

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SHAD AND RIVER HERRING MANAGEMENT BOARD**

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
February 6, 2014

Approved February 5, 2015

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ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)
Steve Train, ME (GA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Rep. Walter Kumiega, ME (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Doug Grout, NH (AA)	Roy Miller, DE (GA)
Dennis Abbott, NH, proxy for Rep. Watters (LA)	Tom O'Connell, MD (AA)
David Pierce, MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Bill Goldsborough, MD (GA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Mark Gibson, RI, proxy for B. Ballou (AA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)	Michelle Duval, NC, proxy for L. Daniel (AA)
David Borden, RI, proxy for B. McElroy (GA)	Ross Self, SC, proxy for R. Boyles (LA)
David Simpson, CT (AA)	Spud Woodward, GA (GA)
Lance Stewart, CT (GA)	Patrick Geer, GA, proxy for Rep. Burns (LA)
James Gilmore, NY (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Pat Augustine, NY (GA)	Wilson Laney, USFWS
Russ Allen, NJ, proxy for D. Chanda (AA)	Martin Gary, PRFC
Chris Zeman, NJ, proxy for T. Fote (GA)	Steve Meyers, NMFS
Loren Lustig, PA (GA)	Bryan King, DC
Leroy Young, PA, proxy for J. Arway (AA)	

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

Ex-Officio Members

Staff

Bob Beal	Toni Kerns
Melissa Yuen	Marin Hawk

Guests

Mike Millard, USFWS	Joseph Gordon, PEW
Sheila Eyler, USFWS	Patrick Paquette, MA Stripers Assn.
Gordon Myers, NC Wildlife Res. Comm.	Kelly Denit, NMFS
Brandon Muffley, NJ DFW	Kevin Chu, NOAA
Jeff Kaelin, Lund's Fisheries	Glori Gayster, Cherry Hill, NJ
Jeffrey Pierce, Alewife Harvesters of Maine	Raymond Kane, CHOIR
Katherine Deuel, PEW	

Proceedings of the Shad and River Herring Management Board Meeting February 2014

The Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crown Plaza Hotel Old Town, Alexandria, Virginia, February 6, 2014, and was called to order at 10:30 o'clock a.m. by Chairman Terry Stockwell.

CALL TO ORDER

CHAIRMAN TERRY STOCKWELL: Good morning, everyone. We're going to convene the Shad and River Herring Management Board. I'll call this meeting to order.

APPROVAL OF AGENDA

The first agenda item is the approval of the agenda. Are there any changes or additions to the agenda? Seeing none, consider the agenda approved.

APPROVAL OF PROCEEDINGS

The proceedings from our February 2013 meeting, if any of you remember back that far, are there any changes or additions to the proceedings. Seeing none, consider the proceedings approved. Public comment on items that are not on the agenda. Jeff.

PUBLIC COMMENT

MR. JEFF KAELIN: I'm Jeff Kaelin from Lund's Fisheries, Cape May, New Jersey; also Mid-Atlantic Council Member, but I'm just speaking personally. The thing I wanted to raise, Mr. Chairman, was at the last discussion on eels, Jeffrey Pierce from the Alewife Harvesters of Maine put together a very interesting package of information around dams and obstructions and so forth that affect not only eels but river herring.

I thought it was a great package, really good work. I would like to commend that to this board. It is the same guys. I think what Jeff brought in was really, really interesting; and I think it is the kind of work that we're going to do in the TEWG. I'm a TEWG member now. We've got this Mid-Atlantic thing rolling out, the TEWG. I think it is good information and look forward to that larger process. I appreciate the opportunity to say that, Mr. Chairman.

CHAIRMAN STOCKWELL: Are there any other members of the public who would like to speak? Seeing none, the first order of business is consideration of the FMP Review and State Compliance. I will turn it over to Marin.

2013 SHAD AND RIVER HERRING FMP REVIEW AND STATE COMPLIANCE

MS. MARIN HAWK: This is the 2013 Shad and River Herring FMP Review and Compliance Report. There have been no updates to the status of the stock since the last FMP review so just to remind you American Shad in 2007, the stocks were found to be at all-time lows and did not appear to be recovering. Hickory shad, the status is unknown.

