

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
February 20, 2013

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of October 12, 2012** by Consent (Page 1).
3. **Move to recommend the Commission send a letter to USFWS urging expedited review and possible action on the importation of all Asian horseshoe crab species.** Motion by David Simpson. Motion carried (Page 17).
4. **Motion to recommend the Executive Director to send a letter to the Chairs of the Maine Legislature's Joint Standing Committee on Marine Resources. The letter shall describe ASMFC's compliance criteria and clearly lay out what level of increased effort within the glass eel fishery (licenses or gear), would put Maine out of compliance for the 2013 season. The letter should also state what the impact is to a state being found out of compliance.** Motion by Tom O'Connell. Motion carried (Page 17).
5. **Motion that the Commission send a letter to the sponsors of New Jersey legislation S.2376 and A.2653. ARM model output showing New Jersey's allowable sustainable harvest levels and potential negative consequences in the US and abroad as a result of New Jersey's horseshoe crab moratorium shall be included.** Motion by Adam Nowalsky; second by Rob O'Reilly. Motion carried (Page 17).
6. **Move to adjourn** by consent (Page 17).

ATTENDANCE

Board Members

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| Rep. Walter Kumeiga, ME (LA) | Mitchell Feigenbaum, PA, proxy for Sen. Vereb (LA) |
| Patrick Keliher, ME (AA) | Leroy Young, PA, proxy for J. Arway (AA) |
| Willis Spear, ME, proxy for S.Train (GA) | Loren Lustig, PA (GA) |
| Dennis Abbott, NH, proxy for Sen. Watters (LA) | David Saveikis, DE (AA) |
| Doug Grout, NH (AA) | Roy Miller, DE (GA) |
| G. Ritchie White, NH (GA) | Tom O'Connell, MD (AA) |
| Paul Diodati, MA (AA) | Bill Goldsborough, MD (GA) |
| Bill Adler, MA (GA) | Russell Dize, MD, proxy for Sen. Colburn (LA) |
| Rep. Sarah Peake, MA (LA) | Jack Travelstead, VA (AA) |
| Robert Ballou, RI (AA) | Cathy Davenport, VA (GA) |
| Bill McElroy, RI (GA) | Louis Daniel, NC (AA) |
| David Simpson, CT (AA) | Sen. Ronnie Cromer, SC (LA) |
| Dr. Lance Stewart, CT (GA) | Robert Boyles, Jr., SC (AA) |
| James Gilmore, NY (AA) | Patrick Geer, GA, proxy for S. Woodward (AA) |
| Steve Heins, NY, Administrative proxy | James Estes, FL, proxy for J. McCawley (AA) |
| Pat Augustine, NY (GA) | Jaime Geiger, USFWS |
| Peter Himchak, NJ, proxy for D. Chanda (AA) | Kelly Denit, NMFS |
| Adam Nowalsky, NJ, proxy for Asm. Albano (LA) | A.C. Carpenter, PRFC |
| Tom Fote, NJ (GA) | |

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

Ex-Officio Members

Staff

Robert Beal

Toni Kerns

Guests

Margo Schultz-Haugen, NMFS

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, Wednesday afternoon, February 20, 2013, and was called to order at 4:30 o'clock p.m. by Chairman Paul Diodati.

CALL TO ORDER

CHAIRMAN PAUL DIODATI: Welcome; I am Paul Diodati, Chair of the Policy Board.

APPROVAL OF AGENDA

CHAIRMAN DIODATI: You should have before you the agenda; and without objection we will approve the agenda.

APPROVAL OF PROCEEDINGS

CHAIRMAN DIODATI: Unless there is any objection; I will consider the proceedings from our last meeting approved; the minutes don't require any modifications. I see no heads shaking so we will consider those approved. I think I am going to jump around in this agenda so that we could deal with a couple of folks who are here today.

DISCUSSION OF ASMFC PUBLIC COMMENT ON AMENDMENT 5 TO THE HMS FISHERY MANAGEMENT PLAN

CHAIRMAN DIODATI: Let's jump to Louis Daniel, who wanted to discuss Amendment 5 to the HMS Fishery Management Plan. If you're ready, Louis, we could do that first.

DR. LOUIS B. DANIEL: Thank you, Mr. Chairman, and thank you to Dave and to Marin for getting the comments out so quickly. We had requested an extension of the comment period because there was a tremendous amount of information that impacted I think a lot of us that was not forthcoming from the National Marine Fisheries Service on moving forward with Amendment 5.

Today we got notice that they have indeed stripped out the measures that were of concern to us and will be dealing with those in a subsequent amendment; so for that we are grateful and appreciate the Service taking that step. I did sort of play the role of bad guy it seems like all the time when I'm dealing with HMS.

I'm sorry about that, but I do think that there are a couple of issues that we do need to discuss. Just to

make sure that I'm not out there on my own here, I think it is the general consensus of the commission and just again formally ask the Service to – Tom, have you got something?

MR. THOMAS FOTE: You said they stripped out the ones that – could you tell us which ones they stripped out because I have no idea which ones they –

DR. DANIEL: Yes; there is a notice that came out today.

MR. FOTE: I didn't get it.

DR. DANIEL: Basically the issue was they were under some mandates to move quickly on scalloped hammerheads, and so they're going to continue moving forward with measures to reduce overfishing on scalloped hammerheads. The other issue was some proposed closures to the pelagic longline fishery to protect dusky sharks, and there were a lot of questions raised about that. Some of those measures that aren't under a statutory timeline have been delayed to a subsequent measure. Is that a fair characterization, Margo?

MS. MARGO SHULTZ-HAUGEN: Yes; we've got the scalloped hammerhead, which has the rebuilding time clock going for late April, and so that will proceed. The dusky shark measures, we have a little bit more time. The two-year timeframe is in the fall in October, so we will pull out all of the dusky specific measures, so that would have been the time area closures for pelagic longline, shark research fishery changes, as well as the recreational increase in minimum size, which was based on dusky age at maturity. Those will be considered in a separate subsequent action and all the rest; so blacknose, blacktip. Scalloped hammerhead will proceed in Amendment 5 as quickly as we can. I have some copies of the list of notice, if people want them.

DR. DANIEL: So the issues that we really didn't have a chance to discuss fully were the issues that mostly are issues that have now been delayed. I would just like to formally again request that whenever HMS goes out for public hearings, if it has anything to do with the coastal sharks and this board, that that comment period end after a board meeting, so that we have an opportunity as a board to discuss those measures.

In this instance, the comment period ended on February 12th, and now we're meeting today. There are specific issues that are in this delayed-now action that the states need to be very much aware of. One

includes an extraordinary increase in the minimum size limit for large coastal sharks or for coastal sharks of I think it is 96 inches, which is an eight-foot shark.

So essentially what that does is that basically eliminates the vast majority of the recreational fishery for sharks. It may eliminate all of them except for the crazy folks that want to try to handle an eight-plus-foot shark. But as far as species like blacknose and blacktips and many of the other species that are important to the recreational fishery, if a 96-inch minimum size limit goes in, that fishery is done.

The other issue; and I don't know exactly how much this impacts other states, but if you look very closely – you know, there doesn't seem to be a tremendous amount of interest in the Coastal Shark Board. That is just my observation as having chaired it, and there are not that many folks that are really interested in the Coastal Shark Board; and so a lot of folks maybe don't pay as much attention to what is going in that board.

In this particular case this will have a significant impact on our pelagic longline fishery. That is our tunas, our dolphins, our wahoos that I'm sure many of you have a pretty significant interest in. It is an extraordinarily valuable fishery for North Carolina at least. The propose closure off of North Carolina is the famed Point off of Hatteras, which is the most lucrative pelagic longliner fishing grounds that we have, and that area is slated to be closed or was proposed to be closed for three months, pretty very lucrative months to protect dusky sharks.

I won't get into the numbers of dusky sharks. They're very small; the bycatch mortality associated with those sharks and the problems associated with the bycatch mortality rates. But if you look at Amendment 5, you will see there is a bunch of other boxes up off of Delaware and up off of Massachusetts and up off of a lot of your other states.

I don't know how that impacts you and I don't know if any of you have looked at those boxes and are aware of where those boxes are and what the potential impacts of those boxes will be. I wanted to have this opportunity to make sure that the board was aware of the potential impacts to the pelagic longline fishery; and if you're not, you need to be.

