

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN LOBSTER MANAGEMENT BOARD**

**Crowne Plaza Hotel
Old Town, Alexandria, Virginia
February 1, 2010**

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1. **Approval of Agenda by consent** (Page 1).
2. **Approval of Proceedings of November 3, 2009** by consent (Page 1).
3. **Move to nominate Doug Grout as Vice-Chair (Page 1)**. Motion made by Pat Augustine; second by Pat White.
4. **Move to accept the 25th percentile based on the reference period as described in the assessment** (Page 13). Motion tabled on Page 15 and removed from the table on Page 16 and reworded as follows: **Motion to adopt in Addendum XVI the 25th percentile for the threshold abundance level and the 75th percentile for the threshold exploitation level based on the reference period as described in the assessment; Gulf of Maine/Georges Bank, 1982-2003; Southern New England, 1984-2003**. Motion by Pat White; second by Ritchie White.
5. **Move to table the above motion until the spring meeting with a charge to the technical committee** (Page 16). Motion by Pat Augustine; second by Peter Himchak. Motion carried (Page 19).
6. **Move to adopt the first paragraph under Option 2 in Draft Addendum XVI defining reference abundance and effective exploitation** (Page 15). Motion by Dave Simpson; second by Pat White. Motion carried (Page 15).
7. **Motion to task the technical committee with identifying issues that are impeding stock rebuilding in Southern New England and a suite of alternatives for the board to consider to begin stock rebuilding** (Page 24). Motion by David Simpson; second by Terry Stockwell. Motion carried (Page 25).
8. **Motion to task the technical committee with identifying issues impeding stock rebuilding in Area 514 and developing a suite of measures to begin stock rebuilding in Area 514** (Page 24). Motion by Pat White; second by Gilbert Ewing. Motion carried (Page 25).
9. **Move that the board request staff to develop an amendment to the Lobster FMP which will require all Cancer species crabs and lobster traps who have a current that is valid lobster trap tag affixed to it and all fishermen to possess a crab license issued by a state or federal agency** (Page 32). Motion by Dan McKiernan; second by Douglas Grout. Motion was defeated (Page 32).
10. **Motion to accept the FMP report as presented** (Page 35). Motion by Pat Augustine; second by Rep. Abbott. Motion carried (Page 51).
11. **Move that the biological data for compliance reports be due June 30th** (Page 36). Motion by Bill Adler; second by Pat White. Motion carried (Page 36).
12. **Adjourn by consent** (Page 36).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for G. Lapointe (AA)	David Simpson, CT (AA)
Pat White, ME (GA)	Lance Stewart, CT (GA)
Sen. Dennis Damon , ME (LA)	Rep. Craig Miner, CT (LA)
G. Ritchie White, NH (GA)	James Gilmore, NY (AA)
Douglas Grout, NH (AA)	Pat Augustine, NY (GA)
Rep. Dennis Abbott, NH (LA)	Brian Culhane, NY Chair/Proxy for Sen. Johnson (LA)
William Adler, MA (GA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Rep. Sarah Peake (MA) (LA)	Ernest Bowden, VA, proxy for Del. Lewis (LA)
Mark Gibson, RI (AA)	Bob Ross, NMFS
Kelly Mahoney, RI, proxy for Sen. Sosnowski (LA)	

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

Ex-Officio Members

Carl Wilson, Technical Committee Chair

Joe Fessenden, Law Enforcement Committee Chair

Staff

Vince O'Shea
Robert Beal

Toni Kerns
Nicola Meserve

Guests

NA

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, February 1, 2010, and was called to order at 12:00 noon by Chairman Mark Gibson.

CALL TO ORDER

CHAIRMAN MARK GIBSON: I'm going to call the Lobster Board to order. I think we have a quorum and Dave Simpson is in route. Again, this is the American Lobster Management Board.

APPROVAL OF AGENDA

The first order on the agenda is the agenda. I have one addition. Between Items 7 and 8 you can insert Area 3 LCMT. We have a recommendation on the vent size. That's all I have. Are there any other additions or changes to the agenda? Seeing none, the agenda stands approved as amended.

APPROVAL OF PROCEEDINGS

The next item for consideration is approval of the proceedings from the November 3, 2009, meeting of the board. Are there any requests for changes or edits to those proceedings? Is there any opposition to approving the November 3, 2009, proceedings? Seeing none, those stand approved as written.

PUBLIC COMMENT

The next item is public comment. I am aware of one person who signed up to speak. Mr. German.

MR. JOHN GERMAN: Mr. Chairman and board members, my name is John German. I'm an Area 6 fisherman. I'm also President of the Long Island Sound Lobstermen's Association. I would like to say I fished all my life, but that's not true yet, so I'll go from there. I would like to comment on the process of the voting.

I've cleared this with the chairman because I didn't know exactly where it fit it. We're going to vote on an addendum today, on the reference points for the lobster stocks. I have talked to several of the members on the board and several of the – well, one of the technical committee people and have them explain this to me and nobody can really explain it to me.

I don't feel they have a full grasp on what is going on, and I really don't think they should be voting on

it until I can go around this board and ask any member to explain it to me and then be able to explain without a doubt what is going on. Then you're going to vote on it right after that without knowing what is going on.

This is the second time this year this happened. We go back about two addendums, and we had the one where we were transferring traps by this federal license and a state license and 800 traps here and 200 there, and I sold 200 here and moved to another area over here. I, like I said, have been doing this for 45 years and I had no idea what they were talking about, and all the board members I talked to also could not really explain to me what was going on, but yet they voted on it. I feel you should have a much clearer understanding of the process of what is being proposed before we vote on it, or the board members vote on it, than is currently now the state. That's basically what I wanted to say.

The other little thing I had written down here is, as you are well aware, the Coast Guard is shutting down the LORAN-C System. I would like to see somehow you have this on the record of the board's support and extension of this, because in my area the fishermen rely quite a bit on LORAN-C, and it would affect us quite a bit. Even though GPS is available, we feel LORAN-C has a lot more advantages to it than the GPS. Thank you very much for your support.

CHAIRMAN GIBSON: Thank you, John. We discussed before the meeting Addendum XVI is on the agenda for final action, but I am aware that there are perhaps other alternatives for reference points. When we take that up at Agenda 5, the board has to have a discussion about process and whether they're going to proceed with that as a final action or in some way entertain further alternatives. That discussion will come up.

If anybody wants to bite on the shutdown of the LORAN-C, remember that for other business. Thank you.

ELECTION OF VICE-CHAIR

CHAIRMAN GIBSON: The next action item is the election of the vice-chair. I have ascended to the chairmanship and so we need a vice-chair. Mr. Augustine.

MR. PATRICK AUGUSTINE: **Mr. Chairman, I would like to take the opportunity to nominate Mr. Doug Grout;** and because he is such an outstanding member of this group, to cast one vote –

whether I get a second or not – and close nominations. Thank you, Mr. Chairman, if that's possible.

CHAIRMAN GIBSON: Thank you. Pat White.

MR. PATTEN D. WHITE: Second.

CHAIRMAN GIBSON: The motion has been made to nominate Doug Grout. Mr. Augustine.

MR. AUGUSTINE: And then the rest of that was to close nominations and cast one vote.

CHAIRMAN GIBSON: Very good. Nominations have been closed and there is no opposition, I don't think. Congratulations, Doug. Mr. Abbott.

REPRESENTATIVE DENNIS ABBOTT: Another piece of business; we have a new commissioner from Connecticut. I would like you to meet Representative Craig Miner, the Doc Gunther replacement.

CHAIRMAN GIBSON: Thank you. My apologies for not recognizing you sooner. I'm hopeful that your colleague is going to come in any minute, Mr. Simpson. He is on his way, we've heard. I didn't want to get too far into this without David being here, but he is five minutes away. Okay, I guess I'll just lay out my thoughts on Addendum XVI.

It is scheduled for final action here, having had a round of public hearings. It contains alternatives to the reference points, but I'm aware that additional work has been done on those alternatives, including a fourth possibility in addition to the status quo that developed and flowed out of the Lobster Forum up in Maine.

I'm also aware that Mr. Simpson from Connecticut may have an alternative. My concern here – and I'll bring it to the board's attention – is this is scheduled to be a final action, and I'm a little bit concerned process-wise about options flowing out of what I would call an unofficial ASMFC meeting and then coming to the table for consideration as a final action.

Maybe it is just my having chaired state councils and had to have been a stickler for open meetings, law and administrative procedures. I'm a bit concerned about that, but if the board is comfortable looking at other alternatives and making decisions on those, that's fine with me. Mr. Augustine.

MR. AUGUSTINE: I've heard the comment voiced by several folks about the complexity of the peer

review assessment and the technical committee, and I guess they have reached some kind of consensus. However, having gone through the document twice already, which probably isn't enough, I still don't have a clue which is the right way to go.

I do understand that Dave Simpson might be putting a proposal on board, but it just seems to me that having looked at this document, if we approve it today we're going to lock into a reference point that probably is going to have to be changed in the next six or eight months. The real question is have we followed process the way we should have with all of the adequate information that is available or some new information that may change our course of action.

In my mind I would suggest that we have a healthy discussion about what action we might take today, but, more importantly, before this meeting is over, I'm going to move that we postpone this final decision to a date certain, which would probably be the spring meeting. That is the direction I'm going with, Mr. Chairman. I would like to hear other options that apparently are going to come forward particularly by the group that met recently and the recommendations they're making. Thank you.

CHAIRMAN GIBSON: My suggestion is to have Toni lead us through Addendum XVI as it stands now, and I believe her PowerPoint incorporates – should I call it a hybrid or Alternative 4 or what should I refer to it as?

MS. TONI KERNS: We'll call it an alternative.

CHAIRMAN GIBSON: Okay. Pat, did you want to speak to that?

MR. P. WHITE: At the meeting, Mr. Chairman, I think we discussed the necessity of postponing voting on it today, and the question was whether it had to go out to public hearing or just for public comment. Most of the public hearings were very scantily attended. I think it is a very difficult thing to discuss, but I look forward to Pat's indication of an open discussion of the two issues today.

CHAIRMAN GIBSON: Okay, thanks, Pat. Why don't you proceed, Toni, and we'll see where this goes.

REVIEW OPTIONS OF DRAFT ADDENDUM XVI

MS. KERNS: What I'm going to do is go through the addendum document itself and then review the

public comment to try to help clarify what the reference points in the addendum document do. The current reference points that are in the FMP are not compatible with the reference points that were recommended either through the technical committee or the peer review in the 2009 assessment.

The document also looks at how we adopt reference points after we have seen a peer-reviewed stock assessment and considers a more timely use of the new data from the assessment for management. Currently we have an F-based reference point that has a target and a threshold as well as an abundance target and a threshold.

The 2009 stock assessment recommends revised reference points. The previous approach that we used to the assessment was problematic in describing the assessment results due to changes in management measures that changed the selectivity patterns and the basis of the fishable stock. What these new recommended reference points from the technical committee and peer review do is allow us to account for changes in management measures to be able to be seen in the effective exploitation reference point number as well as in the abundance number; so if you have a change in the gauge, you're able to see that through the reference points.

The stock assessment's recommended reference point was an effective exploitation. This is an annual rate of fishing mortality instead of an instantaneous rate of fishing mortality as what you often see as an F rate. F rates can be difficult to understand and practical consequences of changes in instantaneous F rates when they are high.

The peer review had rejected the reference points that came out of the assessment because they felt that 50 percent of the observations were below the median value and 50 percent were above; but because the technical committee held constant the reference period itself back from the previous assessment, that isn't entirely true because the numbers that were used to establish what the reference point is goes a longer period.

The reference period itself is from 1982 to 2003, but the data that we're using to determine our current reference point is from 1982 to 2007. The peer review had recommended using medians as targets for sexes combined and that the abundance threshold should be half of the target; and then in order to determine the exploitation rate threshold, it would be the 90th percentile of the distribution of all the exploitation rates.

At the last board meeting the board had asked that I include these figures in the assessment document itself. The blue line is your average abundance over time, and then your solid black line is what the technical committee recommended as a threshold and the peer review recommended as a target.

The dotted line is what the peer review recommended as a threshold for abundance. You can see that the threshold that the peer review recommended is lower than any point on the graph, so it is lower than any abundance levels that we have seen in the Gulf of Maine over the time period. This drastically concerned the technical committee because the threshold is what would trigger management action, so you would have to go lower than any period that we've ever had in order to trigger a management action to begin to rebuild the stock.

For the exploitation rates, which is the graph in the lower right-hand corner, the blue line is your average exploitation rate over time. Your dotted line is your threshold from the peer review, and the solid line is your threshold from the technical committee and the target for the peer review. Under both of these reference points no action would be necessary in the Gulf of Maine and overfishing would not be occurring, and it is not considered overfished.

For Georges Bank all of these graphs follow this same idea where the blue line is your average. Georges Bank is not overfished and overfishing is not occurring in either case, the peer review or the technical committee reference points. Again, the peer review's threshold for abundance is lower than any point on the average time for the abundance, which is a great concern for the technical committee.

Lastly, we have Southern New England. This is the one stock where you see a difference in the status of the stock between the technical committee and peer review recommended reference points. The blue line is your average, and the threshold for the peer review is that dotted line. The stock is just above that dotted line, so it is not considered overfished and overfishing is not occurring in either case, the technical committee or the peer review recommended reference points.

For the technical committee reference point, which the threshold is the solid line, the stock is considered overfished. The peer review recommends the solid line as the target, and so therefore there would still need to be some rebuilding occurring. The stock is

not rebuilt but it is not considered overfished in the peer review reference point.

In order to determine the stock status determination, we need a new addendum to set reference points, and this is what the second half of the addendum is looking at. We have assessments that occur about every five years. Traditionally, it can take a significant amount of time to adopt new reference points. The board was presented with the results of the stock assessment in May of 2009, and it has almost been a year where we have been considering reference points.

This document has given us three options to have as reference points. We have status quo for the stock status criteria where we would need an addendum to change reference points. The second option for the stock status criteria is Option 2 to redefine the status determination criteria. This would broaden the range of criteria that could be used to set a fishing mortality and abundance reference point.

Right now the addendum specifies exactly what we have to use to set our reference points, and currently it is the median threshold and target. What Option 2 does is allow the board to change the reference point through a board action. The document describes a whole range of criteria that we could use. It could be either biological or non-biological based reference points.

The reference points would have to go through a peer review in order for the board to adopt them through board action. Those peer reviews could be a commission internal or external peer review; a National Marine Fisheries Service internal or external peer review; or a TRAC assessment. TRAC assessments are those done in conjunction with Canadian scientists and using both U.S. and Canadian data.

If any of the measures are adopted in this addendum, they would become effective immediately upon the approval of the addendum. Mark, do you want me to go through the memo that was handed out and sent out to the board on Thursday?

CHAIRMAN GIBSON: Yes.

DISCUSSION OF MEMORANDUM ON AMERICAN LOBSTER REFERENCE POINTS

MS. KERNS: As Mark had said, there was a lobster summit that was held up in the Gulf of Maine where the reference points were discussed, and we tried to have a better understanding of what the reference points were saying. The group asked me to write this memo for the board to consider today.

The reference points we had initially put out through the technical committee and the peer review were to better improve the communication between the public, the scientists and the managers. The technical committee reference points, as we know, included a median reference abundance and a median exploitation rate threshold, and the stock status would be determined by comparing the average reference abundance and exploitation rate for the most recent three years in the stock.

What the group came up with was a stoplight approach to managing more traditional thresholds and targets. We were concerned with having lines drawn in the sand where the stock is below one of the boundaries, then you would take action. They wanted to be able to have a little bit more flexibility on when you could take action.

