PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

ATLANTIC MENHADEN MANAGEMENT BOARD

The Westin Crystal City
Arlington, Virginia
Hybrid Meeting

August 6, 2024

Approved October 22, 2024

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INDEX OF MOTIONS

Main Motion as Substituted
Motion to substitute to establish a Board workgroup to consider and evaluate options for further precautionary management of Chesapeake Bay menhaden fisheries, including time and area closures, to be protective of piscivorous birds and fish during critical points of their life cycle (Page 18). Motion passes by consent (Page 19).

4. **Move to adjourn** by consent (Page 19).

ATTENDANCE

Board Members

Megan Ware, ME, proxy for Pat Keliher (AA)
Rep. Allison Hepler, ME (LA)
Cheri Patterson, NH (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Doug Grout, NH (GA)
Nichola Meserve, MA, proxy for Dan McKiernan (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)
Ray Kane, MA (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
David Borden, RI (GA)
Matt Gates, CT, proxy for Justin Davis (AA)
Rep. Joseph Gresko, CT (LA)
Robert LaFrance, CT, proxy for Bill Hyatt, CT (GA)
Marty Gary, NY (AA)
John Mansicalco, NY, proxy for M. Gary (AA)
Jim Gilmore, NY, proxy for Assy. Thiele (LA)
Joe Cimino, NJ (AA)
Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
Jeff Kaelin, NJ (GA)
Kris Kuhn, PA, proxy for Tim Schaeffer (AA)
Loren Lustig, PA (GA)
John Clark, DE (AA)
Lynn Fegley, MD (AA)
Dr. Allison Colden, MD, proxy for Del. Stein (LA)
Russ Dize, MD (GA)
Pat Geer, VA, proxy for Jamie Green (AA)
James Minor, VA (GA)
Chris Batsavage, NC, proxy for K. Rawls (AA)
Chad Thomas, NC, proxy for Rep. Wray (LA)
Ben Dyar, SC, proxy for Blaik Keppler (AA)
Mel Bell, SC, proxy for Sen. Cromer (LA)
Malcolm Rhodes, SC (GA)
Doug Haymans, GA (AA)
Spud Woodward, GA (GA)
Erika Burgess, FL, proxy for J. McCawley (AA)
Gary Jennings, FL (AA)
Ron Owens, PRFC
Max Appelman, NOAA
Rick Jacobson, USFWS

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

Staff

Bob Beal
Toni Kerns
Tina Berger
Madeline Musante
Caitlin Starks
Jeff Kipp
Tracy Bauer
James Boyle
Katie Drew
Jainita Patel
Chelsea Tuohy

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia, via hybrid meeting, in-person, and webinar; Tuesday, August 6, 2024, and was called to order at 10:00 a.m. by Chair John Clark.

CALL TO ORDER

CHAIR JOHN CLARK: Good morning, this meeting of the Atlantic Menhaden Management Board is now in session. I am Delaware Administrative Commissioner, John Clark, I'll be chairing this meeting. I am joined here up front from ASMFC by Plan Coordinator, James Boyle, Katie Drew, our Stock Assessment Scientist, and we have guests from the USGS, Dave Ziolkowski and Barnett Rattner, who will be giving a presentation later. We have a very full agenda and not a lot of time, so we will get right down to it.

APPROVAL OF AGENDA

CHAIR CLARK: The consent items, are there any changes to the agenda? Seeing none; the agenda is approved.

APPROVAL OF PROCEEDINGS

CHAIR CLARK: Are there any corrections to the proceedings from the April, 2024 meeting? Seeing none; the proceedings are approved.

PUBLIC COMMENT

CHAIR CLARK: Now we move on to public comment for items that are not on the agenda, and a reminder that both the osprey issue and the Chesapeake management issue are on the agenda. Do we have comments for items not on the agenda? I see one hand here, is that Mr. Zalesak, and this is for an item not on the agenda, Phil.

MR. PHIL ZALESAK: Just before I get started here, is John Clark the Chairman of this Committee? All right, Mr. Clark, my name is Phil Zalesak, I'm a spokesman for the Save Our Menhaden Coalition. The Coalition is demanding an end to localized depletion of Atlantic Menhaden in the Chesapeake Bay and its entrance.

Simply capping the reduction harvest in the Chesapeake Bay to an unscientific quota, and ignoring the entrance to the Bay, is irrational, ineffective and violates common sense. As a U.S. citizen with family in both Maryland and Virginia, I am proposing a solution, which has proven to be effective in eliminating localized depletion of Atlantic menhaden.

I am requesting that you and members of the Delaware delegation put forth a motion to end purse seine fishing in Virginia waters, just as your legislature did in Delaware in 1984. I am also requesting that the motion be seconded by New York delegation. This delegate, his legislature took the same action in 2019.

Since 2019, striped bass recreational harvest in New York has increased by 50 percent from 7 million to 10.5 million. Since 2019, the New York for-hire recreational business has increased, and whales, predator fish, birds have returned to New York waters in abundance. This has been documented in a two-minute video produced by Tim Reagan, a fishing guide and professional videographer. This action is supported by the latest science as documented in the ERP assessment of 2019, is supported by the latest empirical data provided by NOAA.

It will not impact Virginia quota, will not impact Omega Protein's reduction harvest quota by one fish, will end bycatch of the port recreational fishing in Virginia waters, and will end fish spills in Virginia beaches. The current situation is an ecological and economic disaster for both Maryland and Virginia.

According to the Maryland Department of Natural Resources, the striped bass juvenile young of year index has decreased for long term value of 11 to 1. According to NOAA, since 2016 the striped bass recreational harvest in Maryland/Virginia has decreased by 72 percent, from 11.9 million pounds to 3.4 million pounds. According to the Southwest

Associates Study of 2016, Maryland/Virginia striped bass recreational GDP was over 900 million dollars, and responsible for over 11,000 jobs.

What is the economic loss in GDP and employment of a 72 percent reduction in striped bass recreational harvest in Maryland/Virginia waters, 500 million dollars, 5,000 jobs? It is time to take action. End purse seine fishing in Virginia waters now. That is exactly what Delaware and New York did, nothing more, nothing less, and it worked. Mr. Chairman, be a leader and save the Bay. You can do it. Thank you.

CHAIR CLARK: Thank you, Mr. Zalesak. That concludes our public comments.

REVIEW A REPORT FROM THE U.S. GEOLOGICAL SURVEY ON OSPREY DATA IN CHESAPEAKE BAY

CHAIR CLARK: We will now move on to Item Number 4, which is Review a Report from the U.S. Geological Survey on Osprey Data in Chesapeake Bay, and we have to present, Dave Ziolkowski and Barnett Rattner from USGS.

MR. DAVID ZIOLKOWSKI: It is our pleasure to be here today. Barnett and I will be trading off as we present slides to you here. It is not difficult for me, but I am going to follow some notes to keep myself on schedule here, because we have a lot of information to cover in a very short period of time.

As Mr. Clark said, we're from the U.S. Geological survey, which is a bureau within the Department of Interior. We're often called the science arm of the department. That is just a bit of a misnomer, because some of our sister bureaus like Fish and Wildlife Service also have science capabilities.