The other issue that you need to be aware of is that Amendment 7 for bluefin tuna is also coming in and proposing substantial closures in these similar areas because of bycatch of bluefin tuna, and so there is the potential for a devastating impact on our pelagic

longline fishery. One of the concerns or issues is bluefin bycatch, but we're not catching our quota of bluefin; and so what is not making sense – what we need to be thinking about – and I know we don't do bluefin tuna, but if we have tuna left over, why are we closing areas to account for bycatch?

Why don't we let the pelagic longline bycatch account for the fish that aren't being caught makes sense to me as opposed to closing the areas down? That is going to have significant impacts. The final issue; and this is one that has been frustrating, but is in data sharing. I think there has got to be a way that we work as state partners with the National Marine Fisheries Service to have a better relationship in terms of sharing data.

I understand the confidentiality issues with some of these things, but we have got to be able to get hold of the information that is being used to make these recommendations, to be able to review that data. If it is confidential data, it needs to be summarized in such a way that it is not confidential because at least in the state of North Carolina and I'm sure in all the other states we provide that information.

If we have to summarize some stuff to avoid confidentiality issues, we do, but we're constantly sending information and usually is a 24-hour time period that we get the data to our federal partner when it is asked for. I don't see that same reciprocity coming out of the National Marine Fisheries Service at least when it came to this data.

You know, the intent and purpose behind the Coastal Shark Board was to work very closely and intimately with NMFS and HMS in managing sharks. This has escalated into a position where all – and Margo knows – my senators, all my legislators, all my fishermen have gotten involved in this. It has created a mess.

I just feel it is important and it is consistent with the comments that we submitted on behalf of the ASMFC; and what I'm asking for is consistent with what the executive director has asked in terms of the comment period ending after a board meeting to give us this opportunity to have those discussions.

My hope is that we will have an opportunity at our May meeting because I'm assuming we're going to move fairly quickly on the dusky issues, but I think the Coastal Shark Board needs to discuss these issues and the ramifications to our recreational fishery with the size limit and to our pelagic longline fishery and commercial shark fishery and other fisheries before

these actions are taken in final action. Those were the points that I wanted to make and I appreciate the indulgence of the board.

MS. SHULTZ-HAUGEN: There are just a couple of points I would make. We try very hard to coordinate and consider the commission a true partner for coastal sharks. Hearing the request to comment on pelagic longline fisheries for tunas and swordfish is new, and I guess I would ask is the commission asking to establish an HMS Board as opposed to a Coastal Shark Board?

As much as we try to have comment periods overlap with the meetings, in this case it was very difficult for a variety of reasons. We I think have a good track record of doing that, but it isn't always possible. Sometimes our timeframes are dictated by other reasons. I would also point out that the commission has a representative on our HMS Advisory Panel. We also have ex-officio seats for every state as well as the Atlantic Council.

I believe there are actual opportunities for all HMS fisheries that are provided, and so I welcome anyone that is interested to come. We have the budget to pay, if asked. I believe a number of states are participating on the panel. We have councils that are pulling their HMS Advisory Boards together and submitting comments. I think the Coastal Shark Board is one venue but it is certainly not your only venue.

I guess I would also ask that when there are issues or when we request time, that there be some time provided. There has been occasion where we're discussing a major action and don't have a lot of time on the Coastal Shark Agenda. I think our knowledge of the interest has been gauged by the time allotment to a degree; and so if there hasn't been time, then it leaves a message that maybe there isn't that same level of interest, but we are more than happy to work on that.

On the data sharing, the agency has data-sharing agreements I believe with every state except possibly North Carolina. I am trying to find the overarching data-sharing agreement from Northeast Center staff to see if we can use that. It is the first I had heard that it exists. That, Louis, may be part of the struggle that we have that may be unique to North Carolina. But, again, I'm working on trying to resolve that or develop a new one if we need to. We're certainly not trying to hide information and we're trying to comply with own data confidentiality and sharing

requirements. With that, I would be interested to hear the discussion.

MR. PATRICK AUGUSTINE: I don't understand why we don't have someone on the HMS Advisory Panel from the commission. I was fortunate enough, when I was with the Mid-Atlantic, that I was the representative. It is amazing the information that is exchanged and the opportunity that the membership of the groups around the table have to say things off record directly to the HMS staff as to recommendations and changes we should make.

I don't know if there is anyone in this room – maybe you did, Dr. Daniel – who received a SAFE Document that has all the details you possibly could want about the HMS, bluefin tunas, all the BAYS, all the sharks, about the minimum size and so on. I try to get some of our folks on Long Island cranked up. I happen to be the governor's appointee, so I took it upon myself to write a position as to what we should do and then spread that around.

I was fortunate to enough to get it in a local fisherman magazine. Most folks in the state weren't aware – in our area on Long Island were aware that these changes were occurring. Again, if we had a member of the commission sitting on the HMS Panel – as Margo said, we could do that – it would be most beneficial. The document, although it looked like it was complicated, was very comprehensive and very easy to follow.

My biggest concern was that we're moving the minimum size for pelagics from 4.5 feet up to 96 inches. If you read the document, really it said that the maturing ages for blue sharks, shortfin, makos and several other fish are between 53 to 70 inches; and to go from 4.5 when these fish are not rated as overfished and overfishing occurring without taking a stand on those specifically and asking why would we do that; I came up with a recommendation we should be looking at six foot or 6.5 foot.

I tried to get that aired and I talked to Marin about it, and she did have a copy of my document and so on. The document has been out there and I just don't think that we were on top of it and still think we could ask for and for our committee I suppose we could request copies of that SAFE Document and we still have time to respond to some of these issues that have now been put off to a later date, particularly the recreational sizes.

But, with HMS you have got to be on top of it. That moves faster than some of the things that we do.

They have two or four meetings a year. They have the spring meeting and a summer meeting and a fall meeting. They meet with and during the ICCAT group meeting, so you're in tune with what is happening nationally and internationally.

You know there has been a push for this finning regulation to stop all imports of finning. Well, I am sure that was brought to the ICCAT Advisory Panel and the HMS Group way, way back, a couple of years ago, and we have only just recently paid attention to it because a group went out and got California to agree to ban the import. Those things are happening; they're happening on an international basis, and I think we've got to be a participant. If you're looking for someone to go, I'll go, but I do think we need a member from the commission on the HMS Advisory Panel.

MR. PETER HIMCHAK: Mr. Chairman, I was going to add the – and again after hearing Margo's response, I'm kind of wondering where the responsibility lies because the HMS Committee of the Mid-Atlantic Council requested an extension to the comment period, which was declined, but their comments went out the last day of the comment period, which was actually the day that the Mid-Atlantic Council was scheduled to meet.

Again, I don't know; it is not appropriate to point the finger like who should have been on top of this or why the timing was bad, but maybe it behooves all of us to pay a little more attention. When you start reading the e-mails from Louis, like, yes, I was getting really excited, but the HMS Committee of the Mid-Atlantic Council was – I don't know what they were doing or what they received.

MR. FOTE: I saw this notice when I was away. It was also when Hurricane Sandy had basically affected a lot of New York and New Jersey and people's eyes weren't on fisheries regulations but they were on a lot of other things when it came to that. Louis went in to talk about bluefin tuna. I felt the necessity this year to go to a bluefin tuna hearing because I have usually stopped going because I don't like banging my head against a cement wall. But I decided I would go in Tom's River since was about three miles from my house.

I remember bluefin tuna hearings ten or fifteen years ago or twenty years ago when we would have 300 people in the audience to basically sit here and discuss the issues. It is such of small importance anymore to New Jersey or the fishermen are not concerned. When I looked around the room, there

were old friends like Ritchie Ruez, Terry Bideman, Hassan, myself and I think John Cagle, and that was the only people in the room when we were talking bluefin tuna.

I'm old enough and have been going to council meetings long enough to realize when HMS was basically handled by the councils. I just wrote an article saying I think that's what we should go back to. When we had that representation at the councils when we have opposed things, it was people sitting around the table that were both commercial fishermen, state directors and things that promote rules like that.

Since we have moved out – and some of you know the reasons why it was moved out and who moved it out years ago – there has been this disconnect getting further and further between the fishermen and what goes on. At least at the council system, when they had them – when they had a change in the shark plan, they used to do a hearing in each state.

