to the monitoring and reporting section of Addendum VIII as it had gone out for public comment.

The timeline for this addendum would be have public comment November through December, public comment ending on December 15<sup>th</sup>, 2006. The board would review public comment and consider final board action at the Winter 2007 meeting.

I'm just going to pause for a moment to make sure everyone has a copy of the addendum. The statement of the problem is that we need accurate and comparable landings to assess the impacts of fishing on lobster populations. We've had two peer review panels that have indicated that the current data that we are collecting through lobster management are woefully inadequate to assess the stocks. We also need to develop consistent techniques that monitor the distribution and the abundance of the lobster fishery or of lobster populations independent of the lobster fishery.

Currently as outlined in Addendum II we require states to maintain their 1997 levels of reporting

and data collection programs. In Addendum I we encouraged but did not require that more data should be collected. That is outlined under Section 3 or under Section 4.1, status quo. It's the italicized portion. It is what is written exactly in Addendum I.

Option 2 is looking at a coastwide mandatory reporting and data collection system. Under there we have harvester and dealer requirements. We would look at having a two-ticket or a one-ticket system.

A two-ticket system would be having dealers and harvesters reporting landings information on separate trip tickets. A one-ticket system would have both dealers and harvesters reporting the same information but it would only be on one ticket so they would share their trip ticket.

Under the harvester reports we would collect a unique trip ID. And this would be if we were doing the two-ticket system so that we would be able to link the dealer report with the harvester report as well as vice-versa, link that harvester report with the dealer report.

We would include vessel number, the trip start date, the location fishing, that would be the National Marine Fisheries Service Statistical Areas, the number of traps hauled, the number of traps set, and the number of pounds of lobsters caught, and the trip length.

Under dealer reports, again, we would collect that unique trip ID to link back to the harvester report. We would record species, the quantity, the number of pounds, the state and port of landing, market grade and category, areas fished and hours fished.

All of these dealer and harvester reporting standards would be, are consistent with ACCSP standards. The Atlantic Coastal Cooperative Statistics Program would hold this information and then this information would then be fed into the lobster database.

Permit holders would, should be linked to a federal vessel or an individual permit license, level reporting for lobsters using the Atlantic Coastal Cooperative Statistics Program's

protocol. And harvesters and dealers would be required to report their standardized data elements for each trip by the tenth of the following month.

For sea sampling information we would collect information that characterizes the commercial catch, including length, sex, v-notch status, egg-bearing status, legal size, discards and cull status.

Other biological information could be collected and is encouraged to be collected but it's not a part of the minimum standards, information such as tissues for genetic and toxicity analysis, stomach contents, and gonads for maturity schedule confirmations.

Weight sampling, intensity by areas and season, to match three-year average of the areas' seasonal commercial catch would help establish the amount of sea sampling necessary as well as fishing effort information would be collected, including the National Marine Fisheries Service Statistical Areas, total trawls, and traps sampled.

For port sampling information being collected we would characterize the commercial landings with catch, sex, cull status and market category information. And the number of samples would be set by a minimum number to be sampled per unit landings by area and season.

The sufficient sea sampling could be replaced with port sampling or port sampling could replace sea sampling as long as we had a sufficient amount of information from one or the other.

Option 3 is an expanded coastwide mandatory reporting and data collection program. This option is identical for the harvester and dealer reporting system, the sea sampling program and the port sampling program as outlined in Option 2.

It just includes an additional section with fishery-independent data which outlines saying that all statistical areas would be sampled by at least one of the following surveys: a trawl survey, a ventless trap survey, or a young-of-the-



year survey.

And these surveys should be based on a cooperative work between states for inshore and offshore characterization of the stock units so that we have standardized formats which will make it much easier for assessment purposes.

All of this information or this addendum would be implemented by January 1, 2008. And as always we would recommend to the service to adopt all the necessary regulations to be implemented in this document.

CHAIRMAN NELSON: Thanks, Toni. Looking at timelines and whatnot you see this is where you're going to review, make any necessary changes, provide suggestions, then we'll go out to the public comment and then come back to the board in February. So, having said that, Gordon.

MR. COLVIN: Mr. Chairman, I'm a little sleepy but I do seem to recall a conversation earlier this morning about this is where we address the issue for or can address the issue for Area 3. And I just wanted to bring that back up and kind of for the record indicate that we have an issue there that we'd like to see included in the next version.

CHAIRMAN NELSON: Under Page 6, the two-ticket system, under A, for example, it has harvester reports include unique trip ID, vessel number, trip start, location as, for example, National Marine Fisheries' stat area.

So these are the types of things that ACCSP is looking at getting reported and so we're trying to conform with all that. So I think that addresses that issue that was raised, Gordon. Harry.

MR. MEARS: Thank you, Mr. Chairman. I'm trying to put the context of this draft addendum with what we've already approved under Addendum VIII back in May that talked about a 10 percent trip-by-trip level reporting information requirement as well as dealer and sea sampling, etcetera.

