MEETING SUMMARY

Herring Committee
Four Points by Sheraton, Wakefield, MA
June 22, 2023

The Herring Committee met on June 22, 2023 in Wakefield, MA to: receive recommendations from the Herring Advisory Panel (AP); receive a report from the Herring Plan Development Team (PDT) covering (1) revisit Amendment 8 Inshore Midwater Trawl Closure—suggest revisions to a draft problem statement and discuss preliminary PDT work on Committee tasking, and (2) river herring and shad—discuss a potential change in 2023 Council priorities to develop river herring and shad time/area closures; make recommendations to the Council, as appropriate; and discuss other business, as necessary.

MEETING ATTENDANCE: Cheri Patterson (Chair), Rick Bellavance (Vice Chair), Mark Alexander, Emily Gilbert (GARFO), Melanie Griffin, Peter Hughes (MAFMC), Toni Kerns (ASMFC), Melissa Smith, Scott Olszewski, and Geoff Smith (Committee members present); Dr. Jamie Cournan and Emily Bodell (NEFMC staff); Carrie Nordeen and Maria Fenton (GARFO); Mitch MacDonald (NOAA General Counsel); Cameron Day (NEFSC); Zack Klyver (Herring AP Chair); Jeff Kaelin, Don Lyons, David Mussina, Gerry O’Neill, Dr. Tammy Silva and Mary Beth Tooley (Herring PDT members); Eric Reid (Council Chair); Peter Aarrestad, Libby Etrie, John Pappalardo, Michael Pierdinock, and Megan Ware (NEFMC members); and Emilie Franke (ASMFC). In addition, about 25 members of the public attended, including: Robin Frede, Chris Kellogg, Thomas Nies, Janice Plante, and Woneta Cloutier (NEFMC staff).

SUPPORTING DOCUMENTS: (1) Meeting overview memo from Herring Committee Chair; (2) Agenda; (3) Presentation, Council Staff; (4) Memo from Herring PDT to Committee re: Problem Statement Midwater Trawl Closure and River Herring & Shad; (5) Meeting Summaries; (5a) Herring Advisory Panel, Apr. 11, 2023; (5b) Herring Committee, Apr. 12, 2023; (5c) Council Motions, April 18-20, 2023; and (6) Correspondence.

KEY OUTCOMES:
- Revisit Amendment 8 Inshore Midwater Trawl Closure
  - The Herring Committee discussed Plan Development Team (PDT) and Herring Advisory Panel (AP) input on the draft problem statement committed back to the Committee by the Council at its April 2023 meeting. The Committee passed a motion recommending that the Council adopt the revised Atlantic Herring Action Problem Statement.
• River Herring and Shad
  - The Herring Committee recommended that the Council consider, under priorities for 2024, the development of river herring and shad time/area closure options and reconsideration of the basis for catch cap values to minimize catch of river herring and shad in the Atlantic herring fishery for possible inclusion in the 2024 Atlantic herring specifications action.

The Herring Committee Chair opened the meeting at 9:30 am. There were no changes to the agenda. There were no changes to the meeting summary from April 12, 2023.

**OPENING REMARKS**

*Management Update (Emily Gilbert, GARFO)*—Herring Management Areas 1B and 2 are currently open to Atlantic herring fishing, while Area 3 closed for the fishing year on May 14th. While this closure is in effect, there is a 2,000 lb Atlantic herring possession limit within the area. Area 1A is closed to Atlantic herring fishing until 6:00 pm on July 16th, which was recently voted by the Atlantic States Marine Fisheries Commission as the landing days start date. Federal regulations prohibit the use of midwater trawl gear in Area 1A from June 1 to September 30, so fishing in Area 1A is limited to purse seine and bottom trawl upon opening. Current data indicate that Atlantic herring catch is well below the Areas 1B and 2 sub-ACLs, meaning there are no imminent closures. River herring and shad catch is below the catch caps for Gulf of Maine Midwater Trawl, Southern New England Bottom Trawl, and Southern New England Midwater Trawl Catch Cap Areas. The Cape Cod Midwater Trawl Catch Cap Area has been closed to Atlantic herring fishing since April 26th, 2023. While this closure is in effect, there is a 2,000 lb catch limit of Atlantic herring for midwater trawl vessels in this area. GARFO and NEFMC staff have worked to compile the Atlantic Herring Stock Assessment and Fishery Evaluation (SAFE) report, which is now available on the Council website [1] as well as via links from the NOAA Fisheries FMP webpage. SAFE reports are documents or sets of documents summarizing the best scientific information available for all federally-managed fish stocks. The Magnuson-Stevens Act requires that these documents are publicly available to facilitate the use of this information.