It was our responsibility because one of the council members would do the hearing. That is not done on all the new interests. To get people to take three or four days – you know, I'm a volunteer. Okay, I take about five and half, six weeks to come here and now I'm supposed to go to another four times to D.C. to basically sit at meetings. I don't go anymore. I try to send other people but it is very difficult to do that; to use 12 or 14 days of people's time.

It is easy when they come to our area. It is now more convenient for NMFS to do this because that is with the headquarters. When it was the council, it was easy to go to the council system. I have a lot of concerns about HMS and it really goes – I think Louis for putting his document in. I just basically resent that to a whole bunch of people included into a document that I put out because I thought his comments were right on.

You know, when you start looking at 96 inches, we look and says who even thought of this? If it would have gone through a table where fishermen were sitting at or council members, nobody would even have reported this because they realize it would have eliminated most fisheries in the northeast that don't have dusky as a bycatch and yet you're basically implementing these rules that would affect us. That is where the disconnect happens a lot of times. It is also interesting all the people that we appoint for HMS advisors, after they serve one or two terms they don't want to go back again. I mean, it is very difficult to even get people to serve anymore and to

put themselves on. I will stop doing my dance right now.

DR. DANIEL: I am scared to death that I agree a hundred percent with what Tom has said. I think you hit the nail on the head, and it is the same thing I am thinking about. There is just such a disconnect in how the ASMFC operates and how the councils operate and then how HMS operates.

One of the problems – you know, my staff goes and my fishermen go to the HMS meetings, and they see a pre-draft but then a document comes out with stuff that wasn't even in the pre-draft. So where did this come from? One of the problems that you run into is that once it gets into a draft, you're done. It is hard to get it changed.

To the comment about being involved in swordfish and BAYS tunas and such, yes, I mean, the shark plan is going to have a significant impact on those fisheries that are of significant importance to all the states sitting around this table. My main interest and my main focus was to make certain that all the member states around this table were aware of the impacts to our pelagic longline fishery.

Just because it is not bottom longline, it doesn't mean we don't have an interest. We have an interest in the pelagic longline fishery. We have an interest in all of HMS activities; but the way it is appearing to me is that it seems like every time the ASMFC and all the member states and all the various councils and all the folks make a recommendation to HMS, it very rarely gets accepted.

The smooth dogfish is a great example. Why in the world HMS is doing smooth dogfish is beyond my comprehension and why that decision was made against the recommendations of the Mid-Atlantic, the ASMFC and all the member states. There needs to be more oversight in how that is done. It is like ESA stuff.

It is done by a committee in Silver Spring, and it needs to be handled by the councils to where we have exactly what Tom said, where we have recreational fishermen, commercial fishermen, and state directors sitting around the table making suggestions and having the folks that can say, "Hey, look, outside the hundred fathom contour you're not going to catch any dusky sharks and so why does the box go outside the hundred fathom contour?"

Those are types of things, though, that – and off of Charleston there is a box. There are people that want

to see impacts to the pelagic longline fishery, and I can appreciate that and appreciate that. But if it is the time – I don't know why there has not been enough time granted, and I think we can certainly resolve that issue.

If HMS needs the time to come to the board and have those decisions, but it needs to be at a time when we can actually have discussions and make decisions. I'm just asking for the board to understand the impacts and ramifications of Amendment 5 and know that we have a lot of work to do. I don't think anybody dropped the ball. Marin was on this from the beginning. I was on this from the beginning.

We were very hopeful and assumed with all the states and everybody asking for the extension, that we would get it. We had our comments ready before the 12th and we provided those to ASMFC; and with the concurrence of the Coastal Shark Board Chairman we got those comments out in time; but it was a good thing we did that or we wouldn't have had our comments in at all. I think we did the best we could. There is a tremendous amount of information out there that we need and we still don't have before we can make any logical and real recommendations on how to handle this fishery.

CHAIRMAN DIODATI: Louis, are you looking for a particular action from the board today, because I did have note here for an action item? I'm not sure if the delay for some of these things accommodate your –

DR. DANIEL: No; my hope was to have us formally request the split that occurred today; the delay that was decided on today and approved; so that action is no longer necessary because it has been done. Again, we appreciate that opportunity to be able to spend more time on this issue.

CHAIRMAN DIODATI: Margo, are you all set? Do you want to add anything else?

MS. SHULTZ-HAUGEN: No; I would certainly welcome time at the next board meeting. I don't know exactly where we will be so I don't know what we will have to share. Marin was at the January meeting. If there are others that are interested, it is an open meeting. Again, if you are a state that has not been participating, please let me know. We can afford to pay for someone to come. I think we're trying to provide the opportunities as we can.

CHAIRMAN DIODATI: Yes, and we hear you and we appreciate that. I heard Pat's recommendation as

well. I think most of the states do have the opportunity to participate as ex-officio or in some other way. I know that I have designee usually involved. As what was pointed out, we do have FMP coordinators that attend the meetings on our behalf.

I guess the question of whether or not we want one of our commissioners to be representing the commission in a sense to I guess report back and keep the commission on track relative to HMS, because it isn't a large part of our business usually, we can discuss that. I don't think we need to decide that today. Maybe during the executive committee meeting morning we can discuss that and make a recommendation. I am going to jump down the agenda because I believe Mr. Hooker is here today to talk about the Bureau of Ocean Energy Management. We're glad to have you here today. Do you want to give us a short presentation?

UPDATE ON BUREAU OF OCEAN ENERGY MANAGEMENT ACTIVITIES

MR. BRIAN HOOKER: Thank you for the opportunity to come and update the commission. This is the first time I have had the opportunity to update the commission on some of the activities of the Bureau of Ocean Energy Management has taken thus far in the planning and analysis of offshore renewable wind energy.

This is a result of a request amongst several stakeholder meetings, Rhode Island and elsewhere, that the Bureau solicit opinion and be more involved in providing feedback in our processes. My name is, again, Brian Hooker. I am a biologist with the Bureau of Ocean Energy Management. We are within the Department of Interior. I work exclusively in the Office of Renewable Energy Programs.

Just a quick overview of what I will be talking about today; a recap of where we are with the different stages of development, the status of our wind energy areas and a status update of our environmental studies program in relation to offshore renewable energy as well. Where we are right now, as you can see on this slide, we have several stages of development.

We have spent most of our time thus far doing identifying what we term "wind energy areas". That has involved a task force, consultation, and formal public notice and comment. The stage that we're pretty much just beginning to embark on now is the leasing stage; the next stage where we have done environmental assessments for the issuance of leases

and site assessment activities, site characterization activity that might be done in support of eventually submitting an actual construction plan. The leasing that we have done thus far has been for the Cape Wind Energy Project and off of Delaware there has been one lease issued as well. There is no construction that has happened thus far.

The next stage after leasing generally would be a site assessment plan where they submitted a plan where they want to actually gauge what the wind energy is in that area that they have leased and also do site surveys to determine where they might be able to place turbines and what the design standards or design criteria they will need to utilize for the area.

Then finally we would receive a construction and operations plan. One thing I did want to point out is we do have and are in the process of updating our best management practices, which are the things that we look for when reviewing those plans. I will get more into that a little bit later on in the presentation.

The only construction and operations plan we have received thus far is the Cape Wind Energy Project. For each individual construction and operations plan there will be a full environmental impact statement prepared. The last stage, of course, is decommissioning, and the default status is that BOEM would require that the facility be fully bonded to the extent that is necessary to decommission the facility to 15 feet below the mud line.

Of course, BOEM may permit facilities to remain in place on a case-by-case basis, but that requires a whole separate application later down the line. Where are we right now? Starting up in the very top, but that is the area of Maine that is – actually, no, it is not on there. It's off the top of the screen, but we do have basically an unsolicited application from Statoil in North America to do a demonstration project off of Maine for I believe five floating wind turbines in that area. That process is currently ongoing.

Moving down the coast, we have the Cape Wind Energy Project here. They're in their second year of surveys. Moving down we have the Rhode Island Wind Energy Area and the Massachusetts Wind Energy Area. We have a proposed sale notice that we issued for Rhode Island that the comment period just recently closed.

