

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

JOINT KING & SPANISH MACKEREL COMMITTEE AND ADVISORY PANEL

**Hilton Cocoa Beach Oceanfront Inn
Cocoa Beach, Florida
June 18-19, 2003**

DRAFT MINUTES

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George Geiger, Chairman
David Cupka
Pete Pearce
Ronald Smith

Dr. Roy Crabtree
Dr. Louis Daniel
Spud Woodward

King & Spanish Mackerel Advisory Panel:

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Gilbert Davis
Jodie Gay
Edward Holder, Jr.
Rita Merritt
Robert Pelosi
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Mike Baker
L.T. Yarbrough
Nadiera Sukhraj
Chris Dummit
Dr. John Merriner

George Henderson
Mark Marhefka
Doug Rader
Ted Forsgren

The joint meeting of the Mackerel Advisory Panel and Committee of the South Atlantic Fishery Management Council convened in the Dunes Room of the Hilton Cocoa Beach Oceanfront Hotel, Cocoa Beach, Florida, Wednesday afternoon, June 18, 2003, and was called to order at 1:30 o'clock p.m. by Chairman George Geiger.

Mr. Geiger: If I could get the Mackerel AP and Committee members to come to the table, we will get started.

Mr. Cupka: Thank you, Mr. Chairman. Before we get into the agenda for today's meeting, as chairman of the South Atlantic Fishery Management Council and on behalf of the council, we wanted to take this opportunity to express our appreciation to an individual who served as chairman of the Mackerel AP and who has served on the Mackerel AP for quite a few years.

I believe he came on the AP the first time in 1984, so he has certainly been here a while. It's a real privilege and a pleasure to welcome and to recognize Bob Pelosi, and we have a plaque here I would like to present to Bob.

It says: The South Atlantic Fishery Management Council proudly shows its appreciation to Robert Pelosi, Chairman of the King and Spanish Mackerel Advisory Panel, for his continued support of the council process and outstanding contributions in the conservation of management of nation's marine resources. June, 2003. So if Bob will join me, I would like to present him with this plaque on behalf of the council.

Mr. Geiger: And on that note, I would like to introduce myself. I'm George Geiger, and I'm the new chairman of the Mackerel Committee. I'm honored to be such.

I certainly have looked from afar and marveled at the wonderful work that this advisory panel has done over the years of bringing back both the Spanish and Atlantic king mackerel stocks, and I salute your efforts. I'm proud to be the chairman of this committee and hope that you all continue to do the fine work that you've done in the past.

With that, I would like to review the agenda, if we have any changes or modifications to the agenda. Seeing none, the agenda is unanimously approved.

I would like to take just a moment, if I can, to have everyone go around the table and please identify themselves. We have a number of new advisory panel members, as well as me being the new chairman of the committee. We'll start with Spud.

Mr. Woodward: I'm Spud Woodward, council member, Georgia.

Dr. Daniel: Louis Daniel, council member, North Carolina.

Mr. Holder: I'm Ed Holder, and I'm an advisory committee, is that right? I'm new and I'm from South Carolina.

Mr. Houck: I'm Ronnie Houck, commercial fisherman, Florida.

Mr. Ogle: Tom Ogle from Beaufort, South Carolina.

Mr. Thomas: Richard Thomas, Sebastian, Florida.

Mr. Pelosi: Bob Pelosi, advisory panel, Florida.

Mr. Carmichael: John Carmichael from the SSC and representing the Mackerel Stock Assessment Panel.

Mr. Wickers: Bill Wickers, AP, Key West.

Mr. Hartig: Ben Hartig, Chairman of the Mackerel AP and I'm from Jupiter, Florida.

Mr. Geiger: George Geiger, council member from Florida.

Mr. Waugh: Gregg Waugh, South Atlantic Council staff, and I'm the staff person at least right now for mackerel.

Mr. Davis: Gil Davis, Myrtle Beach, South Carolina, recreational AP.

Mr. Dunn: Paul Dunn, Beaufort, North Carolina, recreational AP, the first member, I believe it's two years to come to a meeting.

Mr. Erickson: Carl Erickson, commercial AP, Florida.

Mr. Gay: Jodie Gay, Mackerel AP, North Carolina.

Mr. High: Andy High, mackerel fisherman in North Carolina.

Ms. Merritt: Rita Merritt, Mackerel AP, Wrightsville Beach, North Carolina.

Commander Cinalli: David Cinalli, 7th Coast Guard District, Miami, Florida. Welcome to everyone and thanks for coming.

Mr. Pearce: Pete Pearce, council member, South Carolina.

Mr. Cupka: David Cupka, council member, South Carolina.

Ms. Smit-Brunello: Monica Smit-Brunello, NOAA General Counsel.

Dr. Crabtree: Roy Crabtree, NOAA Fisheries.

Dr. Kimmel: Joe Kimmel, NOAA Fisheries, St. Petersburg, Florida.

Mr. Geiger: Thank you and thank you all for coming. Everybody has had, I assume, a chance to purview the minutes. They were handed out in CD-ROM and in written form, and I would like to get a motion to approve those minutes.

Dr. Daniel: So move.

Mr. Hartig: Second.

Mr. Geiger: In favor; opposed? Hearing none, the motion is approved.

The next order of business is the review of the SAFE report. John Carmichael will do an assessment report.

Mr. Carmichael: I have a brief presentation on the mackerel stock assessment, and the report of the Mackerel Stock Assessment Panel is I believe behind one of the tabs.

Mr. Waugh: It's Attachment 1 behind Tab 3.

Mr. Carmichael: The Mackerel Stock Assessment Panel deals with four stocks. There's the Atlantic migratory group of king mackerel and Spanish mackerel and Gulf of Mexico migratory group of king mackerel and Spanish mackerel. We also deal with a number of other species that are in the migratory pelagic group, or whatever it wants to be called, things like dolphin and wahoo and cobia.

Most of our work gets directed towards these four groups of mackerel. The Atlantic groups with which we're concerned here were king and Spanish.

The last full assessment was done in 1998, and between 1999 and 2002 we simply had updated catch values and projections of stock status, but it did not include updated survey values and full updated age and length information.

