

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

Wentworth by the Sea
New Castle, New Hampshire
October 30, 2019

Approved August 4, 2020

Proceedings of the Shad and River Herring Management Board Meeting
October 2019

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INDEX OF MOTIONS

1. **Approval of agenda** by consent (Page 1).
2. **Approval of Proceedings of February 2019** by consent (Page 1).
3. **Main Motion**
Move to direct the states to follow the TC recommendations. And to present to the board in February a plan with a timeline of how they will follow the TC recommendations (Page 8). Motion by Kevin Sullivan; second by Eric Reid.
4. **Motion to Substitute**
Move to substitute to direct states to respond to the TC recommendation with a written proposal in time for Board consideration at the spring meeting of 2020. If the state does not submit a proposal by the 2020 spring meeting, the management board can take such actions necessary to implement the TC recommendations (Page 11). Motion by Spud Woodward; second by Mel Bell. Motion carried (Page 14).

Main Motion as Substituted
Move to direct states to respond to the TC recommendation with a written proposal in time for Board consideration at the spring meeting of 2020. If the state does not submit a proposal by the 2020 spring meeting, the management board can take such actions necessary to implement the TC recommendations. Motion by Spud Woodward; second by Mel Bell. Motion carried (Page 14).
5. **Move to approve Maine's proposal to modify the river herring SFMP as recommended by the TC** (Page 17). Motion by Sen. Miramant; second by Eric Reed. Motion carried (Page 19).
6. **Move to approve the 2019 2019 Shad and River Herring FMP Review, state compliance reports, and *de minimis* status for Maine, New Hampshire, Massachusetts and Florida** (Page 22). Motion by Lynn Fegley; second by Justin Davis. Motion carried (Page 22).
7. **Move to appoint Mike Thalhauser, Mark Amorello, and Chuckie Green to the Shad and River Herring Advisory Panel** (Page 22). Motion by Pat Keliher; second by Ray Kane. Motion carried (Page 22).
8. **Move to adjourn** by consent (Page 22).

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ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Loren Lustig, PA (GA)
Steve Train, ME (GA)	John Clark, DE, proxy for D. Saveikis (AA)
Sen. David Miramant, ME (LA)	Roy Miller, DE (GA)
Kevin Sullivan, NH, proxy for D. Grout (AA)	Lynn Fegley, MD, proxy for B. Anderson (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Russell Dize, MD (GA)
Ritchie White, NH (GA)	Phil Langley, MD, proxy for Del. Stein (LA)
Mike Armstrong, MA, proxy for D. Pierce (AA)	Pat Geer, VA, proxy for Steve Bowman (AA)
Raymond Kane, MA (GA)	Bryan Plumlee, VA (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Chris Batsavage, NC, proxy for S. Murphey (AA)
David Borden, RI (GA)	Jerry Mannen, NC (GA)
Phil Edwards, RI, proxy for J. McNamee (AA)	Mike Blanton, NC, proxy for Sen. Steinburg (LA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Mel Bell, SC, proxy for R. Boyles, Jr. (AA)
Justin Davis, CT (AA)	Malcolm Rhodes, SC (GA)
Bill Hyatt, CT (GA)	Sen. Ronnie Cromer, SC (LA)
Sen. Craig Miner, CT (LA)	Spud Woodward, GA (AA)
Maureen Davidson, NY, proxy for J. Gilmore (AA)	Doug Haymans, GA (GA)
Emerson Hasbrouck, NY (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Rep. Thad Altman, FL (LA)
Heather Corbett, NJ, proxy for L. J. Cimino (AA)	Martin Gary, PRFC
Tom Fote, NJ (GA)	Bryan King, DC
Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)	Derek Orner, NMFS
Andy Shiels, PA, proxy for T. Schaeffer (AA)	Mike Millard, USFWS

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

Ex-Officio Members

Ken Sprankle, Technical Committee Chair

Larry Furlong, Law Enforcement Representative

Staff

Bob Beal
Toni Kerns
Maya Drzewicki

Caitlin Starks
Dustin Colson Leaning

Guests

Robert Atwood, NH F&G
Robert T. Brown, MWA
Victoria Brown, MWA
Roy Crabtree, NMFS
Kelly Denit, NMFS
Mike Dionne, NH F&G
Zak Greenberg, PEW Trusts
Doug Grout, NH (AA)
Anne Hayden, Manomet
Rebecca Heuss, NH F&G
Kris Kuhn, PA Fish & Boat

Nicole Lengyel, RI DMF
Mike Luisi, MD DNR
Chris McDonough, SC DNR
Conor O'Donnell, NH F&G
Arnold Leo, E. Hampton, NY
Glenn Normandeau, NH F&G
Jeff Pierce, Alewife Harvesters of Maine
Nick Popoff, U FWS
Zak Robinson, Coastal Conservation Assn.
Mike Thalhauser, MCCH
Kara Villone, NH F&G

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The Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Wentworth Ballroom of the Wentworth by the Sea Hotel, New Castle, New Hampshire; Wednesday, October 30, 2019, and was called to order at 10:15 a.m. by Chairman Michael Armstrong.

CALL TO ORDER

CHAIRMAN MICHAEL ARMSTRONG: I'm Mike Armstrong from Massachusetts.

APPROVAL OF AGENDA

CHAIRMAN ARMSTRONG: You all have an agenda in front of you. Are there any changes that need to be done? Seeing none, we'll approve the agenda by consent.

APPROVAL OF PROCEEDINGS

CHAIRMAN ARMSTRONG: You have the proceedings from February, 2019, any comments, deletions, additions, edits? Seeing none, we approve the minutes by consent.

PUBLIC COMMENT

CHAIRMAN ARMSTRONG: At this point we accept public comment on items that are not on the agenda. We have three people signed up. It appears that the topic will be the subject of opening some Maine runs. That is an agenda item, so I would like to put those off until we address that agenda item. Is there anybody who is not on the list who would like to speak about a topic not on the agenda today?

Seeing none, we'll move on. I'm moving quickly, because we actually have a lot to accomplish in a fairly brief time. We'll move along.

**REVIEW THE TECHNICAL COMMITTEE
RECOMMENDATIONS ON MANAGEMENT AND
MONITORING INCONSISTENCIES WITH
AMENDMENT 2 AND 3**

CHAIRMAN ARMSTRONG: The first item is Review the Technical Committee Recommendations on Management and Monitoring Inconsistencies with Amendment 2 and 3. This is a charge we gave them a bit ago that they've been working on. They have an extensive report that you all have, and we likely will need an action coming out of this, so Ken.

MR. KEN SPRANKLE: Good morning everyone. This presentation will be shared by Caitlin and I. I'm going to start by covering the Board charges, the TC work and approach on those, and the TC recommendations. Caitlin is part of this presentation, and will later cover how those recommendations relate to existing FMP amendments for both shad and river herring.

For background, the TC identified inconsistencies with state management programs, and FMP requirements for Amendment 2, that's for river herring, and Amendment 3, American shad. On Amendments 2 and 3, both require all states and jurisdictions to submit SFMPs for all systems that remain open to either river herring or shad harvest, that's either for commercial or recreational.

Catch and release fishing will be permitted on any system in absence of an SFMP, and SFMPs must demonstrate fisheries are sustainable with quantifiable sustainability targets and annual monitoring. The Board tasked the TC in October, 2017 with developing proposed improvements to both Amendment 2 and 3 in five areas. The TC has focused primarily on Item 1 so far, and I'll read that, that's the Management and Monitoring of Rivers with Low Abundance in Harvest of Shad and River Herring. Items 2 and 3 the TC believes can be addressed with development of the shad stock

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assessment that is in progress at this time. We want to make sure there is consistency, and that criteria support the stock assessment. That is going to be on hold somewhat. The TC has discussed Items 4 and 5. Item 4 has been resolved; Caitlin is going to cover that when she gets into her slides.

