

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD**

**Webinar
May 6, 2021**

Approved August 5, 2021

Proceedings of the ISFMP Policy Board Webinar
May 2021

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INDEX OF MOTIONS

1. **Approval of agenda** by Consent (Page 1).
2. **Approval of Proceedings of February 4, 2021 Webinar** by Consent (Page 1).
3. **Move to find that New York’s appeal of Addendum XXXIII, based upon Criterion 1, Addendum is inconsistent with the Statement of the Problem, is justified** (Page 16). Motion by Justin Davis; second by Mel Bell. Motion carried (Page 22).
4. **Main Motion**
Move to remand Addendum XXXIII, specifically Section 3.1.1. *Baseline Quota Allocations*, back to the ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board for corrective action that addresses impacts to New York’s baseline in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound. Corrective action taken by the summer flounder, scup, and black sea bass Board should not result in a Connecticut baseline allocation less than 3% or decrease the percentage of quota redistributed according to regional biomass (Page 22). Motion by Justin Davis; second by Dave Borden.
Motion to Amend
Move to amend this motion to remove the last sentence (Page 24). Motion by Adam Nowalsky; second by John Clark. Motion fails (Page 26).
Main Motion
Move to remand Addendum XXXIII, specifically Section 3.1.1. *Baseline Quota Allocations*, back to the ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board for corrective action that addresses impacts to New York’s baseline in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound. Corrective action taken by the summer flounder, scup, and black sea bass Board should not result in a Connecticut baseline allocation less than 3% or decrease the percentage of quota redistributed according to regional biomass. Motion carried (Page 27).
5. **Move that the Commission write a letter to NOAA Fisheries and USFWS supporting their activities in dam passage review to provide increased opportunities for population recovery for American shad:**
 - **Dam/barrier removals as the preferred approach to restore fish species habitat access for population restoration and for habitat restoration benefits. When dam removal is not an option,**
 - **The development and use of fish passage performance standards in river systems based on available data, fish passage modeling tools, and fish passage expertise is recommended. If the required information to develop performance standards are not available, support their development for such purposes and applications** (Page 45). Motion by Justin Davis on behalf of the Shad and River Herring Management Board. Motion passes by consensus with one abstention from NOAA Fisheries (Page 45).
6. **Move to adjourn** by consent (Page 46).

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ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Warren Elliott, PA (LA)
Sen. David Miramant, ME (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Cheri Patterson, NH (AA)	Roy Miller, DE (GA)
Ritchie White, NH (GA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Bill Anderson, MD (AA)
Dan McKiernan, MA (AA)	Russell Dize, MD (GA)
Raymond Kane, MA (GA)	David Sikorski, MD, proxy for Del. Stein (LA)
Jason McNamee, RI (AA)	Steve Bowman, VA (AA)
David Borden, RI (GA)	Chris Batsavage, NC, proxy for K. Rawls (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Jerry Mannen, NJ (GA)
Justin Davis, CT (AA)	Bill Gorham, NC, proxy for Rep. Steinberg (LA)
Bill Hyatt, CT (GA)	Mel Bell, SC, proxy for P. Maier (AA)
Jim Gilmore, NY (AA)	Doug Haymans, GA (AA)
Emerson Hasbrouck, NY (GA)	Spud Woodward, GA (GA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Jim Estes, FL, proxy for J. McCawley (AA)
Joe Cimino, NJ (AA)	Marty Gary, PRFC
Tom Fote, NJ (GA)	Karen Abrams, NMFS
Adam Nowalsky, NJ, proxy for Asm. Houghtaling (LA)	Mike Pentony, NMFS
Kris Kuhn, PA, proxy for T. Schaeffer (AA)	Mike Millard, USFWS

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

Staff

Robert Beal	Jeff Kipp
Toni Kerns	Laura Leach
Maya Drzewicki	Dustin Colson Leaning
Kristen Anstead	Savannah Lewis
Tina Berger	Kirby Rootes-Murdy
Pat Campfield	Sarah Murray
Lisa Carty	Caitlin Starks
Emilie Franke	Deke Tompkins
Chris Jacobs	Geoff White

Guests

John Almeida, NOAA	William Brantley, NC DENR	James Fletcher
Max Appelman, NOAA	Jeff Brust, NC DENR	Kathryn Frens, NOAA
Pat Augustine, Coram, NY	Erika Burgess, FL FWC	Alexa Galvan
Joe Ballenger, SC DNR	Mike Celestino, NJ DEP	Pat Geer, VMRC
Julia Beaty, MAFMC	Karson Coutre, MAFMC	Lewis Gillingham, VMRC
Carolyn Belcher, GA DNR	Jessica Daher, NJ DEP	Angela Giuliano, MD DMR
Alan Bianchi, NC DENR	Kiley Dancy, MAFMC	Amalia Harrington, U Maine
Sarah Bland	Lorena De la Garza, NC DENR	Heidi Henninger, Offshore Lobster
Deidre Boelke, NEFMC	Julie Evans	Jay Hermsen, NOAA
Ellen Bolen, VMRC	Lynn Fegley, MD DNR	Pete Himchak, Cooke Aqua
Jamie Botinovch	Cynthia Ferrio, NOAA	Carol Hoffman, NYS DEC

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Guests (continued)

Kyle Hoffman, SC DNR
Asm. Eric Houghtaling, NJ (LA)
Jesse Hornstein, NYS DEC
Rachel Howland, NC DENR
Channing Wistar-Jones, NY AG
Emily Keiley, NOAA
Adam Kenyon, VMRC
Kathy Knowlton, GA DNR
Rob LaFrance, Quinnipiac U
Wilson Laney
Tom Little, Ofc Asm.
Houghtaling
Mike Luisi, MD DNR
Chip Lynch, NOAA
Shanna Madsen, VMRC
John Maniscalco, NYS DEC

Casey Marker, MD DNR
Genine McClair, MD DNR
Chris McDonough, SC DNR
Nichola Meserve, MA DMF
Steve Meyers
Jose Montanez
Chris Moore, MAFMC
Brandon Muffley, MAFMC
Allison Murphy, CBF
Brian Neilan, NJ DEP
Jeff Nichols, ME DMR
Derek Orner, NOAA
Nicholas Popoff, FL FWS
Jill Ramsey, VMRC
Harry Rickabaugh, MD DNR
Jason Rock, NC DENR

Mike Ruccio, NOAA
Tara Scott, NOAA
McLean Seward, NC DENR
Melissa Smith, ME DMF
Somers Smott, VMRC
Gregory Sorg, SC DNR
Michael Thompson, NC DNER
Mike Waine, ASA
Megan Ware, ME DMF
Craig Weedon, MD DNR
Meredith Whitten, NC DENR
Angel Wiley, MD DNR
Steven Witthuhn
Chris Wright, NOAA
Renee Zobel, NH F&G

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The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened via webinar; Thursday, May 6, 2021, and was called to order at 9:00 a.m. by Chair Patrick C. Keliher.

CALL TO ORDER

CHAIR PATRICK C. KELIHER: Good morning everybody. Welcome to the ISFMP Policy Board. Today is May 6, and we're just going to jump right into it. I would remind everybody we have until noon today, but we do have a little over an hour blocked off for the New York appeal. I am going to be trying to manage the time the best I can, to ensure that we do end on time.

To help with that, I would ask everybody this morning, as you're interacting through the webinar and using the hand raising feature. Once you've been called on, I would ask you to put your hand down, and try to remember to do that. I have also been given the great status of being an organizer here with the webinar.

I am going to try to manage that the best I can, and occasionally you'll actually see your hand go down, because that will either be myself or Toni doing it as well. But I would ask Toni, if you would help keep me on task, making sure that I'm not skipping anybody, if folks are jumping in with a lot of hands coming up.

MS. TONI KERNS: Will do, Mr. Chair.

APPROVAL OF AGENDA

CHAIR KELIHER: Let's get right into the meeting here this morning. The first item on the agenda is Board consent regarding agenda and the proceedings from the February, 2021 meeting. Are there any additions to the agenda here today? Seeing no hands, I will deem the agenda approved.

APPROVAL OF PROCEEDINGS

CHAIR KELIHER: And then the proceedings from the February, 2021 meeting. Do we have any comments on the proceedings from February, 2021? Tom Fote.

MR. THOMAS P. FOTE: Yes, I was just looking at the final agenda that was sent, the last one. I noticed it in the Policy Board meeting it says New Jersey is appealing black sea bass. I think that's a mistake.

CHAIR KELIHER: Yes, okay. The agenda I'm looking at definitely says New York's appeal. If anybody that has an incorrect agenda and it says New Jersey, that should obviously say New York.

CHAIR KELIHER: Thanks, Tom. Back to the proceedings from February, 2021. Are there any comments on those proceedings? Seeing no hands, hearing no objections, they will be considered consent of the Board to approve those.

PUBLIC COMMENT

CHAIR KELIHER: Item Number 3 is Public Comments. Is there any member of the public that has something they would like to bring to the Policy Board that is not on the agenda?

MR. TOM LILLY: Yes, this is Tom Lilly, yes, I think I do.

CHAIR KELIHER: Okay, Tom, I'm going to give you three minutes, please, if you would. Go ahead.

MR. TOM LILLY: Okay, thank you so much. First off, I really wanted to thank all of the members of the Board for your patience and understanding. I know we've sent you a lot of material, and what can I say, thank you so much? I also wanted to throw out some thanks to Bob, Kirby, and Josh for all their helpfulness and input in this situation.

Lastly, I would like to throw out a thank you to Toni, just hearing her very cheerful voice in the morning. I'm sure after it's been a long week. Let me get into this. The topic here is whether the factory fishing in Virginia may be catching an inappropriate amount of menhaden schools that are headed to Maryland.

If you look at the chart that I sent you, good. But if not, just think about down there Norfolk way, where the Chesapeake Bay Bridge/Tunnel crosses. That is where all the menhaden come in from the ocean. Yes, so picture that if you will. When Omega fishes in that area, you know there are no flags on the schools to

tell whether those schools are headed to Maryland, or whether they just like it down there in Virginia. Omega really just catches all of them.

I guess it seems pretty likely that half of those schools were Maryland bound, were going to come up here to Maryland. We may have a situation, where nearly half the menhaden Omega catches in the Virginia Bay really would have ended up in Maryland to feed our fish and wildlife, except for that fishing. You know this really raises some questions of fairness and equity to Maryland. No other state than Maryland is in this vulnerable position, as you all know.

Okay, you have scientific opinions that there are not enough menhaden in the Bay right now to support rebuilding the striped, the spawning rockfish stock, not enough for the osprey babies. This is from Matt Cieri, Tom Miller and Brian Matz, three of our top scientists. Moving the factory fishing out from the Bay into the U.S. Atlantic, north of Cape Charles, Virginia, guys and ladies could really solve a number of these problems, including the one I'm talking about. You know this is the kind of solution.

CHAIR KELIHER: Thirty seconds, Mr. Lilly.

MR. LILLY: This is the kind of solution recommended by Bob Beal. I hope you will give what we've given you some thought. The important thing here is to treat Maryland with fairness and equity. Thank you.

CHAIR KELIHER: Thank you, Mr. Lilly, for those remarks. There will be, obviously, a lot of conversations around menhaden in the coming months, with a work group and additional board meetings. Thank you for the input. Any other members of the public?

EXECUTIVE COMMITTEE REPORT

CHAIR KELIHER: Seeing none, hearing none, we are going to move right along to the Executive Committee report. I'll try to be brief on this, but

if there are any questions, we'll certainly leave time to address those at the end. The Executive Committee heard a report from the Administrative Oversight Committee on both the FY22 budget, along with the recommendations for our Policy Investment Guidelines. The FY22 budget was a modest increase over the fiscal year '21. As a reminder to the Policy Board, the Commission's office is now paid off, so that is quite a savings on an annual basis. It probably goes without saying here, but we underspent in 2021 by a significant amount, because of the lack of travel cost due to the pandemic.

After the AOC reviewed, and the Executive Committee reviewed and commented, it was recommended that the fiscal year FY22 budget be approved, and it was approved unanimously. Any questions from members of the Board on the budget? Seeing no hands, I'll move right along to the recommendation for a new policy investment guideline, excuse me, a policy on the investment guidelines.

The Appraisal Oversight Committee did approve moving those forward to the Executive Committee. At the Executive Committee there were a couple comments regarding the transparency of the investments, and the reports and when they will be done. We will now, based on the changes that we will be making, we will see on an annual basis at the spring meeting, a presentation on the numbers regarding investments, both short term and long-term investments.

However, another additional question came up around transparency and the use of those funds. It has been, Laura can correct me if I'm wrong, I believe it's been 15 or 20 years since we've had to dip in and use any of our investment funds. These accounts continue to grow. But there were some ideas about potential use of those funds, and I'm not going to go into detail.

But it was determined by the Executive Committee that we would table any action on these new investment guidelines, until the Appraisal Oversight with a couple members of the LGAs reviewed them again, and then we would bring them back for subsequent conversations at a future Executive Committee meeting.

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Then we would report those back out to the Policy Board. That concludes that portion, are there any questions around the investment guidelines? Seeing no hands. Bob Beal did a quick update on the Allocation Subcommittee that has been put together. We currently have 11 members, and May 13 will be the first meeting.

The Executive Committee will be notified of those meetings, and then the meetings will also be posted on the web page, so if anybody is interested in listening in to the conversations on the Allocation Subcommittee, they will have that opportunity to do so. We also had a CARES Act update from the Agency. There was a fair amount of conversations around the CARES Act. As it stands right now, the deadline for CARES Act and distribution of funds, it looks like for direct payouts is the end of September.

There will be some flexibility for projects, about spending that money after that deadline, but we've pretty much had the same set of guidelines for distributing those, this second round, what I call CARES Act 2.0. There will be continued conversations with the Executive Committee in regards to CARES Act. We've had really good, what I would say is really good cooperation with the Agency. We don't always get the answers that we like. We would like some more flexibility on spending these dollars, but certainly that is made almost impossible in some cases, because of the language in the federal statutes. Moving right along, also we had an update from Laura Leach on the annual meeting. We are currently planning on a face-to-face meeting in New Jersey, for our annual meeting in October.

That being said, this hinges on any relaxing of the rules currently in place under their state of emergency dealing with the pandemic. Joe Cimino is communicating weekly with staff around any changes that come up, and the Executive Committee will continue to get updates from staff. Fingers crossed, that hopefully we will see some changes.

Just why I'm talking about face-to-face meetings. There will be a survey, it's currently being developed by staff, that we're going to send out to all members, with the idea of gathering input on what state's rules might be prohibiting out-of-state travel, and then kind of the feelings of face-to-face meetings going forward.

Try to get an idea, there has been a lot of different thoughts around hybrid meetings, just going back fully, back to normal, and then basically everything in between. There is a lot of work to do there, but the Executive Committee, I think will continue to have in-depth conversations. You will plan to see a survey. I don't even want to guess when it's going to go out.

But hopefully, within the next 30 days. Please make sure you give good attention to that survey, because I think the more folk's we can get to fill that out, the easier it will be to make determinations on how we'll move back to face-to-face meetings. Just a reminder, North Carolina will host in 2022, Maryland in 2023, and then I believe it's, Laura can correct me if I'm wrong, I can't even read my writing. I believe it's Delaware in 2024.

Let me just check my notes. There was some additional conversation, and you probably kind of heard some of the conversations prior to every species Board meeting, around hands and keeping track of hands, so we're not missing people who want to participate in these meetings. As you all know, especially when we get into certain situations, where there is a lot of interest and a lot of hands go up.

Sometimes it's tough to keep track of those. Staff has done a really good job keeping the Chair's organized, but staff is going to go look at some other possible tools that we can have up on the screen to keep track, so it's just not an alphabetized list of hands like we have with this type of Go-To Webinar, that it will keep track based in order of hands raised.

That is something we'll continue to get input on from staff. The last item on the Executive Committee agenda was a closed session for the Performance Review of our Executive Director. You know I consider ourselves really lucky. We are lucky to have Bob Beal

as our Director. He has, and I am speaking on behalf of the Executive Committee here.

He has shown great leadership. You know he is extraordinarily responsive; you know very much takes a balanced approach to the demands, very objective in how he looks at issues. I would say he has done a tremendous job in the face of this pandemic, keeping everybody on task. I continue to believe we've got high morale with staff, and a lot of that is certainly reflective on the leadership of Bob Beal. The approach that we take, it's an approach that I started last year, which is a self-evaluation approach. Director Beal, frankly is harder on himself than the Executive Committee or leadership was. But at the end of the day, no issues have been raised around his performance, and it was a unanimous decision to approve the Director's appraisal review for the last calendar year. With that, that concludes my report. Do we have any questions or comments from the Policy Board? Bob Beal.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Well first of all, thank you for the kind words. I really appreciate it. It's a privilege to work at the Commission, and working with 45 Commissioners sounds daunting, but it's actually great. You get a lot of different perspectives, so thank you for the kind words.

Just one quick addition to your CARES Act summary. A number of the states are interested, or considering options other than direct payments to individuals and businesses, such as infrastructure changes, training, marketing, et cetera. National Marine Fisheries Service agreed to send us a list, probably not an exhaustive list.

But at least a list of examples of the types of projects that are what we're calling sort of in-bounds, or are available for the states to consider. Once we get that list, we can share it with everyone, just to know what the universe of options may be for other ways to spend the CARES Act money, other than direct payment, if

a state wants to consider that in their CARES 2.0 spend plan. Thank you, Mr. Chair.

CHAIR KELIHER: Thank you, Bob. Any other comments from the Policy Board? It looks like your hand went back up, Bob, but I think you're all set.