But what makes USGS unique is that we're a non-management, non-regulatory agency that is solely dedicated to providing objective and impartial science to resource managers like yourselves and the public. Barnett and I work at the Eastern Ecological Science Center, specifically at the Laurel Maryland Campus, but we have two other campuses as well, and those are in Kearneysville, West Virginia and Turners Fall, Massachusetts.

As you can see from the green on the map here, we have staff located through many states. Our Center has broad and diverse science capabilities, which you can see listed on the slide here, and we're recognized the world over as leaders in fish, wildlife and associated ecosystem science. But among the work that we do, we're probably most prominently known for our migratory bird science. We house two of the world's largest wildlife surveillance program, those being the North American Breeding Bird Survey and the Bird Banding Lab.

We also have a great many long term bird studies, including a collaborative study working on osprey in the Chesapeake Bay Region for over 50 years. Most of you are familiar with ospreys, you've probably seen them before. They are a large day hunting raptor that is found on every continent, except for Antarctica.

They are loud, they are conspicuous, they tolerate human activity relatively well, and not surprisingly, they are one of the world's best studied birds of prey. The wingspan is about the same as mine, so pretty big bird there. They weigh just under four pounds. They are a long-lived species; most adults can look forward to living up to ten years.

They are often called the fish hawk, which is a really fitting name, because their diet is almost wholly consisting of fish, and in particular they go for a certain size of fish. Most of them are about a foot long, sometimes a little bit less, and they weigh about as much as a small can of soup, so just under a pound.

Osprey plunge dive for their food, and they take food within the first three feet of the water column, just under the surface there. They can be found in pretty much any aquatic habitat close to wetlands, bays, rivers, lakes, mangroves, just about any

habitat that has shallow water and the right size fish.

As you can see from the map here in North America, they occupy these northern regions and northern populations, start heading south as the waters cool, and then they will travel sometimes thousands of miles down to subtropical and tropical areas. We're very fortunate. Here in the Chesapeake Bay Region, we live in what is called the Osprey Garden oftentimes, just because it is the home of the greatest number of breeding pairs of ospreys in the world.

Here is just a quick look at the phenology of these birds in our area. Birds start arriving in the Chesapeake Bay around St. Patrick's Day each year, and many of them have traveled thousands of years, excuse me, thousands of miles from their wintering areas, it probably feels like thousands of years, thousands of miles from their wintering areas in the Caribbean and Northeastern South America.

They've expended a lot of energy so their first order of business is to start eating, to get their bodies up to breeding condition, and then they start doing courtship activities, and they start nest building. Their nests are these enormous, magnificent structures built from sticks. In historical times, those were then erected in natural structures like trees, but now in modern times they are using channel markers, cell phone towers, utility poles, artificial net platforms, net platforms, and you name it.

By late April, most females begin laying up to four eggs. They are speckled brown, and they are about the size of a large chicken egg. Females do most of the incubation, and unlike songbirds, they start incubating once they've laid the first egg. This gives an advantage to the first chick, which Barnett will talk a little bit about in a few minutes. Then come June, the eggs are hatching and the parents stay close to the nest for about a month, helping the chicks thermoregulate, and protecting them from predation.

Then by late July, in the Chesapeake Region, the young have grown to just about adult size, and they start exercising their flight muscles in preparation for fledging, and fledging is when a chick takes a voluntary movement off the nest to begin its life outside of the nest. For weeks after they fledge, they hang out with parents and they perfect their hunting techniques, and they learn how to acquire food. Then they start departing the Bay in September and start heading south again for their multi-thousand-mile journey to the south.

Osprey, being a very long-lived species and on the top of the food chain, they are very susceptible to the body of accumulation of contaminates, and in North America in the 1950s and '60s, osprey populations started declining rapidly, due to the effects of organochlorine pesticides like DDT.

It is estimated that the Chesapeake Bay probably lost about half or more of its population at that time. Partly in response, the North American Breeding Bird Survey was formed in 1966, to start measuring bird populations across the continent at that time. The BBS is a federal program that is jointly coordinated by the U.S. Geological Survey at the Eastern Ecological Center Science Center, in an environment it also partnered with Environment Canada.

The BBS provides the definitive record of large-scale long-term bird population change since 1966. It uses a statistically rigorous scientifically credible bird survey methodology that samples along predetermined roadside routes each year at the height of the breeding season. What I'm going to do in this slide is I'm going to cover a lot of information, but I'm going to walk you through it.

I'm going to review some of the results of the North American Breeding Bird Survey. Here you can see population growth is on the left-hand side, and it's increasing to the right. Between 1966 and 2022, the eastern population of osprey improves by about 300 percent. Then in the Atlantic Coast, where you

can imagine abundance is even higher, the population increased by about 587 percent. Then in the Chesapeake Bay Region it has increased by about 1800 percent since 1966.

Now you can see here that these blue routes are BBS routes, and that this sampling is not entirely thorough in the area. This estimate of 1800 percent should be given a little less confidence than the other ones, just because the BBS methodology is not optimized for sampling very localized areas, such as the Chesapeake Bay.

But it's still informative, and what these numbers bear out is that osprey have made an astounding recovery by all accounts. The numbers are now in excess of historical numbers, and in part that is because they have returned to a world that is very different than the world was before they started declining. There are more suitable nesting structures, the water may be cleaner. This graph here on the Y axis is an index to abundance, so low abundance down low, and high abundance up high, and the time is on the bottom there, shows you what such great increase in population looks like over time, pretty tremendous climb there. But if you look on the right-hand side of this graph, you'll know something is going on in recent years. I'll take a closer look at this period of time; this is 2012 to 2022. In the lower left-hand corner that yellow section there. What you see is you'll see a line marked by zero. Everything to the right of that is population growth, everything to the left of that is population lost in that 11-year interval there.

The top figure there, that negative 8.8 percent is the trend estimate from BBS during that time period, and as I said, it doesn't operate very well at small scales, so you can see the confidence intervals there are pretty wide, and they cross zero, and that is telling us that we don't have enough statistical power to really say that that estimate is different from zero.

However, there is a bird program that collects recreational observations from birders, and that is called eBird. It's run by the Cornell Lab of Ornithology, and they started to produce trends from their pool of recreational birding observations. You can see those trends here, they are from Maryland is the second down, and Virginia is the third down there.

You can see them both estimating a lot here, and the confidence intervals don't cross zero, so suggesting that the population is declining in that time period in the Chesapeake Bay Region. One great thing about eBird is you can actually bear down and look at the count data to see where exactly those counts are changing.

What you see in this figure here is the state of Maryland, Virginia below it. You can see very large circles all around the Chesapeake Bay, very small circles to the left of it. That tells you that there is very high abundance. Larger circles are higher abundance in the Chesapeake region, dark red indicates the greatest amount of change in the count over that time period.

Care must be used when you are interpreting these kinds of results. To understand what I mean, it's helpful to look at osprey trends across the country for perspective. Here I'll point out three things that I hope you take notice of in these graphs. On the left-hand side here for example, California and Washington, opposite coasts.

You can see that there is something going on in the same time period as there is here in Maryland, Virginia and the Chesapeake Bay Region. Another thing to notice here is that in some of these graphs, even during the long-term increase, there are periods where there is short-term decline.