What we developed was proposed new thresholds and targets, and these proposed thresholds and targets are the 25th percentile and the 75th percentile of the median. This is a more statistical approach to looking at both abundance and exploitation rates than just taking half of the median, which would have no statistical values at all.

It may be easier for folks just to look at the graphs in the handout. The 25th percentile, which is the proposed threshold for the Gulf of Maine, is the solid red line on the graph that says the threshold proposed. The target would be the solid green line, which is the 75th percentile. As you can see, the current reference point in the upper right-hand corner is currently above that target, and so the stock would be considered not overfished.

If there was confusion before about when the reference period was, you can see in all of these graphs where the reference period ends, and that is that dotted line, and so that's why 50 percent of the values are not always going to be above and below because that reference period ends prior to 2007. Are there questions about this graph? Bill.

MR. WILLIAM A. ADLER: Up in the right-hand corner there where it says "current"; is that the reference points that we're working on currently that

we're thinking of changing? Is that what that purple line shows?

MR. CARL WILSON: I think that might be mislabeled. I think that is your last three years' abundance, and so those are your reference years that you're judging are you above or below the line.

MS. KERNS: So that purple line is the average of the last three years is what it makes out to be, and I called it the current reference point as in the average of the last three years.

MR. ADLER: Yes, because it is showing that the abundance is below that, right?

MR. WILSON: The terminal year of 2007 is below the three-year average. That's all that shows.

MR. ADLER: That's bad; isn't it?

MR. WILSON: No, no, there is variability between years, and so the idea was to take the average of the last three years and it kind of softens out that variability.

CHAIRMAN GIBSON: Before I open it for general questions on this; do you have more to present? Are there any questions on this particular alternative that need clarification? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I think a key point, Mr. Chairman, here – and I don't understand the answer to it – is given the current reference point; what is the status given the current reference point? If we don't change the current reference point on this graph, what is the status of the stock?

MS. KERNS: I'm sorry, I probably was misleading in calling it "current reference point". It is just status reference point, then. It is the average of – we used the average of the last three years in order to figure out where we are today in our numbers, and so it is not – the current reference point isn't – what is in the FMP itself is not even on this graph.

CHAIRMAN GIBSON: So everybody understands, that purple line up there is the average of the last three years, and that is the quantity that gets compared to whatever reference point we may adopt; and looks like for the Gulf of Maine it would be above any that are under consideration.

MR. TERRY STOCKWELL: Toni and Carl, when it dips below the green into the yellow, then that is the indicator that the board should do what?

MS. KERNS: What the group discussed was that when you're in the yellow zone, which is between the green and the red lines, that is when you could consider taking management action if necessary by looking at the stoplight indicators from the assessment, so looking at recruitment, looking at landings, looking at catch-per-unit effort; those indicators that came out of the assessment that we saw both in this year's assessment as well as the 2005 assessment.

If you fell below the threshold it could be cause for immediate action, but the group was concerned about where the threshold line is in comparison to the numbers that you see over time. Even with this 25th percentile, you can see that it doesn't fall – there are not very many points that fall below that red line.

The technical committee has expressed their concern for what types of management action that you would need to rebuild from such low levels, and so therefore this proposed alternative allows the board to take action when you fall somewhere in the middle, on that yellow zone, by using your stoplight indicators.

CHAIRMAN GIBSON: Are there any other questions for Toni on this particular alternative? Seeing none, I guess you can move on.

MS. KERNS: So looking at the effective exploitation for the Gulf of Maine, again a similar graph where what the group did was looked at the 25th percentile for the threshold proposed, which is your solid red line; and your 75th percentile for your target future or your target, which is labeled "target future", the solid green line.

The average of the last three years is that solid purple line, which labeled "current reference point"; and for the Gulf of Maine stock you would not be overfished and overfishing is not occurring, according to this graph, and overfishing is not occurring in any of the proposed reference points here, but you're a little bit into the yellow zone.

Georges Bank looks somewhat similar to Gulf of Maine, where you have your threshold that is proposed is your solid red line and your target is your solid green line, and we are significantly above that solid green line. Your average of the last three years is that solid purple line, so the stock would not be considered overfished. For effective exploitation, overfishing would not be occurring. Again, we're significantly above the target – the same concepts here – in the solid green zone.

For Southern New England abundance, again your target is going to be your solid green line and your threshold is going to be your solid red line and purple is the average of the last three years. For the threshold that came out of the meeting last week, we're going to be below that line, so that would mean that the stock would be considered overfished or depleted, and so management action would need to take place if this proposed reference point was adopted to get it above that solid red line.

The group that was there felt comfortable with this approach because they know that there is somewhat depleted stock in Southern New England. Whether it be for natural mortality reasons, habitat reasons or fishing pressure reasons, they have seen a decline in that stock and think that not taking action would not be the best course to go forward with.

For the effective exploitation for Southern New England, overfishing would not be occurring. We would be above the target. Your purple line is your average of the last three years, and it is in the green portion, so in a good area. Dan, do you have a question?

MR. DAN McKIERNAN: Just to clarify a point that Toni made; now this group didn't just focus on Southern New England and the problems there. There was just as much discussion about the effectiveness of the peer review's overfishing threshold. As Carl pointed out, the Gulf of Maine abundance could drop by two-thirds before that overfishing definition would cause anybody to act. So while it does have some potential immediate implications for Southern New England, we were really thinking about the Gulf of Maine's issues as well.

REPRESENTATIVE SARAH PEAKE: Thank you for walking us through the stoplight zone there. It was more enlightening, Toni, to have your explanation than trying to figure it out at home. I guess the question I have is about the yellow zone, and as a practical matter what does that mean and what will it mean in terms of what the fishermen can expect, what types of measures might we take?

On some level I think there is an advantage to having a bright line that we draw, and if we need to move that up or down from where we take action, maybe that is something to look at, but if there is sort of this squishy area in the middle where we start to take measures to ensure the stock being robust and rebounding I'm wondering if we're creating a

regulatory scenario that will create more problems than it is solving. Maybe you can clarify that for me.

CHAIRMAN GIBSON: I wasn't party to the development of this so I can't help you. I don't see anything in the addendum that says what we're supposed to do when we're in the yellow zone. Pat White.

MR. P. WHITE: Well, anybody can correct me if I'm misstating, but one of the things that we talked about was maybe further defining actions that could be taken in the yellow zone. I think we still have two very definitive lines in the strategic plan of ASMFC. For one, it is saying avoid historical pattern of taking action only after there has been some type of failure.

I think we can work that in the yellow zone to have increments of being able to take action and not wait until we get down to the threshold where we have a serious problem or be joyous when we're above the target. I think that is something that we as a board in accepting the responsibility can do incrementally in the 50 percentile yellow zone.

CHAIRMAN GIBSON: From the chair's perspective, my thought process that is going on and to the sponsors of this alternative, if there are sponsors, what was your intent with further definitions of what actions might fall in response to yellow versus red? Carl is going to speak to that.

MR. WILSON: Well, I can speak a little bit to my interpretation of how I'd look at targets and thresholds. I think a target is where you want to be; and relative to this reference time period, 25 percent of the years we were above where we wanted to be, so that's good. When you get into the lower threshold period, to me that signals that you have impaired recruitment, that bad things are happening and you want to work your way out of that, and so drastic things have to happen to try to engineer your way back up into the yellow and hopefully in a trajectory to the green.

I interpret when you're in the yellow, in that 50th percentile, you're not where you want to be but you're not where you don't want to be, and so that's where our conversations we're saying right now in our last assessment we had 15 to 17 different stock indicators called the stoplight. We have pretty much deemphasized those beyond the assessment document.

They're not in our official reference point. The thought was is that if we were in yellow, then we'd go back to those stock indicators and really start to

look at what indicators may be influencing which way the stock is going. So if you're in the yellow and you're trending up, then maybe that means you would consider it but maybe you'd take no action because there is a body of evidence that says we're heading in the right direction.

But if some stock indicators might be giving you kind of a foreshadowing of what might be coming in the future, then you want to pay attention to those, and so it is kind of bringing up – it is kind of a common sense indicator approach into those yellow areas. But, really, the threshold, the lower threshold is when we would consider you're in a bad condition and you want to take measures to get away from that.

Relative to the peer review threshold, half of the median, if you take that same interpretation of what a threshold does, impaired recruitment, if the peer review is accepted, then we're essentially saying that we've never been in impaired recruitment in the Gulf of Maine, and I think that would be at least – well, the consensus within the technical committee is that would be a dangerous position to take if we were at that level.

MR. DAVID SIMPSON: At this point I just wanted to make a couple of comments. I do believe that the stoplight type of approach does make good sense given the uncertainty that we have in the lobster assessment and the very subjective nature of the reference points we're trying to choose here.

They're not biologically based and so we do need to deal with shades of gray or colors in the light spectrum, and I think they're informative. I also think, as people have said around the table, it is critical to understand what those reference points – what we mean by those reference points. I sort of worked through what is the definition of that line, what are we calling it, what is the current abundance, what is the inference we draw of the stock when it is at some range, and then what is the management action we would expect to take if you're within that range.

Those are the kinds of the things that we need to work out today. If you could just go back to the Gulf of Maine, that one briefly, and then the exploitation one – if you could stay with the abundance first. Just the point it has always bothered me, the term “depletion” or “depleted”. If you look that up, depending on what dictionary you use, you get something like “used up or exhausted”.

I have a hard time looking at the Gulf of Maine and saying that back when you were landing a mere 40 million pounds that the resource was exhausted and used up. That's one point is when we use the term it has a meaning and depleted to me is a little bit strong for below, you know, half the points in the last 20 years, which have been pretty good for lobster everywhere.

The exploitation one, if you could, the variation around that line – and those are the raw points from my look at it. It is not the three point average, so it is not actually – the indices are the real points that went into the three point averages. There is a fair amount of variability at that scale that becomes evident where we're going over and under the line from one year to the next; and if you look at it, you're talking about a range of 0.46 to 0.51 or so of an exploitation rate on lobster in this assessment.

I would like to get a response from Carl that is well within the measurement error of the assessment; and so if we're well within the measurement error and we're bouncing between the 25th and the 75th percentile, to take very significant action if we go over one of those or not take it would be kind of overuse of the data.

I don't think it is warranted because it is bouncing around there. I mean, those are very fine shades of fishing mortality, 0.46 to 0.48 to 0.50. We're measuring noise there that is not real in my opinion, and so we need to keep that in mind, too, when we choose these reference points and the management action that will follow those points.

MR. P. WHITE: David, I also get concerned about your inference going down to 1982 where we were down at 40 million pounds. If you wanted to bring that better into perspective, you would have to go back and have a different time series because that indeed would have shown a 50 percent escalation in landings from 20 years before. I think you have to look at this as what timeframe you're looking at.

CHAIRMAN GIBSON: Do you want to speak to Dave's interpretation of the F rates and the measurement errors?

MR. WILSON: I agree with you. Yes, I think it is somewhat misleading, the scale of the graph going from 0.6 to 0.4. Some of the earlier figures had a zero to one scale, and it is basically a flat line. I think, again, if you go to this discussion point where you have got a target and a threshold, 50 percent of your points are kind in the yellow area. I think it is

generally a consensus within the technical committee that exploitation has been high during the entire time period. If you go back into the documents of the seventies and early eighties, people were certainly saying that. It has been stable but high.

CHAIRMAN GIBSON: Thanks, Carl. I had Terry Stockwell next, but just before that what I think you should be thinking about is as you start to understand this option, whether we have the basis to flesh this out sufficiently in terms of the addendum we have and the decision rules that might need to be in place for interpreting within the yellow or the orange and we react to them; if it is something that you think we could pull off today or whether it is something that is going to need more work, and as Pat Augustine suggested, postponed to another meeting. Terry.

MR. STOCKWELL: Following up a bit on Dave's comments, Carl, at what point is the technical committee going to review the issues as we approach – when it gets into the yellow or several years from the yellow. Given the length of time it takes to craft a management action and have proper response, I'm thinking about some kind of trigger so that we not respond to a bad trend.

MR. WILSON: For most of the 17 kind of common sense indicators in the assessment, those can be generated almost on an annual basis. They're model independent. You don't have to get all the states together to compile in one large central data base and it doesn't get into this multi-year effort that a lot of our assessments do.

If we were falling in that yellow bracket, then I think it would be more of a – I hate to say – common sense discussion, but we would be bringing forward comments and concerns, depending on what those indicators were saying. As far as if we were to use more model-based reference points, then it would have to be on a schedule of assessments, once every five years or so.

MR. STOCKWELL: Well, we all have a tendency to avoid blinking yellow lights, so I'm just a little bit concerned that we don't have some trigger in there that would result in some sort of effective response.

MR. DOUGLAS GROUT: The way I look at this as far as what could potentially be done today and what would require further work and further action is the proposed threshold with this kind of a concept is between the two options that were presented here in the document. I think that's something that we potentially could, if the board chose to, make a

decision on what our threshold is today to replace the threshold that we have from the previous management action.

Clearly, this concept of a target and the stoplight approach applying to both the target and threshold plus the stoplight indicators that we would look at and how we would respond would take more work on the part of the board with the help of the technical committee. I see, one, we could take an action today to replace the threshold, if we chose to do it, but beyond that we would have to probably do some additional work to get the other stuff in.

But, I agree, the thing that I like about this approach is that we're looking at doing something before we get to that threshold line. We can set up a series of criteria based on the stoplight indicators that the technical committee has provided. We can say we're going to try and take some action, but at the same time we could set up something where we're not going to knee-jerk all the time. You know, down below a target for a year, well, that's not a big deal; but if we're doing a trend over several years, that could be a problem. If we're starting to go back up, it may not be a problem. That's the advantage I see of going with this type of approach.

CHAIRMAN GIBSON: Thanks, Doug. Toni, do you have thoughts process-wise what a partial adoption would mean, adopting, as Doug suggested, a threshold from this option because it clearly defines the line between yellow and red, where we never want to be, but what would be the process by where we would pick up the rest of it and defining decision rules within the yellow zone and trends, how many years and that sort of thing and what David has been talking about.

MS. KERNS: I think that today with what out for the public comment, as Doug said, you could adopt the threshold and you would also need to adopt the descriptors of annual abundance and fishing pressure because the current FMP says you use an instantaneous F, so we would need to change that as well.

You could task the technical committee to come back and give you specific triggers, if that is what you want, or you can ask them to give a list of which indicators you would want to be looking at when you do fall within that yellow zone. Depending on what type of board action happens today on the second portion of this addendum and whether or not you can use board action to adopt a reference point or if you have to go out for public comment would determine

whether or not you could adopt a new target either through board action or through an addendum, if you wanted the technical committee to give you any advice on that target as well. Does that answer your question?

CHAIRMAN GIBSON: Not completely. We're listed for Addendum XVI final action today. What I heard Doug suggest was approving one portion of it based on this alternative which was developed and came to us today. I'm just searching for – okay, that makes some sense to me. It's just as an aside, as ad hoc reference points go, I think this is the best alternative we have seen so far on those, but I'm concerned about – I think as others are – how we flesh out what happens when we're in the yellow zone, how do we stay out of there, do we need another addendum to do that when that happens and the charge to the technical committee in between. That is what I'm thinking about. Bob.

MR. ROBERT E. BEAL: As Doug said, the threshold that the board is discussing now is between the peer review threshold and the technical committee threshold that were brought out to public comment, so I think that is fair game process-wise to adopt that today. As far as how the board reacts within the yellow or within the red, that is probably best clarified and kind of fleshed out through a subsequent addendum.