*Herring Advisory Panel Report (Zack Klyver, Herring AP Vice Chair)*—The Herring Advisory Panel met on June 14th via webinar to revisit the amendment 8 inshore midwater trawl closure and suggest revisions to the draft problem statement, and to address river herring and shad. Eleven AP members were in attendance, as well as Herring Committee members, NEFMC/GARFO staff, and members of the public. Dr. Cournane presented the PDT’s work on the Amendment 8 inshore midwater trawl closure, including some questions and observations to help guide discussion, as well as their review of the tasking motions from the herring committee, including clarifying questions about the motions and some potential data sources and limitations for these analyses. There was some discussion about the inclusion of river herring and shad in the problem statement and expanding the language in the problem statement to include areas outside of the existing Amendment 8 closure area. There was a question about the term midwater trawl and whether that included pairs or single vessel midwater trawls. There was a public

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comment about why the problem statement was only referring to the inshore portion of the fishery and whether there were conflicts because there were overlapping uses of the same areas or because fishing efforts impacted predator fisheries.

There was some additional discussion from the AP. An Advisor suggested looking at the impact of different forms of fishing on Atlantic herring, which could expand on work already done. Chair Lapp also asked whether the PDT has a list of the data used for analyses supporting Amendment 8 and the limitations of that data, noting that clarifying these limitations might be helpful. Finally, an Advisor noted the importance of clarifying the definitions of various terms used in the problem statement.

Multiple advisors asked for clarification about the state-specific gear restrictions, and what exactly was happening in RI, staff suggested that they would review that and make sure that it was accurate in the PDT memo. An Advisor commented that for tasking motion 1, the PDT will have to talk to gear specialists for specifications on midwater trawl nets and other information and talk to fishermen to learn more about how they fish these nets. Also, fish behave differently at different times of day or year, which will result in some variability in how nets are fished. In Southern New England, for example, herring don’t often come to the surface. As a more general comment, an Advisor mentioned adding specific wording to focus the problem statement on midwater trawl gear rather than including other fisheries, noting that the midwater trawl fleet represents the majority of catch, bycatch of river herring and shad, and user conflicts.

Two AP motions were passed with regards to the inshore midwater trawl closure. The AP recommended a statement to the Committee in response to the draft problem statement. An Advisor expressed their disagreement with the motion, noting that the main point of revisiting the inshore midwater trawl closure was because the intention has shifted away from addressing localized depletion towards addressing user group conflicts. The maker of the motion stated that past comments have focused on the detrimental effects of herring removals to various users, and reiterated their interest in getting clarification on the difference between localized depletion and herring removals. The maker also clarified that the intention of the motion was to provide a statement for the Herring Committee and recommend that they clearly define what the user conflict is in this case. An Advisor expressed their support for including the option to explore different spatial and temporal variations of the Amendment 8 inshore midwater trawl closure in the draft problem statement.

Secondly, the herring advisors recommended a problem statement on the importance of evaluating optimum yield in identifying all user conflicts between the Atlantic herring fisheries and other marine resource stakeholders. The rationale was that there are hundreds of millions of dollars of economic value that come from ecotourism, whale watching, recreational fishing, and the money that is put into the conservation of seabirds and river herring, and that these things are important for evaluating how to best use the herring resource to achieve its best yield, or optimal yield. This generated a lengthy discussion, including questions of whether optimum yield was already calculated in the herring specification process and the MSE process, and there was a thought that it was part of the Council and Committee’s mandate to consider the role of herring in the ecosystem.