River herring, the 2012 benchmark stock assessment found that stock was depleted. Similarly to those statuses the shad commercial landings have gone down significantly since the 1950's. In 2012 the states that landed them were Maine, Connecticut, New York, New Jersey, Virginia and North Carolina and South Carolina.

River herring landings have also gone down significantly. The states that landed river herring in 2012 were Maine, New Hampshire, New York, New Jersey, Maryland, North Carolina and South Carolina. There are some stocking programs. The states that have those are Maine, Massachusetts, Pennsylvania, North Carolina and South Carolina.

Approximately 16 million shad were stocked in 2012 and 400,000 alewife were stocked in 2012. There were 297 sturgeon interactions recorded; and those states were Connecticut, New Jersey, Virginia, South Carolina and Georgia. All those sturgeon were released alive. The PRT recommends that states that didn't include any of the management reporting requirements do so in the future.

There are a couple of states that are listed in the PRT Report for you to review. That was just basically the PRT recommendation. The PRT would like the board to task the technical committee with the following: review of recreational compliance and the ability of states to provide the recreational data since a majority of the states rely on MRIP for catch estimates and we're not sure if those states have survey data of their own; and also to review the methods to ensure that states submit data that were previously unavailable.

Those are the two recommendations that the PRT would like the board to task the technical committee with. Finally for *de minimis*, Maine, New Hampshire and Massachusetts have requested *de minimis* for shad; and New Hampshire and Massachusetts have requested *de minimis* for river herring. All these states have been granted *de minimis* in the past; and

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the PRT recommends granting them *de minimis* status again. Thank you, Mr. Chairman.

MR. DOUGLAS E. GROUT: Not just a question but a comment to make the board aware. Marin made a very brief thing that New Hampshire had commercial landings. I want the board to be aware that is a product of our ACCSP data base. The harvest that we have of river herring is primarily for people with – is all people for personal use.

It is recreational, but ACCSP does not have the capability of taking cast net or small gill net landings and putting it into the recreational component. Just be aware of that; it is called commercial, but that is because it comes out of the ACCSP. It is not sold; that is the bottom line. It is such a small amount it doesn't make that much difference, but it is something that I've asked my coordinating council member and our operations committee member to try and address at the ACCSP level. They need to have a component in there that allows for recreational harvest by nets.

MR. JOHN CLARK: Mr. Chairman, I didn't see Delaware listed under states that have a shad stocking program, Marin, and we do stock shad. Thank you.

DR. MICHELLE DUVAL: Mr. Chairman, several comment I guess. First, Marin, I just double-checked the names on the page of the FMP Review, Sara Winslow, a legend in her own time from our agency, but she retired three years ago, so I'm pretty sure she was not part of the plan review.

Then also I had a question. In Table 1 of the FMP Review it lists the states that have approved shad sustainable fishery plans and Virginia isn't listed in there. I'm pretty sure we approved a sustainable fishery plan for the state of Virginia at the annual meeting back in Philadelphia; so that is one thing I would note. Then in terms of the review of the compliance reports by the plan review team, I appreciate that is an incredibly time-consuming task and really appreciate the efforts of the PRT to go through all the compliance reports and note any information that might be missing.

I assume that any missing information is communicated back to the technical committee members, is that correct, because I was just taking a look at what was noted as being lacking for North Carolina. It is actually in the report. There is characterization of other losses for shad was lacking, and there is actually an appendix and some tables that include that information.

It says no incidents of repeat spawning as a piece of information that was missing; and there are multiple tables that include the repeat spawning information in our compliance report. I think I'm a little confused by the statement that no recreational or commercial gear data for shad were collected, because clearly we collect gear information on our trip tickets.

I guess may I just encourage the PRT to be a little bit more specific in what pieces of information are lacking just to help the technical committee members ensure that information is included. It would probably be helpful just because it appears there may be some information was overlooked just during the review that has actually been included. Thank you.

MS. HAWK: The PRT is composed of a new member so I will definitely pass that message on and hopefully we'll do better in the future.

MR. WILLIAM A. ADLER: Mr. Chairman, would it be appropriate for me to make a motion to accept the *de minimis* status that was recommended?

CHAIRMAN STOCKWELL: Could you just hang on one second and see if there are any more questions. Seeing none, you're on, Bill.

