

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ATLANTIC HERRING SECTION**

**The Marriott Norfolk Waterside
Norfolk, Virginia
October 16, 2017**

Approved February 6, 2018

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1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of May 2017** by Consent (Page 1).
3. **Move to allocate the 2018 Area 1A TAC seasonally with 72.8 percent available from June through September and 27.2 percent allocated from October through December. The fishery will close when 92 percent of the seasonal period's quota has been harvested and underages from June through September may be rolled into the October through December period** (Page 2). Motion by Doug Grout; second by Pat Keliher. Motion carried (Page 2).
4. **Move that the Section recommend to the Policy Board to send a letter to the New England Fishery Management Council to establish a Working Group with the goal of improving communication between the two bodies** (Page 13). Motion by Pat Keliher; second by Tom Fote. Motion carried (Page 14).
5. **Move to task the Technical Committee to** (Page 14):
 - **Revisit the 2017 fishing season relative to the goals and objectives of Amendment 3 and comment on the effectiveness of the current spawning management measures;**
 - **Make suggestions on technical or management changes to better meet those goals and objectives;**
 - **If time would allow make research recommendations to maximize effectiveness and better inform management; and**
 - **TC would report back to the Board at the Winter Meeting.**Motion by Pat Keliher; second by Dennis Abbott. Motion carried (Page 15).
6. **Motion to adjourn** by consent (Page 15).

ATTENDANCE

Section Members

Pat Keliher, ME (AA)	Jason McNamee, RI, proxy for J. Coit (AA)
Sen. Brian Langley, ME (LA)	David Borden, RI (GA)
Doug Grout, NH (AA)	Colleen Giannini, CT, proxy for M. Alexander (AA)
G. Ritchie White, NH (GA)	Sen. Phil Boyle, NY (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Jim Gilmore, NY (AA)
Rep. Sarah Peake, MA (LA)	Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
David Pierce, MA (AA)	Tom Baum, NJ, proxy for L. Herrighty (AA)
Raymond Kane, MA (GA)	Tom Fote, NJ (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	

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

Ex-Officio Members

Michael Eastman, Law Enforcement Representative

Staff

Robert Beal	Jessica Kuesel
Toni Kerns	Kirby Rootes-Murdy

Guests

(Note: Sign-In sheet not distributed)

Terry Stockwell, NEFMC

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Hampton Roads Ballroom V of the Marriott Waterside Hotel, Norfolk, Virginia, October 16, 2017, and was called to order at 3:51 o'clock p.m. by Chairman G. Ritchie White.

CALL TO ORDER

CHAIRMAN G. RITCHIE WHITE: Okay, I'm going to call the Atlantic Herring Section meeting to order, if we could all take our seats.

APPROVAL OF AGENDA

CHAIRMAN WHITE: Starting off we're going to approve the agenda. There is one addition that I have added. Pat Keliher has something to bring forward in Other Business. Are there any other changes or additions to the agenda? Seeing none; the agenda is passed by consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN WHITE: Approval of the proceedings from May, 2017, is there any changes or additions to those? Seeing none; the proceedings of May, 2017 are approved by consent.

PUBLIC COMMENT

CHAIRMAN WHITE: Is there any public comment on items that are not on the agenda? Come up to a microphone, Sir, and identify yourself please. All the way down at the end, if you would please.

MR. PAUL AXELSON: Hello, my name is Paul Axelson; purse seiner Opportune and a carrier vessel, Honored. The seiner is 55 feet, and the carrier boat is 65 feet. The carrier boat can carry 250,000 safely. Me and my family have fished herring for well over 100 years; not just in this country. My grandfather came to this country in 1954.

On and off we've used the herring resource to get by. This year saw a change in the management; wherein carrier boats were

normally part of the show for a smaller boat operation that couldn't carry its own, or carry enough to make it feasible. This year the transfer limit to a carrier boat was limited. It started out at 80,000 went to 120,000.

But the federal permit that I have on my seiner said that I could catch, I don't know I think the season started out at ten trucks a week; and it went up from there, because fishing was poor and such. I don't think that that is fair is basically what I'm saying; and the federal permit that I have on my seiner which is only 55 foot, if I combined the capacity and horsepower of my carrier boat and my catch boat would still be under that capacity of that permit.

It is kind of hard to make it when you're 300, 400 miles from home and you were planning on this and it changed to something a lot less. Draft Addendum I, I was under the impression to limit effort to extend the season and such, which I have no problems with, said you work with one carrier boat; and I was fine with that. That wasn't a problem for me. I was like okay; I can work with my carrier boat. I can do the job.

But I guess under the rogue thing or the difference there was the added limit of two or three trucks a week that that is all you're allowed to transfer to a carrier boat; which kind of caught me by surprise, because there was none of that mentioned in Draft Addendum I that was commented on publicly this past winter. Thank you very much for your time.

SET 2018 SPECIFICATIONS FOR AREA 1A

CHAIRMAN WHITE: Thank you for your comments. Okay, next on the agenda, 2018 Specifications for Area 1A, Toni.

MS. TONI KERNS: Each year the Section has the ability to set specifications for the Area 1A fishery. At the 2015 annual meeting, the Section approved the Area 1A Sub ACL as a part of a multiyear specification. This specification went through 2018. The Sub ACL is 30,000 metric

tons, which represents a 28.9 percent of the total stock wide ACL of 104,800 metric tons.