The AP then received a recap from Dr. Cournane on river herring and shad. A motion was put forward after that presentation to recommend to the Herring Committee to discuss river herring and shad time/area closures under priorities for 2024 and possibly include in the specifications action for Atlantic herring in 2024. That motion was passed unanimously. Lastly,
one advisor shared some observations from his recent participation in the 17th NEAMAP trawl survey.

Questions and Comments on the Herring AP Report

Mr. Olszewski offered to clarify any lingering questions regarding Rhode Island gear regulations, noting that RI implemented a midwater trawl gear closure just after Amendment 8 was put in place, and the gear closure is still in effect. A Herring AP member asked whether there is any intention to remove the ban now that the Amendment 8 inshore midwater trawl closure has been overturned, and Mr. Olszewski indicated that there are currently no plans to revisit the regulation.

Council Priorities 2023—Dr. Cournane provided an update on the Council’s 2023 herring priorities. The Council identified three Atlantic herring priorities for 2023: (1) coordination with MAFMC, ASMFC on various herring issues (RH/S, etc) including actions in response to 2023 assessment; include an analysis of the combination of factors (e.g. sampling intensity, estimation methodology, inherent assumptions) that may have led to low 2020-2022 shad/river herring bycatch in the Atlantic herring fishery; (2) revisit Amendment 8 inshore midwater trawl closure; and (3) staff participation in the Atlantic herring research track assessment. The river herring and shad analysis was completed, and the Council received a presentation on the analysis at its April meeting. With regards to staff participation in the research track assessment, Dr. Cournane noted that the research track working group has been formed and its first meeting will be held July 20th.

AGENDA ITEM #1: REVISIT AMENDMENT 8 INSHORE MIDWATER TRAWL CLOSURE, DR. COURNAINE (NEFMC)

Dr. Cournane reviewed the Council’s discussion and motions related to the draft problem statement for revisiting the Amendment 8 Inshore Midwater Trawl Closure from its April 18-20, 2023 meeting, along with information from the PDT’s revised June 14th, 2023 memo. At the April meeting, the Council passed a motion to commit the draft problem statement back to the Herring Committee for further development and refinement. The PDT reviewed the draft problem statement and provided a list of discussion points and questions for the Committee to consider when developing the problem statement. The PDT also provided clarification suggestions to serve as a template that could be further refined following Committee discussion. In addition, the PDT discussed two tasking motions passed at the April 12th, 2023 Herring Committee meeting, posing questions to clarify the intentions of the motions as well as identifying some data that may be useful when undertaking these analyses. Dr. Cournane also reviewed the two motions related to the Amendment 8 inshore midwater trawl closure problem statement passed at the Herring AP meeting: the first motion was a statement to the Herring Committee from the AP, which included some comments regarding the problem statement, while the second motion recommended that the Herring Committee include the importance of

2 https://www.fisheries.noaa.gov/event/atlantic-herring-research-track-working-group
evaluating optimum yield by identifying all user conflicts between Atlantic herring fisheries and other marine resource stakeholders in the problem statement.

**Questions and Comments on the Presentation: Problem Statement**

A Committee member asked to see a map of wind energy development areas overlaid with herring management areas. Council staff were able to provide a map for the Committee to review during the meeting. Attorney MacDonald cautioned against considering wind development as a “user” in this case since it does not use Atlantic herring, though he did note it would be prudent to consider the space implications and the potential effects on the herring fishery. Another Committee member followed up with some inquiries about the possible conservation impacts of wind development areas. They also suggested some additional content for the PDT memo, including some information about how the herring fishery operates within Area 1A under the ASMFC days-out provisions and other regulations. Finally, they asked when localized depletion came into play in terms of Amendment 8, to which Attorney MacDonald relayed his recollection that the action started off with localized depletion but the description of the problem was closer to user conflict, which is the direction the Amendment ended up taking. An additional Committee member noted that the March 2022 court findings underscored a need for any follow-up actions the Council takes to be based on scientific information, demonstrate a purpose and need for an action, and assess the efficacy of the purpose and needs. They commented that the Committee may want to move away from using the term “midwater trawl exclusion zone” since it may be addressing different gear types. They also pointed out that the problem statement included exploring spatial and temporal variations of the zone as alternatives, noting that the issue the action is trying to solve may impact whether the problem statement should include an established geographical extent.