MR. ADLER: **Okay, I'll make a motion to accept the recommendation of the PRT to accept Maine, New Hampshire and Massachusetts *de minimis* status for shad and New Hampshire and Massachusetts for *de minimis* status of river herring.**

CHAIRMAN STOCKWELL: Seconded by Pat Augustine. Is there board discussion on the motion? Doug.

MR. GROUT: Just two things; one, do we also want to accept the FMP Review and then also do we want to include some of the recommendations the PRT has for tasking the technical committee. They made two recommendations for tasking the technical committee.

CHAIRMAN STOCKWELL: Thank you, Doug; I was about to bring that up. I was originally going to ask Toni if she had a motion crafted for Pat; but if you could help with the wordsmithing on Bill's motion, I think it would be beneficial to include all the measures. This is your motion, Bill?

MR. ADLER: That is correct.

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CHAIRMAN STOCKWELL: And it is seconded by Mr. Augustine. Is there any board discussion on the motion on the board? Dave.

MR. DAVID SIMPSON: I guess I just need a reminder of what the tasks were that were recommended and also just make the observation that the last two amendments, Amendments 2 and 3, we've transitioned to sustainability plans which might beg for a different format for the compliance reports since those are now the primary metrics by which we judge compliance and condition of the stocks. It is something to think about, anyway, for the technical committee and the plan review team.

MS. HAWK: These are the two tasks up on the board that the PRT would like the technical committee to follow up on; and, again, that is just review the recreational compliance and the ability of the states to provide that data and how accurate that data are; and also to review the methods that ensure states submit the appropriate data. It should be pretty simple.

CHAIRMAN STOCKWELL: Are there any further questions or comments to the motion that will be going back up on the board? **The motion is move to accept the 2013 FMP Review and recommendations of the PRT for *de minimis* status for Maine, New Hampshire and Massachusetts for shad and New Hampshire and Massachusetts for river herring. Task the technical committee with the PRT recommendations. Motion by Mr. Adler and seconded by Mr. Augustine.**

I don't sense there is a need to caucus; so those board members who support the motion on the board, please indicate so. **It was unanimous; it was by consensus.** The next agenda item is a review of the Shad Habitat Plans for Amendment 3 and Marin is going to walk us through that.

REVIEW OF THE SHAD HABITAT PLANS FOR AMENDMENT 3

MS. HAWK: The technical committee chair was unable to attend because of the snow. His flight got cancelled so I'm just going to give the report very briefly. It is just a brief summary. You all have the habitat plans in your supplemental materials and they can be quite lengthy. I'm trying to keep this as brief as possible.

These habitat plans are required under Amendment 3; and they are required to include current and historical spawning and nursery habitat, the threats to those

habitats and any habitat restoration programs that are in the states. The technical committee held a conference call to review these plans. There were 18 members on the call.

We received plans from every state with an interest in shad except for the Hudson and Merrimac Rivers, which aren't states but river systems, and Florida. Florida anticipates that their plan will be completed in March. They just have to coordinate with some other agencies, and that is why there is a delay.

The Hudson River and Merrimac River, we have an unclear date for them, but we're working on that. We will have them to you as soon as possible. Basically, the two trends that were in the plans are that the largest threat coastwide to shad are barriers to migration; and there is an overall lack of information on the potential impacts of climate change.

The technical committee made recommendations to each of the states after they received their draft plans; and those final plans were due on January 10th; and again those are the plans that are in your materials. The technical committee recommends approval of all the habitat plans and requests receipt of the missing plans as soon as possible. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Are there questions for Marin? Pat.

MR. PATRICK AUGUSTINE: Mr. Chairman, if we're going to make a motion on this to approve the habitat plans that they received, should we not include the names of the states specifically or do we not want to embarrass us that have not done it?

CHAIRMAN STOCKWELL: Do you have a recommendation, Marin?

MS. HAWK: I think that would be up to the board.

MR. AUGUSTINE: Mr. Chairman, what do you want to do; who do you want to embarrass?

CHAIRMAN STOCKWELL: It wouldn't be me.

MR. AUGUSTINE: I don't know if it is going to be us, but I'm going to look at Jim.

DR. DUVAL: Mr. Chairman, **I would just suggest a motion to approve all the habitat plans that have been received**, and we can save the embarrassment for another day; and that is a motion.