We're in the process of developing a proposed sale notice for Massachusetts and we're wrapping up the environmental assessments and associated consultations with NMFS for those areas. Moving

down to New York; that is another unsolicited application from New York Power Authority that is technically a wind energy area, but that is still in the early phase. Actually, we have an open comment period for that area to determine if there is any competitive interest from any other developers for that area and to solicit any other environmental information regarding that application.

Moving down to New Jersey; that is also in the process of developing a proposed sale notice and determine how many lease areas would exist in the New Jersey area. Maryland is in the same situation where we're developing a proposed sale notice. The comment period for the Virginia proposed sale notice just closed on February 4th.

Moving down to North Carolina; we do have – I did forget to mention that the backdrop to this slide was the vessel trip reports 2001 to 2010, and that obviously does not include non-federally permitted fisheries. I just wanted to point out that the blue area does not indicate there is no fishing going on in that blue area. It is just a lower scale of intensity.

The data is a little different for North Carolina. We're still working on trying to get better fishing data for that area. The point here is the three areas that we do have a call for information on right now; we extended that comment period on these three areas until March 7th. Once again, that is also determining if there is any interest in that area and then soliciting other environmental information for these three areas off of North Carolina.

Moving down; there is currently nothing off of South Carolina. There is a South Carolina Task Force that has a meeting and I think that task force is starting to look into developing or identifying wind energy areas. However, really the only other thing south of North Carolina are what we term these "interim policy leases".

These leases only allow for certain very small-scale activity to basically do some testing and/or put up a meteorological tower to look at wind speeds. What you see here is the Georgia Power Authority. These are three lease blocks. Lease blocks are three statute miles by three statute miles apiece.

Down there off of Fort Lauderdale is Florida Atlantic University has an interest in technology testing for underwater turbines. That is the only what we term marine hydrokinetic activity going on in the Atlantic Coast. Everything else is wind power. Moving on to the biological studies; one of the questions we often

are asked are the impacts of electromagnetic fields on fish and other marine mammals.

We have completed a model-based assessment and literature review and that is available on our website. We have started to embark on an in situ study in the Pacific and Santa Barbara Channel. Based on the success or failures in that model, we will try to do something similar on the Atlantic Coast.

The Department of Energy has also funded a laboratory-based study and the final results of that are pending. We have also convened a Fish Acoustic Impact Workshop to primarily look at the effects of pile driving on fish. That study was recently completed and is posted on our website. Next week we actually will be having a workshop on noise-quieting technology to reduce the noise impact of pile driving as well as we're having some Europeans fly in from the UK and the Netherlands to talk about habitat impacts as well.

We're very much looking forward to learning from their experiences thus far in the several years of offshore wind that they have had on the ground. Regarding socio-economic studies; the first one I mention up here is the development of mitigation measures to address potential use conflicts between wind and commercial fishing industries. That was the best management practices I showed on that earlier slide.

We also have an interagency agreement with the NMFS Northeast Fisheries Science Center, Social Sciences Branch, to evaluate socio-economic impact. That was signed in September. We also have a Space-Use Conflict Study that was done, and this other one is building off of that is available on our website. We are continuing to process VMS and historical fishing-use data to gain a better perspective on what historical and current use patterns are in and around the identified wind energy areas.

Moving to the Best Management Practice Workshops; we have been getting a lot of impact. I would say they have been successful in the feedback that we have received. Although the participation levels have not necessarily been what I would have liked to see, I do believe the feedback we're getting is very good. It is basically the first opportunity to provide comments on the construction and operational phases. Thus far BOEM has pretty much only done formal notice and comment on activities such as survey activities or the placement of a single meteorological tower or buoy, but I think where most

people's interests are in the actual full-scale construction and operations leg.

Right now we're in the process of developing best management practices for those phases. Eventually we will be able to apply those best management practices in our review of site assessment plans and construction and operations plan and general activities plans. This slide is actually not one of our slides. This slide is developed by Deepwater Wind for their Block Island Wind Farm Demonstration Scale Project.

This is for five turbines right on the edge of – in state waters so it is not a BOEM project, but right on the edge of state waters around Block Island. I thought it just did a good job of just generally characterizing some of the spacing between turbines and a typical trawl vessel going through the middle of it.

The distance for Deepwater Winds Block Island Project is 804 meters apart with a 75 meter minimum height. There have been some indications that if they worked to have an offshore project, the spacing would be close to twice as large. The Cape Wind Energy Project is about 629 meters separation distance by rows and a thousand meters on the columns.

The Fishermen's Energy Project, another state waters' demonstration scale project, off of New Jersey is a 1,080 meters between turbines – just to give you an idea of the scale of the distances necessary for these larger offshore turbines. As I mentioned, we're in the process and we've begun collecting VMS data from the Office of Law Enforcement primarily not only to look at where the fishing activity is but also, as you can see, we're very interested in what the vessel transit patterns are to and from the fishing grounds.

This is I think during the Elephant Trunk Closure. When the Elephant Trunk Closed Area was opened in 2010, that is where that activity is reflected and you can see the use patterns in and out and where things may intersect with where we've placed the wind energy areas. This is just an example of some of the analysis that we're beginning to do.

As I mentioned, also we're looking at historical data. This is the old Walford and Freeman publication from 1974. It is a Fishing Atlas. It was done with interviews up and down the Atlantic Coast and we have digitized all of those areas. Well, we have scanned and geo-referenced all the maps that were in that publication and then lifted all the areas that they

have identified as their fishing grounds back in the seventies.

Here is that same data but with it lifted out of the geo-referenced map, so those are all the areas that were identified in that previous document or that previous scanned image. That's really all I have for you right now and I would love to hear your comments and questions regarding our processes.

CHAIRMAN DIODATI: We have got a lot of hands up. Brian, does the Bureau of Ocean Energy Management just deal with wind power or are you dealing with oil, gas and other sources of energy that is constructed on the water?

MR. HOOKER: Yes; the Bureau of Ocean Energy Management does regulate all leasing of federal lands under the Outer Continental Shelf Lands Act. We have basically three program areas that we operate in; the Office of Renewable Energy Programs, the Oil and Gas Program and the Marine Minerals Program, which is a sand and gravel program for beach renourishment. Those are our three program area.

MR. WILLIAM A. McELROY: Brian, as you might recall when you came to Rhode Island, I was one of the loud voices that was there. One of the principal points that I made to you at the time was that when you explained how you were using the VTR information to predict where the fishing activity occurred, I pointed out to you that the small boat fleet – and by small we mean I think under 65 feet or so – aren't under VTR requirements.

And particularly the lobster fishery, you had no indication whatsoever of where any of that fishery activity was occurring through that reporting system. I recommended to you at that time that the process that the Rhode Island Ocean SAMP Process was using where they come up with overlays by interviewing the fishermen to indicate where their areas were, to give you something in addition to those VTR reports, so it would indicate where a vast majority of the fishery was to occur. Have you integrated that suggestion into your system at all or have you come up with some way of dealing with that?

MR. HOOKER: We have received a couple of recommendations for doing more of that participatory GIS or participatory mapping. We have not begun that just yet. We have the last of the fishing best management practice workshops next week up at the Maine Fishermen's Forum. After that I think we could start turning to the next project that we would

do in support of this data gathering. That is definitely on our screen as something that we do want to pursue and through our workshops we have definitely heard that as something that we need to do more of.

MR. WILLIAM A. ADLER: I am going to repeat without repeating everything that Bill said having to do with Massachusetts and our fleets that do not report with the system that you usually work, and so I'm just adding to that idea that it needs to be added in for Massachusetts. My second question had to do with the mitigation measures; and are they published or is there some way to find out what the practice of mitigation for fisheries issues are when you plan to give out leases or you're looking for it and mitigation for adversely affected fishermen. Do you have that in writing or is it a set thing or you've just got that on the agenda?

MR. HOOKER: By no means was I trying to say that the story on the fishing data is done with what I revealed to you thus far. I think it is clear that the reason for coming to the commission is because we realize that there is definitely more data that needs to be gathered, especially the folks that don't report under those systems.

Regarding mitigation measures, we don't have mitigation measures, per se. On the EIS that was done for our entire program, we developed a list of best management practices and those best management practices in our regulations state that developers must use those best management practices in developing their plans.