It was just a projection forward of the status of the stock as we knew it and the abundance at age as we knew it in 1998, and that was used to set a TAC for the last couple of years and estimate BMSY.

This year we had a full update of the 1998 framework, which means we had all new age

information to update this stuff since the 1998 fishing year, as well as new survey information.

We looked briefly at some other surveys, but essentially this was a full update of what we had in 1998. As I said, we looked at some additional information, which would be some additional tuning indices to try and refine the estimates a bit.

For the king mackerel, we looked at a North Carolina trip ticket CPUE; and for the Spanish mackerel we looked at a North Carolina trip ticket CPUE and the North Carolina fishery-independent survey taken from Pamlico Sound for Spanish mackerel.

We had alternative runs, which for both species was just the same base indices as used in 1998. The Mackerel Stock Assessment Panel decided this year that the preferred alternative would be the base runs as developed in 1998.

There were some concerns about the surveys and whether or not they were fully fleshed out, and there really was only a few of the committee members present.

A lot of effort had gone into the review of the surveys prior to 1998 and the panel decided that it was best to do such a review, a thorough review of these surveys before throwing them into the assessment mix. They had some impact on the results, not major, so we didn't feel like we were missing a lot of information by not including them.

We felt it was better to stick with our process and call for a real thorough review of the methods and the biology and everything of these surveys before adopting them, which would take considerably more time than we had this year and hope to do it in the coming year before we do a full review of the entire stock assessment, and through a SEDAR assessment and all of that, which should be coming in the next year or so.

So the runs that I will be presenting results from are essentially an update of the configuration developed in 1998, so that any changes in the results are simply due to the addition of a couple of years of new data.

Results for the Spanish mackerel --we'll start with that one because the results are a little more straightforward. The conclusion is that the stock is not overfished and overfishing is not occurring, which is consistent to the conclusion that was reached in 1998.

The MSY is recommended at 5.2 million pounds; and for comparison, I'm showing the last MSY estimates, which are from the 1998 assessment, and in 1998 this assessment MSY for Spanish mackerel was 6.4 million pounds, so it's slightly below, which gives us an ABC recommendation of 6.7 million pounds, which in 1998 was 7.8 million pounds.

The first thing that stands out, of course, is that the ABC is slightly higher than the MSY, which has been the case obviously since 1998, as you can see in the values from that year.

This is because the recent recruitment has been very strong for Spanish mackerel, so the stock is at an abundance that is quite a bit above BMSY. That means you can take out a little bit more fish in the short term without leading to overfishing or leading to the stock being overfished. Of course, that higher ABC would be temporary.

The landings from 1998 through 1999, through the 2000 and 2001 fishing years have averaged 4.5 million pounds, which obviously has been below both the MSY and the ABC levels as recommended in both stock assessments.

King mackerel, the conclusions are the same as they have been since 1998, that the stock is not overfished. Overfishing is not occurring. The MSY, however, has dropped from -- the current reference is 5.9 million pounds and the 1998 estimate was 10.4 million pounds.

This in turn has resulted in a drop in the ABC to 5.2 million pounds; whereas, in 1998 it was estimated at 10.8 million pounds. For comparison, the average landings from the '98-'99 through the 2000-2001 fishing year were 6.7 million pounds.

As I said, this is just an update of the configuration. There is no additional data sources included. It's more age data, more survey data, additional years of catch data being used, and it's giving us somewhat of a different picture of the maximum expected productivity of the king mackerel stock.

We haven't changed our conclusion on the stock status, we're just changing our impressions of what its ultimate productivity is, which was a good bit of the discussion, at least as far as the Atlantic stocks are concerned, of the Mackerel Assessment Panel is why did the king MSY change so much?

There are two reasons for this that we've identified from looking at results from 1998 and results from this run, and there are changes in the selectivity estimate and changes in the recruitment estimates.

Now selectivity pertains to how much of the fishing effort each age class of fish receives. So, the way selectivity works is due to size limits and movements and availability. For example, the age one fish may not receive the full fishing pressure that the age six fish receive.

For a simple example, if you had a 24-inch size limit and three- year-old fish are below 24 inches and five-year-old fish are above 24 inches, then, of course, the three-year-old fish can't be harvested.

So, the fishing effort that they receive would be much lower; and if there were perfect compliance with the rules and no discard mortality, their fishing mortality that they receive would be none; whereas, the five-year-old fish would receive the full brunt because they're legally harvested.

That's all that we mean when we say selectivity. It's the relative vulnerability of fish by age to the overall fishing mortality for a given year.

This is important because it affects how much yield you get out of each individual fish that's born in the population, and it affects the ultimate estimate of MSY.

And the recruitment, that just refers to the abundance of the age one fish each year. In this case, recruitment we're talking about the new fish that are born, the new fish that are coming into the population, and MSY scales the yield that you get that is influenced by selectivity by the estimates of recruitment.

So what you have is when these two parameters change, BMSY changes. And the changes specifically in the kings, for the selectivity, is that selectivity is now higher at younger ages in the 2003 estimates than it was in the 1998 estimates.

This is showing us earlier recruitment to the fishery, so we're saying that younger fish are being fished harder, and it results in a lower yield per recruit and the yield per recruit, which is just the yield each individual fish is expected to give you, is very crucial in estimating the MSY with the way that it's done in this stock.

This is Figure 8 from the document and it shows you how the selectivity has changed. The triangles here that have this pattern, kind of a valley pattern, this is what was estimated back in the 1998 assessment as the selectivity of king mackerel.

Selectivity maxes out at one because it's a proportion, so one means that a given age receives a hundred percent of the fishing pressure.

So in the 1998 assessment, this was maxing out at age 10, saying that age 10's were receiving a hundred percent of the fishing pressure; whereas, age 7's were estimated as only receiving about 5 percent of the fishing pressure.

So what this pattern tended to do was to say that the yield per recruit was pretty high and that you could fish the stock heavily and still maintain spawning stock biomass and things of that nature, because you're leaving a lot of your important fish to be not recruited. They're less recruited here because they're well below one.