I thought there was some open-endedness in terms of what the target date for compliance was with that requirement but I was wondering if I could ask a question here. What does this draft addendum do that Addendum VIII did not or does it supersede Addendum VIII or supplement it? A discussion along those lines would be helpful. Thank you.

MS. KERNS: Harry, when we started to talk about the implementation date for Addendum VIII the board decided that, I guess I would characterize it that you didn't put your best foot forward in terms of what you wanted to require for data collection.

Addendum VIII only required 10 percent until further identified by the TC of a 10 percent sample of trip level reporting. Everything else would be annual reporting of monthly recalls. And so the board asked staff to put something together that would be consistent with the recommendations of the peer review as well as consistent with ACCSP standards.

So the options outlined in here are consistent with the ACCSP standards which do not include the annual recall of monthly summaries or annual collection of monthly recalls. Actually that would be the right way to say it. Does that answer your question?

MR. MEARS: It does in a way. It's just that something is lost in the translation as we hope from addendum to addendum. Trying to establish a continuity it would be helpful to indicate in this case what the shortcomings were in Addendum VIII and how those shortcomings were identified and why now we're essentially reiterating some of where we've been through as recently as a year ago. Thank you.

CHAIRMAN NELSON: Okay, any other comments? Okay, I'll start from my left and work around. George.

MR. LAPOINTE: Thank you, Mr. Chairman. Option 3 and the mandatory fishery-independent data elements, I'm concerned about the impact on our states' ability or our states' abilities to follow through with the commitments on that.

Has there been discussion at the PDT level about that? Did I miss something at the last board meeting? Which is quite possible.

MS. KERNS: At the last board meeting we did not discuss the independent data and that's why I included it as one of the options. And it should be clear that at least one of those surveys would have to be done, not all but at least one.

MR. LAPOINTE: Thank you.

MS. KERNS: So there was no guidance.

CHAIRMAN NELSON: Peter.

MR. HIMCHAK: Boy, if Harry is confused where does that leave me? I'm still under the impression that this was covered by Addendum VIII that put all these requirements, compliance requirements on New Jersey. And this, just this recall issue is new? I couldn't even find Addendum X until today.

MS. KERNS: Again, at the last board meeting the board voted to go ahead and put together a new addendum because they felt like they had not put their best foot forward or made the best choice in terms of data monitoring and collection. And so this would replace what was done in Addendum VIII because the board asked for something that would be consistent with ACCSP standards.

CHAIRMAN NELSON: Coming around. Okay, I had Bill.

MR. ADLER: Thank you, Mr. Chairman. Yes, I'm confused, too, because I thought we settled most of this with the other addendum because the main thing that I was looking at here was in reality doing the once-a-year but monthly recall was reasonable and doing daily, with the size of this fleet daily reports is not feasible.

I remember there was the concern about the implementation date. And my understanding here is that this brings that all back up for grabs again. Is that correct?

MR. AUGUSTINE: Yes, that's why we're doing it.

MR. ADLER: Yes, okay. All right.

CHAIRMAN NELSON: Okay, Mark.

DR. GIBSON: Did I hear the chair to say that under the Option 3 the fishery-independent data, that the intent was there for an agency to do one of those? Okay, so that probably needs to be reworded, something to the effect that all statistical areas should be sampled by at least one of the following: an annual trawl survey, a ventless trap survey, and a young-of-the-year.

CHAIRMAN NELSON: Okay, we'll modify that. Thank you, Mark. Any other suggestions? Okay, I need a motion to move this ahead for public comment.

DR. GIBSON:  
**So moved.**

CHAIRMAN NELSON: Thank you, Mark.

MR. COLVIN: Second.

CHAIRMAN NELSON: Gordon seconded. Any need for further discussion? Are you ready for the vote? All those in favor of moving this ahead for public comment please raise your right hands; opposed, likewise; one; null votes; abstentions; one abstention. Okay, the motion passes. Thank you very much. The next agenda item is the update on Addendum VII, Toni.

### **Update on Addendum VII Implementation**

MS. KERNS: I think I spoke with all the state administrators for Area 2 prior to this meeting. And I would just like to go through from each of the four states that are affected by the Area 7 effort control plan to give us an update on where you are in your implementation progress of Addendum VII. Addendum VII should be completely implemented by January 1 of 2007. So why don't we just go around. We'll start with Mark.

CHAIRMAN NELSON: All right, Mark, go ahead.

DR. GIBSON: Thank you, Mr. Chairman. The

Addendum VII, Rhode Island's Addendum VII implementing regulations have been undertaken, a thorough review, gone over with a fine-tooth comb, and a final version was assembled last week.

It's going to be filed with the Secretary of State this week if not today. And my staff is preparing the application packages as we speak. All of the Rhode Island state and federal permit holders will receive an application package.

As soon as those start coming in we will apply the allocation decision rules and begin making those allocations, initial allocations to the state license holders. And of course in it's accordance with the addendum to assemble a list of recommendations for the service for the federal permit holders.