Since 2009, the Section has split the Area 1A Sub ACL into trimesters, where 0 percent is allocated from January 1, through May 31, and then 72.8 percent of the Area 1A Sub ACL is allocated from June 1, through September 30, and then 27.2 percent is allocated from October 1, through December 31. Today the Section has the ability to set specifications for the area, using any of the provisions that are outlined in Amendment 3.

CHAIRMAN WHITE: Are there any questions for Toni? Seeing none; is there a motion? Doug.

MR. DOUGLAS E. GROUT: I move to allocate the 2018 Area 1A TAC seasonally with 72.8 percent available from June through September, and 27.2 percent allocated from October through December. The fishery will close when 92 percent of the seasonal period's quota has been harvested and underages from June through September may be rolled over into October through December period.

CHAIRMAN WHITE: Is there a second to the motion, Pat Keliher, thank you. **Is there any discussion on the motion? Seeing none; is there any objection to the motion? Seeing none; it passes by unanimous consent.**

DISCUSS ROLE OF SECTION IN RESEARCH SET ASIDE PROCESS

CHAIRMAN WHITE: The next item on the agenda is an issue that I asked to be discussed; and Toni has a couple of slides, and then I'll talk to it.

MS. KERNS: Ritchie asked me to pull together a couple of slides on the RSA process. I did ask Mike Pentony from the GARFO Office to be here to help me answer any questions that the Section may have about the RSA process, and to make sure that I am staying on the straight and narrow on how the process actually works.

I used a very wonderful resource that is on the GARFO webpage, which there was a link provided in the meeting overview; as well as I'll have one in the presentation on RSA, and it has a lot of questions and answers in there if anybody can't remember what we go through. All right, so research set aside programs are unique federal grant programs.

They are established through GARFOs fishery management plans that promote collaboration between researchers and industry on high priority issues. The RSA programs support applied research projects that are intended to support management decisions, and to refine and improve stock assessments.

Through each of the respective programs, either pounds or days at sea are awarded through a competitive grant process to fund the research. The Science and Research Director at the Northeast Fisheries Science Center make the RSA selections based on technical review scores and management panelist's recommendations. For NOAAs participation in the RSA, NOAA Fisheries implements the RSA program itself. It does a proposal review and selection process. They ensure that the research is technically sound.

They ensure alignment with council research priorities, as well as oversee the regulatory and vessel permitting needs and monitor RSA harvest activities. This is a joint effort between the GARFO Northeast Fisheries Science Center, as well as the Council process. For the Council's participation in the RSA, the Council members as well as staff provide the following support for the programs.

They set the RSA quota and the number of days at sea associated with the RSA. They develop research priorities and forward those recommendations to NOAA Fisheries, and they provide management expertise in reviewing proposals themselves, and they consider the research results to support the Council's fishery decisions. This is the link to the website for

questions that you may have later on down the road. It is quite helpful.

(<https://www.nefsc.noaa.gov/coopresearch/rsafaq.html>)

CHAIRMAN WHITE: Thank you, Toni. The concern why I put this on the agenda, I've had a number of New Hampshire fishermen express concern to me, and these would be lobster fishermen about gear conflict. Because the lobster fishery has continued to move offshore, and in the areas where midwater trawl boats would be fishing for herring, the lobstermen want to be prepared and know when those boats might be in that area fishing.

They might move gear, change their buoys, do whatever is necessary to have less damage to their gear. So New Hampshire gets contacted, when will the midwater boats for the herring fishery at the end of the season, when is it done; and with the RSA, the unknown aspects of the RSA, we can't give them a definitive answer, because we don't have any ability.

The Commission has no ability to determine or know exactly when the RSA will be prosecuted or where. That is of concern to me, and I think it's something that we should look into further to see whether we can have some say in it; whether the Commission should have a role in this process.

Since putting this on the agenda, I've heard from some other Commissioners that there is also some concern about how the research is picked; and whether we should have some say in that as well, and also what types of vessels participate. Because it seems to this point it has only been midwater trawl vessels, and should there be some opportunities for purse seine and small mesh bottom trawl.

I think with all those concerns, my suggestion is that we have this on the agenda at a future meeting to try to flesh all these issues out, and see what our next step might be to work with the Council to get us to be part of that process. I

guess I would ask if any other Commissioners would like to express concern, and whether they think it is advisable to have this on a future agenda. Doug.

MR. GROUT: If I might, Mr. Chair, I would like to ask Mike Pentony if he might be able to provide us any feedback as to what would be the appropriate course of action that we could take, or the Council could take, or that GARFO could take. That if this Section decides that they want to have input into it, is there a mechanism? Is there any idea of what kind of mechanism that would involve? Is it something GARFO would have to determine? Would it have to be a council action? Could we do an addendum to include it? If Mike might be able to provide any input he might be able to provide, I would appreciate it.

CHAIRMAN WHITE: First, thank you, Mike. I planned to call on you. First I would like to see if there any other Commission members that have this concern. I mean if it's just myself than this doesn't need to go forward. But if there are others, okay I saw David first.

DR. DAVID PIERCE: I can appreciate the concern that's been expressed by those fishermen in New Hampshire and in Massachusetts some concern has been expressed in recent past about the RSA fishing by vessels; by midwater trawlers, possible conflicts with lobster gear. As you indicated, the lobster gear is expanding so they're getting into areas where the midwater trawlers fish for sea herring.