Now we contrast this with the estimate for the current stock assessment, which is the boxes up here in the lighter dash line. You can see a big change in the selectivity between here to here is showing how much more selected, how much more fishing pressure we think is going to the five-, six-, seven-, and eight-year old fish based on the current numbers.

This is kind of a complicated concept if you have not been introduced to it before, but it's really important to the MSY calculations. This is really one of the important things that has affected

that MSY. The circles in here show sort of an average '94 to '96, which is essentially based on the updated numbers, so it's kind of an intermediate.

The circles are how the triangle line looks now that we added extra data. So what happens is as we go back in time, things are shifting around in some of these recent cohorts. As we add more data, we're finding out more information about them.

We're finding out more about the fish that were born in the '90's now that we're seeing them out to age eight, nine, and ten than we knew about them back when we did it in '98. So this is sort of changing some impressions about the stock.

The other important parameter in the MSY that has changed is the recruitment estimate, and the bottom line there is that the age one abundance since 1991 is not considerably less than it was estimated in the 1998 assessment.

Now this is Figure 7 from the document with the red lines being the estimates of the abundance of age one and two, which is essentially the recruits, in 1998 versus the blue lines being the estimate in 2003.

Essentially what has happened is the average estimate of recruitment over this time has dropped to about two and a half million from around five million, so it's said there has been a lot less fish coming into the population.

MSY is estimated based on the average recruitment that is estimated from the stock assessment; so when the average recruitment changes, our scale of MSY has changed.

Even though the patterns are virtually identical, there have been no changes in catch, there is no change in the stock status determination, it's just a change in some technical assessment results that reflect how productive we think the stock can become, so it's changed our estimates of MSY.

Now the background on this, when we discovered these and we thought, well, here we are going to come to the council with nothing changed in the stock, but yet the MSY is going down by 60 percent, what's up with that? There must be some problem somewhere.

We looked back at the history of the mackerel assessment, and this is a figure that is in the document. That's why I used this. It shows the landings and the line here, which is the total allowable catch, and the total allowable catch essentially is slightly below, but mirrors the estimate of MSY over the last few years, and the assessment from '90 to '91 through '95-'96, the TAC was set at around 10.

They did an update of the assessment, the TAC dropped to about 8. We did the '98 assessment, the MSY went up, the TAC went up. Now we're doing a 2003 assessment and MSY is going down to around here somewhere.

So when we look back through the full almost fifteen or more years of stock assessments of mackerel, this pattern is fairly consistent with the MSY's jumping between, say, 6 to 10 million pounds throughout its history, and the 1998 estimates were among some of the higher estimates of MSY.

So some of the people who had been working with mackerel since the very beginning said, you know, that's not surprising. But, what we know is that it takes, say, six years after a cohort is born before we have a good handle of its abundance.

So it means the fish that are born in 2003, we're not going to have a real good handle on their abundance, on how many are born, say, for five or six years, so, maybe 2008, 2009 before those estimates are going to stabilize and we'll really know how abundant they are.

This is not anything new. This has sort of been the history of mackerel and has related to us not having good surveys of the young fish. We rely on seeing those fish recruit into the fishery at age four, five, and six and then we get a good handle.

So, the bottom line here is the MSY has changed and the best data that we have today says it's lower than the best data we had five years ago said it was. So, we consider the condition of the stock to be essentially the same, and that is somewhat of the quandary, I guess, that we're presenting to the panel today.

The final thing is the discussion of the future needs for the stock assessment, and this perhaps weighs into what we do for next year and how the committee decides to respond to the information for this year, but an ongoing question is the mixing.

I would imagine most of you all know that you have Gulf kings and Atlantic kings mixing off the coast of Florida in the wintertime, and there has been debate over what proportion of the landings in that area should be assigned to which stock.

If you start changing the landings, you're going to change what you believe the productivity of the stock is and you're going to change the MSY, so that could be an important issue in developing good MSY's for this stock.

The other relates to aging assumptions and growth models, and this is kind of a technical issue that the committee is looking at and working with the Center to try and improve the stock assessment.

Along the same lines is the tuning index evaluation, where I said we looked at a few tuning indices, but felt they needed more work and more analysis. We hope to get that done in the next year.

Looking at the time series of Atlantic kings, because there is some questions about some of the early age assumptions and some of the information used to assign catches to age in the first few

years of the series.

Also this issue of the selectivity patterns because it's been very variable for the stock, and it's very influential for estimating MSY. Are there any questions?

Mr. Hartig: I have a lot of questions. I very much appreciate your explanation. I mean, it was very good and concise and to the point, and I wish it would have been as clear in this document because it's not.

This document is very contradictory from what you said to what the document says, and it's a little bit hard at the moment to bring both together into what you just presented.

But from what I see and one of our best success stories in Atlantic king mackerel -- I mean, where I am in Jupiter, we get a snapshot of this spawning population every year. Most of the fish in the entire stock come to that area to spawn.

So I've been sitting there for almost 40 years watching this group come and go, and I've got a pretty good handle on what the population was before it was overfished and what it is today.

It doesn't quite meet the numbers that we're looking at on your MSY. I'm not dissatisfied that the numbers went down. I've made that argument for years with Joe Powers, telling him that the numbers were always too high, and we should never have taken that many fish out of the stock when at the time we had that chance to do it.

But the number where we are now, it's too low. It is somewhere between those two numbers, I feel. I think we've reached MSY in this fishery. We've been there, and I think you could back and calculate it without all the unknowns.

I think you could do it that way, and I wish you all would look into maybe entertaining that in your next meeting when you do the full-blown assessment, to look at another way of trying to get to MSY.

The other thing that's bothersome to me is to look at Spanish mackerel and to see the successes we've had there and to see all the indices going up. We have a good age zero recruitment index from the MARMAP program on Spanish, so we see that index going up also.

It's just hard to reconcile why MSY would go down in that fishery at all. I don't have a full grasp of what MSY is. I mean, it doesn't seem to me to be a parameter to jump around like it has in this last assessment on Atlantic kings. It has stayed fairly consistent on Spanish, I see that.

But I don't see why it should -- you know, given all the things you said about Spanish and the excess capacity we have and excess fish we have and the fact that the quota hasn't been met since the net ban in Florida, I mean, we have all those excess fish in the population over time, it doesn't make sense to me why it would go down.