The next agenda item is a discussion of how and what reaction the management board wants to have to the reference points. I think at least for the Southern New England area there is some response needed to react to the threshold that is being considered by the board today. One option for moving forward with determining what criteria the board would use for reacting in the yellow area and those sorts of things could be piggybacked on to the response to the new threshold that was adopted today, so the next addendum would have multiple parts.

As far as only adopting a portion of Addendum XVI today, the boards do that all the time. If there is one piece of the addendum that went out to public comment that the board likes and wants to adopt, they adopt that and some others drop off and some others are taken up at later meetings, so I think you're on fairly stable ground by doing that.

CHAIRMAN GIBSON: It seems to me that the clean way, if the board wants to proceed, is to adopt in Addendum XVI the threshold that has been proposed, delay the other decisions until the subsequent

addendum that is to follow up to this. That is my thinking right now. Dave Simpson.

MR. SIMPSON: Toni, did you more to present on what actually went out to public comments? It seems like this has completely replaced what we went out for comment on and have talked about today. Did you have more?

MS. KERNS: I have the public comments.

MR. SIMPSON: But no figures?

MS. KERNS: No more figures, no.

MR. SIMPSON: If I could, then, just to help the discussion, I did have a motion, but I won't make it as such, but I took sort of a refinement between what I sent out to board members last week and what the group came up with in Maine last week, and tried to, in my own mind, spell out what – as I said before, what does this mean, what management action would you take, and if I could just take you through that so you have the benefit of that and the discussion can go from there.

There are two parts; one is for abundance and the other is for exploitation. It is a little bit long, but it is trying to address the management implications' part of it, too. There are actually five pieces. The first would be less than one-half the median for abundance. That is the peer review recommended definition of depleted.

You would give it a color code of red. That would be a critical limit that would tell you that the stock is depleted. I think that would be fitting for used up or exhausted. If you're below one-half the median, that would be a truly critical depleted stock. That would warrant immediate and significant corrective action.

The second level up would be if you're below the 25th percentile, the lower line that this group came up with, I would color that orange, using the light spectrum and the stoplight analogy. That is the minimum threshold. The conclusion you draw from that is that stock abundance is low and immediate action is required to rebuild the stock toward the median. So if you're below that 25th percentile, your management action is you need to rebuild. You're in a dangerous area; you need to rebuild. That would be the Southern New England case. The stock is below where you want to be; you need to rebuild it.

Three is if you're less than the median, so you're between that 25th percentile and the median – and

what this does is it sort of takes everybody's lines. It takes the peer review, it takes the technical committee and it takes the group's lines and I think helps us out with that shades of gray and when do you take action and when don't you?

Again, below the median is yellow, the cautionary zone; the stock abundance is moderate to low. The management action that you should take is to consider the other stock indicators that are in the plan. And the recent trends in abundance, is it just below median and heading down or is this one aberrant line? That would be important to consider. Stock stability and distance from the median would also be considered before deciding the course of management action.

The fourth one, of course, is between the 50th and 75th percentile. That's green; you're in the good abundance zone; you're above the median. The abundance is moderate to high is the conclusion you would draw from that position. That's where much of the recent years of the Gulf of Maine are. You would continue to monitor abundance and other stock health indicators. You wouldn't necessarily have to do anything, but you might choose to.

Then the fifth one would be above the 75th percentile. That would be colored blue. You would be at excellent stock abundance, the stock is high, and you would just continue to monitor and look for issues. That is kind of how I melded all three things together, the technical committee, the peer review and what this group came together with, which I thought was great.

There is a repeat of this for the exploitation. I don't know if you need me to go through it. If you'd like me to, I will, but it is the same idea. There are basically five levels. It helps me a little bit with the gray zone and what do we do. The application of it I think is the Gulf of Maine versus Southern New England, what do you conclude from it for the Gulf of Maine.

You're above the 75th percentile in abundance in the Gulf of Maine. You're in pretty good shape and you would only want to take action or feel compelled to take action if those other economic indicators in the fishery were not moving in a desirable direction. That would be you're overcapitalized and you want to do something different. It wouldn't be a stock measure. Thanks for indulging me with that time, and I would be interested in any reaction the board has.

CHAIRMAN GIBSON: Thank you, Dave. Frankly, the chair is struggling to understand what, if anything, we can adopt as a final action in Addendum XVI versus what should be postponed for further development in a follow-up addendum. Pat Augustine.

MR. AUGUSTINE: The presentation that Mr. Simpson just made was very enlightening and I think very fruitful. Also, the technical committee did a tremendous amount of work in using their stoplight approach. It just seems to me they first should be commended for what they have done so far, but will the technical committee have an opportunity have an opportunity to look at the definition and clarification Mr. Simpson has put together?

The reason for my wanting to delay this, I knew this was going to be a clarification, but it is new information even though we may have had access to it. I would like to see that clearly developed, put more sideboards on it and more clarification, and would it be possible to do that? And, also, the information that appears to be lacking – I'm not sure whether Mr. Grout mentioned it or who it was over on that side said we possibly could do something else to move this amendment forward.

Quite frankly, I don't think we should parcel it. I think we should take it in whole unless by law and a commitment to the FMP that we have to do it and take action today. I guess what I'm asking for is does the technical committee have enough direction or instruction or clarification as to what has been asked for, that you possibly could do to supply further clarification so we can move this forward in the spring, in addition to time that you could possibly spend with Mr. Simpson's approach for definitions for the stoplight approach.

CHAIRMAN GIBSON: Thanks, Pat. If I was to frame a charge to the technical committee, we already heard what they said relative to the peer review panel's reference point. They were concerned about they're not being conservative enough and reactive enough. We now have what Dave has showed us. I understand that is not a motion yet; that was just for information purposes. We have what Toni presented earlier.

If I was to frame a charge to the technical committee, it would be to go back and take the two of those, look at them sort of in a side-by-side anatomy and put together a single proposal for our consideration that embodies this stoplight colored approach zonation with some suggestions in terms of responses when

the stock is within those. That's how I would frame it. Carl is here and he can say whether he understands that or not. Pat, do you want to follow up on that?

MR. AUGUSTINE: Yes, Mr. Chairman. You clarified what I tried to sputter out there very well. If we could take your words to guide the technical committee, if, again, the board would agree to what you just recommended, maybe consensus would work as opposed to going through a long drawn-out motion. It's up to you, Mr. Chairman, but I would like to move in that direction.

CHAIRMAN GIBSON: Well, the concepts we have, there was a concept of adopting a threshold today given that there didn't seem to be – until Dave spoke there didn't seem to be a lot of controversy where that line is and then moving the rest to the technical committee and further development, and your concept is more of take the whole package and move it to them and see what comes back to us. Carl, do you want to speak to that?

MR. WILSON: A question for David and a response to Pat, I guess. First I'll go to Pat, the technical committee, as the chair has said, has only discussed the recommendations coming out of the assessment and the peer review recommendations. We haven't discussed this threshold and target, wherever those lines may be.

Yes, we could go back and discuss them. I think the question coming from us would be how hard – you know, do you want examples of specific triggers. If you were in the yellow area or the orange area, would you like to have specific examples for what biological or stock indicators would be triggering stuff and what those triggers might actually be?

MR. AUGUSTINE: I think you hit it right on the head. The real question that I have is – well, it's not a question. The point I would like to make is without having, in my mind, a specific, hard recommendation from the technical committee, you're the scientific body that drives where we go or where we don't go. I think our role is to question how you got there and provide you the questions for you to look at and bringing information back. As you present it, your information stands alone and we could make a hard, objective decision on that data.

MR. WILSON: Later in the agenda the technical committee has provided hard recommendations based on the median as a threshold. I would be interested to get some reaction from the board to see if you'd

actually consider those recommendations. I think those kinds of recommendations should be on the table.

If I may just go to a question with David, this goes to 50 percent of the median. My interpretation of the peer review report is that they misinterpreted the reference period. In their report they said, "Well, we don't like the median because half the years are above and half the years are below the median", and that's not really true.

It's because we chose a reference period and every year subsequent from that reference period they will be more above or more below. It's not going to be a 50 percent split. My question is if you choose 50 percent of the median, that is a rather arbitrary number where quartile ranking is more based on the actual distribution of points that we have seen during that reference period. Do you see any danger in moving away from what we have actually seen in the performance of the resource and the performance of the fishery into the 50 percentile – 50 percent of the median, which is what you're proposing?

MR. SIMPSON: Well, actually, I was suggesting we keep the peer review reference point of one-half the median as a critical limit that would truly define what "depleted" means, "used up", "exhausted". We would use the 25th percentile, basically half the median., the line that was developed a couple of weeks ago as an intermediate between that really low level we don't want to go anywhere near and the median that we think is a reasonable place to be. You would use all of them.

CHAIRMAN GIBSON: I'm sensing that the board is pretty uncomfortable at this point with adopting something on the fly here today. I know I certainly am. Is there anything that requires us to adopt something in final form today in reaction to the stock assessment, the operational FMP or any of its addendums requiring us to respond today to the status of the three resource areas? Vince.

EXECUTIVE DIRECTOR O'SHEA: I think part of the answer to your question, Mr. Chairman, would be to have a full understanding of what the status of the stocks are with the current reference point. If you're going to make a decision not to change reference points today, it would seem that you ought to do that being aware of what the current – you had a stock assessment report in May and that told you where you were, and there are triggers within the plan relative to those reference points

I think you'd at least have on the record that you understand where you are if you're making a decision to defer. And then later on if I could be recognized, if that's the direction you go I have a comment relative to that. Thank you.

MS. KERNS: With the status quo reference point right now, according to the FMP all of the stocks overfishing is occurring, so in the red zone. We are below the target and the threshold. For our abundance target, we're above the abundance target in the Gulf of Maine, so that's the only stock where we're in completely good health for abundance. For Georges Bank we are not below the threshold, but we are – I mean we are above the threshold, but we are not above the target, so we're in that middle zone. For Southern New England we are overfished. We are depleted.

CHAIRMAN GIBSON: I had Pat White next.

MR. P. WHITE: I got a sense from around the table, though, that people would be willing to do something about the threshold and adopt that portion of it, and that was something that was possible to do. I think we've had this come out of the last two assessments, which is now over five years, that there was concern there. That would allow us to begin thinking about what needs to be done in that area.

I do agree with Dave and everybody else that I think this spotlight approach is excellent, and maybe we could get some better refinement from the technical committee as to how we would work the interim yellow zone. It seems quite clear as to what we do with the red zone and the green zone, and I didn't understand the blue zone. I would like to see and I would be happy to make a motion that we accept the 25 percentile threshold as this addendum.

CHAIRMAN GIBSON: Okay, let's hold off on the motion until I get Dave Simpson.

MR. SIMPSON: I think where we are now is the board has already adopted or accepted the new assessment; so anything we decide will be based on the University of Maine Model and not the Collie-Sissenwine Model. The one thing I think we really do need to get done today would be to accept the new fishing mortality rate calculation; that is to use the exploitation rate above 78, right, millimeters rather than an F of the fully exploited.

We need to do that today, I think, and that will allow us to determine the overfishing level. And overfished, I would just point out that the plan currently uses the median. The technical committee

recommended continuing to use the median. The peer review also cited the median as an important point to keep in mind, so to drop that entirely would make me very uncomfortable. I'm not sure what the basis for that would be. We can add others, but to drop it entirely I think would be not well founded in the scientific input we have gotten.

MR. ADLER: First of all, I like the charts with the colors and the lights, green, red. That gives you good picture. I also liked in the addendum the charts in the end that very simply put the numbers in and then said what this means is if you pick this particular option, this is what it means, because people can understand that.

One of my questions – and now I'm getting a little confused with a couple of more possibilities, and I would love to see that all spliced out in chart form because sometimes the picture of the chart is much easier than the words. My question had to do with if we don't do something, does the FMP currently say you've got to do something right away, you've got to make your mind up, you can't wait or does it allow us the time to fix this and get this understandable?

CHAIRMAN GIBSON: My understanding is the latter. We understand how the stocks would be viewed in terms of the stock status and the current reference points, and Toni just summarized that. I'm not aware of anything that compels us to respond to that today.

MS. KERNS: The FMP states that if you are overfishing, then you need to respond within two years to take you out of overfishing. Under the current status all three stocks you are overfishing.

CHAIRMAN GIBSON: When was that determination made available for the commission or the board?

MS. KERNS: May of 2009.

CHAIRMAN GIBSON: We have until May of 2011. Dave, to that point?

MR. SIMPSON: Yes, to that point. My point earlier was we no longer have a Collie-Sissenwine Model. We have adopted the University of Maine Model as a board. We don't use that anymore, so that goes away. We have adopted a new assessment that replaces an old one, so we're in a Neverland here of we really do need to adopt a reference point for overfishing that goes with the assessment that we accepted, so simply today all we need to do is have a

motion to adopt the exploitation rate that the technical committee used in the assessment and that the peer review gave the nod to that they thought that was a very good approach, and that is the exploitation rate of lobsters over 78 millimeters.

Once we do that, then we're on to Page 2 of stock status determination. I think with that I'll move to adopt the exploitation rate above 78 millimeters as the overfishing definition as used by the technical committee and the stock assessment and as approved by the peer review panel in May of 2009.

CHAIRMAN GIBSON: That would be Option 2 on Page 9 of the addendum is what you're referring to. Doug Grout. Well, first of all, let's see if we have a second to the motion.

MR. GROUT: Mr. Chairman, my conversation wasn't going to be – my comments weren't going to be on this, but I guess I want to ask a little point of order here because one of our commissioners was willing to make a motion and you said can you hold off on it, and yet Mr. Simpson then asked to respond immediately to a comment that had been made out of order and then made a motion. We have to be a little bit fair here. Is that appropriate?

CHAIRMAN GIBSON: Yes, it's an appropriate criticism of the chair. I was trying to understand what we could package in a motion that should be delivered today. What would have been the nature of the motion that might have come before this?

MR. GROUT: This is what I was trying to get at, and just to give people my thoughts on this is the concern I have, even though according to the current plan we have two years to come to address an overfishing status, it is still the concept that we have – it has been more than six months; it has been eight months, and we haven't addressed it. If we send it back it is going to be another few months before we address it.

I can understand where Mr. Simpson is coming in trying to address how we calculate these things, but I do think it would be important, at least from my standpoint, to try and address adopting a threshold at this point. That's my opinion. The other thing that I think we could potentially take up here is the section that talks about stock determination so that we determine whether the board is going to make this decision or whether we go out to public hearing. Those are two things that I think we could potentially take up here.

CHAIRMAN GIBSON: Thanks, Doug. Dave, they called me on a point of order and I believe I've got to give them an opportunity given the discussion that I allowed before.

MR. SIMPSON: Let me clarify what I intended to do. It might not have been what I did, but what I intended to do was to say adopt not a reference point but simply accept the calculation of exploitation rate as computed in the University of Maine Model and as peer reviewed. Of course, what that does is that connects the assessment that we've accepted with an exploitation rate – a basis for an overfishing definition.

My only point was not now choose the threshold and a target. I didn't mean to go that far. I just meant to say accept the calculation of exploitation rate so that when we evaluate – if we don't get to approve an addendum today, if we talk about evaluating where we are, we would do it based on an exploitation rate above 78 millimeters and the output from the most current University of Maine Model. That's all I meant.

MS. KERNS: Just to clarify for everyone and sort of put everyone on the same page as Dave, Page 9 of the addendum document, Option 2, that first paragraph goes over basically the primary descriptors of reference points, and that is what would take us out of – that status quo portion is what we are tied to right now in the addendum, and that's why I say that we would have to respond because the addendum does specifically identify what our primary descriptors of abundance and fishing pressure are.

