

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ATLANTIC HERRING SECTION**

**Crowne Plaza Hotel Old Town
Alexandria, Virginia
February 4, 2008**

Approved: July 2008

TABLE OF CONTENTS

| | |
|---|-----------|
| CALL TO ORDER | 1 |
| APPROVAL OF AGENDA | 1 |
| APPROVAL OF PROCEEDINGS | 1 |
| PUBLIC COMMENT | 1 |
| PRELIMINARY 2007 CATCH AND LANDINGS | 1 |
| TECHNICAL COMMITTEE REVIEW OF “ZERO TOLERANCE” SPAWNING CLOSURES EFFICACY | 19 |
| HERRING WORK PLAN | 21 |
| OTHER BUSINESS | 22 |
| ADJOURN | 23 |

INDEX OF MOTIONS

1. **Motion to approve agenda by Consent** (Page 1).
2. **Motion to approve proceedings of October 29, 2007** by Consent (Page 1).
3. **Motion to adjourn by Consent** (Page 27).

ATTENDANCE

Board Members

George Lapointe, ME (AA)
Pat White, ME (GA)
Sen. Dennis Damon, ME (LA)
John Nelson, NH (AA)
G. Ritchie White, NH (GA)
Rep. Dennis Abbott, NH (LA)
David Pierce, MA, proxy for Paul Diodati (AA)
William Adler, MA (GA)
David Ellenton, MA, proxy for Rep. Verga (LA)

Eric Smith, CT (AA)
Lance Stewart, CT (GA)
Pat Augustine, NY (GA)
James Gilmore, NY (AA)
Peter Himchak, NJ DFW, proxy for D. Chanda (AA)

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

Staff

Vince O'Shea
Robert Beal

Chris Vonderweidt
Erika Robbins

Guests

Jeff Kaelin, Oceanspray Partnership
Russell Dize, Ofc.of Sen. Colburn
Matt Cieri, ME DNR
Jeff Marston, NH F&G
Greg DiDomenico, Garden State Seafood Assn.
Peter Moore, APA/Norpel
Mary Beth Tooley, Small Pelagic Group
Janice Plante, Commercial Fisheries News
Patience Whitten, NMFS/NERO
Steve Meyers, NOAA

Dick Brame, CCA
Peter Baker, Herring Alliance
Roger Fleming, Herring Alliance
Douglas Grout, NH Fish & Game
Rodney Gray, Striped Bass Advisory Panel
Ellen Bolen, Ofc. of Rep. Tom Allen
Terry Stockwell, ME DMR
Pat Keliher, Maine DMR
Arnold Leo, Town of E. Hampton

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, February 4, 2008, and was called to order at 8:00 o'clock a.m. by Chairman Terry Stockwell.

CALL TO ORDER

CHAIRMAN TERRY STOCKWELL: Would you take your seats, please, for the Herring Section Meeting. Looking at the agenda for this meeting, are there any changes to the agenda or modifications?

DR. DAVID PIERCE: Not an agenda item, but I wanted to take the time to acknowledge the presence of David Ellenton who is sitting in for Vito Calomo. Vito Calomo is having knee surgery. We did submit the necessary paperwork to have David sitting in for him. David will be sitting in at all the board meetings representing Massachusetts along with Bill Adler.

APPROVAL OF AGENDA

CHAIRMAN STOCKWELL: We wish Vito a speedy recovery. Without objection the agenda is approved.

APPROVAL OF PROCEEDINGS

We have the proceedings of October 29, 2007. Motion to accept by Pat Augustine; seconded by Pat White. Without objection, the proceedings are accepted. Is there any public comment? Jeff.

PUBLIC COMMENT

MR. JEFF KAELIN: Thank you, Mr. Chairman. I won't take a lot of your time. Jeff Kaelin, representing Ocean Spray Partnership and New England Fish Company in Portland, Maine. I just wanted to voice our concern that we didn't get any notice of the fact there was a discussion by the PDT or the technical committee. Although it was a conference call, I just wanted it to be on the record that I think it's unfortunate when the industry isn't able to participate even in terms of just listening. I know a number of people in the industry did not know about it. I just wanted to point that out. Thank you.

CHAIRMAN STOCKWELL: Thank you, Jeff. Any other comments? The next item on the agenda is the preliminary 2007 catch and landings. Matt.

PRELIMINARY 2007 CATCH AND LANDINGS

DR. MATT CIERI: Good morning. For those of you who don't know me, my name is Matt Cieri. I'm the chairman for the Atlantic Herring TC for ASMFC, and I'm from Maine DMR. What I'm going to talk to you guys about today is looking at – first, we'll look at the landings and some updates for some landings for 2007. Then I'm going to jump into a technical committee report that we're prepared based on questions from Section members and interested parties.

There's pretty three types of reporting systems for Atlantic herring. There is the IVR or Interactive Voice Reporting System, which is a cumulative weekly catch by area by vessel. It's not trip-level information. In this case it's a phoned-in sort of reporting system by area. It does not include state-only permittees, which means anybody who does not have a federal permit does not use the IVR, and in some cases some category vessels that land less than, I believe it's 2,000 metric tons do not use – I'm sorry, 2,000 pounds do not use the IVR System.

The other backup is weekly reporting dealer reports called SAFIS, which is a dealer reporting system that records transactions between primary harvester and primary processor or buyer. These, again, are weekly reports based on some trip-level information. However, because it's a dealer report, it's not usually good at defining gear or area.

A third method of report is something called the VTRs, the Vessel Trip Report. These are monthly reported trip-level information that gives specific information on where the catch occurred, types of gear, as well as other properties of the actual effort and catch. It's not usually used for quota monitoring because it comes in on a monthly basis, but it provides specific information to be used as a primary landings' tool for the assessment.

The assessment uses the VTRs and excludes all other information when it comes to landings. The National Marine Fisheries Service, in monitoring the quota, uses a combination of all three of these, including the VMS system report to figure out in real time or as best as they can in real time why catches occurred, where, and when.

Looking at the IVR reports for 2003 and 2007 – and I know that might be a little bit hard to see and a little bit difficult. However, I want to draw out a couple of points here. In 2006, in this red line here, you notice that the catch rate, as a cumulative catch rate by

week, was fairly high. In fact, the fishery closed right around mid-to-late October.

Last year, in the green here, was 2007, and the catch rates were fairly – you know, a lot less than you would find in 2006 partially due to the number of days out taken by this body. The catch rate was fairly slow, and then the fishery ended roughly a week later than it had the year previously, despite the fact that nearly 15,000 metric tons was taken out of the quota.

When we go back through – and as I told you that we have each one of these different types of reporting systems – when you go back through and actually compare the dealer reports, the IVR reports and the preliminary VTR reports – and I need to stress the VTR reports are very, very preliminary – you can see the VTR reports here in yellow; the IVR, that weekly call-in report for catch rate by week; and the dealer reports; it's interesting to take a look at the fact that the dealer reports are actually less than the IVR reports and the VTR reports.

Because the 2007 VTR numbers are still being worked on, I'm not really comfortable presenting information from almost all of the areas except for 1A. We've got a pretty good handle on what we've caught in 1A so far. But because of the lag in VTRs and some late reporting and some error fixing by the National Marine Fisheries Service, what ends up happening is Areas 2 and 3 are still being worked on.

They're probably done now; I just haven't had a chance to query the data base since the 23rd. But Area 1A catch, landings and effort are pretty solid for the most part. So what I'm going to do right now is compare 1A catch for 2006 to 2007 based on gear type. What you can see here in 2006, purse seines made up about 30 percent while for the most part the other 70 percent came from single and pair mid-water trawls.

In 2007, pretty much the opposite with 65 percent of the catch here as purse seines, so we have dramatic increase in the percentage of purse seine catches even though the TAC was lowered. In 2006 there were five reporting purse seine vessels that fished in 1A. In 2007 there were seven. In 2006 there were 21 mid-water trawls that fished within 1A. In 2007 there were nine.

In 2006 there was one boat that reported fishing using both purse seine and mid-water trawl. In 2007 there were five. Those four boats were mid-trawls that had fished for the first time as purse seines in 2007.

When we go back and take a look at catches by management area, using the IVR report as well as some information from the Canadians, we can see that in Area 1A this year we caught about 47,000 metric tons, according to the IVR; down from nearly 60,000 metric tons the year before; a 13 metric ton decline.

1B went from 13,000 metric tons to roughly around 7,000 metric tons; a 6,000 metric ton decline. Area 2 went from 21,000 to 14,000, roughly; a 7,000 metric ton decline. We did have an increase in Area 3; noticeable preliminarily because of some of the changes in the area boundaries. Overall, the U.S. Fishery declined about 21,000 metric tons.

However, the New Brunswick Weir Fishery caught about 31,000 metric tons this year; pretty much about 20,000 metric tons or nearly double what they normally have caught over the last, I believe it's 15 years, on average; so total, about a thousand 500 metric tons between Canadian and U.S. Fisheries for Atlantic herring.

If we take a look at the different reporting systems, including the National Marine Fisheries Service and the way they calculate the quota, we can see that there are still some pretty large differences; between IVR and the National Marine Fisheries Service, about 3,000 metric tons difference. Again, the VTRs are coming in pretty much at around 44. There might be some late reporting here.

In 1B, a little bit less of a difference between the National Marine Fisheries Services and what the fishermen reported through IVR. The VTRs are still fairly light in this area. In Area 2 the VTRs are actually showing more catch than the IVRs, and this is something we're going to have to probably go through to double check and make sure that the IVRs are actually following where the vessels are in fact fishing as we did have an area boundary change.

Then there is significantly less fish on the VTRs than the IVRs in Area 3. Again, it looks like the National Marine Fisheries Service Quota Monitoring System, which tries to use the VMS system as well as the dealer reports, might be either double counting fish or somehow accounting for fish that the IVR and the VTR are not capturing.

The take-home messages; pretty much there has been a reduction in the 1A catches between 2006 and 2007. Fishery-wide there has been a decrease in the total fishery from 2006 to 2007 in most areas. All of

the decrease in the U.S. Fishery has been offset by the New Brunswick Weir Fishery.

There are significant differences between IVR, dealer reports and the VTRs as well as the NMFS Monitoring Systems. One thing to keep in mind is that the VTRs are not quite static, and they are going to be changing over the next couple of weeks. We've seen a dramatic increase in the purse seine fishery and a decline in the number of mid-water trawl vessels in 1A. We do have some new purse seine vessels in 1A, some of which are actually new vessels to the fishery, some of which are re-rigging of boats from mid-water trawling to the ability to purse seine. That's it.

CHAIRMAN STOCKWELL: Thanks, Matt, I'm sure there are questions. Ritchie.