**REVIEW AND CONSIDER NEW YORK APPEAL OF
ADDENDUM XXXIII TO THE
SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS
FISHERY MANAGEMENT PLAN**

CHAIR KELIHER: Okay, moving right along in the agenda. Agenda Number 5 is Review and Consider New York Appeal of the Summer Flounder, Scup, Black Sea Bass Fisheries Management Plan.

The state of New York filed an appeal back on March 19. On April 5, accordance to the appeal process, both myself as Commission Chair, Spud Woodward as the Vice-Chair, and then Mel Bell, along with Commission staff, convened a conference call to review the New York appeal. Just so everybody knows, Mel Bell replaced Jim Gilmore, the Commission's past Chair would normally be on that Appeals Board, because Mr. Gilmore is obviously a signatory to the New York appeal.

On that call it was determined that the appeal could be forwarded to the ISFMP Policy Board for appeal consideration under Criterion 1. Criterion 2 and 3 were not met, and Criterion 4 was not considered, because it was not referenced in their appeal. I want to remind the Board that this is not an allocation decision here today.

This is a policy decision, and it's a policy decision to determine if the appeal is justified, and then if it is justified, what the remedy will be. The remedy, if we get that far. When we talk about a remedy, it will be remanding something back to the species board for consideration of a change in what that allocation will be. I want to continue to make sure it's clear that we will not get into allocation conversations here today. This is strictly a policy conversation, in regards to justification of the appeal and remanding, and again, if justified remanding something back to the species board. Toni will be giving an overview of the appeal, and then New York will be given an opportunity to

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present their appeal, and they have put together a power point, we'll present 10 or 15 slides. After some questions and answers on their appeal, I'm going to be looking for two separate motions.

Again, first I want the motion to make clear whether the appeal is justified or it is not justified. As I said earlier, if it is justified, then a second motion will be needed in regards to remedy. I'm going to turn it over now to Toni Kerns, and give Toni an opportunity to give us that background that I referenced earlier. Toni, the floor is yours.

MS. KERNS: Thank you, Mr. Chairman. As the Chairman said, New York appealed Addendum XXXIII, which is the Addendum that addresses the commercial black sea bass state-by-state shares or quota. The decision that the Policy Board is considering is under Criterion 1. The decision by the management board wasn't consistent with the statement of the problem of the Addendum.

In my presentation today, I'm going to give a quick overview of the appeal process, since it's been a while since we've gone through an appeal, and the process was revised slightly in 2019. I'll give background on the development and approval of Addendum XXXIII, provide the Board's justification for the approval of Addendum XXXIII, and then provide any potential impacts to states under the actions requested in the appeal.

These are all things that are outlined in the appeals process, that is the job of the ISFMP Director. As a reminder, for the appeals process there are four different criteria from which a state can appeal an addendum or an amendment. Today we are going under the decision that is not consistent or contrary to the FMPs goals or objectives, or the statement of the problem of an addendum.

As Pat said, today's decision by the Policy Board is looking at, was the Summer Flounder, Scup,

and Black Sea Bass Board actions justified, so specifically to this appeal, did the Board address the expansion of the black sea bass stock in Long Island Sound for New York waters, in the changing allocation as it was approved. If the Policy Board agrees that the Board's actions were justified, then we'll need no further action today.

If not, then the Policy Board will have to afford corrective action to the Summer Flounder, Scup, and Black Sea Bass Board. The Policy Board should state the specific finding that the Board's action was not justified, and then the Policy Board should provide specific guidance back to the Summer Flounder, Scup, and Black Sea Bass Board for the corrective action that should be taken.

Some information on Addendum XXXIII, in which the document is being appealed. This is a document that was considered by both the Summer Flounder, Scup, and Black Sea Bass Board, as well as the Mid-Atlantic Council, because this management plan is jointly managed by the two bodies. The two defined goals in the management bodies in addressing this management action were first to consider adjusting the commercial black sea bass allocations, using current distribution and abundance of black sea bass is one of several adjustment factors to achieve a more balanced access to the resource. Second was to consider whether the state allocation should continue to be managed under the Commission's FMP, or whether they should be managed by both the Commission and the Council. Prior to the approval of this management action, the commercial quota shares were managed only under the Commission's FMP.

There were three statements of the problems that were addressed in the Addendum. The state-by-state allocations of the commercial black sea bass quota were originally implemented in 2003, as a part of Amendment 13. They were loosely based on historical landings from 1980 to 2001. The state shares in Amendment 3 when looked at by regions were allocated to 67 percent of the coastwide quota to the states of New Jersey through North Carolina, and that is north of Cape Hatteras for North Carolina.

Then 33 percent among the states of New York through Maine. They had been unchanged since they were implemented in 2003. Over the last decade, the distribution of the black sea bass stock has changed in abundance, and biomass has increased significantly. There have been corresponding changes in fishing effort and fishing behavior.

According to the most recent black sea bass stock assessment, which modeled fish north and south of Hudson Canyon separately. The majority of the stock occurred in the southern region prior to the mid-2000s, and then since then the biomass in the northern region has grown considerably.

Although the amount of biomass in the southern region has not declined in recent years, the northern region currently accounts for the majority of the spawning stock biomass, as you can see in this figure. The shift in black sea bass biomass distribution has also been supported by other peer review scientific information.

The last portion of the statement of the problem addressed the expansion of the black sea bass stock into areas with historically minimal fishing effort, had created significant disparities between state allocations and current abundance in resource availability. The most noteworthy case was Connecticut, in which it experienced significant increases in their black sea bass abundance and fish availability within Long Island Sound, but was only allocated 1 percent of the coastwide quota.

Addendum XXXIII looked at many different ways to allocate the stock. This list here just represents all the different management options that were presented to the public, and for the Board and Council to consider. What was approved is listed here. Under the approved changes, Connecticut's baseline allocation was increased from 1 percent to 3 percent of the coastwide quota.

Once we had a new baseline quota for all of the states based on that, and most of the states' baseline quotas were changed ever so slightly, to account for that 2 percent increase to Connecticut. Then the quota was allocated 75 percent according to these baseline allocations, and 25 percent according to the regional distribution from the most recent stock assessment. The three regions are Maine to New York, New Jersey and Delaware through North Carolina. The regional allocations are distributed amongst the states within a region in proportion to their baseline allocation, except for Maine and New Hampshire, which just received 1 percent of the northern region quota together. Because the allocations are based in part on the regional biomass distribution from the stock assessment, they'll be adjusted if new assessments indicate a change in the biomass distribution.

Lastly, the quota allocation program will be evaluated within five years' time. For those that have not been involved in this process, it's probably hard to picture exactly what happened. This table here shows what each state's original historical allocation, so where we were up until we made this change through Addendum XXXIII.

The column on the far right is the change to the baseline allocation, which 75 percent of the quota is distributed via. That middle column shows you the difference in the baseline from the historical allocation. This new baseline is not the state's final allocation. I will show you some of those tables in a minute.

This table here shows you the change, and all of the state's final allocation. The change is based on the final allocation that were provided as an example in the Addendum for what the quotas would be in the upcoming year, if no changes in the stock assessment information came forward. As I said earlier, 25 percent of the quota is distributed based on biomass distribution of the stock assessment.

What you would call final allocation has the potential to change every time a new stock assessment comes out, so I don't really call it a final non-changing allocation, if that makes sense. The Board's justification for making these changes, in particular in

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considering not having an increase in New York's baseline allocation, which was under consideration during the Board meeting.

There were votes that considered increasing New York's baseline to 9 percent, but the rationale that the Board provided was that they were increasing Connecticut's baseline allocation from 1 percent to 3 percent, because none of the management options as presented to the Board, were going to make a significant difference to Connecticut quota, without upping the baseline.

They wanted to make sure that Connecticut would have some additional access to these fish that would address the abundance that they were seeing in Long Island Sound. In the discussions around New York, and why New York's baseline was not increased. It wasn't that the Board didn't think that New York shouldn't get to 9 percent in the end.

It just felt as though their baseline didn't need to be increased at that time, because they had had a fishery prior to, and that the baseline that they currently have would be significant enough to be increased, if the abundance was there. Meaning that in the 25 percent of the quota that is being distributed, based on the abundance of the stock assessment, would account for any increases that New York was seeing in their waters.

It's hard to say exactly what the Board would be considering for changes, in terms of what would be the impacts to states. But I just provided an example of what it would look like, if New York's baseline was bumped by 2 percent, so it would be at 9 percent, versus what was approved by the Board. You can see here in the first two columns under the scenario where Connecticut is at 3 percent, and New York is at 9 percent for their baseline, what each state's base allocation goes to, and then the next column is what the final example quota allocations would be. Then you can compare that to the next two columns, which is what

was approved in the Addendum, so where we are right now for allocations, and see the relative difference between those two for each of the states. Mr. Chairman, that is all the information I have. I can take questions, or you can go directly to New York.

CHAIR KELIHER: Toni, thanks for that presentation. Why don't we take a few questions on Toni's presentation, before we ask New York to present? Any members of the Policy Board have any questions for Toni? Seeing no hands then, we will go right to the presentation from New York, and I know we have a small PowerPoint presentation. Jim Gilmore, are you taking the lead on that?

MR. JAMES J. GILMORE: Thanks, Mr. Chairman. Actually, if it pleases the Board, what we'll do is John Maniscalco will do the PowerPoint presentation, which should take about 8 to 10 minutes, and then each one of the New York Commissioners, myself, Emerson Hasbrouck and John McMurray will just do a one-minute summary, and then we'll give it back to you for questions and consideration of motions, if that is acceptable, Mr. Chairman.

CHAIR KELIHER: Yes, that's fine, Jim. Let's turn it right over to John for the presentation then.

MT. JOHN MANISCALCO: Good morning all! My name is John Maniscalco from New York, and thank you for the opportunity, and for your consideration. Toni Kerns gave a pretty thorough background, so I'm going to jump right into New York's appeal. New York appealed Addendum XXXIII in a March letter to the Commission leadership.

Commission leadership granted this appeal under Criteria 1, decision not consistent with the statement of the problem. The leadership April 21 letter to New York, states that New York correctly notes the Addendum only discusses this increase as it relates to Connecticut, in the statement of the problem, though New York is similarly affected by the increase, as Long Island Sound is a shared waterbody of the two states.

Addendum XXXIII was prompted in part by a significant change in stock distribution and abundance. The Addendum statement of the problem

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says, in some cases expansion of the black sea bass stock into areas with historically minimal fishing effort, has created significant disparities between state allocations and current abundance and resource availability.

While the example given was Connecticut in Long Island Sound, Long Island Sound is a shared waterbody, and New York has been similarly impacted. Is there a map? Can anyone see a map, or is it still the Addendum and statement of the problem slide?

MS. KERNS: I think it's stuck, John.

CHAIR KELIHER: There we go.

MR. MANISCALCO: Okay, please go back. Thank you. This is just a quick review of the geography. Long Island Sound is a large inland water body, bordered by Connecticut to its north and Long Island New York to its south. Black sea bass commercial allocations were established as part of the Amendment 13 process, and first implemented in 2003.

Amendment materials included essential fish habitat information on black sea bass. At that time, adults were considered rare in Long Island Sound, and Long Island Sound was not designated as essential fish habitat for adult black sea bass. Interestingly, estuaries both north and south of Long Island Sound were designated as EFH, including Buzzard's Bay and Narraganset Bay to the north, and Delaware Bay and Chesapeake Bay to the south.

Allocation established as part of the Amendment 13 process, were based upon landings from 1980 to 2001. The Long Island Sound Trawl Survey Index shows that abundance and biomass in Long Island Sound during these years was very low. While the survey is conducted by Connecticut, it thoroughly samples the state waters of both Connecticut and New York.

During the baseline years used by Amendment 13 to established commercial allocations, Connecticut was landing an annual total average of about 15,000 pounds. A 1999 snapshot from Amendment 13 materials show that of Connecticut's 14,000-pound landings in that year, only 14 percent came from state waters.

In contrast, 44 percent of Connecticut's fluke and 90 percent of its scup came from Long Island Sound. During this time the majority of New York's landings were also coming from federal waters, about just over 60 percent in 1999. But New York did have ocean fisheries in state waters off of southern and eastern Long Island.

As has been documented by science, stock distribution has changed and expanded into Long Island Sound. The Trawl Survey Index shows a dramatic increase in abundance and biomass in the Sound after 2010 or so. The map to the left shows stations in both states' waters, and highlights the tows conducted specifically in May, 2018 as an example.

The NOAA Lab in Milford, Connecticut found a dramatic increase in black sea bass trap CPUE out of Rocky Reef and Long Island Sound. Independently corroborating the trend shown by the Trawl Survey. The expansion of the stock into Long Island Sound, has resulted in a large increase in Connecticut's commercial black sea bass landings from Long Island Sound specifically after 2010.

The same increasing trend can be seen in New York's black sea bass landings also from Long Island Sound. This figure shows how the proportion of each state's total commercial black sea bass harvest from Long Island sound has increased since the stock expanded into Long Island Sound. Both states harvested a small proportion of their annual total earlier in the time series, and after the stock's expansion.

Long Island Sound now accounts consistently for 50 percent or more of both state's commercial black sea bass harvest. We've shown that adult black sea bass were not present in Long Island Sound in significant numbers when Amendment 13 allocations were established. Connecticut fishermen fished in Long

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Island Sound, but didn't land significant numbers of black sea bass from there. New York fishermen experienced the same type of catch from the Sound as Connecticut fishermen did. The majority of 1980 to 2001 landings that established baseline allocations for New York and Connecticut, did not come from Long Island Sound, but from ocean and federal waters.

New York had a larger ocean fishery than Connecticut, hence New York's 7 percent historical allocation. As we've covered in the late 2000s, black sea bass expanded into Long Island Sound. Black sea bass now represent an abundant resource in the shared waters of New York and Connecticut.

This new state waters fishery is causing management difficulties for both states. In New York the quota demand is strained between the traditional ocean fishery that established New York's 7 percent historical allocation, and this New Long Island Sound fishery, resulting in low trip limit and frequent unplanned closures.

Addendum XXXIII addresses this new fishery only for the state of Connecticut. The lack of adjustment made to New York's baseline allocation under Addendum XXXIII, means that the subsequent distribution of regional biomass takes into account only the catch from its historical ocean fishery, and fails to address the new and robust fishery that now exists for New York in Long Island Sound.

Long Island Sound is a large water body shared by Connecticut and New York. It's 1,300 square miles dwarf most other inland water bodies, including the others found in New York. The Addendum explicitly grants additional access to one state that shares these waters, while denying the other adjacent state.

This is the equivalent of granting access to Maryland in the Chesapeake Bay, or New Jersey in Delaware Bay, while denying requests from Virginia or Delaware. The Addendum's allocation, according to regional biomass, is a

step towards addressing the change in the stock distribution that has been documented by science.

However, by adjusting only the baseline of Connecticut, Addendum XXXIII failed to address impacts to New York, as a result of the stock expansion into an area with historically minimal fishing effort. New York asks that the Policy Board find that Addendum XXXIII as currently written is not consistent with the Addendum's statement of the problem, and remands Section 3.11 based on quota allocations back to the species board for corrective action.

Corrective action taken by the species board should address the identified inconsistency with the Addendum statement of the problem for New York, in a manner comparable with the way which has been addressed by Connecticut. Corrective action taken by the species board should not reduce the Connecticut, based on allocation below 3 percent.

New York requests that the species board reconsider the original proposal made by the Commissioner from Massachusetts, to address the expansion of the stock. That proposal included a 2 percent to the baseline allocations of both states. This results in a 200 percent increase in baseline for Connecticut, and a 29 percent increase for New York. The table shows the changes that result to baseline allocations, if New York's baseline were increased by 2 percent. This table shows example state allocations, once regional biomass distribution is implemented, assuming current assessment information. I thank you all for your attention. Maya, thank you for your assistance, and now New York's Commissioners would like to briefly address the Policy Board.

CHAIR KELIHER: Thank you, John, for that presentation. Jim, I'll turn it over to you to start. If you guys could try to keep your comments to a couple minutes, and then we'll open it up for Q & A.

MR. GILMORE: If Toni could tee up her last slide in her presentation, I think it would be helpful for the discussion. If you get that going while I just sum up. First off, and just to put this more in layman's terms, back to the Addendum. John did a great job on the

technical aspects of it, but it really boils down to the primary objective of the Addendum was to identify increases in abundance of black sea bass, and it just allocated for those impacted areas.

Long Island is clearly identified through the extensive data as one of those areas. Long Island Sound is a state border water, solely bounded by Connecticut and New York. The Board recognized this, but the result of the February meeting was to only provide relief to Connecticut. Once you, and essentially give their base allocation an increase of 2 percent. Without that New York only received about a 1.5 percent increase overall, when you factor in the biomass increase across the coast.

It's significantly low, and unable for us to manage the fishery because of the expansion and the explosion of that population in Long Island Sound. Providing a baseline increase to New York results, we believe, is a minimal impact to the other states, based upon adding New York in. Some cases it's only a couple of a 10 percent of either an increase or a decrease in some of the states, so not a significant change, in terms of the other states.

We believe this is a small step that will have minimal impact to the other states, but an important step in the Commission moving forward with our overall allocation issue. We have the Subcommittee moving forward, and I think this would be, again a small step that will help us moving forward, and keeping the issue of allocation and changes to that into the future, with the body, with ASMFC, and maybe not in other places.