However, for 5, the TC indicated that they wanted to continue discussions on Item 5 before making a recommendation. The TC has been working on its first item since mid-2018 with a task group that we put together. We began by assembling all available information on harvest regulations, monitoring SFMP status, and that was all done at the river and tributary level.

The group identified and categorized inconsistencies with requirements in both Amendment 2 and 3, based on the specific issues for each water body. Just this past fall the full TC met with the Task Committee, and reviewed the group's materials and made recommendations on how to potentially resolve each issue with a rationale, and that information was included in the packet.

All cases are summarized in that case description packet that is available to you. The TC also discussed other pathways for improving the FMP with regards to these issues. We'll start with; the inconsistencies that the TC identified fall generally into three categories with a few outliers that I also will cover.

They are all cases where recreational harvest is legally allowed under state regulations, and there are no issues with commercial fisheries. The recommendations for each inconsistency type are generally similar across cases, not always but generally similar. I can start off by going through some of these.

The first one would be tributaries of river systems that do have SFMPs and monitoring, but the tributaries are not explicitly addressed

in the SFMP, and so the general recommendation there was easy. It was to include tributaries of the larger systems under the SFMP for the Maine stem, and apply the management metrics and responses to those tributaries.

A second, are rivers with harvest addressed by an SFMP, but without monitoring to support sustainability. The general recommendation there was as an option to apply management metrics and responses from other appropriate monitored systems, or implement catch and release regulations, and third, rivers that were legally opened to harvest without an SFMP and/or monitoring, but where little or no harvest of shad or river herring is suspected.

That general recommendation was followed by either catch and release only regulation, or to consider development of an alternative management regime. This first table describes the inconsistencies where tributary harvest is allowed. But the Maine stem has an SFMP. It's not clear how or if the management metrics were applied to the tributaries, so this grouping was resolved by TC agreement.

There is agreement by the TC on this of inclusion of these listed tributaries in the SFMPs for the larger river systems, applying the same sustainability metrics and monitoring data, and management response. We can look to that list as an example. Delaware had two rivers, the Brandywine and Broadkill that were part of this inconsistency, and the recommendation is simply to include them in the approved Delaware River Coop SFMP. This table describes cases where the state has an SFMP for the species identified, but recreational harvest is allowed in the areas without sufficient monitoring to track harvest or population. The states in these cases indicated that harvest is expected to be nonexistent or insignificant, based on anecdotal evidence, but not direct monitoring.

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The recommendation for all of these, except for the one that's bolded, which I'll talk about in a moment, is to apply a management response based on metrics from another system for which the state has an SFMP and sufficient monitoring. This provides a potential safeguard for unmonitored systems, such if the area that the state does monitor starts to show decreasing trends, or does not meet sustainability targets, the management response can be triggered, closing or reducing recreational harvest. It would also apply to the unmonitored areas.

The recommendation I noted for South Carolina that's bolded that is different for the water bodies that are shown, Wando, Ashley, ACE Basin and so on. That is flagged differently, because there was no clear system that the TC felt comfortable linking to for those systems. They left it more open in terms of potential different options that the state may be able to pursue.

I want to point out here that the recommendations here and in the following tables are recommendations. They are based on the existing FMP amendments language for the states consideration on their options and the Board's recommendations. These four issues are grouped as they occur in states that do not have an SFMP for any system specific to the species for which harvest is allowed.

You can see that in the table. Also there is limited or no monitoring to support an SFMP for the individual systems. For Maine, the issue is a statewide two-fish recreational creel limit for American shad. There is some monitoring available from the more important systems within that state. The TC recommended potentially either using that monitoring information to create an SFMP with a statewide sustainability metric.

Another option would be possibly an alternative management plan or implementing catch and

release regulations. For Georgia there are no regulations in place to prohibit the harvest of river herring statewide, it is simply unregulated. There is only shad monitoring that occurs in the Savannah and Altamaha Rivers, but very limited data on river herring is gathered from those efforts.

We also sought to get data from other available sources as well that Georgia helped us with. This is a case where harvest of river herring has not been recorded, and the TC recommended that Georgia either implement catch and release only regulations for river herring statewide, or develop an alternative management regime justifying the absence of statewide harvest regulations.

Lastly for Florida, river herring may be harvested under what they term Alosa regulations, definitions that are applied for statewide regulations. For the St. Mary's, which Florida has the headwaters of, it actually flows through Georgia, any proposal should include Georgia's plan for that river. For the St. John's we are aware that there are some available fishery independent and fishery dependent data that may possibly be able to be used. This slide contains the remaining management issues. I said how we had those three general categories and this fourth, kind of catch-all group, so this reflects that fourth group. We're in New Hampshire today, for New Hampshire there was an inconsistency with the Salmon Falls River, it is a border water with the state of Maine.

The TC recommendation is to include the management of the river herring fishery in the Salmon Falls River in their existing SFMP for river herring, using the same approach in place for their other coastal rivers, and that is a system approach that's applied for monitoring and subsequent management actions they use a number for tributaries within the Great Bay system for that SFMP.

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For Delaware, the noted rivers shown on this table flow from Delaware into Maryland and Chesapeake Bay, Maryland has a catch-and-release-only fishery in these rivers. The TC recommends for consistency with Maryland and a lack of an SFMP and monitoring for shad in these waters that catch and release be implemented.

Lastly for Florida, there are statewide regulations for recreational harvest of shad and river herring under the Alosa regulations, as I mentioned. The listed rivers that are shown in this table are not believed to support populations of either species, so that resulted in what you see for recommendations by the TC in this table. That is going to conclude my portion of the talking; Caitlin is going to get into some more specifics for you.

MS. CAITLIN STARKS: Thanks Ken. With this next slide, I just wanted to give some more information to help the Board better understand why the TC provided these multiple options for resolving the inconsistencies in those systems, where harvest is allowed to occur without an SFMP or monitoring.

First I want to note that implementing catch-and-release-only regulations in any of these systems that the TC identified is always an option. This is what the FMP more clearly intended for systems without sufficient monitoring to support an SFMP, so it is more clear cut, and that's why many states have already done that in their unmonitored systems.

But, recognizing that some states are more hesitant to implement a regulatory change, the TC also put forward a couple of options that are not regulatory in nature. First they suggested that if appropriate a state could use metrics from their monitored systems in their state or jurisdiction to manage their unmonitored rivers, and that would be a more broad approach where all of the rivers in the state could be

regulated based on just a subset of the state's sustainability metrics.

But this approach does assume that trends in the unmonitored systems would be similar to the trends in areas that are monitored. Then lastly, the TC had a lot of discussions on the use of alternative management regimes in systems where there is not an appropriate metric to use for sustainability targets or thresholds, in particular due to the fact that either shad or river herring abundance or harvest is very low, and therefore very difficult to measure and track. The TC discussed that in those systems there is a low risk of recreational harvest having a negative impact on the stock, because there is not any or small amounts of known harvest occurring. It may be appropriate in those cases to apply an alternative management regime, where the state could use whatever limited data they have available, such as irregular creel surveys or monitoring for other species to monitor the abundance of shad or river herring, and if the population were to recover be able to then respond and put in protective measures for that stock.

I don't think this Board has discussed the alternative management regimes very much, so I wanted to go over what the FMP has in terms of language regarding that option. Section 5 of Amendment 2 is the section that refers to alternative management regimes, and then in Amendment 3 there is some similar language, but it is not as explicit.

I do think the idea applies to both shad and river herring, and what Amendment 2 says is that these plans must demonstrate that the proposed management program would not contribute to overfishing of the resource, or inhibit restoration of the resource, that they must show that the alternative proposal would have the same conservation value as the measures in Amendment 2, and that the plans would be submitted in writing to the Board and Commission for approval.