So we're a bit delayed in getting it started but I'm confident we'll have the allocation process done. Certainly the regulations will be in place in time to meet the deadline.

CHAIRMAN NELSON: Thank you, Mark. I would say that that's very good news. Anyone else want to give us an update? Massachusetts.

MR. McKIERNAN: We enacted the rules back in January. We sent letters out in May. By August we've qualified everybody for their allocation. We've accepted applications for instate transfers.

So I have on my desk forms filled out between fishermen expecting to be able to transfer traps. This is why it's critical that we do approve or come to closure on Addendum IX today.

The total number of traps allocated is, it looks like it's around 49,000, although there are some appeals pending. And if that's the case we're looking at a net latency in this fishery of about 20 percent. So, our plan is launched and gone.

CHAIRMAN NELSON: Rising is what you're saying. Yes. Go ahead, Eric.

MR. SMITH: Just by nature of update we have proposed regulations to adopt exactly what was

in Addendum VII. We go to hearing with those in two weeks. We expect to have final regulations adopted by the beginning of the fishing year which would be June 1<sup>st</sup>, '07.

CHAIRMAN NELSON: Okay, anyone else on an update? Everything else is fine, right? Harry.

MR. MEARS: Mr. Chairman, we're in rulemaking on Addendum VII and it's obviously quite a substantive undertaking. And two of the key elements is I think most board members are aware of: Number 1, it needs to complement the interstate plan; and, Number 2, it need to satisfactorily address the National Standards, the ten National Standards that are articulated under the Magnuson-Stevens Act.

And the one that certainly presents us with a lot of challenges as we go from one rulemaking to another is to ensure equity to all U.S. citizens in terms of what is being impacted both within and between federal and state boundaries.

So, again, we're predicating our rulemaking on what in fact was in Addendum VII and certainly that the key test during this analysis will be on the equity provisions and hopefully minimal differences among state jurisdictions and what is being requested of the federal jurisdiction under the interstate plan. Thank you.

CHAIRMAN NELSON: Thanks, Harry. Anything else under this? Okay, hang on for a second; I need to confer with staff for one more minute. All right, anything else under Agenda Number 8? Okay.

DR. GIBSON: John.

CHAIRMAN NELSON: I'm sorry. Go ahead.

DR. GIBSON: Toni had asked that we address the board on any adjustments we made to the Addendum VII implementing regulations to comport with state law. And we thought we would do that since there has been a request, that she wants to hear from that.

CHAIRMAN NELSON: All right, thank you.

DR. GIBSON: I would introduce Director Sullivan from the Department of Environmental Management.

CHAIRMAN NELSON: Welcome, Dr. Sullivan.

DR. MICHAEL SULLIVAN: Thank you. Just to, you know the preponderant majority of changes or differences would be largely some editorial but there are a few that do result in some numerical shifts.

The first one would be in terms of the outright or the absolute ban on the issuance of state-issued lobster license was merely modified to allow essentially the transfer of established licenses in a business currently in existence.

And so our rule would be to accept that the outright ban should not apply to the transfer of a fully-established business and also introduces the caveat that if after an assessment, stock assessment, documents the possibility at some point in time in the future that we would consider a re-establishment of new license.

The other difference is in terms of the, let's call it the "hardship" or the medical. The language that we used is essentially the language of our Family Medical Leave Act which says that it may not be required of the fisher to be sick but if the fisher was the first order of consanguinity, if the spouse or child and they were the primary caregiver, that consideration of an appeal based on that would also be possible.

And the last where the language was different is if we look prospectively in terms of transferability the, rather than speak to a rule, specifically nine or others that are more prospective and are still under, you know, definition and development rather than speak and identify those specifically, we have committed to remain in contact or in consultation with Atlantic States for all further rulemaking but just did not identify them by any potential number in the works at this time.

CHAIRMAN NELSON: Thank you, Dr. Sullivan. Anything else on Rhode Island? All

right, let me just check with staff and make sure we've got no issues out there that are going to come back and bite anybody. To this point, George? Go ahead.

MR. LAPOINTE: First of all, welcome Dr. Sullivan. I haven't seen you in a while. I saw you at a New England Fishery Management Council meeting. The changes to the Rhode Island plan, it strikes me that as with any other plan those should be reviewed by the plan review team to make sure they're still in compliance with the ASMFC plan. And has that been done? Again, we've got --

CHAIRMAN NELSON: That has not been done, George. That's why I was just checking with staff to see if there is anything that we really needed to forward over. But finish your thought.

MR. LAPOINTE: No, that was -- I finished my question. I wanted to know if it had been reviewed by the PRT. And because it's a change to a state plan my understanding of our process is that that should go to the PRT to make sure that it meets the requirements of the plan.

MS. KERNS: This plan was just presented I believe on Friday morning. Is that when it came out?

DR. SULLIVAN: It was signed on Friday. It was filed with, if orders were executed, it was filed with our Secretary of State at 10:00 a.m. this morning.

