

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SUMMARY MINUTES  
OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

ISFMP POLICY BOARD

DATE: December 15, 1994  
TIME: 10:30 a.m.  
LOCATION: Doubletree Inn  
Military Circle  
Norfolk, Virginia

REPORTED BY: Victoria L. DeBerry

ORIGINAL

1 CHAIRMAN COLVIN: Will the board come to  
2 order, <sup>and assist</sup> please. ~~Will~~ the staff <sup>to</sup> ~~please~~ call the roll of the  
3 ISFMP Policy Board.

4 MR. DUNNIGAN: State of Maine, Brennan?

5 MR. FLAGG: Flagg for Brennan.

6 MR. DUNNIGAN: New Hampshire, Mr. Nelson?

7 MR. NELSON: Here.

8 MR. DUNNIGAN: Massachusetts, Mr. Coates?

9 MR. COATES: Here.

10 MR. DUNNIGAN: Rhode Island, Mr. Borden?

11 MR. SISSON: Dick Sisson for Dave Borden.

12 MR. DUNNIGAN: Connecticut, Mr. Beckwith?

13 MR. BECKWITH: Here.

14 MR. DUNNIGAN: New Jersey, Mr. McDowell?

15 MR. FREEMAN: Mr. Freeman for Mr. McDowell.

16 MR. DUNNIGAN: Delaware, Mr. Manus?

17 MR. LESSER: Mr. Lesser for Mr. Manus.

18 MR. DUNNIGAN: Pennsylvania, Mr. Calangelo?

19 (No audible response.)

20 MR. DUNNIGAN: Maryland, Mr. Jensen?

21 MR. JENSEN: Here.

22 MR. DUNNIGAN: Virginia, Mr. Pruitt?

23 MR. TRAVELSTEAD: Travelstead for Pruitt.

24 MR. DUNNIGAN: North Carolina, Mr. Spitsbergen?

25 MR. SPITSBERGEN: Here.

1 MR. DUNNIGAN: South Carolina, Sandifur?  
2 (No audible response.)  
3 MR. DUNNIGAN: Florida, Mr. Conklin?  
4 MR. CONKLIN: Here.  
5 MR. DUNNIGAN: Legislature, Senator Gunther?  
6 (No audible response.)  
7 MR. DUNNIGAN: Georgia, Ms. Shipman?  
8 MS. SHIPMAN: Here.  
9 MR. DUNNIGAN: Governor's appointee,  
10 Mr. Cantwell?  
11 MR. FOTE: Mr. Fote for Mr. Cantwell.  
12 MR. DUNNIGAN: National Marine Fisheries  
13 Service, Mr. Schaefer?  
14 DR. HOGARTH: Bill Hogarth.  
15 MR. DUNNIGAN: U.S. Fish and Wildlife  
16 Service, Dr. Geiger?  
17 DR. GEIGER: Present.  
18 MR. DUNNIGAN: New York, Mr. Colvin?  
19 MR. COLVIN: Here.  
20 MR. DUNNIGAN: Mr. Chairman, you have a  
21 quorum.  
22 CHAIRMAN COLVIN: Thank you.  
23 MR. DUNNIGAN: Oh, I'm sorry, Potomac River  
24 Fisheries Commission, Mr. Carpenter?  
25 MR. CARPENTER: Present.

1 MR. DUNNIGAN: And D.C., Mr. Palmer.

2 MR. PALMER: (Indicated.)

3 CHAIRMAN COLVIN: We have only a couple of  
4 business items on the agenda, but we will be under "Other:  
5 Business" entertaining a report from Bill Hogarth on the  
6 proposed funding approach that NMFS intends to use with the  
7 Atlantic Coastal funding.

8 I'd like to indicate one thing, and I'll do  
9 this at the next several meetings of the policy board. We have  
10 a separate agenda item listed for public comment, but it will  
11 be my intention as chair to entertain public comment during the  
12 discussion of any agenda item in which a member of the  
13 attending public wishes to be recognized and offer comment. At  
14 a time when we have a separate public comment item on the  
15 agenda, if there are issues off the agenda that a member of the  
16 public wishes to address, we'll be happy to take those comments  
17 at that time. For issues on the agenda, we would prefer it,  
18 and it would be my preference as chair, to entertain public  
19 comment during that discussion item on the agenda. So rather  
20 than confine public comment to one sequestered corner of the  
21 agenda, it would be my intention to take it throughout the  
22 agenda as the topic arises. I don't know how clear that was.  
23 It's still early.

24 At any rate, we do have on the agenda a  
25 public comment item. And if there are public comments for

1 matters that are not on the agenda, I'd be happy to entertain  
2 them now.

3 (No response elicited.)

4 CHAIRMAN COLVIN: Seeing none, we'll move on  
5 to the first agenda item. And again, if there is public  
6 comment as we discuss this item, we will take it.

7 MR. DUNNIGAN: Mr. Chairman, I'd like to  
8 point out three items for the benefit of the policy board.

9 The first deals with someone who is sitting  
10 at the table next to the chairman, many of you have known him  
11 for some time, Mr. George LaPointe, who last week became the  
12 director of the commission's interstate fisheries management  
13 program replacing Paul Perra. George worked for the commission  
14 before. I don't know whether it's his good judgment indicating  
15 that he come back or not, but I think he certainly has learned  
16 that in the intervening five or six years he's been gone,  
17 things have changed a little bit around here. I think he's  
18 looking forward to the opportunity of working with the  
19 management boards and all of you in directing the ISFMP.

20 The second item is also another personnel  
21 item. You'll notice that when I called George's name, late, I  
22 didn't call Mr. Harris. Ms. Shipman is proxy. Georgia has  
23 made a change in the principal state official designated to the  
24 ASMFC. So Susan now comes to the policy board and management  
25 board meetings in her own right as a full member.

1           The third thing that I would like to point  
2 out to you is that you notice we have a court reporter in the  
3 room with us this week for the management board meetings. I  
4 want to explain what's going on there.

5           A couple of months ago, we decided to try a  
6 pilot project so that we could improve the documentation in the  
7 minutes of the various management board meetings and the policy  
8 board meetings when it wasn't held at the annual meeting and  
9 the spring meeting. We did that by bringing in an additional  
10 staff person who came and sat at the table with us and had a  
11 computer and took a lot of notes. That system hasn't worked  
12 out as well as we wanted it to.

13           What we're finding is that for a clerical  
14 person who has not been actively involved in the culture of our  
15 business for a long time, there's just too much that happens  
16 and what happens comes too quickly for them to be able to keep  
17 up with it and take good notes. And it really wasn't making  
18 the process of getting our documentation out any more efficient  
19 or we weren't getting it done any better.

20           A couple of our staff people after the annual  
21 meeting were putting together minutes for the various  
22 management boards where we had a court reporter and they found  
23 that it worked very efficiently. They were able to take the  
24 transcript and work it down into a set of good minutes for the  
25 meeting a lot more efficiently than we were getting even having

1 our own staff person sitting here.

2                   We're somewhat concerned about the cost. But  
3 if you'll look at the possibility of needing to do this for  
4 about 25 days worth of meetings a year, the cost of doing a  
5 court reporter and the cost of having a staff person here are  
6 about the same. So it's not -- we don't think it's going to be  
7 that much more expensive. We haven't made any final decision  
8 yet that this is the way we want to go over the long term.  
9 We're still transitioning and practicing with different  
10 approaches. Staff would certainly be glad to have input back  
11 from any of the commissioners and board members about how you  
12 see the system working, because we're here to try to make your  
13 life easier.

14                   So that's why we have a court reporter here  
15 today. We'll continuing to experiment with different  
16 approaches. Bear with us as we try to improve the support for  
17 the management boards and the policy board. Thank you, Mr.  
18 Chairman.

19                   CHAIRMAN COLVIN: Thank you. I know that  
20 we're very glad to have George with us. Do you want to say a  
21 couple of things, George?

22                   MR. LAPOINTE: Just a few. It is, I think,  
23 good to be back. It's been a good eye-opener the last couple  
24 of days just to be here at the ASMFC week for a lot of the big  
25 changes in the commission and what people expect of the ISFMP.

1 And of course, that's going to be a rapid learning curve on my  
2 part. So I guess my only comment at this point is, I've gotten  
3 some good ideas from the discussions that have occurred at this  
4 meeting about changes people want or think should be made, and  
5 I really encourage people to contact me with good things, bad  
6 things, et cetera, because to improve the program, we need to  
7 know what people are thinking.

8 CHAIRMAN COLVIN: Shall we move on to the  
9 agenda then. The first item is the report from the weakfish  
10 board. I understand that will be coming from the new weakfish  
11 board chairman.

12 MR. FREEMAN: Whoa, I didn't take this new  
13 position until the end of the meeting. Forgive me, Mr. Chairman.  
14 You may have to help me because I didn't prepare for this report.  
15 I'll just try to recall the events that occurred over the last  
16 meeting.

17 The main topic dealt with the compliance of  
18 Florida relative to the weakfish plan. The policy board had  
19 previously taken action to vote Florida out of compliance with  
20 the plan. Since that time, Florida has taken a number of  
21 actions through its Marine Fisheries Commission to put  
22 regulations in place involving both the commercial and  
23 recreational fishery. The weakfish management board reviewed  
24 these yesterday and took action to rescind its original vote  
25 concerning Florida's compliance with the plan.



1           It did, however, request or require that the  
2 technical committee analyze Florida's actions to make certain  
3 they were in compliance with the provisions of the existing  
4 plan and report back to the management board as soon as  
5 possible. The vote essentially required this action by the  
6 technical committee by no later than the first week in January  
7 of next year. We anticipate that action. The board will meet  
8 in mid-January to take whatever action is necessary based upon  
9 that report.

10           CHAIRMAN COLVIN: Thank you. Are there any  
11 questions or comments relative to this report?

12           MR. FREEMAN: Susan reminded me there's  
13 *A* another item, discussion of action, <sup>is</sup> possible regulatory action  
14 in the EEZ. Bill Hogarth ~~essentially~~ brought this position  
15 forward under the interjurisdictional act, that the Fisheries  
16 Service can take action in the absence of the council's action.  
17 And there was discussion relative to the need for such  
18 regulatory measures to be taken in the EEZ, and the Fisheries  
19 Service was looking for guidance from the board to move forward  
20 in this direction since the Mid-Atlantic Council has indicated  
21 that due to other priorities, they would not take action, at  
22 least in the near future relative to weakfish. There was a  
23 motion passed that the policy board will evaluate the impact of  
24 the state's emergency actions that alter implementation of the  
25 state's approved plan. Good thing you're here, Susan.

1 MS. SHIPMAN: Good thing I brought my notes.

2 CHAIRMAN COLVIN: Are there any further  
3 discussion items relative to weakfish?

4 (No response elicited.)