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Other than that in the FMP there isn't much guidance on what information should be included in the alternative management plans, and their approval seems to be fairly open to Board discretion. However, as the TC was discussing this as an option, they did recommend that they should also have a chance to review any alternative management plan proposals that might come out of this discussion.

Really quickly as part of the TC task, the TC did look into the *de minimis* criteria and definition in the amendments, and they found it to be very clear that the *de minimis* status is based only on commercial fishery landings, and does not exempt states from the requirement to prohibit harvest and possession, including recreational harvest and possession with exceptions for those systems with an SFMP.

The TC also discussed a few changes that could be made to improve the FMP with regard to the issues we've talked about today. Those were to modify the required monitoring tables in each of the amendments to provide more clarity and consistency in monitoring requirements across the states, to require more definitive management responses to the sustainability metrics in the SFMPs, and to add language that would provide some guidance on how and when alternative management regimes are meant to be used.

However, the TC did not come to final recommendations on what changes should be made specifically, so they would require further definition and exploration. To wrap this up, this slide lays out the next steps for the Board and TC on this issue. Today the Board could provide direction, or direction is needed to inform the states on how they should move forward with the inconsistencies that the TC identified.

The Board should also establish a timeline for any changes to state regulations or plans to go into effect or be submitted to the TC for

evaluation. Lastly, based on the information the TC provided, the Board should assess whether or not changes to the FMP are warranted. For the TC the next steps will be to continue working on the remaining parts of the task as Ken mentioned, and those will be further developed with information from the stock assessment. The TC would also then evaluate any changes to SFMPs or new plans being proposed by the states to resolve the inconsistencies discussed today, dependent on the Board's direction. That is the end of our presentation, and Ken and I can take any questions.

CHAIRMAN ARMSTONG: Kevin Sullivan.

MR. KEVIN SULLIVAN: Just for my recollection to Caitlin or Ken. When was the implementation of these SFMPs supposed to happen for each?

MS. STARKS: I think the original date was 2012 that the majority were implemented, and then they were recently updated in 2017 on a five-year timeline.

MR. SULLIVAN: That was for both species, okay.

MS. STARKS: River herring was first and then Amendment 3 required the shad plans.

CHAIRMAN ARMSTRONG: Pat Keliher.

MR. PATRICK C. KELIHER: Ken and Caitlin, thanks for those updates. I don't think Maine's problems are too hard to overcome. We can address both the issues in regard to river herring and shad. But my question to Caitlin is – and you may have said it and I missed it, if I did I apologize – the alternative management approaches. Are those strictly for river herring though and not shad?

MS. STARKS: I believe based on the way the amendments are written they could be applied to both. There is a specific section on it in the

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Amendment 2 for River Herring, but there is language similar to that in the Shad Amendment, it just doesn't have a big bold section that says Alternative Management Regimes.

CHAIRMAN ARMSTRONG: Go ahead.

MR. KELIHER: It seems to me this is the way you described it kind of conservation equivalency with different language. It seems that may be the better approach for us to be able to resolve the issues in Maine particular to shad, where our two fish shad regulation with no commercial fishery has been in place since 1998, while we've continued to grow our shad populations in the Saco, the Kennebec, Androscoggin, and Penobscot.

I want to make sure that we can continue on with that. It's a very important fishery recreationally, and a growing fishery. I want to make sure obviously that we're in compliance. Since I just got elected as the new Chairman I would kind of like to avoid noncompliance if I can.

CHAIRMAN ARMSTRONG: We'll see about that.

MS. STARKS: If I could just follow up. The TC also left it open as an option to develop an SFMP if those several rivers that you do have monitoring on, if there is enough data there to support SFMP metrics that was also an option that this TC supported.

CHAIRMAN ARMSTRONG: Further questions. John Clark.

MR. JOHN CLARK: Thanks for the presentation, Caitlin. I was just curious, a couple of the Chesapeake drainages that come into Delaware that we don't have the same regulations as Maryland. Under the SFMPs are those compliance items like with Delaware? Does Delaware have to match Maryland's regulations, theirs the more restrictive?

MS. STARKS: It's not in the FMP that Delaware has to match Maryland. But it is in the FMP that systems without monitoring, systems need to have an SFMP in place in order to have open harvest regulations.

MR. CLARK: Thanks, it just makes it easier for us then to put that into place, thanks.

CHAIRMAN ARMSTRONG: Further questions. I would like to thank the TC. This is quite a job. It's just what we asked for. Over the years we have accumulated a patchwork of inconsistencies, so we need to figure out a way to address these. We clearly can't address every state individually with a motion or something like that.

I would like some discussion about, perhaps there is an omnibus sort of motion that could be made that covers it. In each and every case the TC has provided advice, and generally a couple of options of how states could address it, so any discussion on that? John Estes.

MR. JIM ESTES: I'm not going to suggest a motion, but I don't know how we are going to do this. Either I have to go to my Commission and ask them to make these rivers that we don't believe contain shad, or certainly don't have a fishery, to make them catch and release. I probably wouldn't be back to this meeting again if I did that so I'm not going to do that.

Then some of the other rivers that are mentioned here have small shad populations, and probably herring populations. We do not monitor those, and I don't think that it's going to make the priority for monitoring those things, and so I think I'm stuck. I'm not sure what else that we can do, and I think probably there are some other states that may be in the same situation.

CHAIRMAN ARMSTRONG: Thank you, Jim. Sorry, I called you John. Pat Keliher.

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MR. KELIHER: I didn't hear any mention of a timeframe here, and I'm wondering if it would be appropriate if each individual state submit back to the Board a plan on how the state wants to move forward that they would be addressed at the next meeting. As I was thinking about this last night, I mean the idea of trying to address a long omnibus type motion.

Every one of these has a different level of importance in compliance relations. I think each state is going to have to think through this. I think Jim's example is a good one. I don't want to delay too long, but I think if we could work through this over the course of a couple meetings we would be in a better situation.

CHAIRMAN ARMSTRONG: Kevin Sullivan.

MR. SULLIVAN: Mr. Chair, I would like to provide a motion if you're ready.

CHAIRMAN ARMSTRONG: I am.

MR. SULLIVAN: I would like to move to direct the states to follow the TC recommendations. In cases where the state does not have an SFMP in place implement catch and release only regulations, until an SFMP or alternative management plan is approved, with a date of January 1, 2021.

CHAIRMAN ARMSTRONG: Okay we'll wait until we get it on the board. We have a motion, we need a second. Do we have a second, seconded by Eric Reid, discussion? Kevin Sullivan.

MR. SULLIVAN: Like I asked for clarification, I feel like New Hampshire has been compliant with that pretty quick with that said date of 2012. We've updated ours since then to keep on track, and the TCs note that not monitoring these rivers could negatively impact the fisheries. I just feel that it would benefit the states to at least work on putting that SFMP in place, to justify why they feel it can remain open if they don't monitor.

CHAIRMAN ARMSTRONG: I think this motion is close to what you said, Pat. It's moving in that direction. Mel Bell.

MR. MEL BELL: Yes from South Carolina's perspective, we were fine with the TC recommendations, and there were multiple recommendations. We felt we could certainly work with the option. We do a lot of monitoring in different systems and different rivers, so we had the ability to kind of deal with a couple of the other recommendations.

But if we went down this road with the mandatory catch and release we would have an issue, because we do not have the regulatory authority within the division to make that happen. That would be an entirely separate legislative process we would have to go through. I don't think we could necessarily achieve that very easily. But we can achieve a couple of the other alternatives.

CHAIRMAN ARMSTRONG: Further discussion. Lynn Fegley.