Because of that in recent years again, my agency has worked with the midwater trawlers out of Gloucester, notably to make them more aware of the concerns expressed by lobstermen about real or imagined gear conflicts. That led to some greatly increased communication between the captains of the vessels and the lobstermen themselves.

That is one way in which we can better address the gear conflict issue with lobstermen; maybe

by including more New Hampshire fishermen in the discussion, so they're able to pass on this information to the midwater trawlers. That is why I certainly don't mind it being addressed. We can bring it forward again for further discussion at another meeting.

But at the same time, we've been dealing with it in that way; and it may simply be a matter of just improving communication, because midwater trawlers don't want to get into gear for a number of reasons. Regarding the difficulty of predicting when the catches are going to occur. That is when the RSA will be used up.

I share that concern. I would love to know when it's used up. I mean my agency is doing a lot of the administration of the RSA. I have staff working very closely with RSA fishermen to accomplish the objectives that we have set for ourselves; such as increased sampling of the landings, spawning condition of the fish, move-along strategies to deal with possible bycatch issues.

I would love to know when the RSA is over too; but from talking to my staff, it all depends upon where the herring are and when the herring are. Also, the boats tend to hold some of that RSA allocation for later on when they go fishing for mackerel; because they're going to catch herring, and they need to have that as part of that catch.

It's unpredictable. We just need more communication with those individuals involved in RSA fishing. Those are some of the points I wanted to make. If indeed we as a Section decide to have more discussion about this at our next meeting, then I'm more than willing to have staff come and give a presentation regarding the RSA fishing that we do; and provide again more insight as to what can be done and what has been done.

CHAIRMAN WHITE: Pat.

MR. PATRICK C. KELIHER: I think David had a lot of very good comments. In the state of Maine, we are allowing landings to come into Maine outside of different trimesters and different quotas. We're managing the landing of RSA product through our special licenses. By doing so, we have the ability to put additional restrictions on.

If we're going to have additional conversations at a later meeting, I would be happy to bring information related to how we're handling it in the state of Maine. It may be something that would be transferable. Your points on gear conflict are certainly accurate with what we're seeing in Maine; whether it's in southern Maine, New Hampshire lobstermen or farther down east, in and around the Schoodic area.

Gear conflict is an issue. We're getting a fair amount of calls starting right now actually, because of gear conflict with some midwater boats fishing in 1A in this next trimester. I think anything we can do to improve communication is a good thing. I'm not sure we need to have more say in how it's done through the Council process. I think we're just all wearing two hats here. I think if we're just a little bit more open on this end maybe that will help with our discussions through that venue.

CHAIRMAN WHITE: Ray.

MR. RAYMOND W. KANE: I have a question on this RSA. Not only do they, I think they're allocated roughly 990 tons. But there is a lot of mackerel caught. I'm wondering how these vessels are charged for the mackerel that are caught. Last year, if I'm not mistaken, I read that it was 976 or 87 tons of herring landed and 3,000 metric ton of mackerel. Maybe that would be a question for Mike Pentony. How is that addressed? Are they charged on the mackerel that they land?

CHAIRMAN WHITE: Any other Commissioners before I go to Mike? Seeing none; Mike, you've

heard the discussion and the questions. If you could help us out that would be appreciated.

MR. MIKE PENTONY: As you've heard, and Toni did a good job of presenting the overview of the RSA program. There are effectively three or four phases I guess to the operation of the program. The first is where the Council sets the research priorities for the program; on a year or every-other-year basis.

I think working with the Council members that are also here at the table, there may be a mechanism or an opportunity for the Section to weigh in at that point in time; in terms of what are the highest priorities of the Herring Section and the Council together that should be considered in establishing the program on a year-by-year basis.

That is one opportunity, and I encourage you to work with your Council partners on that. The second phase or second aspect of the program is the project selection. The Agency, as we do with all federal grand programs, publishes a federal funding opportunity notice; and solicits proposals. Then we put together a Technical Review Board to review the proposals for technical merit, scientific merit, and financial stability. Making sure that the project that they propose can be done with the available grant. Then also how well does the project or do the projects support the priorities that we established and noted in the FFL. We solicit independent reviewers for the technical review; and if the Section is interested in providing members or technical staff as a resource to participate in that process, we would be happy to entertain that.

It is always good to have a wider pool of potential technical reviewers; so we're not asking the same people over and over again to review a lot of proposals. We do have to be a little bit concerned about conflict of interest; but that's why having a wider pool of potential technical reviewers is a good thing, so I encourage you to consider that as well.

The next phase is selecting the projects. I just wanted to point out that we select the projects based on the proposer. At that point we don't necessarily know what vessels are going to be involved; because the research institution or state agency or whoever is putting forth a proposal. We're looking at the merits of that proposal.

The aspect that generally causes concern or where the issues arise is from the compensation fishing. That is the way that the projects are effectively funded. When we approve projects, we don't necessarily know what vessels are going to be engaged in the compensation fishing. As I said, we're focusing on the merits of the proposal itself.

We also get directly involved in telling investigators, researchers, what vessels they can or can't use. We allow them to establish private agreements and arrangements with the vessels that they feel are best suited to either help them conduct the research; or best suited to do the compensation fishing to help fund the work.

But all of those vessels are eventually sent to us when the applicant then applies for the exempted fishing permit; which is what allows the compensation fishing to operate when the fishery would otherwise be closed. At that point we do a sanction check on the vessels that are proposed; and assuming that the sanction checks are clean then we issue the EFPs.