MS. KERNS: This is the first time I've heard of any differences in the plan so the plan review team has not evaluated any differences that this plan would have with the current plan.

CHAIRMAN NELSON: So, in answer to your question, that's the answer. But I think that the appropriate process then is for the plan development team to take a look at these changes, get back to the State of Rhode Island if there is any concerns associated with them.

And then I would assume we would be able to work those out prior to the need for an

implementation date. If there is a problem with doing that, then ASMFC would notify us accordingly.

DR. SULLIVAN: We would expect this to be reviewed. Our best internal estimate is that this has a very small potential exposure on trap allocation, but allowed us to bring it to a greater continuity with state law and that was our goal.

CHAIRMAN NELSON: Yes, I understand that. One of the questions that staff has is did you folks have a chance to evaluate the effect on the number of traps allocated, the difference in the number of traps allocated?

DR. SULLIVAN: The answer is that in an informal basis we did and this is based upon, shall we say, the appeals that, the pre-appeals to the director's office from individuals who had objection. And, frankly, I would think it has a potential exposure of hundreds of traps, not thousands. It's a very limited exposure, in my belief.

CHAIRMAN NELSON: Okay, I think that information certainly is what the plan development team will need to look at, too, so if you can provide that information because that's obviously going to be one of the questions. All right, Pat, you had your hand up.

MR. WHITE: Well, I just, I had a question if this had been run by the Area 2 LCMTs and could he explain briefly or isn't this an appropriate time what the, is there an allocation difference in this transfer? At what rate does the transfer occur on traps?

CHAIRMAN NELSON: Well, we actually do have a little bit of time so maybe we can have some of those things addressed and that will be helpful to the plan development team, I'm sure, for the review, if Mark or Dr. Sullivan have that information.

DR. GIBSON: Yes, it's our intent now that the regulations have been filed with the Secretary of State we can provide those regulations to the plan review team as well as our initial calculations as to what the pot allocations are

going to be by fisher.

We don't know who will avail themselves of a medical hardship, be it the commission's rule or the more extended rule based on state law. But we'll provide that information to the PRT.

CHAIRMAN NELSON: George, you had your hand up. Did you have any further questions? That answers it? Okay, let me have staff just address Pat for a minute. Go ahead.

MS. KERNS: In terms of the LCMT, the LCMT I don't believe has talked about this plan. But you did just get in front of you comments from RILA on this, just as a point of interest.

CHAIRMAN NELSON: All right, Dan.

MR. McKIERNAN: Just a brief question, the existing appeal process in Addendum VII stated that if you didn't fish during '01 through '03 you could go back and use your years '99 to 2000 for your performance.

Is that what we're talking about, just someone -- instead of saying you didn't fish because you were sick it was you didn't fish because someone in your family was sick? Is that the essence of the change?

DR. SULLIVAN: Yes.

MR. McKIERNAN: Okay.

CHAIRMAN NELSON: Any other questions?

DR. SULLIVAN: Not just -- to fully respond to Dan, not only it's the caveats in Addendum VII still stand, it's if you didn't fish because a family member was sick and you are documented as the entity providing that primary care. It's if you didn't. It's two tiered, Dan.

MR. McKIERNAN: Okay.

CHAIRMAN NELSON: Okay, any other questions? All right, let me -- oh, I'm sorry. Elizabeth, go ahead. Sorry.

MS. KORDOWSKI: Thank you. I'm just a bit

concerned with the director's comments because it does not indicate the effort back or the number of traps back into the fishery. There cannot be an open-ended appeals process. There should be a trap cap of no more than 1,000 traps. Thank you.

CHAIRMAN NELSON: Okay, thank you very much. Again, the plan review team will take a look at all of the details associated with the Rhode Island plan and any deviations that are from the Addendum VII, if they're reasonable or whatever, and get the numbers associated with that for the traps.

If there is a problem with it, obviously they're going to let us know and we'll communicate that to Rhode Island, I would hope before the board meeting so that any other changes could be taken care of before we have to meet in February. Having said that, Mark, go ahead.

DR. GIBSON: Yes, I just think that it would, all states involved with the Addendum VII implementation ought to be submitting their regulations that have been put in place or are to be put in place for that review process, not to be just Rhode Island. I know we've been taking the longest to get this done but the same burden ought to be on all the jurisdictions.

CHAIRMAN NELSON: Amen, brother. Anything else? All right, seeing none, please forward that over as soon as possible so we can have that taken a look at as soon as possible. Thank you. The next item is the Agenda Item Number 9.

Again, as I mentioned to you, this is a final action on Addendum IX. And the meeting specific legislative and governor appointee proxies are not eligible to vote on this particular measure. So having said that, check and make sure you know who you are. All right, Toni, you want to go ahead with this?

### **Review and Consider Approval of Draft Addendum IX**

MS. KERNS: Okay, I'm just going to review the public comment from Addendum IX which

is looking at a conservation tax for Area 2. Addendum VII indicated that we would have a conservation tax for any traps transferred within the effort control program but we did not indicate what percentage that conservation tax would be in Addendum VII so that is the purpose of this document.