MS. LYNN FEGLEY: I'm trying to figure out how this does connect with what both Pat Keliher said and Jim Estes; because if I'm not mistaken what Jim just told us was that this is what they cannot do that this is not something that they could accomplish. I think Pat had the suggestion to work through this over a couple of meetings.

Certainly in Maryland, you know we have a moratorium on these fish, because we don't have the resources to monitor, and we couldn't put together a sustainable fishery management plan. I believe it's something we should go forward to, but I'm not sure this really gets to giving states a chance to kind of come back to the Board and say, "This here is what we can functionally do and here's a plan."

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CHAIRMAN ARMSTRONG: Do you have a suggested amendment to this? I'll let you think about that. Pat Keliher.

MR KELIHER: I appreciate the motion but again, every individual jurisdiction is in a different place, so to force them to go to a catch and release while they're trying to work through a process. If the fishery is a limited fishery at best, it seems to be going beyond what we need at this time. I would rather have the flexibility to kind of work through this process and deal with each jurisdiction individually, to make sure that we're meeting the intent of the SFMP, and dealing with the realities of your own state.

I don't know from a timing aspect. I'll be able to deal with the issues in Maine, but from a timing aspect and priority aspect, I don't know if it will be as quick as some may want. I would not want to have to put a catch and release requirement into play for a season while we deal with it, and then come back to the Board. Just a little flexibility is all I'm looking for.

CHAIRMAN ARMSTRONG: David Borden.

MR. DAVID V. BORDEN: Following on the earlier discussion, what would happen if we added something to the motion, and I'm not going to make this at this point? I'm just throwing it out as an idea. If people want me to make it as a motion I would be happy to. If the states cannot follow the TC advice, they will notify the Board in writing prior to the next board meeting, something like that. You either follow the recommendations or you notify the Board the reasons why you cannot follow those recommendations. Would that help?

CHAIRMAN ARMSTRONG: Any thoughts on that?

MS. STARKS: Thanks David, I just have a question about that. I'm trying to get better clarification. The TC recommended again

multiple options for these states. The first part of the motion to follow the TC recommendation does give them some flexibility with how to proceed. But it's the second part I think that is not as flexible, so I don't know if they can't follow the TC recommendations resolves that part of it.

CHAIRMAN ARMSTRONG: Kevin Sullivan.

MR. SULLIVAN: I think to what Caitlin just said. Maybe adding that language to the second part, for the instance where there is not an SFMP in place they can provide justification or in writing that they're not planning to close it for catch and release. I would be okay with that.

CHAIRMAN ARMSTRONG: Toni Kerns.

MS. TONI KERNS: I have a question, Kevin. The way I'm reading this motion is that it is saying where the state does not follow advice, we're asking them to immediately implement catch and release fishing while they work on an SFMP or an alternative management program, correct? Am I reading that correctly, because I'm not sure what this letter is going to do for us, but just tell us that they are not following the plan?

CHAIRMAN ARMSTRONG: Would it work, and I'll take liberty. If we remove the immediate implementation of catch and release and just give a deadline to address the inadequacies through an SFMP or an alternative management plan or something to be named within a year. Does that work for people? I mean I think clearly the Board probably wants states to be in compliance with the FMPs with flexibility. Kevin does that?

MR. SULLIVAN: Instead of implementing the immediate catch and release we allow states to provide notification that they're not going to, possibly with some justification.

CHAIRMAN ARMSTRONG: Lynn Fegley.

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MS. FEGLEY: I might try amending the motion to say something to the effect of move to direct the states to follow the TC recommendations, and to present to the Board in February a plan with timelines of how they are going to follow those recommendations. Does that do it, because what that allows them to do in that plan is to lay those issues out that we've been hearing about in Florida and Maine?

CHAIRMAN ARMSTRONG: It is close, I think. I think there are only three options though is to have a sustainable plan, an alternative plan, or catch and release, or a moratorium. Do you want to be explicit? Your language is sort of vague of what they're going to do.

MS. FEGLEY: Sure, so we could include those options with a plan and a timeline of how they will achieve a sustainable fishery management plan, catch and release regulations, or a moratorium and a timeline.

CHAIRMAN ARMSTRONG: Can we before we do that would you accept that as a friendly amendment, the first and seconder?

MR. SULLIVAN: Yes, I would.

CHAIRMAN ARMSTRONG: Secunder would you? Yes. Seeing that I believe we can do it. I see staff doesn't like friendly amendments. Mike's Rules. Are there any objections to modifying the first motion through a friendly amendment? Malcolm.

DR. MALCOLM RHODES: Well this is just a point of order. I think what we would do is the maker and seconder would withdraw the original motion, at which point Lynn's motion would become the main motion for the Board, and that would be clean and would move forward that way.

CHAIRMAN ARMSTRONG: I'm afraid Mike's Rules are falling apart here. I thought this would be easier. Toni.

MS. KERNS: Yes Malcolm is correct, but you still have to vote on the motion to withdraw, so then you might as well vote on the motion to amend, but you've already gotten rid of it, so go on with Mike's rules for this one time. I don't think anybody's objecting.

CHAIRMAN ARMSTRONG: Any objections to my offensive behavior? Thank you for that. We have a new amendment, a motion, any discussion? Ray Kane.

MR. RAYMOND W. KANE: Thank you Ms. Fegley for this motion. My concern, I read timeline but I'm not seeing a terminal date, other than they're going to come forward with a timeline. But these states will have to enact the SFMP by a particular date, so I think that should be in the motion. I mean is it going to take them two years to figure it out, three years, or five years? I would like to see a date set in there beyond just timeline, when the states have to come back with their recommendations.

CHAIRMAN ARMSTRONG: Senator Miner.

SENATOR CRAIG A. MINER: The original motion I was somewhat struggling with the fact that I thought that first sentence implied that you would almost have to do it immediately, and you would be out of compliance if you didn't somehow demonstrate that you could do whatever it was the recommendation said you had to do immediately.

In this case, it seems like there is a little more of an opportunity to come back with a plan. I do agree with Ray that the plan has to have a terminating date on it, otherwise it could be 2024. I kind of like Pat Keliher's approach, which was kind of let us take a couple of meetings to figure out where we are.

We're going to make a motion here that I don't even know if half the states here can comply with. I don't know how many of these have to

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get legislative approval to do what it is they're being asked to do. Are we going to end up in the same situation we are with some of the other species?

At the very least I think it should have some kind of date as to what the plan has to be able to demonstrate. The timeline must show no later than, what was the original motion 2021, January of 2021? That would allow states with some statutory requirement to at least go through the legislative process before they're found to be out of compliance.

CHAIRMAN ARMSTRONG: Spud Woodward.

MR. A.G. "SPUD" WOODWARD: I've got a substitute motion. Move to direct the states to respond to the TC recommendations with a written proposal in time for consideration by the management board at the spring 2020 meeting, and if I can get a second I will elaborate on that motion.

CHAIRMAN ARMSTRONG: Is there a second, Mel Bell second, discussion? Spud.

MR. WOODWARD: I think this addresses some of the concerns we've been hearing, and that is there are multiple options in the TC's recommendations for states, and states need a chance to digest that, decide which are most feasible, and then present their choice back to the Technical Committee for review, and then have the Technical Committee validate their recommendations and then act upon them accordingly.

Again, I think we're putting states in the position of having to comply with something, and they don't know what they're supposed to comply with. To me this moves the ball down the field, but gives the states the necessary flexibility to deal with multiple recommendations, and give us as a management board what we need to do for a decision next year.

CHAIRMAN ARMSTRONG: Further discussion on the motion to substitute. Ritchie White.

MR. G. RITCHIE WHITE: Spud's motion feels like kicking the can down the road. I guess that's my only concern. What if at the spring meeting the states come and say, you know we're not sure what we can do, and we would like to study it and come back February, 2021. Doesn't there need to be some element of urgency in this? I don't have an answer.