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CHAIRMAN STOCKWELL: So moved by Michelle and seconded by Pat. Is there an interest from the board in addressing the missing plans or is it the board's intent that the plans just come in as soon as possible? Pat.

MR. AUGUSTINE: Could we get an idea, Mr. Chairman, as to how long it would be before some of them could it? It may be tedious work and it may be lack of staff and maybe we could set a deadline for the May meeting or some such thing.

MS. HAWK: As I said, the Florida plan is expected in March; but the Hudson River Plan, I have contacted New York and a couple of other states that would be interested in that plan. They haven't even started it yet. We haven't approached anyone on the Merrimac River quite yet. We're working on those two, but they won't be by March, probably.

CHAIRMAN STOCKWELL: Are there any comments on the motion on the board? **The motion is move to approve the Shad Habitat Plans that have received to date. Motion by Dr. Duval and seconded by Mr. Augustine.** Wilson.

DR. WILSON LANEY: Mr. Chairman, the only comment I have is that one little housekeeping item that I think the commission would like to see undertaken is that presuming this motion passes, which I'm sure it will probably will, that these plans, since they have been approved by the commission, it would be good to file all these with the FERC as plans, so that they can be considered during all the FERC relicensing processes that will be ongoing up and down the east coast. I'm sure the Services would be willing to help staff file those with FERC if necessary. They can all be e-filed, I believe, so I'd be happy to help out with that since that is part of my new duties now.

CHAIRMAN STOCKWELL: Thanks for your offer. Marin is shaking her head yes, so thank you for the suggestion. Are there any further comments? Seeing none, those that support the motion on the board, please indicate so. **The motion is unanimous; it carries nineteen, zero, zero.** Marin, is there any further business under the Habitat Plan? Okay, our next agenda item is an update on the New England Council and the Mid-Atlantic Council actions; Lori Steele from the New England Council staff.

UPDATE ON THE NEW ENGLAND COUNCIL AND THE MID-ATLANTIC COUNCIL ACTIONS

MS. LORI STEELE: I am Lori Steele. I am the policy analyst on the staff of the New England Council, and I have been the Atlantic Herring Fishery Management Plan Coordinator for some time now. I am just here to take the opportunity. I have been in touch over the past years with ASMFC staff regarding the development of management actions in the Atlantic Herring Fishery that relate to the conservation of river herring and shad.

This has been an undertaking by both councils, actually, the New England and Mid-Atlantic Councils, for the Atlantic Herring Fishery and the Atlantic Mackerel Fishery in the Mid-Atlantic. I'm just going to give everyone an update on where we are with all of the management actions over the last couple of years related to these species.

Now that we're entering a new year, the council managed to wrap up a few management actions and initiate a few new ones. Just a quick recap on where we are; the council, as you probably are all aware, did complete Amendment 5 to the Atlantic Herring Fishery Management Plan that was submitted to the National Marine Fisheries Service some time ago.

There was a complementary Amendment 14 to the Atlantic Mackerel Plan, which was also submitted to NMFS. Amendment 5 included a comprehensive catch monitoring program for the Atlantic Herring Fishery, including a lot of provisions related to observer coverage and sampling of the vessels at sea; some of which were approved and some of which were disapproved; and I will get into that in a minute.

Amendment 5 also included a suite of monitoring and avoidance measures for river herring and shad, including the establishment of river herring monitoring areas that will require a hundred percent observer coverage as well as formal support for a cooperative research project that is coordinated by SMST, the Sustainable Fisheries Coalition, and Massachusetts Division of Marine Fisheries. That project focuses on industry-based river herring bycatch avoidance.

The amendment also established provisions to allow for river herring and shad catch caps to be set through a framework adjustment, which I believe is the equivalent of an addendum to an ASMFC plan; so it is sort of an abbreviated process. All of this was set

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up in Amendment 5, and we are expecting the final rule and implantation of Amendment 5 any day now.

At least that what we've heard; so that is coming online soon. The council has also developed and completed and submitted Framework 3 to the Herring Plan, which was the Amendment 5 follow up which included the river herring and shad catch caps. Once Amendment 5 is implemented, we're hoping that Framework 3 will follow quickly on the tails of the implementation of Amendment 5.