However, what we're doing now is trying to refine those best management practices so that we get more detail; so when we actually receive the plans, we know is that actually meeting the spirit of that best management practice; such as there may be a best management practice or coordinate with fishermen; how we judge if the coordination with fishermen is adequate. What we're trying to do is really flesh that out and determine does that include like hiring a fisheries liaison or doing some other type of activity that clearly demonstrates there is that coordination with fishermen ongoing.

We do have – and I can show you under the record of our decision for that EIS – those existing best management practices, but there is nothing in there right now regarding compensatory mitigation. That's one question we get a lot in our workshops and there is no requirement, per se, right now for that type of mitigation.

MR. ADLER: I have just one more. Well, for instance, when a plan comes it or a proposal comes in to you; is that something that your agency can put in to the requirement? Is that the way it would work?

MR. HOOKER: Yes; it is our intention when we receive any plan, we look at the impacts of that plan. We develop an EA or in the case of a construction and operations plans it would be an EIS, so there would be full scoping, public hearings and EIS development. In that we would look at the impacts of that particular activity on other users. We can then tie terms and conditions of approval to that plan. That is open ended and we don't have necessarily any bounds on what those terms and conditions of approval are, but we do have that ability.

CHAIRMAN DIODATI: I guess to this point, during your presentation you talked about an interagency agreement with the National Marine Fisheries Service to structure the socio-economic impacts from various projects. Is that something you can talk more about?

MR. HOOKER: It is in its early phases. We just contracted or developed the agreement late last year, so we're trying to gather what all the impacts are so that they can start to be able to quantify that. It is looking at not just an individual facility but more of a coast-wide issue because one thing we have heard about is obviously not just looking at one facility versus another but more of a coast-wide ability to look at the range of potential impacts from these facilities. It is not going to arrive at one number. I feel it is going to arrive at a range of issues with certain assumptions as to what the impacts are from facilities.

MR. LOREN W. LUSTIG: Thank you for this report. I had to step out briefly so perhaps you covered it while I was out, but I was very interested in the slide that you said was not a slide that you had generated. I believe it was for an area called Block Island, and I think you said that it was to be found in state waters, nearshore waters. If I was a recreational fisherman, I believe I would target those kinds of areas; but would I be allowed to approach? If I was disallowed, it would be a net loss for me. If I was allowed, it would be a net gain. Can you comment about, please?

MR. HOOKER: I can't really comment necessarily on a state waters' project. The federal lead agency on that would be the Army Corps of Engineers. But in general – and this is a question that we obviously receive a lot of questions about regarding exclusion

zones or access to these sites once they're built. Other than tying up – we don't anticipate there would be tie-up provisions allowed because they're private facilities – there would be no exclusion zones around them.

The exclusion zone; I should state that it is the United States Coast Guard that has that authority to establish exclusion zones. They could do it by the request of a developer if it meets certain criteria or they could do it if they see the need arises; but they have stated in all their public meetings that there is no intention to establish any exclusion zones around these facilities.

MR. LUSTIG: We were just speaking about socio-economic impacts or the entire prospectus, and certainly I could fully understand disallowance of tying up, but other than that I would hope that the recreational anglers would be given full access to fish in what might be viewed as somewhat like an artificial reef and then enjoy that opportunity. Thank you.

MR. G. RITCHIE WHITE: Your discussion leads into my question. When you say no exclusion, I know when Homeland Security ups the threat level; I know the area around power plants extending out into the water is extended substantially. I was wondering whether in that type of situation would the area around these be excluded; and if that is the case, it would be a concern where those power lines are running a long distance, not only from the windmills but to shore. Are you aware of anything of that nature taking place if there is a terrorist threat and they up the level of security?

MR. HOOKER: What the Coast Guard would or would not do is something they have stated over and over again and they have not indicated that type exclusion would occur. I don't believe there is any such similar activity taken in the Gulf of Mexico around an oil and gas platform, for instance.

There are only I think 3,000 oil and gas platforms, and I think there are seven or eight – a very small handful of ones that actually have a 500 meter exclusion zone around them. The only example I have on the Atlantic Coast, up in Maine, in Copscook Bay there is an underwater device and even in that instance the Coast Guard would not place a regulatory restriction around that site. They just basically issued a notice to mariners to avoid doing certain activities around that site. Every indication from them, both verbally and in their past practices, indicates that would not be there, the practice.

DR. DANIEL: Brian, thank you for the presentation. Loren mentioned recreational fishing, and I am just wondering the base of these things and any kind of facility coming off of them; is that going to constrain commercial fishing activity around there? Are there chances you might hook something or hang something with a trawl or those types of things because it looked pretty clear in the picture that they can travel through those areas without any trouble; but would they still be able to fish in those general areas? That is my first question.

My second question is you were talking about the "de-assession" or whatever they call it. I'm assuming we're trying to learn from the lesions in the Gulf and was curious if 15 feet is sufficient because we have run into some problems with that with the Corps in our artificial reef program, the depths that we can – if we can do 15, I think that would be great, but then would you have to mark those things.

Then the last comment is the South Atlantic Alliance and some of the folks within the South Atlantic Alliance have looked at these areas a lot, and I'm sure it is partly with your agency as well, but there is some additional information for the area off of North Carolina. If you will get with Michelle Duval in my office, I think she has got some additional information on the activities that are occurring off there that may be a little more – we don't have the VTRs, but it may be a little more informative than what you have now.

MR. HOOKER: Thanks to Michelle for participating actually in one of our workshops in Morehead City last month. The target burial depth for the undersea cables is six feet. That is the target burial depth. Now, there may be instances where they hit rock or they hit something hard that is going to be very difficult to bury through, in which case we will consider other mitigation such as concrete mats or some type of covering that will prevent a hang on a cable.

We obviously don't want hang on a cable and anything obviously that is above the seafloor that could potentially produce a hang would have to be marked and put in a notice to mariners as well. There are really no other devices other than the turbines themselves and the cables. There is an electric service platform that is usually in the middle of the array, but otherwise there is not a whole lot of stuff all over the ground other than the cables themselves.

DR. DANIEL: Can you commercial fish around them?

MR. HOOKER: It is our intention, yes, that we would not prohibit that activity. I think it is up to the commercial fishermen to determine if it is safe to do so or if they feel comfortable doing so. I think one of the things we're learning in our best management practice workshops is how to design them so that there is perhaps minimizing the number of cables so that there is a better comfort level with trawling in certain areas within it, but certainly passage through them should not be an issue. We have gotten a lot of comments on how to actually light them so that there is the potential to actually identify corridors to and from areas.

MR. McELROY: I don't know if this is exactly a question and it might be just an observation. With that Block Island Project being in my backyard, I have been paying careful attention to what goes on. The question of exclusion of the zone is paramount in the commercial fishing community.

As it turns out in Europe there are precious few wind parks that allow commercial activity in them, and there are three different ways that they are excluded. Number one would be a government edict saying that they don't want them there. Number two would be the developer saying that they don't want them there. Number three is the insurance underwriter saying that they don't want them there.

In Europe all three of those things are done, so at this point there is very little commercial fishing activity allowed in those parks. Do you have any way of solving those problems? In that regard the significant secondary underwriter of marine insurance policies in the northeast goes over to Lloyds of London and a couple of those companies over there for reinsurance, and those are the companies that have said no to the commercial fishermen.

They say they thought that the hazard would be too high and they didn't want to insure the vessels. In other cases the underwriters who were insuring the towers for the developers had the same concern and created exclusion zones. Those weren't government exclusion zones but they effectively locked the commercial fishery out of all of those European fields. I understand recently one or two of those parks is investigating the possibility of relaxing some of those requirements and perhaps allowing activity in those fields, but at this point in time there doesn't seem to be any clear way that the developer or BOEM or anybody else can assure the industry that we will be allowed that access. Do you have any current insight into that that you could offer?

MR. HOOKER: Thank you for that comment. I will start with the insurance issue because it came up in Rhode Island. I did have a conversation with – the gentleman's name is escaping me now – with the Parker's Group that does the insurance. I just want to make sure I say his name right.

MR. McELROY: Fred Matera?

MR. HOOKER: Yes, thank you. I talked to Fred Matera at great length to try to figure out what this issue was. I think the last time I talked to him, which was in December, that there had been no action on the commercial fisheries insurance – there were no prohibitions on the insurance. I think his concern was that the underwriters may eventually – because they're asking about it; that eventually they may take action, but at least as of December there have no action to limit vessel insurance for commercial operators in those wind facilities.