New York is requesting that this be remanded back to the species board, but first that the appeal is supported, and then secondly remand it back to the species board, because at this point, we're just making a policy decision, and we will discuss remedies at the species board. Again, I'll turn it over to Emerson and John

McMurray now for some brief comments, and then back to you, Mr. Chairman. Thank you.

CHAIR KELIHER: Thank you, Jim. Emerson.

MR. EMERSON C. HASBROUCK: Yes, thank you, Mr. Chairman. Maya, could you go back to the New York PowerPoint, please? Okay, I think we've got these queued up. Okay, I think you're working off of an earlier presentation. Okay, so go back to Slide 6, please?

MS. KERNS: I'm sorry you guys, I didn't see John's e-mail from early this morning, so I didn't send that to Maya. It's not Maya's fault, it's mine.

MR. HASBROUCK: That's okay, no problem. I just wanted to review the geography here again. Long Island Sound is a shared waterbody bounded by Connecticut and New York. The dividing line in the Sound between the two states, is horizontally down the middle there from left to right. Each state has about the same amount of Long Island Sound within their state waters.

The Sound is a shared resource between both states. Again, I just want to reinforce the geography here. This shows the black sea bass harvested from Long Island Sound as a percent of total black sea bass landings for each state. New York is in blue, Connecticut in red. During the early part of the time series, and going back to the baseline period, less than 10 percent of New York black sea bass landings came from Long Island Sound.

During the baseline period, on which the state-by-state allocations were calculated, the New York and Connecticut black sea bass fisheries occurred primarily outside of Long Island Sound. During the baseline period, landings for both New York and Connecticut were minimal in Long Island Sound. That's because there were hardly any black sea bass in Long Island Sound.

Black sea bass were pretty rare in Long Island Sound all the way through about 2012, when the biomass started to increase in the northern area. Right around that time period, fishermen began to see an increase

in abundance, in availability, and increased their catch in Long Island Sound. By 2014, there was an increased directed fishery in Long Island Sound.

By 2018, because of the significant increase in black sea bass biomass in Long Island Sound, the proportion of each state's black sea bass landings from Long Island Sound have increased considerably. Now, both in New York and Connecticut, over 50 percent of each state's black sea bass landings come from Long Island Sound. This is due to the significant increase in black sea bass biomass in the northern region.

We developed Addendum XXXIII to address this issue of the increase in biomass in the northern region. The problem statement of Addendum XXXIII addresses this issue, and specifically highlights the fact that the expansion of the black sea bass stock into areas with historically minimal fishing effort, has created significant disparities between state allocations and current abundance in resource availability.

This is particularly so in Long Island Sound. The increase that New York received due to the regional reallocation, is based on the fishery that existed during the baseline period, and accounts for increased biomass in the ocean fishery. It does not address the significant increase in biomass in Long Island Sound, an area with historically minimal fishing effort. The Board addressed this issue for Connecticut, by increasing its baseline allocation to 2 percent. No such consideration was afforded to New York for the significant biomass in a related fishery in Long Island Sound. The failure to address the increase abundance in Long Island Sound for New York, resulted in the fact that Section 3.1 of Addendum XXXIII is not consistent with the Addendum XXXIII Statement of the Problem. Because it's inconsistent, we are here today on this appeal. The vote here today is not an allocation vote. It is a policy vote this morning on the consistency of Addendum XXXIII, with the Commission policies. I urge you to vote on that basis. Thank you.

CHAIR KELIHER: Thank you, Emerson. I'm going to turn it right over to John McMurray. Joe, I do see your hand up, but I'm going to take questions after the presentation. Go ahead, John.

MR. JOHN McMURRAY: Toni, can we go to Slide 8, please? Here is the short version. This is 100 percent of climate change management issue, one that shows outside parties, particularly those in Congress, how effective we are at dealing with such clear spatial changes in species distribution.

As you can see by the Trawl Survey chart, black sea bass were pretty rare in Long Island Sound, all the way up until about 2012. Right around there, Long Island Sound fishermen began to see an increase in abundance and availability. By 2014, there was a real directed fishery in the Sound, and by 2018 well, it's been described as an explosion.

Now, quota demand in New York has become severely strained between the historical ocean fishery, which largely made-up New York's baseline, and a new Long Island Sound fishery. The result of course has been low trip limits and unplanned closures. What Addendum XXXIII did, was increase Connecticut's baseline allocation to 3 percent because of that new fishery created by the explosion of black sea bass.

Clearly, Long Island Sound is a shared waterway between New York and Connecticut, but New York received no such allocation. The stated intent of Addendum XXXIII is to address changes in distribution of the stock, specifically for Long Island Sound. Clearly, that didn't happen, if it addressed it for one state, but intentionally left out the other.

Now, I know some of you see this from a coastal perspective, and yes, we got a little bit more quota. But you need to look at it from a spatial one. This is not the ocean, this is Long Island Sound, and New York can't just shift effort to Long Island Sound and everything will be fine. We need relief for Long Island Sound fishermen.

Those guys lost the lobster because of climate change, they should be able to take advantage of some of the influx of black sea bass. That is only fair. To be crystal

clear, the problem here is that Addendum XXXVIII explicitly grants access to a newly abundant resource in shared state waters to one adjacent state, while essentially ignoring the other state.

As John correctly pointed out in his presentation, this is the equivalent of granting access to a public resource to Maryland in the Chesapeake, and to hell with Virginia, or Delaware Bay granting access to New Jersey, and to hell with Delaware. It seems to me that just about anyone looking at this objectively, can understand how problematic this is. Now, I understand some states on the Policy Board might want to stay out of this, because it's not their state that is being affected. I understand that they may perceive this solely as an allocation dispute between states, but it's not. It's a climate change management issue, and if we can't deal with this sort of thing, which is relatively simple, will likely have minimal impact. Well, we failed, and will likely continue to fail at truly addressing climate change as it relates to stock redistribution.

To be clear again, this is not a species board, where abstaining is appropriate, because it is not a species important to that state. The Policy Board exists to make tough, but just decisions like this. That is why we're here, to help decide these sorts of issues. I would encourage those states to look at this issue objectively, and vote on a motion that I'm guessing we'll see up here shortly, thank you.

CHAIR KELIHER: Thank you, John, and thank you to the state of New York for your presentation. What I would like to do now, is just take questions for the state of New York's presentation, or we can go back to questions for Toni as well. Does anybody have any questions at this time? Roy Miller.

MR. ROY W. MILLER: Jim, or John or John, could you educate me as to the types of fisheries in the New York side of Long Island Sound? Is there a trawl fishery in that portion of the Long

Island Sound, or are the existing fisheries primarily pot fisheries? How would you characterize the fisheries? The reason I'm asking that question, is to see what bycatch losses might be, if there were no relief granted, in terms of black sea bass landings.

MR. GILMORE: Go ahead, John.

MR. MANISCALCO: Yes, thanks for the question. There are trawl fisheries in Long Island Sound, particularly in the eastern portion of it, in addition to, you know pots and hook and line.

CHAIR KELIHER: Thanks, John, Roy Miller, follow up?

MR. MILLER: Yes, please. Is there much of a lobster pot fishery, or has that totally collapsed? What I'm getting at, are black sea bass being captured in lobster pots?

MR. MANISCALCO: I'm going to assume I'm going to answer that. Roy, there are relatively few active Long Island Sound lobster fishermen left. Certainly, there are some, but much, much smaller than in the 1990s.

CHAIR KELIHER: Thank you, Roy, David Borden.

MR. DAVID V. BORDEN: This is a process question. If the appeal is granted, then it goes back to the species board, and does the species board deal with this issue alone, or would they then schedule a joint meeting? What I'm struggling with is, whether or not the Commission has to deal with it first, and then if and when they address this, they then schedule a joint meeting with the Mid. Could somebody elaborate on that point, please?

CHAIR KELIHER: Thanks for the question, David. I'm going to ask Toni to give her perspective, but I think as I'm looking at it, prior to the conversation around a remedy. The issue should be around justification, and then I think we may need to have a conversation around how the interface will look. But Toni, do you have any thoughts on that?

MS. KERNS: I'll give you what I believe is the correct answer, and have Bob fact check me. If the Board agrees, and remands this back to the Summer

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Flounder, Scup, and Black Sea Bass Board, we would inform the Mid-Atlantic Council of what has happened, and when we plan to meet as Summer Flounder, Scup, and Black Sea Bass Board. I believe that would be the August meeting, and see if they want to be a part of that discussion. But Bob, is that correct?

EXECUTIVE DIRECTOR BEAL: Yes, thanks. Yes, Toni, I think that is correct. The big question is, ultimately this is a species management board issue if the Policy Board remands it back. Under this process, if the Policy Board remands something back to the species board, the species board is obligated to take action to make a change.

It can't go back to the species board and the species board says no, actually what we did was, we like what we did and we're going to stay status quo. The species board is obligated to make a change. It gets a little bit difficult or tricky, because obviously the Policy Board can't obligate the Mid-Atlantic Council to make a change.

The decision point will have to be, how do we want to structure a joint meeting, if we go that route, and voting and other things. I think an argument can be made that a joint vote with the Mid-Atlantic Council and ASMFC on this appeal, probably isn't the appropriate first step. I think this is a species board issue that they have to sort out.

Having the Mid-Atlantic council involved makes some sense, since it's jointly managed. But I'm not sure our strict joint voting process may make sense, should something go back to the species board. I don't want to presuppose the outcome here.

CHAIR KELIHER: David, do you need any more?

MR. BORDEN: Yes, just a quick point. Bob Beal just made one of the points that I wanted to get to, is that I think it is incumbent upon the process when this goes back to the species

board. The species board should vote on it up or down, and address the issue, without the joint voting implications being brought into this.

That interjects a dynamic into the Board action that I don't think is warranted. The Board needs to take a position on this, and then once we get a position, we can work with our partners in the Mid-Atlantic Council. But we need to have our own position on this going into that joint session. Thank you.

CHAIR KELIHER: Thanks for those thoughts, David. Mike Luisi, I see your hand is up, and I'm going to allow you to comment as the Mid-Atlantic Chair, if you could keep them brief, because I think we probably need to come back to this conversation at some point, after we've made a determination around both justification and remedy. But go ahead, Mike.

MR. MICHAEL LUISI: Thanks, Mr. Chairman. I can hold off on my comments, you know, and I am not on the Policy Board, but as the Chair of the Mid-Atlantic Council, I'm happy to answer questions. The Mid-Atlantic Council does not have any intention in revisiting this decision.

If the Board determines that this decision needs to be reconsidered, and the Board decides to make a change, we will then have both federal and state waters allocations different, which is something that we've talked about many times. I'm happy to talk more about it. I will respect your request, Mr. Chairman, to keep those points brief.

But I am here, and I've been in conversation with leadership of the Council on this issue. Please, just call me if you need some answers, or need some questions based on the joint management plan that we have with the Board, as far as Council and Board participation in this, so thank you.

CHAIR KELIHER: Thanks, Mike. It's a little disheartening to hear that the Mid would not consider readdressing this issue, so if that is the case, then I think that the Commission needs to move on with the idea that we will make a determination without the Mid, if that is the case. But again, I think we need to

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revisit this issue after the final votes are taken. John Clark, questions to New York or to Toni?

MR. JOHN CLARK: Yes, I think this question is being directed to New York. New York did get an increase from 7 to 8.57 percent of the quota. As we all know, based on the latest assessment, the commercial quota for black sea bass coastwide went up 59 percent. Long Island Sound, yes, it's part of New York, so all the fishermen, ocean and Long Island Sound are permitted in New York.

What action has New York taken to reallocate some of the allocation you have now to the Long Island Sound? What is preventing you from doing that? I mean this seems like an issue that with the big increases that you've gotten, both from the 59 percent increase a couple years ago, and from the 1.5 percent increase in the overall stock, that should give you some relief as is. Thanks.

MR. GILMORE: I'll take that, Mr. Chairman. If Toni could put up that last slide, or whatever. John, the original allocation that New York had back in 2003, gave New York only 7 percent of the coastwide allocation. I've noted this before, our adjacent states each have, I think New Jersey has a 20 percent allocation, Rhode Island and Massachusetts are in the teens, somewhere around 14 to 15 percent.

We've been struggling for the last few years in the ocean fishery, because that 7 percent really was not adequate for the resource that we actually had. With the 2 percent increase, if we had gotten that. We would have been about at 11 percent, and we believe that is more of a manageable allocation, in terms of our fishery.

If you still note, New Jersey, Rhode Island and Massachusetts still are significantly higher, and they go up in terms of their percentages. Essentially saying that we're going to transfer some of that 7 percent into a new fishery in Long Island Sound, does not give us adequate quota to manage that fishery. As John had

indicated in the presentation, I've been signing closures on a monthly basis now, because we just don't have significant quota, based upon our historical allocation, with the increase that occurred in Long Island Sound. That switch will not resolve the issue that we have.

MR. CLARK: Can I follow up, Mr. Chair?

CHAIR KELIHER: Yes, go ahead, John.

MR. CLARK: Jim, I mean we know really the main problem is, is that the stock as has been pointed out time and time again by the states in the southern region. There is plenty of black sea bass down here too, and if you look at those statistical areas in the landings, you see that Delaware, the area right off of Delaware Bay is consistently one of the top areas for landings.

You know once again; the problem is the quota overall for the whole coast is obviously just too low. I think that you know no state came out of this happy, and I don't know, you know based on some of the things that have been said here, whether this will really solve the problem.

CHAIR KELIHER: Thank you, John. I've got Chris Batsavage and then Emerson Hasbrouck.

MR. CHRIS BATSAVAGE: This question is for the New York Commissioners. The presentation showed the percent of black sea bass landings from Long Island Sound for both Connecticut and New York, and that answered a question that I had going into this. I don't recall hearing or seeing that information before.

Reading through the draft minutes in the February meeting, I didn't see anything like that in there, to just kind of give the relative importance percentage of landings of black sea bass from Long Island for New York, or Long Island Sound for New York. I'm just wondering, why wasn't that point raised during the February meeting?

MR. GILMORE: Chris, I believe the information was in the overall supporting document, but the specific breakout for Long Island Sound wasn't included, and

at the time it was our understanding, the discussion if you looked at one of the options that Toni had put up before. Toni, if you could put your slide presentation back up that would be helpful.

Essentially, there was a recommendation that if some of the options such as DARA or triggers didn't work, that there was an option that was New York and Connecticut would both have a 2 percent increase in their base allocation. We had thought, you know talking with some of the other states and Massachusetts, well that was going to be a motion that would be supported. It was a bit of a surprise that it was removed during the meeting, and if we had known it, we probably would have done more emphasis on the fishery specific to Long Island Sound.

CHAIR KELIHER: Emerson.

MR. HASBROUCK: I just wanted to respond to John Clark's question. What John seems to be getting at is the allocation issue here. My suggestion is that his concerns and questions might more appropriately be debated if this gets remanded back to the Board. I just want to bring us back here at the Policy Board to the fact that we're not asking the Policy Board here to act on reallocation. What we're asking here is for the Policy Board to decide on whether or not there was a failure to address the increase in abundance in Long Island Sound for New York, that resulted from the fact that Section 3.1 of Addendum XXXIII is not consistent with the Addendum XXXIII Statement of the Problem, not to argue allocation here.

CHAIR KELIHER: Thanks, Emerson, that is a good reminder that again, we're not trying to get into an allocation conversation here. This is a policy conversation around the justification of the appeal. It is easy to kind of stray into those conversations obviously, so I just would remind everybody to be mindful of that. I've got Dan McKiernan, go ahead, Dan.

MR. DANIEL McKIERNAN: Regarding Mike Luisi's comment on the lack of interest by the Mid-Atlantic Council to alter the allocation scheme on the federal side. Am I correct that the Regional Administrator has yet to approve the federal allocations, and one option or one outcome could be the Regional Administrator could defer to the ASMFC approved quotas, as is the case now?

CHAIR KELIHER: I believe that is correct, but I'm going to let the Regional Administrator answer that. Mike.

MR. MICHAEL PENTONY: Thanks, Mr. Chairman, yes thanks for the question. It is correct. We have received the initial draft of the Council's allocation amendment only. We have not started the Secretarial review process of that amendment. We've made no determination on approving or disapproving any aspect of that Amendment. I will say that if we do not have the option, and maybe this wasn't the intent of the question.

We do not have the option to adopt the Commission's allocations into the federal FMP. But we may have grounds to disapprove bringing the state-by-state allocations into the federal FMP, particularly if the Council's proposed allocations in the Amendment are different from any resulting allocations that the Commission approves. I think that would make it very challenging for us to approve the Council's FMP, if by doing so we would be creating disparities in the allocations at the state-by-state level.

CHAIR KELIHER: Thanks, Mike. Dan, does that answer your question in full?

MR. McKIERNAN: It certainly does, thank you.

CHAIR KELIHER: I do see a member of the public whose hand is up. I am not going to take questions from the members of the public, this is a Policy Board discussion. When we get to motions, I may take a few public comments around motions. But at this time, I'm going to keep all of the questions focused here at the table. With that, I'm going to recognize now Dr. Davis.

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DR. JUSTIN DAVIS: I'm prepared to make a motion, in the interest of moving this along, if that is appropriate at this time.

CHAIR KELIHER: Hold that just for a second, Justin. Are there any other questions for New York at this time? Seeing no questions, go ahead with that motion, Justin.

DR. DAVIS: I think staff has the motion, so I would ask if they could put it up on the screen. Thank you, so, I move to find that New York's appeal of Addendum XXXIII, based upon Criterion 1, Addendum, inconsistent with the Statement of the Problem, is justified.

CHAIR KELIHER: Thank you. We have a motion on the board, do we have a second? Mel Bell, are you seconding?