5 CHAIRMAN COLVIN: Thank you for the report,  
6 Bruce. Sorry to put you on the spot.

7 MR. FREEMAN: Thank you, Susan.

8 CHAIRMAN COLVIN: And good luck.

9 MR. FREEMAN: I want to reconsider.

10 CHAIRMAN COLVIN: This now brings us to the  
11 "Other Business" section. The first item of other business  
12 will be the report from Bill Hogarth on the NMFS strategy for  
13 funding under the Mid-Atlantic Coastal Act.

14 DR. HOGARTH: Thank you, Mr. Chairman. I  
15 feel like everybody knows what I'm going to say before I say  
16 it, but I will go through the process here to let you know how  
17 we arrived at the conclusions we arrived at and I'll take any  
18 comments you have back. We feel pretty strongly that this is  
19 the way we should go this year, but we're willing to work for  
20 the funding in the future years and look at different ways of  
21 maybe distributing the money.

22 First off, I want to make sure that we  
23 understand the act, and I think all of you have. But in a  
24 couple of places in here, it talks about federal support. And  
25 it says the secretary, in cooperation with the Secretary for

1 the Interior, shall develop and implement a program to support  
2 the interstate fishery management efforts of the commission.  
3 The program shall include activities to support and enhance  
4 state cooperation in collection, management and analysis of  
5 fisheries data, law enforcement, habitat conservation, fishery  
6 research including biological and economic research, and  
7 fishery management planning.

8                   So there's basically five areas that we need  
9 to look at. What we've tried to do internally is to look at  
10 those five areas with white papers as to ~~where we're already~~  
11 ~~trying~~ -- what we're already doing and what we need to do to  
12 even enhance that support more.

13                   Then if you look under Section 808 which is  
14 says "financial assistance," it says the secretary and the  
15 secretary of the interior may provide financial assistance to  
16 the commission and to the states to carry out their respective  
17 responsibilities under this act, including, 1) the preparation,  
18 implementation and enforcement of coastal fishery management  
19 plans; and 2) Such state activities that are specifically  
20 required within such plans. And then it goes on to talk about  
21 the authorization of appropriations.

22                   As you-all are well aware now, there has been  
23 \$3.5 million appropriated for this purpose. You-all at the  
24 meeting in Rehoboth talked about how the money should be  
25 distributed. We asked other agencies, federal agencies. And

1 the U.S. Fish and Wildlife said they thought the money should  
2 be distributed. And I'll go over what we have received and do  
3 some comparison of what you-all have recommended and what we're  
4 doing.

5                   Basically they're appropriating, as I said,  
6 \$3.5 million. The overhead from NOAA and NMFS is 7.4 percent,  
7 5 percent going to the National Marine Fisheries Service, 2.4  
8 percent going to NOAA, which is \$255,000 leaving \$3.2 million  
9 to be used.

10                   The requests that have come forward basically  
11 have been ASMFC, \$950,000. ASMFC for eligible states, and  
12 eligible states under the act is 17. That doesn't include the  
13 District of Columbia and Potomac River. That was \$2.2 million.  
14 U.S. Fish and Wildlife asked for about -- they had several  
15 proposals for \$1.2 million. And the National Marine Fisheries  
16 had about \$669,000 which included -- this by the way is a  
17 mistake. It's not the Chesapeake Bay Lab. It's the Chesapeake  
18 Bay Program about \$400,000. Basically they were studies based  
19 on what needed to be done, not that they would do them  
20 necessarily, but studies they felt like needed to be done.

21                   So far of about \$3.5 million, we have  
22 requests for \$5.1 million. ( See attached report )

23                   MS. SHIPMAN: Can you move that up?

24                   MR. FOTE: Bill, do you have copies of that?

25                   DR. HOGARTH: We can make you copies. We did

1 not distribute them today because we wanted to go through this  
2 discussion first. If there's any changes, all you're going to  
3 have is this, but we will get you copies of it.

4 MR. FOTE: This is not written in stone then?

5 DR. HOGARTH: It's 99.9 percent in stone.  
6 Like I said, they were requests that have been made.

7 If we were going to discuss this further,  
8 this is basically what we will be discussing. This is a  
9 comparison of ASMFC and the fishery conservation management  
10 group recommendations. The ASMFC said \$950,000 ~~plus \$950,000~~  
11 for the ASMFC operation. We agree to that. There's no  
12 difference.

13 The 17 states was 2.21 -- \$2.2 million and  
14 ours is a little over \$2 million. The difference is \$165,600.

15 Federal agencies, ASMFC had left available  
16 about \$158,000. That request of the federal agencies is  
17 \$241,000 which there's \$82,600 left.

18 And then both recognized the 5-percent  
19 overhead for the National Marine Fisheries; however, you-all  
20 did not recognize the overhead for NOAA, which is 2.4 percent  
21 which is a difference of \$84,000. So basically the two  
22 differences here are the \$82,600 for the federal agencies and  
23 the \$84,000 for NOAA, which comes to \$166,000, which if you're  
24 taking it for the 17 states, it comes to about \$11,000 a state.

25 I have copies of this that we can get made

1 today. I will get them here if necessary for you.

2           This is my recommendation which, by the way,  
3 we worked on this recommendation internally, and I'll tell you  
4 how the process worked there. Paul, myself, Tom Myers and the  
5 other groups worked on it within NMFS. We have made a  
6 presentation since then to the senior management, including  
7 Raleigh Schmitten and Matlock, and they approved this  
8 distribution. Basically we saved 27.1 percent of the \$950,000  
9 for ASMFC and the 17 states, \$2,050,000, which is \$3 million,  
10 which is the total to the ASMFC and the states of \$3 million  
11 which is 85.7 percent of the total amount.

12           The balance for NMFS and Wildlife, U.S. Fish  
13 and Wildlife, the group that we had, fisheries conservation  
14 management will be \$22,000. Part of that is the additional  
15 expense of looking at compliance, the fact that we've got some  
16 travel and then the various groups who did the convention. You  
17 see the Northeast Region 5 and the southeast region where some  
18 of the stock assessment is being done is \$15,600. The  
19 Chesapeake Bay Program is \$3,500, for a total of \$58,500.

20           The next item on here is set aside, we wanted  
21 to make sure this was looked at differently, is \$82,500. This  
22 amount of money will be used to work with the states on the  
23 cooperative fisheries statistics workshop and planning session.  
24 We plan to pay for the states to attend the workshop and  
25 sessions. This money will be used directly for the states, not

1 something we will take and use at NMFS. It's solely -- it's  
2 for the states for the planning exercise to try to get the  
3 statistics program improved, try to come up with hopefully a  
4 uniform trip ticket system for the coast. There's just a lot  
5 of different things we need to do in planning the workshops for  
6 the statistics. This money, the \$82,500, could either go to  
7 ASMFC or to NMFS. We right now propose to keep it within our  
8 section to pay for the travel because we can do it cheaper than  
9 you-all can due to the contract. There ~~was some~~ question  
10 brought up yesterday, can we buy tickets for others. We were  
11 told we could, but we will reverify that.

12 But that money will be used -- well, for the  
13 Fish and Wildlife, it's \$50,000 for Region 4, and \$50,000 for  
14 Region 5. So the grand total for the National Marine Fisheries  
15 Service and Fish and Wildlife Service is \$241,000, which is 6.9  
16 percent. Again the 7.4 percent is for overhead is the  
17 \$500,000, which brings it to a grand total of \$3.5 million.

18 MR. FREEMAN: Bill, just back up a minute.  
19 On that item where it says "Travel For Fisheries Management  
20 Planning," would you explain again what the Chesapeake Bay  
21 laboratory is.

22 DR. HOGARTH: It's the Chesapeake Bay Program.

23 MR. DUNNIGAN: May I?

24 DR. HOGARTH: Yes.

25 MR. DUNNIGAN: The Chesapeake Bay Program is

1 in Annapolis. And they have Dr. Ann Lange working in there  
2 now, and Ann's been very involved in a number of our technical  
3 committees. I think what they're trying to do is make it  
4 possible for her to get more involved as a scientist in the  
5 technical program we have, especially given the priorities  
6 we've place on some species like shad and river herring and  
7 others for 1995.

8 MR. JENKINS: (Indicated.)

9 DR. HOGARTH: Pete.

10 MR. JENKINS: Can I just make a point,  
11 Mr. Chairman, that that activity is part of that Chesapeake Bay  
12 Program's expected responses, so I'm not at all in favor of  
13 adding money to that program for that purpose.

14 DR. HOGARTH: <sup>for state grants,</sup> The formula basically felt that  
15 the formula that was used to distribute the money, again,  
16 you-all have asked for \$2.2 million basically with \$70,000  
17 going to the Potomac River and \$30,000 to the District of  
18 Columbia, the remainder for the 15 states was \$2.1 million.  
19 The distribution you-all had used was a third equally which was  
20 \$706,000, a third based on the average value of the commercial  
21 and recreational fisheries which is \$705,000, and a third for  
22 unweighted plans. There's a number plans, and you're getting  
23 so much for each plan that you're in.

24 Our formula that we arrived at -- I think you  
25 heard Dick Schaefer at Rehoboth say that there was a real



1 concern about getting the money without some type of work  
2 analysis, that they've been doing that for the councils, but  
3 there should be some type of work analysis done.

4 We have basically \$2,050,000 recommended for  
5 the states and ASMFC; the \$70,000 going to the Potomac River;  
6 \$30,000 to the District, leaving \$1,950,00 for the 15 states.

7 We did a fourth -- we said that there is a  
8 certain amount of work that all states have to do  
9 administratively. That was 25 percent. Another 25 percent  
10 based on the commercial and recreational fisheries. We were a  
11 little concerned about this one and we tried to go back in and  
12 to take out the value of just those that we had plans for,  
13 basically the 16 plans -- 17 plans. We tried to go back and  
14 get the values of those. I do not have enough faith in the  
15 data I was getting to think I could do that as reliable as this  
16 probably is so we didn't do it. We just said 25 percent.

17 Then we weighted the plans and took half of  
18 it. We said with the work that's associated, we felt like  
19 according to what the act said with the plans, the fishery  
20 management plans and the work associated with them, we felt  
21 like the largest amount of money should go to the plans and the  
22 work that had to be done in association with the fishery  
23 management plan. So we allotted 50 percent to the fishery  
24 management plans, which in that case is \$488,000, for an equal  
25 \$488,000 for the value, and \$975,000 for the weighted plans.

1                   This is probably where everyone has a  
2 different opinion as to what to take. We tried to go through  
3 the compliance schedule and look at exactly what was taken and  
4 what it would take to do the work necessary for the plans.

5                   We realized striped bass did not specify it  
6 in the act, but most people feel like striped bass is still  
7 covered by the act regardless. And the amount of work we take  
8 to go with that we felt like was a rating of 4, weakfish, 4,  
9 and you can see them all here. We did not have Atlantic  
10 herring over here, Jack pointed that out to us saying that  
11 basically for striped bass, the plan had been approved. So  
12 Atlantic herring was added to the process.