CHAIRMAN ARMSTRONG: Adam Nowalsky.

MR. ADAM NOWALSKY: I believe the maker of the motion wished to respond. I would be happy to defer to him, if you would like to let him speak first.

CHAIRMAN ARMSTRONG: Spud Woodward.

MR. WOODWARD: I understand what you're saying, Ritchie, and I think at that point if a state fails to comply with this motion, then they've demonstrated I guess a lack of concern, and then this Board could take the necessary action at that point to compel them to do whatever is necessary. I guess that is the way I look at it.

CHAIRMAN ARMSTRONG: Go ahead, Ritchie.

MR. WHITE: Could you put something to that effect in the motion, Spud, so it's clear that that is what is going to take place?

MR. WOODWARD: Okay it will be a little on the fly wordsmithing here. Move to substitute to direct states, and actually I think we need to modify it a little bit, because I said with a written proposal in time for consideration by the management board at the spring, 2020 meeting. The reason that I state it that way is because there has got to be adequate time for the TC to review it, before it could be brought to the management board for consideration.

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To add in additional language, I guess the next sentence could be; if a state fails to submit the proposal at the spring meeting, or in time for consideration at the spring meeting, then the management board can take such action as necessary to ensure that state implements the recommendation of the Technical Committee. That is a little cumbersome.

CHAIRMAN ARMSTRONG: Mr. Bell, are you okay with what you've seen so far?

MR. BELL: Yes sir, as long as it ends up there as he just said it.

CHAIRMAN ARMSTRONG: Spud, are we getting there?

MR. WOODWARD: I guess I would ask Ritchie if he thinks it's getting there. I think so. I mean that's obviously you can read into that what take such actions necessary means, but that will be up to the Board.

CHAIRMAN ARMSTRONG: Spud Woodward, are you okay with?

MR. WOODWARD: Yes, I'm comfortable with that.

CHAIRMAN ARMSTRONG: Ritchie.

MR. WHITE: Thanks Spud and that certainly satisfies my concern, thank you I will support it.

CHAIRMAN ARMSTRONG: Pat Keliher then Justin Davis.

MR. KELIHER: Just a question to the maker of the motion. The recommendation to the Board that would be considered, I'm assuming that's just what the state's plan would be, and not a draft SFMP.

MR. WOODWARD: I think it could take whatever form is necessary, based on the options that were presented by the TC, so if you

choose to expand or create a new SFMP, or you choose to implement catch and release regulations, or whatever it might be. It needs to be detailed enough that the Technical Committee could review it, and make sure it comports with their recommendations. Then the management board would then take the TCs review of that and say, okay we agree that it meets the goals and objectives, and therefore it would be approved.

CHAIRMAN ARMSTRONG: Follow up, Pat.

MR. KELIHER: I think I understood him.

CHAIRMAN ARMSTRONG: Roy Miller.

MR. ROY W. MILLER: Mr. Chairman, just to speak to the urgency or lack thereof, in some of the cases here. If a state instead of submitting a plan for bringing a particular water body under regulatory authority for shad or river herring, if the state doesn't feel that in fact there are shad that reach that part of the state. I'm referring to Maryland tributaries that have their headwaters in Delaware. If the state feels that shad can't reach there or haven't historically reached there, can they make that case instead of having to go through the regulatory process?

CHAIRMAN ARMSTRONG: I'm thinking that would be part of an alternative management regime, and I'm getting nods from the TC. Yes. The answer is yes. Adam Nowalsky.

MR. NOWALSKY: I believe while this motion doesn't explicitly state it, what I've heard multiple times is the intention is for these proposals to go to the TC first before they come to us at the Board. I believe that's what I've heard, and I see a nodding. At what point would the states be notified of what the actual timeline will be by which they need to have these ready to go?

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MS. STARKS: We can send out an e-mail following this meeting with a timeline for that.

CHAIRMAN ARMSTRONG: Justin Davis.

DR. JUSTIN DAVIS: I've got two concerns here. The first is, I'll just add my voice to others around the table who said that they're uncomfortable with the fact that this motion does not have an implementation date. That there is no sort of date certain by which states will have to implement whatever it is they are going to do.

I just think that is sort of kind of gives the impression of a lack of urgency. I would prefer if there was a date such as January 1, 2021, or February of 2021 by which the action had to be implemented, but also I'm not clear on the pathway if a state did not submit a proposal by the 2020 spring meeting.

What actions could the management board take to implement the TC recommendations? For instance, if a state didn't submit a proposal, so they are not sort of signaling an intention to create an SFMP. Can the management board take action to implement catch and release in that state for those systems? I'm just not clear on what actions the management board would take to implement the TC recommendations.

CHAIRMAN ARMSTRONG: Toni Kerns.

MS. KERNS: I think all the Board can do is say that they are inconsistent with the FMP, and determine if they want to make a compliance recommendation or not.

CHAIRMAN ARMSTRONG: Further discussion. Eric Reid.

MR. ERIC REID: I'm not sure how Mike's Rules of Order or Reid's Rules of Order handle this. This got really complicated in a big hurry. I understand the issues about perhaps some noncompliance, and I've already had enough of

that in this meeting, just so we're clear about that.

To me if you took out the last sentence of the motion to substitute that would be fine with me. That is what everybody is asking for. We want to figure out what we can do as individual states and then talk about it in February. That would be my suggestion to Mr. Woodward is to remove that last sentence, and we'll talk about it again in February, so we can figure it out.

CHAIRMAN ARMSTRONG: Would the motioner consider that?

MR. WOODWARD: Well, I put the last sentence in there to address concerns about there not being an urgency and accountability, so I guess I'm kind of confused as to where we ultimately want to go. I understand what Dr. Davis is saying. But I think integral to submitting a proposal will be submitting a timeline from when you would implement whatever you choose from the suite of recommendations that have come from the TC.

I mean that is integral to that and that is part of what the TCs review would be is say okay it's one thing to say, well we'll implement an SFMP, but we'll do it in five years. Well that is probably not going to be acceptable, you know to the TC. I think we're sort of at cross purposes if we want to make sure that there is accountability, but at the same time give people the time necessary to decide what is most feasible and practicable for their individual states.

As far as the last sentence, the Board taking such actions. I mean the original motion had that in there already. We were contemplating mandatory catch-and-release recommendations right now anyway. I think the Board certainly has the authority to do that. I understand where you're coming from, Eric. I think that last sentence was to build some comfort with folks

that might otherwise have discomfort with the original motion.

CHAIRMAN ARMSTRONG: I've been advised that in order to strike that we would need a motion, if that is the will of the Board, but further discussion. Seeing none, we'll go to the vote. I need to caucus for 30 seconds. All right, are we done caucusing? We need a clarification before we move to the vote.

MS. STARKS: I just want to clarify. The spring 2020 meeting is the meeting that usually occurs in May, so I just wanted to make sure that was the intent. Okay.

CHAIRMAN ARMSTRONG: It seems to be the intent. **All in favor of this motion to substitute raise your hand, opposed, abstention, null. The motion passes 16 to 2 to 0 to 0.** All right next is oh sorry I'm way ahead of myself. **This is now the main motion, any discussion? Any need to caucus: All in favor raise your hand, opposed, abstentions, and null. The motion is approved 17 to 1.**

**CONSIDER APPROVAL OF REVISIONS TO THE
MAINE RIVER HERRING
SUSTAINABLE FISHERY MANAGEMENT PLAN**

CHAIRMAN ARMSTRONG: The next item is an action item. Consider Approval of Revisions to the Maine River Herring Sustainable Fishery Management Plan. Ken.