MR. G. RITCHIE WHITE: Thank you, Matt, good presentation as always. The issues we had at your last presentation as to the late reporting or non-reporting, those evidently have all been cleared up, and going forward it looks like that's not going to be an issue?

DR. CIERI: Yes, I don't believe it's going to be an issue. I mean, it's hard to say. I can't predict who is going to keep within the law and who is not.

MR. R. WHITE: I guess there were some issues about not having phone numbers. In other words, this issue has been addressed?

DR. CIERI: This issue should be addressed through NMFS enforcement.

MR. PATTEN D. WHITE: I'll try not to disprove his last slide. Do you have a breakdown of the pair trawls versus single trawls? The second question is do you get any sense of why there was such a dramatic drop in the areas other than 1A? Was it availability or gear type re-rigging?

DR. CIERI: Yes, if you're looking specifically for 1A, there is pair mid-water trawling and single mid-water trawling. Here is the pair mid-water trawling and the single mid-water trawling.

MR. P. WHITE: That's just for 1A, though?

DR. CIERI: That is for 1A. Fishery-wide, I'm not really comfortable with the numbers quite yet because we are experiencing some late reporting. It's not exactly late reporting; it's more late finalization by the National Marine Fisheries Service.

MR. P. WHITE: The other half was if you had any sense from the fishermen why – were they not finding the fish in the other areas or why the other areas dropped so significantly.

DR. CIERI: Do we have an advisory member here?

CHAIRMAN STOCKWELL: Yes, Dave Ellenton, can you answer it as an advisory member?

MR. DAVID ELLENTON: Tell me your question again.

MR. P. WHITE: I didn't know if you got any sense from the boats, David, why the significant drop in Areas 2 and 3 or even 1B. Was that because they couldn't find the fish or because of demand?

MR. ELLENTON: I think availability of fish was a big problem particularly on Georges. Fishing in 1B, it's always a struggle to find that fish. I don't know that Matt's presentation takes into the account how the changes in the lines between one year and the other year have affected the figures.

DR. CIERI: No, it doesn't. We're going to be getting into that as soon as – that whole area, the latter part of the year there was a lot of fishing activity between 1B, Area 2 and Area 3. So as you saw in that preliminary report, it looks like there are some significant differences between IVRs and VTRs. We're going to be going through that issue with a fine-toothed comb once those numbers really, really come in.

MR. ELLENTON: And, certainly, at the end of the year we were waiting for fish to move out of Area 1A. Once the 1A quota had been caught, nobody told the fish to move to the south so we were all hanging around waiting for that fish to come into 1B and the other areas before we could it; and as a result December was a fairly high landings' month or unusually high landings' month for herring.

DR. CIERI: The last week in December, the last week or week before that we hit total fishery-wide 5,000 metric tons in one week, which is very late in the year.

DR. PIERCE: Yes, a few questions, Matt. You mentioned that the NMFS' information obtained from VTR was higher than the IVR information, and you indicated that there might be some NMFS double counting. Could you elaborate, to what extent do you think there was double counting?

DR. CIERI: It's very, very difficult. In some cases NMFS is using a combination of VMS, dealer reports and the IVR reports to monitor the quota. There might be some instances of double counting, particularly when there have been carriers in which the IVR is being reported by the vessel but the dealer report reflects the actual carrier vessel. I suspect that's something that is happening.

It might simply be capturing landings that are not being reported in either way. For example, it might be catches that are occurring from some minor state-only permittee selling to a federal dealer, for example.

DR. PIERCE: Can we assume, then, that you and other State of Maine representatives, in particular – Terry, I suppose, is the one leading the charge on this – that you're continuing your discussions with the National Marine Fisheries Service to fix whatever may be broken so we don't have a repeat of the problems that occurred last year regarding catch monitoring?

I know that there have been meetings with the Service, and you've been involved in those meetings, so to what extent can we expect a lessening of the problem, however that problem may be defined, because of your continuing work with the Service?

DR. CIERI: I plan to actually – once the numbers are finalized, I'm going to probably go over those with the guys out of Gloucester and the Quota Monitoring Center. We'll try to see if we can figure out what is actually real fish. I mean, there are real fish in there, and that's simply because, like I said, some state-only dealers will sell to a federal permit person; or, there might be some double counting.

It gets particularly difficult when somebody reports catch and a dealer offloading it and purchases from multiple dealers, so we'll go through and over the next, probably, three months we'll work on that and try to figure out what happened in 2007, what is real fish, what is not, what might be double counting, and then refinalize everything.

DR. PIERCE: Thank you, I'm glad you're on top of it because now we're working with 45,000 metric tons for this year, so we've become even more hard pressed. You indicated in your presentation that with all the procedures being used to monitor catch and landings, none of the state's waters catch and landings are accounted for. How do we account for that? I thought one of those procedures picked it up, but I guess not.

DR. CIERI: Not specifically. If a state-only permittee sells to a federal boat – I'm sorry, sells to a federal dealer, then it's picked up, but for the most part it's not. We have our reporting system within the State of Maine, but that's not brought into the dealer reports, per se, at this particular time. I have those numbers for the state for state-only permittees, but I only have them for my state. I don't have them for yours, for example.

DR. PIERCE: Yes, we would have very little. So that landings' information gets conveyed to the feds and therefore is accounted for in the quota monitoring – very good. You mentioned that the New Brunswick Weir – we knew this was going to happen eventually and it is happening, and I suspect there will be all sorts of consequences of this. 31,000 metric tons, do you have any information regarding the age composition of that 31,000 metric tons? Are they six-inch fish and smaller; are they what?

DR. CIERI: The answer to your question is, no, I do not. St. Andrews, New Brunswick, has stopped aging fish because of difficulty in the aging process for Atlantic herring. I can get the information on what size fish they are, which will give you an indication of what age they are, as a back of the envelope, but for the most part that information will only be available probably in a couple of months.

DR. PIERCE: Okay, one more question. I'm glad that you're on top of that because, clearly, it's critical in the context of the Canadian industry taking off and focusing perhaps on very small juveniles. Now, you indicated that in 2007 the purse seine vessels accounted for around two-thirds of the amount of landings, I believe, around 66 percent.

It was hard to see the exact number up there, but visually it looks like it's about two-thirds. What percentage of that catch came from vessels that had the ability to both purse seine and pair trawl; do you have that information?

DR. CIERI: I can get that information for you; that's not really a big deal, but I don't have it off the top of my head. Probably it would best to wait until the numbers are finalized. Again, we're missing 2,000 metric tons, at least, within 1A as far as reporting. Again, these are preliminary numbers, so that's something that we probably will address when we do all the sort of finalized updated fishery information I believe in May for the council process.

CHAIRMAN STOCKWELL: You all set, Dave? A quick followup to Matt is that following his explanatory on the reporting and the collaboration with NMFS, he has been working with Stan Wang and his shop and I've been working with Hannah to incorporate the state waters' vessels into the IVR Program so we can get timely access to the data. Pete.

MR. PETER HIMCHAK: Thank you, Mr. Chairman, a quick question for Matt only because I don't see it anywhere else on the agenda. Before we leave the issue of purse seine landings, it's pretty well documented that the Atlantic menhaden purse seine landings are pretty much entirely Atlantic menhaden. Could you comment on the purse seine landings on Atlantic herring for me, please?

DR. CIERI: As per bycatch?

MR. HIMCHAK: Yes.

DR. CIERI: Predominantly Atlantic herring.

CHAIRMAN STOCKWELL: And dogfish. Pat Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman, good presentation, Matt. Two questions; you noted that the weir catch has kind of increased and offset the decline in all other catches, and yet up there it only shows 1 percent. So, how insignificant or significant is it, really?

DR. CIERI: A lot. Normally, on average, over the last 20 years the New Brunswick Weir Fishery has caught roughly about 20,000 metric tons. This fishery in general, particularly last year, caught only 11,000 metric tons or an average of about 20. This year they caught 31, so pretty much all of these decreases that you made in either the 1A quota or in some cases in fishing activity in other parts and other areas in the U.S. Fishery were completely offset by the New Brunswick Fishery. So it's fairly significant. I mean, as you look at it, you know, fishery wide it's a third of your fishery.

MR. AUGUSTINE: And then a follow-on question. You said no question is a dumb question in your last slide; how come three times three equals six in your chart? Flip up your last chart, your closing chart, the little guy there in front of the chalkboard; how come three times three equals six and four times four equals sixteen? You don't need to answer it.

DR. CIERI: I don't know; I got it from Google.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chair. Back to the New Brunswick Fishery, what caused them to go up in their catch so much? Did they have an increase in effort; were they driven by market forces? Us lowering our quota, did we create a situation that allowed them to catch more fish, and are we going on the right track by decreasing our 1A quota if we're just giving it away to New Brunswick? Is there any data in that area?

DR. CIERI: I just spent a week in New Brunswick and just got back from an aging conference. I talked to Gary Melvin and some of the guys up at DFO, St. Andrews, for about a week. Their take is that it's a combination of both market and availability. There were a lot juvenile fish inshore in New Brunswick this year, and so that's the reason for the higher catches.

One thing to keep in mind is that the New Brunswick Weir Fishery isn't capped; so if we had caught our normal amount and they had caught this amount, then they would have been additive together. That's how that works. I mean, it's not that we don't take it, they will. If we take it and they take it, then you've got more fish coming out of the system.

REPRESENTATIVE ABBOTT: A followup. If that was the case, if we were catching over 60,000 metric tons, would they have a market for their fish; who would suffer? I mean, I would think there is only a market for X amount of fish and anything other than that is going to go to waste or not be caught.

DR. CIERI: That's suggesting that pretty much the industry has saturated the market at its current landings or what it's done in the past. If you asked the industry members, they're going to tell you that's probably not the case. Whether it is or not, I don't know. I mean, I'm not an economist, but I'll you the people that are in the industry will say that they haven't saturated the market, that there is more demand than they can provide.

MR. JOHN I. NELSON, JR.: Thanks, Mr. Chairman. Matt, can you go back to the table that compares the VTRs – yes, that one there. Now, I can't read the red either, but at any rate, as I was saying, I can't see it. But, my sense is that you used this table to take a look at, well, what is the difference between the two years, et cetera, et cetera, and you're trying to highlight the New Brunswick – or maybe show what New Brunswick did.

But, you didn't take into the account the reduction in the quota in 1A, did you, for '07, and, therefore, the reduction, the difference in 1A actually, you know, percentage-wise is going to be probably close between the two years –

DR. CIERI: Of course.