If you were to focus on those areas of short-term decline, not knowing what is coming to the right of it, you might feel like your population is in a full-scale nosedive, when in fact it's just having a perturbation over time. That is something to keep in mind. Then lastly, populations don't grow forever. We know this ecologically, and at some

point, density dependency factors kick in and resources.

You would have food or territories, nest platforms, et cetera, become limiting and populations tend to level off to what is called the carrying capacity. Sometimes populations overshoot their carrying capacity and then have adjustment period to come back down. But one thing I wanted to point out on the right-hand side here is that when populations plateau off, like Florida, for example here, whose population underwent some growth but has by most suggestions leveled off now since prior to 2002. That leveling period, that plateau, is very uneven, and there are a lot of perturbations that can happen during that time. This information from these large-scale indices can be very informative. But really the gold standard for local population monitoring is to work with local census data, which are trying to completely enumerate a population. That is where Barnett is going to take us.

MR. BARNETT RATTNER: There have been two major surveys of the distribution and abundance of breeding osprey in the Chesapeake. A 1973 aerial survey in association with some intensive ground surveys of nests with ospreys present, indicated that the population was about 1450 pairs in 1973, and this was during really the height of the DDT use era.

In 1995 and ’96, a boat survey of tributaries with some aerial survey components was undertaken and revealed that the population had more than doubled, that is the population of breeding pairs, up to almost 3500, and by the year 2020, it was estimated that there were 11,000 nesting pairs of ospreys in the Chesapeake.

Ospreys, as Dave mentioned, are nearly strictly piscivorous. If a fish species is abundant, the right size and catchable, it’s eaten. A great deal is known about the energy requirements during osprey nesting, with males foraging daily during daylight hours for more than three hours, traveling as much as five to ten miles to catch fish and to bring them back to the nest to provide its mate and young in the nest.

Provisioning depends on the number of young in the nest. For ospreys, what is eaten depends on where they are nesting in the Chesapeake. A snapshot of foraging activity can be gleaned from studies conducted in 2006, ‘7, ’11, ’12 and 2013. Catfish and gizzard shad in low salinity tributaries and in the upper bay estuarine areas are the principal foods, at least during some of those study years.

It's striped bass and menhaden in the midday, where there was moderate salinity, and it is sea trout and menhaden again as a snapshot in the lower bay in high salinity areas. Data summarized by Watts and Paxton during the recovery from the adverse effects of DDT documented an increasing reproductive rate for ospreys in the Chesapeake.

It is generally accepted that the rate for maintenance of a stable population is about 1.15 young fledged per active nest, an active nest being a nest in which an egg was laid. Prey abundance is a major factor that drives the osprey reproductive rate. When prey is abundant, the size of chicks is general symmetrical as portrayed on the left side of that slide. Chicks hatched but different days, but well into incubation they are all about the same size, because there is plenty of food.

However, when food is limited a dominance hierarchy is established with sibling aggression and actual brood reduction, which is kind of portrayed on the right. That smaller chick compared to its larger siblings. As you likely know, in the lower Chesapeake the osprey reproductive rate has been reported to be well below the threshold to maintain a stable population for a number of years, particularly in the Mobjack Bay area that is viewed as a demographic sync, and this is work that has been conducted by Brian Watts, students and coworkers. It's important to keep in mind that there are many factors and stressors that can affect osprey reproduction. Yes, limited food availability

can have effects on reproduction, as well as depredation, competition, disease events, inexperienced breeders. There can be storms, weather events, and even very hot weather like we've experienced this year that can affect reproduction.

Certainly, environmental contaminants and also water clarity, it's needed actually for the males to catch their prey. We have identified some important information needs and data gaps related to ospreys in the Chesapeake, specifically. The relation between osprey abundance and reproduction with factors like abundance and reproduction of their prey.

Potential shifts in fish community composition and population trends, not only in ospreys, but in other high trophic level feeders, fish eating birds, striped bass, and bluefish. More detailed information on the relation between salinity, osprey diet, brood provisioning and demography is also needed. Perhaps fisheries independent data on prey fish abundance, age and class size structure.

This year we in the USGS are working with collaborators of the U.S. Fish and Wildlife Service, the College of William and Mary, and others to study osprey productivity and craving brought to their nest in the lower Bay and in Patuxent River, Poplar Island and in the Choptank River vicinity. I think we'll stop at this point and Dave, and I will be glad to entertain any questions you might have. Thank you.

CHAIR CLARK: Thank you very much for that very interesting and informative presentation, Dave and Barnett. I'm sure there are a lot of questions, so I've got Dennis Abbott followed by David Borden.

MR. DENNIS ABBOTT: Mr. Ziolkowski and Mr. Rattner, a real informative presentation. I think we today at the Board are being asked to look at this in a manner of similarities between what was a canary in the mine is the osprey in the Bay, tied into a lack of menhaden. If you would ask to believe that menhaden, lack of menhaden is the cause, and we should be taking action.

I do say that we can see what is going on physically with the osprey, but we can't see what is going on under the water with the help of the menhaden. If we're to use, can we with some assurance use your studies to tie into a lack of menhaden in the Bay at this point in time? I think that is what we're being asked to do. I'll leave it at that for the moment.
MR. RATTNER: Yes, that is a tough question, and in some areas, it may be a lack of menhaden, but as I showed in a couple of the slides, menhaden aren't in the diet in some regions of the Bay, and some of the work we're doing this year, just at a data collection stage, is really looking at what is being brough to the nest by the adult male, and also pulling together information. There may be some issues with menhaden populations in some parts of the Bay, and it could even be some other species that are dependent on menhaden in other parts of the Bay.

CHAIR CLARK: Go ahead, Dennis.

MR. ABBOTT: Yes, thank you. In your presentation you showed us that there was a 299 percent increase in the population of osprey. That seems counter to the fact that there is a lack of menhaden or adequate food supply in the Bay, with 11,000 pairs nesting there. Would they not be seeking other places to live if the food situation was so bad?

MR. ZIOKOWSKI: You know the response of populations to stressors is often density dependent. As the density of osprey increased, the acuity in which they feel stressors on the population as a whole, can change. If you have a very, very low abundance it may be that the stressor is not of a magnitude to cross threshold that amounts to a population loss.

That as the population increases, you reach a point where certain thresholds get crossed, once certain prey items decline. But ecological systems are very complex. It is often difficult to understand to have a one-to-one relationship between population in a region and one particular stressor.

MR. CLARK: One last comment, Dennis.

MR. ABBOTT: All it is, is a comment. I noted in one of your slides that striped bass take up 48 percent of their diet, so we've really gotten to the problem of where the striped bass are going.

MR. CLARK: Next question is David Borden.

MR. DAVID V. BORDEN: Excellent presentation. I look forward to looking at it in more detail after the meeting, when we get the slides of it. I'm just wondering to what extend USGS has looked at competitor populations and the relationship between competitor populations like, up our way in Rhode Island, black back gulls, bald eagles, there is an interaction between them and ospreys, and to what extent have you modeled the different populations, to see whether or not that could possibly be having an influence on them.

MR. ZIKOWSKI: That is an excellent question, and that is work that has yet to be done. It can certainly be done with the resources and the datasets that we have. There are relationships between many species, and you can bear out the correlations between population trends. Then if you can understand the mechanism of the relationship between them, you can start to get to the heart of that.