This framework does establish the process for river herring and shad catch caps in the herring fishery and also includes catch caps for this year, 2014, and next year, 2015. The council selected the final measures in November of last year. We submitted the package in January, and we're hoping to see implementation, as I mentioned, as soon as possible. There is an expectation that some time during this fishing year we will see a catch cap for river herring and shad in the Atlantic Herring Fishery.

Following the completion of Framework 3, we began Framework 4, which is going to be addressing some of the disapproved elements of Amendment 5. As I mentioned, Amendment 5 is a relatively large comprehensive management action; and some of the measures adopted by the council were not approved by the National Marine Fisheries Service, including dealer weighing provisions and a few of the measures to address net slippage.

Without going into too much detail, we are developing now a framework to revisit those issues and potentially resubmit similar measures that will hopefully get approved this time. The council is scheduled to take final action on that framework in April and then implementation again as soon as possible.

The other element of Amendment 5 that was not approved by the National Marine Fisheries Service was the requirement for a hundred percent observer coverage on Category A and B herring vessels along with an industry-funded monitoring program. The National Marine Fisheries Service is taking up these issues in an Omnibus Amendment to all of our FMPs.

The idea is that the Omnibus Amendment will establish provisions to allow for industry-funded monitoring across all of the FMPs in the northeast region. Because of the timing, the amendment will also include observer coverage provisions for the herring and mackerel fisheries, the elements of the disapproved amendments.

This is on a fast track for as fast as an amendment can be on a fast track. We do expect that this will come back before the council within the next few council meetings and hopefully be completed this year with implementation as soon as possible. Just to very briefly cover some of the related actions at the Mid-Atlantic Council, as I mentioned, Amendment 14 established the provisions for river herring and shad catch caps.

We are waiting for implementation of Amendment 14 as soon as possible. The Mid-Atlantic Council already set a river herring and shad catch cap in their 2014 specifications for the Mackerel Fishery. This cap is set at 236 metric tons. This cap will apply on all trips landing 20,000 pounds or more of mackerel in all areas.

The proposed rule for this action has already been published; and we are again expecting a final rule and implementation as soon as possible. Given the timing of the proposed rule, we are anticipating that the river herring and shad catch cap for the Mackerel Fishery will be effective probably March; if not, April of this year.

Then the Mid-Atlantic Council will be revisiting this issue and setting the catch cap for Mackerel Fishery in 2015 sometime this year. The Mid-Atlantic Council is also developing Framework 9 to the Mackerel Plan to address net slippage similar to the council disapproved measures in the Mackerel Amendment. They will be selecting final measures next week at the Mid meeting, so that should forward pretty quickly this year as well.

Then the Mid-Atlantic Council has also agreed to develop a River Herring and Shad Committee and an FMAT, a Fishery Management Action Team. This committee will be led by the Mid-Atlantic Council but will include membership from the Mid-Atlantic Council, the New England Council and Atlantic States Marine Fisheries Commission.

We expect that there will be an advisory panel and as I mentioned a technical group for this committee. The committee will focus primarily and at least initially on improving the technical basis for setting river herring catch caps in these fisheries as well as monitoring and ensuring the effectiveness of the catch caps.

I'm expecting this group to be convened in the next couple of months, and we will get some more specific terms of reference or goals and objectives for that committee. As all of this is going on, both the

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New England and the Mid-Atlantic Councils will be participating with NMFS and the Atlantic States Marine Fisheries Commission on the TEWG, the Technical Expert Working Group for River Herring, to develop and implement a comprehensive and coast-wide conservation effort for river herring and to identify and address data gaps over the next three to five years.

Okay, just very briefly in terms of what is coming up with the New England Council's river herring and shad catch caps in the Atlantic Herring Fishery, these will apply, as I mentioned, sometime later this year on all trips landing more than 6,600 pounds of Atlantic herring, which is essentially on all of the directed trips for herring.

The caps are specified annually and distributed by gear and statistical area clusters. When a cap is reached, the herring fishery will close – the directed herring fishery will close in an associated closure area. This map shows how the caps will be distributed. There will be four caps set annually, one for the Gulf of Maine, one for Georges Bank, one for Statistical Area 521, which is the Cape Cod Area, and then one for Southern New England and Mid-Atlantic.

When the cap is reached, the closure areas that closed the directed fishery all correspond to the catch cap areas except for in the Southern New England and Mid-Atlantic. I don't know if you can see it very well on this figure, but the offshore statistical areas in the Southern New England and Mid-Atlantic area would remain open to the directed herring fishery.