We had two hearings, one in Massachusetts -- there was 25 attendees -- and one in Rhode Island -- there were 7 attendees. We just had these hearings at the same time as we had the PID hearings.

The majority of the comments were to go ahead and have status quo, no conservation tax. One of the attendees had suggested a scaled tax where those that were allocated a higher number of traps have a higher conservation tax than those fishermen that were allocated a lower number of traps. And the lower number would have a lower conservation tax put on them.

In Rhode Island of the seven attendees two people, well, three people spoke on the issue. One was in favor of a conservation tax but did not give a percent. The other was against conservation tax. He felt that the effort control plan did enough to take away enough traps already.

And RILA did not want to comment until they knew where Rhode Island was moving with the Addendum VII because at that time we didn't know how they were moving forward with the implementation. There were no written comments on this so all the summary comes from the hearings. That's it.

CHAIRMAN NELSON: Any questions for Toni? All right. A comment? Go ahead.

MR. McKIERNAN: Yes, I'd like to just give some history to this. When this plan was sold to the LCMT back in 2005 or I should say crafted to them but also when they came forward and agreed that this plan would be a plan they would accept, a 10 percent trap tax was included in the plan.

When the motion was made last October by me

to enact this plan I failed to get this aspect into it. And it was really my oversight. After that plan was approved a lot of folks were surprised that the trap transfer tax was not in there.

This addendum has a few options from zero up to 25 percent. There is a lot of traps that are waiting to be transferred. I can tell you in Massachusetts some folks haven't fished for 2-3-4 years and are ready to flip these traps through an allocation transfer when this plan goes into effect in '07.

This is an outstanding time to take some traps out of the system since most of those traps aren't being fished now. As I mentioned before, there is about a 20 percent latency in Area 2, it appears.

So the board would certainly do well to enact a transfer tax. It would be consistent with the original addendum that went out, Addendum VII, to enact the transfer tax as 10 percent since I think that was the general expectation of the industry.

CHAIRMAN NELSON: So, that means that we should have a motion on the board.

MR. McKIERNAN: Yes, and I have a motion.

CHAIRMAN NELSON: Your motion is Option 2. Is that correct?

MR. McKIERNAN: Yes, I believe. Let me make sure there is not an error in that. I can't see that far. Yes, I think up where it says "5" should say "2", that first line. Want me to read the motion?

CHAIRMAN NELSON: Yes.

MR. McKIERNAN:  
**Move to adopt Addendum IX's Option 2 that requires a 10 percent conservation tax for trap allocation transfers between Area 2 permit holders. This measure shall take effect for the 2007 lobster fishing year and beyond. The Lobster Board may review annually the effectiveness of the effort control plan in Area 2 and may amend the transfer**

**tax if no longer deemed necessary because conservation goals are met or alternative management strategies are adopted.**

CHAIRMAN NELSON: Do I have a second to that motion?

MR. AUGUSTINE: Second.

CHAIRMAN NELSON: Pat Augustine. Thank you, Pat. Okay, discussion, for. How about someone speaking for it. Do you want to speak again for it?

MR. McKIERNAN: Do you want me to speak again for it?

CHAIRMAN NELSON: Yes.

MR. McKIERNAN: Like I said before, with a 20 percent latency in this fishery and the technical committee's recent report suggesting a 50 percent reduction in traps from current levels, this is a good start.

CHAIRMAN NELSON: Thanks. Opposed. Opposed?

DR. GIBSON: I'm not opposed.

CHAIRMAN NELSON: All right, let me see if there is anyone opposed. All right, I'll take another for. Mark, go ahead.

DR. GIBSON: I just have to expose some discomfort on this. I'm not comfortable that we have sufficient information in front of us right now to set conservation tax levels. I understand Dan's need, having already accepted transfers and I want to find a way to support him. But to really do this right, and I don't fully understand the timeliness needs of it, we need to have advice from the technical committee on how traps relate to fishing mortality and in doing so what is the target bottom-line of number of traps we ought to have to meet our fishing mortality rate targets.

We don't have that so we don't have a strong technical basis to pick a number. Moreover, we don't have much in the way of understanding,

you know, of how this affects businesses.

We have people in URI in Rhode Island who are looking at this in their computer lab, simulating lobster businesses under different transfer tax provisions to see what it does to the fleet, to the nature of the fleet, how fast it consolidates, those kind of things.

So I'm real uncomfortable picking a number here today but I understand that, you know, Dan has some immediacy of needs in this. But is it necessary, Dan, that we have to act on this today to get this started? If you could speak to that for me.

CHAIRMAN NELSON: Go ahead, Dan.

MR. McKIERNAN: Yes, from my experience with the Outer Cape Plan, which this is modeled after, there is an order of magnitude more transfers that's going to take place in the next few months compared to the second or third years.