I'll note that that EFP review process is one where when we receive an application for an exempted fishing permit we notify the Council. We notify the states for where the activity is taking place. I believe we notify the Commission as well that we've received an EFP application. We solicit comments on the EFP. When we decide to issue the EFP, we also notify the states that we're issuing the EFPs.

That will give you a sense of when the EFPs are being authorized, and when the fishing activity may take place. We will be happy to work with

you on improving communication; as Dr. Pierce suggested. If there are ways that we can do that better, do a better job of that, provide more information. I think it's important to understand that the EFPs that we issue explicitly state that these EFPs are exempting vessels from federal regulations; and do not waive or exempt the vessels from any state regulations that may apply.

If there are things the states are concerned about that would help from a state perspective address the concerns, there is an opportunity there; because our EFPs do not override any state regulations. With that I'm going to stop there for a second and see if there are any follow up questions or if I missed anything that someone would like me to touch on.

CHAIRMAN WHITE: Thank you, Mike, that was very helpful and we have gotten copies of the e-mail and text alerts that are going to be going out that you will begin fishing. That clearly is helpful. If that can be expanded, if there is some way of expanding that as to where they're going to fish when those go out that would go a long ways to solve the conflict problem. Are there any questions from the Commission for Mike? Seeing none; thank you, Mike.

What is the pleasure of the Commission? Would you like to see this as an agenda item in the future; or do you think that we've received enough information at this point? Is anyone in favor of having an agenda item? Seeing none; we'll close this agenda item.

DISCUSSION OF NEW ENGLAND FISHERY MANAGEMENT COUNCIL PARTICIPATION IN ATLANTIC HERRING MANAGEMENT

CHAIRMAN WHITE: Next is the discussion of New England Fishery Management Council's participation on the Herring Section. We welcome Terry to the table for this discussion. Toni has a presentation.

MS. KERNS: Currently the Section can invite the Council, any council to participate on specific issues as nonvoting members on an issue-by-issue basis. The Section has done this. For example under Amendment 3, the Section invited the Council to sit and participate in the discussions as we went through the process of developing and approving Amendment 3.

This summer at the NRCC meeting, the Northeast Regional Coordinating Council requested that the Commission consider having the New England Fishery Management Council as a voting member of the Atlantic Herring Section. Provisions within the ISFMP Charter only allow for Council participation on management boards. Amendment 1 in the compact specifies that states can come together to form sections; but that does not include any federal management agency or body.

In order for the Council to have a voting seat on the Atlantic Herring Section, the Section would then need to become a management board. The Policy Board discussed this a little bit at our meeting in August. They tasked the Herring Section to have a discussion on this issue; and make a recommendation back to the Policy Board on what the Section is interested in seeing us move forward with.

CHAIRMAN WHITE: Toni, could you go over any other changes to the Section in becoming a Board. Would the Services have a seat at the table at that point?

MS. KERNS: Any management board could have both NOAA Fisheries and U.S. Fish and Wildlife on the management board. They can participate in any management board they would like to participate in. It's not an invitation; it is automatic if they would like to be a part of that.

The management board would then need to invite the Council to participate. What happens in the charter is that you can invite the councils and then the councils can decide who they want to represent them, if they want more than one

council to be participating. But it's just one seat for a council.

CHAIRMAN WHITE: Any questions or comments? Tom.

MR. THOMAS P. FOTE: I remember going to my first Atlantic Herring Section many years ago. It was actually the only place where a Governor's Appointee and a Legislative Appointee had a vote; because the sections were set up different than the boards. It's a long history here. I like the way it runs now. I have no problem if you want to put an officio member on. But I don't think I want to change it to a board. It seems to work well. We have all the states represented, they talk about it, work out things for themselves. If we need information like we did inviting the Council to come as an officio member to sit at the table, I have no problem with that. But I don't think that we need to change this to a management board; and all the other things that entails.

CHAIRMAN WHITE: David.

DR. PIERCE: Yes, I guess my first question would be if we were to become a board, expanding membership. Does that then preclude three states, Maine, Massachusetts and New Hampshire from getting together as we do now, and as we have done for many years to talk about fishing day's restrictions, you know days out to very quickly make changes in how we deal with the quota in the Gulf of Maine, Area 1A quota? I would not want to make any changes in how we do our business if it's going to slow us down; and stop us from doing that, because it's been very effective. That would be my first question.

CHAIRMAN WHITE: To answer that Doug, do you want to answer that?

MR. GROUT: Well, I'll let the staff back me up on this. But that three state Area 1A group is specifically outlined in the plan. It has nothing to do with whether we're a board or a section. It

says the Commissioners from New Hampshire, Massachusetts and Maine will get together to do A, B, C, D, E in this.

The Board has given us the authority to do that or the Section has. It wouldn't change anything from my standpoint. Toni or Bob can correct me. I don't think that changes. I don't think there would be federal representation or council representation on that without a change to the management plan.

CHAIRMAN WHITE: David, did you have additional?

DR. PIERCE: I guess another point. My preference is to leave it as is, and to have a Council member be a nonvoting member. If indeed the Council wants to be involved in those sorts of discussions fine enough; but then again I'll mention again, I'm a Council member, Doug is a Council member.

We have Council members already making decisions relative to how we deal with that very important Area 1A quota. Then as a complication if suddenly we have a council member, another council member who is non state let's say, become a voting member of the Section, and that is we have now likely state imbalance.