MR. MEL BELL: Yes, Sir.

CHAIR KELIHER: A second by Mel Bell. Justin and Mel, would you like to give any additional supporting information?

DR. DAVIS: Sure, thank you, Mr. Chairman. I think I'll start out by just acknowledging all the hard work and tough decisions that went into Addendum XXXIII. I particularly want to acknowledge all the great work that was done by Commission and Mid-Atlantic Council staff throughout that long process.

From my standpoint, I thought there was a lot of good that came out of Addendum XXXIII. You know allocation is a really tough issue. I mean that is becoming, we can't go through a meeting now without someone saying that, like maybe we need to get tee shirts printed up with that slogan on it.

But for sure, it's one of the biggest challenges we have to deal with on the Commission these days. I think from my standpoint, what is really important is that we engage with the problem often, and that every time we do, we try to move the ball forward. From that standpoint, I

thought Addendum XXXIII was a success, in that I thought particularly the approach we adopted towards regional allocation was really a good step forward, it was much more equitable.

It directly incorporated science, which I thought was really important. Something out of that process that I also was really heartened by, was that people around the table took tough votes on Addendum XXXIII. They took votes that were against the direct interest of their states, for the sake of the greater good.

I thought that was also really important. I don't want to adopt a tone that I thought Addendum XXXIII did not make substantial progress on the greater issue of allocation for the Commission, but I think now that the dust has settled, and we've made the decision and moved away from it. I do think it is apparent that we maybe didn't quite get it all the way right, and I think we can be forgiven for that.

That was a long meeting back in February, with a lot of twists and turns. It was made all the more difficult, because we were doing it in the virtual environment. I think we're finding that is a tough environment to deal with difficult issues like this. I think New York has made a compelling case, that the outcome of Addendum XXXIII did not provide them adequate relief for the substantial increase of black sea bass in the shared waters of Long Island Sound. Certainly, Connecticut was grateful and pleased that the outcome of Addendum XXXIII recognized Connecticut's singular problem with, essentially our lack of allocation that prevented us from having a directed fishery, to take advantage of the noticeable increase of black sea bass in our waters.

But I think New York, again has made a great case here, that they have also experienced the same increase in black sea bass in the shared waters of Long Island Sound, and the dynamic they have with an established ocean fishery that was operating under existing allocation, has created problems where the relief they had been provided by Addendum XXXIII isn't enough. I think there is a good case here to find their appeal justified, and I hope everybody could agree, and we could give it full consideration, thanks.

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CHAIR KELIHER: Thank you, Justin. Before I take any comments either for or against, Mel Bell, do you have any additional justification for the motion?

MR. BELL: Yes, Sir, thanks. Obviously, I'm not on the Board that was dealing with the Addendum. I would like to think I am kind of looking at this from a little, the benefit of sort of a little more objectivity. I wasn't involved in the decision, and certainly admit that. But I will admit that after hearing the presentation from New York this morning, as well as the input from the Commissioners.

I feel much better about where I was with this. I think this is an example, as John McMurray said. This is an example of what we're going to be dealing with over the next several decades, perhaps, of a world of fisheries that we've been in that we kind of treated as sort of static. But they are not static, and we're seeing that now, and we're seeing these range expansions, and I'm very sensitive to it down here from a Council role, you know as well as a state perspective.

I mean we're seeing sort of the center of mass, if you will, of some species shift. There are countless examples. I mean from the Commission's perspective, whether it's lobster or menhaden, cobia. Cobia is an example that we've dealt with down here in our part of the coast, where they've obviously shifted north, and now the Commission is managing that as a state water fishery.

We're in a very dynamic situation right now, so this just seemed to me, looking at it objectively, as an example of that's occurring, and then perhaps the Board didn't adequately account for that in how they, you know they compensated Connecticut, but not New York from the same body of water. That just struck me, so I felt that the appeal was well grounded, and I do feel much better this morning, after looking at all the data. I'm convinced.

I think, and as we said, this is not about allocations, it's about policy. This may just be, you know the first example of something that we're going to find ourselves, whether we're on the Commission or whether we're on Councils. We're going to be dealing with this for quite a while. As the fish do what the fish are going to do, in response to the changing water temperatures and all. I felt that the appeal was well founded, and I agree, and I support the appeal.

CHAIR KELIHER: Thank you, Mel. What I would like to do now is take, there are probably several people that are going to want to talk, I would like to take three comments for, three comments against, see where we are, see if there are any more additional folks that want to comment. But before I do, Toni Kerns, I think would like to make one small grammatical change to the motion, Toni.

MS. KERNS: I think if we said Addendum is inconsistent with the Statement of the Problem is justified, if that is okay with the maker and the seconder.

CHAIR KELIHER: Any objection from the maker or the seconder?

MR. BELL: No.

DR. DAVIS: None, Mr. Chairman, thanks.

CHAIR KELIHER: Okay great, thank you, the motion has been changed. At this point I will take three comments in favor of the motion, and then three comments in opposition, and I've got a lot of hands going up. I'm assuming they are all in favor. I'm going to keep this to the Policy Board for now. The first on my list is Jason McNamee.

DR. JASON McNAMEE: I appreciate the opportunity to speak. I very much support this motion. I just want to thank and congratulate John and the team from New York on a really well-done presentation today, and it's unfortunate that they had to go through all of that work. You know I felt the same way at the time of the meeting as I do now, where there was a significant inequity with how New York was treated during those tortured deliberations.

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I also appreciated Dr. Davis' positivity and his comments. I have to say that I still haven't gotten to that point yet, but I appreciated his thoughts on that. I just want to remind folks that we can see, we saw maps, we all already knew that Long Island Sound is a shared waterbody between New York and Connecticut.

I just want to restate that the Addendum, that action was not about giving a state with a small quota more quota, which was the reason I heard people give for why they gave it to Connecticut and not New York. The Addendum was about dealing with a spatial management issue. I just want to remind folks of that point, and it speaks directly to the motion.

There is really no good justification to have taken an action with Connecticut, and not with New York. I'm interested in revisiting this, and I very much support and feel that the appeal is justified. This is coming from a state that will likely lose a little bit more. I know that part is to be determined, but just to sort of let you know where my comments are coming from, so thank you for the time, Mr. Chair.

CHAIR KELIHER: Adam Nowalsky, is this in favor?

MR. ADAM NOWALSKY: As Board Chair, to whom this would come back, this would be a couple of process questions for leadership and members that may speak, Mr. Chairman, if you would entertain that at this time.

CHAIR KELIHER: I will entertain that, Adam, go ahead with your process questions.

MR. NOWALSKY: Thank you very much. Those people that have reviewed the materials know that the Addendum, which was done as a Council Amendment as well, to complement this management action, since it is a joint management plan, did have options in the document that provided the opportunity for an increase in base allocation to New York during the development of the document.

The Board and Council jointly made the decision to remove those. Ultimately, in the final decision making, the decision making included that was final action on this, did include yes votes from the number of people that have spoken in favor of this so far, including the state of New York today.

The specific question I would have for leadership on this appeal is, so that we don't come back here. If this motion passes, this is sent back to the Board. The Board takes some other action. I understand that this is a two-step process, right? This first step is, is it justified, and then the second step is, what is the remediation to occur, which may occur remanding it back to the Board.

This might be premature, but I think it is worth people thinking about as they vote on this motion, and again I would look for leadership's guidance here and input, in terms of if this were back to the Board or it were some other action, what is going to keep this from coming back to the Policy Board again? Was the decision making by the leadership for this appeal to go forward, was it based on the amount that was given to Connecticut and New York different.

Was that the basis? If their numbers had been equal, would leadership have felt differently about this, or was the decision that the total increase given to the Sound was inadequate? I think that is very important in determining how we would ultimately, potentially move forward. I think this is really important in consideration of how we vote on this motion. What did leadership specifically find inconsistent, that New York and Connecticut were treated differently, or that not enough was gone ahead and allocated to the Sound?

CHAIR KELIHER: Thank you, Adam. This was all based on Criterion 1, and claimed under Criterion 1 were decisions not consistent with the statement of the problem. That was the final determination. I'm not sure if it makes a difference on what the overarching reason is, if it's a decision around consistency with the Statement of the Problem. But I guess I would ask Bob or Toni if they want to weigh in on that.

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EXECUTIVE DIRECTOR BEAL: I'll chime in a little bit. I think, Adam, it's important to keep in mind the roles of the different things here. The Leadership Group that Chairman Keliher mentioned at the beginning, that is the first review of any appeal that is submitted. The job of those three individuals is not to pass judgment, and decide what was wrong or right with the decision that happened at the species board. Their job is just to review what was presented by New York, and determine if there is enough there for, and do they meet the appeal criteria, to bring something forward to the Policy Board for a full discussion. Their job is not to decide, you know was not enough allocated to the entire waterbody of Long Island Sound, et cetera.

Their job is to say, yes, New York has provided rationale that is consistent with one of the appeal criteria, and this is justified coming forward. I think that discussion of if the appeal is justified. That is a decision of the Policy Board, and that is what this motion does. Then as you said, there is that second motion that will decide what guidance is provided back to the species board on what the corrective action should look like. I think you're asking for sort of an interpretation or a finding from the Leadership Committee that it's not their job to make.

CHAIR KELIHER: Adam, does that answer your question?

MR. NOWALSKY: I think what I'm hearing as an answer is that that decision wasn't made by leadership, and I guess the question that I'm asking that needs to be answered here as we move forward today, and I'll look forward to that continued discussion and guidance. I'll probably come back to this. But I think it's really important to understand, so that we're clear on what we need to be doing, so we'll keep the conversation going, thank you.

CHAIR KELIHER: Great, thank you, Adam. I'm going to go back to the comments in favor of

the motion, and I have Ritchie White and Mike Millard. Ritchie.

MR. G. RITCHIE WHITE: I support this motion, and part of looking at this issue for me was having the knowledge or the understanding that there are vessels leaving a southern state, and steaming quite a distance to the north, and harvesting black sea bass in federal waters, and then steaming long distance back, and landing them in the southern state, all of which I have no problem with.

It's perfectly fine, and that state gets landings from federal waters, but way to the north. What this is telling me is, that the degree to which this stock has expanded and/or shifted to the north, clearly vessels would not be, if they could just go right out in front of their state in federal waters and catch the black sea bass, they would be doing it.

They are not. They are spending a lot of time and money on fuel and time, to go where the fishing is better. It comes back to our reluctance, and understandable reluctance, for a state to give up any quota. But when we're basing things on historic landings to such a degree, that is going to have to change.

There is going to have to be an adjustment. That is part of the reason I look at the degree to which this population has shifted, and how New York was treated unfairly in this. I mean it's a simple fairness test, and this was not fair, and I support this motion. Thank you.

CHAIR KELIHER: Mike Millard.

MR. MIKE MILLARD: I support this motion, and I guess as a federal entity on the Policy Board, I feel compelled to explain that a little bit. My support for this fairly focused motion, and I take to heart the notion that this is a policy issue at this point and not an allocation issue. That support is support for the notion that the decision was not consistent with the statement of the problem, and nothing beyond that. I listened to the presentations this morning.

They seemed very convincing to me. I read the materials, it seemed convincing to me, so I feel justified as a federal entity in supporting this policy issue. Since I have the floor, I'll say it now and I won't have to waste time later. If there is a second motion about remediation, it's my opinion, and I guess it could be argued with, but it is probably my opinion that that is likely to tip too far into the allocation world, and the Service would probably abstain from that. Thank you.

CHAIR KELIHER: Thank you, Mike. At this time, I would like to take three comments in opposition to the motion, and first up is Joe Cimino.

MR. JOE CIMINO: I am opposed to this. You know if this was an amendment and not an addendum, the vote to have the allocation scheme that we have now, passed with just two states voting against, New York and Virginia. The next vote of course is for the Board to approve the Addendum as amended, and no states objected to that at the time, not even New York, although NMFS did abstain.

Now the Policy Board is being asked to weigh in. Again, they would have before with a nearly unanimous vote, and I think the Policy Board would have approved this, and the appeal would have been much more interesting. To me the question comes down to this idea of distribution. Long Island Sound is only mentioned once in this Addendum, and it's as an example that Connecticut did not use to have a fishery.

Distribution of the stock is mentioned 20 times. New York is asking in this appeal to lock up an extra 2 percent as a baseline quota, a quota that would be higher than quite a few states, instead of the distribution portion of the motion that the Board did pass. For me one of the biggest problems in this entire process of cooperative management, and this is no disrespect to the folks from New York on the Commission who have done a great deal with this, and folks on the Council.

But since at least 2012, the Board and Council members have been hearing from New York's appointees as messengers. We've been threatened and bullied that if we don't vote the way New York wants, that their Governor will sue, or their Senator will write legislation that takes this decision away from us.

You know I think this Policy Board doesn't hear that all the time, but that has been part of this process longstanding, that if we don't make this decision on this appeal, it will be taken away from us. We hear it time and again. I think that is the part of the process the really needs to change. I hope the Policy Board realizes once again, that New York isn't asking this appeal for a distribution change, they are looking at it as locking up an extra baseline quota. Thank you.

CHAIR KELIHER: Do I have any other comments in opposition to the motion? Tom Fote.

MR. FOTE: Yes, I've been at the losing end of New York's constant basically trying to take quota from other states, whether summer flounder, whether it's black sea bass, whether it's other species. As Joe pointed out, if the idea of getting legislation or suing the Commission, the same way Virginia does over menhaden. It really irks me; it gets me upset.

When we looked at this, we also, and you say this is not an allocation, but it is an allocation, because that's what's going to go back to the Board, how do we allocate? We all have seen an increase, and I understand what Ritchie's saying that these are migrating. Black sea bass is not one of those things.

New York, New Jersey, Delaware, Maryland and Virginia see more black sea bass than they have seen before, and we have not been able to basically harvest it, and that is because of joint plan, because we're stuck with New York. The Mid-Atlantic Council's recommendation from their SSC about where we could go with the quota.

We've had years where this has been 200 percent above the spawning stock biomass, and yet we haven't seen increases. Now with all the new MRIP numbers, you just screwed everything all up, and

we've been looking at how these have gone on for years. Probably we'll have better success when New Jersey asks for appeals coming before this Board, and I guess maybe that's part of our personalities.

But I look at this and I say, what are we really doing here, and what we really are doing is basically going at an allocation? Our Raritan Bay has seen an increase in the pot fishing, and Delaware Bay has seen an increase in the pot fishermen's availability, but they were stuck under their state's quota, so they share it equally, and we've made an accommodation between our pot fishermen inside and outside, to basically reap some of the rewards of the quota increase.

No matter how small it is, we try to divide it by that. That takes tough decisions, and New Jersey has made those. I imagine Delaware has made the same type of decisions. We don't ask for special remediations for our Bays and estuaries, because we figure we handle it by the overall quota and the overall increases, not just looking for a double dip at the stick. Thank you for your patience.

CHAIR KELIHER: Any other members of the Policy Board that would like to speak in opposition of the motion? Seeing no more hands, are there any members of the, uh, we've got Chris Batsavage. Is this in opposition, Chris?

MR. BATSAVAGE: Mr. Chair, I guess I'm kind of uncertain, as far as for or against, so if you want to go to someone else before me that's fine. I was kind of waiting to have some people speak in favor and opposition first.

CHAIR KELIHER: Chris, your microphone is open, you've got the floor. Why don't you make your statements, and then I'll go to members of the public for quick comments?

MR. BATSAVAGE: I asked earlier about the information that you were provided, as far as percentage of landings from Long Island Sound,

total landings and wondered why it wasn't provided earlier. That kind of puts a different light, in terms of the issue at hand that wasn't entirely clear in Addendum XXXIII. It was very clear that the black sea bass abundance has increased, but it wasn't clear that the commercial fisheries, at least in both states, well, New York at least, as it increased as well.

I guess the way I was thinking about this is, you know using another big waterbody like Pamlico Sound, if we had a species that increased its abundance in Pamlico Sound, but the percent of commercial landings really didn't increase from that waterbody. I don't know if that would justify an increase in allocation for whatever species, if it came to that.

But in what New York has shown today is a little different than, I think my understanding and maybe other people's understanding of the situation was during the process of approving Addendum XXXIII. Just wanted to just kind of make that point, in terms of where I am or not on this motion. Thanks.

CHAIR KELIHER: At this time, I'm going to take a couple comments from the public, and I'm going to call, if you can keep them brief, Julie, but I'll call on you, Julie Evans.

MS. JULIE EVANS: Thank you, Mr. Chairman, for allowing me to speak. My name is Julie Evans, I am the East Hampton Town Fisheries Advisory Committee representative to the Commission and the Council. I wanted to let this Board know how important the Long Island Sound fishery is to New York fishermen, especially on the Twin Forks.

We catch, I would say the majority of both commercial, recreational and in the for-hire industry. When we heard that we would be diminished in our catches for black sea bass, there was an outcry. We feel that New York is not getting a fair and equitable shake on this thing, so I urge the Commission to carefully consider the New York appeal, as it effects hundreds of fishermen on Long Island Sound, and on the Twin Forks, who fish there.

We are dependent on black sea bass for a lot of our income, and so are the associated industries here. I

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want to also thank Mr. Gilmore, Mr. Hasbrouck, Mr. Murray, and John Maniscalco for the presentation. I think it was effective, and I urge you to consider this appeal. Thank you.

CHAIR KELIHER: Thank you, Julie, seeing no other hands from the public, I'm going to call the question. I'm going to read into the record the motion. Move to find that New York's appeal of Addendum XXXIII, based upon Criterion 1, the Addendum is consistent with the Statement of the Problem, is justified. All those in favor of the motion, please raise your hand.