MR. NELSON: -- and since we have that reduction in quota, the New Brunswick increase certainly, certainly percentage increase would be substantially higher than what we're even projecting here. Because if 1A took 46, almost 47,000 out of 50, that's only a couple thousand metric tons that they didn't wind up taking, so it wouldn't be 13 as far as the difference because I think – although, again, I can't see the U.S. total over on the end, but I think you've added that 13 from 1A, so it really wouldn't be 13; it would be 10 less than that, roughly.

So the New Brunswick percentage of take from the fishery is going to be a substantially higher quantity. That 31,000 is going to be very, very much higher than what we were able to –

DR. CIERI: I get where you're coming from, but I sort of struggled a little bit with presenting it this way. I did this on a total fishery basis. The New Brunswick Weir Fishery, of course, fishes in 1A, so while the drop in quota ends – you know, the lowering the catch in 1A is about 13,000. All that 20,000 that came out of the New Brunswick Weir, probably most of it is considered to be Gulf of Maine fish. So, basically, we cut back 13 and they took about 20 is the way it works.

MR. NELSON: I had no followup, Mr. Chairman.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Dennis caught a lot of what I was going to say. On the New Brunswick Fishery, do they have a quota where they shut themselves off or do they just – we give them 20 or whatever we give them and they just, yeah, okay, Yank, and they just keep on going?

DR. CIERI: We do not give them 20,000 metric tons. We assume that they catch 20,000 metric tons. If we assume that they caught 10,000 metric tons in our quota, then if they caught 20 it would simply come out of the fishery, anyway. There is no overage or underage anywhere else. In this case they do not have quota, so they do not count as far of their 4WX stock. These individuals are sort of lost between both countries. We account for them and assume that they're going to take roughly 20,000.

MR. ADLER: So, in other words, they don't have a shutoff up there?

DR. CIERI: No.

MR. ERIC SMITH: Again, Dennis asked a lot of the things that I had raised my hand for, but I'm following his thread and Bill's. I guess I heard Matt say that this is not mostly compensation for us setting a lower quota. It's more fish availability and things, although there could be some market things driving the desire to catch more fish because of the perception that maybe there is greater market opportunity because we lowered our quota.

That's the behavioral part of it, but I guess mostly it was availability of fish. Because if it was the other thing, you know, I wonder if we'd have to go to war with Canada over herring, and, of course, we don't want to do that. I have the same discontent or concern that I think I heard underlying Dennis and Bill Adler.

If that's an uncapped fishery and over time we estimate it's 20,000, well, 2008 will be very telling because if it goes back to 11 or 15 or 22 or so, then they just had a bump in 2007, and that happens sometimes and no worries. But if it starts to be a trend, obviously we have to compensate for that, and that being a, quote, unregulated fishery, the compensation is all going to come out our side of the table, and that's not going to play very well anywhere. So, I guess this is one we just have to watch and wait and see.

CHAIRMAN STOCKWELL: I think we'll all be watching that. Dave Pierce, do you want another bite of the apple?

DR. PIERCE: Again, regarding the 31,000, we're always concerned, as we should be, about socio-economic impacts created by the quotas that we set, and, of course, 45,000 will be in place for 1A this year. That prompts me to ask the question, the 31,000 metric tons landed in that New Brunswick Weir Fishery, how much of that fish actually came across the line and fed U.S. plants, so that the socio-economic impact in the Downeast Maine area, for example, would have been lessened because of that amount of fish coming south as opposed to fish going from U.S. to Canada. Do we know, Matt?

DR. CIERI: I've got no idea.

DR. PIERCE: But it does happen?

DR. CIERI: It certainly happens and maybe the industry would be the more appropriate people to ask. They'll give you some anecdotal information. I have got no hard numbers as to how much of that fish crosses the border in trucks. If you asked some people in Downeast Maine who were prevented from fishing, they'll tell you that they actually saw – in that part of Maine they actually saw the New Brunswick Weir catch fish, pump into trucks, and take them across the border from their property and sell them to people that they couldn't. Whether that's true or not is anybody's guess. I'm guessing it is. But for the most part, the Canadians don't keep track of that kind of information.

CHAIRMAN STOCKWELL: Anecdotally, most of the Downeast lobstermen report buying Canadian bait for much of last year. Dave Ellenton, you have one more comment, then I'd like to go to the audience.

MR. ELLENTON: No, I was just going to agree with you just said, actually, Terry. Lots of that fish did come south. We don't know what quantity came south, but a lot of that fish did come south and it came south to fill the shortfall that the lower quota has created in our fishery in 1A. The fact that only 46,000 tons was landing in 1A in 2007 was very much because of the quota, as John Nelson said.

A lot of fish was left in 1A uncaught until it moved into other areas. The Canadians were able, at some fairly good prices, to infiltrate the market in the U.S., whether it was canneries, whether it was the bait market or whether it was the factories. From our experience, it really wasn't the factories; it was more north of the border of the factories, more north into Maine with the bait market and the canneries.

CHAIRMAN STOCKWELL: A followup, Matt, and then I'll take a last round from the Board.

DR. CIERI: You know, just to remind everyone, this is only the purse seine landings – I'm sorry, this is only the fixed-gear landings. They have an active purse seine fleet as well in that general area, all up and down the Bay of Fundy, and that's not counted here, and they're not considered U.S. fish.

Anything caught in the purse seine in New Brunswick is considered to be Canadian 4WX fish. Just to remind all of you, we're going to be going through the TRAC process with the Canadians starting in 2009. We will be discussing, hopefully in earnest, again the origin of the fish that are caught in the New Brunswick Weir Fishery and trying to tease

that out from whatever information we can. That will be up for discussion and up for debate again in 2009.

CHAIRMAN STOCKWELL: Other questions or comments from the Board? Dennis.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. Dwelling on the New Brunswick Fishery some more and knowing that figures don't lie but only liars figure, the New Brunswick Weir Fixed-Gear Fishery I would like to think probably stayed constant in the amount of weirs, maybe not, maybe yes. I have no knowledge of that. Is that indicative of the fact that we have a rising population and we're underfishing?

DR. CIERI: That remains to be seen. As we'll get into in a little bit, for the most part the age one fish are not accounted for in the current assessment model. It could very well be the case that we have a very, very strong age one year class moving through the system. If that's the case, we'll be swimming in fish sometime, you know, this year and the year following as they are fully recruited into our mobile gear fleet. But, whether it was, you know, simply they felt like hanging out inshore or whether there is a whole lot of them, we will see.

SENATOR DENNIS DAMON: Thank you, Mr. Chairman. Matt, I was interested in your comment that the purse seine wasn't counted. Is there a stop-seine fishery in New Brunswick or is that included in the weir fishery?

DR. CIERI: It's very, very small. I do usually include it and probably for ease I call it the weir fishery, but it is pretty much a fixed-gear fishery.

CHAIRMAN STOCKWELL: Any other questions from the Board? Who else other Mary Beth from the audience wants to speak? Mary Beth.

MS. MARY BETH O'TOOLEY: Thank you, Mr. Chairman. Mary Beth O'Tooley, Small Pelagic Group, Camden, Maine. I think there are a number of things that impacted the 2007 season. Certainly, the regulatory changes were very significant; the lowering of the TAC was very significant. Overall, the Canadian response was extremely market-driven to a much greater degree than availability of fish.

We were very successful at giving our market to the Canadians in 2007. When June of 2007 came – you know, when we came into the fishery, obviously switching to purse seines, there was a learning curve. The Canadians picked up on that and the market very

quickly. When people who switched to purse seining started doing a little better, our buyers continued to buy Canadian trucks because they were afraid that they would have shortfalls.

Our vessels were going out without a full market, because people felt they needed to rely on the Canadians. I'm sure the Canadians will plan for 2008, and I think it's something that we all need to consider as we move forward on how we're going to deal with this. We have not achieved anything from a biological sense from lowering the TAC. We've just shifted it to the Canadians and the lobster industry is paying a lot more money. I think we need to pay attention to it and figure out what we're doing. Thank you.

CHAIRMAN STOCKWELL: Thank you. Any other questions from the audience or comments? Okay, Matt, thank you. We're running a little bit behind, but we're going to put Matt on to the charge that we tasked the technical committee to begin the analysis of the efficacy of the spawning areas.

DR. CIERI: The TC met by conference call earlier this year to discuss a number of questions posed to them by this Board as well as the advisors and other stakeholders. There were some other people on the call, including some stakeholders such as Mary Beth, Dave Ellenton as the Advisory Panel Chair, and the members of the technical committee for ASMFC.

There were a total of five questions. We're going to run through each one of the questions as they were posed to us and then give the TC's response. All of this is available in a report and a document which I believe is either being handed out now or you already have it. Question Number 1, is there a technical basis to evaluate whether a zero tolerance-based approach to spawning area closures is any more effective than a tolerance-based approach in protecting aggregations of spawning herring? Is there a distinction that is technical in nature?

The TC's response is we can actually look at the removals of spawning fish under different management regimes and what has occurred in the past. By breaking out the catch-at-age matrix and looking at the amount of spawning fish, we can look at how many spawning fish and how many non-spawning fish have been removed inside and outside these closures under no fishing, when we had a zero percent tolerance, which meant that vessels could fish but couldn't land any spawning fish, and under a 20 percent tolerance.

So, we can actually get at doing that type of an analysis in a historical sense. It's going to take about 80 hours once all the landings and all the sample information has been finalized. I expect the sample and landing information to be totally finalized and the catch-at-age matrix done probably sometime in April, in which case I'll start in on the analysis and get it done probably by May.

MR. NELSON: Thanks, Mr. Chairman. Matt, the last question up there, is there a distinction that is technical in nature; what does that mean?

DR. CIERI: That's a good question. I don't know; you guys asked the question.

MR. NELSON: I didn't ask the question. If you want to have somebody who asked it answer it, that's fine, but otherwise you've got it.

DR. CIERI: Basically, some of these questions are a little redundant. They're roughly getting at the same thing but in different ways. This second question is does a no-fishing closure provide more benefit to herring populations than allowing a 20 percent tolerance of spawned herring? Basically, it's kind of the same question. Again, the answer is the same, to look at the removals of fish using that catch-at-age matrix technique I told you about inside and outside the closures

What I'm going to focus in on here is that we only have one year of information and one year of historical landings during this type of closure, which was last year where we had a complete ban on fishing in those areas. The previous year, in 2006, you were allowed to go fishing, but you couldn't catch any spawning fish. You only have two years worth of information on the zero percent and the no fishing.

Those results may not be transferable to other years. The other difficulty is we do not have an inshore assessment, so we're going to have to look at this in sort of a relative approach. If you say, well, this catch is 25 percent fewer spawning fish, what does that mean to the assessment, I'm pretty much going to tell you I have no idea other than how it affects the overall stock.