I do completely understand that is a concern of folks and I have talked to insurance underwriters in the U.S. about the issue, and they basically told me that there is no policy that they're developing; that it is just if you're a bad operator or a bad driver, for instance, if you have a habit of hitting jetties, then your insurance might go up if you fish in a wind facility, but it is more of a one-on-one issue. We're not taking it lightly and not dismissing it.

One of the things we have been asked at our best management practices workshops is to actually try to work with the insurance companies to have them state a policy publicly, especially the underwriters, on what that might be. I don't know how we can do that, but it is something that we are looking in because we want to reduce that risk or want to reduce that uncertainty for folks that want to operate in there.

Regarding the exclusion zones in and around the facilities, yes, there are some in Europe that don't allow fishing within them, but there are others that do. I think there is big difference between the wind facilities off of Northern Ireland and Scotland than those down in England and then off of the Netherlands, too.

I think we actually have some Europeans coming into our office that are coming to our workshop next week that I intend to ask them very question and what their experience was, but it is definitely a mixed bag in all Europe regarding what the different restrictions are in different areas.

MR. ROBERT BALLOU: The prospect of a major offshore wind energy project off Rhode Island is garnering a lot of attention in our state for good reason. While I think there is general support for the concept of offshore renewable energy development, there are deep concerns – and I want to emphasize this; deep concerns that there is a lack of effective coordination with the fishery resource managers at the state level and at the regional level as well as the national level with regard to the status of the fishery resources in the areas slated for development, the need for additional survey work to better inform those assessments and a commitment to support that additional work.

Our concern is that we're setting ourselves up for a perfect storm where the focus is too much on site-specific impact analyses, which can't be nested within an overall context of good, baseline – fundamental baseline understanding of the status of the resources. Lobster is the poster child in Southern New England. We have a terrible situation with regard to lobsters.

Our concern is that there is not enough of a commitment right now to move forward almost irrespective of wind energy development, respective of the importance of that resource to the region, to the nation. It is the most valuable fishery resource in Rhode Island. We don't have enough of a handle on its status right now and yet we appear to be moving forward with a major offshore development in the very area where these animals live.

It is our strong concern that there is not enough coordination. There seems to be some ad hoc efforts underway, working with fishermen, working with university folks, but the resource managers themselves seem to be, for whatever reason, sort of out of the loop, and they should really be front and center.

BOEM I think in coordination with NOAA Fisheries, coordination with the states and coordination with this commission should be very, very interested in making sure that as we go forward with wind energy we do so with a full understanding of the status of the resources in the areas to be developed so that you can then – so that meaningful impact assessments can then be conducted, which can be related. In other words, let's not lose sight of the forest as we get too focused on the trees.

I really can't emphasize this point enough; and I think we have a golden opportunity right now to commit – and I mean the Royal We to commit to an

effort to really understand what the status of the resources is in these areas slated for development before the ball gets rolling much more. We stand ready and willing to assist in any way we can and look forward to further efforts to coordinate on this issue. Thank you.

CHAIMRAN DIODATI: Do you want to respond to that?

MR. HOOKER: Well, yes, on the study side. I entirely understand that and that is one of the reasons that I'm here today is to – I have heard that loud and clear and I definitely would like advice in ways that we can coordinate especially. I mentioned that Environmental Studies Program. We have an annual Environmental Studies Program where every year we do allocate money to doing this type of work, biological assessment work.

One of the things I do have on tap is a ventless trap survey in the Rhode Island and Massachusetts areas. How to coordinate that with this body; I would love advice from you on how to do that. Whether it be through a technical committee review or some other avenue, I am willing to take that advice back to the office.

Regarding coordination with the National Marine Fisheries Service, the new regional administrator has reached out to us and we are working to try to better coordinate not only us utilizing their outreach mechanisms but for them to be able to funnel information that they hear back to us as well, so the dialogue has improved greatly in recent months with him on board.

CHAIRMAN DIODATI: Last question, if that is what it is, Bill.

MR. ADLER: The insurance issue which Bill already explained was another thing I was going to bring up because we're concerned about that, too, both from the wind farm people and the boat insurers. The last thing I wanted to just mention is that the electromagnetic field, you said you have a study or you're doing a study on the results of electromagnetic energy on creatures on the bottom; which is it?

MR. HOOKER: We have multiple. The Department of Energy is funding a laboratory-based study that actually they imported American lobster. It is at the National Renewable Energy Labs on the west coast, but they actually imported a bunch of American lobsters and that is actually actively going on right now. Also, we're testing an in situ active cable and non-active cable in the Santa Barbara Channel in

California which obviously is not the east coast. We're investigating their successes and how they set it up and on how to set up something similar on the Atlantic.

MR. DENNIS ABBOTT: Mr. Chairman; a quick question. Would it be possible in the permitting process regarding the possible exclusions zone, to have that in the permitting process that an exclusion zone would not be permitted?

MR. HOOKER: Once again, that is the Coast Guard's authority. It is not within our authority to do.

CHAIRMAN DIODATI: Okay, I appreciate your coming here today, Brian, and you have had some excellent responses and we had some good questions. I am going to rely on our executive director maybe follow up with you in the future on some of the issues pertaining to information we might be able to provide on resource assessments; and particularly if you have funding that you want to provide to gather information, I think Bob would be a good conduit to help you with that.

MR. HOOKER: Thank you and I hope this is the first of many times.

CHAIRMAN DIODATI: Most of you have been here since early this morning so I really don't want to keep you past let's say six o'clock. We will delay a couple of things right off. I think Items 6 and 9 on your agenda; we will delay those until tomorrow. I would like Toni to go through Item Number 4, which is a quick summary of the results of the commissioner survey, because we will need that information I think for tomorrow morning's executive committee meeting.

RESULTS OF THE COMMISSIONER SURVEY

MS. KERNS: I have abbreviated my presentation in the interest of time. The commissioner survey is part of our annual action plan and it is to measure progress towards the commission goals. In this year's survey we had 24 commissioners respond out of 43 potential responses. Since we had two new commissioners, we let them have a free pass on this year's survey.

The response scale is on a one to ten; one being not supportive, ten being very satisfied or very supportive. We had five topics and twenty questions. What I'm going to do is let you know sort of what the

lowest score was for each of the topics. These are the issues that maybe the commissioners think we need to work on the most. There was strong support for both the vision and the goals, and both of those had scores all higher than eight. The lowest score was the agreement with the overall vision and goals, which was at an eight; so commissioners' agreement with our goals.

Whether or not we have a clear plan to carry out the vision scored a 7.6 under the carrying out the vision section was the lowest. Looking at the commission's execution and results, our confidence that the commission has that we will actually achieve our vision is the lowest at 5.9, and this was the lowest score that the commissioner survey had for all of the questions.

Also, within that section, whether or not the commission has an appropriate level of cooperation with federal partners, it scored a 6.2, which was the second lowest, so I thought it would be important to point that out. Looking at measuring progress and results, support for the metrics used by the commission was the lowest scoring at 7.95.

Then under measuring the availability and utilization of the commission resources, while it is a high score, it is the lowest in the category. It was just about 8.6, and that is our commission's performance in reacting to new information and adapting accordingly to achieve the commission's goals.

There were five open-ended questions in the survey. The first one is what is the most significant problem that we need to solve? There were a bunch of answers that were listed out on the memo as a part of the briefing materials, and I pulled out a couple common themes that I saw. That is coordination between federal and ASMFC on the FMPs; funding for both state and the commission; multispecies management is going to be a challenge; and dealing with climate change and impacts that will have on our fishery management plans.

The next question was what is the most important change to improve the results that we see as a commission? There was theme here with improving some partnerships in a lot of the responses. One was expanding the relationship with congress. Another was to increase the focus on the vision in the upcoming years; making decision standards that are based on science; and focusing on long-term benefits to the fisheries and communities rather than just looking at short-term impacts.

The biggest obstacle to success of the commission's goals and vision were financial constraints, political pressures and data quality. The last question was do we use the appropriate metrics? Most answers were, yes, we do. Some folks felt that we may need to provide more information on outside forces and factors impacting our successes and failures with our fishery management plans. There were a couple of common themes that we must update the vision.