But certainly, bald eagles have recovered as well in the Chesapeake Bay Region, very similar to how osprey have, and they compete for nest locations. Great horned owls have also experienced changes in their population, and they prey sometimes on osprey. It would be very interesting to look at the ecological interactions between these species as the populations change.

CHAIR CLARK: Follow up.

MR. BORDEN: Yes, just a personal observation. I have an osprey tower about maybe 90 feet from the house, not mine, somebody else put it up. It's amazing how often the bald eagles in the area interact with the ospreys and try to get the ospreys to drop herring or menhaden. The same thing goes on with other species like black back gulls. I think it is worthwhile to look at that.

CHAIR CLARK: Next question is from Representative Gresko.

REPRESENTATIVE JOSEPH P. GRESKO: In your presentation you had some graphs indicating the plateauing or increasing in certain other states at the same time, but they didn't go as far north as New York, Connecticut, Rhode Island, Massachusetts and I'm wondering in simple terms if the potential reason for the plateau or decline of osprey in the Chesapeake Area is because they are going north. Because I'm seeing quite a multiple fold increase of osprey, even in the district that I represent, and I see it all over in New England. Could that be a factor, and has it been factored in?

MR. RATTNER: It's interesting you bring that up. There is a lot of data pouring in, in other states besides those around the Chesapeake Bay, and we've heard, at least I have, in the media, some issues in other estuaries up the Atlantic Coast. One thing to keep in mind is when a pair is formed, a male and female, it's a long-term relationship.

They exhibit nest site fidelity, returning to the same nesting location annually to reproduce. But it is certainly possible that the young might end up in a very different location, and they really don't reproduce until they are three, four or five years of age. It's a little bit of an unknown.

CHAIR CLARK: Next question is from Marty Gary.

MR. MARTIN GARY: Thank you, Dave, and Barnett, for your presentation and your good work. There was a slide you went through pretty quickly; I was wondering if you could bring it back up. It had to do with clutch and fledgling success. I guess the question when you get to that is, how are those trends, at least as they present today, relate to maintenance rates, if that is the right question, and I have a follow, Mr. Chair, if we could after that.

MR. RATTNER: Could you just repeat the last part of that, please?

MR. GARY: Looking at the clutch success and fledgling success, and I'm not sure this is the right term, maintenance rate to maintain the population.

MR. RATTNER: Yes. That number has been around for quite some time, and it has a pretty good scientific basis. It's about 1.15 young fledged per nest. In the data that I showed from this lower bay, if you look at it, and I'm sorry it's small print. The reproductive rate in the middle column you see in the seventies and '85, well over 1.15, it's 1.7, 1.4, then around 2006, 2007 it is 0.08, so that is not a stable population.

Then more recently 2021, it's 0.3, which is very low. What happens then is birds are moving into that area, because it's a sync, essentially to try to fill in. But they are not doing well, and that is continuing on. It may be certainly beyond the lower Bay. We don't know that and have all that information at this point.

MR. GARY: All right, excellent, thank you, Mr. Chair for a quick follow, just an observation. Having grown up in Chesapeake Bay, worked there for a long time. I look at some of those trends in the charts and I flashback to my childhood, when I read Gilbert Klingel's iconic book, The Bay, which I'm always amazed, a lot of people have never even heard of. But in that book of vignettes that was captured in the 1940s from Klingel's very detailed observations, he talks about a huge colony in a very rural, undeveloped area near Smith Plain, Virginia, a tremendous osprey colony.

Now flash forward to the present day, the anthropogenic impacts throughout the Chesapeake Bay watershed, where development is everywhere, including that area that you describe near Smith Point. That osprey colony doesn't exist anymore, but upriver at the agency I worked up to through last year in Colonial Beach, Virginiai. Ospreys are everywhere throughout highly suburban, honestly urban areas, and they seem to be doing fine up there. It was just an observation. It's interesting how these animals have adapted, and then one last point.

You mentioned catfish in one of the diet slides. It was amazing that in that part of the river where there are lots of blue catfish, they are obviously eating a lot, because they are dropping all over the streets, on people's cars. They are everywhere. I don't know how they catch the blue catfish, but they do that. Anyway, I did want to thank you for your presentation.

MR. RATTNER: I have one comment on one thing you said, and it's important to point out that in recent decades the ospreys have actually moved up the tributaries, where historically they were not. I think that was shown in one of the figures in a map that the volume wants published.

CHAIR CLARK: Thanks Marty, thanks, Barnett. Next question is from Eric Reid.

MR. ERIC REID: Most of my questions have already been asked. Everybody has talked about bald eagles, and I want to remind everybody that the last time we had a discussion about this, Craig Pugh brought up the interaction with bald eagles, which apparently are doing very well in the population.

My only other question would be, in one of your slides when you had a diet composition, you know in one area it was menhaden and striped bass, for 92 percent, but in the lower Bay, which according to your red dots the fish are not doing that well. I think it was 29 percent sea trout, 24 percent menhaden and 12 percent croakers. What is the other 35 percent?

MR. RATTNER: That I can pull out of Brian Watts paper for you. Please recognize that that is a snapshot, one year, and what was observed in a series of nests. There might be different things going on in other areas near there.

CHAIR CLARK: Next question is Roy Miller.

MR. ROY W. MILLER: I would like to ask your opinion, Dave, and Bennet. You said earlier that there was an 1801 percent increase in the breeding bird survey population for the Chesapeake Bay. I guess that was in comparison to the earlier time record. Given that, and let's just assume for a moment that the supply of osprey food in the Bay has remained relatively stable during that period of time. Is it possible that the osprey population has reached carrying capacity, and what you're seeing where there are fluctuations the last few years up and down a little bit, is just random population responses to other factors, other than forage. Is that a possibility or is there in fact in your view a crisis for the osprey population, in terms of its available forage and osprey nesting success. Are we in a crisis mode or is there a crisis mode in one particular portion of the Chesapeake range of the osprey? Where are we in that regard in your view?

MR. ZIOLKOWSKI: You know, I think that is right on the nose. That is the question right there. It depends on the scale that you look at. When you look at the population from the entire United States, or from the Eastern Region or the Atlantic Coast, or Maryland and Virginia or just the Chesapeake Region.

You can draw different conclusions based on what you see from these different datasets. It certainly may be the case that that localized population that is experiencing food depletion is in a very big nose dive, and it depends on what context and what frame of reference you take that in, as to what conclusions you draw from, in terms of whether we're in the red zone or we're okay there.

In terms of whether the population is plateauing off, well, I often tell people, when you're working with these trends at these very large scales, it's not that different than when you are trying to manage your investment portfolio. We all know, buy low and sell high. But most of us are not billionaires. That is because it is easier to tell what the stock market is doing in retrospect, when you think, I should have bought.

These large datasets like this and these large trends, they can be very difficult to tell in the short time period what the long-term trajectory is going to end up being. You kind of have to just pick the scale that you're going to focus on. Then you know, you look at what is happening in that localized population or large reginal population, and you make your decisions based on that as to whether or not that is an acceptable loss or not. Barnett, do you want to add to that?