So, if you, if the desire is to remove some of the latent traps from the system, which I think is a laudable goal, this is the time to put this in. Like I said, you've got fishermen who are -- as far as I can tell most of the transfers that are about to take place are from people who aren't fishing to those who are.

So this is a great time to take some traps out of the system and to prevent further escalation. And I think the Area 2 LCMT is putting a lot of stock in the fact that effort has been capped. Well, effort is not capped if we have growth of 20 percent in the number of traps over current levels, which is a potential.

CHAIRMAN NELSON: All right, before I get more comment I just want to just talk about the language in the motion just for a second to get some clarification. Dan, the latter part after "Area 2" and it says "and may amend the transfer tax if no longer deemed necessary" ya-da, ya-da, ya-da, is that the intent to, it seemed like that was a restrictive approach.

It means that, are you intending to not increase it but you could get rid of it or lower it? Was that

the intent was to have some restriction associated with a transfer tax for the future?

MR. McKIERNAN: John, the existing addendum does call for trap reductions that would be across-the-board of all permit holders. And so I guess the board would have to decide if they would ever envision taking more than 10 percent from a transfer as opposed to a straight percentage cut which is already in the addendum as an option for trap reduction.

So to answer your question, I was not considering having that tax go up in the future. Instead I would suggest we would look to across-the-board cuts, similar to what Area 3 is proposing.

CHAIRMAN NELSON: Okay, I just wanted to make sure the board understands that that's the intent of that language. If they're comfortable with that, okay. I did have Eric next and then I will come back.

MR. SMITH: Thank you, Mr. Chairman. I had a motion to amend to get at the very point that you asked the question about but if you'd like to get some further debate from other people before that I'd be happy to hear it.

CHAIRMAN NELSON: Well, what's your friendly, very friendly amendment?

MR. SMITH: Always very friendly, Mr. Chairman. **I would suggest in the, where it says "if no longer deemed necessary because conservation goals are met or alternative management strategies are adopted" I would add "or in the event on further investigation the tax needs to be increased."**

That the tax needs to be increased, yes. And my reason for that motion, Mr. Chairman -- that would be move to amend -- the reason for that -- well, see if you need a second, first, then I'll explain.

CHAIRMAN NELSON: Let me see if it's a friendly amendment just for clarification of the motion. And that's okay, Dan?

MR. McKIERNAN: Sure, yes.



CHAIRMAN NELSON: It's a very friendly amendment so we'll just, thank you.

MR. SMITH: Okay, it's on and you don't need a justification?

CHAIRMAN NELSON: No, I don't think so.

MR. SMITH: Thank you.

CHAIRMAN NELSON: All right, everyone understands the, just the revision. All right, let me to back to for, for the motion. For the motion?

MR. WHITE: On the motion.

CHAIRMAN NELSON: A question?

MR. WHITE: Yes.

CHAIRMAN NELSON: Go ahead.

MR. WHITE: I know Eric likes to wordsmith and I just, "investigation" bothers me. Is there a better way of clarifying data or something else that would make that a little bit better?

MR. SMITH: Analysis?

MR. WHITE: I like that.

CHAIRMAN NELSON: That's, again, a very friendly wordsmithing.

MR. SMITH: Okay, so, yes.

CHAIRMAN NELSON: All right, for the motion. All right, who wants to speak against the motion? Gordon.

MR. COLVIN: I don't know that I'm actually prepared to decide at this second whether or not I'm for this motion or against it but I am concerned about something and I wanted to raise that concern.

I think I heard Dan say that there were a lot of people talking about immediate actions to make a substantive, to transfer a substantive amount of traps immediately upon implementation and that essentially all this amounts to transferring traps

allocated presently to people who aren't fishing, 90 percent of which would go to people who are and 10 percent of which would be retired.

And it seems to me that what's being describe here is a scenario in which the amount of active fishing in Area 2 would substantially increase immediately upon adoption of the addendum.

And then when I think in terms of the comments that Mark made about the need to perhaps analyze more thoroughly and scientifically the actual behavior that will occur upon adoption of the addendum I find myself somewhat sympathetic to that viewpoint. And I want to raise that concern and see if somebody can convince me my concern is misplaced.

CHAIRMAN NELSON: All right, Dan, convince him.

MR. McKIERNAN: To Gordon's point, when I say there are traps to be transferred I'm talking really about a handful of cases in a population of 305 permit holders, 175 of which get an allocation, so there are, you know, a handful of cases.

But my findings were that they haven't fished in the last couple of years, typically. So it's not a huge population of members of the industry, nor is it a huge number of traps. But my experience with the Outer Cape Plan is most of the transactions happen right away because folks have seen this kind of plan coming -- for what, four years now? -- so they've been waiting to flip this.

CHAIRMAN NELSON: Okay, let me to go staff for a sec. Bob, any further clarifications on the language?

MR. BEAL: Yes, just a quick question I hope. The motion references that, you know, in the future the tax may be amended. Would that amendment be through a future addendum or future board action? I think we just need to be clear on what folks expect.