13                   Tautog is not because we have no compliance  
14 schedule. We felt like the plan -- the process was just  
15 beginning and you have basically 50 percent of the money for  
16 equally distribution of the value of the fisheries, so you have  
17 50 percent for those type things.

18                   This is the weighting that we came up with  
19 after looking totally at the compliance plan, trying to figure  
20 how much work it would take the states to do it. That was  
21 distributed among the 15 states, the \$975,000. I guess the  
22 bottom line --

23                   MR. JENKINS: Bill?

24                   DR. HOGARTH: Yes.

25                   MR. JENKINS: Let me make sure I understand

1 those, the numbers under the "F/CM" column.

2 DR. HOGARTH: Is the weight, yes.

3 MR. JENSEN: The weight that you would assign  
4 to each state that has that responsibility under those  
5 particular plans?

6 DR. HOGARTH: That's true. If you were in  
7 striped bass or weakfish and northern shrimp, you get a weight  
8 of 10.

9 MR. CONKLIN: Question. How did you do an  
10 analysis based on workload? Do you mean the complexity of the  
11 plans, the value of the fishery, the --

12 CHAIRMAN COLVIN: No. The value of the  
13 fishery was -- we tried to look at the amount of work that's  
14 required, the actual -- what the plan says as far as  
15 compliance, what you have to do, how complex it is in the plan,  
16 is there sampling required, monitoring required, this type  
17 stuff.

18 MR. CONKLIN: Well, wouldn't that vary in  
19 importance depending upon the states, rather than the fishery  
20 as whole? For example, I noticed --

21 DR. HOGARTH: Yes.

22 MR. CONKLIN: Because I note that a couple of  
23 the fisheries that you put as Value 1 are extremely important  
24 to Florida because they're a very large fishery and they're  
25 very diverse, a lot of problems associated with them such as

1 Spanish mackerel and spotted seatrout. And I don't know why  
2 those would be 1 for us -- I don't how understand how you can  
3 do it the way you seemingly have done it because it's -- state by  
4 state it's going to vary as to how difficult it's going to be.

5 DR. HOGARTH: Well, what we did is -- let me  
6 see if I have that with me. We went back to the compliance  
7 schedule and looked at what a state had to do if you go into --  
8 take menhaden, for example. Basically if you look in here, the  
9 only requirement -- there's really no requirment for the state  
10 under menhaden right now. If a trigger is met, then something  
11 has to be done. No states are having to do anything for  
12 menhaden at the present time. It's just if a trigger is met,  
13 then you may have to do something.

14 If you look at croaker, there's absolutely  
15 nothing here for croaker to be done, nothing to be done for  
16 spot. Now look at Spanish mackerel or flounder. The spotted  
17 seatrout, I think the only thing you had to do there is  
18 implement a size limit. That's all the compliance schedule  
19 required. ~~Let me find Spanish mackerel.~~ Spanish mackerel  
20 requires that the state close when the quotas are met and that  
21 you set a size limit and that's it. That's all that's  
22 required, to close and set a size limit.

23 Now, there may be other work you have to do,  
24 but if you look over here as to what the plan requires --

25 CHAIRMAN COLVIN: I suspect people have a lot

1 of comments. What I'd like to do for the purpose of keeping  
2 the flow going is to confine our present discourse with Bill to  
3 questions and then we'll nail him with our comments when he's  
4 done. Susan.

5 MS. SHIPMAN: I have a question. For  
6 instance, this goes to the weighting. American lobster, as I  
7 understand, is primarily a council plan. Spanish mackerel is  
8 primarily a council plan. Why the difference in weighting  
9 there? I agree. I don't understand the rationale for it.

10 DR. HOGARTH: As I said, Susan, this is the  
11 critical part and it's something we're going to have to work on  
12 between now and another year, but it's the best we could do  
13 based on the compliance schedule. We felt each state was going  
14 to have its own comments based on what it required. We do feel  
15 like there is different weighting in the plan. I don't see  
16 that all 16 plans require the same. There is no way it  
17 requires the states to do the same thing for striped bass  
18 versus spot and croaker for example or weakfish versus spot and  
19 croaker. There is no way that happens.

20 This is the best we could do with it now and  
21 in the time frame we had to do it with. Realizing this, we  
22 looked at it very carefully and we made some changes after  
23 talking to Jack, and Jack argued about some other things. We  
24 just feel strongly that we need to get the money out so the  
25 money is not rescinded and that we will work with ASMFC further

1 during the next coming year to look at a better way to  
2 distribute the money.

3 MR. <sup>Jenkins</sup> JENKINS: I'm going to ask this question  
4 in a very blunt straightforward way. Why in the world did you  
5 feel that you had to substitute the federal judgment for this  
6 commission's judgment on what we thought was important to us?

7 DR. HOGARTH: Because we felt like that there  
8 had to be some work analysis associated with it, that there  
9 should be something based on the workload associated with the  
10 money.

11 MR. JENKINS: Well, are you presuming that we  
12 didn't do that?

13 DR. HOGARTH: Yeah, we felt like that all  
14 plans were rated "1." Well, it wasn't.

15 MR. JENKINS: I find it very strange that you  
16 feel it's necessary to substitute your judgment for the  
17 commission's judgment.

18 MR. FREEMAN: Bill, over the course of these  
19 plans as we've developed them and we implement them, some are  
20 very complicated and after a year or two, they become routine.  
21 Others which are relatively benign may be raised to a higher  
22 lever and require considerable amount of work. If in fact we  
23 agree with your concept -- I'm using this as a hypothetical,  
24 not indicating that we agree with your concept -- but over the  
25 course of time, these numbers would change.

1 DR. HOGARTH: That's correct. That's  
2 correct.

3 MR. FREEMAN: And in your design, you would  
4 have the flexibility of changing those?

5 DR. HOGARTH: That's right. What we're  
6 saying is this is the system that we feel like, based on  
7 everything we had at hand this year, this is the way we would  
8 distribute the money. We're also saying that we are realizing  
9 there may be some differences among you-all's opinions, which  
10 is all we've got, we knew we would get that. We're willing to  
11 start to work immediately or as soon as we know what we're  
12 going to have next year to look at another way of distributing  
13 the money. We feel strongly that some type of work analysis  
14 has got to go with it. If this is not the way, if there's  
15 something else to look at or if it needs to be changed annually  
16 or if it needs to be changed every two years, that's fine with  
17 us, to change it even annually.

18 MR. FREEMAN: Just to carry that further. It  
19 appears that it's very subjective. Each state has specific  
20 workloads. And I was just mentioning to Susan, it seems like  
21 perhaps the best way to do it is the way they score in diving.  
22 We're all given cards 1 to 10, and for each of these plans, we  
23 put up what we think we're going to do, we'll throw out the  
24 highest and lowest and average the rest.

25 But it is very subjective. For one state, it

1 seems perhaps they could do the work, but for another it may  
2 take a considerable amount. This money, this small amount of  
3 money that we've been able to divide up is going to be very  
4 critical in making these plans work. I think that's all our  
5 concerns. I'll wait until the comments come in.

6 CHAIRMAN COLVIN: Did you have a question?  
7 Ed, did you have a question?

8 MR. CONKLIN: No.

9 DR. HOGARTH: This is, I guess, the bottom  
10 line and is what everybody will be looking for, is how that  
11 does differ. We did put it here for everybody's comparison.  
12 The first column is what you-all came up with I guess in  
13 Rehoboth Beach. If you look at that, that is the distribution.

14 We feel like that is not correct for two  
15 reasons. Number one is the \$84,000 had to come out for the  
16 NOAA overhead, so \$84,000 would come out of that. The other  
17 thing out of here is that we took the \$82,500 which we'll use  
18 for statistics. So basically we start off with ASMFC adjusted  
19 \$2,500,000 based on those two changes. And then the basic  
20 difference between these two columns again is you-all's is a  
21 third, a third and a third and that's 25, 25 and 50 percent,  
22 and then ours has a weighting of the plans. Basically the  
23 state that probably gets hurt the worst -- or does get hurt the  
24 worst is Florida under this system, and then it varies up and  
25 down the coast.



1 We did not touch the D.C. money and Potomac  
 2 River because the only system we used was the weighted system,  
 3 and the weighted system changed those quite a bit. And we felt  
 4 like in the discussion we had was that we would agree to leave  
 5 it as it is. That's the bottom line.

6 *Ms. Horgan said* Now, what we plan to do is to let you know  
 7 right now ~~and this is~~ <sup>and</sup> -- we plan on -- we're in the process  
 8 already and we hope that ~~Raleigh~~ <sup>Raleigh</sup> Schmittten will sign the letter  
 9 today or tomorrow. He's supposed to be in today. ~~We hope to~~  
 10 ~~have the letter signed.~~ It's gone through the grants; it's  
 11 gone through all the attorneys. We expect to have the letter  
 12 signed submitting this to the states and to come back with a  
 13 response to Jack. We will get the \$950,000 to ASMFC  
 14 immediately. We will provide the \$100,000 to Fish and Wildlife  
 15 immediately. We will allocate the shares to NMFS. We will  
 16 advise the states of this. We'll request the funding proposal  
 17 for the 15 states, the District and Potomac River with  
 18 priorities -- we feel like these proposals should meet the act  
 19 in those five areas for the work that's done and associated  
 20 with the plans. The northeast region and the southeast region  
 21 will be the ones to follow the grants through and go through  
 22 Harry Mears in the southeast region.

23 And we are working with <sup>the</sup> grants. <sup>administration files</sup> We've had  
 24 grants involved in every step of the way, for them to realize  
 25 how important it is. Raleigh Schmittten has explained to him

1 how critical he feels like it is to get this money distributed.  
2 So I think through Paul being inside with Tom Myers, they'll  
3 probably walk it every step of the way through.

4           And we feel like the one thing that hasn't  
5 been discussed in which we probably need your input is if a  
6 state is not planning on using this money, what happens to that  
7 money. Do you want to redistribute it to other states? Do you  
8 want it to go into a proposal? I don't know of any state  
9 that's not planning on using this money, but if that happens  
10 and there's a certain amount of money left, how would we  
11 distribute that money? Do we want to use this for a special  
12 project or redistribute it or whatever? That's the only  
13 question that's not been -- that we feel we have not covered at  
14 this point.

15           I will be glad to, as I say, take back any  
16 comments. We feel strongly that the critical thing this year  
17 is to get this money out. If you feel like you positively  
18 cannot live with what we've done, I guess there is an appeal  
19 process. I would take it to Raleigh Smith himself. We have  
20 made the presentation; he has approved it. We want to move it  
21 on.

22           If you-all feel like you cannot live with it,  
23 then you have the right to appeal through a response I guess  
24 with Jack or we can try to hold that up so you can call now and  
25 tell Dick Schaefer you're not happy and you want to appeal it.