MR. RATTNER: Yes, and that is really the answer to the question that was asked and Dave handled. Kind of ask yourself, and I hope not to get in hot water. The osprey is not endangered, it's doing very, very well compared to its history, recent history, 50 years. But, in some parts of the Bay it doesn't seem to be doing well. Maybe it's just the osprey, or maybe it's sort of a sentinel or ecosystem indicator that things might not be quite as well for some other species of fish-eating birds, and that is something that needs to be determined.

CHAIR CLARK: This is a fascinating topic, but we do have to move on, so Pat Geer will be the last question. Thanks.

MR. PAT GEER: I'm honored. Thank you for the great presentation. I just want to follow up on what Dave Borden was talking about. In our species competition we've already talked about bald eagles. But Dr. Watts has done a survey in Virginia, for a number of years going back to, I believe, 1993.

This has shown the double crested cormorant population has increased 1416 percent in that 25 years, and brown pelicans have been about 882 percent. Now those are species that are primarily piscivores. They are competing for the same food source as well. As you said, maybe the nests aren't surviving and they're moving out, and these two species are moving in. Is that possible?

MR. RATTNER: Yes, it's possible, certainly.

CHAIR CLARK: Thank you very much for the great presentation, Dave, and Barnett. If there are other questions, I'm guessing you guys will be around for a little while here.

PROGRESS UPDATE ON 2025 ECOLOGICAL REFERENCE POINT BENCHMARK STOCK ASSESSMENT

CHAIR CLARK: Okay, thank you, and now we're going to move on to Agenda Item Number 5, which is a Progress Update on the 2025 Ecological Reference Point Benchmark Stock Assessment. I'll turn that over to Katie Drew.

DR. KATIE DREW: I'll keep this brief so we can stay on track, but the ERP Workgroup is continuing to work on the assessment, and we are working on bringing in this information from USGS on bird trends into the full model. We're going to see if we have enough information to do it at a finer spatial scale. But I think that still remains to be seen, based on data availability.

But that will include both the information on osprey that was presented here, in terms of trends and abundance, as well as information from basically the same data sources on other near-source piscivorous birds, like eagles and cormorants, where we can pull these data together. We're working on that.

The single-species assessment update continues on pace, more or less, and we will be having our next assessment workshop in the first week of November, the week of November 4, where we will be having the SAS meet to discuss the assessment update for the first day of that workshop, and then the ERP Workgroup to meet to conceive the SAS model runs for the rest of the week. We are continuing on pace with that, and I'm happy to take any questions.
CHAIR CLARK: Thank you, Katie, that is an amazing effort there. Are there any questions for Katie about this update? Not seeing any; let's move on to our, oh, excuse me, sorry. Jeff, go right ahead.

MR. JEFF KAELIN: Thank you, Katie. I have been listening in to the discussions, and you had some pretty positive eagle and osprey data, I think that is going to be part of that consideration. Can you comment on that now, or should we wait until a more full update? It was pretty positive, and I thought it was important for this discussion that we just had.

DR. DREW: Yes, it's positive in the sense that we're seeing a lot of the same trends coastwide that we just saw for osprey, which is really just increasing trends in a lot of these nearshore piscivorous birds coastwide. I think the question is, do we have enough additional information on things like diet composition and other vital rates coastwide, or coastwide versus the Chesapeake Bay, in order to fully incorporate them into the assessment models.

But definitely, I think that we will have better data on these species going into these models this time around, definitely for the full model than we did during the last benchmark assessment.

DISCUSS POSSIBLE CHESAPEAKE BAY MANAGEMENT

CHAIR CLARK: Okay, that brings us to Agenda Item 6, a little item that is Discuss Possible Chesapeake Bay Management. To get this started, I'm going to turn it over to Lynn Fegley, from Maryland. Go right ahead, Lynn.

MS. LYNN FEGLEY: I really appreciate it, and I also want to thank the Board for listening. I very much want to thank the team from USGS for providing us with a wonderful presentation that puts the birds in context for all of us, so thank you for that. I'm just going to go right ahead. I am going to make a motion, and Mr. Chair, if I get a second, I would like to speak to it.

My motion is to initiate an Addendum to the Atlantic Menhaden Interstate Fishery Management Plan to consider Chesapeake Bay-specific management options for the menhaden purse seine vessels larger than 300 gross tons in order to support the need of piscivorous birds and

fish during critical points of their life cycle (e.g. osprey fledge and molt). The document should include options for seasonal closures of Chesapeake Bay waters (inside the Colregs Line). The document should not consider changes to the current Bay Cap of 51,000 MT. The document should also contain options to reevaluate seasonal closures within the Bay after 2, 3 or 4 years. The Plan Development Team should feel free to consult with outside experts as necessary to identify spatiotemporal patterns of predatory demand for menhaden.

CHAIR CLARK: Thank you, Lynn, we have a motion up and we have a second from Rob LaFrance. Now I will go to the maker of the motion for further discussion.

MS. FEGLEY: By this motion, you were asking for the development of options for seasonal closures of the Chesapeake to the largest of the purse seine gears, as a precautionary measure to ensure that animals such as osprey that depend on menhaden during critical points of their life cycle, have as much opportunity as they need to access these fish.

In Maryland, we do not believe that this motion addresses just the Chesapeake issue. If you need an essential estuary provides critical habitat for many of the species that we manage, and lots that we do not, during critical points in their life cycle. In Maryland we are seeing many signs of stress in our Chesapeake. There are no menhaden in Maryland.

The artisanal stational gears that Maryland watermen fish are not capturing bait for our crab fisheries. We are seeing bottlenose dolphins in unprecedented areas, and we are fielding far too many calls to remove dead dolphins from citizen shoreline. While we don't lay all this at the feet of the large purse seine fisheries, we believe it is common sense to alleviate stress where we can control it. As we saw from the presentation we just received, bird populations have expanded tremendously in the Bay region.

The demand for forage in the Bay has increased, along with their population. Years ago, when a peer review panel from the Center of Independent Experts convened to review Chesapeake work, to examine localized depletion, they said, as the abundance of predators continues to increase, their food requirements will also continue to increase, to the point where they may become food limited. They also said things like, a stable menhaden population will not be able to sustain the increasing predator population, and offered to us that time and area zoning of fisheries would be a logical way to mitigate negative impacts. These experts gave the Commission the path, that at the time we chose not to take. All of this said, this Commission has diligently and carefully managed this resource, according to the best available science on a coastal level. I am personally extremely proud of the work to develop ecosystem reference points that ensure more conservative fishing levels to leave extra fish in the water.

However, I also believe it is hubris to some degree, to think that we understand all of the dynamics at play with menhaden and the animals that depend on them within the Chesapeake. While we can say with confidence that the stock is healthy on a coastal level, we have not been successful in getting the Chesapeake-specific science needed to ensure sustainable fisheries.

We are not asking that the Bay cap be changed, and we are not asking that gears of all sizes leave the Bay, just the very largest, to mitigate the amount of removals. We are also suggesting that any closures be reevaluated in a certain number of years, and this evaluation could be on new science around menhaden in the Chesapeake. To close this up, we feel that this is responsible to start this conversation to look at seasonal closures. I'm just going to stop and leave it there, Mr. Chair. Thank you for listening.

CHAIR CLARK: Thank you, Lynn, and Rob, as the seconder, would you like to make some comments?