MR. SPRANKLE: This presentation was provided to me by Mike Brown, I wanted to make that clear, to present to the Board for the state of Maine. Mike first presented a proposal to the TC in September of 2019. The TC provided review comments, which Mike incorporated into a revised plan, finalized in October.

The TC had a consensus recommendation to approve the plan with the revisions that are included in this presentation that I'll be giving today, in its submission to the Board. Maine river herring fishery management includes the

following items, river herring resources are strictly controlled by municipalities that own exclusive harvest rights, one fishing location and one harvester per watershed.

Season starts when fish first arrive to June 5, with an option to fish until June 15 if approved by the Commissioner. Three consecutive no fish days per week are allowed for upstream passage of fish for spawning, or a conservation equivalent. No fishing in the watershed above a municipality that has exclusive harvest rights, as outlined in the municipal harvest plan. Some other notes on this are that the runs typically start May 1, some may start a little earlier, and obviously there is some variability there.

There are approximately 20 harvest days in a season. The current status of Maine river herring fisheries include 36 municipalities maintain exclusive river herring harvest rights. Maine currently has 22 municipalities in the existing SFMP. In 2019, 17 commercial river herring fisheries were conducted by 22 municipalities.

Fourteen municipalities do not fish, because they are not covered by the SFMP, and Maine has approximately 230 waters that support river herring populations. If you look at the numbers, some municipalities share a single fishery, and that is why there are more towns harvesting than the number of fisheries.

This figure shows the state of Maine municipal river harvest data for river herring, landings data from 1950 to 2019. The first Y axis shows millions of pounds harvested, and in 2019 the commercial harvest was the best since 1981, just over two million pounds, if you can see that on the far side. The following are objectives of adding three fisheries while continuing restoration.

Capitalize on considerable community involvement, interest, participation, and fundraising to build or maintain passage and

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monitoring of river herring runs. Utilize the ability to harvest as a tool to continue river herring restoration interest statewide, and to develop a plan to assess the merits of a provisional process to harvest a limited number of fish while runs are under restoration, and do not currently meet the current Maine SFMP criteria.

Maine has substantial restoration projects underway in 2019 that will open 53.7 square miles of spawning habitat for river herring, and that is estimated to result in a population increase of 8.1 to 13.6 million fish within ten years. That figure shows the geographic location of the three proposed waters.

You see Sewall Pond down in the lower southern part of the state, Center Pond they're close to one another, and then Wight's Pond is in the center coastal area of the state. The proposed harvest limit for these proposed waters is 15 percent of the time series mean of the run for each of the new waters.

This slide also shows some additional data, the size of the water body, and the years that the run count data are available as well. It gives you a sense of the scale of fisheries. For the fisheries within this addendum sustainability will be defined as follows; the annual release of 235 spawning fish per surface acre to provide an alewife population capable of increasing annual river herring run size.

The run must also demonstrate the repeat spawner ratio of 20 percent, Z mortality estimates of less than 2.0, 2 or less than 2.0, and age structure that demonstrates the presence of older age fish, ages 3-7. The goal is to achieve existing Maine SFMP criteria for each of the proposed waters within a five-year period, or close the recreational and commercial river herring fisheries. This shows the definition of production terms that will be in some subsequent slides. They will be labeled, but I would like you to pay attention to

the colors that are used, the red, blue, and green. The escapement threshold that will be reflected by red in the following slides is a 35 fish per acre production level.

It's used as a minimum escape number to manage original commercial river herring fisheries. The blue that you'll see is a production target. I've mentioned the 235 that is what's going to be used as a management threshold for this proposal. That is 235 fish per acre. Lastly in green is the production goal, which is 397 fish per acre.

On this slide we've got the top two panels are data for Sewall Pond. Escapement run count data are shown there in the figure. The three-year-running mean count is shown in red. If you can make that out you can see the increasing trend in the most recent years. That would be in the top left panel, and on the right upper left are the counts in reference to the production targets that we just talked about.

Remember that 235 is a requirement, and you can see relative to the data time series in recent years what is reflected there for their count data. The same shown for Center Pond in the lower two panels, again red is reflecting that three-year-running mean relative to fish count, and then you have the blue line reflecting the required 235.

The same data are shown here for Wight's Pond, the top figure you can see the three-year-running mean, maybe a little less apparent, but in the bottom you can see that red line trending upwards. Then in the bottom panel you can see that 235 production target that is shown with the blue line again.

The Technical Committee concerns included maintaining consistency with Amendment 2 of the river herring FMP. That river herring runs that are under restoration and simultaneously harvested, need to make progress toward meeting biological metrics that indicate

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sustainability. Increasing time series trends and total instantaneous mortality of the Z value based on repeat spawning fish should not exceed the Z collapse value that was determined in the most recent stock assessment that was for 2017.

Recognize that these are small watersheds with very small runs that are susceptible to overharvest. Two of the three runs do not meet what has typically been used; a ten-year data timeframe for requirements to make biological decisions within the existing assessment process, and harvest will impact restoration progress and may prevent achieving the long term sustainability.

The Maine plan proposes management safeguards to protect the river herring resource, and address Technical Committee concerns. If the run demonstrates a declining trend in the running three-year average that we talked about, shown by the red line of the annual run counts, the fishery will be closed the following year.

If the fishery does not achieve a Z estimate of 2.0 or less for repeat spawners for the current year, the fishery will be reduced by 5 percent of the time series mean for the remainder of the five-year period. If the average number of repeat spawners for the time series mean and sample year do not achieve the 20 percent that I mentioned earlier, the fishery will also be reduced by 5 percent for the remainder of the five-year period, or until it recovers. Lastly, river herring populations that do not demonstrate the presence of fish ranging in age from 3-7 years will be reduced by 10 percent at the end of the 2022 addendum review period.

Maine's proposed control rules and assessment criteria summarized here. Harvest will occur after May 18 in these proposed three water bodies, to allow older river herring to escape the fishery. If you recall I mentioned earlier that Maine typically the fisheries will begin, say

around May 1, so this is a delayed opening for these proposed areas.

The municipalities that allow recreational fishery must enumerate and subtract the recreational harvest from the commercial catch allowance for that season. The release of a minimum spawning stock threshold of 235 fish per acre, a commercial fishery that doesn't meet that 235 escapement will close until the fishery achieves escapement goal for the following year.

There is going to be annual review of age data, mortality rates, repeat spawning data, certainly the count data to assess the need to reduce harvest numbers, or suspend any fishery short of a five-year period. That is Mike's final slide.

CHAIRMAN ARMSTRONG: Any questions?
Andy Shiels.

MR. ANDREW SHIELS: Thank you for the presentation. I just wanted to follow up. You made a comment that two of the three runs did not meet the ten-year-data series. I was wondering, how far would they have to go to meet the ten-year-data series?

MR. SPRANKLE: I'm sorry, could you please repeat that. I'm sorry.

MR. SHIELS: Sure, if I can remember what I said. I think you indicated that two of the three runs did not meet a ten-year average data series, so my question was how far off were they from meeting that ten-year average?

MR. SPRANKLE: Sure thank you. I'm going to refer back to the addendum itself. I'm opening that up if you would bear with me. In the actual proposal in the data panels, the figures that are included in there. There are count data provided, sometimes it's estimated. There are breaks in the time series sometimes.

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Importantly there are in two of the proposed water bodies some substantial changes, in terms of accessibility, improvements with fish passage and dam removal. To get at your question, there actually needs to be some minor corrections made in here, I talked to Mike Brown about that that for the time series mean we're using data since the modifications in that data time series, when those were in place.

What they provided, they'll say years of data and it's maybe a full set of data, but again it doesn't reflect the shorter timeframe. The concern we have was just to take into account a generation of river herring, which you know we don't have a hard figure on that but it could be five or six years of something, to at least have that sort of data. Typically it is ten years that has been used for our different stock assessment purposes. But it's not something that's been defined. We talked about trying to improve guidance with these, and this speaks to that getting better definition. They are in fact actually all less than ten years, but greater than five, so they fall between five, six, eight years of information. You saw how the data were reflected. Does that help?