I very much appreciate the way you've presented it, and I know these people, some of it has got to sink in. I mean, that presentation was excellent. Thank you.

Mr. Carmichael: We didn't look as in depth into the Spanish as to why the MSY went down, because it didn't go down as much and it didn't go down below the average catches, but I suspect it's probably similar things.

It's slight changes in the selectivity pattern and some changes in the recruitment. And you're right about MSY theoretically should be a value for the stock that should not change, and at least should not change as long as size limits and selectivity in the fishery as regulated is not changing.

I think that points out that some of the problem I was getting at is that this is really just a change in our estimates of it, and it's pointing out our inability to probably estimate MSY for mackerel with great precision; and that it has varied between 6 and 10.

I think you're exactly right, it's somewhere in between there. I think the panel members have agreed for the last couple of years they're somewhat uncomfortable with the 10, thinking that was probably too high, and now we've come in with the low number and people are probably in total agreement with you in that, well, this thing is a little too low.

It's somewhere between there, and certainly the stock's history shows that. We just need to find a way to come up with a good, stable estimate that reflects it. It might take us some work, but we might have to get back there and try to do that, and you're totally right about it.

Mr. Wickers: My question would be that when we went -- was it two years or three years ago we went to the 24-inch minimum size that I think we were supposed to, by doing that, get like a 16 percent plus because of the difference.

Basically what you're coming up with is that even though we really didn't get a savings there -- or is it because of the way that you all are calculating it?

It seemed like every time that we think that we're doing something and we're going to boost the stock, like, for instance, the 24 inches and putting the fish reduction devices in the shrimp nets and things; and then after this has occurred, it doesn't seem like we ever get that plus.

You know, something like this happens and we seem to go backwards instead of forwards. Is there a rational explanation for that or is there just a glitch in the system?

Mr. Carmichael: When did that change go into place?

Mr. Wickers: About three years ago, I think, when we went from 20 to 24 inches, and I'm not sure about the shrimp nets. I don't know how long that's been going on.

Mr. Carmichael: It's probably a little early yet to tell what happened three years ago, because we may only have like two years under that regime in the dataset because we do run a little bit behind. So, it's hard to say at this point whether or not it's reflecting that or not.

But you would hope it should show you at least some change in selectivity, which would increase yield, and hopefully increase the MSY. I think the changes with the new data and the changes with some of the potential biases we might have had in the 1998 estimate are way outweighing the potential changes from the two years of the higher size limit. It might be too early for us to tease it out.

Mr. Wickers: I would like to also compliment you on your presentation. That was probably one of the best ones I've heard.

Mr. High: Could you give me a quick overview of how landing data, catch-per-unit data, number of trips data affects MSY, if it does at all? I couldn't find anywhere definitively explaining to me how you come up with MSY.

Mr. Carmichael: None of that affects it directly. That's all the information we use to estimate abundance and fishing mortality, and then the MSY comes straight out of a yield-per-recruit analysis, which takes into effect the selectivity of the fishery, as I've been talking about, and the weight at age and the maturity and the biological characteristics.

It comes out of that and it comes out of the stock recruitment relationship, which gives you a prediction of how many young fish are going to be born and how many young fish you think is the maximum number that will be born out of this stock.

The way we get that crucial scalar value, that recruitment, is to look at the average estimate of recruitment over the time period and we take sort of the middle of it.

We leave out the highest ones and we leave out the lowest ones and we take the center; and when that recruitment changes, our MSY changes.

Ideally those numbers should be more stable. If you had a lot of time series and you had a lot of indices of recruitment and you had a good, stable stock assessment, as you added extra years you wouldn't see those recruitment estimates changing.

But what we are seeing is when we do this three or four years apart, we are getting this fluctuation in recruitment, and it's bothersome. But really the only resolution of that, given the patterns of this fishery and the size limits and such that are in it, is to get some good indices of what is going on with the youngest fish.

That would be our way to get it. But the things you're bringing up, they're all in there as the initial input data, and then the MSY comes out at the very end. It's like you go through a whole

big machine with a lot of steps and processes, and that's the raw materials going in and the MSY is essentially the bottom line coming out. There's no direct correlation there.

Mr. High: Maybe it's just coincidental, but as I look over the years, how you all have done MSY kind of mirrors the actual catch data also.

It kind of fluctuates with it, and it's hard for me to understand how we're going to cut a value of 60 percent when I'm catching more king mackerel than I did back in '85. It's very confusing to me.

Mr. Gay: Thank you, Mr. Chairman. John, I don't know, it seems like every stock assessment I've looked at recently didn't make a lot of sense to me.

But at any rate, I've talked to a lot of the members of the panel here from up and down the coast, and Ben, who I highly value his opinion from this area. I know what I see off of North Carolina. I don't know what Ben sees off of Florida. I mean, I can't speak for the whole thing.

But from talking with members of the AP from each state, with the exception of Georgia and I assume that they would be similar to the states on either side of them as far as the AP members opinion of what the stock has done recently, is that most everything I'm hearing is it's doing nothing but getting better in recent years.

But yet apparently the fish that we see don't splash water on the paper at the Beaufort lab or the Miami lab or wherever. Why is that? I mean, why are we seeing this difference? Are we all liars or what is going on?

Mr. Carmichael: Well, look at Figure 6, which shows the king mackerel estimates of abundance. It starts out there in the first year at about 12 million fish, which we have some concerns about some of the age assumptions in the first couple of years of data, but, say, about 1984 you're running around 6 million pounds and it tails off a little bit to maybe 5 million pounds, and then in the mid '90's it starts coming back up.

There is a drop here in the very last three points of the series, but knowing what I do about the last few years of data and our difficulty estimating the recent recruits that we have identified, I don't put a whole lot of stock in that.

But I do see that from about '93, '94 through 2000, abundance has increased by about a million fish. I think that the results, if you look at the patterns in the figures, would support that.

The trouble is when you try to look at the values on that vertical axis, and the question is, is the average number of fish been 6 million, 8 million, or 10 million? Well, as far as the pattern of the stock and what is going on, we might not think that's a big deal.