**Public Comment**

- **Gerry O’Neill (F/V Endeavor and Challenger, Cape Seafoods; Herring AP Member)** recounted his experience with the origins of Amendment 8, sharing that the ban on herring fishing in Area 1B over the winter months put a lot of fishing vessels in that area around May 1 when the fishing year started, causing user conflict. Shortly after that, Amendment 8 was proposed at a Council meeting.
- **Mary Beth Tooley (O’Hara Corporation, Herring AP Member)** made a few comments about the template presented, in particular questioning what the sentence “the Council will explore possible detrimental biological and socioeconomic impacts related to the availability of Atlantic herring” meant. Ms. Tooley stated that recent PDT discussions made it clear that they did not have a way to examine Atlantic herring removals in a specific area and make conclusions, commenting that there is limited to no new information and fishing effort is lower now than in the past. She asked what the issue was here if it is not the removal of herring, which is a kind of depletion, and noted that the list in the template of possible items to examine were all explored in Amendment 8. Dr. Cournane stated that this was a question from the PDT as well.
- **Attorney Erica Fuller (Conservation Law Foundation)** asked why the geographic scope of this action is limited by the scope of the last amendment, and what would happen if, in addressing the issues that are included in the problem statement, the area might change in size? Dr. Cournane commented that the problem statement as presented is a draft, noting that the scope of the action (in terms of area, time, gear type) will need to be clarified.
• Attorney Shaun Gehan (represented Sustainable Fisheries Coalition) commented that Amendment 8 was found to be in violation of National Standard 4 and was found arbitrary and capricious—NS 4 applies to any action that allocates fishing privileges among groups or gear types, and will have to be confronted if this action moves forward. The action will also have to have a conservation benefit as well as fairness and equity for all involved. Attorney Gehan also commented that a rational regulatory process starts with a clearly identified problem and a range of solutions, and he felt it was a problem that this is starting with a solution and then identifying a purpose and justification for actions. Finally, Attorney Gehan reiterated a point he raised at the Herring AP meeting about the difference between Atlantic herring when they’re inshore versus an inshore stock and whether predator-prey interactions differ at varying distances offshore, noting that this question will have to be answered if the action excludes midwater trawl gear on the basis of protecting predator-prey interactions.

Additional Questions and Comments: Problem Statement
A Committee member agreed that the problem statement and action shouldn’t be limited to the spatial footprint of the exclusion area adopted in Amendment 8, commenting that the original area was expansive and year-round and that the new action could have more spatially explicit options. Chair Patterson asked for clarification on Amendment 8 discussions, asking if the action could go beyond the constraints framed in Amendment 8. Attorney MacDonald clarified that a new action could go to whatever extent is necessary based on the problem that is shown to exist—the extent will depend on the problem statement, goals and objectives, and the data that exists to support it. In response to another clarifying question about localized depletion and the court findings, Attorney MacDonald explained that the issue wasn’t whether localized depletion was defined, it was that localized depletion wasn’t supported in the record. The Council tried to use an overlap analysis to show user groups in certain areas but the data did not support the permanent exclusion of midwater trawl vessels. Attorney MacDonald underscored the importance of identifying what the Council is trying to address as well as having a record that supports the alternatives intended to address the problem statement.