The way Dave has gone through his explanation, that would only be adopting the portions of that paragraph that have to deal with effective exploitation. Basically, the new paragraph I would think would read is "effective exploitation would be the primary descriptor of annual fishing pressure. Effective exploitation is the annual catch number divided by the reference abundance."

CHAIRMAN GIBSON: Okay, for those that were thinking about making a motion and want to make one.

MR. P. WHITE: I would be willing to make a motion. I'll let Carl clarify the wording if it is necessary, **but I would like to move that we accept the 25th percentile as the lower threshold in this addendum.** Do we have to be more specific, Carl?

MR. WILSON: I might include just the lower 25th percentile based on the reference period as described in the assessment.

MR. P. WHITE: That's right.

CHAIRMAN GIBSON: Seconded by Ritchie White. Bill Adler.

MR. ADLER: First of all, I want a clarification. Have we adopted the University of Maine Model or was this addendum designed to push us into the University of Maine Model rather than the Collie-Sissenwine Model? The other thing was it was mentioned that if you're overfished, then you have to do something – yes overfished or overfishing, which is it? – that none of the areas are overfishing according to the University of Maine Model, and I thought I heard that you've got to do something if you're overfishing. That is getting a little bit foggy here.

CHAIRMAN GIBSON: Did you hear that question; you probably didn't.

MS. KERNS: I did not hear that question; I apologize.

CHAIRMAN GIBSON: Okay, we have adopted the assessment.

MR. ADLER: Did we adopt the University of Maine Model?

CHAIRMAN GIBSON: I believe we accepted those assessment results.

MR. ADLER: Okay, so the University of Maine Model is in play? That's the first thing because I noticed in here if you adopt Option 1 you're adopting the Collie-Sissenwine Model; and if you adopt some of these other options in the original Addendum XVI, then that sort of puts the University of Maine Model into play, which I understood when we started this addendum you had to have an addendum to change that around. That's why we had the addendum. Am I incorrect?

MS. KERNS: You accepted the results of the model. You didn't adopt the model. We never adopt the model. We always accept the results of the assessment. Because the FMP specifies what you're using as your reference descriptors, we have to change that. Our reference descriptors do not coincide with what is being used in the University of

Maine Model, so we have to change that through the FMP.

Once we change those reference descriptors, then you need to adopt new actual reference points because our reference points are specific to the reference descriptors. The FMP also states that when you're overfishing you need to respond within two years. That is generic across any time period when you're overfishing.

It also states that if you are overfished we can evaluate – you should take action to get you back into a non-overfished state, but it doesn't give you a time period in which you have to react. It says that we will re-evaluate every five – you can re-evaluate after five years, ten years, and the rebuilding timeframe is fifteen, so that is when you end that. Therefore, if you don't change your reference descriptors you're still under that two-year time gun of May 2011, because you were presented with the results in May of 2009.

MR. SIMPSON: I guess this just shows how difficult lobster has become and how hard it is to get these things done in four meetings a year and not have species' committees to get together in between and work all these details out for a larger meeting. The reason I didn't suggest we needed to adopt a new abundance metric was my understanding is the current one is to use the three-year moving average of the model outputs abundance estimate, so I didn't think that needed to be changed.

I would be happy to role that into the exploitation one, but the exploitation rate – that approach that was used in this new model is different. It is not fully recruited F. It is exploitation above a length, which is very important because it gives credit to gauge size increases to reduce overfishing. It is a really important thing that we need to adopt. I would still maintain that by accepting the assessment and the peer review we have identified that as the best available science, and therefore we're obligated to use that assessment to base our management on.

We have taken that step. Our management will be based on the University of Maine Model, and now we need to adopt the adjustments to the abundance measure and the exploitation measure – not reference points yet; just those two things – so that we can go ahead. Is that accurate, Toni?

MS. KERNS: I believe, Dave, that the reason why we put the reference abundance in here is because I think the size class changed that we did this time around. I don't believe it was 78-plus. I think it

might have been something else, and we didn't specify that in the addendum document the last time. That's why I have it in there, so that's why that whole first paragraph might be good to adopt.

CHAIRMAN GIBSON: Does it make sense to have that Option 2 incorporated into this motion or would that be a second motion? Bob.

MR. BEAL: Mark, I think it would be easier just to keep them separate. I think there is going to be enough confusion, which is one concept per motion. I think if you start putting multiple concepts in there, it is going to be even more difficult.

CHAIRMAN GIBSON: Okay, we have a motion on the threshold. It has been seconded. Is there discussion on that motion? Carl.

MR. WILSON: I just would like to just point out the technical committee came to consensus with the median and that this motion is a less conservative approach; just to have that on the record.

CHAIRMAN GIBSON: I've been advised by staff it would be preferable to adopt Option 2 first, which defines the currency in the standards before this. Do I have to get this motion withdrawn, then, to go to another one? Pat, is it okay to table this to a time certain until we take up Option 2?

MR. P. WHITE: Yes.

CHAIRMAN GIBSON: Okay, we'll table that until we deal with Option 2 on Page 9. Dave.

MR. SIMPSON: **I will move adoption of the first paragraph following Option 2 on Page 9 of the addendum, and that is defining the reference abundance and effective exploitation.**

CHAIRMAN GIBSON: Is there a second to that? Seconded by Pat White. Discussion on the motion? Anybody in the audience wish to comment on that motion? Seeing none, we will caucus. The motion is move adoption of the first paragraph under Option 2 defining reference abundance and effective exploitation. Motion by Mr. Simpson; seconded by Mr. Pat White.

It was changing while I was reading and let me try again: Move adoption of the first paragraph under Option 2 in Draft Addendum XVI defining reference abundance and effective exploitation. Motion by Mr. Simpson; seconded by Mr. Pat White. Ritchie White.

MR. G. RITCHIE WHITE: Could I ask Carl what will happen if we pass this; what are the implications?

MR. WILSON: We close the chapter on Collier-Sissenwine and we will be moving into a new era of what models we're using as far as the University of Maine Model that has been under development for the last eight or ten years now.

MR. R. WHITE: And the technical committee is comfortable with that?

MR. WILSON: Yes. I don't want to say Toni forced us, but Toni forced us to use the CSM in the last assessment.

MR. ADLER: All right, as was just said, you're closing the door, so this basically is just moving us into the University of Maine Model, which most of us I think want to go. That is basically what this motion is doing? That makes it simpler; thank you.

CHAIRMAN GIBSON: Okay, are you ready to caucus on this question?

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Okay, are you ready to vote? All those in favor raise your right hand; any opposed; abstentions; null votes. **The motion passes; it was unanimous.** Okay, to the tabled motion of the threshold; can we bring that back. Doug.

MR. GROUT: Do you need a motion to get off the table? **I move that we move the tabled motion off the table.**

CHAIRMAN GIBSON: Thank you, Doug; seconded by Dennis Damon. Is there any objection to that? Seeing none, we will bring that motion back. Pat Augustine.

MR. AUGUSTINE: Just clarification; this was the original advice from the technical committee; wasn't it? No?

CHAIRMAN GIBSON: On the reference level motion?

MR. AUGUSTINE: On this motion here?

CHAIRMAN GIBSON: We already passed that one.

MR. AUGUSTINE: Was it 50; I thought you said 50 and not 25?

MS. KERNS: No, Pat, this is not the original advice from the technical committee. This is the proposed threshold that came out of the Lobster Summit that was up in Maine last week, and there were only four members of the technical committee present at that meeting.

MR. AUGUSTINE: Well, this is a tough one because we have a group that didn't represent our whole technical committee that came forward with a recommendation telling us that this is the best way for them to go. Has the technical committee had any follow-on separate conversations relative to this since that meeting or did you just accept it as to where we are?

CHAIRMAN GIBSON: Pat, I don't believe that this came about as a result of an official ASMFC meeting or function. Pete.

MR. PETER HIMCHAK: Mr. Chairman, a point of clarification on the motion. When you talk about the 25th percentile and the threshold, are we talking about exploitation, biomass, both reference points? Could that be clarified in the motion, please, so we know the impact?

CHAIRMAN GIBSON: The maker and the seconder have indicated that it is both, abundance and the exploitation rate. Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, and accordingly we've just changed some words on you behind your back there, Mr. Chairman, so we want to make sure that we've got it right.

CHAIRMAN GIBSON: Okay, we've added the two words to make sure it is understood that they refer both to the abundance threshold and the exploitation level, which you just defined and adopted in the motion before that. Dave Simpson.

MR. SIMPSON: Well, first, I'm going to oppose the motion because it is inconsistent with the scientific advice we've gotten from the technical committee and the peer review. I believe the maker of the motion intends it to be the 25th percentile for threshold abundance and the 75th percentile for the exploitation level; is that right?

CHAIRMAN GIBSON: Thank you, Dave. Pat Augustine.

MR. AUGUSTINE: With that additional information and the fact that the technical committee has not tried to pass judgment on this directly, **I would table this motion until they have that review and then it should come back up at the spring meeting.** I'm not trying to slow the process down, but we are not following protocol relative to what our technical committee is supposed to do. This may be a very valid approach and it may be right on target and it may be the right thing we have to do, but without having had the technical committee say yea or nay I think it is not in order at this particular point in time, Mr. Chairman.

CHAIRMAN GIBSON: Thank you, Pat, a motion to postpone until the spring meeting with a charge to the technical committee to review in between –

MR. AUGUSTINE: That is correct, Mr. Chairman.

CHAIRMAN GIBSON: Is there anybody who wishes to second that motion? Pete Himchak seconds the motion. Dan, to this motion?

MR. McKIERNAN: Yes, a comment or a question. I'm looking for a comment actually from Carl. Carl, could you put in your opinion how the technical committee is likely to react to this proposal given that the technical committee has already spoken and actually desires a more conservative approach. This is a compromise approach between the technical committee's desire for more conservation and the end result of the peer review resulting in less conservation. Given that this is a middle ground, can you forecast how the technical committee would react, please?

MR. WILSON: It is very difficult to forecast. I know for me personally it is a compromise. I think it is a certain amount of weakening what the technical committee has put forward in the assessment, but it really depends on how much – if the board was to adopt kind of this red, yellow, green approach – what you would do in those middle yellow scenarios.

I think that's where my comfort increases. If we truly bring forward the other stock indicators and bring forward some metrics that would be employed if you were in this yellow area, then I think that might bring the assurance or the comfort level of the technical committee above. I mean, I'm comfortable with that. I understand and take David's point as far as are you really depleted when you're at the median or just below the median. Personally, I'm comfortable with the median. I'm also comfortable with setting up a bracket within the quartile.

CHAIRMAN GIBSON: Thanks, Carl. It would be my intention – if this motion passes it would then be up to us to flesh out a detailed set of bullets or whatever we have to for the technical committee, a charge to them. Dennis.

SENATOR DENNIS DAMON: Mr. Chairman, I'm just wondering if the maker of the motion wants us to postpone voting on this or do we want to table the motion, because to me they seem to be different things. We can postpone any action until the spring or we can keep this motion with us and take it up again in the spring, but I'm not quite sure what the maker and the seconder want to do.

CHAIRMAN GIBSON: It was my understanding they wanted to postpone action until the spring meeting pending a technical committee evaluation. Depending on what we charge them with, once we receive that, whether the motion we bring off the table is still appropriate or we need to do something else, we would do it at that time. Was that your intention, Pat?

MR. AUGUSTINE: Yes, Mr. Chairman, that's absolutely my intention. I don't want to just pass it off and let it go away. If it was going to be that, I'd postpone it indefinitely. My intention is I think it is a great way to go. It clarifies the situation for us, but let's have a stamp of approval from the technical committee.

MR. GROUT: I understand your desire, Pat, to have technical input on this. However, I am torn myself between a desire to try and move forward and have some meaningful movement towards rebuilding certain stocks that need rebuilding. I am concerned that if we wait until May, then by the time you get LCMTs together you're talking another full year, maybe a year and a half of having an overfished status and overfishing occurring. That's my only concern with delaying again with this. I understand your point and I think there are some things that we – depending on how this motion goes forward – that we do need to task the technical committee to work on the stoplight approach.

MR. AUGUSTINE: No, my intention would be that would be a final action at the spring meeting. This is a clarification as a part of the total process of discussion via Addendum XVI, and I think it is just another piece. Once we have their stamp, in my mind it is a final thing. At least that is my intention and I would hope the rest of the board believes the same.

MR. HIMCHAK: Mr. Chairman, I have a question, and here we've jumped into the options of the addendum, and I was hoping that we'd go through the public comments from the public hearings, which we seem to have skipped over. I had a particular question regarding several of the comments, and I have a question I'll pose to the technical committee.

A number of commenters spoke about serious health issues, shell disease, habitat changes, predation and more importantly temperature changes that may impact the Southern New England stock. There was a particular comment in there – and, again, we're in the process here of picking reference points that are going to decide the Southern New England stock. I want to backtrack a little bit.

What is the appropriateness, then, of using the reference abundance period going back to 1984 or 1985 insofar as can we restore this stock component to those levels given the barrage of abuses that seem to have been mentioned in the stock assessment? Again, I'm backtracking to the public comment period on the addendum if the technical committee can enlighten me on this.

CHAIRMAN GIBSON: Carl, can you address that?

MR. WILSON: Well, I think the reference period that was chosen was because that was the longest – based on the 2006 assessment, that was the longest time period back that we could bring the data to the table reliably. There is a feeling that if we go back into the seventies and sixties, then we're really starting to stretch the limits of what data we can bring to the table.

As far as the things beyond fishing, what you described that may be affecting the Southern New England stock, I don't think I would be stepping out from the technical committee discussions to say is that given all of those other things that may be going on, we still feel that you can address one of those, which is how many lobsters are being removed from the system, and that we feel – and we'll be talking about this in Item Number 6 – from our August memo is kind of the veracity of if you want to give the system a chance to rebuild, then you are talking about fishing restrictions that are significant.

I think we would feel, then, in the last ten years that the actions that have been taken to date, although hard and arduous for many people within the industry, are not at the level that needs to occur to

truly allow the system to rebuild, if it can. We haven't been able to test that.

MR. HIMCHAK: I had one other comment before we went into the actual options of the addendum. In the Southern New England area, again, we put in maximum size limits in 2008. We redefined the V-notch. You talked about impaired recruitment. Those management measures; how long would it take before we could measure a response to the maximum size limit thing?

MR. WILSON: A response as far as landings, it would probably be between five and seven years, depending on how quickly they grow to minimum legal size. With some of the other stoplight indicators that I imagine you've talked about in past meetings that are in the assessment, we should start to see a spike-up in the settlement indexes. We should start to see some of our recruit indexes starting to recover as well. The idea behind the stoplight approach is that you have multiple indices that are trying to give you some indicator of what is to come.

CHAIRMAN GIBSON: Okay, we have a motion on the table. If this passes, that certainly triggers one action; and if it doesn't, then we will see what happens after that. I think we have to dispense with this at this point.

The original motion is move to adopt in Addendum XVI the 25th percentile for the threshold abundance level and the 75th percentile for the threshold exploitation level based on the reference period as described in the assessment; Gulf of Maine/Georges Bank, 1982-2003; Southern New England, 1984-2003. Motion by Mr. Patten White; seconded by Mr. Ritchie White.

The motion you're considering now is the motion to postpone until the spring meeting; and should that pass, we'll flesh out the charge to the technical committee for review in the intervening period. Dennis.