Right now it is the states as individuals with our counterparts voting as one. But now if another individual is put onboard, let's say somebody from Massachusetts; well Massachusetts has two votes now, in contrast to the state of Maine having one vote and New Hampshire having one vote, or the Council puts Terry Stockwell on, because of the wealth of knowledge that Terry Stockwell has.

There are two Maine votes, one New Hampshire and one Massachusetts. The fishing industry will see this and they will understand what's happening. They might think it's a way to stack the deck in a way that might favor one state over the other. Right now we all work together very

well. I frankly don't see the need for another Council member to be put onboard. We don't do anything that's not above board, it always is. We brief the Council; if the Council, apart from having a state representative, state director on the Section, if the Council wants somebody else to be onboard to provide information, to assist the discussion. That is fine, but a nonvoting member would be my preference.

CHAIRMAN WHITE: Dennis, I have you next.

MR. DENNIS ABBOTT: I'm not in favor of this. I'll say that right from the outset. David mentioned a few of the things that I was concerned about; whether they would participate in the Maine, New Hampshire, Massachusetts when we do the season setting, et cetera, and et cetera. Whether they sit there or not, but once they become a voting member then they have an influence on our future decisions.

That could change things down the line. The first thing that I asked myself was what advantage does that offer to the Section, their participation, and I couldn't see any being that they could be invited, they can offer their positions, they can be an ad hoc type member and provide us whatever information they would like.

But what we're really doing here if we invite them is we're now giving them a vote that we have; and I don't think that they should have. Again, I support them participating, but I do not at all support them voting. Again, down the line they could affect our decision making. Sometimes we have meetings, full meetings, and we barely have a quorum, and if they're there it just upsets the balance that we have. I think we're trying to cure a problem that doesn't exist by inviting them to be a voting member.

CHAIRMAN WHITE: Doug.

MR. GROUT: I think most of you have heard me speak in favor of us switching to a board in the past. I believe in any management plan that we go down with, I think there are benefits to having

both the Service, because we are co-managing this species with federal agencies and the Council, and if the Council would like to be a member of it and a voting member of it.

I think that would end up making our decisions stronger and better on this. I don't think we should try and manage this in a vacuum; when clearly some of the decisions we have, have impacts on federal permit holders and the actual fishing that goes on out in the EEZ.

I would strongly support, even though I can count the votes right now that the Section at some point start to think about making a recommendation to switch to a board. I don't think we should be afraid of having both National Marine Fisheries Service and a member of the Council on here as a voting member. I think it will make our management action stronger and better.

CHAIRMAN WHITE: Pat.

MR. KELIHER: I actually have been opposed to this, but I've been leaning a little bit more in the direction of allowing it; although David has brought up a lot of good points, as did Dennis. I would like to hear directly from Mr. Stockwell on really the why. What are the specific areas that they're looking at engaging in when it comes to herring from a Commission perspective? Maybe that would help better give us guidance on maybe potentially narrowing their participation into areas to help offset some of the concerns that we've heard here this afternoon.

CHAIRMAN WHITE: Terry.

MR. TERRY STOCKWELL: Thank you members of the Herring Section for indulging in my participation today. I'm sitting at this table with a very different hat on than a year ago, when I made the motion to initiate Addendum I, which was populated with a number of management measures that the state of Maine wished to have in place; to more effectively manage the herring fishery effort in Area 1 during Trimester 2.

This year I'm solely wearing my Council hat, and while there have been a lot of comments about the ability of state directors to advocate for both processes at the same time. I really want to underscore that prior to today my sole responsibility was the state of Maine, when I was sitting at this table, not the Council's FMP and vice versa.

I disagree that adding another member from the Council will stack the deck. I think that a Council member will, whether or not it was a state representative or another member, will help more fully advocate for the federal FMP. I do want to mention that the Council has added a voting member from the Lobster Board to the Habitat Committee.

The primary purpose of the Council requesting representation is to improve the coordination of the management efforts. The Council doesn't want to get involved in the three states spawning process. The Council's concern that the Commission is taking actions that are inconsistent with the federal management plan is usurping the Council's authority in this resource.

I want to highlight the comments that were made from the public about Addendum I. The actions of the Section avoid the need to pursue management changes for the Council, which while it takes longer; they are made with full analyses and opportunity for formal public comment. The two big issues that are before the Council right now are one, still a little bit of blowback from Addendum I to Amendment 3, and the issues that were forwarded to the Council through a nonvoting member this past spring.

The letter received by the Council from the Commission to participate in the RSA project. The Council has not answered that letter yet, and it probably will not until after the winter meeting, when it's a little bit clearer to the Council what direction the Section is going to go. I can read the tea leaves too. I would like to

pursue a more collaborative way to move forward.

I mean I do agree, Tom, I was sitting on the Herring Section and the Council way back when, when we did both processes. It was pretty painful. I don't want to do that again either. But I think there needs to be a way to better merge the two processes together; as we go through some very difficult challenges dealing with forage fish.

CHAIRMAN WHITE: Terry, do you think the Council would be interested in having a Section member as a voting member on the Herring Committee?

MR. STOCKWELL: I do, but I can't speak for the Full Council input. We have an Executive Committee meeting coming up this next month, and that is on the Executive Committee's agenda.

CHAIRMAN WHITE: Tom.

MR. FOTE: We're not just adding one council member; we're adding the two services. Over the years this has been functioning really well. I know that the two services try to be objective; but sometimes over the years they have been the swing vote in allocation battles. Sitting around the table with the states involved there is a lot more effort to make it fair to everybody sometimes.