CHAIRMAN NELSON: I think they're looking through an addendum.

MR. BEAL: Okay.

CHAIRMAN NELSON: Bill, aren't they looking to an addendum?

MR. SMITH: That was my intention in offering.

CHAIRMAN NELSON: Thanks, Bill. All right, thank you, Bob. All right, I had, that was a -- let me just go to Dennis.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chairman. I think sort of what Bob was alluding to, the second lengthy sentence that we now have in that motion says things that we already know. My idea would be that you would have a period after "Area 2" because all that would be normal board action.

You would be taking further action, whatever it may be, at a further date, resulting in the requirement of an amendment or addendum or whatever you want to call it. But that is not necessary beyond "Area 2." I would end that, I would like to offer a friendly amendment of putting a period there after "Area 2."

CHAIRMAN NELSON: Dan, why don't you think about that for a second and see if it still accomplishes what you want and let me to go Penny for a minute for a little bit more advice.

MS. HOWELL: I just wanted to address Mark's comment about the timing. The discussion that went on with the TC is that Area 2 is just now seeing a modest increase in abundance. And the concern from our standpoint is that even though the relationship between F and effort is anything but linear and very unclear, the history of the fishery has been to fish up, to increase, as the abundance goes up.

And what we would hope is that that modest increase in Area 2 could be fished at the present low level just long enough to give some kind of a kick-start and to give them the best opportunity, the stock the best opportunity, to increase faster than if the effort came in, although acknowledging what Mark commented,

that there is no linear relationship here. But that's the urgency about the timing.

CHAIRMAN NELSON: Okay, let me go back to Dan just for a sec. Dan, does it help to just clarify the motion by putting the period after "Area 2"? The activity associated with boards, obviously, are they can revise things as they so desire for the future. But is it necessary to keep that language in there? Eric, do you want to address that? Go ahead.

MR. SMITH: Thank you, Mr. Chairman. Since I was one of the parties to one of the friendlies I would. I agree with Dennis in principle and in our process we can clearly do those things.

But this is one of those loaded issues that if we go to change something in the future, guaranteed somebody who got an allocation or thinks something is going to change is going to say this is all new to me.

And it's beneficial in those cases in my view to have something like this in a motion that clearly shows that today we intended that in the future you might want to consider a change up or down.

You don't have to go back and say, well, we were really thinking of doing this anyway, that we might have to. So it's important to have it in the motion to set the stage today for where we might go in the future. So I would urge that we leave it in.

CHAIRMAN NELSON: Okay, Dennis, unless you want to offer a motion I think we're going to move ahead. Thank you, Dennis. All right, further discussion on the motion. Go ahead, Bill.

MR. ADLER: Yes, I just, I agree with Eric. Leaving it in, and he's looking at perhaps it might have to go up and I'm looking at it that it might be able to go down.

And actually there is a psychological part there, too, which says, geez, there is hope here with these guys that if things are okay we could even get rid of it in the future. And that sort of helps

with the PR between the industry and the managers, too.

CHAIRMAN NELSON: Okay, thank you, Bill. Let me go to the audience for public comment for the motion. For the motion, Elizabeth.

MS. KORDOWSKI: I just want to say RILA supports the motion.

CHAIRMAN NELSON: Thank you very much. Anyone opposed to the motion? All right, coming back to the board, anyone want to speak again on the motion for or against? I'll take one more. All right, let's caucus.

Okay, everyone ready? All those in favor of the motion please raise your right hand; eight in favor; opposed, likewise; zero; abstentions; two abstentions; null votes. Okay, the motion passes. We've selected the management measure. I now need a motion for the final approval of Addendum IX. Bill.

MR. ADLER:  
**I'll so move to approve Addendum IX.**

MR. WHITE: Second.

CHAIRMAN NELSON: Pat seconded. Thank you very much. All in favor please say aye; opposed; abstentions; null. Unanimous pass. Thank you. That brings us to our Agenda Number 10 and that's the update of the large whale plan, Pat.

### **Update on Large Whale Plan**

MR. WHITE: Thank you, Mr. Chairman, I have a rather lengthy proposal -- no. It has been told to us by National Marine Fisheries Service that the final environmental impact statement will not be out until after the elections and the final rule then doesn't come out for at least 30 days after that so the interesting challenge will be that the final rule will not be out for the Large Whale Take Reduction Team meeting which is scheduled for December 6<sup>th</sup> through the 8<sup>th</sup>. Unless NMFS has something to update on that, that's all that we know at this point.

CHAIRMAN NELSON: Harry, do you have anything else to add? No? All right, anyone have any questions on the timetable? All right, very good. Let's move on to the other business. And under other business the one item we had was the Connecticut update on their v-notch program.

### **Connecticut V-Notch Program Update**

MR. SMITH: Thank you, Mr. Chairman. In the interest of brevity I said most of it before when we talked about Addendum XI. The only thing I would remind you is two things. We're doing this with a grant participation between lobstermen and aquaculture high school students that will be the onboard observers.