SENATOR DAMON: I don't mean to belabor this, but apparently I'm going to. It seems to me that there are two schools of thought here. One of them is that we would postpone action until the spring meeting based on getting some report back from the technical committee on what we're talking about in which time we could have a motion, this one or any other one, come before us. That is if we postpone their action. I still am uncomfortable in postponing the motion, but if we were to table the motion until that time, that

is the motion that would come back before us. That is what was concerning I think some members here. It is a matter of semantics, but in one instance – in both instances we're asking for the technical committee to review what we're doing to give some kind of a comfort zone. I just don't know about postponing a motion. I think I would table the motion or I would postpone action. That is my concern.

CHAIRMAN GIBSON: I certainly will yield to the parliamentarian. I think I understood what you wanted to do. We wanted this motion to come back in its current form at the time of that meeting. I think it is understood what the maker and my intent was.

SENATOR DAMON: The maker has left room and so I'm not going to push it beyond that, but that is where I am with it. Thank you.

CHAIRMAN GIBSON: Thank you, time to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Mr. Augustine.

MR. AUGUSTINE: I apologize for stepping out for a moment, but if you want to change the word to "table", that would be fine.

SENATOR DAMON: So the motion now would be to table the motion until the spring meeting; is that what you're saying?

MR. AUGUSTINE: Yes, does that satisfy your need?

SENATOR DAMON: I think that is the correct motion to make.

CHAIRMAN GIBSON: Thank you, Senator Damon. Does the seconder concur?

MR. HIMCHAK: Yes, Mr. Chairman.

CHAIRMAN GIBSON: Dave Simpson.

CHARGES TO THE TECHNICAL COMMITTEE

MR. SIMPSON: Just to make one point before we vote on this that if this passes, I intend to make a motion to charge the technical committee with beginning immediately to develop alternatives for our consideration to begin rebuilding Southern New England.

CHAIRMAN GIBSON: Thank you, Dave. I'll call the question on this. All those in favor please raise your right hand; any opposed; abstentions; any null votes. **The motion carries 5, 3, 1.** We need to take up the question of charging the technical committee. Toni.

MS. KERNS: The board has asked the technical committee to come up with some triggers by using the stoplight approach that is in the assessment. I'm trying to determine whether or not you want those to be hard triggers or soft triggers, and the soft triggers I would envision being sort of a range of numbers that you would be looking at, or do you want both because I'm not clear on what I should be telling them.

CHAIRMAN GIBSON: Dave, will your motion speak to that or do we need to discuss that before your motion?

MR. SIMPSON: I'm not sure I understand what Toni is asking for us to charge the technical committee with.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, you just voted to table this motion for the reason that the technical committee hadn't done a review, and you had announced that you were going to task the technical committee with directions on how to satisfy the need for that review, so it would seem that the first thing you want to do is to get that tasking specifically outlined and agreed to by the group. Now you may want to add some other things to it, but what is it that the group would have wanted to hear from the technical committee that would allow them to make a decision on the motion that you just agreed to postpone?

CHAIRMAN GIBSON: The motion was to adopt the statistical percentiles, which have been discussed quite a bit today, as the threshold abundances and exploitation levels based on those reference periods. I would think the technical committee's charge would be to advise us on those in relation to what they had originally stated with regard to the peer review assessment findings and based on what Carl has heard here and seen in terms of the other alternatives that have been floating around. Carl, do you have enough guidance on what you're reviewing relative to this motion? Now, Dave may have other charges, but relative to this.

MR. WILSON: I understand that you're looking for our comments on the 25th and 75th percentile. I think

Toni is asking should we provide specific examples if the technical committee would recommend changes be made if abundance or exploitation was in that middle 50th percentile.

CHAIRMAN GIBSON: That is my thought process. Pat Augustine.

MR. AUGUSTINE: I think what we're asking for, Carl, is that defensible and does the technical committee support it or do you prefer another number, the 50 percent. If you would be kind enough to come forward with two or three recommendations as to what would fit the situation best – you are the technical committee – then we could pass judgment on that.

In my opinion I don't it is going require an awful lot of time. You will have consensus, I'm sure, one way or the other, but, again, technical committees are technical committees, so I can't get any clearer than that; but a yes or no, thumbs up or thumbs down, your recommendation of what works best for us.

CHAIRMAN GIBSON: And that motion says nothing about the different shades in gray and whether –

MR. AUGUSTINE: It does not.

CHAIRMAN GIBSON: – we should act or not act in the yellow zone, whether it is going up or down and that sort of thing. This is just about the threshold.

MR. AUGUSTINE: That's it.

CHAIRMAN GIBSON: Now there may be other things we want to ask them questions about relative to nuances of the other relative targets, but that is not what we're asking them here.

MR. AUGUSTINE: No, that is a separate issue.

MR. SIMPSON: I think what we need the technical committee to do is to review – there is the thresholds identified and targets identified in the addendum; the point being the 25th and 75th percentile that have come out of a meeting in Maine that happened last week; and the motion that I didn't make but that you have that incorporates all of those things and tries to identify what we call that line, what the stock inference is of that line and what is the management action we would take if we crossed that line.

I mean that's the kind of feedback I would need; what does it mean to hit a threshold, a particular

threshold; what are we going to do, that sort of thing, so if the technical committee could look at all of those, including what I had in there that the board heard, I think that would be instructive for us to get going in May. And as I said, if we can dispense with this, I want to assure people that I'm very concerned about Southern New England, and I don't think we should wait until May to even begin to talk about doing something. I think we need to get going sooner.

MR. R. WHITE: I guess my concern from what Pat raised, I don't want to see an up or down on this. We already know what the technical committee recommended and it is not this, so I want to hear the levels of risk of these different options in relation to what you recommended.

MR. GROUT: Mr. Chairman, I agree with your assessment of the charge to the technical committee. Toni had asked a question as to whether these should be hard triggers or soft triggers, and my inclination with a threshold level we should have hard triggers of some kind; maybe some options for hard triggers but things that you need to react within a year when you get below the threshold.

CHAIRMAN GIBSON: Some of those suggestions may be coming up in the next agenda item.

MS. KERNS: Doug, I was thinking of the triggers that would fall in place if you fell into the yellow zone, so coming from the actual stock indicators that are in the assessment like recruitment or CPUE or some of those. The technical committee has never given you guys hard triggers from those and so I'm not a hundred percent sure that they can form them or not.

Maybe they can do soft triggers, but if want them to look at both I just want to know that you want them to look at both so they can at least evaluate it. If you only want like a range of numbers, then we can do that.

MR. GROUT: My response to that would be I was going to wait for Dave's motion, which I think was going to come up, and tasking them to look at the yellow zone and the green zone and all those things, and then I was going to provide some suggestions based on your motion as to some of things you might look at, maybe soft triggers here, a little bit harder triggers here, maybe time ranges, one range for a longer period of time, then in the lower range before we do something; just giving the technical committee some options to flesh those things out. Clearly, the

closer we get to these thresholds, they might become a little bit more stringent.

MR. STOCKWELL: Like Doug I'm looking for some definitive triggers with a time-certain response, and the concept of a soft trigger just means we have another opportunity to waffle around. As we get into the yellow zone, at what level are we responding to what and with what degree of certainty?

CHAIRMAN GIBSON: Any other guidance to the technical committee on the particular motion we decided to postpone and that topic. David, did you have something else relative to Southern New England?

MR. SIMPSON: Yes, I haven't completely crafted the motion yet, **but I would move that we task the technical committee with identifying issues that are impeding stock rebuilding in Southern New England and a suite of alternatives for the board to consider to begin stock rebuilding.** That's the motion. I hope Nichola got it because I'm not sure I can say it again.

The thought process behind it is that the stock is at low levels; recruitment is poor. The natural non-fishing mortality rate seems to be a driver here. After all, we're below any threshold we might even consider in the fishing exploitation rate, so we have these issues. One thing that is apparent to me is everytime we get some improvement in stock, some more legal lobsters coming into the gauge, we get a whole bunch of new traps to come in and they take them all away.

We have a significant issue with latent effort sitting out there that crops away any stock growth that we can hope to achieve. I'm looking to the technical committee to identify some actions that we can take to try to begin rebuilding Southern New England. The target we're reaching for is not defined yet; and as you pointed out in your e-mail and I mentioned earlier, we have no stock projection so there is no mechanism for doing this.

That becomes extremely urgent to get that kind of support to the technical committee to do stock projections under scenarios of low, moderate, high Fs; low, moderate, high recruitment; low, moderate, high natural mortality so that we know what we're capable of achieving. As I said, I'd like for the May meeting to have some solid recommendations from the technical committee on what we can do in Southern New England to begin to rebuild this stock.

CHAIRMAN GIBSON: Thank you, Dave. Is that motion adequate up there; is it captured by staff? Is there a second to it? Seconded by Terry Stockwell. Discussion on the motion?

MR. WILSON: Well, again, later in the agenda we're talking about technical committee recommendations to do just what Mr. Simpson has asked based on the median approach. I think for abundance at least I would still fall within needing to do something, whatever levels may or may not be chosen in the future, and so I think we can at least give some food for the board to begin consideration of what the technical committee feels needs to at least begin or the magnitude of actions that need to be taken.

CHAIRMAN GIBSON: Yes, that's the next agenda item. Are you okay with that, Dave, hearing their thoughts now and recognizing that when they get together during this intervening period they may have additional ones?

MR. SIMPSON: Yes, that's fine. The reference to the median being the place we want to go begs the whole question of a stock projection, how fast can we get there, can we get there, so clearly we need that to really make detailed decisions. I think at this point we're almost absent that because I'm told we won't have the technical support until at least August to do that. In the meantime we need to just do the best we can to come up with some ideas to give this stock a chance to rebuild. I think largely that has to do with removing latent effort so we don't sop up every recruit that comes through over the gauge, which is what is happening now.

MR. R. WHITE: I have a question for Bob Beal when he comes back.

CHAIRMAN GIBSON: Anyone else on the motion?

MR. R. WHITE: My question is if this passes, is there anything we need to do now if we wanted to start an addendum in May? Is there anything we would have to do now beyond this to be able to start an addendum at the May meeting?

CHAIRMAN GIBSON: Bob is shaking his head no, but he is coming back to the table.

MR. BEAL: I guess the question would be is the board looking for a draft addendum for approval for public hearing in May or just to initiate an addendum in May, which would likely bring a draft back at the summer meeting in August.

MR. R. WHITE: Yes, that was my question; if we wanted to start an addendum at the May meeting, start one, then there is nothing further we would have to do today?

MR. BEAL: No, I think this charging to the technical committee and the details that they will bring back to the board can easily serve as a basis for a foundation to be drafted between May and August and go out to public hearing following the August meeting.

EXECUTIVE DIRECTOR O'SHEA: And if you think you're heading in that direction, I think starting at this meeting and before May thoughts that you would put into a clear problem statement so you could come to the May meeting with that, and that ought to lead the initiation of the addendum and get everybody on the same page of what problem it is you're trying to respond to.

MR. ADLER: If this is the schedule would you call in the LCMTs before you come up with an addendum to go out to public hearing so that they could hear what the thoughts are and maybe even come up with some their own. When would have an LCMT meeting?

CHAIRMAN GIBSON: I don't know what Dave Simpson's time table is. I was thinking that we would simply get technical committee advice beyond what Carl may unveil for us in the next agenda item and then respond at that time relative to a decision to initiate an addendum and convene LCMTs. I don't think Dave was suggesting for it to happen between now and the spring meeting nor was I.

MR. ADLER: Okay, so the information would come back for the May meeting. We might initiate an addendum, call the LCMTs in somewhere between those two meetings, the May and the August, is that the concept?

CHAIRMAN GIBSON: That's my understanding of what we're trying to do. Anything else on this motion? Seeing none, we will caucus.

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Okay, is the board ready to vote? I'll call the question. All in favor please raise your right hand; any opposed; abstentions; null votes. **The motion passes unanimously.** Doug Grout.

MR. GROUT: Mr. Chairman and chairman of the technical committee, with our tasking of the technical committee, is it clear that we would like the technical committee to look at the 75th percentile or the 25th percentile of exploitation, 75th for abundance as targets, and different measures or different management actions or triggers that could occur within the yellow zone?

CHAIRMAN GIBSON: Yes. We were just having some sidebars up here to make sure, and I committed to go into the technical committee meeting and helping flesh out the charge if it needs to be fleshed out further.

MR. GROUT: The only suggestion that I might make is – if it hasn't been clear – that in the upper part of the yellow zone closest to the green that there be more flexibility, say, we'd have to be in that area for a longer period of time before we might need to take some actions as opposed to the lower period; look at trends.

CHAIRMAN GIBSON: Thanks, Doug. Okay, I think that wraps up Addendum XVI in specifics. The next agenda item is discussion of management measures responding to the selection of reference points. Bonnie Spinazzola.

MS. BONNIE SPINAZZOLA: Mr. Chairman, I believe Bill asked a question and I didn't hear an answer to it as to with the last motion does that mean that the technical committee would bring up a suite of measures or whatever but then the LCMTs would meet?

CHAIRMAN GIBSON: Carl is actually going to speak in the next agenda item about possible management measures that they may contemplate relative to some of these rebuilding issues. When we receive the technical committee report in May, this advice, then the board will have to decide whether to initiate an addendum at that time. If they decide to do that, I would imagine they would begin scheduling LCMTs for input into that addendum process.

MR. ADLER: So as we leave Addendum XVI, we don't have Addendum XVI. We've got piecemeal but we don't have a final addendum; is that correct?

MR. BEAL: The board clearly did not finally approve Addendum XVI. It is in limbo right now. They talked about the first motion that was passed today with moving away from the Collie-Sissenwine Model, and there is that other motion that is still in play on 25th and 75th percentile that is going to have

to be considered at the next meeting. I think it is still in the approval process, but it has not been approved now.

TECHNICAL COMMITTEE REPORT

CHAIRMAN GIBSON: Okay, Carl, are you ready for Agenda Item 6?

MR. WILSON: Yes, and I guess this is going to have to be in an abridged version considering the conversations we have had today. I would say where we should probably end is a discussion on kind of the magnitude of measures that the technical committee would like to see and kind of get those on the board's radar screen, and maybe we can go from there.

We will try to go through this rather quickly. This was I believe presented to the board or the memo was given to the board last August, and we wanted to address rebuilding for the entire Southern New England stock area and portions of the Gulf of Maine; namely, Area 514. I think it is critical from the technical committee's perspective that we have to scale the fishery to match the current abundance and environment conditions, whatever has led it to this point.

For example, in Southern New England we are now back into early 1980 levels of abundance, but we're into early 1990 levels as far as the scale of the fishery that is occurring; so, appropriately matching the fishery to the stock conditions. Then we'd also like to make kind of maximum likelihood of rebuilding a depleted stock even if environmental becomes less favorable. We need to give the stock a chance to rebuild.

For Southern New England this would involve a 73 percent increase in current stock size to the median level, so, again, this is maybe a moot point at this point. We would say that this requires significant changes. To begin with, you have to deal with latent effort, but then there was consensus within the committee that output controls are the best methods to rebuild. For Southern New England we discussed harvest moratorium, quotas and then severe input controls such as half an inch gauge window.

What we put forward was for input controls within Southern New England, a trap reduction of 50 percent of current use, license reductions, closed seasons between June and October, definitely strategies to reduce harvest, maximum reproductive potential, reduce gear conflicts by having the gear actually removed from the area, understanding that

this would likely shift effort to open months and a closed season may not reduce the harvest as much as we'd like just because it would be an effort shift and it would turn into what we see in Canada where a very high percentage of landings happens immediately after the fishery is opened.