Again, getting back to this question, this is Question Number 3, do we have enough information to determine whether or not the zero tolerance closure is working as intended since it has only been in effect for one season? This gets back to the PDT's point. We only have one year under a zero tolerance and one year under no fishing over the past couple of years.

The TC's question was what do you mean by "intended" because we are not certain exactly what the goals and objectives of the Board are when it comes to spawning closures. We can look at the removals of fish as well as juveniles, both inside and outside those spawning closures. Again by doing the catch-at-age matrix, we can take a look at what kind of things are removed and whether they're spawning, not spawning or juveniles. Honestly, we would really like to have five years' worth of data – we're scientists, after all, the more data the better – to look at the effects of this type of management change.

In general, we've only got those two years, as I've suggested earlier. Those were also changes in the entire fishery, including a lowering of quota, a limiting of access by certain vessels, an increase in the number of days out. There were a lot of things that happened between 2006 and 2007.

So, as a quote from that document, "The TC cannot give a scientifically sound answer with only one – and I would probably insert 'or two' – year's worth of data in light of the major changes in the fishery between 2006 and 2007." Only relative conclusions can be drawn. So if we caught 25 percent less spawning individuals in one year versus another, is that really because of the changes in the spawning regulations or is that because there were more spawning fish that happened to be in that year or was it because in that particular year there happened to be a change in major gear type or number of vessels prosecuting the fishery?

Question Number 4 is what quantity of fish caught in the 20 percent tolerance are in fact juveniles as we know them today, and was this the cause of the so-called depletion? The answer is the TC got kind of a little bit wrapped up when people started talking about depletion. A direct quote from the document is "The TC does not know what a so-called depletion means; nor does it agree that the Area 1A is depleted."

Then they went on a little tirade and discussed why they had suggested that the quota be lowered in 1A as a precautionary measure, and you can read that in the document for itself. Getting back to the actual question, there is, again, this analysis that we can do, which can take a look at the juvenile removals, both fishery-wide within the spawning closures and outside those spawning closures.

Again, there is no inshore assessment, and so its impact on the population, particularly the inshore stock, is simply not going to be assessed. I can tell

you that you caught 20 percent more juvenile fish here than there, but I can't tell you what that means to the actual stock itself. The other thing to keep in mind is that the current assessment does not look at fish age one, so it does not look at fish that are age one at all, and it starts at age two. Juveniles are actually age one and age two. They're fully spawned by age three. Again, the impact, even assessing this on the entire population, would be difficult to do.

The last question, would it better to have a year-round ban on catching stage five and six gonadal herring rather than default closure dates which might not line up with actual spawning? Again, we can kind of look at this the same way and using the same techniques as we did for the other four questions. One trick would be to extend that analysis to other spawning groups, and this is what I mean.

In general, we can do that for the inshore Gulf of Maine. By extending the analysis to Georges Bank, we can get total removals of spawning individuals and when and where that occurred. However, the TC sort of cautions the Board is protecting all spawning components is what is inferred by this question, including Georges Bank and offshore, and is that a goal?

It may be recognized that this might shift effort from Georges Bank inshore if we went with some sort of a tolerance here, because during certain times of the year, especially, Georges Bank fish tend to be in a more developed state. In addition, and something that I hadn't thought of until this morning, we do have some indication of spring spawning in the northern Gulf of Maine, and so you do find spawning individuals in February and March in the Gulf of Maine.

The other thing to note is that the current closures are based around default dates and using something called the GSI, which is basically the ratio of your gonad to your total body weight for Atlantic herring. The closures are not based on the staging but rather the GSI, so we have a mismatch here between the two.

The TC decided to come up with some final thoughts and conclusions and maybe some questions to ask the Board particularly as to where they would like to go. The TC understands that spawning management is an important aspect of the ASMFC Fishery Management Plan for Atlantic herring, and it is pretty much the only way that you're going to protect smaller spawning aggregations which might exhibit site fidelity.

For example, we normally recognize that there is a Georges Bank and a Gulf of Maine component. In other places and in other older literature they also recognize that there are smaller subgroups, for example, to the Gulf of Maine. There might be a Schoodic or a Jeffrey's Ledge population. These spawning areas are the only way we have to protect those individual spawning groups.

However, there are unclear goals and objectives when it comes to the spawning area management and tolerance regimes. Historically, in the past spawning regulations and tolerance were to protect the bulk of inshore spawning populations while allowing economic activity to continue. The question that the TC poses is has that changed?

If so, managers may wish to revisit their goals, particularly in light of protecting spawning fish, its impact on juvenile fish in the area, and the economic impact on the fishery. Until the management board and section can come up with clear goals, the TC is not going to be able to measure the effectiveness of these spawning regulations against those goals.

The other thing to keep in mind is that managers may wish to recognize that spawning area management, particularly with recent changes in the management for Atlantic herring, can be seen as an allocation among gear type and among states.

CHAIRMAN STOCKWELL: Thanks, Matt. Would you leave that slide up on the screen for a minute? I listened in on the conference call, and this summary here very accurately summarizes the tone of the TC. They are a little bit befuddled with what we're requesting them to do. Between your questions, if you can bring forward some thoughts on how to focus the goals and objectives, it would surely help Matt and the TC. Pat White, you're up first, and then we'll go around the room.

MR. P. WHITE: Thank you. Under Item Number 3, you stated that you could only have a relative conclusion as to the effects of zero tolerance, but you didn't say what your relative conclusion was.

DR. CIERI: I don't have one yet. I haven't done the analysis. This is basically sort of pre – you guys asked a series of questions. This was basically a presentation and telling you what we can and what we can't do, what we're confused about doing, and how long it will take. We haven't done the analysis. I suggest that we will be able to tell you that in 2007 we caught more juveniles than we caught in 2006 by 20 percent, say, for example. What that means is, is

that a bad thing? Well, for the stock in general, in the modeling it might mean that you're taking too many or it might mean that there are many to take.

MR. P. WHITE: Well, that leads me into my second question. Because of all the debates that we had on zero tolerance versus the 20 percent tolerance, if they still agree that depletion is not occurring and now having heard what you just said about we've actually had an increase in the landings of juvenile fish, are we –

DR. CIERI: We didn't say that.

MR. P. WHITE: Well, you said you were up 20 percent in –

DR. CIERI: No, no, that was an example, an example. I won't know that answer –

MR. P. WHITE: You don't sense that we are or what did you base that example on?

DR. CIERI: I will not say until I've finished the catch-at-age matrix.

DR. CIERI: Okay, because it leaves me wondering because of what happened to our fishery when we went to zero tolerance. I guess I'm asking the same question you are, Matt, what do we mean by spawning management?

MR. SMITH: I have a simple question and it may spawn a more complicated one later. Oh, darn, I used that word, sorry. In the last paragraph, Matt, of the report, I don't know if it was on the slide –

DR. CIERI: Probably not.

MR. SMITH: Yes, if it wasn't captured in the summary, it's in the document. It says, "Managers should also recognize the recent changes in the spawning effect to harvest of fish to a lesser degree," and there is a sentence structure thing there, and I couldn't figure out what you were saying.

There was a change in spawning behavior or a change in regulations that had an effect on this, you know, because permeating all of this is a lot of things changed in '07 relative to '06, but I didn't know if there was something biological going on there that you were referring to.

DR. CIERI: No, actually there should be a word inserted in there, "spawning management".

MR. R. WHITE: Thank you, Mr. Chairman. My sense is that since you're not going to have data for five years to really answer any of these questions, that it's probably a waste of resources to continue on here until we get the data. And, why we have the spawning closures, I mean, you answered to protect discrete substocks that we think are there, but that we can't prove are there. So, it's a conservative approach and we want to leave these regulations in place, accumulate the data over five years, and then we can analyze it. So, you know, my sense is I think we have other things to do and let's wait for the five years of data.

DR. PIERCE: Well, Matt has laid out some of the limitations regarding the speed with which the analyses are done to address these questions, and that's fine. I mean, we have to have realistic expectations here. We have to wait until the data are available and then analyzed by Matt and company, so I'm patient enough to wait for that.

I'm curious to see what the catch age matrix will look like. That will certainly influence a lot of my decisions as to how we go forward with herring management for '08 but probably more likely '09 in the future. The specific questions that are asked – the conclusions and questions asked by the TC in the last few paragraphs of the handout reference do managers wish to revisit the goals that relate to protecting spawning fish.

Well, first and foremost in my mind, I don't wish to revisit those goals because I think they're still very valid, and that is to protect the spawning aggregations. It always has been a centerpiece of what ASMFC has done. The federal government does not do that for a number of reasons. We do it and the industry has supported that concept for quite a long time.

It makes a great deal of sense. So, protecting the aggregations, the smaller, discrete spawning units and the larger ones, as well, that's still to my way of thinking a very critical objective for ASMFC. I can't recall the extent to which the biologists have been able to determine to what extent the local spawning aggregations along the coast of Maine and elsewhere have been impacted by user fishing.

I think that some of the areas have suffered dramatically. They're no longer what they used to be. I stand to be corrected on this because it's been a while since I've looked at it. The Schoodic Ridge is an important area for spawning. I thought I had heard not too long ago that there was some concern

about fishing pressure on Schoodic Ridge, and that there might be some impact on spawning success in that area.

If that's, indeed, the case, then we need to focus on that area as well as other areas to make sure, as best we can, that we don't undo this important concept that we have of protecting spawning fish. The other question that they asked is relative to the goals of impacts of fishing on juvenile fish, what are the acceptable impacts?

I've raised this issue over the years. I'm a broken record, I know. I've got 30 years of historical memory on this issue. Before I can actually address this question and get involved in some discussion with the Board regarding what is an acceptable impact, I still need to get the technical people, Matt and the rest, to focus on a SARC report conclusion that was drawn back in 1982, I believe, Mike Fogarty.

I have mentioned this before, but I've got to emphasize it because until this particular conclusion of Mike Fogarty and the SARC is revisited and either confirmed or swept away, I'm going to continue to still be concerned that, especially now with the Canadian increase up to 31,000 – they may be very small juveniles, I don't know, we'll see.

I'm concerned that the overall fishing mortality rate that generates our quotas, I'm concerned that fishing mortality rate that we can sustain for our fishery here in New England will be less than it otherwise would be if the juvenile harvest is high. Again, high, I'm not sure what high means.

That's why I say I can't really engage in this discussion until the technical people focus on that report and provide us with some information relative to whether – after the catch age matrix is in and you've looked at it, whether that matrix suggests that we're actually finding ourselves back in the situation we were in in the late seventies and early eighties when we had the scientists giving us some very critical advice regarding juvenile fish. I guess that's it for now, so I have, at this point in time, no other suggestions to offer up regarding the TC questions.