But as far as what it does to MSY, that is a big deal, and that's the trouble. It's not that the status

of the stock has changed and we think there is less fish out there. We don't. We think that there is plenty of fish out there, there is plenty of biomass out there.

It's just our idea of how productive the stock should be has changed, and that's changed BMSY and that's put us in this trouble saying, well, now you have this potential MSY that's below your average landings, even though we don't see any troubles with the stock.

It's simply a change in our best estimate of productivity, and our best estimate of maximum productivity has really varied throughout the 20 years they've been assessing this stock.

I think everything that you're saying is probably reflected in this. It's reflected in the abundance, in the mortality rates. But when we get to that key number, that MSY, there are little things going on and little variations and fluctuations in the estimates, that when they're scaled up to the level of 6 and 8 million — if you take a quarter of a pound difference and how much yield you think one fish born is going to give you, and you multiply that by 10 million fish being born, then you have a huge difference in your estimated yield, and that's really all it is.

And then you take and you multiply something by 8 million in one year and 4 million in the next year, then you're going to get a 50 percent change even though even terms of recruitment variation 8 million, 4 million, it's not an unheard of variation.

But when your MSY is that closely tied to it, then your MSY is going all over the place, and that's sort of the bottom line here in this assessment. Little fluctuations that on the scale of recruitment are not that big have big impacts on the scale of MSY and what it means to the fishery, especially when you have a fishery that's probably operating, as everyone seems to agree, pretty close to what it should be producing.

Our MSY estimates are sometimes coming above that and sometimes coming below that, and we know it should be somewhere in the middle. We just don't have a clear means at this time of producing an estimate that fits that that well.

We're sort of subject to these year-to-year variations and these every five-year variations when we update the assessment. So I think that you're right. The general results of it, if you ignored the actual numbers on the axis, would probably agree with what you guys are saying.

It's just when you try to put that number on there, you get in trouble, and that's what always is the difficulty with MSY. When you try to scale that to absolute value, you're subject to these sort of fluctuations.

Mr. Geiger: Jodie, I don't want to pass you. You still have that question look on your face, like you want to ask a follow-on question?

Mr. Gay: Go ahead, you'll come to me later, I'm sure.

Dr. Crabtree: I just wanted to echo what John said. I look at this fishery and we're right on track with this fishery. It looks to be in real good shape. The fact that the MSY estimates are jumping around a little bit really doesn't give me any heartache.

The stock biomass, as to what I'm seeing, has been gradually increasing since about 1995. So, I think if you feel like you're seeing more fish out in the water now than you have been, that's my reading from the stock assessment.

So, everything I'm seeing here is positive and it looks like we're right about on target with where we want to be with this fishery.

Mr. Ogle: I believe you mentioned that stock productivity was less and that in part reflects the lower MSY. Why would that be? Is it because they're not being recruited into the fishery because they're removed earlier or that there's growth overfishing occurring, or what is your take on that?

Mr. Carmichael: Actually, it's a subtlety. Our estimate of productivity has changed. I don't think anyone believes the stock's productivity in reality has changed, but it's just our estimate of it has changed, and that's the problem as Roy is saying.

Everything we look at about the stock looks great. We're not overfished, we're not overfishing, recruitment looks good, the trends are good, all the graphs trend nicely, they track the past years.

But when you put values on it, our estimate of productivity is slightly different; and when scaled up by recruitment, then that becomes a big change in the MSY. So no one thinks that the actual productivity in reality has changed. It's just our ability to estimate it is not very precise.

So now we're in a period where we've estimated it as being kind of low, and in '98 we estimated it as being kind of high, which we knew, and we kind of said that throughout, that we have this high estimate. We're not even catching that and it's probably too high.

Now we've totally swung the pendulum the other way and we're saying, well, we have it. It's kind of low and we think it's low, and our best advice is that it's a little bit lower. How are we going to resolve this without adverse consequences, I suppose?

Mr. Geiger: Regardless of what you may think, MSY is not occurring on the screen.

Mr. Erickson: May I speak on the Spanish mackerel a little bit? Ronnie, I don't know whether you'll agree with me or not, but I think 60 percent of the Spanish mackerel now in the state of -- or that that are caught are probably caught by castnets in the state of Florida.

We had a real slow season in the Cape with the gillnets, and we can't fish in the state waters at all up here in the Cape. So the state of Florida is completely out as far as this area up here goes.

It sounds to me like that this thing has leveled off with our Spanish mackerel to a certain amount of fish being caught every year, and it's been done with castnets, and that's what you're going to go by now.

It doesn't mean the fish isn't there. If we could go in and catch them with gillnets or if they would come off into federal waters and we could catch them with gillnets, we could catch our unlimited quota pretty certain and pretty quick.

If that happened, would the MSY go up on the Spanish mackerel, if we could produce those fish? If we don't produce them, is it going to stay down low is what I'm trying to get at?

Mr. Carmichael: Well, we would hope that we have enough of a handle on production that landings spiking up would not drive our estimates of MSY up. But if there is a big portion of the stock that has never been exploited, then, of course, if we do suddenly start catching more, then that could happen.

But our intention is that between all the fisheries and the surveys, that we do have an idea of the abundance of the stock overall, and that going out and exploiting an additional portion of it may raise the mortality rates, but we hope it doesn't raise the abundance estimates.

But depending on how good our information is at this point, we don't know if that would be the case. But, theoretically, it should not.

Mr. Erickson: Okay, I guess that answers my question. One of these days our fish will fall back into federal waters and we're going to catch our quota up, and that's going to throw a little kink in this whole thing, it seems to me like.

Mr. High: To go back to what you just said about the abundance, that is driven by actually what people catch, right? Isn't that what you just said? If they do catch what their quota is, that the abundance figures are going to actually change?

Mr. Carmichael: No, I'm saying that we hope that the abundance figures won't change just because of a change in catch.

Mr. High: But there is a direct correlation there?

Mr. Carmichael: No, not direct.

Mr. High: Not direct?

Mr. Carmichael: No, because it's also affected by the mortality rates and the surveys. There is a relation, but it's not a direct relation.