We also talked about a slot limit, maximum sizes within one molt of the minimum size to be effective, so if the minimum size was 3-3/8 then a maximum would 3-3/4. Reduced harvest of larger lobsters would increase the reproductive potential. Closed area; if this was a discussion, it would need to be large and in areas of concentrations of spawning adults to be effective. Any consideration of closed areas would have to be large enough to account for lobster migration.

514 is a different circumstance and needs a little bit of a discussion in that differing from the rest of the Gulf of Maine, 514 has seen very different trends in abundance. Where the rest of the Gulf of Maine is at or near record levels of abundance, 514 is at or near record low levels of abundance.

The feeling is that the conditions within 514, maybe there are different stock-recruitment relationships within 514 that need to be addressed. 514 has been highlighted in each of the last two assessments as an area that managers should consider for taking action. There is a recent paper that came up this year. The lead author was Lew Incze at the University of Southern Maine and many others that describe how Massachusetts Bay or Area 514 source of post larvae's to settle and provide future abundance levels is largely confined to what production is originating in 514.

We feel that this is an excellent opportunity to see if we were able to increase the spawning stock within 514. If we are able to increase the spawning potential within 514, then we should see a resultant spike-up in settlement, we should see juvenile abundances start to tick up and we would start to close the loop between a management action or trying to manage a stock return or recovery.

What we would suggest for rebuilding within 514, again based on median, with a gauge increase to 3-3/8 – this would increase spawning potential – move the minimum size closer to 50 percent maturity and a reduction in effort, 50 percent removal of active traps in 514. It is assumed that a 50 percent reduction in effort would not be a 50 percent reduction in the harvest as well. That's it.

CHAIRMAN GIBSON: Any questions for Carl? Dave Spencer.

MR. DAVID SPENCER: What is the date that this rebuilding needs to be done by; is that what was in an addendum a few years back that goes out to 2021 or so?

MS. KERNS: We said that we would need to rebuild in 15 years, which was 2022.

MR. SPENCER: Okay, so that will be what the LCMTs are looking at, that sort of broad timeframe in order to come in compliance?

MS. KERNS: Unless the board makes any changes, yes, that would be to increase abundance and it has the five-year checks through that time series.

MR. SPENCER: Okay, and I have one more question, if I could. What would be date from which – or when did this stock assessment end? In other words, I'll make this specific to Area 3. We have had continuing management measures that extended beyond the date of the stock assessment, so what date would that be, please?

MS. KERNS: The terminal year for the stock assessment was 2008. We used data through 2007.

MR. P. WHITE: I know we're tight on time, but could you just do a brief summary of what Lew Incze's presentation was because I think that will lead us into the discussion of the effects of different regulations on the rebuilding schedules or possibilities for 514.

MR. WILSON: Are you looking for a presentation, Pat, or are you looking for an overview?

MR. P. WHITE: Just an overview, if you could, because I know we're rushed for time.

MR. WILSON: I was involved with this project personally as well. Essentially this was a collaboration that looked at kind of this coupling of physical models looking at the currents, salinity, temperature structures within the Gulf of Maine and linking that to some of the biology that we had available.

It was trying to estimate what the connectivity between different regions within the Gulf of Maine was. It was based around a circulation model and then a series of biological parameters that said if larvae are released here, they go into the water

column, they develop within the water column and then where are they likely to settle out.

In summary one of the figures in this paper kind of describes local recruitment patterns as opposed to recruitment patterns that are drawing in post larvae from away, let's say, or upstream. If we go to the Massachusetts Bay portion, it is essentially saying that 0.02 or 2 percent of this post larvae are coming from upstream portions of New Hampshire and 96 percent of the available post larvae are coming from Massachusetts Bay.

The hypothesis that we have been talking about within the technical committee discussion is this is an opportunity if Massachusetts Bay was able to increase its local production, then you might be able to leverage a positive effect for settlement and a positive effect for juveniles and adults – down the line adult abundances.

In contrast, if you look at other areas such as Zone A, so this is far eastern Maine, the majority of the post larvae are coming from the upper Bay of Fundy, lower Bay of Fundy, and southwest Nova Scotia, and only 2 percent are coming from post larvae that are produced locally.

CHAIRMAN GIBSON: What I'm getting out of this is evidence that this is a closed system and there is a real opportunity to test a hypothesis of what happens if you reduce fishing mortality and rebuild local egg production in terms of recruitment response.

MR. WILSON: Exactly.

MR. ADLER: I thought that presentation was very good. However, is there a way that someone – maybe the technical committee can also look at Jim Manning's studies of his drifters and his current things. When I talked to him the other day, I'm not sure but he almost had a little bit different picture, and it might be useful to get both scenarios because he has been doing that a long time as to where the larvae float, swim, move, whatever, so you could look at it.

MR. WILSON: Yes, the physical model that used in this, so the model of the currents and temperature structures, I believe has been validated through the buoys and using Jim Manning's drifter data, but we can go back ask the authors the model validation of the physical parameters.

CHAIRMAN GIBSON: Okay, I'm now out of time. Carl has presented the technical committee's likely suite of management measures. At this point given

the context of the motion we passed earlier, it is my understanding you would go back and in some way retool these in anticipation of what the board might adopt relative to thresholds and recommendations that you might have on targets. Anything else? Pat White.

MR. P. WHITE: Well, I just had a question because what they have been tasked to do is all relative to Southern New England and not to Area 514?

CHAIRMAN GIBSON: We have not tasked them with 514 rebuilding. We have tasked them with advising us on Southern New England rebuilding, which would be, as I said, an upgrade or a refinement of what Carl just presented us. I think if you want that, you'd have to have another motion to that effect.

MR. P. WHITE: Well, I kind of thought that's why he was making that presentation because of their concern and it has been, again, in the last two assessments concern about rebuilding in Area 514.

CHAIRMAN GIBSON: Yes, I don't disagree with that. I'm just saying the motion we passed before with providing advice to us on was specific to Southern New England.

MR. P. WHITE: **Well, then, I'd like to make a motion we task the technical committee the exact same thing, only for Area 514.**

CHAIRMAN GIBSON: Seconded by Mr. Ewing. Board discussion on this motion? Bill.

MR. ADLER: All right, I have a problem with mini-managing here. It seems like based on various documents and scientific information that we're trying to pick on a little part of a healthy area. I'm not saying whether it is a problem or not, but I don't want to get into subdividing little areas in the world, inside management areas. It is all right if you want to have LCMTs get together to explain why they should be singled out, but I have a problem with subdividing management areas. I just want that on the record.

CHAIRMAN GIBSON: Anyone else to the motion? Seeing none, we will caucus on that one. The motion is move to task the technical committee with identifying issues impeding stock rebuilding in Area 514 and developing a suite of measures to begin stock rebuilding in Area 514. Motion by Mr. Pat White and seconded by Mr. Ewing.

(Whereupon, a caucus was held.)

MR. SIMPSON: Just a question about 514; it hasn't been assessed separately unlike Southern New England. Maybe Carl could just comment on our ability to do this for 514.

MR. WILSON: We did look at stock indicators for 514; and I believe since the assessment they have adapted the Gulf of Maine Model to 514 as well.

CHAIRMAN GIBSON: Okay, are you ready to process this motion? All in favor raise your right hand; opposed; abstentions; null votes. **The motion carries 8 to 1.** Dan.

MR. McKIERNAN: If I could request the technical committee, when they meet and there is an opportunity to get some feedback from the industry, maybe hold a meeting in Massachusetts with maybe the LCMT members from Area 1 and from Massachusetts just so we can bring them together and not just have a document come out of left field by the technical committee. I think dialogue is really warranted on the stock status and the signals that the technical committee claims to see.

CHAIRMAN GIBSON: Are you asking for an LCMT meeting because I think the board agreed to –

MR. McKIERNAN: I'm asking if the – and I can do this informally outside of this arena – I'm asking for sort of a public meeting where the industry can discuss the issues on the ground in Area 514 so that they can understand the signals that the technical committee is seeing, and the technical committee can hear from them about the performance of the fishery. At the end of the day there are going to be recommendations to alter the fishery, and I'd like to have a dialogue with them in advance of a report coming out. I think it would be a healthy way to go about this.

CHAIRMAN GIBSON: Well, it is my understanding that before we were interactive with LCMTs that we would come back in the spring and agree that we needed to initiate an addendum process to address these rebuilding issues. You're suggesting interactions before that and I don't think that's what the board was talking about to this point. There is nothing to stop DMF from doing that on their own, but I don't have a sense that the board wanted to get official LCMT meetings going before we had advice from the technical committee and made a decision to initiate an addendum.

MR. McKIERNAN: So how do you recommend I inform the industry and our Gulf of Maine fishery

about the findings because the findings aren't really clear about Area 514. Carl said that it has been assessed separately. I'm willing to do this, I'm willing to bring the information forward, but I think I need some technical committee help.

The average guy on the waterfront thinks that the Gulf of Maine stock is not overfished and overfishing is not occurring and they're going to react quite negatively toward the thought of having to reduce half the traps and raise the gauge. I need to build a case.

MS. KERNS: Dan, you can hold an LCMT meeting at the request of the state, and your state biologist can be there. Since it is an Area 1 issue, then you can also make the request that Carl be there since the state of Maine is there as well as Josh from New Hampshire, and then you would have three members of the technical committee there to sort of engage in that dialogue and interaction with the LCMTs.

If you did it after the technical committee met, then the technical committee would have sort of put some thoughts together on 514 first and then be able to have that dialogue. If information comes out of the dialogue, then Josh, Carl and Bob can bring that back to the rest of the technical committee before the board potentially through a conference call.

CHAIRMAN GIBSON: Is that okay, Dan? Thank you. Okay, come on up.

MS. SPINAZZOLA: I think what Dan was talking about is a very good idea, and frankly I thought about it when you were discussing Southern New England. If the technical committee is going to get together to discuss what kind of management measures should come forward, I think to be able to work with the LCMTs – they should still discuss what needs to be done, but if they can sit down and talk with the LCMTs, I think that would be a really useful tool and would create a situation where later on there is far less confusion.

What I think would be a good thing is for – and, frankly, in Area 3 we can't request the technical committee do anything because we're not the head of a state or anything else. Therefore, I would appreciate it if the board would recommend that the technical committee work with any of the LCMTs that request their assistance or their guidance.

MR. R. WHITE: Going forward with this process, would the LCMT meet twice, then, or would the LCMT meet prior to the technical committee

reporting to the board; and if the board decides to take action and go forward with an addendum, the LCMT is going to meet again, then?

CHAIRMAN GIBSON: It seems to me heavily engaging the LCMTs now is simply premature. It doesn't know what we're going to do or if we're even going to configure an addendum or not to respond to these. If individual states feel that there is a need to communicate with their industries relative to what has happened at this meeting or what might be coming down the road and what input they might want to solicit, I think they're free to do that. That's my view of that.

MR. ADLER: Yes, we could do that, and maybe the LCMTs obviously from Massachusetts would be there, but we might have a meeting with everybody, nothing to do with the ASMFC, where you could have the scientists explain, and it would be the 514 fishermen, and to explain what is in the works, that type of a thing. That could be done.

CHAIRMAN GIBSON: The next item on the agenda is update on Outer Cape Cod regulations.

UPDATE ON OUTER CAPE COD REGULATIONS

REPRESENTATIVE PEAKE: I'll try to be brief given what the hour is and where we are on the agenda. As recently as yesterday I had a conversation with one of the lobstermen who is representing the Outer Cape Lobstermen's Association. Where they stand as of today, the Outer Cape Lobstermen's Association has convened three or maybe four times since the time of our annual meeting when we were in Newport.

Most recently they attended the Massachusetts Lobstermen's Association and participated or maybe sort of took over a round table discussion that was going on there. They have voted as an organization to pursue two courses of action right now with a possible fallback action, depending on how the two courses of action go.

One is to follow up on an offer made by the Division of Marine Fisheries to call an LCMT meeting to discuss the 27 federal permit holders, specifically, who currently or in the past were fishing under the Outer Cape Lobster Management Rules. The second is a request to have a meeting with NMFS. Just before this meeting began, I spoke with Bob Ross down the table, and the impression that I get is that they would be amenable to having that meeting.

The Outer Cape Lobstermen's Association, at their most recent meeting, then further authorized the board of the association to retain counsel to pursue whatever remedies they may have to depending on the outcome of those discussions. I guess you'd say their bottom line is what they're look for and the thrust of the conversation with NMFS in particular is for these 27 dual permit holders, they're seeking an exemption for all Outer Cape trap fishermen that already follow the state's Outer Cape Conservation Plan. That is where we are. It's a story that is unfolding. I think that after the LCMT meeting and certainly the meeting with NMFS we'll have a more focused look at exactly where we are with this.

CHAIRMAN GIBSON: Thank you; any questions? Pat White.

MR. P. WHITE: I just had a question for Sarah because I thought we were supposed to have more of a report. I guess I was expecting the results of an LCMT meeting or a meeting of the Outer Cape to be brought forward to this board today.

REPRESENTATIVE PEAKE: Well, I'm not quite sure how to respond to that. They were at the November meeting. They heard the discussion. I have made several follow-up phone calls. I've had discussions with Mr. Adler. They are where they are today. Would I like them to be farther along?

In all honesty, perhaps yes, but I still think that – you know, they've had the discussion with DMF. They're prepared to meet as an LCMT, and we have the green light from NMFS to have this meeting. They are moving, maybe not at a pace that this board would like to have seen, but they are making progress in this area.

MR. P. WHITE: So the NMFS law goes into effect when?

MS. KERNS: July 1, 2010.

MR. P. WHITE: And so we're not going to have any further discussion on this until our May meeting and then it is going to have to go into action by July 1st?

MS. KERNS: Correct.

CHAIRMAN GIBSON: Anything else on this agenda item? Seeing none, we will move on to Area 3 LCMT and vent size.

DISCUSSION OF AREA 3 LCMT

VENT SIZE

MS. KERNS: I'd like David Spencer, the chairman of the Area 3 LCMT, to come forward to bring forward the LCMT's recommendation to the board on the vent. Just as a quick background, just so the board recalls, Area 3 increased their minimum size to 3-1/2 inches July 1, 2008.

At this time period the LCMT asked for a delay in changing the vent that corresponds with the 3-1/2 inches, and the board granted the LCMT that delay, and that two years is up July 1, 2010. The National Marine Fisheries Service has already changed their rules and has put the change in the vent in place for July 1, 2010, so that measure is in place for federal waters already. David.

MR. SPENCER: The Area 3 LCMT would like to make a recommendation to the board requesting an indefinite delay in the implementation of the increase in the vent size that is slated to take place on July 1st. I'll be very brief. The two overriding reasons are there is a great concern as to what this next vent increase may mean in terms of what it allows for discards.

Essentially I think in the offshore it is supposed to let out 17 to 21 percent. Area 3 voluntarily has taken itself out of the chicken lobster market with its 3-1/2 inch minimum size. We have no problem with that. There is great concern this increase in the vent size would actually take us out of the quarter market. We don't think that is in our economic best interest, but we also don't think it compromises our biological goals.

The second reason is that the vent sizes are kind of a remnant from the F-10 days, which we have moved beyond and are now under a new management regime. While we still embrace the 3-1/2 inch minimum size, we don't see the need for the increase in the vent. Just as a reminder to the board, we don't feel this is going to compromise our biological goals.

We have continued every year, including this coming year, with at least one new management measure. We have finished eight years of gauge increases. In 2009 we are at 3-1/2 inches, by far the highest minimum size of any of the areas. We continue our trap reductions. We have another trap reduction coming this year at 2.5 percent.