CHAIRMAN STOCKWELL: Thank you, David. I believe Matt has a response.

DR. CIERI: In 2009 we're doing a TRAC. Whether it's going to be age structured or not remains to be seen. It might very well that you could actually go through and go to an assessment and you will then

never use a catch-at-age matrix again for Atlantic herring or at least for a while. That's certainly a possibility.

When we get the catch-at-age matrix later this year, that won't give you an idea on fishing mortality rates, which is what I think you want by age. That won't be available until the TRAC, and that will only be available if we use an age-structured model. If we decide not to use an age-structured model, you will not get the F at age for juvenile, adults or anything in between for at least another three or four years after that, if then.

DR. PIERCE: If I may, Mr. Chairman, I would insist that unless it's impossible to do so, that this Herring Section should emphasize the importance of the next assessment being age-based; in other words, that the catch age matrix be focused on. Otherwise, how in the world are we ever going to be able to address these questions about what is happening relative to fishing mortality in these difference components of the overall fishery.

I'm thinking more so about what is happening in Canada, the New Brunswick Weir Fishery, not so much in U.S. waters. Matt was shaking his head back and forth, which indicates to me that we're not going to get what we need, and I need to better understand why not. Catch age matrices are the basic building blocks of any good assessment. I would assume that would continue to be the case for Atlantic sea herring. If not, then we are going to be, at the Section level and certainly at the Council level, seriously disadvantaged.

DR. CIERI: We will be discussing this at the TRAC. Currently right now there is a large disconcerted feeling about aging Atlantic herring, and it might be that an assessment that is age structured will not be possible, that information will not be available at all.

DR. PIERCE: Again, if I may, why, we've been aging herring for a long time. Why is there suddenly a problem with aging of herring?

DR. CIERI: We will discuss this during the TRAC process, but let's just say I got back from New Brunswick, Canada, this past week for a week in dealing with aging problems with Atlantic herring.

DR. PIERCE: So there have been problems?

DR. CIERI: There were problems outlined in the last TRAC and some indication of some technical criticism of aging differences among laboratories.

We have some significant aging difficulties in Atlantic herring not even among labs but when you actually use known age fish. We will discuss that after the report comes out and after the first preliminary meetings of the TRAC in 2009.

CHAIRMAN STOCKWELL: Are you all set, Dave?

DR. PIERCE: No.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. Ritchie White started this discussion off by concluding that we need to wait approximately five years before we see the results of what we've done. In this past year we've changed our method of fishing by going to the purse seining over mid-water trawling in the summer. We've changed what we can harvest by disallowing taking spawning fish.

I think that we have to remember what we put in place and keep it in place for some time. And, as Ritchie said, it's really premature at this time to be analyzing what we've done when we've just started. I think that we shouldn't have even embarked on this path. I think that, also, there was another reason that hasn't been mentioned all morning, and I was reminded of it when I stopped and talked to the lonely fellow down at the end of table that a lot of this had to do with law enforcement.

We haven't heard from them and I think that law enforcement clearly told us that this zero tolerance was the way that we should be going. For that reason, we should just leave things alone and let time go on and then decide where we are after we've had an ample amount of time to analyze the data. Thank you.

CHAIRMAN STOCKWELL: Thank you, Dennis. I think the question, though, is not whether or not we should continue spawning areas but more along the lines of are the areas correct or is the timing correct and can we do a better job of managing with spawning areas. I don't know the answer to that question, but it has certainly been posed. John.

MR. NELSON: Thanks, Mr. Chairman. Maybe you've already addressed what we should focus on. It sounds to me like the TC is saying to us, hey, we're not going to tell you anything really unless we have a few more years under our belt to take a look at this. Is the direction, then, and is it clear enough to the TC to evaluate these spawning closure areas and the timing of those areas and the effectiveness – well, I suppose you can ask them to evaluate the effectiveness of the closing. But, certainly, the first

two would be the questions I think that are fair to ask. Could I get a response to that and then I can follow up, Mr. Chairman.

DR. CIERI: See, here is the problem. Somebody asks the simple question of are these spawning areas correct; and unless you define those goals and objectives, we have nothing in which to base our analysis on. For example, somebody asks the simple question of should we have an overall prohibition on landing spawning herring from any area, and again the TC, without clear goals and objectives from this group, has absolutely no idea of how to go about analyzing the question.

We need to know what are the goals, because while we can present, for example, that you might reduce the number of spawning fish that are caught in a particular area, we know from the analysis that we're going to be increasing the juvenile catch. Is that okay? Without clear goals and objectives, though, we don't even know that spawning or juvenile fish are actually even the issue.

The more defined and concrete you can make your goals and objectives as to what you're trying to accomplish – are you trying to protect just the inshore component or are there fish on Georges Bank you would like to protect? Until we get that kind of feedback, any sort of change to the management of spawning herring and even the changes to the spawning management that we've seen in the last year, the TC simply can't analyze it. We have no idea and the TC are very confused on why we went from 20 percent to zero percent to no fishing in those areas. We don't know what you've done or why.

MR. NELSON: Well, you know, if I relate spawning closures to other species – well, the closest analysis or comparison are the rolling closures for cod or groundfish that we have in the Gulf of Maine. You know, you have them put in place for periods of time and they're following, supposedly, the sequence or the spawning of the cod as they go up the coast, and is the water temperature warm, et cetera.

Now, do we get that as a hundred percent? No, I doubt it, I doubt it very much. Are we fairly successful in hitting the majority of the spawning and whatnot and protecting the spawners? Apparently we are because there is an awful lot of people who would like to be able to get in there and take out a lot of fish, but that means exactly that we're being successful.

So I don't think we're trying to protect herring in its entirety, but we have identified certain areas, and this is over the course of years, that we think that there is spawning taking place in those areas. Off of our shores, my extensive shoreline, we get feedback all the time about whether or not the fish are getting ready to spawn, they're staging up, et cetera, et cetera. The fishermen are telling us you should be protecting those.

Now, Matt, not to put words in his mouth, but we might have the possibility – might have the possibility that we've already been successful in protecting the spawners and that we may have a ton of little guys out there and that's why the New Brunswick Fishery decided to expand. It may or may not be the case. We'll find that out in a year.

I guess the point is why are we – we're hearing from the TC they can't do this right now; why are we continuing to pursue it? I guess I'd like to – if we need a motion, Mr. Chairman, I'll present one, and that would be to delay any further examination of this until they have at least two more years of data under their belt. I'm not going to make the motion, but I'd like you to comment on it.

CHAIRMAN STOCKWELL: Well, thank you, I'd like you to hold the motion until we've finished with people's comments and questions. Anymore comments from the Board? David Ellenton.

MR. ELLENTON: The reason that we're discussing this at the moment is because of the concern of the inshore Area 1A. It's not because of concern of other areas. The area of concern is the inshore area of 1A. We have only had one year of fishing with zero tolerance and one year of no fishing in the spawning closed areas. The charts that Matt showed on the area showed that even with no fishing in the spawning closed areas, we caught the quota. The quota was caught; the quota is going to go down by another 5,000 tons. That quota will get caught even without access to the spawning closures. There is a question about what fish will get caught, but as I mentioned earlier on we could have caught a lot of fish at the back end of the season in 1A, which we had to leave until it went into other areas.

There is no question in my mind that we should be leaving the technical committee another two years, maybe longer, on the basis that you all decided to put in place to see if the TC can come up with much clearer answers than they're able to do today.

MS. O'TOOLEY: Thank you, Mr. Chairman. I think we're having this discussion today because of the industry's concern over the economic impact of the new measures that went into place last year. Obviously, in the State of Maine those fishermen felt highly impacted and were very dissatisfied with the decision that this Board made.

I think one of the most important reasons is that you made the decision with no analysis. We felt that the measures that have been in place for a very long time, that the fishermen supported, were significantly helpful to rebuilding the resource in 1A from very low levels in the early eighties and it worked just fine.

The State of Maine put a lot of resources to bear on spawning measures and sampling. New Hampshire and Massachusetts said we don't have those resources, we will have a total closure, and during that time period the stock rebuilt. It worked. You decided to make changes without any analysis. The advisory panel asked this Board to do the analysis. This Board said, "No, we're not going to. We just think this is the right way to go."

And the fishermen, quite frankly, disagree with that, and that's the reason we're having the discussion. To wait two or three years to see how the new measures work when you didn't even look at the analysis of the old measure's work really makes no sense at all. We're asking for the analysis; did the measures that were in place for a very long period of time have a positive or negative impact on the spawning stock in the Gulf of Maine?

MR. PETER MOORE: Thank you, Terry. Peter Moore; I'm here representing Norpel in New Bedford and the American Pelagic Association. We process herring and mackerel; three mid-water trawl boats. I think what I'm perhaps most troubled about in this discussion today has to do with how we're interacting with the Canadians on this fishery or not interacting.

A number of us sit through the TRAC process both for herring and for mackerel, and we try and follow that process. Some of us have some schooling in it but certainly not at the level that allows us to run the models. Intuitively, I think there is a question of yield out of the fishery. There is also a question in terms of adults versus juveniles and for measuring in tons, and we're looking at significantly more individuals being caught by that weir fishery as juveniles than they would be as adults in our fishery. We're quota-capped on yield on tons.

The second thing is what Matt talked about, which was what the TRAC is going to use in terms of a model, and I share Dr. Pierce's concern that – I guess what I would do is say if we don't know that fishing on juveniles is either good or bad for the stock, but then we're going to go into a TRAC where we don't know if we're even going to have aging information on the individuals that are being caught, to me it's like you're flying completely blind.

I, for one, and I think our company and most everybody else in this industry is very concerned about the conservation of this stock for yield, for economic yield, and for, you know, ecosystem issues and the whole thing. I think if we can have a little bit more of a discussion at this section level about what a recommendation would be coming out of the section to go to whoever the section recommends to what, you know – and I think Dr. Pierce could lead that discussion of what this section would like to see the TRAC focus on; why either we are or are not comfortable and letting the Canadians tell us, well, we don't age our fish any more and therefore we're not going to use an age-structured model.

I am very, very nervous about that because I hear that they're aging their fish, they're catching a ton of juveniles in a non-regulated weir fishery, they're catching purse seine fish in 4WX that actually may be 1A fish. You talk about a black hole. I'm particularly sensitive about this because of all the regulations that have come down on our fishery over the last few years, many of which I believe are unjustified scientifically.