Another Committee member asked Attorney MacDonald if he could provide some additional guidance regarding what the Committee/Council should bear in mind in terms of conservation benefit when focusing on user conflicts. Attorney MacDonald stated that this is related to considerations under National Standard 4, which requires allocations of fishing privileges to be fair and equitable to all fishermen as well as reasonably calculated to promote conservation. There are provisions under the National Standard guidelines that consider numerous methods of allocating fishing privileges conservation and management measures. An argument could be made that some allocation schemes can encourage a more rational and easily managed use of the resource, which can help different user groups have fair and equitable access to the resource. There are also social benefits that come from addressing user conflicts that could fall under that idea of promoting conservation.

Questions and Comments on the Presentation: Tasking Motions
A Committee member asked whether coverage expectations for the Standardized Bycatch Reporting Methodology (SBRM) change each year. Dr. Cournane stated that when the yearly analysis is conducted and sea days are assigned, it is based on an examination of where more effort needs to be deployed to cover certain gear types, areas, or bycatch. Another Committee
member asked how sea day targets are allocated throughout the year. Emily Gilbert (GARFO) and Cameron Day (NEFOP) were able to clarify that sea days are allocated quarterly but they aren’t necessarily held to completing sea days in that quarter, so sea days can be moved around to different quarters based on effort and other factors. Vice Chair Bellavance, the initial maker of tasking motion 1, commented that tasking motion 1 may not be something to pursue much further right now given the shifting around of ideas, and suggested placing the motion in a parking lot. A Committee member noted that, in tasking motion 2, there may be confidentiality issues with breaking out the data by geographic area, adding that all gear types should be considered where appropriate.

**Additional Discussion: Problem Statement**

Mr. Smith presented a new draft problem statement to facilitate a high-level general discussion about refining the Council’s draft problem statement. He felt that, based on discussion at the last Council meeting, there is a continued interest to improve the status of the Atlantic herring resource and to address identified user conflicts, which are primarily seasonal and fairly spatially/temporally explicit. Addressing some previous comments about low midwater trawl fishing effort, Mr. Smith stated that user conflicts came up more frequently in the past when Atlantic herring was more abundant and there was more fishing effort in the inshore area at times of the year when other users were in that area. Hopefully, these measures would restore and rebuild the Atlantic herring population, and addressing conflicts now could prevent them from arising as Atlantic herring populations increase. A Committee member asked whether including river herring and shad would require a priority change for the Council. Dr. Cournane clarified that it depends on how the problem statement was written, commenting that the version Mr. Smith presented will be evaluating the impacts of the action on river herring and shad, not to design it for those purposes. Mr. Smith also clarified that the problem statement was focused on Atlantic herring but recognizes that there will be some ancillary benefits to river herring and shad through this action.

A Committee member voiced their concern about workload with regards to developing time area closures for river herring and shad but noted that they were unsure of what the Committee/Council could say about impacts to areas where effort could shift without some kind of species distribution model. Dr. Cournane relayed that the Committee/Council develops measures and the PDT would analyze the valued ecosystem components (VEC), which include non-target species such as river herring and shad. The statement tied work to addressing the reduction in river herring and shad, though the shifts in effort will not be examined until measures are developed and subsequent analyses are conducted. Another Committee member asked how the Committee/Council should consider the recently implemented ABC control rule which included parameters to account for predator-prey relationships and a lower maximum sustainable yield. The Committee member also wondered whether it was too early to determine whether the implemented ABC control rule is already benefitting the environment.

**Public Comment**

- Ms. Tooley suggested that a refresher on the Amendment 8 process and the choices made relative to the control rule may be helpful for those who were not on the Council or participating in the process at the time.
• Attorney Gehan stated that from a legal perspective, the role of Atlantic herring as forage has been accounted for in the ecological control rule, noting that the difficulty with implementing this problem statement is that NS 1 requires that, once optimum yield is set for a year, the fishery needs to have a chance to achieve it. This action will have to confront the question of why it is rational, reasonable, and scientifically based that harvest occurs in one part of the ocean but not another.