1 But we just feel like it's critical to get the money out. We  
2 felt like there were certain things we had to do internally to  
3 make it such that Raleigh, if he had to go to the Hill to  
4 support it, this type of thing, that he had some work analysis  
5 and all associated with it.

6 We tried to keep it to a minimum amount that  
7 in-house needed. Out of compliance takes a lot of time, and we  
8 have not -- the compliance type stuff, if another state is out  
9 of compliance, it does take quite a bit of time and expense to  
10 process which was not taken into account in our budget. We  
11 feel strongly about statistics, and that's the reason that  
12 \$82,000. That is the totally cooperative program with the  
13 ASMFC. It's not for us to use, not for the statistics group to  
14 use. It's for the cooperative program.

15 MR. FOTE: Bill, could you leave the states'  
16 distribution up there so we can look at it?

17 MR. JENKINS: Bill, I assume these will go  
18 through the usual NOAA grant process? As I understand it now,  
19 the processing time on that is what, four to five months?

20 DR. HOGARTH: No. No, no.

21 MR. JENSEN: What is it?

22 DR. HOGARTH: The maximum they could have is  
23 75 days, isn't it? We talked to them about trying to speed  
24 that up.

25 MR. JENKINS: That's 75 days after you submit

1 it to them or we get it back to the grant office?

2 DR. HOGARTH: As soon as we get it --

3 MR. JENKINS: You get another 75 days on top  
4 of that?

5 DR. HOGARTH: Yes. But we've asked them to  
6 speed that up, and they've told us -- they've talked about 30  
7 days, 30 to 45 days.

8 MR. ~~JENKINS~~<sup>Jensen</sup>: Another question, Mr. Chairman.  
9 I'm not sure I understood what you were saying about unused  
10 money, but this money is going to come to us late in the fiscal  
11 year or the spending year. What are the carryover provisions.

12 DR. HOGARTH: <sup>reflected</sup> It's your money, <sup>it can be carried</sup>  
<sub>over</sub>

13 MR. JENSEN: They can be carried over into  
14 another fiscal year?

15 DR. HOGARTH: Yes. What I meant there is  
16 that, say, that Virginia for some reason decided they didn't  
17 want its \$146,000 or they only applied for \$100,000, that  
18 \$46,000 left over, do you-all want to put it into a special  
19 project or redistribute it among the states? If there is any  
20 monies the states don't use, what are you going to do with it?

21 MR. JENKINS: That's a good idea. We'll talk  
22 to Virginia about that. One more question, please. When we  
23 submit these proposals, is there going to be a judgment made at  
24 the federal level as to whether they're on target or what's  
25 fundable or not fundable? Is that the sense I get out of one

1 little bullet you had there?

2 DR. HOGARTH: Yeah. One thing that -- yeah,  
3 it will be looked at, but basically to see if it fits into one  
4 of these five areas that that talks about, basically that, does  
5 it fit into that area associated with the plans that are being  
6 done, anyplace they're being done.

7 MR. JENKINS: So it's our money, but you'll  
8 tell us how to spend it, right?

9 CHAIRMAN COLVIN: My sense of that would be  
10 that it would be probably a good idea for the grant proposals  
11 themselves to say how they relate to the overall stats.

12 DR. HOGARTH: You know, Jack earlier, when  
13 Jack put you-all's proposal together, he broke it down like  
14 statistics, fishery management plans and all. That's what  
15 we're talking about. Just break it down to how it fits into  
16 one of those five categories. I hope we don't get into you  
17 saying well you don't need this sample there, you don't need  
18 this sample there or you don't need it for that species. We  
19 were really concerned about how does it fit into those five big  
20 categories, law enforcement --

21 MR. JENKINS: I would simply make a point,  
22 Mr. Chairman. I hope you don't lose sight of the fact that  
23 even though we have a ranking of what some of the  
24 responsibilities are in the plans, there are a lot of things  
25 that we're doing to get ready for plans. I'll give you an

1 example, croaker. We've done a lot in our state on croaker,  
2 even though the plan doesn't have much in it. And you've got  
3 to give us some flexibility to do that kind of work.

4 DR. HOGARTH: Oh, yeah. Oh, yeah. No, we  
5 will not go back and look at these ratings that we put on. If  
6 he wants to use all his money on croaker and that only ranks 2  
7 or 1, no, we will not do that, no. No, no, no.

8 MR. LESSER: (Indicated.)

9 CHAIRMAN COLVIN: Charlie.

10 MR. LESSER: <sup>asked</sup> ~~How~~ about reporting  
11 requirements, are they going to be abbreviated or do we have to  
12 go through all the monthlies and quarterlies and all that?

13 DR. HOGARTH: Paul, do you know what they  
14 said on that?

15 MR. LESSER: Are we going to be burdened with  
16 monthly reports?

17 MR. PERRA: Monthly reports?

18 MR. LESSER: Whatever. <sup>reflected</sup> Other than annual.

19 MR. PERRA: Well, I think we're intending on  
20 following the same guidelines that you follow on the IJF  
21 reports. I believe that's only an interim report and a final  
22 report.

23 MR. FREEMAN: (Indicated.)

24 CHAIRMAN COLVIN: Bruce.

25 MR. FREEMAN: I want to get back to the

1 comments on your formula. *add*

2 MR. PERRA: Bill, I think there's one thing  
3 that people should be aware of. The policy right now says we  
4 work to support the fisheries management programs and the  
5 plans, but it should be new work, not just substituting it for  
6 old work, ~~work~~ that's been carried on. The intent is to use  
7 the money to build a better program, not the substitute one.

8 CHAIRMAN COLVIN: That raises some questions.  
9 Let's just explore that for one minute and ask how NMFS intends  
10 to secure documentation on what constitutes new work, if that's  
11 your intent? That's a rather large issue.

12 MR. PERRA: I think it just ought to be  
13 stated in the grant documents. It would be the state's  
14 judgment as far as -- I think. I don't think NMFS has the  
15 staff to really know what's internally going on in the  
16 individual states. I think we would look to the grant  
17 document, the state and how it is new work.

18 MR. FREEMAN: (Indicated.)

19 CHAIRMAN COLVIN: Bruce.

20 MR. FREEMAN: Did you want to pursue this a  
21 little more? Because my issue is different.

22 CHAIRMAN COLVIN: Why don't you go ahead and  
23 we'll get back to this, I'm sure.

24 MR. DOUGLAS: Can I ask a question?

25 CHAIRMAN COLVIN: Go ahead, Jim.

said

1 MR. DOUGLAS: Thank you. A lot of states are  
2 going through reductions in their budgets. I mean, money has  
3 been given to them and the governor is pulling it back. And if  
4 the state is given up something but now is going to use this  
5 money to continue it, that's essentially going to be new work.  
6 Is that going to be acceptable in your opinion?

7 MR. PERRA: In my opinion, yes.

8 MR. DOUGLAS: That's step one, Bill is going  
9 to be accepting your opinion.

10 DR. HOGARTH: What we were looking at --

11 MR. DOUGLAS: That's a real exercise the  
12 states are going through right now, seriously.

13 DR. HOGARTH: One thing that I think Jack  
14 pointed out and what he said to us is you-all are encouraged  
15 not to divert your money from present work you're doing over to  
16 this. This we hope will be to continue to gather the data  
17 necessary for new plans, this type thing, but don't divert your  
18 money from, say, croaker that you're doing now to something  
19 entirely out of the way and then put this money into croaker.  
20 What we're saying is we want it to still be on these 17 species  
21 and not divert all the money away and just replace it.

22 MR. DOUGLAS: I just wanted to point out this  
23 one little anomaly that is likely to come up on some of these  
24 things they we ought to get up front right now.

25 CHAIRMAN COLVIN: Thank you. I'm going to



1 work my way right up the side here beginning with Susan.

2 DR. HOGARTH: I'm going to sit down. I'll  
3 answer your questions. I'm going to sit down so I can take  
4 some notes.

5 MR. FREEMAN: Two issues, one that Jim just  
6 touched on. When this money was originally -- we talked about  
7 originally getting this money, there was a concern that if in  
8 fact the states received a sum of money, then their legislature  
9 or their administration would essentially cut their budget by  
10 that amount to simply substitute this for existing money. That  
11 was a concern that we all had. And my understanding originally  
12 was that this was one of the reasons that the Fisheries Service  
13 is trying to put some sort of qualifier to protect the money we  
14 have and not essentially have our states take it away and just  
15 leave us with a like amount. So I think that needs to be kept  
16 in mind. It could be helpful to many of us.

17 My original comment, Bill, was the formula.  
18 The difficulty I have, and this was an issue that was in my  
19 mind at the annual meeting when this formula was discussed by  
20 the policy board, it's very, very subjective to come up with  
21 how much work is involved by a state in any specific plan.  
22 Examples were given around here earlier. One state may do a  
23 considerable amount of work because they feel they have to,  
24 it's a very important fishery and they do quite a bit more than  
25 another state.

1                   And in the discussion, as I recall, what we  
2 simply do is we couldn't make that determination in a rational  
3 manner so we simply listed the plans realizing that some are  
4 much more complicated than others, but just the volume of plans  
5 perhaps was the best way to do it.

6                   When there's the ranking given to them as you  
7 have done, it's very easy to argue you should have used a scale  
8 from 1 to 20 because bluefish is different than striped bass is  
9 different than northern shrimp, for example. There should be  
10 more latitude, because even on these high visible plans that  
11 take a lot of work, there may be more work in striped bass than  
12 there would be in bluefish, for example. Whatever you do,  
13 there's going to be controversy and people are going to feel  
14 they're being slighted.

15                   And I thought the original proposal by with  
16 the commission was as probably as good as any. I thought the  
17 division was as fair as we could do it. By now making changes,  
18 obviously you're going to make a lot of people very unhappy. I  
19 know in our instance, we've already began the planning process  
20 with the original amount as a target. This is going to create  
21 difficulties if we go with this new formula. Again, we're  
22 threatened with, look, let's move on, we have a lot of things  
23 to do, accept this, maybe we can change it in the future. But  
24 in my way of thinking, it has created problems.

25                   MS. SHIPMAN: I had a couple of questions.

Ms. Shipman

1 Why was the NOAA tax, the 2.4 percent, I think the \$84,000,  
2 only taxed against the states? Why was that not equitably  
3 applied to all of the parties?

4 DR. HOGARTH: I guess I don't have an answer  
5 for that. I think what we did is not knowing how to distribute  
6 the money any different to the District of Columbia and Potomac  
7 River, we just felt like that -- that was arbitrarily chosen  
8 and accepted throughout. That's the reason for that decision.  
9 That's the only reason.

10 MS. SHIPMAN: Well, I'm not only alluding to  
11 D.C. and PRFC, but also NMFS, also Fish and Wildlife Service,  
12 also the commissions. The states took the hit. We're the ones  
13 that took it.