I'm very concerned that we're going to hand this whole fishery over to the Canadians who are mismanaging it potentially themselves. If we can have that discussion a little bit more today and maybe come up with a recommendation from the section as to what this TRAC should look at, I'd appreciate it. Thank you.

MR. KAELIN: Thank you, Mr. Chairman. Jeff Kaelin representing Ocean Spray Partnership and New England Fish Company in Portland, a herring and mackerel company. You know, to put this off another couple of years doesn't respond to the concern that the technical committee has that we don't have clear goals and objectives in terms of what we're doing here.

I agree with Mary Beth that we were concerned that the zero tolerance and then the total closure was done without any analysis at all on either the biology of the stock or on the impact of the industry. I think, as this

chart says here, historically, since the early eighties when the spawn fish tolerance was put into place, it was a balance. We were attempting – it was really before my time.

I have only been doing this since 1986. It was a balance by the people in the sardine industry primarily to try to conserve the stock longer term. They weren't any TACs at the time. There was no federal management at the time. It was a balancing act, and it allowed the purse seine fleet at the time to go in and sample an area and take spent fish or of some juveniles – at that time there was much more a juvenile market in the sardine fishery than there is today – so that the fleet could catch some fish and still leave some behind that would spawn.

It's like the v-notch thing that we all subscribe to in the lobster fishery. I'm not sure when the industry began to v-notch lobsters. Anybody could really guarantee that there was going to be a return in terms of egg production and so forth. Maybe that's been measured now over the years. I have seen some interesting presentations that say at least for the large animals you should throw them back. So, that's what we tried to do here for many, many years, and the State of Maine invested an awful lot of time and money into monitoring this thing.

I think that some people on the Enforcement Committee, certainly Colonel Fessenden will say that it was done honestly and accurately and with great commitment. There is no reason I think why we couldn't go back to that way, particularly when we see what happened this last year with seiners that were operating and not being able to take fish that were available in some of these areas.

Then in the end of the year, in October, everybody ran down to the eastern area and hammered the small fish that were in there because they didn't have anyplace else to fish. Meanwhile, down to the western area there were a lot of beautiful fish down there that nobody could work on. And as Dave said, again this year the fish stayed into the Gulf of Maine late.

Remember, we used to have winter fisheries in the Gulf of Maine for many, many years. And, when we set these quotas up, we were concerned that we would lose access to those fish because of these artificial boundaries and so forth. I think that's exactly what happened last year. Does that make any sense; does it make any sense to create a situation in the summer months when the seiners – and I always

have believed that the seiners can work around a tolerance better than the trawlers can.

I don't think I'm changing my tune on that at all. I think I've always believed that. I might not have always said that publicly in the past, but now that we're all seining and we invested a half a million dollars in a boat to catch the same amount of fish, and now we're seining. If we're seining in the summer months in the Gulf of Maine, we ought to be able to go into these areas and take spent fish under a tolerance, the way we always have, and eliminate the opportunity for the Canadians to speculate that there is going to be a great bait market down here and go "balls to the wall" on the weir fishery up there.

That demand isn't coming from the sardine factories. There are only two sardine factories in North America left, one in Blacks Harbor and one in Prospect Harbor. This demand isn't coming from speculation about how many fish can be put in cans. That's not what it is about. So, here we have a situation, we cut the U.S. industry back by 15,000 metric tons – or that's what it will be this year – and we give the goddamn market to the Canadians, and we don't allow the seiners – now we're supposed to use seiners because the managers have decided this is the way you catch herring in the summer months.

Okay, so now we're going to go seining, but, geez, you know what, you can't go fishing for spawned fish around the spawning areas in the future. We don't know why; we haven't analyzed it. We have no idea what the biological impact is on the stock, but not only do you have to use a seine, now you can't go into the areas where you have traditionally seined as the stock in the Gulf of Maine has come back.

So, we still don't have any goals or objectives. We're not measuring the health of spawning areas. We don't know whether Schoodic spawners are coming back or not. We don't know whether the spawning areas down in other parts of the coast are in good condition. We tried to measure that many years ago. We sent collectors down, similar to the larvae collectors the lobster industry is doing, to try to measure how many eggs were there and so forth, but you don't have any tools to measure the efficacy.

So, we think that we ought to go back to the tolerance, and we don't think you have to have strict biological proof either one way or another, whether it works or not biologically. We think it's really a market issue now. And it gets down to the last point down there about changes in spawning management can act as an allocation.

That's what is happening here. That's what happened last year, I think. You know, we'll leave the fish in the water so the companies that don't want to go seining have a chance to take them in the trawl, and we trawl in the fall, too. That's what this is all about, I think, and it's hurting the Maine industry.

We don't think there's a biological justification for it, and we absolutely want you to re-evaluate your goals and objectives. I think the plan already has adequate goals and objectives that allows for a tolerance, personally, if you go back. We can even have a roe fishery under the plan. All right, so we're really upset, it hurt us economically last year, and we think it needs to be changed.

We don't think there is any biological justification not to go back to allow a summer seine fishery in these areas. You need samples to be able to close them, to make sure that they're closed when the fish are actually spawning.

Any kind of a movement to put this off for another couple of years will absolutely cause additional economic harm to the fleet that is operating in the Gulf of Maine in the summer months under the restrictions that you've just established for us, a reduced TAC and a requirement to use a particular kind of gear. We appeal to you to create some flexibility here again so that we can have the market that we've just handed to the Canadians in the bait season in 2007. Thank you.

CHAIRMAN STOCKWELL: Thank you, Jeff. Any other comments from the audience? Dave Pierce.

DR. PIERCE: I can appreciate the technical committee's concern about their feeling that there aren't clear objectives stated so they can then do the analysis in reference to what we're trying to achieve. I can understand that. However, that doesn't apply in all circumstances. There are certain things that we have requested that will help us decide what we should do in the future relative to these spawning closures.

I don't support postponing the analyses largely because of all the controversy that we experienced with this particular initiative this past year, the State of Maine in particular asking legitimate questions, having a problem accepting it. There was a gentleman's agreement. Eventually the State of Maine went along with it, and we all appreciate that support from the State of Maine.

That was support we desperately required and it was provided. I would like this analysis to be moved forward to at least be a response in part to this initiative, these questions that were asked largely because of our need to follow up on actions that resulted in the State of Maine having to implement the no-fishing strategy as opposed to the tolerance. I still want to see information regarding the catch and discards of spawning herring during the 20 percent tolerance. I still want to see that catch age matrix.

Again, you don't have to relate this to a specific objective. I just want to see the data base. I want to see what happened during the spawning closure relative to what was caught, what was discarded, what was landed during the time when we had the 20 percent tolerance. It would be great, also, to see what happened to the boats.

This past year it was reported that they did shift effort; they actually went to areas that were open. This is in Maine waters now to the north and they were supposedly obliged to fish on extremely small fish. Did that happen? I don't know. That was said to have happened, and I would like to see the data that would make that case.

It would help us in a more informed manner judge whether or not we need to do anything different with our spawning closures that is relative to the tolerance. Now, biological justification for the spawning closures, well, we created that justification years ago. We're not going to come up with hard-and-fast numbers to calculate the exact benefit from a spawning closure in this area, of what length. That's not going to happen

We can't get that kind of information for any spawning closure that we adopt, be it for groundfish or be it for sea herring, but it stands to reason that because of the nature of sea herring spawning that it should have biological benefit, and we continue to assume that, indeed, it does. Protecting pre-spawning and spawning fish, protecting the spawning units, taking the fishing pressure off those spawning units when they aggregated, getting ready to drop their spawn, it makes a great deal of sense.

In addition, there was an additional benefit that's not biological in nature, but we can't avoid and forget that benefit, and that is it does tend to reduce the pressure on 1A fish. It does tend to keep the catch rates down when the fish may be extremely vulnerable – they are – and catch rates can be quite high.

This is a new concern for us relative to what we discussed last year and what ASMFC did last year; notably, the three states, Maine, Massachusetts and New Hampshire really tried awful hard to figure out how to extend the season in 1A so that we would have fishing in the fall; that is, late October, November and maybe even in December in Area 1A.

The fishery closed. We tried through days out and other means to keep that fishery open. It closed. If didn't have the spawning closures in place, I wonder what the catch rates would have been and would we have had an even earlier closure. And then the other issue – and this is first and foremost in my mind, and this is why we continue the no-tolerance provision; that is, the closure, not no tolerance, the closure, no fishing during the spawning closures, and those were the monitoring and enforcement concerns.

I'm not going to go over that again. We've already talked about this at length; significant monitoring and enforcement concerns that we had to address that led to the no-fishing aspect of our strategy. The dumping of fish, that was another big concern. If someone is out there fishing, purse seining or mid-water trawling for sea herring and they happened to get a load of spawning fish or maybe juvenile fish they don't want, they dumped the fish.

We had reports of dumping of fish. I don't know whether they were accurate or not. That's why I'm hoping that some analyses would give us some information that would help us better evaluate whether or not that was a real problem. So, again, I understand the hesitancy of the technical committee to move this forward, but there still are some basic data, as I indicated, basic information that we do need, and I would like them to, once they get that catch age matrix set up, to then revisit these questions and provide us with that information.

CHAIRMAN STOCKWELL: Thank you, David, for your comments which go a long way towards focusing the direction of the TC's analysis. It follows my intent to do a better job of working with the spawning areas for the fish and the fishermen. I believe Matt has a brief followup, and then I have Pat Augustine, Pat White and Dave Ellenton.

DR. CIERI: Part of the difficulty the TC is having is unless you give us clear goals and objectives, we don't know what data to present to you, what data not to. I mean, if we gave you everything it's going to be a 200-page document and require three months' worth of work. Yes, you want the catch-at-age matrix, but you also want the discards.

Do you want those discards inside and outside the spawning area? Do you want them inside the spawning areas when it's not time for the closure? Do you want to compare the removal of juvenile fish or spawning fish fishery-wide? For example, do you want know what the spawning removals are on Georges Bank?

There are millions of questions that we would have to, you know, ask you while we're doing the process, but if you give us clear goals and objectives that would allow the TC the ability to say they probably want to see this, they probably don't want to see this. Does that make sense?

CHAIRMAN STOCKWELL: Crystal clear, Matt. Pat.

MR. AUGUSTINE: Thank you for all those questions back and forth, back and forth. The industry raised some questions in my mind as to where we are and why we're doing what we're doing. It just seems to me that we around this table are board members who have to make a decision based on what the technical committee suggests or recommends based on your assumptions and status of the stock.

I look at all the questions that have been brought up on this paper, and, quite frankly, there are only a couple of things that make sense to me, being a simple person. Juvenile catch, we don't do anything with assessment of age two to zero fish, yet we say in this weir fishery we came up with about 31,000 metric tons this year, which doubles since last year. The industry reported that those are basically small fish.