And then some additional comments that we received is that the commission needs to continue working towards its goals; that we need to also continue working on transparency of all of our processes and making sure that discussions are fully engaged by all of our stakeholders and members; that there seems to be some fragmented management between state and federal plans; and that we have a great leadership and staff here at the commission.

The discussion that we would want to frame is how does the commission want to react to the survey findings; and then, secondly, since we had a lower response rate this year than we did in the previous year, we want to find out if this survey is an effective tool; is it working for the commissioners; and if it is not, what can we do to improve the survey or is there another metric that we went to use?

CHAIRMAN DIODATI: Thank you, Toni. Are there any questions for Toni about the survey results or any general comments about them? Ritchie.

MR. WHITE: I was disappointed in the drop in the percentage of return. Is there any way that you think you can kind of poll the commissioners that didn't respond to the survey to see if there are any themes on why and if there is something in our method of presentation or notification to see if there is something that we could improve upon on that. I think it is very disappointing that we're not getting a higher percentage.

MS. KERNS: We can do that, Ritchie. There were a couple of folks who did fill out the survey that didn't let us know that they filled out the survey. It is anonymous so I apologize in advance to those of you that did fill out the survey and I'm going to send an e-mail to you even though it did fill it out, because you didn't let us know.

MR. JAMES GILMORE: Toni, the vision statement; was it just the issue of 2015 is getting close or were there other concerns with it?

MS. KERNS: I'm assuming that it is that 2015 is getting closer. No one was specific in their response, so I'm not a hundred percent sure.

CHAIRMAN DIODATI: I guess the obvious thing about that particular vision, whether we were successful or not, we're going to have to change it. Adam.

MR. ADAM NOWALSKY: I know that we have had this discussion about participation in the past, and one of the other items that we've discussed is the fact that a lot of the commissioners aren't actually here. They have proxies that are here. In fact, okay, there may be 45 commissioners, but the reality is that there is probably 75 or 80 active participants around this table throughout the year that in some cases probably have a better handle about how the commission is doing than the commissioners themselves. How do we go about getting the actual participants' input, because those are the people that here and actually getting things done in a lot of cases.

MS. KERNS: Adam, when I send the e-mail out letting folks know of the survey, we sent it to both the commissioners and their proxies. In the e-mail we say that we realize that there are proxies for some of the commissioners, and we leave it up to that commissioner to decide if it is he or she that is going to fill out the survey or whether they're going to direct their proxy to fill out the survey in their place, but we let the commissioner make that decision and not us.

MR. ABBOTT: To Adam's point, I have been here 16 years and the last two times I haven't gotten a survey. I assume that Senator Watters probably received it as New Hampshire's legislator. I don't know if I'm the exception or whatever, but I might have something to say.

CHAIRMAN DIODATI: I bet you would. I'm surprised that you didn't so we will make sure that the proxies are included in all future surveys. Loren.

MR. LUSTIG: I just wanted to encourage further use of this instrument in the future. I found that it was very important just to take the time to ponder these broad and important implications for our organization and actual grapple with the issues. I remember when Commissioner Boyles encourage a lot more participation, and I am hopeful that we will find in the future that our commissioners are able to respond at greater numbers.

MR. DOUGLAS GROUT: Just a comment for Toni on the format of this; I do like the graphic formation that you put in that helps show the differences between them. One of things that made it kind of difficult to interpret was the difference in the scales. Some of them go from one to eight and others have a range of 0.2. It kind of makes like the 0.2 looks like, oh, my gosh, we've made a tremendous change but actually it is a pretty flat trend between the years.

DR. JAIME GEIGER: Mr. Chairman, I believe I'm going to make a comment that I've made before in the past. I think the Atlantic Coastal Fisheries Cooperative Management Act clearly lays out the responsibility of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in assisting this commission to achieve its mission and its success.

At the same time it becomes a little more problematic that we're not included and asked for our input, our suggestions, or our advice on whether the commission is or is not meeting its goals and objectives. Secondly, I noticed with interest that one of the requirements or one of the outcomes of this is to improve the relationships with congress.

Certainly, every time – and I'll speak only for the Fish and Wildlife Service – we brief members of congress sometimes two or three times a year. Whenever we mention the strong partnership that the Fish and Wildlife Service has with the Atlantic States Marine Fisheries Commission and we provide what we think we provide as value added to support the commission activities.

When they look at commission materials, they do not see a mention of the U.S. Fish and Wildlife Service nor the National Marine Fisheries Service as indicated in those literature and those outcomes and those results. At some point in time, Mr. Chairman, I think this commission seriously needs to reevaluate what is the appropriate role of the U.S. Fish and Wildlife Service; and again are we full franchised partners or are we not?

Certainly, with the increased emphasis on resource outcomes and resource actions and results that congress is putting on agencies like the U.S. Fish and Wildlife Service, we're becoming more and more accountable to show resource outcomes. If we can't show that, congress is questioning why are we participating in that particular activity. I think these questions are going to come up more and more.

At some point time I think I would like to see a more robust discussion about what this commission expects from the Fish and Wildlife Service, what are the expected results and outcomes you expect from us; and then what is your role and expectations of what the Fish and Wildlife Service should do for the commission and how can we better ensure success of the commission in meeting management objectives.

Again, I think it is not an unfair question to ask, Mr. Chairman, but I do know this has come up several times with at least two previous executive directors, and I think it needs to be debated again. Again, we are being asked hard questions by congress and I don't see the earmark policy coming back. I have seen the mechanism for funding to this commission delivered to one or both federal agencies and without earmarks I think those results and that accountability and the allocation process is going to get much more stringent.

I think it is going to be focused on resource outcomes and it is going to generate a lot of questions. I think it is to our collective best interest to have some of these discussions. Whether you want to do it online or offline and whatever transparency you may want to have, but I do think we need to have those discussions, Mr. Chairman. Thank you.

CHAIRMAN DIODATI: I agree, Jaime; your points are extremely well taken by me at least. I'm not going to speak on behalf of the entire policy board because we haven't had an opportunity to have this discussion, but I agree that it is worthy of a discussion. I think to the extent that we might want to write something up, Bob, I think we might want to maybe create a subcommittee of the policy board to work with our two federal partners and establish what we think is our commitment to them and what we believe their commitment to us should be.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Just to followup, I agree that Jaime's comments are important. I think the commission's greater focus and greater need to focus on diadromous species and the habitat issues associated with restoring eel and sturgeon and river herring and others that are listed or potentially going to be listed under the Endangered Species Act, I think that partnership with the Fish and Wildlife Service is more important than ever; and then continue the marine side of it through the National Marine Fisheries Service, NOAA Fisheries.

I am happy to work with you, Paul and Louis and put together a group to work with the two services to sort of coordinate our relationship a little bit better and

sort of reaffirm our commitments to each other I think is probably – renew our vows maybe is the right thing to do.

CHAIRMAN DIODATI: I think the three of us working with our counterparts, the two federal agencies, could accomplish that. Tom.

MR. FOTE: With the understanding that this is a Compact of states, and the states are a part of this. Also, I look at the lawsuits over the years, we are not a federal agency and that is how we have avoided a lot of those suits. We have got to keep it as a commission. That is why they always have been on the policy board and the management boards because of their contribution.

We can spell it out more differently, but with the understanding that we need to keep that separate as far as the legal and the way the Compact is written. One of the things when I was looking at the survey – and Jaime brings up another point – you know, we limited this to commissioners to basically answer the survey, but we have five members -- and now it is five or six different members of NMFS sitting at the table, depending on where we are with a meeting, and at least two from the U.S. Fish and Wildlife Service; and then there is Pete, there is Tom, and there is Russ, and they all sit here.

Now maybe is the time to do a survey of all the people that are involved in sitting at management boards; not as commissioners maybe surveying the management boards and the participants of that board. We get a lot more responses and a lot more ideas and there are people that are sitting on the boards actually doing the work a lot of times.

That would cover – you know, you'd get a lot more responses than 24. I did send my e-mail four or five days later than I did fill out the survey. I sent it in because I did fill it out as I usually do. If you want to get more participation, that is one way of doing it and it would be interesting to see what the larger body feels on this.