MR. CLARK: Can we caucus, Mr. Chair?

CHAIR KELIHER: Yes, I'm sorry, I'm sorry. Why don't we take a two-minute caucus, and if staff could put up the timer, thank you. Okay, the two minutes is up. Hopefully everybody has had an opportunity to finalize their votes by state. I do want to make sure that I read this clearly into the record, so I'm going to read it one more time. Move to find that New York's appeal to Addendum XXXIII, based upon Criterion 1, Addendum is inconsistent with the Statement of the Problem is justified. With that, I would like all, is staff ready to count the votes? Toni.

MS. KERNS: I am, Mr. Chair.

CHAIR KELIHER: Great, all those in favor, please raise your hand.

MS. KERNS: I'm going to let the hands settle for a second. I have Rhode Island, Connecticut, New York, Delaware, New Hampshire, South Carolina, Massachusetts, Maine, Florida, Georgia, U.S. Fish and Wildlife Service, North Carolina, and Pennsylvania.

CHAIR KELIHER: Great, thank you. If you clear your hands, Toni, can you clear the hands?

MS. KERNS: I will.

CHAIR KELIHER: All hands are cleared, now all those in opposition, please raise your hand.

MS. KERNS: I have Virginia, New Jersey, Maryland, and Potomac River Fisheries Commission.

CHAIR KELIHER: Great, any abstentions?

MS. KERNS: NOAA Fisheries.

CHAIR KELIHER: NOAA Fisheries abstaining, any null votes?

MS. KERNS: No null votes.

CHAIR KELIHER: Do you have the count, Toni?

MS. KERNS: I have 13. Tina, I just want to confirm that that is correct, in favor, 4 noes, 1 abstention, 0 nulls. Tina, will you confirm that for the team?

MS. TINA L. BERGER: That is correct, Toni.

MS. KERNS: Thank you.

CHAIR KELIHER: The motion passes 13 for, 4 against, 1 abstention, and 0 null votes. Thank you very much. At this point in time, we need to move on to a motion in regards to remedy. Does anybody have a motion on remedy? Justin Davis.

DR. DAVIS: I do have a motion, and I believe staff has that motion, if they would be willing to put it up on the screen. Great, thank you. **I move to remand Addendum XXXIII, specifically Section 3.1.1, baseline quota allocations, back to the ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board for corrective action that addresses impacts to New York's baseline in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound. Corrective action taken by the Summer Flounder, Scup, and Black Sea Bass Management Board should not result in a Connecticut baseline allocation less than 3 percent, or decrease the percentage of quota redistributed according to regional biomass.**

CHAIR KELIHER: Thank you, Dr. Davis, do we have a second on this motion? David Borden. Justin, would you like to give some further justification?

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DR. DAVIS: Sure, thank you, Mr. Chairman. I'll start out by acknowledging the comment made by Jason McNamee about my positivity about Addendum XXXIII. I do want to say that I'll temper that enthusiasm by saying that I don't think we've arrived at our destination, when it comes to allocation.

I think Addendum XXXIII made some important steps forward, that being adopting a fixed regional allocation, rather than the trigger approach we had previously used for summer flounder, and also direct incorporation of science into the allocation framework. I think one of the other victories of Addendum XXXIII was the development of the DARA approach, which I think is ultimately where we want to get to with allocation, that sort of approach.

At least we were able to develop it and have it in that document, and consider it. Unfortunately, we didn't ultimately adopt it. But really the sort of underlying thing of my motion here is to try not throw out the baby with the bath water, and preserve those aspects of Addendum XXXIII that I think were positive steps forward.

Again, that approach of a fixed allocation to the two different regions that is based on science, and I think there was broad agreement across the Board that Connecticut's 1 percent allocation with a singular problem. It prevented our state from having a directed fishery, and taking advantage of the increase of black sea bass in our local waters.

I would hope that there is agreement across the Board that allocating less than 3 percent to Connecticut as our baseline allocation, would basically put Connecticut back into a place where we were before with our allocation, without sufficient quota to support a directed fishery. Thanks.

CHAIR KELIHER: David, as the seconder, would you like to give any additional information?

MR. BORDEN: No, Sir, I think Justin just covered it. Thank you.

CHAIR KELIHER: I am going to take the same approach that I did on the last motion, take three in favor, three against, and we'll see if we have any additional hands after that. I will go to the public for very quick input as well after that. At some point, depending on how this conversation is moving.

I may ask for a recess to let some folks possibly get together if we get into a situation where this motion may need to be refined or modified. I am cognizant of the time. It is now just shy of 11:00, so we are just about 25 minutes over on this item alone. At this time, I'll take some hands for opposition, and the first hand is Adam Nowalsky. Excuse me, I'm sorry, Adam. At this time, I'm not following my own script. I'm going to take three hands in favor, and then three hands in opposition. My apologies. Can I have hands in favor of the motion? I'm not seeing any hands. Any hands in opposition to the motion? I have Adam and then Joe Cimino.

MR. NOWALSKY: I'll get right to it, now that we've gone ahead and stated that the Policy Board has determined that there was an issue, fine, we accept it. But the answers to the questions earlier, with regards to leadership hadn't made a decision, and that this Policy Board would likely want to leave the ultimate decision about the allocation to the management board.

My opposition to this motion as it stands right now, is with this last sentence. If you want to have the Management Board reconsider what happened that's fine. But I feel the Management Board needs to have full flexibility to go back and look at all of the options in 3.1.1 that were in the Addendum.

Not go ahead and selectively pick out certain things that were beneficial to some states, and say, we're going to keep them in. If you're going to send this back to the Management Board, the Management Board should have the ability to make that decision freely. **Therefore, I move to amend this motion to remove the last sentence.**

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CHAIR KELIHER: We have a motion to amend, by removing of the last sentence. Do we have a second to that motion? John Clark. Adam, would you like to give any additional comments on your motion? Hearing none, John Clark, do you have any additional comments to the motion?

MR. CLARK: Yes, Mr. Chair, thank you. I think Adam stated it well. We've been told that these decisions are not about allocation, and yet this motion already, as Adam pointed out, locks us into a certain set of allocation options. I think that the motion is fine without that last sentence, and I agree with Adam on that, thank you.

CHAIR KELIHER: I am going to follow the same process that I did before. I am going to take three in favor and then three against. But before I do, Director Beal has a comment.

EXECUTIVE DIRECTOR BEAL: Just to be clear on the way I interpret this motion. I don't want to speak for the maker and seconder, and I'm more speaking of the main motion than the motion to amend at this point. You know remanding this back to the Black Sea Bass Board with the language in the main motion, doesn't guarantee New York necessarily the full 2 percent.

You know the corrective action taken by the Summer Flounder Board can be somewhat different than that. I don't know what it may be, but I want to sort of control expectations on what this means. The Summer Flounder, Scup, Black Sea Bass Board has room to operate, but it doesn't fully guarantee or prescribe the outcome that what will happen in the next step, should this motion pass, or this series of motions pass.

CHAIR KELIHER: Thanks for that, Bob, and thanks for that clarity. I am going to take some comments in favor of this motion. First up is Joe Cimino.

MR. CIMINO: Yes, I do agree with the statements by Adam and John on this. You know we heard a lot on the decision on distribution was important. I think if the Flounder, Scup and Sea Bass Board did anything wrong, it was locking up 3 percent in a baseline. I think that was the decision that seems to be the real issue here, that is against the problem statement of distribution of the stock. I think we need to be able to revisit that decision as well. Thank you.

CHAIR KELIHER: Thank you, Joe, any additional hands in favor of the motion to amend, Tom Fote.

MR. FOTE: Yes, as we said going to debate, everybody said it was not about allocation, but you're talking about allocation in the motion as it's presently written. That is why I support Adam's and Clark's amendment to the motion.

CHAIR KELIHER: Thank you, Tom, any additional hands in favor of the motion to amend? Seeing none, do we have any opposition to the motion to amend? Jason McNamee.

DR. McNAMEE: Just to offer, you know I think it's unfortunate that folks are trying to, I don't know imply hypocrisy, or something to that effect. My interpretation of the original motion, which I support is, we're trying not to re-litigate what was again, a long and tortured discussion.

We're trying to focus it in on the relevant part from all our previous action. I think that is a wise decision to try and keep this focused in on the exact element that was being appealed, which I think the original motion does, and I think the amendment undoes, so I don't support the amendment.

CHAIR KELIHER: Thank you, Jason, Justin Davis.

DR. DAVIS: I am also in opposition to this amendment to the motion. I think Jason really captured it. Nobody, I think, is really interested in going back and revisiting the meeting we had in February, and opening the entire Addendum back up, and considering all the options there, and redoing that debate.

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I think the intent of the original motion here is to try to preserve those aspects that I think were the best outcomes from Addendum XXXIII, and that there was broad consensus on, and also to try to provide some direction to the Management Board for when we open this back up for reconsideration, to address New York's concerns.

I think New York did a good job of narrowing the focus of their appeal to essentially a small adjustment, possibly to their baseline allocation. I know we're not supposed to be talking about allocation here, but there was a table presented in both Toni's presentation and in John's presentation.

That showed essentially the adjustment they're looking for result in very small changes to other state's allocations. I think what we're looking for here is a small adjustment to the outcome we got out of Addendum XXXIII, not sort of a broad reconsideration of multiple decisions we made during that meeting. Thanks.

CHAIR KELIHER: I'll take one more comment, if there is one, in opposition to the motion to amend. Seeing none, I've got one in under the wire, Jim Gilmore.

MR. GILMORE: Just a comment, Mr. Chairman, and I believe in this motion, and back to the meeting in February. No matter what part of the discussion we had, we pretty much had consensus about a baseline to 3 percent for Connecticut. I don't think there was any controversy about that, because of Connecticut's unique position, and how the earlier allocation had been done.

I understand the technicality about it, but it's just, I think preserving something that I think everybody agreed to, and if I'm wrong in that, then maybe I wasn't listening. But it doesn't trouble me to have that in there, because again, it was very much a consensus thing that Connecticut needed a good bump in their base allocation, thank you.

CHAIR KELIHER: Doug Haymans. Doug's hand went down. Doug, do you have a question or a comment?

MR. HAYMANS: I have a question, Mr. Chairman, if that's okay. It just concerns what the Board is being asked to do. Are they able to come back with the same decision as made previously, after reconsideration, or do they have to render a different decision?

CHAIR KELIHER: Yes, thanks for that question, Doug. Just as a reminder, anything that is remanded back to the species board must be a change from the decision that was made prior. The species board cannot debate this and say that status quo is going to be the answer. There must be a change to the allocation.

This particular motion would focus it into that particular section. With that, if there are no more hands or burning desires for comments either for or against, I'm going to call the question. This is a motion to amend the motion to remove the last sentence of the original motion. Toni, are you ready for hands?

MS. KERNS: I am, Mr. Chair.

CHAIR KELIHER: All those in favor of the motion to amend, please raise your hand.

MS. KERNS: Waiting for the hands to settle. I have Delaware, Virginia, South Carolina, New Jersey, Maryland and Potomac River Fisheries Commission.

CHAIR KELIHER: I'll clear the hands. All those in opposition to the motion to amend, please raise a hand.

MS. KERNS: I'm waiting for the hands to settle here. I have Rhode Island, Connecticut, New York, New Hampshire, Massachusetts, Maine, Florida, Georgia, Pennsylvania, and North Carolina.

CHAIR KELIHER: Great, do we have any null votes?

MS. KERNS: No null votes.

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CHAIR KELIHER: Any abstentions? Two abstentions, NOAA and U.S. Fish and Wildlife Service. Toni, can you read the tally?

MS. KERNS: Yes, 7 in favor, 10 against, 2 abstentions, and 0 null votes.

MS. BERGER: Toni, I have 6 in favor.

MS. KERNS: Thank you, Tina, sorry about that.

CHAIR KELIHER: I did as well.

MS. KERNS: I can't read slashes.

CHAIR KELIHER: **The motion to amend fails by a vote of 6 to 10 to 2, with 0 nulls. We are back to the main motion.** I'll take a couple additional comments on the main motion, then I'm going to see if there are any members of the public that would like to respond. Any members of the Policy Board that would like to comment on the main motion, either for or against. Seeing no hands, is there any members of the public that would like to make a very quick comment on the motion?

Seeing no hands, I am going to read the motion into the record, and then call the question. Move to remand Addendum XXXIII, specifically Section 3.1.1, baseline quota allocation, back to the ASMFC Summer Flounder, Scup, and Black Sea Bass Management Board for corrective action that addresses the impact to New York's baseline in a manner comparable to the consideration given Connecticut for the expansion of black sea bass into Long Island Sound.

Corrective action taken by the Summer Flounder, Scup, and Black Sea Bass Management Board should not result in a Connecticut baseline allocation less than 3 percent, or decrease the percentage of quota redistributed according to regional biomass. The motion was made by Dr. Davis, and seconded by Mr. Borden. Joe, I see your hand is up. Do you have a question, or are you all set?

MR. CIMINO: No, Sir, I was going to ask for a minute to caucus, but I think we're all set even there.

CHAIR KELIHER: I'm going to give two minutes to caucus, so if staff could put the clock up, and we'll take a two-minute caucus. We're ready to vote. Toni, are you ready for a show of hands?

MS. KERNS: I am, Mr. Chair.

CHAIR KELIHER: Thank you, all those in favor of the motion, please raise your hand.

MS. KERNS: Rhode Island, Connecticut, Delaware, New York, New Hampshire, South Carolina, Massachusetts, Maine, Florida, Georgia, Pennsylvania, and North Carolina.

CHAIR KELIHER: All those in opposition to the motion.

MS. KERNS: I have Virginia, New Jersey, Maryland, and Potomac River Fisheries Commission.

CHAIR KELIHER: Great thank you, and abstentions, NOAA and U.S. Fish and Wildlife Service. Do we have any null votes?

MS. KERNS: I see no null votes.

CHAIR KELIHER: Do you have a tally?

MS. KERNS: Yes, 12 in favor, 4 against, 2 abstentions, 0 nulls.

MS. BERGER: That's what I have as well.

CHAIR KELIHER: The motion to remand passes, 12 in favor, 4 against, 2 abstentions and 0 null votes, the motion passes. Thank you very much. There were some conversations that have been brought up in regards to whether the species board will be joint or not. It seems to me the Mid-Atlantic Council Chairman has made a statement that they would not be readdressing this.

I think at this point it will have to be made, a determination will have to be made by leadership, including the Chairman of the Black Sea Bass Board on

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determining whether we do want to have further conversations around the joint meeting or not. I will take a few comments on this, but considering the time, we need to keep this brief. I've got Adam Nowalsky, Ritchie White, and then Mike Luisi.

MR. NOWALSKY: Now that this passed in referencing 3.1.1 while the vote was being taken. I was just looking back at our February meeting materials on the ASMFC website, and 3.1 was broken down into A, B, C, D, E, F and G. I just wanted to get, again as Board Chair, an understanding from staff, which of these A, B, C, D, E, F and Gs are now in play for the Board to take up? I think that is also potentially important with regards to how this interacts with the Mid-Atlantic Council.

CHAIR KELIHER: Toni or Bob.

EXECUTIVE DIRECTOR BEAL: Toni, I wish she would answer, but she didn't, so I'll give it a shot. We were both trying to wait out each other.

CHAIR KELIHER: They're probably scrambling to open the document, would be my guess.

EXECUTIVE DIRECTOR BEAL: Yes, I don't have it open right now. But you know Adam, I think anything that falls under Section 3.1.1, Baseline Quota Allocations is part of the conversation that the species board can have, when they get together to address this remanded issue.

MR. NOWALSKY: Right, and that's what I am trying to find here again, there is the 3.1 and things were broken down A through G, so again, I'm just trying to identify what staff is referring to here as 3.1.1.

EXECUTIVE DIRECTOR BEAL: All those sub-options A through G are under 3.1.1, and based on the wording of the motion, I don't consider this a staff interpretation. But based on the wording of the motion, I think all of those are available for discussion.

MR. NOWALSKY: Again, that is what I'm trying to figure out, Bob, is that they are labeled as 3.1 here. I'm trying to find in our February document, what was 3.1.1, and I'm not finding it, unless I downloaded the wrong link here from the meeting materials from February.

EXECUTIVE DIRECTOR BEAL: Okay, I see what you're saying now.

MR. NOWALSKY: One of the complexities here was that we went ahead and had the new option that was introduced, because originally, we were slated to take final action in December. We did not take final action in December, there was a new option brought forward, that was then what we came out with.

I'm just trying to find out if that was one of the revised versions as a supplemental version. Again, I just think it's really important. The Council is going to have to figure out what to do here. The Service is going to have a decision to make, so I just want to make sure that everybody is leaving here not looking back at our meeting materials, unclear what 3.1.1 is, if it is not in the meeting materials from February.

MS. KERNS: Mr. Chairman, I think I can help, and I apologize, the construction next door has really ramped up.

CHAIR KELIHER: We can hear you fine though, Toni, go ahead.

MS. KERNS: Adam, the 3.1.1 is specifically referencing the final document that was approved, and so that section is addressing the baseline quotas. What is in game is making changes to the baseline quota itself, so how we adjust that. Whether or not you give an increase to New York's baseline quota.

MR. NOWALSKY: All right, I'll just ask if staff could forward what that final version that is being submitted to the Service would be again, because I don't have that specific language here. I would appreciate your going ahead, and being able to pass that on with the final implementation of the document. Thank you.

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MS. KERNS: Adam, just as a reference, I'll send you the final addendum, but it also was on meeting materials.