We don't have those two votes that counteract it. I'll be honest; I think we should stay the same. I have no problem with an officio member sitting from the Council. They didn't invite us when they basically opened up the winter flounder to 5,000 pound trip limits, and done in a vacuum as far as the Mid-Atlantic, as far as the Commission was done and everything else; and there is no voting member there. I can't support this.

CHAIRMAN WHITE: It looks like we're going to need a motion, because it looks like we're not

unanimous. Are there any other comments first, before I ask for a motion? Pat.

MR. KELIHER: I think the key word here that Terry used is collaboration. I'm not sure we need voting members from ASMFC on the Commission or on the Council and vice versa. I think we need to find a better way to ensure that we're collaborating on this. It would seem to me that that is the most important component.

Last year we had some objections by Council members, Council staff, including suggestions by the Council Executive Director that we were overstepping our bounds by putting control rules in place on federal permit holders. The state of Maine puts those types of controls on federal permit holders all the time with our state landing laws.

They've been upheld all the way to the Maine Supreme Court. I'm comfortable from a state perspective, and that gives me comfort from a Commission perspective that we had the rights and the abilities to do what we did. Whether it was right or wrong that is for a different day and a different discussion.

But it would seem to me a better way forward is to maybe get Council and Commission staff, along with some members from both bodies together to talk about how we could do a better job collaborating on this species; instead of talking about changing the Section to a Board at this time.

CHAIRMAN WHITE: Eric.

MR. ERIC REID: I'm a relatively new kid on the Commission, and I'm also a relatively new kid on the Council. I haven't been in the herring management business since well, since whenever. But I agree with what Terry said, a lot of things. When you sit at this table, I'm from Rhode Island, and I represent the interest of the state of Rhode Island. When I'm on the Council, you know I'm bound by my oath to take care of the interest of the nation as a whole; which New

England apparently is the nation as a whole, but that's a whole other thing. Herring is a very complicated thing. Anybody that knows anything about herring, the management of herring is an extremely complex thing. I mean my God, I've been working on herring for 12 years, and then really still not gotten anywhere.

To avoid having the best minds at the table means avoiding having someone from the New England Council here; and I don't think that's smart. It's not the more the merrier, but the more informed people that you have in a discussion, that is very important to that fishery; and a lot of other fisheries.

Whether or not we go from a Section to a Board, I mean that's a pretty complicated decision. I'm not really ready to make that decision today; but I would easily support having the New England Council participate in the Section as a nonvoting member. Mr. Chairman, to your point, it's very logical that we would request a seat on the Herring Committee. I don't know whether or not that would be a voting seat or not.

Maybe some of my fellow Council members could tell me. I mean everybody that sits on the Committee votes. What is the balance there? I mean you've got to look at how is that going to work? I think the decision today should be whether or not we should let New England help us inform our decisions. I think the answer to that is yes, and then we would have to go from there. But I really think that we would be remiss not to bring as much advice to the table as we could.

CHAIRMAN WHITE: David.

DR. PIERCE: Well it's been mentioned, you know one of the key steps that already have been taken, and I suspect will continue to be taken is just including the New England Council staff that deals with sea herring in our discussions. I think our ASMFC staff does a wonderful job working with the counterpart on the New England Council.

That's the way it always has been. We've had at past meetings New England Council staff come here to brief us and vice versa. That has worked rather well. One issue that continues to haunt me that I take issue with is the fact that there has been in the past, and still said that states are usurping federal authority; and therefore the Council should be more involved, let's say as a voting member.

Well, I don't agree with that. Pat has already addressed it. We're not usurping federal authority. Frankly, we're making federal rules work. We do more than what the federal government, the New England Council specifically has done or what NOAA Fisheries can do; specifically the spawning closure.

But if it hasn't been for the states and our controlling the catches of federally permitted fishermen in federal waters; there would be unbridled fishing on spawning fish. We lay claim to fame that we've done quite a lot to protect spawning fish. That is one of the hallmarks of what we have done for effective sea herring management.

Years gone by the Council tried it but couldn't do it, couldn't implement federal rules that would control the catch of spawning fish; so we did it. We did it then in a cooperative and collaborative way; and we continue to be that way. Again, having a council member a part of the Section as a nonvoting member, and I'm fine with that. But as a voting member, I just don't see the need for it.

CHAIRMAN WHITE: Dennis.

MR. ABBOTT: I just listened to Eric talk about what he's required to do essentially as a member of the Commission, and also when he's sitting as a member of the New England Council; which made me think of the fact that we have before us something that the New England Council brought before us now, in the person of Terry being their representative.

We're preparing to vote while we sit here at the table, with a goodly number of Council members. To me this raises an issue of a conflict of interest; in whether they should even be voting on this, because they're bringing it forward so we're going to have a possible biased vote. Should they not exclude themselves from the vote, or should we put this whole thing aside and leave things as they are, as David Pierce, Dr. David suggests; and I'm serious when I say that.

CHAIRMAN WHITE: Doug.

MR. GROUT: One of the things I was thinking about. You know clearly I don't even think I would get a second to turn this into a board right now. I certainly would support the Section continuing to allow a Council member to sit as a nonvoting member; to increase the communication between the Council's management plans and the Section's management plans, so they can bring that kind of information back and forth and provide input, as I provide input to the Council on what we're doing.