We will have a total active trap reduction of 30 percent since the initial allocation, as well as implementation of a maximum size, which is

reducing. We adopted the more restrictive V-notch measures and have on the table, when transferability is implemented, measures to further reduce effort. We are asking the board to take all that into consideration and allow Area 3 to indefinitely postpone the vent size increase. Thank you.

MR. BEAL: Okay, thank you. Mark stepped out for a minute so I'll just be the interim chair for this discussion at least. Are there any comments or questions for David? Bob Ross.

MR. BOB ROSS: Maybe I could get some clarification from the technical committee relative to whether Area 3 gauge and vent were proportional to the other areas, and was this a standardized process across all areas?

MR. WILSON: I think your suggestion is right on; is that the gauge sizes and vents were all given approximately about a 25 percent kind of conservation benefit. If the board was to delay implementation of the larger vent, then Area 3 would have – in the different stock areas would have slightly less of a conservation benefit relative to what the other management areas are being held to right now.

MR. BEAL: Bob, you have any followup?

MR. ROSS: As was noted earlier, NMFS has already gone out to rulemaking, and we have a final rule in place. Our schedule is set that this vent is compatible to the gauge size that was agreed to and approved through the commission process. At this point, unlike, for instance, the Magnuson Act, the Atlantic Coastal Act does not have anything like emergency rulemaking provisions.

If we had to evaluate a request to indefinitely delay the vent increase, it would require a full rulemaking process for us and potentially take time to do that and at the same time impacting our ability to move forward on some other key regulatory actions we're taking. Those are my comments.

CHAIRMAN GIBSON: Okay, the board's perspective. Toni, would you summarize what the status of state actions are through the commission on the operational FMP.

MS. KERNS: I haven't received compliance reports yet because they're not due until March 1st, but it is my understanding that states are putting this vent in place since that is what was in the books for July 1, 2010, so states should have that done. If the board were to indefinitely delay this vent change, I believe

the board can do this through board action, but then we would have differing regulations in state waters versus federal waters.

MR. AUGUSTINE: I'm wondering if in fact we go down that road and delay indefinitely and we do end up with different regulations, what would be the possibility of the feds taking action against the group of fishermen that would be fishing out in the area. Would they be found to be out of compliance or could this possibly, down the road, lead to an emergency action on their part that might show us – or not being able to fish once we get to an 80 percent level of harvest or something like that.

I really need some clarification on that before I think we look hard at postponing. I understand the concern that we're dealing with, but I think we need to be realistic about is that the right thing to do. If I can get an answer, I would appreciate it, Mr. Chairman.

CHAIRMAN GIBSON: Was that directed at our law enforcement official or at the federal representative?

MR. AUGUSTINE: Well, the federal representative first. I know that the law enforcement people are going to have to, but I'd like to hear from Joe afterwards.

CHAIRMAN GIBSON: I was surprised he didn't jump out of his chair when it came up, but, Bob, do you have a thought?

MR. ROSS: Again, under the Atlantic Coastal Act we do not have emergency action provisions, unlike Magnuson, so we would have to respond through a full rulemaking. We went through a full rulemaking when we implemented this measure initially and justified our action through our analysis at the time, through an environmental impact statement. I can't tell you what response NMFS would ultimately take if we received a request from the commission asking for a permanent rescission. Again, our position was that was the best available science; and unless there is some new information that indicates there was flaw with this increase over the other compatible gauge/vent increases, I think that is highly – it would be difficult to justify backing in one area.

CHAIRMAN GIBSON: Thanks, Bob. So, Pat, it would have to go to a full rulemaking. We could act quicker. However, the wisdom in doing so is the question to this board right now. Is there anybody who wants to advance a position or thoughts on what the commission ought to do?

MR. GROUT: I guess my thought would be to remand this request first to the technical committee to give us input back on what is going to be the effect on the conservation measures that were in place.

CHAIRMAN GIBSON: Is that all right with the board to refer this issue to the technical committee for some advice before we think about it anymore? Bill Adler.

MR. ADLER: If I may, Mr. Chairman, I'd like to ask Bob Ross is the emergency action avenue or the full rule change; is that the only thing NMFS has that can do anything about this or is there any other way that they can do something other than – they can't do emergency action. They have got to go to full rulemaking. Have you got anymore things in your book there that NMFS can act on?

MR. ROSS: I'm not aware of any, Bill.

CHAIRMAN GIBSON: Carl, do you want to speak to the issue of the technical committee?

MR. WILSON: We can certainly review it and provide a consensus opinion, but I think for the Southern New England stock, it is our stock of most concern, and so if there is conservation benefit worked into the gauge size to the vent size, then any loss of that is a loss to any potential rebuilding, however significant that might be, but it's a loss to the overall positive effect within Southern New England.

CHAIRMAN GIBSON: Is there any objection at the board of asking this question of the technical committee? Seeing none, we will do that. Dave Spencer.

MR. SPENCER: Just for clarification, I'm glad he brought Southern New England up. We obviously span three stock units. We have fishermen in Area 3 that do fish in Southern New England. We have by an eighth of an inch a larger minimum size than any other management area within that stock area, so I think that is paramount to keep in mind.

Number two, many of the management measures Area 3 has in place were not a response to a direct edict or to make to reach a goal that came out. A lot of these have been elective. They have been proactive and have been done to move us along. I don't think if we take this away we're renegeing on any goal that was put forth to us. Thank you.

CHAIRMAN GIBSON: Thank you, Dave. Anything else on this issue? Seeing none, the technical committee will advise us on this and the conservation benefits and potential loss. The next item on the agenda is the discussion of Cancer Crab and Lobster Fishery interaction.

DISCUSSION OF CANCER CRAB AND LOBSTER FISHERY INTERACTION

MS. KERNS: Back I believe it was in August, the board asked staff and the plan review team to look at the Cancer Crab and Lobster Fishery interaction. The plan review team got together on a conference call and discussed what types of evaluations we could do and what types of management responses would be necessary if the board wanted to take any action on potentially developing either an FMP for just crab alone or incorporating the crab fishery into the Lobster FMP.

The concerns were that there may be either illegal or additional landings of lobster through the crab fishery. What I did was put together some information for the board on the licensing of the crab fishery. The states of Maine, New Hampshire and Massachusetts all have a lobster/crab license. They go hand in hand. You can't crab without a lobster license and you can't lobster without a crab license.

The state of Rhode Island has three different licenses that you can use to crab. There is a multi-purpose license which incorporates all species, so there is no way to determine exactly what an individual is fishing for unless you go through and look at his trip reports. The other two licenses where you can lobster and crab, you have to have a crab endorsement on those licenses, so then you can determine if someone is specifically targeting for crab and lobster at the same time.

For Connecticut, they have a multi-purpose license as well, but when I looked at the data there are no trap landings of crabs since 1979, so it doesn't seem to be an issue in Connecticut. New York has a crab license, but that license incorporates all crab fisheries, so it is hard to determine what is being targeted.

The National Marine Fisheries Service, within the lobster license, if you have a lobster pot in the water – if you have a pot in the water and you have a lobster license, it has to have lobster tags. You can't have any other types of pots in the water if you carry a lobster license; so therefore if you have any other

pot out there, then it would be considered an illegal pot.

Then the plan review team requested from the states data on their lobster and crab fishery interactions. The best state that had data that was available for me to look at was the state of Massachusetts. There are some other states that are still working on compiling information, but they just have to dig deeply into that information.

I asked ACCSP to also take a look at this, but when you get into the details of the data, the data become confidential and so therefore I cannot present any of the information that was given to me for interactions with the crab and lobster fishery. Just to give the board an idea of where the majority of catch is coming from for those that have a lobster license and also land crab and the states that bring their catch back to the state of Massachusetts, the majority of those landings are being caught in federal waters.

You can see since about 2003 that there has been a pretty large spike in those landings, and it is fairly consistent for those that are only fishing in state waters. This looks at those individuals that are landing crab in the trap fishery versus the non-trap fishery. There are some landings of crab in the non-trap fishery. It just looks like it is very minimal to the scale.

MR. McKIERNAN: May I ask a question? Toni, are you confident that those crab landings that you're depicting are Jonah and rock crabs or a Cancer genus?

MS. KERNS: I asked for Cancer crabs. That is what I requested.

MR. McKIERNAN: Okay, if I may, this initiative is to try to constrain the Cancer Crab Fishery that is a long-time bycatch of the Lobster Fishery, and in my opinion this fishery has proliferated since the imposition of effort control on lobster fishermen, and that is what we're trying to constrain.

MS. KERNS: Then the final graph depicts the difference between lobstermen who report landing crab versus lobstermen reporting landing more crab than actual lobster. The red line is those that land more lobster than crab, and the green line is those that land more crab than lobster, so those that may be directing crab versus lobster.

When the plan review team got together and had their discussion, the National Marine Fisheries Service

was a part of that call. We determined that if we were to add crab into the Lobster FMP or if we were to go forward with a full FMP we would have to have a very extensive review of the crab fishery and an analysis of some sort of health of the crab resource in order to have that sort of FMP produced on a federal level.

We would be able to do somewhat of a less rigorous analysis if we put forward some sort of regulation similar to the exemption that was done with the black sea bass fishery for Area 4 in terms of the analyses needed for the National Marine Fisheries Service to adopt some sort of regulation concerning crab.

If we add this fishery into the Lobster FMP, we would need to do an amendment to the plan. This cannot be just an addendum to the plan. The plan review team is looking for feedback from the board if you want to see further analysis from other states on the type of information that you see or if you want to go ahead and move forward and add it to plan. The plan review team wanted to point out that the one state that doesn't have a license that is tied to lobster is Rhode Island that potentially has significant landings as well as New York where we actually see landings in the pot fishery.

MR. McKIERNAN: I would be in favor of moving forward with an amendment in order to control the number of traps that are being fished for Jonah crab and to ensure that those traps that are fished for Jonah and rock crabs, or the Cancer genus, are only those traps that are approved under the Lobster Plan. If we don't take this action, then the effort constraints that we have in Area 3 and Area 2 would be weakened. I would like to make a motion to that regard if it is appropriate at this time.

CHAIRMAN GIBSON: Toni, you said it would require a plan amendment to add crab management to the Lobster FMP. This is a question for Bob; what is the status of the work plan priorities and that sort of thing relative – this is a fairly substantive undertaking.

MR. BEAL: In the 2010 Work Plan there is a line under the Lobster Management Board that said to determine what action, if any, the board would want to take with respect to Jonah crabs. There is a note that the board may do something with Jonah crabs or Cancer crabs, but there weren't a lot of financial resources set aside.

If the board wants to initiate an amendment, I think the first step is the plan review team and plan

development team drafting a public information document and bringing it back to the board in May, which is fairly inexpensive to do, so I think that can be done. I think when we get to the point of public hearings and that type of thing, we apparently have limited staff, financial and time resources to send out on those public hearings. We have worked around that in the past with states doing their own hearings and those sorts of things. If the board does want to move forward, with the resources available we can kind of creatively move forward.

EXECUTIVE DIRECTOR O'SHEA: Bob's was the process response. I suppose I have sort of a philosophical or question of the idea here, and that is to amend – the consideration here is to amend the ASMFC Lobster Plan to define these crab traps to ensure they're consistent with our definition of a lobster trap, but the vast majority of this gear is being used in jurisdiction beyond what the state has control of.

So you would be considering one of two things, then I suppose; one, make this gear a possession rule within the states, to give the states jurisdiction when the gear comes in; or, you're betting on the National Marine Fisheries Service at some point in time amending the federal regulations to make it apply beyond the states' jurisdiction. Now I'm not explaining the intent here. That is a question.

MR. McKIERNAN: Vince, that's exactly right, I would like to propose that we work to develop a plan where each state would have regulations that would require any trap capable of taking lobster to have a valid lobster tag affixed to it, issued either by the state or the federal government.

MR. R. WHITE: How do we know – what biology do we have on this species and how do we know that there needs to be action taken to limit harvest?

CHAIRMAN GIBSON: I don't know of any other than we saw in that graph that a whole bunch of fishermen are now taking crabs that didn't use to take crabs starting in 2000, but that is what I know about it at this point. I think Toni said that there would need to be a substantial body of evidence developed in support of an FMP amendment justifying need and so on.

MR. R. WHITE: Yes, I say that not having concern that there may be a problem here, but I guess I am concerned about going down the road of limiting traps and harvest to a species we don't know if we need to limit.

MR. WILSON: I might give a little bit of explanation. We had similar conversations in the state of Maine about Jonah crab-specific traps about ten years ago, right when Massachusetts saw the little uptick in state water landings in the early 2000s, the same time that our landings I think spiked over 5 million pounds on the coast of Maine. We went through an experimental fishing permit process with the National Marine Fisheries Service to develop a crab-only trap to minimize the catch of lobsters.

Essentially where that conversation ended up in the state of Maine was the feeling that the existing lobster fleet had sufficient capacity to prosecute crabs and to exempt the trap or to start a new fishery for crab at that time really wasn't called for. There is a fair amount of biology available for that resource as far as we know when they're mature, we know some of the makeup of the landings. It is incomplete compared to what we have for lobster, but there is some there.

MR. R. WHITE: Should we be asking our federal partners to start a process of having a management plan? Is this our responsibility to decide on how this species is managed if it is not in state waters?

CHAIRMAN GIBSON: Well, I think that is the question Vince originally asked and Dan tried to follow up on is what is the rationale for jumping into this; and if we do decide to jump into it, are we going to try to be the mechanism to drive the whole process. Pat Augustine.

MR. AUGUSTINE: Maybe it would be appropriate to set aside a small focus group of those states that have an interest in developing an overall licensing program with those folks that have. I guess the real question is those states that don't have an encompassing license that covers both crabs and lobsters; is there resistance on the part of your participants to accept if the state decided to come forward and say, look, we're now going to have this license that covers this and this?

It just seems to me before we spend two years trying to develop this process, we might want to see how many hands we have that really have a major problem with it. I do agree we need to get in control of the crab population sooner or later and the harvest, but is it now and is it alone? It seems to me we may need one or two steps before that. If there is a dire need for specific states, is it possible that they could, through their management systems within their concern, the fishery management control, if they can

move forward with a licensing to be more encompassing.

CHAIRMAN GIBSON: Well, it is certainly possible. Because Rhode Island has identified as one of those loose areas, we're certainly talking about revisiting our licensing structure again. I can tell there will be much resistance to abandoning the multi-purpose licenses and creating additional endorsements. That is not to say we can't do it, but it is a heavy lift.

We went through that once in the early 2000s, and we're still reeling from the effects of it. I personally like the idea you had of a targeted workgroup to further explore this. I'm nervous about a motion coming out now to amend an FMP. Dan.

MR. McKIERNAN: The question I have is for Joe Fessenden. I think we're trying to plug a hole in the dyke. Joe, what is the Maine position on someone sailing from a Maine port with an untagged trap?

COLONEL JOE FESSENDEN: Any trap that can catch a lobster in it is considered a lobster trap, so unless it is exempted – we have a few trap designs that Carl has exempted that would be exempted from our lobster trap tag requirement, but all of the traps that are capable of catching lobsters are required to have a trap tag on that trap.

MR. McKIERNAN: That is what I'm trying to achieve in every state. It is not complicated. If we leave this door open, I can tell you I've had interactions with vessel owners who have taken their federal lobsters permit and their Area 3 trap allocations and they've moved it to another vessel so can go out in the morning and steam out with a set of untagged traps. You've got to help us here.