CHAIR KELIHER: Thank you, Toni, I've got Mike Luisi's hand up. Mike, as Mid-Atlantic Council Chair.

MR. LUISI: Yes, thanks, Mr. Chairman. I do appreciate you recognizing me. I'm not on the Policy Board. But I think given the joint nature of this management board with the Mid-Atlantic Council, I just wanted to offer that I think it would be beneficial. It may have been said before, I was in and out a little bit of the conversation.

I would prefer, this is an ask of me to you, Mr. Chairman, that we convene, you know leadership to decide what this is going to look like. I think folks from GARFO, you know leadership of the Council, leadership of the Commission, and even maybe some attorneys, John Almeida, who is our Council attorney. Maybe we try to put together some kind of discussion, or some kind of call in the next week or two, to just play this out and see what could happen as a result of these actions today.

Although my state of Maryland did not support these actions, you know I am appreciative of the Board's action here, and we just need to work through it. But I would like to have, because I'm going to get lots of phone calls, and I would like to be able to speak with leadership, to figure out kind of how this is going to play out over the next few months, before our August meeting.

CHAIR KELIHER: Thank you for that, Mike. Commission leadership will continue to have discussions in regard to what the next step would be, and as I said, we would bring in the species board Chair to make that determination, and we may reach out. I mean you made the statement earlier that the Mid-Atlantic would not be reconsidering this. It seems now that you, I don't know if you're

saying that they may reconsider or not. But that earlier comment was, I think pretty clear, at least clear to the Policy Board.

MR. LUISI: No, I appreciate that, Pat, and if I can just mention, I was speaking on behalf of Council leadership that our plan is to move forward with what was decided at the previous discussion, based on the Council. I don't anticipate the Council taking this issue back up, and Mr. Pentony in his comments earlier was very clear that depending on what happens here at the Board, he has an intent to possibly disapprove the Council's inclusion of the state allocations in the federal FMP, if there were going to be changes that were made.

I don't want to put words in Mike's mouth, but that is how I heard it. I just think we need to be part of the discussion. This is a Board action, and I totally appreciate that. You know I've worked with Adam, and I'm part of the Board, so I plan to be included in that. But I just would like, for questions sake and for communication with the public, I think we need to come up with a path forward, and figure out how that is going to look. I'll stop there, I know we're way over time. But I just wanted to offer that before we move on. Thanks, Pat.

CHAIR KELIHER: Thanks, Mike. As I said, Commission leadership will have further conversations along with the species board Chair, and then would be in contact accordingly. Eric Reid, last comment on this issue.

MR. ERIC REID: Given the last conversation and earlier conversations about who is going to do what. The formal nature of this conversation for the last couple hours, I would strongly suggest that the Policy Board send a letter to the Mid-Atlantic and to the Service, explaining exactly what we have done and what our position is. That way it's clear, and there is an administrative record, instead of us just talking back and forth. If that is necessary, and if people think that that is worthwhile, I'm more than happy to make that motion.

CHAIR KELIHER: Eric, the idea would be a letter that would state what has transpired up until this date, or

are you thinking that we would do it after the species management board also met?

MR. REID: I'm honestly, we've started the ball rolling backwards or forwards, I guess that's up to you, Mr. Chair. But I think at this point, you know I'm hearing, we're going to have conversations between leadership, and we're going to bring in lawyers. That always means you've got to have your record very clear. I would say we would do it as of today's action.

CHAIR KELIHER: Yes. I appreciate that thought, and I would ask Bob or others to weigh in, but I think we have what has transpired very clearly on the record from today, and GARFO would certainly, through the Regional Administrator, has heard all of these conversations and comments as well as the Mid-Atlantic Chair. I feel like we are covered, but I would like to hear from Bob and others, if they feel like they would like a stronger administrative record.

EXECUTIVE DIRECTOR BEAL: Thank you, Mr. Chair. Looking back at the Appeals Process Document. One of the outputs of this meeting will be a summary of the meeting that is provided to the Policy Board, as well as the species management board that describes what happened, and what the obligation of the species management board is.

I think, you know maybe we can put a short cover letter on that meeting summary, which will provide a lot of the information that Eric is asking for. We're obligated to pull together that summary, and we can share that with the Mid-Atlantic Council and GARFO. That will probably cover most of the bases of what Mr. Reid is asking for.

CHAIR KELIHER: Great, that's a good reminder, Bob. I had forgotten about that additional information that has to be pulled together. Mr. Reid, does that satisfy your interest there?

MR. REID: Yes, that's fine with me, Mr. Chairman, it's really up to you guys. That's the

way I see it. You know we've got to cover our collective backside as a Commission.

CHAIR KELIHER: Great, great. I appreciate that. I'm going to take that as the last comment on this issue. I very much appreciate the attention of the Policy Board on this Appeal. It's been a long time since an appeal has reached the Policy Board, a lot of new members, new faces around the table.

I appreciate everybody's time and attention to this matter today, and we will finalize the record, and we will have further conversations around the interplay between the species board and the Council. Thank you very much, and moving right along.

DISCUSSION OF DE MINIMIS WITHIN COMMISSION FISHERY MANAGEMENT PLANS

CHAIR KELIHER: We're going to go to Item Number 6, the de minimis conversation within the Commission and the fisheries management plan, so I'm going to recognize Toni Kerns.

MS. KERNS: I'm just going to go ahead and start while Maya gets the PowerPoint up. In your briefing materials there was a white paper-ish a discussion document on de minimis within the Commission fishery management plans. This has come up a couple of times many years ago, and then within the past couple years at the management board level, as well as the Policy Board level about the inconsistency in de minimis within the different species FMPs.

The Commission charter includes a definition of de minimis, and the requirements to include de minimis provisions in each of the Commission's FMPs. I am not going to read the definition. I will say that we do have a couple of FMPs that do not have de minimis in them, and those are specifically the jointly managed species.

I believe that the rationale for that is that when the joint plans were approved, the de minimis sections were not approved by NOAA Fisheries in the end, and therefore they didn't carry forward in the FMPs. I failed to say, in the meeting materials there is a spreadsheet of all of the different species FMPs, how the plan qualifies de minimis, as well as to what fisheries de minimis applies to.

In that spreadsheet you'll see that there are not consistent requirements for qualifying. The data requirements can vary for one year of a species landings, an average of multiple years. The landings have to be less than a certain percentage of the coastwide harvest. It could be 1 percent, it might be 2 percent, it might be a set specific value.

The de minimis provision can apply in some plans as only recreational, or only commercial. In some plans it's both. Then, within the plans, once a state is granted the de minimis status, most plans don't actually state what it means to that state, in terms of what do they get out of. Is it that they are getting out of biological data requirements?

Are they getting out of actual management measures requirements? In most cases, the Board has to specify when they grant that state the de minimis status, what they are actually getting out of. Oftentimes that is not made clear, when the Board is approving FMP reviews and de minimis status.

In the previous discussions that the Policy Board had several years ago, there was a robust discussion around the balance between standardization across FMPs, and the flexibility for the different species management boards in developing de minimis provisions. The Policy Board never really came to a final decision on how to do that, but some of the questions that they asked is, should de minimis apply across all of the fisheries, meaning commercial, recreational or both.

Should this apply consistently across all of the plans? Then if the Policy Board were to make a decision on de minimis, then how would that decision be implemented? Would there be a broad policy that modified the de minimis provisions within all of the FMPs, or would each species board have to consider modifications through amendments or addenda's, as they are developed in that plan? For today's discussion, we're looking for some direction to how we

want to make these changes. If we do want to have these broad change decisions for the de minimis provisions, then as I had said before that a broad policy, is it uniform measures, or does the Board want to have flexibility in the guidelines, so that each species board can make specific requirements within their plans, and then how do we implement that? I'll take questions from there.

CHAIR KELIHER: Any questions for Toni on de minimis? Okay, I'm not seeing any hands go up. Staff does need some direction on this. Doug. There's Doug's hand, I was waiting for Doug to jump in. I've got Doug and then Jason McNamee.

MR. DOUG HAYMANS: Thank you, Mr. Chair. It wasn't that I didn't have a comment. I just didn't have a question for Toni.

CHAIR KELIHER: Go right ahead.

MR. HAYMANS: I do appreciate the Policy Board taking this back up, I know I've been asking for it for a while. I am truly a little disappointed that we're having to follow the black sea bass discussion, because I think everybody is pretty tired from that. I do believe that de minimis needs as healthy and robust a discussion as perhaps black sea bass just had.

You know coming from a small state that has an interest in about 15 of the fishery management plans, we're currently de minimis in over half of those plans. It's not so much, or in every case that we don't have the fish. It's that Georgia had the foresight in the '50s to limit its commercial activity and the commercial gear we used, and therefore we've never had developed commercial fisheries for a lot of our fisheries.

That said, I would have initially read, you know the definition for de minimis and the discussions over multiple meetings in the past, would have said that there is enough in the definition that we don't need to do anything. You know if a state is de minimis then whatever it does is insignificant to the overall conservation of the species. But bluefish in particular caught me by surprise.

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When we were being asked to do things that I felt like weren't necessary, and then tack on to that cobia, where we required de minimis states to the north to be so restrictive, as they could only land one fish. It got me thinking, maybe this policy needs to be addressed on a plan wide basis, because as Toni said, you do have plans that have a tenth of a percent, 1 percent, 2 years, 1 year, 3 year rolling average. I just think it's confusing, and needs the attention of the Policy Board. I'll leave my comments there for the moment, and give somebody else an opportunity.

CHAIR KELIHER: Doug, I'm cognizant of your comment early on in that we did just come through a fairly lengthy conversation about black sea bass, and I certainly would not be opposed to putting this on an agenda in the future, if folks think that's what we need. But let's take a few more questions before we get to that point, see if we can get any additional focus that can give staff some direction. I've got Dan McKiernan, Jason McNamee, and then Chris Batsavage.

MR. MCKIERNAN: Thank you, Pat. I think flexibility is needed on a species-by-species basis. When I think about the issue of de minimis, I think about the administrative burden on the Agency, to either enact rules to prevent loopholes for, like interstate commerce, or for landing in a state that maybe product was caught in another state, and then landed in a different state, because of that lack of regulations if de minimis exempted that state.

Then there is the biological sampling, which I think that the TC could probably come in and say, yes, it's so small that particular state doesn't need to chase down a tiny fishery for biological samples. I'm in favor of the flexible model, because each of these species has kind of a different element regarding the degree of interstate commerce, the degree of loopholes that could be created, and then the particular biological sampling mandates.

CHAIR KELIHER: Thanks for those comments, Dan, Jason McNamee.

DR. McNAMEE: First I'll just try to be funny and say, I think Doug referred to his state as a small state, so I'm not sure where that leaves Rhode Island. In any case, I think I end up somewhere in between Doug and Dan, in that I would appreciate some, I think there are elements of the de minimis provision that could be consistent.

For instance, can we have one single qualifying proportion, you know that 1 percent or whatever. I think there can be some high-level elements of the de minimis provision that is consistent across all of the FMPs, but then I do agree with Dan. I think there are foibles within each plan. But we should try and keep those minimized to the extent possible, maybe have them focus on certain elements, bio samples, reporting, you know that sort of thing.

I think setting some high-level criteria consistently is a good idea, and allowing for some flexibility to enhance that in the FMP, as long as it doesn't completely undo the whole point of trying to get some consistency into the provision. I would be open to that. I think it deserves a look. I'm in agreement on that.

CHAIR KELIHER: I've got Chris Batsavage and then Roy Miller.

MR. BATSAVAGE: Similar comments to Jason's. I agree that there needs to be some flexibility and specificity in de minimis for the different FMPs. I think there could be some consistency along, you know what do states need to do, as far as reporting and biological sampling, if they are declared de minimis across the FMPs.

Maybe looking at number of years to determine whether or not a state qualifies as de minimis. The percentages, in terms of defining de minimis, might need to be at the FMP level. I just remember with cobia that we have different percent landings differences, because it would mean very different things if we had the same percent for commercial and recreational.

I like the idea of having separate de minimis qualifications for commercial and recreational fisheries. I do like the fact that states have to implement management measures if they are de minimis, especially on the recreational side, where you look at uncertainty in MRIP estimates, especially as species move around, they become rare event species, that are always hard to capture, and MRIP I think just not exempting a state from any regulations probably could be a dangerous thing. You know if the fish are being caught there but they just aren't showing up in MRIP. Anyway, just kind of some thoughts to add to what Jason and Dan said about this, thanks.

CHAIR KELIHER: Great, thank you, Chris, Roy Miller.

MR. MILLER: Very briefly. I agree with the three previous speakers. We may want to give some consideration to whether a stock is overfished and overfishing is occurring, when we use that board flexibility to decide on specifics for de minimis. But basically, I'm in agreement with the speakers thus far. Thanks.

CHAIR KELIHER: Cheri Patterson. Cheri.

MS. CHERI PATTERSON: I also agree with the individuals that have already spoken. I think that each board needs flexibility to develop de minimis requirements. Species are different, fisheries are different. I think flexibility is definitely needed. I don't see a problem with having a broad policy drafted, that kind of defines de minimis and options available to consider.

But not restricted to, in case some species management boards just overlook something, they could look at this guidance policy for guidance. But I think once you get down to specificity, it needs to be on the management board level. Thank you.

CHAIR KELIHER: Thank you, Cheri. I think we have kind of a very wide range of options and

opinions here now. The one, I think one of the key themes seems to be the whole idea of flexibility around de minimis. I guess at this point in time, maybe what I could ask is, the speakers who just chimed in with these opinions.

Maybe if it's all right with you, would you be willing to get on a call to talk through those ideas, talk about this policy concept that Cheri just mentioned, working with Doug to see if there is a way to come together on these particular issues, and then if we could have some additional conversations, if you guys reported back to the Executive Committee, and then maybe we could bring something as a final policy back to the Policy Board at the summer meeting. Doug.

MR. HAYMANS: I'm certainly willing to do that. You know I had offered a motion to Toni earlier. Of course, I'm not going to offer a motion now, but it's certainly a starting place that I could send to the other speakers just now, to get that conversation rolling. I guess this is just short of a work group, not quite a work group.

CHAIR KELIHER: Yes, I think at this point in time, I think we could keep it pretty organic. Maybe Dan, Jason, Chris, Roy, if he's interested, and yourself. If others are interested, could raise your hand and join the call. But then after that conversation we could have further conversations with the Executive Committee, prior to the summer meeting.

Are there any objections to that approach? I'm not seeing any hands, so let's consider that the final decision on how we'll move forward with this issue of de minimis, and see if we can't bring some of these thoughts and ideas a little closer together for a final policy.

EAST COAST CLIMATE CHANGE SCENARIO PLANNING INITIATIVE

CHAIR KELIHER: With that I'm going to move right along to the next agenda item, which is East Coast Climate Change Scenario Planning, Toni Kerns.

MS. KERNS: I recognizes that some folks have already seen this presentation at the Mid-Atlantic Council, as well as the New England Council, and I apologize for

those of you that have to hear this presentation again. Maybe you can get yourself another cup of coffee.

CHAIR KELIHER: Hey Toni, let me just jump in really quick. Are there any members of the Policy Board that really have a time constraint here today? It's 11:50, and that is when we had planned to adjourn. We could potentially move one or two of these items off to a future meeting, but Doug, go ahead.

MR. HAYMANS: I was just responding that yes, I do have a hard time constraint of noon. I have to get on the road at twelve o'clock.

CHAIR KELIHER: Okay, are there any other members of the Policy Board, or can we push through and finalize the agenda?

MS. KERNS: Mr. Chairman, if we need to, we can, I can tell you at least one agenda item that is not urgent, the PRT recommendation discussion can be pushed off to a later date.

CHAIR KELIHER: Okay, I do have a couple requests for a very short break right now. If that's the case, if we're going to push through the rest of these. Doug, if we could just follow up with you, or you could follow up with staff on any of the other items, since you've got a hard stop. But why don't we take a five-minute break right now, and then just finish the agenda, if that's okay.

MS. KERNS: Doug, just as an FYI, you'll get this presentation, the South Atlantic Council will get this presentation. I'm not sure if you'll sit on that or not, but that is the plan.

MR. HAYMANS: Thank you, Toni, and we'll talk next week. Thank you.

MS. KERNS: Okay.

CHAIR KELIHER: Why don't we come back to the table, why don't we just say noon time we'll

be back at the table, and then we'll finalize all the other items on the agenda.

(Whereupon a recess was taken.)

REVIEW STRATEGY FOR SCENARIO PLANNING PROCESS

CHAIR KELIHER: It is now noon, hopefully everybody is back, and Toni, I'm going to give you back over the floor for the Climate Change Scenario Planning.

MS. KERNS: During the 2021 priorities discussion that the Commission had, we agreed to work with our east coast partners to support discussions about impacts of climate change on fishery resources, and fisheries management in our regions, and identify different strategies and management approaches we can use to effectively address these potential impacts. We agreed to do this through this East Coast Climate Change Scenario Planning Initiative, that was started up via the Northeast Regional Coordinating Council, or the NRCC. This is an update to the Commission on this East Coast Climate Change Scenario Planning Initiative.

It's an informational update with no action needed at the end of the day. Any feedback that the Commission or individuals have is greatly appreciated. I'll recap the NRCCs initiation of the project, give a brief review of scenario planning itself. I myself did not know about scenario planning until we started this process.

I'll give an overview of the draft proposed processes and touch on next steps. I just want to reiterate that all of these processes are draft, and will have to have approval by the NRCC. The NRCC first agreed to explore scenario planning in late 2019, to address governing issues related to shifting stocks and climate change.