14 DR. HOGARTH: Basically, if you look, we cut  
15 down what the NMFS people asked for quite a bit, even for  
16 travel. They did not get what they asked for by any stretch of  
17 the imagination, any group get what they asked for. So we cut  
18 that back. We've taken that to the very minimum.

19 We did not get any of that 5 percent, by the  
20 way. We cannot spend any of the 5 percent that comes in. That  
21 goes to where we've always spent in the past, we have to --  
22 that goes to repay that. The NOAA 2.4 percent goes to  
23 administrative costs. We do not get any benefit of that.

24 I guess the concern we had was we felt like,  
25 and this is second-guessing, we just felt strongly that the

1 ASMFC needs the amount of money that they requested because we  
 2 felt like there's got be -- the ASMFC has got to stay a little  
 3 bit more on its feet for the future. We don't feel like the  
 4 ASMFC can depend on states for everything. When you judge the  
 5 states out of compliance, can you continue to expect those  
 6 states to do it when the workload is coming? There's got to be  
 7 some more stuff that ASMFC does on its own, and we felt like  
 8 that that was probably the minimum money for the ASMFC.

9 I guess the problem we felt was the same as  
 10 everybody else did, \$3.5 million is not a lot of money. We  
 11 wanted to make sure that the states and the ASMFC got the most  
 12 of it, it got \$3 million of it, and that's where we were coming  
 13 from.

14 MS. SHIPMAN: <sup>asked if</sup> May I ask just one other? Does  
 15 the standard of supplantation, not supplanting current  
 16 activities apply to the commission --

17 DR. HOGARTH: That's a good question.

18 MS. SHIPMAN: -- or to NOAA or any of the  
 19 other parties or is that only being applied to the states?

20 MR. PERRA: <sup>applied that</sup> It applies to NOAA and NMFS.

21 MS. SHIPMAN: Does it apply to the commission?

22 MR. PERRA: <sup>and he would</sup> I look to <sup>ASMFC</sup> you for that answer.

23 CHAIRMAN COLVIN: Paul, I'm not sure how you  
 24 can say that. Quite frankly, Pete put his finger on something  
 25 a little earlier that appears to me to be just that, that is

1 that some of the funding that was specifically discussed for  
2 the Chesapeake program was funding that the sponsors of that  
3 program expected to be undertaken out of its current resources.  
4 I suspect that a lot of that travel money that I saw is money  
5 that has been in the past provided through the operating  
6 budgets of the northeast, southeast and central office of NMFS.

7 MR. PERRA: It's not supposed to be. It's  
8 supposed to be for new, expended efforts.

9 DR. HOGARTH: Even John Merriner sitting in  
10 the back of the room, they made a request for Doug Vaughn to  
11 get some extra help for him for all the stuff he's involved in.  
12 We were going to take all that labor money, but there's no  
13 labor money in NMFS whatsoever. If you work on any additional  
14 programs, it comes out of the salaries already there. The only  
15 thing that's here is travel money associated with any  
16 compliance type stuff for headquarters, what other states have  
17 to go to to meet with them and the process.

18 CHAIRMAN COLVIN: Ed?

19 MR. CONKLIN: <sup>Said</sup> Previously, Bill, I've  
20 expressed to you my concern with what I had heard back from  
21 Jack and what we heard the night before in terms of how NOAA  
22 was going to approach funding the states. But maybe because  
23 Florida out of the \$166,000 cut to the states is going to lose  
24 \$49,000 of that \$166,000, a 26-percent reduction, I'll take it  
25 upon myself to kind of summarize what I feel and what I've

1 heard from the other members about this approach.

2 First, that in your introduction which kind  
3 of twisted the knife, I think, when you emphasized the word  
4 "may" when you talked about NOAA may fund the states to carry  
5 out this work and then further later in your talk, when you  
6 characterized the circumstances now as being the 99.9 percent  
7 set in concrete on <sup>Polke</sup> Raleigh Schmitt's desk when you're coming  
8 to make a presentation in discussing a cooperative program just  
9 doesn't sit well with me at all. That sort of adds to my  
10 frustration about how NOAA is reacting to this process.

11 The people that are around this table far  
12 more than I were aware of and contributed to the passage of the  
13 Atlantic Coastal Fisheries Act which was highly supported by  
14 the states. I think the reason that act passed was because of  
15 the states, not because of anybody else. Also that the fishery  
16 management plans, as all of us know, are going to be completed  
17 by the states. The primary work that's going to be done is  
18 going to be conducted by the states. It's not going to be  
19 primarily a federal government operation.

20 The first issue that was lightly touched on,  
21 which I understand you don't have anything to do with but is  
22 still objectionable to me, is this hidden NOAA tax which I  
23 heard characterized by someone else as being necessary to cover  
24 a shortfall within NOAA. That doesn't do anything for fishery  
25 management or the Atlantic states act. That's not the kind of

1 behavior that the states are allowed to do when we get federal  
2 money. We simply can't take some kind of cut out of it because  
3 we've overspent in other areas, and I find that objectionable.

4           And as we all know, perhaps the most  
5 important issue is that the formula arrived at by the states  
6 was done so in a consensus fashion. It was not a fly-by-night  
7 issue that was not discussed by all of us together. There were  
8 a number of ideas presented. Many, many factors were weighed  
9 very carefully. And the submission that was made to the  
10 federal government was a considered decision on the part of the  
11 states on how the funds should be spent. And I would  
12 characterize the decision as being one of consensus. And  
13 "consensus" by definition, my definition is that that means  
14 that the states can live with that decision but that they not  
15 necessarily agree with every portion of it.

16           Certainly there were some things that Florida  
17 didn't agree with; but on the other hand, in order to best  
18 present a plan that everyone could agree with or at least live  
19 with, we did not object. And I'm sure that many of the other  
20 states or members felt the same way.

21           What the impression that I get from what has  
22 happened here is that as others have already commented, this is  
23 simply a federal government action where the federal government  
24 is imposing its judgment onto a program which is primarily and  
25 overwhelmingly a state program, not a federal program. It's

1 cooperative with the federal government, but it's the states  
2 working together that manage it. It has the appearance of  
3 rearranging the deck chairs with a little up and down here and  
4 there and one of the deck chairs being thrown overboard which  
5 is ours. It has the appearance of demonstrating who is in  
6 charge. And I'm sorry to say that your presentation made that  
7 worse by your characterization of where we are today and also  
8 your characterization of whether or not the federal government  
9 even has to apportion this to the states.

10 I don't see here that there was any need on  
11 behalf of the federal government to right some egregious wrong  
12 that the states had through some terrible mistake put together  
13 in their program in representation of the recommendations of  
14 the states to the federal government. It just simply doesn't  
15 exist. And the overall characterization that I have heard and  
16 that I share that I've heard with the other members is that  
17 this kind of a treatment of this program is a bad mistake on  
18 the part of NOAA and NMFS, and I simply do not understand why  
19 it is necessary for you-all to do this this way. It's just a  
20 bad precedent for you-all to do this. It sets up a, for us at  
21 least, a kind of a bad beginning to this process. And I for  
22 one am extremely disappointed in the way this has been handled.

23 Usually when people say what I'm going to say  
24 in a minute, they mean just the opposite. But for us, it's not  
25 the money. It's a matter of philosophical problems with this



1 approach. Sure at some other year maybe we would come out  
2 better or someone else would come out worse, but that's not the  
3 point. The point is the process. And that simply is the  
4 overwhelming consideration for me. And I hope that other  
5 states support me in this, but later on, I'm going to offer a  
6 motion that this allocation be rejected and that the states  
7 request that NOAA reinstate what we agreed to.

8 DR. HOGARTH: Let me respond to one thing,  
9 number one is in no way did we ever intend to say that the  
10 secretary may -- the "may" is in there from the standpoint that  
11 we feel like if the secretary has other money, he may do it.  
12 We feel very strongly, and I think that's said in the  
13 percentage, that this is basically state money and most of it  
14 should go to the states.

15 But it does say that for the other agencies,  
16 federal agencies and agencies working on the program, and we  
17 feel like some of it should go to them. But in no way through  
18 any of this process have we ever felt like this was NOAA's  
19 money or NMFS's money to keep and do whatever it wanted to with  
20 it, that it was basically the ASMFC -- it's a cooperative  
21 program which meant that it was ASMFC's, it was the states, and  
22 it was NMFS, U.S. Fish and Wildlife, and those agencies that  
23 are working to make this act move, number one.

24 So it was never intended -- if you think the  
25 tone of my voice did that, then that's a mistake because that

1 was not the way it was intended. We realize there's money, but  
2 we went out of our way to make sure that most of the money --  
3 and you can see by the percentage most of it did go to the  
4 states.

5 Of the money left, basically what goes to the  
6 federal agencies is \$158,000; of that \$58,000 to the NMF3's  
7 people, \$100,000 to U.S. Fish and Wildlife, and then \$82,500  
8 which is to the states for what we feel like is a cooperative  
9 program which is one of the most important programs that can be  
10 done right now, is statistics. We feel like that is the most  
11 important thing that we need to do, and we just wanted to make  
12 sure that we identified some money for that without each state  
13 having to do that.

14 *Dr. Hagan* *replied* The formula, as I said, we felt we were  
15 instructed and felt like -- and I think, as I said earlier,  
16 Dick Schaefer mentioned that in Rehoboth, that he had problems  
17 with no workload analysis going into it, and we tried to look  
18 at a workload analysis. There were several ways to look at it.  
19 With the time frame we had, we felt like that going through the  
20 compliance schedule which is what the act was based on, the  
21 compliance schedule and those fisheries management plans, that  
22 that was the best way to base it on for the first year.

23 We're making a ~~commitment here today not to~~  
24 ~~say that -- we are making a firm commitment that we will --~~  
25 this formula can be changed the second year, will be changed

1 the second year. If you-all want to set up a group to work  
2 with us, either through Jack or through a north-mid-south  
3 person, we're making the commitment that we will look at the  
4 distribution in the future years.

5 ~~We're concerned right now,~~ one of the things  
6 we're concerned with is the money being rescinded and the late  
7 date we got around to getting this done. And we feel like  
8 that's one of the critical things. We also feel like that  
9 Raleigh Schmitten has got to have justification for the way he  
10 spends any of his money and the rationale, ~~whether we just --~~  
11 we gave it out. <sup>Just</sup> Some workload, ~~an analysis and this type thing~~  
12 has to go with it. That's what we tried to do for his benefit  
13 to go back to Congress. We used this money for these purposes.  
14 There's a good way of how he justified it, and we feel very  
15 strongly from that standpoint. Like I said, there is the  
16 appeal process through -- Jack can appeal to Raleigh Schmitten.