This is really just to try to provide some opportunity for the fleet to utilize the available herring yield without having a significant interaction with river herring and also to minimize the potential impacts on the mackerel fishery if the river herring catch cap in the Southern New England area is reached early.

This table provides the numbers for the caps that the New England Council is recommending for this year and next year. We are recommending in the Gulf of Maine a midwater trawl cap of 85.5 tons; in the Cape Cod Area, a midwater trawl cap of 13.3. Southern New England and Mid-Atlantic would have a midwater trawl cap of 123.7 as well as a bottom trawl cap of 88.9. At this time no cap is recommended for the Georges Bank Area.

These caps were recommended by the council based on the median value of observed river herring and shad catch by these vessels over the last five years.

We don't have any information to suggest that there is a measurable river herring and shad catch in the Georges Bank Area; so we are not recommending a cap at this time. These caps can be specified and modified in the future as the herring specifications are set; so we will certainly be revisiting these for 2016, '17 and '18 next year.

What is next because there isn't enough going on? The New England Council did talk about moving forward with further consideration of river herring and shad as stocks in the Atlantic Herring Fishery. That is on the list of 2014 management priorities. The first priority is to address the disproved elements of Amendment 5 – this is happening through Framework 4 – as well as the industry-funded monitoring Omnibus Amendment. Once those two actions are developed and heading towards completion, we will be continuing to look at river herring and shad as stocks in the Atlantic Herring Fishery.

There will be a white paper presented to the council some time later this year on that issue. In the meantime, the River Herring Bycatch Avoidance Project that is coordinated by SMST and Massachusetts DMF in cooperation with the industry has been funded at least in part through the 2014 and '15 research set-aside; and we anticipate further work through that project and both councils will be looking at the results of that project some time either later this year or next year, depending on timing. That is all I have for an update, and I'm happy to answer any questions.

CHAIRMAN STOCKWELL: Are there questions for Lori? Wilson.

DR. LANEY: Lori, thank you for that presentation. One question is the River Herring and Shad Committee and FMAT that you mentioned; is that the same entity that some of us I guess have received letters from NMFS asking if we would be willing to serve or if our agencies would be willing for us to serve on that group? I guess it is from Kim Damon-Randall, the correspondence, and Diane Borggard; is that the same thing?

MS. STEELE: No, that is the TEWG. That is the Technical Expert Working Group that is being coordinated by the ASMFC and NMFS. The River Herring and Shad Committee and FMAT that I made reference to is going to be led by the Mid-Atlantic Council; and it is going to be a committee of council members primarily that is going to be more focused

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on the effectiveness of the river herring and shad catch caps in the herring and mackerel fisheries.

The TEWG I think is going to really be – obviously, the TEWG is going to address a lot of issues and it is going to take a more comprehensive look at issues related to catch and fishing mortality. The River Herring and Shad Committee is going to function a little bit more like a council committee and be looking more specifically at what management actions the councils can take to ensure the effectiveness of the current caps.

DR. LANEY: Thank you, Lori; and then the second question was when the staff white paper is completed, will that be available on the council website?

MS. STEELE: Yes, absolutely, and I would anticipate that for some time in the fall of this year, once we get through Framework 4 and the industry-funded omnibus.

REPRESENTATIVE WALTER KUMIEGA: Just to clarify the catch caps and closures, those will only be for midwater trawlers; they wouldn't affect purse seine or stop seine fisheries?

MS. STEELE: Yes, for midwater trawlers and for bottom trawl vessels in Southern New England and Mid-Atlantic, but no caps at this time would apply to either purse seines or stop seines.

REPRESENTATIVE KUMIEGA: So the closures wouldn't apply to them?

MS. STEELE: That's right.

MR. ROB O'REILLY: I guess what I was interested in; on the caps except for Georges Bank, there are variable caps; and did I hear you say that was based on the mean river herring bycatch; what did you mention there for those areas, including the statistical area?

MS. STEELE: The catch caps proposed by the council are based on the median estimated catch of river herring and shad between 2008 and 2012; so we essentially took the last five years of data and looked at – we projected catch across the fleet for the year based on observer data and selected the median values for the upcoming two fishing years to serve as the catch caps. It is median of five years worth of catch estimates; and it is all catch kept and discarded.