Mr. Hartig: I have probably asked this question before, but I've forgot. Why don't we have, in

king mackerel, a good assessment of age zero fish? Are they harder to come by in the MARMAP surveys? Why is that? Why don't we have an age zero recruitment index like we do for Spanish mackerel for Atlantic king?

Mr. Carmichael: It does seem that they're harder to come by; and just the surveys that we have, they don't seem to show up in good numbers. Looking at the North Carolina Pamlico Sound survey for Spanish -- and there is some Spanish in there and no kings, and there weren't even enough Spanish to give us confidence in that survey being reflective of the abundance.

So, just the efforts that we do are not really getting those fish when they're at that crucial age. They're just scattered out all over the place, I suppose, and able to escape a lot of the gears we use for a lot of the smaller fish.

Mr. Hartig: One other question. In that cohort analysis, when you consider a cohort, are all the different growth for sex taken into consideration and growth for different -- even fish taken into consideration; you know, differential growth for fish and differential growth for sex. Is that part taken into consideration in a cohort analysis? Is that within that?

Mr. Carmichael: It can be, but it's typically a compilation of everything, of the average fish, be it male, female, whatever. In some cases, when there is real big differences and the information is available to, say, separate catch out by sex, then we will track those sexes separately.

But in most cases, even if we know that growth is different, if we don't know if migration is different or we don't know the composition of the catch, then our efforts to do that are really not going to give us anything more than if we just assumed 50/50 and take an average growth.

Dr. Daniel: Thank you, Mr. Chairman. Just for the record, I think we're talking about the SEAMAP survey, not the MARMAP, and what we've seen there is just the kings, the little kings are really rare in those catches, and a lot of zero catches, and that was the problem that we had with the Pamlico Sound Survey index.

But I think it's important to note, though, what Roy and John have said because there are a lot of positive signs in the stock, but there is a lot of fluctuation in these MSY values.

I think we'll continue to see fluctuations in the MSY values as we resolve some of the aging problems that John mentioned, as we resolve some of the mixing issues that John mentioned. There are a lot of these things that, in the next assessment, are going to change these estimates of MSY again.

Mr. Geiger: Any other questions for John?

Mr. Gay: John, can you explain to us exactly what changed to make you all so positive that you've been wrong in what you were estimated this, I guess you would call it the reproducing of -- the fecundity of these fish to be?

I mean, because virtually the same people -- I mean, not yourself. I know you're fairly new to the process and I certainly -- you put it down to my level very good. You and Roy both are very good at that, and I certainly appreciate that.

But I don't understand how the same group of people could be certain that ABC should be set twice as high four years ago as what they're saying today, and were you as confident then that it should be that high as you are now that it should be this low, I guess?

I mean, were you skeptical then and skeptical now or were you positive then and not so positive now? I mean, can you give us a feel for that, because that's a big change, a huge change.

Mr. Carmichael: I would have to say that I put that exact same question to the people who had conducted this model and the one who conducted previous models and to the committee as a whole. I said how can we say we are as confident in 5.9 as we were in 10.0 and not have a pretty darned good answer?

The best that we could come with was that we are as confident now as we were then that MSY for this stock is somewhere between 6 and 10 million pounds, and that's sort of the problem. That is about as strong a conviction as I could get from the assessment panel, because thinking that someone was going to ask this question.

We were confident in that 10, but we said, you know, we think the 10 is high and now we're confident in this 6, but we think that 5.9 is a little bit low; and to some extent, the panel realizes that, that it's somewhere in between there.

And to have to pin them down, I don't think you can pin anyone on that committee down or anyone at the Center who has worked on it to say whether, yes, the truth is 5.9 or the truth is 10. They're going to say, you know, after 20 years of doing this, it's somewhere between 5.9 and 10, and it always has been.

But as far as pinning it down and saying are you any more confident in that than you are, that's as tight as they'll give us.

Mr. Gay: Thank you, that's a good answer. I'll go back to the first point of that, which I guess was what exactly was it? Can you help me understand exactly what it was that changed in the information you were receiving that changed the productivity of these fish that much?

Mr. Carmichael: Simply the estimates of recruitment, which a couple of key years and a couple of high values went down by as much as 50 percent, and the change in selectivity, which brought down the average yield of an individual fish.

So we changed the yield of an individual fish and we changed how many individuals we thought were out there, and you multiply those two together to get the MSY, and we did our multiplication and it came out to be 40 percent. That's what it was.

It came out with a pretty good reduction, and we scratched our heads and said, well, maybe our selectivity wasn't that good back then and maybe our recruitment wasn't that good and maybe what we have now is really too low.

But without really getting into it and perhaps coming up with another way of estimating MSY that will be more stable now that MSY is such a crucial part of the management, we don't really have another resolution of this problem.

And, perhaps, hopefully, I think the panel was sort of hoping that if we have a new assessment next year, and we run this through the SEDAR process and we go back through the data, maybe we'll take extra time, if we need to, to reconsider how we estimate MSY because estimates of MSY didn't carry as much weight prior to the SFA.

We came up with a method in '98 of doing it, which at the time, given the information we had, was a good compromise. But now that we've re-estimated with that method, we're seeing that maybe this is a little too variable and we're going to have to put our heads together and take the time to come up with another estimation of MSY, because it's somewhere between 6 and 10.

Every year we do the assessment, it's possible there could be slight changes in average recruitment and slight changes in the productivity, the yield for each individual fish which could be scaled up, and you're talking about millions and tens of millions into changes in the MSY that could be inconsequential if they're well above the average catch.

But when it dips down to below the average catch and we might not think it's statistically significant, it's management significant. It is important. And when we look at these numbers as an assessment guide and you see that variation and you go, oh, that's typical, that's one thing, but when it drops down to where it starts to have repercussions, then, yes, there is a problem and we need to have some way of resolving that, and maybe rethinking how we do MSY is part of that solution.

Dr. Crabtree: I think John does a good job of describing it. What we're grappling here with is the uncertainty that is inherent in stock assessments. So when you use the word "certain" with regard to these estimates, well, we're not certain of any of these estimates.

They're just that; they're our best estimates. One of the things that has changed in fisheries science probably over the last decade or so is we're trying to do a much better job now of describing the uncertainty that's inherent in all these things.