17 CHAIRMAN COLVIN: Tom.

18 MR. FOTE: Ed said a lot of what I wanted to  
19 say eloquently, probably more eloquently than I would say. I'm  
20 in a little different position here. I'm supposedly  
21 representing 15 commissioners, the governor's appointees from  
22 the 15 states that got cut in this process while the other  
23 jurisdictions did not get cut. The 15 states that were covered  
24 were the only ones took the cut out of this.

25 It seemed that, to me, it looks like the

1 Beltway decided again what is good for the whole states. The  
2 bias of living down in Washington makes you biased toward that  
3 part of the country. And I look at these plans -- and I've  
4 got to look at the weighting system. I'm looking at it and I'm  
5 looking at it purely -- and I'm not looking at it from Jersey's  
6 point. I'm looking at the weighting and what went on in some  
7 of these programs. I realize what's involved in Spanish  
8 mackerel, and the state's Spanish mackerel is only a 1. Even  
9 though I'm from New Jersey, I realize that the monies involved  
10 by the states involved in that program, it's not just what you  
11 have in that document that says what is a compliance issue.  
12 It's what's involved in that issue.

13           And this is arbitrarily -- I mean, we had sat  
14 at a meeting when the other commissioners from the legislators  
15 and the governor's appointees were sitting in the audience  
16 participating in the process and we made up all these final  
17 figures. They all contributed. I look at the state of  
18 Pennsylvania, the state of Pennsylvania now has been reduced to  
19 the lower that one of the jurisdiction. I don't know how the  
20 governor's appointee from that state would feel, but I know how  
21 the legislator in the governor's -- if I was in that state, I'd  
22 be very upset to that point.

23           I'm going to keep it short because we've got  
24 a lot of people around the table probably who want to voice  
25 their opinion. But when Ed makes the motion, I will second it

1 from the governor's appointees point of view.

2 MR. CONKLIN: Thank you, Tom.

3 CHAIRMAN COLVIN: I would ask at this point,  
4 is there any member of the board who feels differently from the  
5 viewpoint that Ed Conklin expressed? I think it would be  
6 appropriate to express that different point of view if there is  
7 such.

8 DR. GEIGER: (Indicated.)

9 CHAIRMAN COLVIN: Jamie.

10 DR. GEIGER: <sup>said</sup> Fish and Wildlife Service has  
11 sat back and abstained for most of the votes during the  
12 allocation process, and I think that's more than appropriate.  
13 Any federal agency that's charged with trying to distribute,  
14 allocate the money, there's always consternation, difficulty in  
15 trying to fairly allocate dollars. We could have easily been  
16 in the same situation as National Marine Fisheries Service with  
17 that money put in our budget for our allocation and we easily  
18 could be in the same situation right now, sitting up front  
19 accepting your concerns and your disagreements with any of the  
20 allocation processes and formulas.

21 I guess my concern is that I think the  
22 National Marine Fisheries Service has done a good job under the  
23 circumstances. They had a very difficult situation to attack  
24 and try to deal with under the situation. There are certainly  
25 a lot of well justified and documented needs out there.

1                   Our concern is that this act is successful,  
2 that the money is successfully implemented for on-the-ground  
3 results and that the resources that we are charged with benefit  
4 from this activity.

5                   The Service was also very concerned about the  
6 very real and distinct possibility of rescission of this money.  
7 And if you-all don't understand the process of rescission, we  
8 should probably have a chance to discuss this because indeed I  
9 feel there's a very real possibility.

10                  The Service proposed over \$1.2 million worth  
11 of projects to NMFS, and certainly the Service is committed  
12 regardless of the money that we get to continue in and be  
13 active in the process. We want this partnership to work. We  
14 believe strongly in the word "cooperative fisheries  
15 management." The Service has been involved from day one in  
16 terms of the legislation and will continue to be involved in  
17 this.

18                  I support the allocation process that NMFS  
19 did. It probably is not perfect, but this is the first year of  
20 the law. I feel strongly it needs to be based on workload  
21 factors. Workload factors are becoming more and more  
22 important. And everything that we do with the federal  
23 government from endangered species down to anything, wildlife  
24 refuge acquisitions, workload factors are becoming important.  
25 Workload factors are not developed overnight. They are

1 developed over time, evaluated and refined. And certainly I  
2 would look forward to during this first year as we determine  
3 more appropriate workload factors, that we will come to a  
4 refinement process, that we will get better and more defined  
5 workload factors that emphasize, again, on-the-ground results  
6 for the resource.

7 I want to again thank the National Marine  
8 Fisheries Service. They had a difficult situation to deal  
9 with, and I support their activities and their attempts to try  
10 to fairly allocate these monies.

11 CHAIRMAN COLVIN: <sup>said he</sup> ~~The chair~~ would like to  
12 offer one observation. Hopefully it's a factual one that  
13 contributes to the thinking rather than some viewpoint, but  
14 I'll try anyway.

15 On this issue of workload factors, I believe  
16 there may be an impression that the one-third of the commission  
17 formula proposal that incorporated value of landings or value  
18 of catch harvest in the various states was perhaps not related  
19 to workload, was not as related to workload as something about  
20 implementation of plans. If that viewpoint exists, I think  
21 it's in error.

22 The discussions that preceded our proposal  
23 pointed out that workload has two facets. One is how much  
24 work, how complex a fishery management plan is, what does it  
25 require a state to do, does it require a state to adopt and

1 enforce regulations, does it require monitoring, does it  
2 require habitat actions. That's one aspect of workload. That  
3 aspect is probably reflected to some degree, good or bad, in  
4 the NMFS proposal of rankings of 1, 2 or 4.

5                   However, there's another facet ~~or side~~ to  
6 workload; and that is, ~~in given states~~, the magnitude of the  
7 fisheries being managed varies and the intensity and the  
8 involvement of the state personnel and management is  
9 proportionate to the magnitude and the intensity of the fishery  
10 itself. And absent some other way of getting at that, the use  
11 of the value of the landings was intended to be to some degree  
12 a surrogate of the amount of work a state has to do to  
13 implement fishery management plans based on their magnitude.  
14 It's a lot tougher for New York or Maryland or New Jersey to  
15 implement a striped bass program than it is for New Hampshire.  
16 We know this, and that's why we used the landings as part of  
17 that factor. To the extent that the Services weren't aware of  
18 that, I hope that they are now. That's my comment.

19                   DR. HOGARTH: (Indicated.)

20                   CHAIRMAN COLVIN: Bill.

21                   DR. HOGARTH: The thing is that we tried  
22 to -- we looked at 25 percent and said it was equal. We felt  
23 like every state had a certain amount of administrative costs.  
24 In looking at the value of fishery, we felt like took into  
25 account, again, some of the amount of time you have to spend.



1 If you've got a big fishery, you probably spend more time on  
2 developing. So the value of your recreational and commercial  
3 fishery reflected some of the effort you spent.

4 But looking at the act, it kept talking about  
5 fishery management plans, what it took to implement the fishery  
6 management plan. This whole act is based on the fishery  
7 management plans that are in place and we felt very strongly  
8 that the fishery management plans had to have a strong weight  
9 in what was done. So that's why we put -- NMFS did that.

10 The second thing is that regardless of what  
11 you-all vote, that's you-all's prerogative. As a board member  
12 I guess I'll probably abstain from any vote. The comments will  
13 be definitely taken back very strongly what you didn't like and  
14 if there is any changes that we can make quickly, we will. I  
15 made some already based on the first presentation I made to  
16 Jack -- I mean to Gordon. Raleigh wanted to make sure they  
17 both were aware of it. Like I said, we had the hearing and I  
18 had some fishery management plan mistakes with Pennsylvania, so  
19 we made some corrections. I'm not going back to tell them  
20 things are rosie. I'm telling them how upset you-all are and  
21 we will reflect that.

22 I think we still feel like we did the best  
23 job we could with the time we had and we're making the  
24 commitment to you. This is the first year we hope of a  
25 long-term program. We just wanted to set the standards

1 somewhat that these things had to be looked at in this way, but  
2 making the commitment that next year we hope there's a better  
3 partnership and we have time to look at this distribution so  
4 that we're all a little happier with it in the future years.

5 MR. PERRA: (Indicated.)

6 CHAIRMAN COLVIN: Paul.

7 MR. PERRA: Just one question to kind of  
8 clarify the workload. If you do look at the landings factors  
9 that are used, they're total landings are the state. When you  
10 look at that, it's total landings for all species and it's also  
11 recreational trips taken for all species. And there are two  
12 states that stand out. Massachusetts stands out because it has  
13 high commercial total landings, and Florida stands out because  
14 it has high recreational trips. That's why they come out high  
15 in the commission's formula. And when you look at those  
16 states, they have lots of -- Florida has lots of recreational  
17 trips that are not on commission plans. Massachusetts has high  
18 commercial landings that are not related to commission plans.  
19 So it was a way of kind of evening out those two states. But  
20 if you look at the formula, I think Massachusetts and Florida  
21 on the NMFS's side, those two seemed to drop the most. That's  
22 the difference between the two and how it's related to the  
23 workload analysis that NMFS did.

24 MR. FOTE: (Indicated.)

25 CHAIRMAN COLVIN: Tom.

1           MR. FOTE: They are also the two states that  
2 have paid the highest dues to this commission going back  
3 through all these years and basically helped the commission  
4 keep afloat. So when 45 commissioners, and all 45 were not  
5 present at the annual meeting, sit down, the state directors,  
6 we had long discussion. We went on for hours with that. And  
7 they could evaluate the programs and all the commissioners sat  
8 and evaluated the programs. This is the same philosophy that  
9 got Congress in trouble.

10           And I've been accused of cutting off my nose  
11 to spite my face sometimes, but I believe in principle also  
12 like Ed does and I stand by my principles. And what's not done  
13 fairly, I'm going to say it's not done fairly or it's not done  
14 equitable.

15           To say the 45 commissioners knowing what's  
16 going on in their states can't make that type decision and big  
17 brother down in Washington can better than the state directors  
18 and the governor's appointees and the legislators from those  
19 states, I've got a real problem with it. And that's what it  
20 seems happened here. I mean, we sat down, we worked it out.  
21 We knew what was going on with our states. We knew the  
22 workloads that were there, and we realized what the cost of the  
23 program would be.

24           CHAIRMAN COLVIN: The chair is prepared to  
25 recognize Ed Conklin for a motion.

1 MR. CONKLIN: Before that, Mr. Chairman, may  
2 I ask a question of staff? One of the other concerns that I  
3 have and other folks have that I've talked to is whether or  
4 not, if we as a commission requested that the National Marine  
5 Fisheries Service reconsider their plan, whether or not that  
6 would slow down the funding of the states or any other aspects  
7 of this program. That is a concern that many people probably  
8 share. And while I don't want to, you know, sort of sink my  
9 motion before I start, that is an issue that does need to be  
10 taken on head-on, that we have to understand what may happen if  
11 anything as a result of this, assuming that some kind of motion  
12 would pass. I don't know whether or not anyone can offer an  
13 opinion on that.