Then I have to ask the question are those weir fishermen in U.S. waters, are they Canadian, are the fish coming back into the U.S.? It just seems to me if we don't know the status of the stock, we don't know whether we want to have spawning female – we don't know what we want. I do know what I need as a board member. I need something from the technical committee that tells me, from the State of New York – and we're going through some severe issues in the Hudson River.

We're probably going to shut out our commercial fishermen completely as well as shad fishermen. That's based on Andy Kahnle's report as to the status of our stock. But in looking at all the what ifs, what ifs, what ifs, this doesn't give us anything, but 25 questions of what if. So, if we have to be clear on what we're asking you, I guess basically I would say start at the top, what information can the technical

committee give us with as few specifics as we can give you as possible.

You are the technical people, you are the folks that do all the assessments. In your opinion, rather than this – and this okay – what should we do as opposed to sitting here twirling our thumbs for the next three years? It's obvious from a socio-economic point of view and economic point of view our fishermen are being penalized.

Now, if the stock is in that poor a shape, then let's do what we have to do, with your recommendations. But, it just seems to me that we're skirting the issues of facing the fact that this board doesn't know what questions to ask you; we really don't. We think we do, but we don't.

You have given us lots of ins and outs and we could skirt here and skirt there, but I just don't understand how we can sit here and spend two hours; and at the end of that discussion, not having made any progress. I go to the next section that talks about the herring workplan and we're talking about Maine, New Hampshire and Massachusetts scheduling days out in March, so I assume the New England Fishery Management Council is driving the whole process.

I guess I'm frustrated not knowing what decision to make other than say table this discussion to another six months from now and see what New England comes up with. So, Matt, I guess my concern is, one, is there any way to take a look at the zero to two age fish? What value would it be in terms of the number of small fish that are being caught in the weir fishery? How is that impacting the status of our stock going forward? I think that is the basic question I need to have answered, and would it be helpful to this board for us to have that information to make a harder, clear decision?

CHAIRMAN STOCKWELL: Real briefly, Matt.

DR. CIERI: Sorry, I know we're running out of time. Actually, yes, we can answer the questions, we can tell you how much is removed. What we can't do is relate it back to the stock size. We can tell you on a relative sense that you're exceeding an average removal of certain age classes over the last ten years with this versus that, but we can't say that X number of fish will equal, you know, X number of metric tons five years from now. Does that make sense?

MR. AUGUSTINE: Yes, that makes sense, so when I look at your charts, we have a continuing,

continuing, reduced harvest over X number of years; yes, no, so it's a variable.

DR. CIERI: No.

MR. AUGUSTINE: Okay, then clearly tell –

DR. CIERO: It's flat.

MR. AUGUSTINE: It's flat. Okay, it's flat, so then why are we taking any management action? Why are we having this discussion, then? I mean, I knew I'd get to that question sooner or later. As I said earlier in the middle of my diatribe, it appears that we've spent two hours skirting around something that isn't. If I had my druthers about it, I would say table this whole discussion and let's move on to another thing.

CHAIRMAN STOCKWELL: Well, we're having this discussion on behalf of the industry who have requested it, and I feel good about it. Pat White.

MR. P. WHITE: I do think the discussion has been good and Mary Beth's points are well taken and followed by what David Pierce said. I'm just disturbed if we go forward with some type of analysis as to what is happening under the current zero tolerance and not be able to compare to anything, what have we gained? We've designed a new rifle that just kills the same number of people.

Is there any way – and I will ask you – that we can ask the technical committee to do the same type of analysis with the previous fishery that we were doing with the 20 percent tolerance and whatever, so we would then have a baseline for comparison between what is happening and where we're going? I think that's the more important question; why are we going to this more restrictive thing, as Pat is alluding to, if we don't need to and it worked fine in the beginning, if we could prove that?

CHAIRMAN STOCKWELL: A brief reply, Matt.

DR. CIERI: We can do exactly that. And, in fact, a preliminary analysis I ran suggested that we caught more spawning fish under a zero percent tolerance with fishing allowed in those areas than we did under a 20 percent tolerance the year before. So we can go through and do that kind of analysis and compare those results among each one of our three management actions, so we can give you those numbers.

If we have a better understanding of what your goals and objectives are, then we can also compare things like do care about Georges Bank or is it just the

inshore stock? One of the questions dealt with protecting fish everywhere and other questions. If we have your goals and objectives, we can give you the data that you need or that we think that you need, and then you can ask questions. Without those goals and objectives, we've got no idea what you guys want to see, what you guys want to do or why you did it to begin with.

MR. P. WHITE: Just as a followup, then, I would ask as a section that we ask Matt those exact questions. I'm not sure if we can define what our goals are at this point, but it's obviously to maintain a spawning stock mass that's healthy enough to maintain a healthy fishery, but I think we need that other data first, if we can ask them to do that.

CHAIRMAN STOCKWELL: And there is money for a technical committee meeting and an AP meeting, and I think we can tie it all together. Dave Ellenton.

TECHNICAL COMMITTEE REVIEW OF "ZERO TOLERANCE" SPAWNING CLOSURES EFFICACY

MR. ELLENTON: Thank you, Mr. Chairman, I'll be very brief. The agenda item that I have that we're discussing at the moment says the TC review of zero tolerance spawning closures efficacy, and it has developed into management questions and allocation questions, and we really need to get down to what that agenda item is asking. We've asked it before. Matt has had, quite justifiably, some serious concerns of the questions that he was given to answer and obviously had difficulty answering them because he needs to answer them in a technical committee way and not in a management advice way, but in a technical committee way.

We need to give the technical committee some specific questions to be answered that you as managers can use to make your management decisions. I'm sure he cannot do that without some more length of time in the situation that we were in this last season. His answer to the question of whether there were more spawning fish caught when vessels were in the areas, when there was zero tolerance, the answer was yes, I think he said, than there were when there was 20 percent tolerance.

Obviously, it's going to be a different answer with zero fishing in there. It's zero fishing. He needs to get more information, which does take some time to do it, but he also needs to have some very, very clear questions to be answered.

MR. SMITH: Thank you. Clearly, we aren't going to resolve this today, but I would hate to forestall further discussion at a later meeting on this, because I think there are a couple or three reasons that I can think of that it's worth this kind of debate and not forestalling it and waiting three years until we have a different set of data.

Our whole purpose should be to try to provide opportunity to the fisheries as long as we properly conserve the resource. And if nothing else, the industry is saying we think we can do that, we think we have a history of doing it over the 20 years; not that there weren't legitimate reasons principally that New Hampshire brought forth concerns that they had with the spawning area strategy, management strategy, and we voted the way we voted.

Frankly, I was chairman of the section at that time, and I stayed out of the debate for that reason. But, I heard enforcement concerns and I heard maybe conservation concerns also, and that one is the hard one because it's in the eye of the beholder. But I also hear, and it's correct, I think, that largely the times that we were concerned about used to be predominantly a trawl fishery and now they're predominantly a seine fishery, and you'd have to remind me when the switch-off date for that gear prohibition occurs.

But, I think that leads me to think that maybe with some further debate we can find our way back to, probably with a PDT type of an approach, is there a way to make the fishery the way it used to be with a tolerance work for the opportunities that provides to largely the Maine industry, because they're the ones who have done it, in a way that satisfies the Board, because this isn't fishery biology anymore.

We're just setting policy and we've done this on things before. You know, the one that I always remember that galled me at the time was when the trawlers were eliminated from taking more than a bycatch of lobsters. Well, I got over it. You know, the fact is sometimes we make policy pronouncements just because we think it's the right thing to do and there may be data lacking.

This is one of those things that happened, but now we changed how the gear operates in that area, also, and I think that gives me a sense that you could revisit that and have a PDT type of approach look at how you tailor it to make it work to the satisfaction of the Section. If you go through that effort and it doesn't work, then you just, like I did with lobsters, you say,

hey, it's over, you know, that's done. So, I guess I'll kind of end there. Thank you.

MR. NELSON: You know, I was getting very annoyed, Mr. Chairman. I thought that the direction that was being allowed for this discussion was debating again the amendment, and I think that was very inappropriate. Those that were not happy with the results of the votes are raising questions as to whether or not we should have done that at all, and that's already been answered.

Now, trying to find the middle ground of evaluating discreetness associated with areas and timing which is what you had requested before you became chair on behalf of constituents, I think that we were trying to do that. If we have not been clear enough to the technical committee, then we should be clear about it, but we shouldn't be revisiting at these meetings, you know, why we're not happy with the management decision that was made and that a substantial majority of people voted for.

So, I would suggest that, again, Eric has probably come up with a reasonable approach to try to evaluate effectiveness, which is I think what we're all looking for. We have an obligation to protect this stock, to conserve this stock. I would point out to those that say that it is doing great, that we have now dropped the quota another 5,000 metric tons, and that's based on the information, the best available information that was provided to us by NOAA.

Whether or not everyone wants to agree with that or not, I'm not going to go there, but that's where we're at. And, I would also point out that if we're losing market share to other entities, that does happen in life. I know I'm being hard on – and it sounds hard and I'm trying to be hard about this, but that does happen.

I would point out that we caught the quota associated with 1A. They're going to catch it this year, too. So, if somebody else is catching another component, that's what happens. So I would suggest that we end this discussion. Eric's suggestions of trying to have more direction – and I don't know how you get that, Mr. Chairman, because we obviously weren't clear enough for the technical committee before, and I'm not sure that we can solve that right now of being clearer. But I think the debate over what we already passed in an amendment doesn't need to continue.

CHAIRMAN STOCKWELL: Thank you, John. I certainly agree we're cavitating, but I don't agree that we're debating over the amendment. As a Board, I

think we're looking forward on how to do a better job with what we have. I'm not exactly sure what the sense of the Board is here, but I think it's time to wrap it up and send it back to the TC and the advisory panel and see what we can do to move ahead the best way possible. Are there any other thoughts? Dave.

MR. ELLENTON: I would just point out that the advisory panel has not met to discuss this and has not met for quite some time to discuss this, so the sooner we get together as an advisory panel the sooner we can give you some industry information.

CHAIRMAN STOCKWELL: And I think it would be important for the advisory panel – I mean, Matt and the technical committee has got some work to do and lot of other obligations, so we'll work with Chris to figure out a plan. Well, we've beat this to death. Is there objection from the Board for the technical committee to continue? Ritchie.

MR. R. WHITE: I guess I'd like to see a definition of exactly what it is the technical committee will be going forward with. I'm certainly opposed with the general sense of going forward with this. I want to see it very specific.