CHAIRMAN DIODATI: I agree we need to expand the survey and we will talk a little bit about how to do that and how to do that judiciously. Pete.

MR. HIMCHAK: To that point, I know in New Jersey we get multiple notices on doing the survey. When it comes, I always talk to Tom McCloy. Essentially he is my supervisor and I say, "Well, you know, are you filling this out for the agency for New Jersey?" And he says, "Yes." I don't know that you

may benefit from having three separate responses from board members, Russ Allen, myself and Tom McCloy. That's your call.

CHAIRMAN DIODATI: So what I'm hearing – I'm not hearing anyone say that we should discontinue the survey. I agree with Loren's comments that the survey is of value. It gives me an opportunity to pause and think about what I'm going to say when I fill out the essay questions. I think there is certainly value in this; and if anything, we want to make our audience a little bit broader for it. On the issue of transparency, I know that we started at the menhaden meeting broadcasting a webcast of our meetings. Are we doing that now?

MS. KERNS: Yes; we made an announcement yesterday that we were broadcasting.

CHAIRMAN DIODATI: Good. All right, Adam, on this topic, the survey; you want to bring up something new?

MR. NOWALSKY: Well, Mr. Chairman, in the interest of time I don't know if we have to address it today, but an issue came up earlier today at the Horseshoe Crab Board that I had some follow-up discussion with some members here and the executive director. We wanted to address that regarding a letter to New Jersey. I don't know if time allows tonight to or if we can just make sure we have a placeholder on tomorrow's agenda to address that.

CHAIRMAN DIODATI: Yes, we actually have that. We have about seven new items that we have added because of your discussions at prior board meetings, so that is there. Jim, did you have an issue?

MR. GILMORE: Toni, the webcast thing now; is there a link or something on the website because the way the council does it is just to listen live, so is there an easy way to get to it?

MS. KERNS: On the final meeting agenda, there is the information there and that is also linked on the website. I think throughout the day we have maybe had up to 20 folks listening in.

MR. PATRICK GEER: Toni, just out of curiosity, how people listened in at the menhaden meeting?

MS. KERNS: I think the maximum at one time was more than 25; the maximum was 30 at the December menhaden meeting.

CHAIRMAN DIODATI: And I believe there is a cap.

MS. KERNS: We can take up to a thousand folks; is it more? A hundred in December; yesterday 30; is that what you're saying, Kate? Yesterday 30; a hundred at the December meeting.

CHAIRMAN DIODATI: Are there any other questions? I am going to suggest that we adjourn this meeting. Go ahead, Tom.

MR. FOTE: I really didn't know we were on webcast because I must have been out when you basically mentioned it, and so it didn't make any difference to me. I think if it is buried in the agenda, people don't go through the agenda to see the instructions. Maybe it would be nice to send out an e-mail to everybody that is on our e-mail list saying that. I notice I didn't get an e-mail saying that we are now webcasting. Maybe I missed it.

MS. KERNS: We did send an e-mail notification that we were webcasting and we also made the announcement at the annual meeting that we would be webcasting. The first meeting would be the menhaden meeting as sort of test and then we would be webcasting for the future onward.

DR. DANIEL: I think what I would suggest that we do is in all of our agendas just note "webcasting" and that way – because we oftentimes have a lot of folks around the table that may not know, and that way we can all be reminded that we're being webcasted. I think that is helpful.

CHAIRMAN DIODATI: Okay, again, most of you have been sitting here since 8:00 o'clock this morning so I think it is appropriate for us to take a break at this point. I will announce that the executive committee will meet at 7:45. We did schedule an executive session to deal with one or two HR issues. We will have that, but that will be towards the end of the meeting, so the meeting is open to anyone who wants to sit in on the executive committee meeting, which starts at 7:45. Bob.

EXECUTIVE DIRECTOR BEAL: This is probably pretty obvious; but given that there are a number of agenda items postponed today, we will need to have the policy board session tomorrow after the dogfish meeting as well as the business session will have to be convened to consider the resolution on Asian Horseshoe Crabs as well.

CHAIRMAN DIODATI: Okay, so if there is no opposition to adjourn, we will adjourn right now and I will see you tomorrow morning.

(Whereupon, the meeting was recessed at 6:05 o'clock p.m., February 20, 2013.)

THURSDAY SESSION

FEBRUARY 21, 2013

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, Thursday afternoon, February 20, 2013, and was called to order at 1:13 o'clock p.m. by Chairman Paul Diodati.

MEETING SUMMARY OF THURSDAY AFTERNOON SESSION

In 2013, the commission will update the strategic plan. A facilitated commissioner workshop will be held during the Commission's Spring Meeting in May to assist staff in developing the first draft of the strategic plan. This will be followed by a series of public meetings throughout the summer to seek stakeholder input on the first draft. The plan will be finalized at the Annual Meeting in October.

The Board approved the new Technical Support Group Guidance and Benchmark Stock Assessment Process document. The document is to improve the function of the commission by providing guidance to all commission technical support groups on the structure, function, roles, and responsibilities of the committees and their members.

The board reviewed and took action on three species-related activities. At the request of the Horseshoe Crab Board, it forwarded a recommendation to the commission to send a letter to the U.S. Fish and Wildlife Service urging its expedited review and action on the importation of all Asian horseshoe crab species. On behalf of the Horseshoe Crab Board, move to recommend the Commission send a letter to USFWS urging expedited review and possible action on the importation of all Asian horseshoe crab species. Motion made by Mr. Simpson. Motion carries.

At the request of the American Eel Board, the Policy Board tasked the executive director with sending a letter to the Chairs of the Maine Legislature's Joint Standing Committee on Marine Resources regarding required management measures under the American

Eel FMP. Further, the letter would specify what level of increased effort within Maine's glass eel fishery (licenses or gear) would lead the state to being found out of compliance with the FMP for the 2013 season. The letter would also identify the potential impacts to a state for being found out of compliance.

On behalf of the American Eel Board, move to recommend the Executive Director to send a letter to the Chairs of the Maine Legislature's Joint Standing Committee on Marine Resources. The letter shall describe ASMFC's compliance criteria and clearly lay out what level of increased effort within the glass eel fishery (licenses or gear), would put Maine out of compliance for the 2013 season. The letter should also state what the impact is to a state being found out of compliance. Motion by Mr. O'Connell. Motion carries.

The Board also agreed to send a letter to the sponsors of New Jersey legislation S.2376 and A.2653. The letter would present the output of the Commission's Adaptive Resource Management Framework, which includes a sustainable harvest level for New Jersey of 162,136 male horseshoe crabs, and the potential negative consequences in the U.S. and abroad as a result of limited domestic horseshoe crab availability for bait purposes.

Move that the Commission send a letter to the sponsors of New Jersey legislation S.2376 and A.2653. ARM model output showing New Jersey's allowable sustainable harvest levels and potential negative consequences in the US and abroad as a result of New Jersey's horseshoe crab moratorium shall be included. Motion made by Mr. Nowalsky and seconded by Mr. O'Reilly. Motion carries (Roll Call Vote: In favor – ME, RI, CT, NY, PA, DE, MD, VA, NC, SC, GA, FL; Abstentions – MA, USFWS, NMFS; Null – NJ).

The Board approved a new direction for the Commission's Habitat Program to establish a solid organizational and functional foundation, ultimately leading to a focused and prioritized workload for the Program and the Habitat Committee. With this foundation, the Habitat Program will be better aligned with the commission's vision, mission, goals, and objectives.

The Board approved the Habitat Management Series on Harbor Deepening, which describes potential impacts to inform decision-making on future harbor deepening projects. Staff updated the board on activities of the Atlantic Coastal Fish Habitat Partnership including its strengthened partnership

with 2012 North Atlantic Landscape Conservation Cooperative Priority Science Program and details about a proposal ACFHP submitted to National Fish and Wildlife Foundation River Herring Conservation Initiative.

The Management and Science Committee updated the board on its plans to address climate change and warming coastal water temperature impacts on the geographic distributions of fish stocks, including the consideration of allocation schemes. The MSC will define species to investigate, evaluate data, and define methods and timing for allocation adjustments. The MSC will provide a progress report to the Policy Board at the Commission's Spring Meeting in May.

(Whereupon, the meeting was adjourned at 2:37 o'clock p.m., February 21, 2013.)