MR. ROB LaFRANCE: Just quickly, a few. I just want to point out that this particular management board, the Menhaden Management Board, has been a leader for system-based management. I think what we're asking here is to use that vision that we've had for this species, and focus that vision on the Chesapeake.

We have information from new science that we know about ospreys and the impact of that, and there is a lot of information that needs to be delved into. But to look at time of year closures to help species that may be in trouble in Chesapeake, given the large amount of output that we've heard from our constituents, I think is very important.

I also would argue that looking at the Chesapeake Bay, and looking at it in sort of precise terms, we're really looking at the ecological efficiency. We're not talking about changing the Bay Cap. What we're talking about is possibly changing where and how we take. I think that is an important element for us to look at, and I think we have some really talented folks in Atlantic States who can really delve into this, and give us some really helpful information.

CHAIR CLARK: I'm guessing there are a lot of people who would like to make comments, so why don't we do this. If you would like to speak in favor of the motion, would you please raise your hand now, so I can write it down? I've got Dennis, Allison, Russel, I'm going around, Jeff.

MR. KAELIN: I'm not raising my hand in support, I'm raising my hand to make a motion, Mr. Chairman.

CHAIR CLARK: Okay, well, why don't we do this. Why don't we take a few comments, and then I'll come back to you on that. Anybody else that wanted to speak in favor of the motion? Go right ahead, Eric.

MR. REID: How many purse seine vessels are over 300 tons in the Bay? How many vessels that actually carry purse seines and fish from a 300 ton or more vessel is there? There are a lot of carriers that are 300 tons, but they get fish from pairs of small boats. I'm not sure what this actually accomplishes, if anything at all, my only question.

CHAIR CLARK: Lynn, or perhaps Virginia, do you have an answer to that question?

MR. GEER: I kind of question that myself, because our licensing for purse seine boats is greater than 70 tons and less than 70 tons, so I'm not sure where this 300 is coming from as well.

CHAIR CLARK: Okay, we've got some confusion on that. Let me get the hand on those that want to speak against the motion, and then we will start going at comments. I've got Joe, Nichola, Pat and Megan. Anyone else? Emerson, okay. I guess we'll take some of these discussions, and then we will go to you, Jeff, for a motion. Let's start, we have Dennis to speak for the motion.

MR. ABBOTT: I do thank Lynn Fegley for bringing this motion forward. I can't thank her enough for doing it. Having sat on this Board since its inception, really, going back over 20 years. How many times have we heard that we should be doing something for the menhaden? I can remember a gentleman named Jim Price from Maryland, he used to come to every meeting, and give us history on what he felt was going on in the Bay with poor health of striped bass, and relating it to menhaden.

I think we should take a look at the previous meeting that we just had, where we saw that Atlantic herring are in, I'll call it serious trouble. It wasn't very long ago that we were harvesting over 100,000 metric tons of herring, and this morning we heard that we can be looking forward to harvesting, what 783 tons or something like that, some low number. How that all happened, I don't know.

But I go back to the canary in the mine situation, that we should be getting ahead of this problem, and we've waited too long. I won't dig into the

weeds of this motion. But this gets us off the ground and doing something. I think that the people in Virginia and Maryland have been crying to us, crying to us for years for us to do something for the menhaden in the Bay.

I think in whole, we've sat back and done very little, very little for the benefit of menhaden, and for the people in the Chesapeake Bay Region. Therefore, even though I live up in New Hampshire, and don't have a very big oar in this water, by any means. I think that the time has come to do something.

CHAIR CLARK: Against I have Joe Cimino.

MR. JOE CIMINO: I'm certainly not against exploring this, I'm against seeing this motion prior to what Katie talked about, and seeing the ERP come out. What is happening in the Chesapeake Bay isn't happening in a vacuum. Striped bass stopped showing up in North Carolina over a decade ago, and coastal Maryland and southern Virginia stopped seeing coastal migrants of striped bass many years ago.

Six or seven years ago, Maryland started showing 0 harvest in their MRIP estimates. It's not just in the fisheries, the winter, which we'll be talking about later today, the winter tagging survey has been moving farther and farther north to find fish. Climate change is real. You know weakfish didn't disappear from the Chesapeake Bay, they disappeared from Massachusetts to Florida. We're dealing with something that we need to take a holistic approach to.

The idea that 300 gross ton vessels are part of the problem, and then the other end of that is part of the solution, is not something I'm very comfortable with. I do hope that as we move forward, because everything is changing, we are in unprecedented times. We do need to take a look at this. But I think we need to get past the ERP and see what happens, and take a holistic approach to this, you know all the literature suggests that menhaden overwinter off of North Carolina.

Of course, the Chesapeake Bay would be a very important Ingress to where juvenile menhaden show up. The literature also suggested that some portion was overwintering off of New Jersey. It's very possible that a larger portion of those fish are now overwintering off of New Jersey. That is why we're seeing a year-round fishery for striped bass in New Jersey.

We're seeing the whales year-round in New Jersey, and because of that we wouldn't expect to see the Chesapeake Bay have the importance that it has had in the past. I think all these things are something that needs to be addressed. We need to do our best to stay on top of that, for the management of all of these species. But I think this is really jumping the gun and very pointed at something that may not be a solution in any way.

CHAIR CLARK: Next in favor of the motion I have Allision Coldon.

DR. ALLISON COLDEN: I just want to express my gratitude as well to USGS for being here and presenting that information. When it comes to menhaden management in Chesapeake Bay, I'll just go ahead and acknowledge there are a lot of things that we don't know. But there are a few things that we do know.

First of all, and maybe to Joe's point. We do know that the ERPs that they are currently being developed and worked on, will not address questions in the Chesapeake Bay. Those opportunities are very far off in the future, if they are possible at all. Our attempt thus far to get those studies and those data surveys and other things needed to answer those questions, have not been successful or fruitful.

We know a couple of other things, that we are seeing incredibly fast-paced changes in environmental conditions in the Chesapeake Bay. Our average water temperature has increased. The amount of fish habitat availability has decreased,

and this recovery of osprey is absolutely tremendous. But what that translates to is a tremendous change in the predatory demands on the Chesapeake Bay's menhaden population. That necessitates a reevaluation of our approach to menhaden management in the Bay. Obviously, being around this table not nearly as long as some others. But this, even for me, is not a new conversation. It is obviously something that the Commission has been grappling with for a while. But the conditions that we're seeing now are new, and they are unprecedented.

Ospreys and other birds are now recovering from those DDT era levels, and increasing in abundance. Our large-scale fisheries have contracted to operating in only one state in the same time that those osprey populations have been increasing. When those menhaden fishing rates were higher historically, they were also more distributed along the coast.

We have not seen this overlap in space or time of high avian predatory demands with concentrated spatial harvest in the history of our management of the fishery thus far. Hopefully, I hope it's to say that the predatory demand will be increasing further in the Bay, as we work to rebuild and recover the striped bass population. Using again, osprey as a canary in the coal mine, or a signatory species for the Chesapeake Bay ecosystem, will only help serve our striped bass rebuilding, as we continue to move forward.