• Zack Klyver (Blue Planet Strategies, LLC; Herring AP Member) commented that he was involved with the development of Amendment 8 as well as a more recent effort to develop a rebuilding plan for Atlantic herring on a ten-year timeline and said that it was unclear to him whether the rebuilding plan will meet this 10-year timeline. He provided examples from around the world of issues with forage fish stocks, relaying that these populations are suffering from a downturn in productivity and recruitment, and that there needs to be a greater biomass of spawning age fish to keep the same level of eggs and young being recruited into the fishery. He also commented on the importance of considering climate change in terms of determining whether the control rule and MSE will do what was intended. Finally, Mr. Klyver noted that numerous other countries have considered managing midwater trawl vessels, with many establishing bans on the gear type.

A Committee member commented that it seemed as though there still needed to be an investigation of user group conflicts to identify the specifics of the issue, and relayed concern that the Council could get into a situation where there isn’t enough data to support actions. Another Committee member commented that when conversations first started, it seemed like midwater trawl was a heavy volume removal gear type, which may have motivated tasking motion 2. Ultimately, that activity overlaps with other activities, but there is limited information. They also felt that this problem will resurface as the stock rebounds and supported tackling the issue now.

Public Comment

• Ms. Tooley provided some context about midwater trawling efforts from her experience. The two vessels her organization runs use both midwater trawl and purse seine gear to catch herring. Ms. Tooley noted that both fishing intensity and catch per unit effort are higher with the purse seine than midwater trawl, stating that no matter what gear is used, vessels are going fishing to fill their market.

• Michael Pierdineock (NEFMC Member) listed several different user groups to consider, including recreational hook and line, for-hire hook and line, vessels targeting groundfish, vessels targeting bluefin and other pelagics, and commercial fisheries (bluefin tuna (rod & reel/harpoon), commercial automated mackerel fleet). He also wanted to be sure this encompasses safety issues consistent with the National Standards as some user groups use smaller vessels that cannot safely transit further offshore for safety reasons.

Dr. Cournane shared some feedback and motions on the draft problem statement from the Herring Advisory Panel. A Committee member asked whether it was safe to say that, under the newest fishery management plan for Atlantic herring, the fishery is achieving optimum yield. Attorney MacDonald stated that achieving optimum yield is always a goal and something that is an ongoing assessment. There is a section of the National Standard guidelines about determining...
the greatest benefit to the nation under assessing optimum yield factors, which can include issues of recreational access to the fishery. Optimum yield is tied into the idea of promoting conservation under NS 4 and is included in the idea of overall benefit to the nation.

Public Comment

• Pam Lyons Gromen (Wild Oceans) reviewed a portion of the final environmental impact statement for Amendment 8, and pulled out a statement relevant to revisiting buffer zone from the NS I discussion: “relevant to the economic and social factors that apply to herring management are the impacts on the fisheries for predator fisheries, for example, bluefin tuna and striped bass, and on ecotourism, whale watching. The proposed action includes limitations on concentrated removals of herring in nearshore areas to better address the spatial considerations of the importance of herring as forage in the ecosystem as well as the businesses that depend on multiple predators of herring.” Without those spatial measures in place, optimum yield is not being met, and should be part of the problem statement.

• Mr. O’Neill inquired about whether the control rule already considers predator and prey needs in the ecosystem, commenting that it felt like double dipping at the expense of the fishery.

A Committee member reiterated that while it is important to consider river herring and shad, a hotspot analysis will only provide information on interactions at that time. A dynamic population model is necessary to provide more information, but that is outside of the Council’s purview. The Committee member suggested the Committee/Council may want to consider communicating that this issue is important to them. Toni Kerns (ASMFC) relayed that the river herring stock assessment will hopefully be completed by the end of the year and will be reported to the management board at the beginning of next year. ASMFC is happy to work with the Council to provide data when it’s available, though she did not believe that the Commission had much data on bycatch in state waters.