You know, it used to be you just got a number and that's the answer. Now you get a scatter plot usually that shows the uncertainty, and that's good in a way because I think it's much more transparent about what we really know and what we don't know, but in some ways it causes some discomfort, and it shows there is a lot we don't know in the way we're able to estimate these things.

But I really think that the main focus of the assessment and what we're really concerned with is not so much the MSY estimate, it's the fishing mortality rate estimates, and they look good.

I mean, we're not overfishing and we're right in line with target and the stock is nowhere near to being overfished. So we're in pretty good shape.

I think John is right. I think we can be pretty sure that the productivity of the stock and the MSY is somewhere in between this low estimate and the higher estimate, and I think he makes a good point that we come back in – you know, we have this new SEDAR process that we go through to review these, and we can probably run this assessment through the next time and maybe we can come up with some ways to hone down that estimate a little bit better.

But, really, as long as we're in good shape on the fishing mortality rates and the biomass estimates that we have, which we are now, then we're doing a good job with the fishery and things look good.

Mr. Waugh: We're going to get into this a little more when we get down to Agenda Item 4, where we talk about the framework, but I think it's worthwhile pointing out here that I'm sitting here listening to this discussion; and, to come up with our understanding of an estimate for MSY of being between 6 and 10 million pounds is pretty darned good, and that probably bounds the real value.

Whether or not we can refine it with any reasonable increase in resources, I'm not sure we can, but that's not the problem. Where the problem is, is we have linked our TAC-setting process to 10 percent above the best point estimate of MSY, and I think that's where this issue of where our estimates of MSY fluctuate cause us a management problem.

That's a double-edged sword because we don't want to create a situation where we could set the TAC anywhere we want. We have to be cognizant of where we set it, but I think it's just recognizing that we're going to have these fluctuating estimates of MSY that we want to start looking at ranges of MSY rather than a point estimate.

And when you've got situations like now where the assessment is saying we're not overfished, we're not overfishing, our mortality rates are where we want them to be, the council should have some flexibility in where they set the TAC.

So, I don't think we need to look at the science side of it to try and fix this problem. I think it's a management issue in how we link our TAC-setting process and we just need to fix that, but do it carefully so we don't create situations where we can set TAC at risky levels.

Ms. Merritt: Thank you, John, I really enjoyed your explanation because I was really confused with the reading, especially with some of the terminology such as Monte Carlo Bootstrap, uncertainty, best median point, and I was really confused.

But in your estimate, if we don't make any change over the next year, leave it alone, what is the worst possible overall impact that you see?

Mr. Carmichael: I suppose the worst impact would be that something happens and the fishery takes the 10 million pounds, and everyone's assumption that was high is correct and we have some adverse impact on our biomass and we have an adverse impact on our mortality rate, we could come back and say, you know, you took the ten million pounds, you had to close the fishery because of it, and it looks like our status determination of not overfished and not overfishing is in jeopardy.

I don't think that in one year we would kick it over the top and we would come back and say you're overfished and you're overfishing because you caught ten million pounds. But, we might see this good pattern that we've had of keeping F's good and keeping biomass good become in some jeopardy, and we would probably say, yes, everyone was right, that was too much and it hurt the stock's productivity.

But given the history and the fact that limit has been in place for three years and the fishery has averaged, like, six point something million pounds, I think the chance of that, of taking the ten, the worst case scenario, is pretty slim unless there was some huge change in the market or the recreational demand or something.

So you would think there would have to be some considerable change in what is going on out there for that to happen, but that is the worst case scenario. I mean, we assess this every year. We've been on track. There is a stock with good abundance with no warning signs to us.

So I think at the very worst you might say, oh, my goodness, we're overfishing. Our exploitation rate was too high in that year when we caught ten, so we would say that you have to cut it back.

I think if we caught ten, regardless of what the MSY estimate is, given what everyone has said, no one would be surprised at that outcome, anyway.

I don't think there is really any real risk to the stock, to its continued productivity to the fisheries, its continued support of the fisheries, if it were to happen in one year, and I don't think it's very likely that it would happen.

Mr. Geiger: Any other questions? John, thank you for your outstanding presentation; and more than that, the panel needs to know that John — Thank God, he was at this stock assessment. I call him John the Challenger, and we got good stuff because John was there and he made a difference, very impressive. Thank you, John.

Moving right along, the next order of business is the economic and social assessment, which is, unfortunately, not available, and Gregg is going to address quotas for 2002-2003. That's behind Attachment 3.

Mr. Waugh: We will have the economic and social assessment for next year when we are looking at the full expanded assessment and will have that information to use as we look at items for Amendment 15 next year.

I just wanted to bring you up to date on the quota report for the end of the last fishing year, and as George indicated, that's behind Attachment 3, and this gets a little bit at the question that Rita just asked.

If you look, the quota for Atlantic kings was 3.71 million pounds; and through the end of the fishing season, 1.66 million pounds were taken. So, about 45 percent of the quota was taken this past fishing year that ended on March 31.

For Spanish, the commercial quota was 3.87 million pounds and 2.95 million pounds were taken, about 76 percent of the quota.

Mr. Hartig: This brings me to something I forgot to ask John. Can we, in the future, get some kind of effort information to go along with in the stock assessment from the logbook information that we receive? Can that be done; how many boats over time we have producing X amount of king mackerel to look at what has happened with effort through time, so when we look at these commercial numbers, we have some idea of why that number may be high or low?

Mr. Waugh: Yes, this is one of the things we're working with the Region on, and we're going to be assisting them in preparing these SAFE reports. What we've been getting more regularly is the biological assessment, which is just one component of the SAFE report.

So there will be other components looking at the economic and social aspects as well, and that's where we'll build in things like estimated trips, number of permit holders, and that sort of information.

I anticipate next year, this time next year when we're looking at Amendment 15 and have our expanded assessment and we will also have the socio-economic report, it will have all that information.

Mr. Hartig: So that will be right in front of us when we're looking at the assessment? We'll get a SAFE report at the same time so we can --

Mr. Waugh: That's correct, and the idea there is the assessment gives the council an ABC range, an acceptable biological catch range, and then the council sets the TAC within that.