We anticipate having that documentation approved in November and getting into v-notching soon after with the intent by having a substantial numbers by next summer that are already in the water protected.

And that's our -- we're actually getting ahead of the Addendum XI strategy for reducing F, if you will. So we're just trying to keep the board apprised of that whole process. Thank you.

CHAIRMAN NELSON: Thank you, Eric. Any questions of Eric of their program? George.

MR. LAPOINTE: Thank you, Mr. Chairman. I don't know what I'm going to have to do next meeting to get your attention. Eric, I think I heard from somebody in the law enforcement committee that v-notching of undersized lobsters was part of your program. Is that true?

And I guess it strikes me as it doesn't fit for me. It doesn't feel like the right thing to do, allowing the taking of undersized animals which are illegal anyway to notch them. So can you fill us in on that, please.

MR. SMITH: Yes, I will because that's one of the true things and thank you for it because I'm sure everybody else is curious, too. I mentioned that before in my other remarks. It's one of the true things that has been really debatable during the development of this thing, the pros and cons

of that.

And you have to appreciate that the minimum length limit is arbitrary in the sense that it becomes a legal standard where fishermen can throw, have to throw lobsters back or they can keep them.

It doesn't really have anything to do with maturity, per se. We all know that the gauge comes about through regulation and so forth over the years. And it is what it is. In Long Island Sound for reasons of environment they tend to mature far earlier than that minimum length.

We want to get as many mature female lobsters in the water as possible. And by adopting the 1/8<sup>th</sup>-inch definition of a v-notch we get two full molts of protection. So imagine a lobster that's 3-1/8 inch on the carapace, just under the gauge, and that lobster gets notched and it's thrown back in there for a few months.

Let's say that's in April. And in June it molts and now it's a keeper. We just got a head start on that. That lobster wasn't available to be exploited after it was a keeper but before it got notched sometime in the future.

So, it's mature; therefore, it contributes to rebuilding, egg production, fishing mortality rate reduction once it molts into legal size. So it's protected for a full year after the first molt, then another full year after the second molt by virtue of that 1/8<sup>th</sup>.

So it's really getting a head start on it. And we had to get ourselves away from the point that it's illegal to possess it and think of the longer term, that you want two years of protection of that lobster.

And you actually enhance that by getting the lobster protected for two years before it's exploitable for a couple of months as it molts into legal size but it hasn't had the chance to get notched yet. So it took us a while, too; but I think it's a very valid justification when you think of the long-term protection you get out of a 1/8<sup>th</sup>-inch definition.

CHAIRMAN NELSON: Eric, the chair just had a quick question for you. You have a limited number of dollars, unless somebody comes up with a little bit more, which I think they probably should, anyway. But, are you taking away from your notching of your mature, legal size by buying your sub-legals which they couldn't keep anyways?

MR. SMITH: That was another one of the parts of this debate that continues to rage. And I think you have to look at it in the sense of how many lobsters you want to get protected as quickly as possible and how much time do you get out of the protection conferred by the notch.

If you were paying for those lobsters and then a couple of months later, you know, they were protected as shorts, anyway, they were protected by a notch and then with the 1/4-inch definition one molt and they were capable of being taken again, you'd get nothing of value out of it so why would you pay government, you know, taxpayers' dollars for it.

But when you're getting two years out of that notch, I look at this as it's a trade-off. We had pros and cons even in the Connecticut group. We have differences of opinion in the LCMT with New Yorkers and Connecticut people. And it's a healthy disagreement.

But, you know, that was what we had proposed. That's what the LCMT approved. And I think on a biological basis you can justify it. You have to swallow once because you're paying for a lobster that on that day the lobsterman couldn't have brought in anyway.

CHAIRMAN NELSON: Okay, thanks, Eric. I just wanted to make sure that had been thought of. Anything else on the questions for v-notch? Okay, anything else to come before the board? We've got about 15 minutes if you want to talk about it. There's a motion to adjourn? Dan, go ahead. Dan has one.

MR. McKIERNAN: Yes, we talked a lot about v-notching today and I just want the board to think about something that's going on from all

reports that I've gotten. It's called "defensive v-notching." "If I can't take it, someone else isn't going to take it."

So the proliferation of v-notched lobsters is growing because, for instance in Area 1 anything over 5 inches often gets v-notched so that other fishermen, whether it be Area 3 or Outer Cape, can't take it.

And now I'm getting reports that off Rhode Island they're v-notching lobsters between 3-5/16ths and 3-3/8ths so that the Connecticut and New York fishermen don't take them. So there is going to be a lot of notched tails out there. And some of it is unintended consequences of rules that aren't consistent.

CHAIRMAN NELSON: Thank you. And now we can have the motion to adjourn.

MR. AUGUSTINE: So moved.

CHAIRMAN NELSON: All right, thank you very much. We are adjourned.

(Whereupon, the American Lobster Management Board meeting adjourned on Monday, October 23, 2006, at 11:15 o'clock, a.m.)

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