At that meeting they agreed to form a working group, to further explore and plan for a potential process. The group was formed in early 2020, with staff representatives from each of the member organizations, as well as the South Atlantic Council. For those that are not totally familiar with the NRCC, that includes the New England Council, Mid-Atlantic Council, GARFO, the Northeast Fisheries Science Center, as well as the Commission.

The NRCC met to review the Working Group recommendations in July of 2020, decided to go back to each organization for further clarity on organizational priorities, and available resources to participate. The NRCC met again in November of 2020, to revisit the Working Group recommendations, and agreed to move forward with the East Coast Initiative, with all member organizations plus the South Atlantic Council participating.

For this process the NRCC, with the addition of the South Atlantic Council representative, will serve as the primary decision-making body, although that will be further discussed later. We'll regularly update and involve both the Councils and the Commission, as well as their stakeholders.

What is scenario planning? It's a tool that managers can use to test decisions or develop strategy in context to uncontrollable and uncertain environmental social, political, economic or technical factors. A few slides with a review of what scenario planning is. The Commission has not discussed this topic in too much detail in the past, so there is a brief overview of scenario planning.

I think we gave it like two meetings ago, when we discussed the Commission priorities, but I'll review some of that information today. Scenario planning has a long history with applications in the military, as well as the fossil fuel industry. But in recent years it's become clear that it's a tool that lends itself well in the natural resource planning, in the face of climate change.

There are so many factors that are both unpredictable and outside of our control, in the context of natural resource management, particularly related to climate change and changing social political environment. Scenario planning is essentially the creation of a set of stories or scenarios under different assumptions of future conditions, that can help inform our planning and strategy today. It's designed to provide a structure process for

managers to explore, and describe multiple plausible futures, and to consider how to best adapt and respond to them. The scenarios are created in response to a focal question, develop space on a major strategic challenge faced by a group or an organization.

This allows for explicit consideration of the uncertainty in future conditions. However, it's not a tool for predicting or forecasting. Allows us to think about the plausible combinations of future conditions in a qualitative way. The process does not have to be data intensive, and it does not include quantitative projections.

How is scenario planning used? Managers can use the resulting scenarios to strategize and prioritize for the future, including by identifying near-term actions to take now, or to avoid now. That would allow for adapting to different plausible future conditions. Specifically, it is helpful to think about actions that could be taken now that are likely to be beneficial under a range of future conditions.

It's also helpful to identify actions to avoid, that may reduce flexibility or increase the difficulty of adapting to future conditions. Scenario planning can also provide insights into data gaps and monitoring needs for changing conditions. What are the benefits? First, scenario planning helps managers and stakeholders apply their underlying assumptions and perceptions about future conditions, which may vary among different groups.

It reduces the tendency for managers to become over confident in their expectations of future conditions, too focused on a limited view of the future, or paralyzed by uncertainty that the future holds. Scenario thinking also provides a way to organize complex information about changing conditions, and stimulates creative and innovative thinking about how to prepare for those changes.

In terms of how the scenarios are developed, this is also done at a work shop or some other participatory format. There are several methods for creating scenarios, but a typical and relatively simple method is using a 2 by 2 matrix. This method considers two

different critical and uncertain driving forces that present a spectrum of uncertainty. Ideally, these uncertainties are from separate categories of drivers such as one social political and one ecological.

Overlapping these two spectrums of uncertainty produces a matrix with four quadrants, and four possible scenarios. The resulting scenarios in each of the quadrants are then intended to be plausible, relevant, challenging, and divergent. For scenario planning overview that is sort of the basic recap. It's likely what we'll have is some more thorough introduction to as we move forward in this scenario planning process with the NRCC.

But if anybody is interested, there are additional resources that are linked to the meeting materials in the memo that was sent out to the Policy Board earlier. There is also a website that the Mid-Atlantic Council has created on their website specific to our initiative through the NRCC. In addition to that, there is a scenario planning that is getting close to its conclusion, that is being done through the Pacific Council. Now I'm going to talk a little bit more about the specifics of the plan for this east coast process, starting with the Core Team. The Core Team for this process has been appointed by the NRCC, and will serve as the primary technical team working in coordination with the facilitator, to conduct the research, planning, coordination, and producing all the materials for the various points in the process.

It's similar to a Plan Development Team in the Commission's process. So far, the Core Team has met twice. The first meeting was on March 11, and a summary of that meeting was in the meeting materials. Our second meeting was just last Friday, so we have not produced a summary of that meeting.

You'll see a list of all the representatives on the Core Team. We're hoping that we can add some additional expertise from NOAA Headquarters, as well as the Southeast Fisheries Science

Center. I am the Commission's representative on the Core Team. In terms of facilitation, the NRCC and the Core Team were both supportive of hiring an experienced facilitator to guide us through this process.

I think very few of us have actually gone through a scenario planning process before, and having an expert to lead us would be quite beneficial. The facilitator would be responsible for a lot of the planning in coordination with the Core Team, as well as preparation for and facilitation of meetings, workshop, relevant to the initiative.

We are in the process of finalizing a contractor for a facilitator as we speak. We hope that it will be finalized soon, and the funding for the facilitator is being provided by the Nature Conservancy, and each member organization will be providing resources for staff and member participation.

The objective and the focal question for the process. One of the first big steps in the process will be defining the objectives and focal question of the scenario planning initiative more specifically. The general topic identified by the NRCC is management and governance issues related to climate driven changes in fisheries, particularly changing stock distribution.

It will be very helpful to identify more specifically exactly what question we're trying to address, in order to get useful stakeholder input, and to design scenarios that will really be helpful to all of our organizations, in thinking about long term strategies, and priorities related to climate driven changes in fisheries.

The specific objectives and questions will be further developed by the Core Team, the facilitator, as well as the NRCC. At our Core Team meetings, we discuss that we could develop draft objectives for consideration by the NRCC, but also recommended that even after the NRCC reviews them, that we leave those objectives as draft through the public scoping process, to get feedback from each organization and their stakeholders on specific objectives of this topic.

We want to make sure that there is enough flexibility as possible. Another element that we expect to clarify in the initial stages of this process are the expected outcomes and applications of this process. We know that scenario planning has a lot of potential benefits, but we want to be clear about exactly what we expect to get out of the process for the benefit of all of the participants. The Core Team is going to work with the facilitator and the NRCC to further clarify the specific expected outcomes and benefits of the process, as they are applied across the east coast. But some of the possibilities can include a list of near term and long-term broad management priorities that are robust to future conditions, as well as a list of actions to avoid that reduce flexibility to adapt.

Given the scale of this initiative, these are likely to be broad strategic goals, and not likely to be specific FMP level proposed management changes. Although some of the strategies can be more applicable to some FMPs than others. This slide summarizes the general tentative plan for the structure and participation in the process, but this could be subject to change, and is still under discussion by the Core Team and the NRCC.

As I previously mentioned, the NRCC plus the South Atlantic representatives will serve as the primary decision-making body, given the complexity and number and scope of different participating organizations. We do expect to regularly update the Commission and Councils, and seek feedback through each respective organization's process, and expect some level of involvement of each of the management bodies and their stakeholders, particularly during scoping and during the planned workshop.

The Core Team has discussed the logistics of potentially involving our advisory bodies, such as Advisory Panels, Technical Committees, SSCs, and it's something that may be especially beneficial during the early stages of the process, in particular scoping. But given the number of

organizations and the number of advisory bodies, we're going to have to think carefully how to balance the input with the logistical complexities.

In terms of stakeholder input involvement, this is also something we're still trying to strategize, and we'll discuss further with the NRCC. But the level of involvement will likely have to vary throughout the process, given the scale of the initiative. We're hoping to get very broad input at the outset during scoping, but then for later stages, particularly in the scenario development workshop, we're likely to have to limit participation, to have a productive scenario development process.

It's not clear at this point how we will do that, but we will need to aim for a balanced representation amongst the management groups, the stakeholder interests, as well as along the entire east coast. Now I'll touch on the proposed process for the initiative, which is based on the NRCC Work Group recommendations from last summer, which will follow the process outlined in the National Parks handbook, and the recent National Marine Fisheries Service publication on scenario planning for fisheries managers.

Again, while the NRCC has seen a lot of this proposed process, in terms of the Working Group recommendations, we're aiming to have a more focused discussion with the NRCC in May, about whether this is the process that they want to develop and adopt. This is still tentative at this point.

Broadly, the proposed plan is to start with public scoping, followed by two workshops. One workshop for building scenarios, and a second workshop to discuss the implications and applications of the scenarios. The draft proposed process is a six-phase process that would tentatively extend from now until next summer. This is a very aggressive timeframe, and will not begin in earnest until we have a facilitator finalized, and that the NRCC approve the overall process as being recommended in May.

Things could also move slower than expected, with so many organizations involved. The first phase is orientation, which is where we are now. This is where

the project objectives are established, as well as the process and structure for scenario planning initiatives. We have a Core Team, we're in the process of hiring the facilitator, and then we'll plan for scoping in this phase.

We hope to transition in early 2020 for scoping. For Phase 2, is where we conduct a structured outreach program, to gather stakeholder perspective on key uncertainties driving changes in east coast fisheries, as well as feedback on the project objectives. This would be expected to occur in the summer

One thing that the Core Team emphasized regarding scoping, is the importance of taking our time, and planning a well thought out process, where those that are commenting are well informed on scenario planning. It takes education of all of the stakeholders to understand the scenario planning process.

For Phase 3, this is exploration, which involves identifying and analyzing a list of key uncertainties driving change in east coast fisheries, and preparation for the first workshop. This would be informed by the scoping comments, as well as potentially additional discussions with managers and experts.

This phase would tentatively be conducted in the fall of this year. Phase 4 is the synthesis, which is the primary scenario building phase, and would involve a workshop with stakeholders to build out draft scenarios for east coast fisheries. This has been discussed as potentially occurring in late 2021, possibly November.

After the workshop the details of the scenarios will be further described and validated. Phase 5 would follow the scenario development, and could involve one or more workshop to discuss the implications of scenarios, and to come up with management responses and recommendations, in other words, to discuss

what we do with the input gained from the scenario development process.

The last phase, Phase 6, is monitoring, which depending on the outcomes of the previous phases, could be ongoing beyond 2022. The phase of identifying a plan for monitoring would be expected to wrap up, along with any final products from the initiative by the summer of 2022. As I had said before, some of you have seen this presentation.

The South Atlantic Council will receive this presentation in June. We're going to present this process to the NRCC in May, and continue to hold Core Team meetings to start working on the scoping process. Mr. Chairman that's all I have for my presentation, and I'm looking for any feedback that the Commissioners have on, you know the process itself, whether or not you feel that this is the appropriate way to move forward with scenario planning, any input on ideas for goals and objectives is also welcome.

CHAIR KELIHER: Thank you, Toni. Members of the Policy Board for questions for Toni. John Clark and then Bill Anderson.

MR. CLARK: Toni, you mention that the Pacific Council, I believe it was, has already done this. Has the output of this scenario planning been used in management there, or are they planning to? I mean what kind of separates this from a standard kind of planning exercise. Not to be cynical, but a lot of times they just end up making recommendations that are ignored.

MS. KERNS: That's a fair point to make, John. As far as I know, and I don't know if Kylie is on our webinar or not. But as far as I know, they are in the wrapping up process of making their final recommendations, and then those recommendations would be then applied to different fishery management plans. As I said before, the outcomes of the scenario planning are not measures for the plans, but concepts and ideas of how to implement different types of measures.

CHAIR KELIHER: Bill Anderson is next on the list.

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MR. BILL ANDERSON: Toni, well done. Not a question, but a comment. Unfortunately, I think this comment may throw a level of complexity into all of this. Ellen Bolen and I had a chance earlier this week to speak to the opening plenary session of the Mid-Atlantic Committee on the Ocean, that is New York, New Jersey, Delaware, Maryland, Virginia, and the Tribal Nations in those states.

As you might imagine, this topic is a top issue for them. I know that for example the coastal zone management programs in each state are tasked with activities here, as are the climate change organizations in each state. The one thing that is bothering me a little bit, oh and by the way, the folks representing New York, New Jersey and Delaware, unlike Maryland and Virginia, did not have a fisheries person in that open session early in the week.

New York was represented by NY CERDA, New Jersey and Delaware, I think by their environmental folks. But it kind of leads to my point. This thing is such an important issue to the administration. It is going to get an awful lot of people coming out of the woodwork, to position themselves, and try to drive the agenda.

I'm a little concerned that it sounds like you guys on the fishery side are well coordinated. What happens with all these other organizations along the Atlantic coast that are going to be potentially looking at different data, different assumptions, and maybe different outcomes? I just present that as something to think about, Toni.

This is so big; I'm concerned that mixed messages from various organizations will really confuse the heck out of the public. I don't know if there is a way to coordinate even beyond this fisheries group you put together, to make sure this overall effort by the administration is very consistent in the base data and assumptions, that every one of these various organizations are using it. I know it's a monumental task,

Toni, but I would keep that in the back of your mind as you're working through this. That's all I had, thank you, Mr. Chairman.

CHAIR KELIHER: Thanks, Bill. Toni, do you want to reply to any of that?

MS. KERNS: Bill, I understand that concern, and in this initiative, I can't imagine that all the different concepts of ocean use and ocean planning, if it doesn't come up in the scoping, I would be shocked, right? Those concepts will have to be worked into the workshop.

I'll bring up this concern with the NRCC about the overlapping group that are addressing these issues, but in different ways, and probably thinking about the data in different ways, and how we can try to incorporate those groups, or to not have as many, conflicting maybe outcomes between the different groups, or at least to consider that.

MR. ANDERSON: Well thanks, Toni, I know you use it in the appropriate fashion, for what it was worth. I appreciate it.

CHAIR KELIHER: John Clark, your hand is back up.

MR. CLARK: Sorry, Mr. Chair, I forgot to put it down.

CHAIR KELIHER: No worries, any other members of the Policy Board that have any questions or comments? Spud Woodward.

MR. A.G. "SPUD" WOODWARD: My hand got up by mistake there, Mr. Chairman, sorry.

CHAIR KELIHER: No worries, no worries. Any other Policy Board members? Seeing none, I see Julie Evans hand is up. I'm not going to call on you, Julie. This is a preliminary conversation with the Policy Board, but if you have thoughts, I would invite you to send an e-mail in through to staff, and we could try to get back to you on that. I think we're kind of crunched for time here.

Toni, I think on this issue, it's been a long day. I would invite members of the Policy Board who do have

thoughts, in regards to scenario planning, to continue to raise them with staff or if appropriate, we can have further conversations through the Executive Committee. It is a process that is moving forward into Bill Anderson's point.

There are a lot of other people who are looking at the issues around climate, and making plans, whether it is at the state level, regional level, or the national level. I think associated with that, some of you may be aware now, but the Biden Administration today announced some of the processes they'll use for the 30-30 initiative, so keep an eye on your inbox for that. That will likely add a whole other layer of complexities to some of these conversations. With that, Toni, unless you have any parting comments, I'm going to move on to the next agenda item.

MS. KERNS: That sounds good, Mr. Chair.

BOARD PROCESS OF APPROVING FISHERY MANAGEMENT PLAN REVIEWS AND RECOMMENDATIONS

CHAIR KELIHER: That next agenda item is also yours to discuss Board Process of Approving Fishery Management Plan Reviews and Recommendations.

MS. KERNS: This is the last of the Toni show today. This presentation is much shorter, I promise. I'll try to keep this discussion brief. It was requested that we discuss how we approve or not approve the Plan Review Team recommendations that come within the annual FMP reviews. Each FMP review has a series of Plan Review Team recommendations.

They often vary by species, sometimes the Plan Review Team recommendations focus just on management or policy issues, while others can also include research or science focused recommendations. Sometimes in the FMP reviews the recommendations that come out of the stock assessment get blended in with the PRT recommendations.

The recommendations are often not specifically addressed by the management board. There was a question to staff after an FMP review had been approved, whether or not that automatically put in motion the recommendations of the Plan Review Team. It does not, unless a board specifically tasks a group or item to address a Plan Review Team recommendation, action is not taken on that recommendation.

A board member requested that staff bring forward some considerations to the Policy Board on how we could better address the PRT recommendations, so staff put forward a series of ideas for the Policy Board to consider. Within the FMP review, the PRT recommendations can be limited to just policy and management issues. There could be science implications to those policy issues, but they shouldn't be a continuation of the assessment recommendations.

Those research recommendations could be a separate section within the FMP review, so it's still front and center, and available for folks to have, but not within the PRT recommendations, and that they would be limited. The recommendations could be prioritized, and limited to a reasonable number that the Board could address in one meeting.

This recognizes that if you get ten recommendations from the PRT, that would be a lot to try to tackle at one time, and so maybe it's up to the Board to determine what a reasonable number might be, but maybe it's 3 to 5 recommendations. Then the Board should consider those recommendations during the meeting that the annual FMP review is taken up by the management board.

It's not necessarily that the management board has to take action on each of the recommendations, the board could task a committee to look into something, they could defer action or defer taking up the issue until a later time, or they could reject the recommendation altogether, and then that could be noted in the FMP review, so that the board doesn't have to continually look at a recommendation year after year after year. Those are my presentation, I'll take any questions, Mr. Chairman.

CHAIR KELIHER: Any questions for Toni? Cheri. I lost you, Cheri. If you're talking, Cheri, you're on mute.

MS. PATTERSON: Yes, sorry, no I was just getting trigger happy. I'm good.