Lastly, I just want to address. We acknowledge the fact that there may be other factors at play here. I just listed a couple of them for you that our organization, DNR and others, are tracking within the Bay. But this Board is responsible for managing the menhaden fishery in the Chesapeake Bay and along the coast. While we can't possibly address all of the issues facing the Chesapeake Bay, I'll take that on in my day job. I don't think the public expects us to. But they do expect us to manage menhaden in the way that we have committed to, and that is to be precautionary and protective of the ecosystem that relies on menhaden. I believe that this motion will have the opportunity for us to open that important conversation, provide opportunities for the public to weigh in, and provide opportunities to address the ecosystem concerns. I would urge everyone's support and thank you.

CHAIR CLARK: Next opposed, I have Nichola Meserve.

MS. NICHOLA MESERVE: I don't disagree with many of the comments that have been made, by supporters of the motion. What I'm struggling with a little bit is the process and diving immediately into an addendum process. The presentation and discussions have underscored the complexity of the issue here, that this is a significant action.

There have already been questions about the singular focus on purse seine vessels larger than 300 gross tons. I think the PDT could potentially use some additional direction than what's provided in the motion on the range of strategies to consider. I've been thinking about the process that this Board took when it began Addendum II to look at allocation, and the incidental catch provision.

All of that began with a work group, a board work group that discussed the issues and the concerns that developed potential strategies to address these concerns, outline the benefits and the challenges of those strategies. I think that in this instance that would be a better way to move forward at this time, to tackle this item. I am opposing it just on the basis of wanting there to be another step before we initiate a document. Thank you.

CHAIR CLARK: Next up in favor I have Russel Dize.

MR. RUSSEL DIZE: I'm speaking as a life long fisherman, around the Chesapeake Bay we're called watermen, and a pogy fisherman. I have actually worked on a pogy boat and seen what pogy boats catch. I think we're trying to save the osprey, and we're forgetting about the other predator, which is man.

In Maryland, this year we have no menhaden, none. A friend of mine, Robbie Wilson, who has 3 pound-nets set in the Bay, his highest catch is a half a bushel. One half a bushel, Maryland has no menhaden. What we need to do, what I had planned to do, until Lynn put this motion up, was to ask for a moratorium for two years on pogy fishing in the lower Bay.

This isn't coming from someone who doesn't know it. My brother was a captain of a pogy boat for nearby 40 years. I fished on a pogy boat. I fished in Britain Sound, Mississippi Sound, and the Gulf of Mexico, all the way to Raccoon Point, which is Texas. I know what they can catch and I know what they can do.

But the problem in Maryland is, I want to say the creatures, the predators that have two arms and two legs, because we don't have them and we can't punish the fish for the crab industry. Where do you think the fish are coming from for the crab industry? Maine. They are shipping them down from Maine to furnish bait for the crab industry. Look, we can save the osprey, but I want to save our watermen too. We have plenty of osprey. I love the osprey; I don't want to see anything happen to the osprey.

I want to save our fishermen too. Think about this, because what I had planned to put up here was much more aggressive than this, because we're talking about pogy boats. Let's get down to it, 300-ton boats are pogy boats. There are the boats working out oEmf the factory in Virginia. Think about crossing the Maryland area of the Chesapeake Bay, because we don't get any menhaden if they don't come through Virginia., so think about it. Thank you, Mr. Chairman.

CHAIR CLARK: Thank you, Russel, and opposed now we have Pat Geer.

MR. GEER: A number of factors are affecting osprey; we've already talked about that. You know huge increases in other bird species that are competing with them for food sources. This motion is basically singling out an industry because of public opinion, in a sense. It doesn't seem appropriate without the necessary science.

You know we're saying, let's go in and try this and see what happens. This motion is leading down a path that the seasonal closure for a fishery, based on public opinion. We need the science first. We need to have that information. You know it is very frustrating for us, and it's embarrassing that we can't get the funding to do this if it is that important. I want to see the science done. I want to see the ERP results first. I want to see what is going on with that before we move forward with anything such as this. The ERP assessment will come out and we'll have information from that. We can look at that and see what happens with that first. But we shouldn't be taking a management action until we have that science in the ERP assessment.

CHAIR CLARK: In the interest of time, I know we have a couple more, Megan Ware and Emerson Hasbrouck that wanted to speak against this motion, but we are running up against it, and I know we have another motion that was wanted to be made by Jeff Kaelin. In the interest of time, I'm just going to turn it over to Jeff right now. My apologies.

MR. KAELIN: I move that this motion be tabled until the Ecosystem Reference Point Peer Review results are available in 2025. That's my motion.

CHAIR CLARK: That would be postpone, Jeff, are you okay with changing the wording.

MR. KAELIN: Postpone uncertain, yes if we're not going to table it.

CHAIR CLARK: Is there a second to that motion? I am not seeing a second, is there a second online? No second, so that motion goes away for lack of a second. That leaves us with the main motion. Pat Geer.

MR. GEER: I'll make a motion to table this.

CHAIR CLARK: Table would be to consider it in this motion. Would you like to postpone the motion?

MR. GEER: I don't want to postpone it; I want to table it.

CHAIR CLARK: Based on the terminology, table we would still be coming back to it at this meeting.

MR. GEER: At this meeting.

CHAIR CLARK: This meeting, so you want to table it?

MR. GEER: Well, it doesn't have to come forward at this meeting, it has to come forward at the next meeting, according to Roberts Rule.

CHAIR CLARK: Okay, Toni.

MS. TONI KERNS: Pat, tabling is for just within the meeting, postpone you would postpone it to the October meeting.

MR. GEER: Sorry for the clarification on that.

CHAIR CLARK: We're getting a crash course in Roberts Rules of Order here. **Next motion here is to postpone this motion until our October meeting**, we have a second from Marty Gary.

MR. ABBOTT: Point of order.

CHAIR CLARK: Yes, sir.

MR. ABBOTT: Yes, thank you, Mr. Chair. Is this a debatable motion?

CHAIR CLARK: Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: The only portion of a motion to postpone that is debatable is the time element, so if somebody wanted to suggest something other than October that could be debated, but the part about postponing or not postponing is not debatable.

CHAIR CLARK: Thanks, Bob, so I see a hand there from Allison Colden, did you want to change the time?

DR. COLDEN: No, I have an additional motion.

CHAIR CLARK: Okay, based on the rules, do we have to vote on this first? Okay, so this is the motion that must be voted on, so I think we all want a little time to caucus here, so can we have a two-minute caucus? Okay, we've had caucus time. Does anybody need more time here? Please, raise hands if you do. Not seeing any hands, please return to the table. Thank you. Before we take a vote on this, we have a Board member who has asked to amend the motion with the legal part of the amendment, which is to change the time.

MR. GEER: We just had a discussion of tabling versus postponement, and it's different how you define Roberts Rules, but my intent was to postpone this indefinitely.

CHAIR CLARK: This would be to **amend the motion to change the October meeting to postpone indefinitely.** Do we have a second for that motion? We have a point of order coming from Mr. Abbott.

MR. ABBOTT: We have a motion made by Mr. Geer. That motion now belongs to the Board. I don't believe that it can be changed at this point.

CHAIR CLARK: In other words, Pat made the motion that is up on the Board right now. Let me go to Bob here. Boy this is quite a rule of order.

EXECUTIVE DIRECTOR BEAL: Thanks, turning into a parliamentarian by default. An individual on the Board can amend their own motion, so I don't think Mr. Geer is asking for a friendly amendment here. He is asking to make a motion to amend, changing October meeting to indefinitely.