MR. SHIELS: A little bit. Thank you.

CHAIRMAN ARMSTRONG: Just to be clear and I think I missed it. The TC has approved these three runs, or recommend.

MR. SPRANKLE: Recommend for approval, yes I wanted to state that at the start, and I reaffirm that.

CHAIRMAN ARMSTRONG: Correct, more discussion, Senator Miramant.

SENATOR DAVID MIRAMANT: Seeing none, I'll make a motion, and I would like to speak to it if it is seconded. Move to approve Maine's proposal to modify the river herring SFMP as recommended by the TC.

CHAIRMAN ARMSTRONG: Is there a second? Eric Reid. We'll wait until we get it on the board. Go ahead, Senator.

SENATOR MIRAMANT: I just want to point out there was a slide there with the St. George River watershed. That is my district. The interest generated by involving the community, it's up on Facebook when the run comes. People are flocking to the river. They're making sure that the passageways are clear. This is a great tool for the kind of fisheries that you have public access to for your state's if you need it, maybe you've already done this, because I'm new, it says right here.

A lot of the fisheries we just don't have that. They only hear about the negative, and then want to protect them. This is one where they are proactively getting out and doing it. Adding these to the public access and interest will be helpful to our goal anyway, but we're doing it in spite of that but it will help too.

CHAIRMAN ARMSTRONG: Further discussion. Seeing none at the Board, we do have three people signed up from the public. We are way behind, so I would ask you to keep your comments to perhaps under a minute. Jeff Pierce.

MR. JEFFREY PIERCE: Chairman Armstrong, members of the Shad and River Herring Management Board, I hope you would take time to read the handout I gave you, in the interest of brevity. These river herring runs and the restoration are very important community building tools to help get unimpeded passage. By allowing these towns to have a small commercial harvest or education harvest, it helps promote community involvement, and also is good for other taxpayer base to see that their dollars aren't being wasted, and we are improving the watershed with unimpeded passage. Thank you.

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CHAIRMAN ARMSTRONG: Thank you, Jeff, Mike Thalhauser.

MR. MIKE THALHAUSER: Thank you Mr. Chair, Committee members. Yes, I'll be brief. I am a fisheries biologist with the Maine Center for Coastal Fisheries on the Alewife Harvesters Board, and have been recently added to the Advisory Panel to this Committee. I do support the intent of this proposal, in fact I would like to really hand it to the state of Maine, Department of Marine Resources to working with stakeholders and with current harvesters, and potential future harvesters that would be part of this in developing this and putting it forward.

I would say, I know there has been some discussion around this ten years. That is really what this proposal is. It's an innovative approach to incentivizing capacity at the local level, where we can actually make fish rather than be focused on reducing harvest, and getting towns collecting data, being stewards of these fisheries, and restoring fisheries that they are socioeconomically connected to.

This is about doing that before ten years, so that they'll actually collect the data for ten years. Without incentives like this towns walk away. This is hundreds of hours of work that they need to get this data, and they're collecting it so that they can be managed appropriately. That's why this is important.

I mentioned that I supported the intent. I would like to see this have gone farther. The Technical Review Committee cut the number of runs addressed by this in half, and added I feel inappropriate, some of the inappropriate metrics that were up there that could set some of these runs up for failure, and keep them from collecting that data and restoring these fisheries.

Also one more thing, being on the Advisory Panel or at least I think maybe by the end of today. This wasn't taken up by the Advisory

Panel that I think would have been more appropriate to review a nontraditional proposal like this, rather than a Technical Review of an innovative proposal. That is all I have. Thanks.

CHAIRMAN ARMSTRONG: Thank you. Anne Hayden.

MS. ANNE HAYDEN: My name is Anne Hayden; I'm a Senior Fisheries Program Manager from Manomet, the sustainability organization based in Massachusetts, with an office in Maine where I work. Thank you for your consideration of the proposed amendments to Maine's river herring sustainable fisheries management plan.

They are important to the communities seeking to restore their traditional fisheries, but they're also important to improving our understanding of river herring population dynamics. Manomet produced a report this year on the status and opportunities for river herring restoration in eastern Maine. We did this to support those communities working to restore fisheries. It identified a bunch of research questions that fishermen and local stakeholders had produced. I won't go through the list of what those were. But there is a lot of interest in river herring research in the research community, and there is funding increasingly available, including a five year 20 million dollar grant recently received by a consortium led by the University of Maine that is going to focus on the use of EDNA as a monitoring tool in Maine, and they've identified a significant portion of that funding to study river herring.

My point to you today is that the more of these community-based fisheries we can bring back online, the more platforms we have to study river herring, which will in turn contribute to improving the numbers and the sustainability of our commercial river herring fisheries. It will contribute to the ecological recovery of our watersheds and coastal waters, and it will improve resilience of these same ecosystems to climate impacts. Thank you.

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CHAIRMAN ARMSTRONG: Back to the Board, anymore discussion? Seeing none, we need to caucus for 30 seconds. **Back to the vote please, in lieu of voting I will see if there is a consensus. Are there any objections to approving this motion? Seeing none, the motion is approved unanimously.**

**PROGRESS UPDATE ON THE SHAD
BENCHMARK ASSESSMENT**

CHAIRMAN ARMSTRONG: The next items we would like to switch 6 and 7 in the order and do 7 first. Are there any objections to changing the agenda order? That being said, we are going to get a Progress Update on the Shad Benchmark Assessment by Jeff Kipp.

MR. JEFF J. KIPP: The Stock Assessment Subcommittee has continued to meet on roughly biweekly progress calls to get updates on analyses that are going towards the assessment. Progress has continued to be slower than hoped, I think throughout some of these calls, and hasn't changed a whole lot since the last update to this Board.

The most common reasons cited and communicated on that is just a lack of time to contribute to this assessment, given the other workloads and responsibilities among Stock Assessment Subcommittee members. We are carrying forward with our last in-person workshop as part of this assessment process, which is our assessment workshop, and that is in a little less than three weeks down in Charleston, where we will meet and review those assessment analyses that have been being worked on by the Stock Assessment Subcommittee members.

Just a reminder on the remaining timeline for this assessment, it's scheduled to go to peer review in March, and then come back to this Board at the August summer meeting for your consideration. That's all I have, and if there are any questions on the assessment I can take those now.

CHAIRMAN ARMSTRONG: Any questions, Toni Kerns.

MS. KERNS: I don't have a question, but Jeff as always is being kinder than I would be. This Committee has definitely struggled to get their work done, and I would just hope for the fact that for those states that do have folks on this Committee, if you could please help them make this a priority for this last meeting.

Continuously, there has been a lack of initiative of the Committee members to get their work done. They will come to the calls saying I worked halfway on it, but I didn't complete it. In order to finish this assessment and have a productive meeting, we need to have everybody onboard 100 percent getting things done. There have been individuals who have recently notified Jeff and Caitlin that they're not all of a sudden coming to the workshop that we had hoped they would be there. There are individuals that have been re-tasked to other species. They're still working on this, but then their work is slower, because this isn't a priority for them. We have had people leave agencies but didn't tell us that they were leaving the agency.

We thought they were working on something and obviously they were not. Then just a regular lack of engagement of committee members, and so we just plead to have your state folks engage in working on this issue, and to please communicate with that with them. If this is a priority for you, then please let them know that this is a priority.

CHAIRMAN ARMSTRONG: Thank you Toni, we've all heard that. Any questions for Jeff, seeing none we'll move on? We are running out of time. We can go over a little, but we have a hard stop for the Hart Lunch. We can go over 45 minutes; I mean 11:45 to 11:50?