A Committee member made some suggestions to change language in the draft problem statement presented by Mr. Smith such as considering Atlantic herring critically important to other user groups, including optimum yield somewhere, and adjusting the language so user conflicts can be adjusted based on information brought forward in analyses. Mr. Smith noted that the intention is that this action will build off of the ABC control rule that was approved in Amendment 8 to put in management measures to affect how we catch the ACLs that the control rule gives us. He also agreed with the suggested changes. Another Committee member asked about the expectation for improving optimum yield when the action may not change total consumption of Atlantic herring total allowable catch. The rule allows for some fish to be left for forage. Another Committee member commented that one way to improve optimum yield and attainment of it is to rebuild the Atlantic herring population.

Public Comment

• Ms. Tooley stated that optimum yield is required to be looked at in any action, and it was revisited in Amendment 8, when it was adjusted to account for forage and reduced, though the results of that action have not yet been seen since it was recent. She found that comments indicate that locally removing Atlantic herring creates a user conflict, which was analyzed in Amendment 8 and vacated by the Court. It’s rephrased but to me it’s the
same thing that we had before. If the problem is vessels removing Atlantic herring from an area that other people are in, it was already analyzed in Amendment 8. Ms. Tooley also reflected on a comment that it was a great improvement when midwater trawls were not operating in the buffer zone, when ecologically the stock was at a much higher level when these vessels were there.

1. **MOTION: G. Smith/Alexander**

The Committee recommends that the Council adopt the following Atlantic Herring Action Problem Statement:

The purpose of this action is to develop and implement management actions designed to attain optimum yield and improve the conservation status of Atlantic herring by accounting for its critically important role as a forage species in the ecosystem and minimizing user conflicts created by competing interests on the herring resource between the directed herring fishery and other important user groups, including commercial and recreational fisheries, whale watching, and tourism.

This Council will explore a range of management alternatives to minimize user conflicts, including spatially and temporally explicit gear restrictions, area closures, and possession limits. The geographic scope of potential management measures will consider, but not be limited to, the spatial extent of the Midwater Trawl Restricted Area approved by the Council in Amendment 8, with a particular focus on areas not already subject to seasonal closures to midwater trawling.

Analyses conducted to support this action will also evaluate the changes in the incidental catch of shad and river herring that will likely result from the measures adopted to reduce spatial and temporal user conflicts.

**Rationale:**
- The Problem Statement is consistent with the overall goals of the motions discussed at the April Council meeting.
- The Problem Statement addresses many of the key questions raised by the Herring PDT in its June 9 memo to the Herring Committee, including PDT questions 3, 8 and 9 on pp. 2.
- The Problem Statement reiterates the intent of the Council to address competing uses and user conflicts that were first identified in Amendment 8 and remain today.
- The Problem Statement recognizes that management measures to improve conservation status of Atlantic Herring and reduce user conflicts will affect shad and river herring even though it is not the primary purpose of the action.

**Discussion on the Motion:**
There was some discussion on the inclusion of/language around river herring and shad. Toni Kerns (ASMFC) asked about the impacts to the Council’s work if there is not adequate
river herring and shad data to support analyses. Dr. Cournane reiterated that this analysis would occur within examination of the VECs including nontarget species. A Committee member felt that it wasn’t necessary to include additional analyses for river herring and shad since this would be covered in the VEC analysis already.

Public Comment: None

Roll-Call Vote:
Yes: Bellavance, Alexander, Gilbert, Griffin, Kerns, Olszewski, G. Smith
No: Hughes, M. Smith
Abstain: None

MOTION 1 CARRIED 7/2/0.

Revisiting Tasking Motions
Chair Patterson asked the Committee how it would like to move forward with the tasking motions presented to the PDT. The Committee will take up the tasking motions at its next meeting following the Council’s discussion of the draft problem statement.