COLONEL FESSENDEN: Well, certainly, it is alleged that this is going on in Area 3, and really for law enforcement to monitor this thing we'd have to actually catch somebody taking lobsters out of their crab trap and untagged, which is almost impossible. This could be a potential huge loophole in states that don't have similar rules that Maine has and I think Massachusetts has.

CHAIRMAN GIBSON: How does the board want to proceed? Dan.

MR. McKIERNAN: I have a motion if I can throw it up on the board.

CHAIRMAN GIBSON: Yes, you might as well, to get started.

MR. McKIERNAN: **It is a motion that board request staff to develop an amendment to the Lobster Plan which would require all crab and lobster traps to have a current valid lobster trap tag affixed to it and all fishermen possess a crab license issued by a state or federal agency.** Specifically, this is for the Cancer genus. It does not apply to red crabs. It wouldn't apply to blue crabs. It wouldn't apply to green crabs. We're talking about the Cancer genus, which is rocks and Jonahs.

CHAIRMAN GIBSON: Does anyone wish to second this motion? Doug Grout seconds. Okay, discussion on the motion? Bob, could you just restate if we pass this action today what we might expect to see in the spring meeting.

MR. BEAL: Well, the board will have to discuss the timeline. The first step would be a public information document, which is essentially what the federal government calls a scoping document to bring out the notion that the board is considering taking action with respect to rock crab and Jonah crab.

Hopefully, we will be able to summarize the existing biological information and present that in the public information document and move that forward. As I said, there are not a lot of financial resources so I don't think we will be able to get the plan development team together face to face. I think this is all going to have to be done through work at the state level and sending pieces of the public information document into staff and staff will compile the document.

CHAIRMAN GIBSON: Thank you, Bob. Board discussion on the motion? I would suggest that if this motion fails, we have a fallback position that Pat Augustine had articulated, which was a focus group that would get together and try to decide on a course of action absent a formal amendment action today. We will caucus on that and then I'll read the motion.

(Whereupon, a caucus was held.)

CHAIRMAN GIBSON: Is the board ready to vote? The motion is move that the board request staff to develop an amendment to the Lobster FMP which will require all Cancer species crabs and lobster traps who have a current that is valid lobster trap tag affixed to it and all fishermen to possess a crab license issued by a state or federal agency. Motion by Mr. McKiernan; seconded by Mr. Grout. Okay, all in favor; opposed. **Let the record show the chair voted to create a tie, so the motion fails.**

MR. AUGUSTINE: Do you need a motion, Mr. Chairman, or can you by decree suggest we put together a focus group on the issue?

CHAIRMAN GIBSON: If everyone is in agreement that is a secondary way to proceed, then we can do that. I don't see the need to belabor more motions here. Doug Grout.

MR. GROUT: I asked if this is something primarily something that is happening in the federal waters. Is there any kind of information on the status of the crab resource that has been presented to congress or is it status undetermined? Is there any information that can be used to determine what the status of the crab resource is?

MR. ROSS: I'm not aware of any, no. My understanding – and, again, I'm mirroring some of this from hearsay, but there was a request through the industry to the appropriate council, the New England Council, to evaluate the need for a Crab FMP, and the council chose not to move in that direction.

NMFS concern continues to be the lack of any kind of information on the resource or the fishery that would justify management action at this time. I applaud the commission and its effort to begin collecting information that may be necessary to move forward at the federal level if there is a need identified by the commission process.

MR. BEAL: Just a question or clarification; if the board decides to move forward with this working group, I assume that is a subset of the management board rather than members of the public and fishermen, et cetera, a subset of the board.

CHAIRMAN GIBSON: That is correct.

MR. SIMPSON: I guess it is very easy that I'm missing something, but it seems that the real issue is a lobster one and not a crab one. We're not trying to do a crab assessment or management. We're simply trying to close a loophole that for Connecticut, thinking about my license structure, anyone who had lobster landing privileges and had a 20-trap allocation could go fish a thousand traps, 980 of which are crab traps.

The burden of law enforcement – this is a burden of law enforcement issue, so you have to be out there and catch the guy keeping a lobster from a crab trap. We're looking really to broaden the definition of lobster trap to be very inclusive. It doesn't really

have anything to do with Cancer crab traps. It is anything that is capable of taking lobsters, so it is broader than just Cancer crabs. That might be how it is played today, but it really is broader than that, so I understand it.

MR. STOCKWELL: As Carl mentioned, we have done actually more work than he gives himself credit for in developing an experimental crab fishery. My concern on the last vote was might possibly be coming to the states in more forms of unfunded mandates, whether it is in monitoring or enforcement. Should this working group go forward, I am going to volunteer myself to participate and help with what wrinkles we can. I hear Dan has got a legitimate problem and I think we can help him out without making it totally burdensome for the entire commission. Having a Crab FMP seems to me a little excessive.

CHAIRMAN GIBSON: Thank you, Terry, my sentiments as well. I think we're all clear on what problem we're trying to solve, and it is not assessing the crab resource and managing them, per se, and I would hope we would have some other volunteers for the group to try to get traction on this issue.

MR. ADLER: One more time; it has got nothing to do with crabs, really. It has to do with lobster. We're not talking about resource of the crab or FMPs for crabs or anything. It is trying to fix the lobster fishery. That is the thing.

CHAIRMAN GIBSON: I think that may be the clearest thing we have had before us today. Anything else on that? I'll work with staff to solicit a working group and get some traction on that issue. Next we have is a discussion of non-trap lobster landings.

DISCUSSION OF NON-TRAP LOBSTER LANDINGS

MS. KERNS: This will be very quick. The board asked the plan review team to include the non-trap landings in the fishery. The PRT asked that I request the board what information you want in the FMP review on the non-trap fishery so we can start looking for some guidance from the board on what you would like us to report back to you. Is it trends in landings only or any other additional information?

CHAIRMAN GIBSON: Okay, it is a question from Toni to the board? What is in the compliance reports now?

MS. KERNS: Well, this is something that we added to the compliance report back in August. When I discussed it with some of the plan review team members, they asked if there was any additional – what did the board request, and I said that we include non-trap information in the compliance report, so this is a new thing into the compliance report.

Before we just reported on landings and states did not separate out their non-trap landings. The states will now be required to report specifically on non-trap landings, so it will be trends in the non-trap landings itself, and we can compare it to what trends we're seeing in the trap fishery, but I didn't know if there was any additional information that you're looking for.

CHAIRMAN GIBSON: The question of I have is how was non-trap landings handled in the stock assessment? They're included in the stock assessment; aren't they?

MS. KERNS: Yes, they are.

CHAIRMAN GIBSON: Okay, they're included in the stock assessment now, so in future stock assessments they will be included and we will be tracking them through the compliance reports; so if we get into a problem with the stock assessments, we will respond to it and see where the problem is coming from.

MS. KERNS: This wasn't in response to the stock assessment. This was in response to the board having concerns with the new sector management rules coming into play that will begin in May, and so is there any information that the board is looking for beyond trends and landings concerning whatever your concerns are for sector management because the board never identified what those specific concerns were. The peer review is working with very limited guidance on what you want them to report back to them on the trends in non-trap landings regarding sector management.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I apologize for not bring this up maybe at the beginning of this, but just to refresh the board's memory we received a letter from Captain Paul Howard from the New England Fishery Management Council alerting us to the comments made in that forum that as a result of sector management, that there could be increased targeting or what have you with mobile gear on to lobsters; and since we have the Lobster Management Plan, to make us aware of

that. That is what started this whole issue, Mr. Chairman.

CHAIRMAN GIBSON: Thank you for that reminder. I'll go back to if landings go up, they get included in the stock assessment and if the board is not concerned about that, per se, then it becomes a distribution of the harvest as to who is catching the lobsters. It sounds to me like they need some more guidance on what to include and what to report on. Carl.

MR. WILSON: I might just suggest the inclusion of how many multispecies trips have been completed, how many trips were positive for lobsters being landed and looking at that overtime to see if there has been a shift to lobsters or at least reported lobster. As sectors develop, then we should start to see a change as well.

CHAIRMAN GIBSON: Anyone have any objection to that? Terry.

MR. STOCKWELL: I think Carl is headed in the right direction. There has been a whole lot of speculation about what the impacts, if any, are going to be of sector management on the lobster fishery and whether or not there is an increased number of trips or increased number of landings, I think the work that the technical committee is doing is going to pick that up, and we will see trends without making, as the other issue, a big deal of it.

MS. KERNS: There may be limited data that will give us information from previous history of the number of trips and then the number of trips that were positive for catching lobster. The PRT will do their best to bring as much information forward as possible, but some of the states have said they had limited data from the past but will be able to provide information for the future.

MR. STOCKWELL: There is significant amount of VTR data for the federal vessels, which is going to provide us a wealth of knowledge.

CHAIRMAN GIBSON: So is the board comfortable that the PRT has enough guidance as to what to search for and what to report on, and we will respond to those findings when we have them. Bonnie.

MS. SPINAZZOLA: Would it be possible for the board to discuss putting some sort of a trigger in since we have absolutely no idea what these landings will do. They may go down, but they certainly can go up. Considering the days at sea is no longer an

issue where the boats had perhaps 30 or whatever number of days at sea where they could bring in a hundred lobsters, now there are 365 days because there are no days at sea with sectors. Whether that means there will be a greater percentage of lobsters brought in or not, we don't know, but perhaps if you see that the number of lobsters or the pounds or whatever it is goes up a significant percent, perhaps a trigger could be put in. Thank you.

CHAIRMAN GIBSON: Yes, I think that is certainly possible. It would require a management action to do it. My suggestion is let's see what the PRT develops in terms of the data trail that we can track this thing and then cross that bridge if we think something is growing out of balance. Again, from my perspective, the landings are the landings and they go into a stock assessment.

As long as we account for them, we account for them, but I understand there are concerns about the distribution of the harvest amongst different gear types and potential for expansion of effort. My suggestion is I think we have given the PRT enough guidance and they can report back to us on what they find and this board can react to that as they see fit.. Okay, I think we're getting close to the end. Do you want to tackle FMP compliance or have we got to get out of here? That's the last item. Okay, FMP compliance and state compliance, Toni.

2008 FISHERIES FMP REVIEW AND STATE COMPLIANCE

MS. KERNS: I'm just going to quickly go through the 2008 fisheries FMP review. This is just strictly an FMP review and not a compliance report. We've seen an increase in landings since the early 1980's. The 2008 total pounds was a slight increase up from 2007. If you look at the lobster landings by state, the states of Maine and Massachusetts account for approximately 90 percent of the landings followed by Rhode Island and Connecticut and New Hampshire.

The New Jersey landings, which are the pink line, also include landings from all the states south of New Jersey. For the young-of-the-year settlement, each of the states reports their programs for the young-of-the-year settlements just a little bit different, so I have some information. The 2008 preliminary estimates for young of the year in Maine are low.

In the Area 1 of Massachusetts and Cape Cod Bay, there is a decrease in the 2008 young-of-the-year estimate. There were declines since 2005 in Salem Sound, and Boston Harbor has had consistent levels

throughout the time series. In Rhode Island there has been a decrease for the past three years, and in Connecticut we're below the long-term median for production.

The FMP review reiterates the research needs that are outlined in the stock assessment; and just quickly those are needs for new information on aging and growth. As you heard earlier from Carl, it is really important to have information on the growth to get biological reference points for the assessment – looking at ecosystem management; having 100 percent data collection from both fishery-dependent and independent; looking at historic stock levels; possibly completing transboundary assessments to include Canadian data; as well as to continue model development with the Gulf of Maine Model.

The plan review team made some recommendations to the board that we have a socio-economic assessment. Since we've had a recent stock assessment come out that would trigger management action, that we have the Socio-Economic Committee look at those management recommendations that come out of the assessment.

They also recommended having a socio-economic assessment looking at transferability since we have approved transferability in two of our management areas to see what type of trends that will be seen as transferability occurs. They suggested that the board adopt triggers using the stoplights that were done in the assessments to trigger any management action as well as having a hundred percent dealer and harvester reporting and to continue forward with cooperative management between the states and our federal jurisdictions.

The plan review also highlights the need for long-term funding for our fishery-independent surveys such as our sea sampling and port-sampling surveys as well as the ventless trap survey. All the states but one has cobbled together money for the ventless trap survey – that state is Rhode Island – for 2010.

This will be our fifth year of data for the ventless trap survey, but if we lose funding for this survey, then we won't be able to continue forward with it, and then we want to be able to use it in the assessment, so finding long-term funding for these projects is essential to put forward this information in our assessments. That is the FMP review. We would be looking for approval of this FMP review, and then I have one more thing to follow up with once we do that, Mr. Chairman.

CHAIRMAN GIBSON: Thank you, Toni; are there any questions for Toni or a motion to accept. Pat.

MR. AUGUSTINE: Very good report, Toni. **I move that we accept the FMP report as presented.**

CHAIRMAN GIBSON: Seconded by Representative Abbott. Is there any objection to approving the report as presented? **Seeing none, it stands accepted.** Okay, Toni.

MS. KERNS: The reason why the FMP review is always delayed for the board is because the states don't have compiled their landings' information or their fishery-independent data until later in the year. Compliance reports are due on March 1st. If we change the date at which the biological information that is given in the compliance report is deemed due, then we could incorporate more information from the previous year's fishery into the FMP review.

What the plan review team's hope would be is to have that information due either July or August with the hopes of either having the FMP review in August or at the annual meeting each year. We would just need a motion to change the date of which the biological information is due for the compliance reports to June 30th.

REPRESENTATIVE ABBOTT: Toni, why wouldn't you be thinking of May? I mean if we have been doing it in February, why wouldn't May work?

MS. KERNS: Compliance reports are due March 1st, and then I do a compliance review in May. Technically I should be giving the FMP review at that same time. I always wait until the states give me more information from landings' information as well as sea sampling, young-of-the-year surveys. That information doesn't trickle in usually until July or August because they haven't compiled it yet. Otherwise, I'd be giving you information from the two years' prior fishery, which isn't going to be informative to the board.

MR. ADLER: Do you need a motion? I will so move the motion that the compliance report would be given at the August meeting.

MS. KERNS: The FMP review would be given at – I think it would be best if we just gave a date for which the biological information is due for the compliance reports.

MR. ADLER: And that should be what?

MS. KERNS: June 30th.

MR. ADLER: All right, the motion would be that the compliance data is due by June 30th; would that do the job?

MS. KERNS: Biological.

MR. ADLER: **Biological data. Okay, move that the biological data for compliance reports be due June 30th; I so move.**

CHAIRMAN GIBSON: Is there a second? Seconded by Pat White. Discussion on the motion? Any opposition to the motion? **Seeing none, it stands approved.** Any other business for the Lobster Board? Vince.

OTHER BUSINESS

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, real quickly because we have Herring Section folks in the room and you have run over quite a bit. Just as an explanation, when the staff originally set up the scheduling for the lobster and herring three or four weeks ago, we didn't think that new reference point issue was going to be a factor in your discussion.

We were originally scheduled to end at 5:30 with the Herring Section. Given the importance of the reference point discussion and the fact that it is going on a year since you have received the stock assessment, we thought it important that you complete your agenda even if it meant pushing sea herring back an hour or so. That was the rationale.

We tried to anticipate how much you needed, but this thing came up at the last minute, and we thought it was appropriate to give you the time to address it, Mr. Chairman.

ADJOURNMENT

CHAIRMAN GIBSON: Thank you for that time. I'm as surprised as anyone to have that come in at the last minute. We are adjourned.

(Whereupon, the meeting was adjourned at 3:40 o'clock p.m., February 1, 2010.)