MR. O'REILLY: So just as a followup, I guess you're familiar that when Amendment 14 going through the Mid-Atlantic Council was progressing and the idea was there was a really wide range of what the river herring and shad catches might be in the mackerel fishery.

I was wondering how things were so much better with the Atlantic Herring Fishery on those types of estimates, better monitoring or what was involved there because right now the Mid-Atlantic Council has one cap that is going to undergo pretty good scrutiny, we hope, from several different angles as you mentioned to start off with. I'm just curious about that.

MS. STEELE: Well, I don't think that we can really say that things are that much better in terms of the ability to accurately estimate river herring and shad catch in the Atlantic Herring Fishery. It is true that we were able to base the caps on more observer coverage than we've seen in the mackerel fishery.

I think that the herring fishery year to year has averaged 20 to 30 percent observer coverage and the mackerel fishery is significantly less. The same problems exist with the data; one being the variability and the second being the inability to link the cap numbers to any sort of biology or fishing mortality for the river herring and shad species.

We're hopeful that the committee and the TEWG both can further address those issues. I think the same problem exists. The New England Council picked the median value in part to be consistent with what the Mid-Atlantic Council did. I think we just have to see kind of how it is going to play out.

The CVs are a little bit better because we've had higher observer coverage, but there is a lot of concern about the biological basis for the cap and the potential impacts on the herring fishery. I think there is a lot of concern among the industry about these caps constraining the herring fishery's ability to fully utilize OY; but it is a median value for the last five years.

MR. DAVID V.D. BORDEN: Lori, how is the bycatch handled for state waters? Was it deducted off the top before you set the median values for Southern New England Inshore Trawl Fishery?

MS. STEELE: I'm not really sure. Essentially what we did to estimate catch and specified a catch cap is we took every trip landing more than 6,600 pounds of herring and used those to project out river herring

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catch. There was no deduction made for state waters catch; and we have set herring specifications, we've determined that state waters catch is insignificant in terms of setting the specification as part of management uncertainty. I'm not sure if I've answered your question and I'm not sure what kind of accountants we would have needed to make for that.

DR. DAVID PIERCE: To the point made by David Borden, through the move-along strategy and through the work done by the Massachusetts Division of Marine Fisheries, the sampling in the plant of fish that are offloaded, we also pick up and sample catches that were caught, for example, by vessels in Rhode Island waters.

As a consequence, it is important for Rhode Island to be well aware of what is being caught in their waters especially by bottom trawlers, because it will have an impact on what is tallied up against the catch cap itself. There will be some very comprehensive sampling of the different gear types through our involvement with the sampling.

In addition, of course, we'll have a great of cooperation, as we always have had, from the fleet from the midwater trawlers who are involved in this move-along strategy, the Sustainable Fisheries Coalition, SMAS, and the division; so that move-along strategy is going to be very important, especially because it is possible, maybe likely that the catch caps that the council has set could be quite restrictive and could – and, frankly, my own personal opinion is without a move-along strategy, it could shut the fisheries down because of catch of river herring and shad.

Everyone is well aware of the likely restrictive nature of these catch caps and of the great importance for industry to continue to cooperate – and we know they will – with this move-along strategy. I say that in part because my belief that the catch cap will be restrictive this coming year is that we do have evidence that some of runs, some of the more substantial runs are improving.

With that improvement, that means there will be more river herring and shad, river herring specifically out on the grounds where they could be caught along with river herring. So, the potential is there for the catch caps to be caught, if indeed they are implemented by the National Marine Fisheries Service; and the potential is there for the fishery to shut down. And then with one final in the statistical

areas where the catch cap is reached – let's see, there was one final point, which I can't recall. That's it.

MR. ADLER: Lori, you were running through the metric ton catch caps for the various areas; and then you said something, which I lost – there was something that you said but we're going to try to do something here to keep that fishery open or something like that; what was that all about? It was right after you mentioned the catch cap numbers.

MS. STEELE: I think what you're referring to is in the Southern New England/Mid-Atlantic area; yes, that figure. When the cap reached in the Southern New England and Mid-Atlantic area, only the shaded statistical areas in the figure would close. The ones that are offshore, the white areas would remain open. This is because the vast majority encounters with river herring have been seen in the inshore statistical areas. The offshore statistical areas would remain open in part to try to provide some opportunity for the herring fleet to continue to utilize their yield.