AGENDA ITEM #2: RIVER HERRING AND SHAD, DR. COURNANE (NEFMC)

Dr. Cournane also provided a recap of the Council’s April 20, 2023 motion and discussion related to river herring and shad, along with information from the June 7th, 2023 PDT memo. The PDT presented four possible approaches for addressing river herring and shad: (1) change priorities for 2023 and develop a discussion document for potential use in a future action; (2) change priorities for 2023 and initiate a framework action on river herring and shad; (3) discuss under priorities for 2024 and possibly include in the specifications action for Atlantic herring in 2024; and (4) add for consideration under revisiting the A8 inshore MWT area action. The PDT estimated that completing work on this action would require 6-8 months of PDT time, 6-8 Council staff months to prepare the document for final action, and 1-2 Council staff months to prepare the submission document to GARFO. The Herring AP passed a motion recommending that the Herring Committee discuss river herring and shad time/area closures under priorities for 2024 (approach #3 outlined by the PDT).

Questions and Comments on the Presentation
A Committee member asked why the PDT noted that may be more difficult to remove catch caps from the current specifications. Dr. Cournane clarified that, from a perspective of analysis, document preparation, etc., adding additional management measures is less complex than removing and replacing one, though in practice, there may be different views on whether it’s more or less complex. A Committee member stated that they favored approach 3 presented by the PDT given current staff workloads and constraints.

2. MOTION: Alexander/ G. Smith

The Herring Committee recommends that the Council consider, as a 2024 management priority, the development of shad/river herring time/area closure options and reconsideration of the basis for catch cap values to minimize catch of river herring and shad in the Atlantic Herring fishery.
This would be for possible inclusion in the 2024 Atlantic herring specifications action for implementation in 2025.

**Rationale:** The first element of this motion is approach #3 (pp. 9 of the PDT memo, dated Jun. 9, 2023) for the development of time/area closures outlined by the PDT. It would allow for the use of information developed in the 2023 S/RH stock assessment\(^3\) to inform the development of options. The time/area closures are intended to ensure that S/RH bycatch is more effectively minimized.

Additionally, the catch caps values established by Amendment 5 were based on estimated Shad/River Herring bycatch from a reference period of 2008-2014. In the years 2015 to 2018, the Area 2 S/RH catch caps ranged from 0.7%-0.8% of the Area 2 annual Atlantic Herring sub-ACLs. Such a low percentage, when coupled with the bycatch avoidance program implemented as a complementary part of the same action, was reasonably expected to minimize catch of S/RH. The bycatch avoidance part of this strategy has been discontinued. Furthermore, in recent years (2019-2022) as the ACL for Atlantic Herring has declined, the S/RH catch cap was 6.2%, 8.1%, 38.7% and 19.4%, respectively, of the Area 2 Atlantic Herring sub-ACL. This has diminished the avoidance incentive of the current catch cap program. Possible solutions could include, but not be limited to, scaling the catch cap values to the magnitude of the Atlantic Herring ACL or applying a biological approach to establishing catch cap levels if one can be developed from the 2023 S/RH assessment.

**Discussion on the Motion:**

A Committee member asked for clarification on how this motion falls into the priority discussion process. Dr. Cournane stated that Council processes outline that a mid-year priority change will come up in the next year’s priorities discussion even if it fails, and noted that the Committee may be asked by the Council how this priority fits in with other herring priorities (i.e. work on revisiting Amendment 8), and that the Committee may want to clarify that. Emily Gilbert (GARFO) also pointed out that new time/area closures would have to be implemented via a framework. Dr. Cournane indicated they should follow up on this point after the meeting as Amendment 5 indicates this type of management action can be added to a specifications action or framework adjustment action.

**Public Comment:** None

**Roll-Call Vote:**

*Yes:* Bellavance, Alexander, Gilbert, Griffin, Hughes, Kerns, M. Smith, Olszewski, G. Smith
*No:* None
*Abstain:* None

**MOTION 2 CARRIED UNANIMOUSLY.**

**agenda item #3: OTHER BUSINESS (PATTERSON)**

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\(^3\) ASMFC is conducting a river herring stock assessment in 2023 and a shad stock assessment in 2024.
No other business was brought before the Committee.

The Herring Committee meeting adjourned at approximately 3:00 p.m.