14 CHAIRMAN COLVIN: Bill's prepared to try.

15 DR. HOGARTH: Let me explain what we did. We  
16 went through -- Dick Schaefer <sup>La, Kell</sup> made the representation to, like  
17 I said, to <sup>Raleigh Schmitt</sup> Raleigh and Gary Matlock and Sissenwine and the  
18 whole staff in grants and everybody. In that presentation, we  
19 had a complete comparison of what you-all were requesting up  
20 front. Everything was presented to them, you-all's total  
21 proposal and our counterproposal. It's all been put before  
22 <sup>Raleigh</sup> Raleigh Schmitt ~~right now~~. So he's had that opportunity to  
23 look at both the presentations. And based on that, you know,  
24 after that he said make sure we talk to Jack before we sent a  
25 letter and make sure we talk to Gordon, and I did that and we

1 made some minor changes there. He said if there was major  
2 problems, there was the appeal process.

3           Since then, we have gone through the grants  
4 people, we've gone through legal and gotten everything ready to  
5 be -- it's been signed off except for Raleigh himself because  
6 he's been out of town. The letter may be signed today while  
7 we're gone. So any changes will slow up the process. How much  
8 it slows it up, it depends on going back through the same legal  
9 people and same grants people and getting Raleigh back in  
10 there. So I can't tell you if it will be one day or be five  
11 days. It's not going to slow us down as far as our desire to  
12 get it through. We're going to continue to push it. I just  
13 want you-all to know, it's not something that we as a small  
14 group did and did not tell Raleigh Schmittten or Gary Matlock  
15 and the rest of them that you-all had a counterproposal.

16           Dick Schaefer was very careful that he  
17 explained the whole process and why we had done what we had  
18 done in opposition, I guess, to what you-all had done. Even  
19 made the statement about being accused of being big brothers  
20 and second-guessing. That's been discussed up front.

21           So I want you to make sure that you-all  
22 realize that this has been a thorough, open discussion with the  
23 panel of the National Marine Fisheries. Still there is an  
24 appeal process. I think our concern is, our extreme concern is  
25 the money being rescinded and we need to get it out. Jack may

1 want to comment.

2 MR. DUNNIGAN: Only to say that Bill has -- I  
3 haven't said anything and I don't really intend to. I think  
4 the commission members are expressing themselves well. Bill  
5 knows how I feel about this. I've got to say, though, that I  
6 am a little lot more worried -- I'm a lot more worried about  
7 this kind of stuff after November the 8th than I was before. I  
8 expect that there will be a major effort in Congress next month  
9 very early to go after lots of pots of money throughout the  
10 whole federal budget and this money is sitting there waiting to  
11 be spent. It's going to be a much easier target to get at  
12 rather than if it is obligated.

13 I worked at the National Marine Fisheries  
14 Service for a number of years, and my guess is that a  
15 reconsideration of this decision is going to take some time.  
16 It's sitting on the desk of the assistant administrator today  
17 waiting to be signed. What it takes to get something like this  
18 to the assistant administrator's desk in that agency is a lot,  
19 especially when you consider the way they've involved all of  
20 the other parts of NOAA, including the general council's  
21 office, the grants office. They're poised and ready to start  
22 working, and resetting that is going to take a lot of time.  
23 Somebody asked me this morning how long, and I said six to  
24 twelve weeks. That may be hard to understand, but that's what  
25 it takes, especially at this time of the year, to get things

1 moving in that agency, just based on my own experience.

2 Others of you have been there too, so use  
3 your judgment as well. I think there's a risk to delaying a  
4 decision on this money. That's certainly not offered, however,  
5 in any way to defend the decision made.

6 DR. HOGARTH: I want to make that clear.  
7 Jack has told me from day one, remember, Jack, from day one  
8 Jack expressed concern in the commissioner's concern, that we  
9 would have problems with you-all. And as I guess the state  
10 director, I sort of realize that too. I've tried to look out  
11 from both standpoints, but we feel strongly about workload  
12 analysis. Like I said, this was the simplest one we felt we  
13 could come to and we knew we was going to be criticized. But  
14 the other one was to try to look at the catch and effort based  
15 on species involved in the plan. That to me had more pitfalls  
16 than this did.

17 MR. COATES: (Indicated.)

18 CHAIRMAN COLVIN: Phil Coates.

19 MR. COATES: Thank you. I'm basically  
20 supportive of Ed's position on the action and that of the other  
21 commissioners, but I'm not going to support his motion for the  
22 reasons Jack stated. I've been around long enough to see what  
23 can happen in these inanimations, although I wasn't around for  
24 the last congressional one, I must admit. I would think we  
25 would be seriously jeopardizing our money, our chances of

1 getting this money after the first of the year. This process  
2 was well along before the end of the year. I'm very concerned  
3 about this happening. I think that Bill's assurance that they  
4 will look at this for next year -- I mean, our major battle is  
5 going to be keeping this money going next year. If we can do  
6 that, getting assurance that there's going to be some  
7 reconsideration of the process next year, then I'm happy with  
8 moving this thing forward. I'm not going to support the  
9 motion.

10 MR. NELSON: (Indicated.)

11 CHAIRMAN COLVIN: John.

12 MR. NELSON: I guess I'd have to echo what  
13 Phil just said. I too am not a big favorite of the feds and  
14 how they make decisions. I never have been and probably never  
15 will be. But I think with the changes we have seen take place  
16 in the Congress -- and every day in the press you see how  
17 they're going to be cutting various departments out entirely or  
18 trying to find some way of balancing the budget which we all  
19 know is billions of dollars. So we're looking at a pot of  
20 money that all the states certainly could use at this time. We  
21 don't know if it will continue. Hopefully it will. It is  
22 where our fight should probably go.

23 We have expressed our disappointment at how  
24 our decision making has been revisited, and I think that's very  
25 justified. I think, though, that the point we ought to be



1 making is that ASMFC, the states and the National Marine  
2 Fisheries in particular have a committee formed so that we move  
3 ahead and, number one, try to make sure that the funding  
4 continues; and then number two, come to a consensus that we can  
5 all vote on that comes up in an appropriate way that's a fair  
6 and yet equitable distribution of all.

7 CHAIRMAN COLVIN: Bruce, did you have another  
8 comment to make?

9 MR. FREEMAN: Yes. I'll take the other side  
10 of that issue. I think this whole issue when we talk about  
11 funding, at least our estimation, was in the order of \$30  
12 million to get this job done on a coast-wide basis, so we got a  
13 little over \$3 million. And the effort to get \$3 million was a  
14 Herculean effort as far as the commission was concerned, and we  
15 all appreciate that.

16 Nevertheless, it's going to be the commitment  
17 of the states to make this whole process work. And I think the  
18 commission in its wisdom, debating this issue collectively,  
19 having the commissioners, the governor appointees and the  
20 states and the formula they derived is a position we all agreed  
21 to. And now to have that changed and we have objections to it  
22 I think is not the way to work in a cooperative effort.

23 And I understand, Bill, the time that you and  
24 your men, Paul and others, have put in. I'm sure you worked  
25 trying to move this in what you perceived as a fair way within

1 the constraints of the agency. We don't want to fault you for  
2 that. I'm sure you worked very hard, way beyond our knowledge  
3 to do what you have.

4                   Nevertheless, in this most recent political  
5 arena, it appears that from the Washington level, they want to  
6 decentralize and give more emphasis to the states and give the  
7 states more importance. I really have to question whether in  
8 fact politically this money would be cut. I certainly would  
9 think it would be within our rights and within our prerogative  
10 to indicate to the Fisheries Service how we feel about this.

11                   (Momentary interruption.)

12                   MR. LAPOINTE: Bear with me a minute. It  
13 says "volume," but you can't stop this.

14                   CHAIRMAN COLVIN: I can't help but reflect  
15 how appropriate it would have been to have this kind of music  
16 at yesterday's fluke meeting. The holiday spirit of giving  
17 would have been more appropriate at that time.

18                   MR. JENSEN: We seem to be debating a motion  
19 that has not been made.

20                   MR. CONKLIN: Right. Why don't I go ahead  
21 and make that.

22                   MR. JENSEN: I support and commend Ed's  
23 position, and I want to hear his motion before I find out where  
24 I'm going to be.

25                   CHAIRMAN COLVIN: Ed, do you want to offer a

1 motion?

2 MR. CONKLIN: Please, Mr. Chairman. The  
3 motion is that the Atlantic States Marine Fisheries Commission  
4 reaffirm support of the funding allocation previously agreed to  
5 by the states. That's the first part. The second part is the  
6 staff be directed to write NMFS on behalf of the commission to  
7 request implementation of the commission's original  
8 recommendation.

9 CHAIRMAN COLVIN: Is that the motion, Ed?

10 MR. CONKLIN: Yes.

11 CHAIRMAN COLVIN: Is there a second?

12 MR. FOTE: Second.

13 CHAIRMAN COLVIN: Tom Fote seconds the  
14 motion. Discussion on the motion? And I as the chair will  
15 return to Pete.

16 MR. <sup>JENKINS</sup>JENKINS: I just want to make one  
17 observation and indicate that I do intend to support that  
18 motion, but that the Service by substituting their judgment has  
19 already introduced a delay in the system. So I find it  
20 difficult now to be in a position where if we don't like what  
21 they did, then we're guilty of putting high risk on this money.  
22 And I simply don't accept that proposition because I think they  
23 should have done it our way in the first place.

24 MR. SPITSBERGEN: (Indicated.)

25 CHAIRMAN COLVIN: Dennis.

1 MR. SPITSBERGEN: I'm not going to support  
2 this motion. I am concerned that the National Marine Fisheries  
3 Service has substituted their judgment for the collective  
4 judgment of the commission. I'm not particularly happy with  
5 the National Marine Fisheries Service reaching in and picking  
6 out \$82,000 for statistics. I keep saying statistics is their  
7 responsibility and states have been picking up their  
8 responsibility, at least in the South Atlantic extensively for  
9 years, and I'm a little surprised that they're reaching in to  
10 use the states' money for funding statistics, states'  
11 activities in statistics. However, I think we need to get  
12 moving on with this. I think we're arguing over not a great  
13 big bunch of bucks here and we need to get moving on with this  
14 and reassess it again next year if there's bucks available and  
15 make sure that everyone's concerns at that point are addressed.

16 CHAIRMAN COLVIN: Is there any further  
17 discussion on the motion?

18 DR. HOGARTH: (Indicated.)

19 CHAIRMAN COLVIN: Bill Hogarth.

20 DR. HOGARTH: I'd just like to say that the  
21 ASMFC request was submitted to Raleigh Schmitt<sup>24, 1, 2</sup>en on November  
22 the 30th, ~~officially submitted to Raleigh Schmitt<sup>24, 1, 2</sup>en November~~  
23 the 30th. Since then, he sent it to us and that's when we  
24 responded with the presentation to him. So November the 30th  
25 to December is the time frame we had the proposal withir to

1 look and we're back here today here with the proposal. That is  
2 the first time that the ASMFC submitted its proposal.