But one thing that we do every three years that is similar in management is set specifications. One of the things that I've always been a little frustrated, it seems like this Section has been in the position of essentially rubber stamping what the Council has already approved for specifications.

One thing that we might do to help do more collaboration with the Councils is when it comes time to setting specifications, maybe the Herring Committee and the Herring Section could have a joint meeting. Instead of the Section just being a rubber stamp that we talk about some of the issues; such as the RSA, at the same time.

I would just throw that out there for consideration. Coming up this year we'll be developing specifications again; and does the Section want to try and reach out to the Council, along with maybe an offer to have a nonvoting

member on our Section, to see if we could set the specifications at a joint meeting.

CHAIRMAN WHITE: Ray.

MR. KANE: Yes, you would have to explain that to me, Doug. If I'm not mistaken, you sit on the Herring Committee. I believe Pat Keliher sits on the Herring Committee, and David Pierce has a representative Cate O'Keefe sitting on the Herring Committee, so how could you bring in the Herring Section to meet with the Herring Committee? I'm more in favor of Dennis Abbot's, he didn't put it up as a motion; but I would rather not see Council members vote on this. I would rather let the other state delegate Commissioner's vote on this here today. But I don't understand where you're going with that. Because once again you've got people sitting here who sit on the Council. As a matter of fact, all three members, Pat Keliher, yourself and Dr. Pierce, and you three men should be able to inform the Council on what the Commission's thinking is, I would think.

CHAIRMAN WHITE: Let me summarize where I think we are. I get the sense that the Section is not ready to vote to become a board today. But I also hear that we need increased communication with the Council. We can take a vote, either today or in the future, to extend the seat that Terry now sits in as a nonvoting member after Amendment 3 is passed; so he's here until Amendment 3 is completed.

We could extend that at that time, just by a vote of this Section to continue that seat as a nonvoting member. Would it make sense that the Chair and possibly a couple other Commissioners meet with the Chair of the Council, and talk about how we might increase communications. Do you think that makes any sense? Then we can in the future extend the seat as a nonvoting member; if we decide to. Terry.

MR. STOCKWELL: We did have a discussion about this at the NRCC meeting in the spring. I'm

sure it will come up again between the two councils and the Commission and GARFO at the November meeting. But, it's, I mean I won't say quid pro quo, but you're asking for participation on the RSA program and slam the door in the Council's ability to participate in the Section. That might be a tall order to bring people together to come up with a reasonable resolution.

MR. FOTE: I find this an interesting conversation. First of all, New York and New Jersey sit on this, yet it will be the New England Council will send a representative, wasn't asked for the Mid-Atlantic Council. The same thing with the winter flounder situation, I just found that a little strange. Again, I have no problem with inviting a person from the New England Council to sit on here. I wish it would be a different participation than it normally is, and how do you stop it from being from the same state?

You can't do that. But when you're going to look for things, and want to start working together with councils, when do we choose the Mid-Atlantic to sit on, like the Winter Flounder Board, or one of the members from the southern states to sit on the Winter Flounder Board, and make sure of our concerns on a stock that is not being rebuilt. If we're going to start this negotiation and talk, we should talk about all the boards, not just herring.

CHAIRMAN WHITE: Sara.

REPRESENTATIVE SARAH PEAKE: As I'm sitting here listening to the conversation, and thinking about your last comments that maybe there could be a working group that comes together to look at ways to enhance communication. I think that's really what the nub of the matter is that we're talking about. Because as somebody who doesn't participate in the New England Council, I guess I'm curious how adding them as a nonvoting member to this Section, or making it a board and having them be a voting member.

How that is going to increase communication? When we've already identified there are four members of this Section that already wear two hats, a New England Council hat and an ASMFC hat. If those four people can't find a way to communicate what each board is thinking, or the Section to the Board or the Board to the Section, how adding an additional person to advise us or be a nonvoting participant, how five is going to be the magic number, when we have a communication problem now and there is an overlap of four members. I think that we're kind of going down a rabbit hole here, and maybe we all need to take a step back and look at ways to enhance communication; as opposed to thinking about adding people to a Section or not.

CHAIRMAN WHITE: Pat.

MR. KELIHER: I would like to make a motion, Mr. Chairman. I would move – I'll try to talk slow – no, something brand new, you'll have to type as I talk. **I would move that the Section recommend to the Business Committee that we send a letter to the New England Council, suggesting the establishment of a working group; with the goal of improving communications between the bodies.**

CHAIRMAN WHITE: Is there a second? Tom Fote. Does anybody want to speak to the motion? Doug.

MR. GROUT: I would support this. I think there are a lot of ways that we can get at improving communication and coordination on herring management between the Commission and Council. I also wanted to sort of address the concerns by some Commissioners that the State Directors that are on both the ASMFC Section and the Council might have some kind of conflict of interest.

We at both entities, the Council and Commission, we represent the state, our state in this case. It's not any kind of conflict for us to be representing our state in both types of management. It's not like we're doing this in

conflict with the federal agencies. We're cooperatively managing this species together for the betterment of the resource, and the betterment of the industry. That is what our goal is here, so I thank you very much.

CHAIRMAN WHITE: Any other comments? Go ahead, Adam.

MR. ADAM NOWALSKY: Is the intent of this to be herring specific? Because as this is laid out right here going to the Policy Board, it suggests communication on all species. I mean is that an issue? Do we want the Policy Board to take that up? Because I would presume if there is a communication problem in one species, there are probably communication problems in other species. Where do we want to go with this, make this herring specific or are there other issues that this could accommodate?