CHAIRMAN STOCKWELL: Thank you. I thought Eric had started to direct the focus.

MR. SMITH: Well, actually, I had two points. I was trying to alleviate some of the workload on the technical committee because I wasn't sure it was the right place to do it. But I agree with Ritchie, I mean, we don't want to just say, no, it's yours. You know, it's not hot potato.

Matt had two different types of things he talked about. One of them was a retrospective analysis of what the catch at age was in different places in different years, and that's the one he said it would take somebody 80 hours to do it, and I think we ought to do that. I think that would be a very useful piece of information.

I appreciate the chairman's point and David Ellenton, the other chairman's point, that this might benefit from advisory panel discussion more than technical committee discussion at this stage because the way I see this is the people who are advocating that we change our policy have to figure out what the problems were that caused five out of six section members to vote to change this thing, figure out what those problems are and come up with some ideas on solutions.

Then the Board can look at it again; and if it seems like a productive course of action, then we have a PDT look at trying to form an addendum or an amendment to change it. But, right now we'll spin our wheels unless the people who are advocating for the change find a way to solve the discontent of the people who voted to change the process in the first place. So, the advisory panel meeting I think would be very useful.

CHAIRMAN STOCKWELL: Other thoughts? David.

DR. PIERCE: Yes, we can certainly benefit from that advice from the industry panel. However, I would also like them to have in their hands some information that would help them move their discussions forward. Otherwise, they'll do much of what we're doing here now; that is, discussing in a round circle.

I would like to see specifically for the inshore spawning closure areas what amount of catch and discard of spawning fish and juvenile fish occurred when the zero percent and 20 percent tolerance were in place and calculate that catch and discard by gear type and fish size. That gets to the issue of what – not Georges Bank, not Area 2 or 3, I'm talking about Area 1A specifically; not 1B, 1A – what happened there when we had those tolerances in place, and that will provide some information that the industry can use, accept, challenge, you know, discuss and see where it goes from there.

CHAIRMAN STOCKWELL: Matt, is that possible and when?

DR. CIERI: Yes, it's possible. I can probably have that by mid to late April. Is that good?

CHAIRMAN STOCKWELL: So, is it the sense of the Board that the advisory panel should meet following that information and then it should go back to the technical committee, and we will see where we go with this later in the year? Okay, I'm seeing a lot of nodding heads so on to something easy, the workplan for 2008.

HERRING WORK PLAN

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. We're just going to kind of go through where we want to go in the next couple of years. To start out with, the action plan resources – and this is specifically the resources that have been allocated to the Herring Section for 2008.

There is funding for two Section meetings outside of meeting week; also, funding to meet as necessary during the meeting weeks so we could potentially have five Section meetings between now and the end of the year. There is funding for one technical committee conference call, which happened on January 10th, last month.

What happened at that conference call was the technical committee discussed the five questions that the board and advisory panel submitted. David Ellenton, the advisory panel chair, was on the call as a passive listener so that he could relay that information to the advisory panel when they meet.

There is funding for another technical committee meeting, and it's interesting here whether or not we want to have the technical committee or the advisory panel meet first. The last time we met and discussed this, the thinking was that the technical committee would have their call. They would then have their meeting to come up with the technical basis of the zero tolerance and what is actually happening from the scientific side.

After that happens, the advisory panel would meet and say, "Based on this information that the technical committee has provided us, we would like to see management respond in a certain way." So, if the advisory panel meets before the technical committee, they wouldn't know what the technical committee figures out, so they wouldn't be able to give that kind of advice.

The way that it was set up before would be the technical committee to meet first. Now, looking at the timing, Matt said that he could get it done mid to late April, the 80 hours of work which is really what this is all about, and then the technical committee could meet. The next meeting week is the week of May 5th, so it looks like it would be two meeting weeks because that wouldn't give the technical committee time to analyze what had happened, send that over to the advisory panel and have them look at how they could like management to respond by the May 5th meeting week.

Then, finally, there is funding for a plan review team conference call. That will just be to simply go over the FMP review. There is also funding for staff to travel to the New England Fisheries Management Council meetings. Terry is going to talk about Amendment 4 and also the days out meetings.

CHAIRMAN STOCKWELL: Questions for Chris? Dave.

DR. PIERCE: Just to make sure I understand, Chris, I think you said that your assessment of the situation is that we will not be in a position at the May ASMFC Meeting to address this issue because there won't be enough time for Matt to do the work and for the advisory panel to meet to reflect on that work; is that what you said?

MR. VONDERWEIDT: Yes, if the analysis doesn't come out until late April, it won't give enough time for the technical committee to meet and report to the advisory panel and the section and then the advisory panel to meet. You know, they'd have seven days to do that or something like that.

DR. PIERCE: If I may, Mr. Chairman, recognizing you're out straight and it's on your shoulders, is there a possibility that we might be in a position at our May meeting consider the work done by you and the technical committee and, of course, the input from the advisory panel?

DR. CIERI: I don't know. It depends, when I get back to my office later this week, whether or not the landings have been completed. The samples are nearly done, but a lot of it will depend on what the council does, because most of the people who are on the technical committee are also on the council's plan development team. So, if we start going head over heels trying to do a council amendment and this sort of analysis, the answer is definitely no.

MR. SMITH: I'm not sure our May meeting is critical to have this done. We're not talking about changing anything in '08. We're talking about –

CHAIRMAN STOCKWELL: I'm thinking for the fall.

MR. SMITH: Yes, summer/fall advisory panel meeting after our May Commission meeting and carry it through to the August meeting.

CHAIRMAN STOCKWELL: We've got to leave them some time to cook and do a good job. Any other questions? Speaking of loading more work onto Matt, the Days Out Meeting we're going to have will be this year some time late in March, after Matt has a chance to do the analysis.

Once more, we're going to meet – Massachusetts, Maine, New Hampshire and the industry – to work out the days out. I wanted to ask of you if there are any scenarios that you would like to add to Matt's list of options to think through between now and then? Well, we'll cull through them, but I don't want a

hundred lists, but we're working the brutal days out scenarios. David.

DR. PIERCE: The only option I want is for us to have the meeting before John retires. Too late!

CHAIRMAN STOCKWELL: We'll try to do that, David, but we can only squeeze Matt so hard. Any other thoughts? I mean, we'll work out the usual suite of options for multiple days out. If you do have thoughts, please get them into Chris to funnel on to Matt in a reasonable amount of time.

Real quickly, because of the workload of the council focusing on groundfish, the Herring Oversight Committee will not be meeting until late March or April to begin work on Amendment 4. We're not exactly sure what that is going to mean. We're hoping that it's going to be a focus on monitoring, but all I can really say is stay tuned for further development. Anyone have any other issues about this?

MR. VONDERWEIDT: Finally, the research set-asides, there has been no new information since we last met at the annual meeting. Basically, it's going to be 2008 and 2009 zero to three percent of the total allowable catch from the area. You can sell the herring from the research set-aside. You can fish during days out and closures with an exempted fishing permit. 2008 and 2009 have been reviewed. There was a management and review meeting on November 5th.

There was ASMFC representation and Section representation as well. I have been communicating with the Service and no final decision has been made yet. As soon as that is made available, I'll send it out to the Section.

CHAIRMAN STOCKWELL: Questions for Chris? Matt.

OTHER BUSINESS

DR. CIERI: Just so you guys are aware when you get on the NMFS webpage, they have removed 3 percent off the top of the quota, if you look on the webpage. It's already been taken off of next year's quota for the research set-aside.

DR. PIERCE: Just quickly, the Council's Amendment 4 will address acceptable catch limits and accountability measures, the reauthorization of the Magnuson Act, the amendments, all of those new requirements that we must have. It's going to be very interesting to see how this all factors into this

Section's discussion about what we will do in conjunction with the New England Council relative to quota setting in future years.

In particular, we know that the 45,000 metric tons that we set this year was very precautionary. I'm looking forward to that discussion; that is, with that very precautionary action that we took, how does that fit in with the whole concept of ACLs and accountability measures? In other words, will we be faced with some action as a consequence of the council amendment that will drive the 45,000 metric tons down to some lower number? That's something that we need to pay close attention to, especially in the context of the Canadians being unrestricted and unfettered and unconfined.

MR. SMITH: Mr. Chairman, that reminds me, related to that discussion – and I think it was your motion in the Section when we set the two- or three-year horizon for specifications – we were due a report at a point in time that told us, much as David alluded to, how the fish have fallen, how the quota played out.

I don't, frankly, remember other than to just make sure that between Chris and Matt and you, Mr. Chairman, that we talk about that and get that at the right time because I think that whole issue evolved around, okay, we're going to set a far lower quota because we think it's a prudent thing to do at that time, but if conditions change that question could be revisited for future years.

This is the way we have an escape clause in there to reconsider and then we forget that we have it, and we're bound by the very low quotas that David is concerned about for some period of time when, frankly, when we voted for the amendment we gave ourselves the opportunity to have that point of reconsideration.

CHAIRMAN STOCKWELL: The council's herring amendment workplan is based over three years, out of which some part will be suspended to work on completing the whiting amendment, but looking at the next three-year specifications will be part of the Herring Oversight's Workplan. When, Matt?

DR. CIERI: We give you guys an update every year, usually by July, as part of the council process, so you will get an update on what has been caught, where, when and by whom. That gives you guys the opportunity sometime in July to fiddle with it just like you had that opportunity this past year on the council level.

MR. SMITH: So, if I may, it's really just the normal annual review process. I had recalled there was something different in your motion but perhaps not. Thank you.

MR. ADLER: Matt, are we still basically playing with the overall number of herring at right around a million metric tons? I mean, is that still the official document that says, you know, you're not overfished.

DR. CIERI: Two.

MR. ADLER: Two what?

DR. CIERI: Two million metric tons.

MR. ADLER: Two million metric tons?

DR. CIERI: Right.

CHAIRMAN STOCKWELL: Any other questions or issues to come before the Board? Ritchie.

MR. R. WHITE: Thank you, Mr. Chairman. With all the concern over the weir fishery in Canada, would it not be appropriate for the Board to write and express our concern to Pat Kurkul? I don't know if it's appropriate for us to ask – you know, if it's possible to negotiate any kind of quota for them. I don't know if that is even a possibility, but at least to express our concern over the increasing harvest.

ADJOURN

CHAIRMAN STOCKWELL: Negotiating a quota with Canada is an interesting prospect, but I don't think it's very possible. Is that the consensus of the Board? I'll work with staff and we'll draft a letter. Well, thank you, all, for addressing some tough issues, and this meeting is adjourned.

(Whereupon, the meeting was adjourned at 10:12 o'clock a.m., February 4, 2008.)