3 MR. JENKINS: I guess we'd have to presume,  
4 Mr. Chairman, that 12 more days would be needed to reconsider.

5 CHAIRMAN COLVIN: Further discussion on the  
6 motion?

7 MS. SHIPMAN: (Indicated.)

8 CHAIRMAN COLVIN: Susan.

9 MS. SHIPMAN: Yes. I would support the  
10 motion for exactly what Pete said. I think they can expedite  
11 their decision. I think they can expedite the review.

12 MR. LESSER: (Indicated.)

13 CHAIRMAN COLVIN: Charlie.

14 MR. LESSER: We would support the motion  
15 based on two things, one that NMFS is a voting member of this  
16 commission. In the spirit of consensus, I take exception to  
17 one voting member superseding a consensus vote. I think that's  
18 the wrong message to send. I think the states are the  
19 supporting weight behind this act. They made it work for 52  
20 years. They protected it. And I think if we go in the  
21 opposite direction and big brother makes the decisions, I think  
22 we're going to lose it rather than retain it. So I'll vote  
23 yes.

24 CHAIRMAN COLVIN: I see no further comment.  
25 Are we ready for the question.

1 MR. FOTE: (Indicated.)

2 CHAIRMAN COLVIN: Tom.

3 MR. FOTE: I'd like a roll call vote on this,  
4 please.

5 CHAIRMAN COLVIN: A roll call vote has been  
6 requested. Is there objection?

7 (No response elicited.)

8 CHAIRMAN COLVIN: Tom, will a show of hands  
9 be sufficient to accommodate your request?

10 MR. FOTE: No, I'd like to go by state. I  
11 really want a roll call vote.

12 CHAIRMAN COLVIN: If the director would call  
13 the roll.

14 MR. DUNNIGAN: Mr. Flagg?

15 MR. FLAGG: No.

16 MR. DUNNIGAN: Mr. Nelson?

17 MR. NELSON: No.

18 MR. DUNNIGAN: Mr. Coates?

19 MR. COATES: No.

20 MR. DUNNIGAN: Mr. Sisson?

21 MR. SISSON: No.

22 MR. DUNNIGAN: Mr. Beckwith?

23 MR. BECKWITH: No.

24 MR. DUNNIGAN: Mr. Freeman?

25 MR. FREEMAN: Yes

1 MR. DUNNIGAN: Mr. Lesser?  
2 MR. LESSER: Yes.  
3 MR. DUNNIGAN: Mr. Jensen?  
4 MR. <sup>Jensen</sup>JENKINS: Yes.  
5 MR. DUNNIGAN: Mr. Travelstead?  
6 MR. TRAVELSTEAD: Yes.  
7 MR. DUNNIGAN: Mr. Spitsbergen?  
8 MR. SPITSBERGEN: No.  
9 MR. DUNNIGAN: Ms. Shipman?  
10 MS. SHIPMAN: Yes.  
11 MR. DUNNIGAN: Mr. Conklin?  
12 MR. CONKLIN: Yes.  
13 MR. DUNNIGAN: Mr. Fote?  
14 MR. FOTE: Yes.  
15 MR. DUNNIGAN: Dr. Hogarth?  
16 DR. HOGARTH: Abstain.  
17 MR. DUNNIGAN: Dr. Geiger?  
18 DR. GEIGER: No.  
19 MR. DUNNIGAN: Mr. Carpenter.  
20 MR. CARPENTER: Yes.  
21 CHAIRMAN COLVIN: Mr. Palmer.  
22 MR. PALMER: No.  
23 MR. DUNNIGAN: Mr. Chairman, there are eight  
24 votes in the affirmative and eight votes in the negative.  
25 CHAIRMAN COLVIN: The chair votes aye. The

1 motion carries.

2                   The chair would like to offer a comment on  
3                   *Mr. Colvin said* the outcome. It's the chair's view that the sense of the board  
4 is sympathetic to the motion. On that basis, I vote to convey  
5 those sentiments to the director of the National Marine  
6 Fisheries Service. At the same time, it is also clear that a  
7 substantial number of board members are concerned about the  
8 effect of any reconsideration on timing and it will be the  
9 chair's view that those concerns will also be expressed in the  
10 communication that goes to the Service, and that they be  
11 expressed strongly and that there be an accompanying request  
12 for conferral between the leadership of the Service and the  
13 commission to further discuss any implications of that nature,  
14 and that in the event such implications appear to be  
15 significant, that I and Jack will follow up with phone calls to  
16 members of the policy board and further discuss those matters  
17 with you. Is there any further discussion on this issue or  
18 other business to come before the policy board?

19                   MR. NELSON: (Indicated.)

20                   CHAIRMAN COLVIN: John.

21                   MR. NELSON: Mr. Chairman, should we formally  
22 establish a committee to work for the future funding and a  
23 future resolution of a formula that we can all review worked  
24 out by National Marine Fisheries, the states and the ASMFC?

25                   CHAIRMAN COLVIN: Without objection, the



1 chair will take that under advisement. One of the things that  
2 we will be working on in the coming weeks is clarification of  
3 rolls of committees, appointments of committees, and  
4 potentially this issue may be appropriate to put before the  
5 administrative oversight committee and that will be considered.

6 MR. JENSEN: (Indicated.)

7 CHAIRMAN COLVIN: Pete.

8 MR. <sup>Jensen</sup>JENKINS: Mr. Chairman, there have been  
9 comments in previous meetings and there were comments about  
10 white papers that have been prepared by the different services,  
11 and I had hoped from an earlier discussion that we were going  
12 to see copies a them, because apparently these are forming the  
13 basis of policies and how they're going to interact with us. I  
14 would simply ask that those white papers be made available to  
15 us so we can see what the thinking of the services are.

16 MR. DUNNIGAN: (Indicated.)

17 CHAIRMAN COLVIN: Jack.

18 MR. DUNNIGAN: We have the latest drafts, but  
19 I don't think any of them are finalized yet. The focus of the  
20 papers is on their internal programs, not what they're telling  
21 the states to do.

22 MR. JENKINS: I understand, but we're  
23 partners, remember?

24 MS. SHIPMAN: (Indicated.)

25 CHAIRMAN COLVIN: Susan.

1 MS. SHIPMAN: Yes. I would like to echo  
2 Pete's request. As you know, we've had a very open process of  
3 developing our standards and procedures and everyone knows how  
4 we're going to operate. I too would like to know how the  
5 services are going to operate within the new act. I would like  
6 to see their standards and procedures.

7 MR. FOTE: (Indicated.)

8 CHAIRMAN COLVIN: Tom.

9 MR. FOTE: Just one question. You said you  
10 only got the request on November 30th?

11 DR. HOGARTH: We've been talking to Jack and  
12 working before that. We've been working on the process before  
13 that.

14 MR. FOTE: Because we voted on this back at  
15 the annual meeting.

16 DR. HOGARTH: We've been working on the  
17 process since then. We've got stacks of data with different  
18 ways of looking at it.

19 CHAIRMAN COLVIN: We have a request for  
20 public comment from Charlie Bergmann.

21 MR. BERGMANN: I don't know if this is  
22 appropriate or not, but you had mentioned summer flounder  
23 yesterday in the spirit of giving. I was wondering if  
24 Mr. Hogarth could give us an update on the court case.

25 DR. HOGARTH: I've got to make a phone call

*Send him call and check*

1 as soon as we get out of here. I'm supposed to call as soon as  
2 I get out.

3 CHAIRMAN COLVIN: If there's no further  
4 comment, Bill Hogarth has requested one other -- a comment on  
5 another subject.

6 DR. HOGARTH: Totally separate from this. As  
7 part of my new job, I found out they want a lot more  
8 coordination, particularly Raleigh Schmitten with the states.  
9 I hate to bring this up after what we just went through, but  
10 I'll bring it up anyway. What I get myself into sometimes.

11 But in the process, all of you, if you  
12 haven't received it, will be receiving from me a letter which  
13 you may think is sort of strange, but basically, it's just  
14 trying to introduce the fact that I will be doing this and  
15 asking some ideas from you on how we can better coordinate and  
16 do a better job of partnership with the states. We're trying  
17 to get the state directors and the commissions to work better  
18 and some better partnerships going.

19 The letter just states -- and I asked for a  
20 response back in a month or so, so we do plan on having Raleigh  
21 Schmitten meeting with all the state directors at the  
22 commission meeting that Jack is, I guess, working out with the  
23 other two commissions in March. We'd like to have some of  
24 those items that you're most concerned about put on the agenda  
25 during that time frame.

1                   But he does want to work greater with the  
2 state directors and greater with the commissions for greater  
3 partnerships, and it looks like that's going to be part of my  
4 job, to try to figure out where those partnerships can be, how  
5 we can do a better job. So I've learned part of it today and  
6 I'll convey that.

7                   MR. FOTE: I notice you said "state  
8 directors." You might say "commissioners" since we are --  
9 there is other commissions beside state directors. My  
10 sensitivity training.

11                  CHAIRMAN COLVIN: Susan, did you want to say  
12 anything about the standards and procedures draft?

13                  MS. SHIPMAN: Thank you, Mr. Chairman.  
14 Everyone yesterday in weakfish on that board should have  
15 received a copy of the final working draft. I note that this  
16 is a final working draft. It has been adopted. But you'll  
17 recall the policy board gave us editorial license to fold in in  
18 particular the section on the law enforcement committee role.  
19 The law enforcement committee is working with me and the  
20 commission staff on that, so that is the only part that has not  
21 been included. But this is a copy for you to follow and work  
22 by as we go through the planning process. I have a couple more  
23 copies. If you didn't get one, please see me. I will also be  
24 getting a final copy out to you along with definitions.

25                  You'll recall Section 8, it tasked everyone

1 with getting comments back to us on definitions. I'd like to  
2 commend New York and Florida for getting comments back to us.  
3 The rest of you have been silent. I'm missing hearing from  
4 you. I'd love to get some comments from everyone else. So  
5 please, if you don't have that copy of Section 8 which you  
6 received in Rehoboth Beach, let me know. I'll fax another one  
7 to you. We want to wrap up Section 8. So look over the  
8 definitions and get any remaining comments in to us. Thank  
9 you.

10 CHAIRMAN COLVIN: Thank you, Susan. Is there  
11 a motion to adjourn?

12 MR. SPITSBERGEN: So move.

13 CHAIRMAN COLVIN: Without objection.

14  
15 -----oOo-----  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COMMONWEALTH OF VIRGINIA

CITY OF NORFOLK, to-wit:

I, Victoria L. DeBerry, do hereby certify  
that the foregoing pages are a true and accurate transcript  
of the proceedings had at the time and place mentioned.

This 6th day of January, 1995.



Court Reporter

My Commission expires October 31, 1996.