CHAIRMAN WHITE: Pat.

MR. KELIHER: Thanks, Adam. This is meant to be herring specific. While I don't disagree there may be some other communication issues related to other species, herring is one of the most complicated species we have that we manage. My staff says it's not complicated, it's just complex. Well whatever, it's complex or complicated, there is a lot of moving parts here, and I would like to keep this very specific to herring.

CHAIRMAN WHITE: Tom.

MR. FOTE: As seconder to the motion, I did it because I wanted to start opening up the communication on more things than herring, like winter flounder and a couple others.

CHAIRMAN WHITE: I don't think, Tom that that would be an issue for this Section, so I think that's something that should be brought up to the Policy Board in a separate matter; because we're not involved in other species. I think this motion, as Pat said, is appropriate to herring. If

you want to expand that then that would be done at the Policy Board.

MR. FOTE: Ritch, that's not what I said. I said I understand this one is to herring. I'm saying I hope that is a start that in the future we go some other direction, and we work on other boards. I was strictly doing this for herring.

CHAIRMAN WHITE: I apologize. I didn't hear you correctly, Tom, thanks; anybody else before we vote? **Seeing none; is there any objection to this motion? Seeing none; it passes unanimously by consent.**

OTHER BUSINESS

CHAIRMAN WHITE: Okay, we're into other business. Pat.

MR. KELIHER: I know we're running up against the clock here, and I certainly don't want to stand in the way of food. But the second trimester Area 1A fishery this year, as was pointed out by Mr. Axelrod, I always butcher your last name, Paul Axelson, my apologies. We did have different goals this year to extend the harvest of that quota out into the middle of September.

In doing so that is pushing more of the harvest in the time when we're going to see spawning fish. Throughout the end of that trimester into this next trimester, I've been getting complaints of a lot of spawned fish being caught, people wanting to go back to the way we were doing it in the past. I've heard the gamut.

We had the Technical Committee make changes to the way we were feeding data into the model. I'm not suggesting it was making the model biased; but potentially that model could be made biased by the inclusion of data and expansion of data points into it. I would like to make a motion, and Kirby has that; and if I get a second we can discuss this further. But it's fairly, well it's long, but it's fairly simple.

It's just a move to task the Technical Committee to revisit the 2017 fishing season relative to the goals and objectives of Amendment 3, and comment on the effectiveness of the current spawning management measures. Make suggestions on technical or management changes to better meet those goals and objectives, and if time allows make research recommendations to maximize effectiveness and better inform management. Then the TC would report back to the Board at the winter meeting.

CHAIRMAN WHITE: Is there a second, Dennis Abbott. I guess I would have a question for Toni. Is this something you think the Technical Committee has the time to do for the winter meeting?

MS. KERNS: Sure. The Technical Committee doesn't have any large agenda items on their task list; which you have a task list in front of you in the supplemental materials. There are individuals on that Technical Committee that do have other things going on; such as Matt. But Matt did let me know that this might be coming up. My bigger concern here is the implications of what the recommendations may be, and the decisions that would come after that; because if we're looking to make changes to how we deal with the spawning closure system. That likely would need to be revisited through an addendum; which if that is going to happen, we would want to consider that for the action plan and the budget for next year. I didn't budget to have a meeting of this group. But it is also just three states that are quite close together, so I don't think it would be a very costly meeting to have. Bob did raise his hand though, so I want to go to him to address.

CHAIRMAN WHITE: Bob, do you want to comment?

EXECUTIVE DIRECTOR ROBERT E. BEAL: I was going to say some of the things that Toni said, but you know I think in general this tasking looks to me like one conference call, just to have a

discussion on sort of how things went this year; and doesn't seem like a whole lot of complex analysis. Unless I'm missing something, Pat?

Then you know a report back to the Board. You know I think we can do it by the winter meeting; but I reserve the right to go back and spend some time with the Technical folks, and make sure I'm not over burdening those folks with the task. Once we talk, if there is something that seems like it's going to take longer. Then between now and the winter meeting we'll let the Section know real quickly.

CHAIRMAN WHITE: David.

DR. PIERCE: I think this is the first year in which we've operated under new rules for the spawning closure. Time flies. We made some very important changes in how we monitor and implement the spawning closure. It would seem that now would be a fine time to take a look at how it worked, get some reaction from the fishing industry, again more communication between the Technical Committee and the industry itself through us or independent of us. These tasks seem very reasonable. I agree, I don't think it would take that long.

CHAIRMAN WHITE: Are there any other questions or comments; ready for the motion? Ray.

MR. KANE: I'll say it again. I've heard it for years. Are we ever going to address spawning closures on Georges Bank and Nantucket Shoals?

CHAIRMAN WHITE: That would be another discussion. Is there any objection to this motion? Seeing none; the motion passes by consent.

ADJOURNMENT

CHAIRMAN WHITE: Is there any other business? Seeing none; I just want to make a couple of comments. This is my last meeting as Chair. I want to thank staff, Ashton and the Toni filling in after Ashton left.

I would really like to thank the three Administrative Commissioners from New Hampshire, Maine, and Massachusetts; because the days-out process happens very quickly, and communication is extremely important. These three Commissioners made it very easy to get a hold of them. I hope that continues for the next Chair, David. Thank you, and if there is nothing else then we are adjourned.

(Whereupon, the meeting was adjourned at 5:00 o'clock p.m., October 16, 2017.)