CHAIR KELIHER: Everybody is getting trigger happy now. Any additional questions, or any questions for Toni on this issue? Great, I realize the hour is getting along here. We've had a full plate today. I again would suggest that after the meeting ends, if you have any thoughts or questions that come up, just to reach out to Toni directly.

That concludes the Toni Kerns Show here today.

**UPDATE ON THE MID-ATLANTIC FISHERY
MANAGEMENT COUNCIL'S RESEARCH
STEERING COMMITTEE TO EVALUATE TO
RESTART THE RESEARCH SET-ASIDE PROGRAM**

CHAIR KELIHER: So, we're going to move on to Agenda Item Number 9, which is an update on the Mid-Atlantic Fishery Management Council's Research Steering Committee to evaluate to restart the Research Set-Aside Program, and that is Bob Beal.

EXECUTIVE DIRECTOR BEAL: I can go pretty quickly through this. For everyone that's involved in the Mid-Atlantic Council, and has been around for a little while, you'll remember there was a Research Set-Aside Program that the Mid-Atlantic Council as well as ASMFC had administered a number of years ago.

It allowed for up to 3 percent of the quota to be set aside for summer flounder, scup, black sea bass, bluefish, dogfish, and a number of other species that are solely managed by the Mid-Atlantic Council and not ASMFC. That program went along pretty well for a while, and funded a lot of good research, including the NEAMAP Survey for a while.

However, there were a number of enforcement issues with that and, based on the number of

infractions and problems with enforcement, that program was discontinued, I don't know, five years ago or so, and hasn't been functional since then. The Mid-Atlantic Council has reinitiated the conversations to restart the Research Set-Aside Program.

It's being run through the Research Steering Committee at the Mid-Atlantic Council, and fortunately Adam Nowalsky is the Chair of that Committee, so he is on here, and he can correct anything that I say that is wrong. Even though the Research Steering Committee is driving this conversation, Adam and the rest of the members of the group have been very accommodating, and recognize that state involvement is very important here.

The Commission needs to agree to the same set-asides as the Mid-Atlantic, so we keep the overall quotas consistent. The enforcement issues obviously happen, a lot of them at the state levels, as well as the number of permitting, and potentially experimental fishing permits, and other things that happen at the state level.

Getting the states involved is critically important in this. You know the idea of this agenda item really is just to let everyone know this conversation has been started at the Mid-Atlantic Council, and I think I'm working off the most recent document, Adam, let me know if I'm not. But the plan is to have three webinars, and one in-person workshop.

The webinars will start this summer, and the in-person workshop will take place, hopefully late fall of this calendar year. On the list of invitees for these workshops, webinars as well as the face-to-face workshop is Commission staff, as well as administrative commissioners, and I think other commissioners can participate as well in these workshops, but you know the idea is just if and when this program is restarted, what does it look like, and how do we deal with all the problems that had occurred in the past? As I said, the concept was great, you know set aside a little bit of the quota to support fisheries research for those important species. However, the execution lacked a little bit of detail, and

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there were some problems with some folks that were “gaming the system,” we’ll say.

That is the update. I can keep the members of the Policy Board updated as these webinars get planned, and folks can listen in and/or participate. But the idea is just to give an update, and let everyone know that this is occurring, and stay tuned, we’ll give you more details as they come around. With that, Mr. Chairman, that is my update. Adam probably has a lot more details than I do. If he would like to share any that would probably be a good idea as well.

CHAIR KELIHER: Yes, Adam, why don’t you go ahead, please. We’ve got some technical difficulties.

MS. KERNS: Adam was disconnected, I’m sending him his audio pin.

CHAIR KELIHER: While we’re waiting for that, Dan McKiernan, why don’t you go ahead.

MR. MCKIERNAN: I look forward to these conversations in the future. We had some real heartburn up in Massachusetts on this, and for a couple of reasons. Bob, you referred to it as enforcement issues, but there was also something as simple as enforcement burden, where it was a burden on our law enforcement officers to have to be monitoring and checking in on these vessels with these experimental exempted fisheries permits.

A lot of these decisions were being made through the auction process, and we weren’t even informed, until they came to us looking for these permits. That was really a problem. On the commercial side it was a little bit cleaner, but I think it all went really downhill when the recreational sector was given quota, because the recreational fishery is not quota managed.

It really became a “get out of jail free card” if you had the letter, and it became very difficult to monitor. I would be really careful about this

in the future, especially from states that are not represented at the Mid-Atlantic Council, when a lot of these decisions are being made. Thanks.

CHAIR KELIHER: Thanks, Dan. Do we have Adam on the line yet? While Adam is trying to join, Jason McNamee has his hand up, and then Emerson Hasbrouck.

DR. McNAMEE: I agree with the things that Dan McKiernan just said. All that being said, I also agree with a comment that Bob Beal made, and that is, I think it was a good program. It had value, it generated good dollars to get some good research done. I think we should reinvestigate it. I’m just sort of offering. I would be interested in updates, and any opportunity that we have, those of us not on the Mid-Atlantic, to offer comments. You know I would welcome that, because I think we have some experience to offer to the process, so just wanted to offer that.

CHAIR KELIHER: I’m going to go back to Adam, he’s on the line now, and then I’ll have Emerson Hasbrouck and Tom Fote.

MR. NOWALSKY: I’m good now?

CHAIR KELIHER: Yes, you’re good, we can hear you loud and clear.

MR. NOWALSKY: Thanks for those couple comments here that we’ve heard so far. I appreciate it. I appreciate those Commission members that have been part of the process in the past, as well as moving forward. Just a couple updates. I think Bob did a very good job of summarizing things.

Originally the Research Steering Committee of the Mid-Atlantic Council intended to convene workshops last year. Like a lot of things, those were delayed due to COVID. Our plan this year was initially to go ahead and do all of those things in person later in the year. But in an effort to jump start the discussions to ultimately make a decision, and again I need to stress, the decision first needs to be made about restarting the program.

But in order to make that decision, we think we need to go ahead and better define what a redefined program would look like to address the problems that had previously been brought forward and mentioned. In order to jumpstart that, the Research Steering Committee recently decided to convene.

As Bob mentioned, what will likely be three webinars, although it is possible that one or two, the second or third one could potentially be in-person, depending on how things go, followed by an in-person workshop at the end of the year, late fall. What those three webinars were, again possibly an in-person meeting, will center around is three areas, enforcement and funding, and the program itself.

There is the Science and Statistical Committee of the Mid-Atlantic Council has a working group, primarily composed of economic specialists, who are looking at the economic considerations, and they are going to have subject matter experts on all three of the areas I mentioned. They will be providing input, and we thought that in conjunction with that work from the SSC, as well as the desire to jumpstart these discussions, this was a good way forward.

The next meeting of the Research Steering Committee of the Mid-Atlantic Council, is presently scheduled for June 2, at 9:00 a.m. I would encourage any Commissioners that want to be part of the discussions to join us. At that meeting, the Committee, and again, while we got a lot of input from the Council's SSC and the Working Group, this is a Research Steering Committee process for going ahead and facilitating these discussions.

We've identified a significant number of attendees from lots of different areas, including enforcement, including the Commission, leadership, GARFO, et cetera that will be convening with these workshops, as well as members of the public. Again, to decide if we move forward, what would a re-envisioned program look like? Again, I'll extend that

invitation. June 2nd, the Steering Committee will meet. We'll go ahead and formalize what the agenda would look like for each of those three workshops. We do intend for the three workshops to look very similar to each other, the three webinars, just with a different topic for each of them, with the intention based on what we learned, what we develop, what decisions we make during each of those webinars, to synthesize all of that before the end of the year, and provide a recommendation back to the Council.

Again, because these are jointly managed species with summer flounder, scup, black sea bass, bluefish in particular, where there has been RSA allocated as a percentage of the annual specifications and quota, I do view that as a joint process. June 2nd, next Committee meeting, three webinars during the course of the summer and early fall, one in-person workshop to synthesize things, and then hopefully we'll have a recommendation. Thanks.

CHAIR KELIHER: Adam, thanks for that additional information, that's appreciated. I have Emerson Hasbrouck, and then Tom Fote. If you have new information, Gentlemen, please would be great. Just cognizant of the time.

MR. HASBROUCK: Yes, I just wanted to thank Adam and the members of the Research Steering Committee on their efforts to reconsider the RSA program. For people who are not all that familiar with it, when it was operational it provided annually over a million dollars' worth of funds to conduct critical fisheries and fisheries related research.

I was the PI on several successful RSA projects over the years, and it's a really important source, or was a really important source of funding. I think what Adam and the Committee is trying to do is to come up with a strategy to overcome some of the problems that existed in the past. You know there are ways to conduct an RSA program that help to alleviate those issues.

You know the RSA projects that I conducted did not have any enforcement issues related to that. I also want to caution people that the auction is not the RSA program and the RSA program is not the auction. The

auction was a process that developed during the RSA process. I think it's important to realize that the auction is not the RSA program, and an RSA program can in fact exist without an auction, or an auction that is vastly different from what it was before.

CHAIR KELIHER: Tom Fote.

MR. FOTE: Like Emerson, we basically in New Jersey and New York, we had a group formed together of commercial and recreational fishing groups that would put in for research and put our own money in basically, and usually got research set-aside money to help basically fund some of those programs.

The lottery caused a lot of problems, and New Jersey started getting a lot of heat from our charter boat fleets and party boat fleets, because they wanted to get in what New York was doing. We didn't have the law enforcement and it put too much of a burden, so we didn't do it, and the division caught a lot of heat back in those years, because they didn't implement those programs, but they didn't have the money to do it. If it adds problems on law enforcement and the states management of it, it needs to be corrected and handled, and some way fixed.

CHAIR KELIHER: Thanks, Tom, I appreciate that. I do note there are a couple members of the public who have raised their hand on this. I apologize, it is a late hour. I'm not going to take public comment on this particular issue. But I would invite you to send written comments in through staff, and they can pass them on to the appropriate folks.

SEAMAP REPORT

CHAIR KELIHER: I'm going to move right along to Item Number 10 on the agenda, which is the SEAMAP Report, and that is from Sarah Murray.

MS. SARAH MURRAY: Thank you, Mr. Chair, I'll try to be as brief as possible here. I think Maya should have a presentation for me, but I'll go

ahead and get started anyway. As an FYI, SEAMAP used to be a report to the South Atlantic Board, but obviously with reconfiguration there, we had to change things up a bit, so it will be now reporting directly to the Policy Board as NEAMAP does.

Just as a brief background for anyone who is not familiar, SEAMAP is a cooperative program that facilitates collection, management and dissemination of fishery independent data in the southeast. It has three components, the South Atlantic, which is coordinated by the Commission, the Gulf, and Caribbean.

SEAMAP South Atlantic partners include state agencies from North Carolina to Florida, the Southeast Science Center, Fish and Wildlife Service, the South Atlantic Council and the Commission. It also collaborates with NEAMAP. SEAMAP South Atlantic surveys consist of two trawl surveys, the coastal trawl survey operates from Cape Hatteras to Cape Canaveral.

The Pamlico Sound Survey in North Carolina, three coastal longline surveys in North Carolina, South Carolina, and Georgia, which target red drum, and also coastal sharks. Reef fish surveys, which their primary gear is chevron traps, but also incorporates short-bottom longline and rod and reel. Those are conducted in collaboration with MARMAP and SEFIS.

SEAMAP data is used for a number of stock assessments, including a number of Commission species, menhaden, bluefish, croaker, spot, horseshoe crab, coastal sharks. The data are also used for management documents, such as compliance reports, research both within agencies and in academia, and ecosystem modeling efforts, such as the development of the South Atlantic ecosystem model.

South Atlantic creates a number of GIS products, including maps of survey data that are housed in the SEAMAP-SA Fisheries web app, story maps that explain the program and surveys, and spatial analysis tools, such as hot spot analysis would be an example for Atlantic croaker here. Historically SEAMAP-South Atlantic database has been hosted by South Carolina DNR.

However, in recent years SEAMAP has been collaborating with SECOORA and Axiom Data Science to migrate data to the SECOORA Portal. This has a lot of advantages to it. One, just having the tech support that they are able to provide there. It also has many more end user tools for exploring and summarizing data.

You see an example of a map to the right, and there is also the ability to link SEAMAP-South Atlantic data to oceanographic and meteorological data that are housed within SECOORA. While this is being migrated to the portal, SCDNR staff and the Data Management Work Group will continue to be managing SEAMAP-South Atlantic data behind the scenes. The SEAMAP components jointly create five-year plans in collaboration. Typically, in the past this has been one plan, but this time we decided to split this into two separate plans. The first is the 2021 to 2025 SEAMAP Management Plan, which includes current goals, management policies, and procedures, SEAMAP history and accomplishments.

The second is the SEAMAP Strategic Plan, which includes a prioritized list of future project activities to maintain and expand upon current activities. I'll just briefly review some highlights from the South Atlantic part of the Strategic Plan. However, please note that the Strategic Plan Document provides a lot more detail, including estimated costs for some of the items discussed here.

The Strategic Plan activities are divided into three categories, which are listed in order of priority. The first category and top priority for funding is operating the existing SEAMAP-South Atlantic programs and all of the other programs at full utilization. In recent years, SEAMAP activities have been impacted by stagnating and declining funding to the core surveys.

As a result, additional funding is needed to maintain the baseline, and bring programs up to full utilization. Funding is needed across the surveys for sea days, personnel and other costs,

and I should note that stagnant or reduced funding in the future will likely result in reduced sampling efforts or sampling processing, etc.

The second set of activities are those that expand current projects to collect additional data on existing platforms or survey programs. These activities include expanding or resuming life history and data collection on the SEAMAP South Atlantic Surveys, collecting oceanographic and bottom mapping data in conjunction with these surveys, adding additional cruise legs, in particular for the Pamlico Sound Survey, and expanding data management to accommodate any new data.

The final part of the Strategic Plan are activities that would develop new fishery independent data collection programs. South Atlantic proposed surveys are listed in order of priority here. Briefly, these include a new pelagic survey that could study species such as mackerel, dolphins and wahoo, developing a survey for cobia, which currently does not have a coastwide index of abundance for the Atlantic migratory group of cobia.

A handful of different surveys, or supporting existing surveys collecting ichthyoplankton data. Developing a combined live bottom mapping and finfish trapping program, and effort to support or expand existing tagging studies and acoustic arrays in the South Atlantic, and enhance the use of this data for stock structure and other management. Provide support for existing Southeast Regional Estuarine Trawl Surveys, and developing a regional Crustacean Assessment, for example for blue crab or shrimp. With that I would be happy to take any questions.

CHAIR KELIHER: Thanks for that overview, Sarah. Are there any questions for Sarah? The Executive Director just reminded me we'll be seeing all of those species in Maine before long. Not seeing any hands up, Sarah, thank you for that report. I would like to report out to the Board that all of our business is done, but I'm afraid we've got one more, quick item of business. The Shad and River Herring Board did ask for the Policy Board to approve a letter, so with that I'm going to ask Dr. Davis to come on, and ask staff to put the motion up on the board.

DR. DAVIS: Thank you, Mr. Chairman. I move that the Commission write a letter to NOAA Fisheries and USFWS supporting their activities and dam passage review to provide increased opportunities for population recovery for American shad. Dam barrier removals should be the preferred approach to restore fish species habitat access for population restoration, and for habitat restoration benefits when dam removal is not an option. Development and use of fish passage performance standards in river systems, based on available data, fish passage modeling tools, and fish passage expertise is recommended if the required information to develop performance standards are not available, support their development for such purposes and applications.

CHAIR KELIHER: Great, thank you Justin. This is a motion from the Shad and River Herring Board, so it does not need a second. Are there any members of the Policy Board that has any questions or comments on the motion? Seeing none, is there any objections to the motion? Any abstentions?

We have one abstention, Karen Abrams is, so we just have one. **Let the record show that the motion passes by consensus with one abstention from NOAA Fisheries.** With that, thank you, Justin for that quick bit of work on that letter. That concludes our business. I will give one last opportunity for Policy Board members, if there is any additional information or items that need to be discussed here today. Cheri Patterson.

MS. PATTERSON: I'm sorry I was unable to, at the moment, to talk further about Toni's presentation on the Board's considerations for PRT or PDT recommendations. I would just like to support these considerations. I think our PRT and PDTs spend a lot of time creating these recommendations, and are very thoughtful about them.

A lot of times it just seems to me that when we are approving FMPs, for example, that we just kind of gloss over these sorts of recommendations. I think we just need to be a little bit more thoughtful about that in our future FMP approval process, and at least consider their recommendations and move those recommendations forward, if the various boards agree with them. Thank you.

CHAIR KELIHER: Thanks, Cheri, for those comments. I think it's clear that there are some things that we need to do, as far as final considerations. I think staff has captured those, and I believe, hopefully Cheri you believe that there is some clarity now on what we can comment on. Any additional comments on that topic? Seeing none, I would like to thank all the members of the Commission for their attention on some pretty weighted conversations.

This spring meeting a lot of meetings ran long. Some issues that we actually needed to take a lot of time on. I certainly appreciate all of your time and attention to all of those matters. With that, unless staff has any final announcements, a motion to adjourn would be in order. Tom, Bob or Toni. Hearing none. Justin, I saw your hand go up were you motion to adjourn?

DR. DAVIS: That is correct, Mr. Chairman.

ADJOURNMENT

CHAIR KELIHER: Motion to adjourn, Cheri's hand up, I'll take that as a second. I'm assuming there is no opposition, so with that we stand adjourned. Thank you very much for a very productive meeting week.

(Whereupon the meeting adjourned on Thursday, May 6 at 1:00 p.m.)