DR. LANEY: Mr. Chairman, to Rob's point, Lori, if the Omnibus Industry-Funded Monitoring Amendment is approved, I presume that would address some of his concerns about the degree to which we are sampling the catches for river herring and hopefully bring the CVs down and increase the percentage of observer coverage?

MS. STEELE: In theory, yes.

DR. LANEY: Well, a follow up to that; I know we have lots of New England and Mid-Atlantic Fishery Management Council members that sit on this board. I would just like to express appreciation to them for getting both councils involved in river herring conservation in the oceanic part of their life cycle.

I think that is a giant step in the direction of ecosystem-based management, which we really have got to undertake in order to restore these stocks which were once extremely, hugely important from an economic and cultural perspective and also from an ecological perspective because they are important forage species. Just thanks to all of you who have been a part of that effort.

MR. ROY MILLER: Mr. Chairman, with apologies to colleagues in the room who are more plugged into the New England Council and Mid-Atlantic Council process, I have a question with regard to the catch caps. I listened to Lori carefully and wrote down some numbers in terms of catch caps for the midwater trawl and bottom trawl fishery, et cetera.

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Was consideration given as to how these catch caps compare to the directed landings that occur in state waters for these species? Thank you.

MS. STEELE: Well, we certainly consider that in the analysis in Framework 3. There is a catch comparison between the state waters landings or river herring and shad and the estimates that we have for bycatch and catch in federal waters. It is hard to know what any of that means since we don't really have a biology basis or anyway to link these catches back to the biology of the species.

I believe that the proposed caps – and I'm saying this without all of my numbers in front of me; but when we looked at this I believe that the proposed caps for the herring and mackerel fisheries fleet-wide are about the same as the state landings in Maine.

REPRESENTATIVE KUMIEGA: Mr. Chair, just to Dr. Pierce's point, we took out a couple of dams on the Penobscot River; we opened access on the St. Croix; and we expect those runs to grow over the next ten years tremendously. There needs to be a mechanism to adjust those catch caps as those runs – particularly those runs I know are going to increase the amount of river herring in the Gulf of Maine and offshore areas a lot. It is going to take a few years, but there needs to be a mechanism to adjust those caps.

MS. STEELE: Yes; I think that is a really good point and that is something that both councils are going to have to consider in the future. One thing that these actions do not do is they do not tie the council to setting the catch cap based on one particular methodology. We utilized the last five years of catch data to set the '14 and '15 caps, but we may get down the road and decide – especially as the stocks increase, we may see different encounters in the fishery.

There may be a different method that is utilized in the future to set these caps. We certainly hopeful that a couple of years down the road we're going to have better biology for the river herring and shad species so that we can actually link these caps to stock status and fishing mortality.

CHAIRMAN STOCKWELL: Are there any additional questions for Lori? Seeing none; thank you, Lori.

ELECTION OF VICE-CHAIR

CHAIRMAN STOCKWELL: The order of business is to elect a vice-chair. Pat.

MR. PATRICK GEER: Mr. Chairman, I would like to nominate Bill Goldsborough.

MR. AUGUSTINE: Mr. Chairman, I would like to close nominations and cast one vote on behalf of Mr. Goldsborough.

CHAIRMAN STOCKWELL: Congratulations, Bill. Is there any other business to come before the board? Michelle.

DR. DUVAL: I will be brief. Dave Simpson's comments about the compliance reports reminded me of this in terms of the fact that we all have sustainable fishery plans now; but I just wanted to let the board know that we were able to incorporate our 2013 survey data into our shad sustainable fishery metrics.

We did trip one of our management triggers in the Albemarle Sound. We submitted an addendum to our Sustainable Fishery Plan to the technical committee and we are implementing a seasonal reduction that is designed to achieve a 50 percent overall reduction in harvest in the Albemarle Sound Area. The sustainable fishery plans are working.

ADJOURNMENT

CHAIRMAN STOCKWELL: Sounds good. Is there any further business? Seeing none; this meeting is adjourned.

(Whereupon, the meeting was adjourned at 11:25 o'clock a.m., February 6, 2014.)