CHAIR CLARK: Thanks, Bob, okay. It is a legal motion; we have a second from Eric Reid. Do we

need to caucus on this, because now this is a whole different thing. Instead of bringing it back in October we would be motioning to just put this off forever. Does the Board need time to caucus? Yes, another two minutes. Does anybody need more time to caucus? It looks like everybody is back at the Board. I'm not seeing any hands. Before we vote on this, we do have a hand online from James Minor of Virginia.

MS. KEARNS: I think the Chair has just said, as a reminder you're speaking to the time only. James, you're talking but we can't hear you.

MR. THOMAS P. FOTE: Toni, this is Tom Fote, we can hear him online, it's just not getting through to the meeting.

MR. JAMES MINOR: Just leave the sea with the boat. I'm good. As long as you all can hear me. I was having, I think it was some technical difficulties going on, so I'm here.

CHAIR CLARK: Okay, we've had time to caucus, we have a motion to amend on the floor, and let's vote. **All those in favor of the motion to amend the motion to postpone, please raise your hand and hold them up there. Okay, put those hands down, and now for those opposed, please raise your hands.**

MS. KERNS: Online we have Florida, South Carolina, and Georgia in opposition.

CHAIR CLARK: Is it 9 to 9? Okay, I'm sorry, are there any abstentions? Are there any nulls? Not seeing any, okay the motion fails. It's tied 9 to 9, so that means the original motion is now the main motion, and that motion is, move to postpone until the October meeting. All those in favor, please raise your hands. Okay, sorry about that, put your arms down now, I'm sure you're getting tired. All those opposed to the motion, please raise your hand.

MS. KERNS: I also have Florida, South Carolina, and Georgia.

CHAIR CLARK: Holy moly, so it looks like the main motion just failed there, right? That's what I meant, not the main motion, I meant the postponed motion. Our motions to postpone, in other words, have both been defeated. Are we going back? Instead, I see, I think we have some other motions that want to be made here. Allison.

DR. COLDEN: Just procedure wise, I want to make sure we're back to the main motion now.

CHAIR CLARK: We are back to the main motion, yes.

DR. COLDEN: You know obviously I was giving my comments earlier, actually I just need to give you the motion first, hold on. **Move to substitute to establish a Board workgroup to consider and evaluate options for further precautionary management of Chesapeake Bay menhaden fisheries, including time and area closures, to be protective of piscivorous birds and fish during critical points of their life cycle.** I did add something to what you had there.

CHAIR CLARK: Thank you, Allison, and we have a second from David Borden. Would you like to speak to the motion, Allison?

DR. COLDEN: Yes, obviously this is something that is critically important to our delegation. I appreciate all of the supportive comments around the table for the main motion, but I do want to just point out that we hear and are responsive to the other members of the Board who have an interest in sitting with this for a little bit longer.

But we also want to make sure that if we were to revisit this later on that we continue to make progress, given all of the concerns that we have seen with the osprey information that was presented, given all the concerns that we hear on a consistent basis from our constituents. I wanted to offer the opportunity to continue that conversation, so that we can have a continued discussion of this at the October annual meeting.

CHAIR CLARK: David, were there any comments you would like to make?

MR. BORDEN: I don't have much to add, other than the fact that I think this is a more logical way to proceed. We'll get back a product that has been thought through, carefully crafted, and hopefully refined. Thank you.

CHAIR CLARK: Okay, I think we've discussed this issue quite a bit, but we do have one person who has not had a chance to really comment on the motion, that is James Minor, oh and Bob has something to say here.

EXECUTIVE DIRECTOR BEAL: Just briefly, before Mr. Minor has a chance to talk. I just wanted to let everyone know that the Chair is recognizing James Minor, because he is a new Commissioner from Virginia, so he is not a member of the public. I just wanted to let people know that that is his position. He hasn't been able to attend the meeting, but he is a new Commissioner from Virginia.

CHAIR CLARK: Thanks, Bob, and thank you, and welcome to the Board, Mr. Minor, and please, go right ahead.

MR. MINOR: My hand was just raised. I think there is something going on with this internet, so I'm good. I don't have any comment, thank you.

CHAIR CLARK: All right, thank you. Do we need time to caucus? We have a comment from Doug Haymans.

MR. DOUG HAYMANS: I thought I heard the maker of the motion say something about time area closures in the motion that I don't see on the board. Also, I'm curious as to whether there is a time that this workgroup should be reporting back to the Board. Thank you.

CHAIR CLARK: Bob, looking at Allison, I think you meant to have some of that in there. Can that be added as a friendly at this point, or is this that?

EXECUTIVE DIRECTOR BEAL: If she said it, and Allison, I don't remember, so I apologize. If Allison said it, as she was making the motion and it is just differed from what staff had, it's not even a friendly motion, it's just recording what she said, so we could do that. Then I think in her comments Allison mentioned that the workgroup could make some progress and bring at least a first report back at the annual meeting.

CHAIR CLARK: Okay, could the motion be modified to reflect that?

EXECUTIVE DIRECTOR BEAL: Maybe Allison can provide the language around potential spatial and temporal.

DR. COLDEN: Yes, would you like me to just read it into the record again from the beginning?

EXECUTIVE DIRECTOR BEAL: Please.

DR. COLDEN: **Move to substitute to establish a Board workgroup to consider and evaluate options for further precautionary management of Chesapeake Bay menhaden fisheries, including time and area closures, to be protective of piscivorous birds and fish during critical points of their life cycle.**

CHAIR CLARK: Okay, thank you. At this point we still have the second from Mr. Borden. I think we've discussed this issue quite a bit. Do any of the delegations need time to caucus? I am not seeing that, so in that case, **I'll call out the states. Okay, so want me to just do the roll call? You're going to do the roll call, okay. Toni is going to do a roll call of the states here. Okay, all in favor raise your hands, and Toni will call out the state. All right, go right ahead.**

MS. KERNS: Massachusetts, Connecticut, New York, New Jersey, Fish and Wildlife Service, NOAA Fisheries, Pennsylvania, North Carolina, Virginia, Potomac River Fisheries Commission, Maryland,

Delaware, Maine, New Hampshire, Florida, South Carolina, Georgia.

CHAIR CLARK: Okay, was that unanimous? Okay, it was not unanimous, all those opposed, please raise your hand.

MS. KERNS: None.

CHAIR CLARK: Okay, so it was unanimous. Is anybody abstaining from this vote? Are there any null votes?

MS. KERNS: Rhode Island.

CHAIR CLARK: Oh, sorry, I'm sorry, Eric. You guys are confusing me. Now this motion becomes our main motion, correct, and we have to take another vote. Do we need another roll call, or is this just going to be, okay, is there any opposition to the motion? I'm looking at you, Rhode Island.

Okay, so we're not having any opposition, the motion passes, and I believe that will end this agenda items, correct?

ADJOURNMENT

Now we are on to Other Business. Is there any other business to come before the Board? I hope not. I'm not seeing any, so with that is there a motion to adjourn? Yes, we do have a motion to adjourn, so we are adjourned. Thank you, everybody.

(Whereupon the meeting adjourned at 11:25 a.m. on Tuesday, August 6, 2024)