EXECUTIVE DIRECT ROBERT E. BEAL: We can recess and come back afterward.

CHAIRMAN ARMSTRONG: I've been scolded again. We can't run over, but we're running out of time, so we will in fact come back after lunch for perhaps 15, 20 minutes.

SHAD HABITAT PLAN UPDATES

CHAIRMAN ARMSTRONG: But, we'll do one more item that's the Shad Habitat Plan Updates. Caitlin.

MS. STARKS: I have a very brief presentation on this, and it should not take much time. But I just wanted to bring to the Board's attention that under Amendment 3, all the states and jurisdictions were required to submit habitat plans for American shad, and those plans are meant to contain a summary of information on current and historical spawning and nursery habitat, threats to those habitats, and the habitat restoration programs going on within each state.

The FMP is not explicit about when or if these plans are meant to be updated, but from looking back through old meeting minutes, it does appear the Board was anticipating updates of these plans on roughly a five-year timeline. The majority of those plans were submitted and approved in 2014.

Florida's plan was a little bit later in 2017, and then for the Merrimack River, which is shared by Mass and New Hampshire, and the Hudson River in New York, no habitat plan has been submitted to date. From what I can tell looking back through meeting minutes related to this topic, there was an expectation that those two plans would be submitted at some point after the other plans had been approved in 2014.

The recommendation for the states at this time, since it has been about five years since the plans were initially approved, it's recommended that states go back and review those plans and update them as needed, and it's also recommended that New York submit a habitat plan for the Hudson River, and that New

Hampshire and Massachusetts work together on a plan for the Merrimack River.

The TC can review those plans, and updated plans and new plans as needed, and then they can come back before the Board for approval. For Board action on this, I don't think there needs to be a motion as long as the Board is comfortable moving forward with this path.

CHAIRMAN ARMSTRONG: Questions for Caitlin. Seeing none, we are recessed.

MS. KERNS: Right after lunch, we're in recess, and then you just come right back here after lunch, no lollygagging.

(Whereupon a recess was taken.)

REVIEW AND CONSIDER APPROVAL OF 2019 MANAGEMENT PLAN REVIEW AND STATE COMPLIANCE

CHAIRMAN ARMSTRONG: The first item is to Review and Consider Approval of 2019 Management Plan Review and State Compliance.

MS. STARKS: I have a brief presentation on this. We'll just get through it as quickly as possible. To start off, I'll go over the landings, fish passage information for the previous year, stocking efforts in the states, sturgeon interactions, *de minimis* requests, and then get to the PRT report. I'm not going to spend too much time on these landings, but I just wanted to note that in the last several years, since the 1990s, since we've all seen a decline in the river herring landings and shad landings since the beginning of the time series in 1950.

If you just zoom into the last set of years, I wanted to show that there have been some variable trends for river herring, with some increases in the last couple of years, while American shad has been declining since the 1990s. This table shows the state landings and

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coastwide totals for commercial shad and river herring in 2018, excluding confidential data.

For river herring the coastwide commercial landings, including bycatch totaled 2.45 million pounds in 2018, which is a 1.8 percent increase from 2017, and for shad the total 2018 commercial landings, again directed and bycatch landings that were reported in compliance reports were 285,523 pounds, which is a 27 percent decrease from 2017.

This slide is on the required passage counts in the states listed here. In 2018, 9.4 million river herring were counted as passed among the states that monitored these runs, and for shad 642,688 shad were passed. For river herring that's a 60 percent increase from 2017, and for shad that's a 15 percent decrease from 2017.

The states listed on this slide are involved in hatchery rearing of American shad fry, and in 2018, 22.8 million shad were stocked in rivers along the coast. I just wanted to note that in 2018, Virginia ceased their stocking efforts on the James River. For sturgeon interactions, there were 343 interactions reported in 2018, 11 of which were fatalities. All of the interactions were reported by the states listed on this slide.

Rhode Island does continue to have a lag in their data, so they were not able to report their landings for 2018, but did report two interactions in 2017. For *de minimis* requests for shad; Maine, New Hampshire, Massachusetts, and Florida request *de minimis* status, and for river herring New Hampshire and Florida request *de minimis* status, and all of these states qualify for those *de minimis* status, based on their commercial landings.

The last thing here is the PRT Report. As we talked about earlier today, the PRT did note several issues, in terms of inconsistency with the FMP requirements, and those were discussed earlier, so I won't spend too much

time on them, but just to note them here for due diligence. Maine has a two-fish bag limit per day with no SFMP. Georgia again does not have an SFMP for river herring, and does not have regulations in place to prohibit harvest of river herring recreationally, and Florida has similar situation of no SFMP for river herring and statewide recreational creel limits for river herring.

Other issues the PRT noted were that several states did not report on all of the monitoring requirements that are under Amendments 2 and 3, and a few states have been consistently omitting the same information from year to year. The most common issues of omissions are on the characterization of other losses, characterization of recreational harvest, length and age frequencies, and degree of repeat spawning.

The PRT recommends that the states take note of those required monitoring programs and results that were not reported, and make sure to please report those in their future compliance reports. Second, the PRT noted that most states did not submit their monitoring data in a separate Excel file along with their compliance report, which is required by Amendment 3.

If data are reported in a separate file, the compliance report should note what data are included in that file. In cases where monitoring is shared by several jurisdictions, the compliance report from those jurisdictions need to indicate which of them is responsible for the required monitoring, rather than just omitting information on the monitoring altogether, or alternatively all of the reports from the shared jurisdictions could report on that monitoring.

Lastly, the PRT found it difficult to evaluate compliance when states just included in some sections a statement that said no changes were made from the previous report. They did recommend a request that all sections of the

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compliance report be filled out, even if there were no changes from the previous year.

With that the action for the Board to consider today is the approval of the 2019 shad and river herring FMP review for the 2018 fishing year, and state compliance reports and *de minimis* status requests for Maine, New Hampshire, Massachusetts and Florida. Thank you.

CHAIRMAN ARMSTRONG: Are there any questions, discussion? I have one question. Were the deficiencies of the reports noted to the states?

MS. STARKS: They will be. They are noted in the FMP Review, which the states received.

CHAIRMAN ARMSTRONG: Would anyone like to make a motion similar to that? Lynn Fegley.

MS. FEGLEY: I would like to make a motion similar to that.

CHAIRMAN ARMSTRONG: That's a funny motion there.

MS. FEGLEY: Move to approve the 2019 Shad and River Herring FMP Review, state compliance reports, and *de minimis* status for Maine, New Hampshire, Massachusetts, and Florida.

CHAIRMAN ARMSTRONG: **Is there a second? Justin Davis. Discussion, is there anyone against approving this motion? Seeing none, the motion is approved unanimously.**

**REVIEW AND POPULATE THE
ADVISORY PANEL MEMBERSHIP**

CHAIRMAN ARMSTRONG: The next item, review and populate the AP membership, and that is Tina.

MS. TINA L. BERGER: I present for your approval the addition of Mike Thalhauser, Mark Amorello, and Chuckie Green to the Shad

and River Herring Advisory Panel. Their nominations were included in your meeting materials.

CHAIRMAN ARMSTRONG: **Would anyone like to make that motion? Pat Keliher has moved, second Ray Kane. Discussion, seeing none, is there anyone who does not approve of this motion? Okay, we have moved to appoint Mike Thalhauser, Mark Amorello, and Chuckie Green to the Shad and River Herring Advisory Panel.**

ADJOURNMENT

CHAIRMAN ARMSTRONG: Any dissension, seeing none, the motion is approved, and is there any other business? We are adjourned.

(Whereupon the meeting adjourned at
1:15 p.m. on October 30, 2019)