Well, as a part of the council's decision process in where to set that, the higher you set TAC within that ABC range, obviously, the higher the quotas are and you have less socio-economic impacts.

But as you go up higher, the biological impacts to the stock increase and conversely. But, the council needs that social and economic information in addition to the biological to help balance where we set that annual or the TAC for that time period.

Mr. Geiger: Any other questions for Gregg? Okay, we're going to stick with our agenda, but we're going to swap items. The time frame is just a little different. We're going to call on Margaret Murphy, a member of the South Atlantic staff, to give a presentation on take of large mammals.

Ms. Murphy: For folks who were here this morning, this is pretty much the exact same information that you heard then, so take a break.

What I'm going to do is give a presentation on some of the proposed changes that are being made to the Atlantic Large Whale Take Reduction Plan that concerns gillnet fisheries in the Southeast.

Just to do a brief review -- you may already be aware of this, but a brief review of the amendments to the Marine Mammal Protection Act that deal with the interactions between marine mammals and commercial fisheries and a little bit of review of the requirements if you're in a fishery that is regulated by a take reduction plan.

In 1994, the amendments to the MMPA, there were several amendments and one was concerning developing long-term strategies for governing interactions of marine mammals with commercial fisheries.

One of the primary goals for this strategy was to be able to reduce incidental mortality or serious injury of marine mammals to below the potential biological removal level.

The PBR is basically an estimate of a maximum number of animals, not including any natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.

An aim in trying to meet this goal, they want to take into account the economics of the fishery when they take into account what kind of measures they're implementing. Also, the availability of existing technology, they're trying to do a lot with gear modifications.

Instead of doing closures, they would rather modify gear or fishing practices and keep the fisheries open. They also look into what is already existing with state and regional fishery management plans as far as measures in place.

Some of these strategies included in this long-term strategy, some of the things that were brought about, were regular stock assessment reports from marine mammals, registration and incidental take monitoring program for certain commercial fisheries, incidental serious injury and mortality self-reporting requirements for all fisheries.

So all fisheries, anyone who has an interaction with a marine mammal that results in a mortality or a serious injury, you need to report that, and establishment of take reduction teams, which assist in developing take reduction plans in certain fisheries.

Stock assessment reports are what they use to provide information on the sources as well as the level of human-caused mortalities and serious injury, and they're also used to then identify strategic stocks for which reduction plans are created.

A stock is considered strategic if direct human-caused mortality exceeds the estimated PBR level or if the stock is listed under the ESA or is likely to become listed under the ESA or is designated as depleted under the MMPA.

In the case of the Atlantic Large Whale Take Reduction Plan, they regulate right whales, or they are actually concerned about right whales, humpbacks, and finback whales, and all three of those are listed under the ESA, so they are strategic. Also, with humpbacks and right whales, currently their annual mortality is estimated to be higher than their PBR levels.

Also what came about with the 1994 amendments was a three-tier categories to place fisheries in, so NOAA Fisheries places each fishery into one of these three categories. This is called the list of fisheries. You're probably very familiar with that.

It's published annually. It doesn't necessarily change every year, but it's published every year. Of course, Category 1 is considered to be fisheries that have frequent incidental mortality or serious injury of marine mammals.

Category 2, occasional interactions with marine mammals that result in mortality or serious injury; and Category 3, which is a remote likelihood or there are no known mortalities that have occurred with that type of fishery.

Other considerations they're looking at, besides looking at the frequency or the rate that marine mammals interact with the fishery, they also look at the fishing techniques that are being used, the gear type that is being used, seasons and areas that are fished, seasonal occurrence and distribution of marine mammals in an area, and also stranding data is looked at.

Now, as I mentioned, all fisheries are required to report if they have a serious injury or if they have an interaction that results in a serious injury or mortality. They have to report that to NOAA Fisheries within 48 hours of returning from a fishing trip.

Category 1 and 2 fisheries must also register with the Marine Mammal Authorization Program and they comply with take reduction plans and any additional requirements under that authorization program, such as carrying an on-board observer.

The Southeast Atlantic gillnet fisheries are considered a Category 2 under the list of fisheries. Now the take reduction teams are composed of fishermen, scientists, conservationists, state and

federal managers.

As I mentioned, they assist in developing take reduction plans, they recommend regulatory as well as voluntary measures to reduce interactions with commercial fisheries that are in the 1 or 2 category.

The immediate goal of the plan is to reduce mortality of marine mammals, within six months to reduce the mortality of marine mammals to below the estimated PBR level after the plan has implemented.

Now the Atlantic Large Whale Take Reduction Team was established in 1996. Their finalized plan was put out in 1999 and so it's been implemented now for a couple of years.

It was reconvened. The team was reconvened just this past spring in order to discuss some changes to the plan; because with the humpbacks and with the right whales, their annual mortalities, or I should say annual mortalities that have been attributed to fishery interactions are still exceeding the PBR for both those species.

So changes to this plan are going to include some additional measures to the Southeast gillnet fishery. I don't know if you can really tell; these maps are a little small, but there is an area called the Southeast Restricted Area.

It goes from Southern Georgia down into Northern Florida, and that's an area right now where they prohibit the straight set of gillnets at night during the time of the calving season for the right whale, so it's closed to that from about mid-November through March.

Just to talk a little bit about the seasonal occurrence of right whales, right whales -- and this is pretty true for most baleen whales -- they usually have a north to south migration pattern.

So right whales are found up in the northern area, New England, Bay of Fundy area, during the summer months where they feed, and the pregnant females, along with some juveniles and periodically some males will come down as well, they'll come down to the Southeast area where the females will give birth and use this area as a nursery ground.

One study looking at occurrence around major port areas in the Southeast have found that -- they actually in the Carolinas can be found, and Northern Georgia you may find right whales residing there all through the winter.

There are some peak times. They're usually in the fall and also again in the spring, and those are believed to be times the right whales are either migrating south to the calving grounds or migrating back north with their calves, back up to the feeding ground.

Keep in mind that the studies that this is based on, most of the data were taken from dredge operations, so the sightings are very heavily biased toward nearshore channel areas.

A sighting survey from Georgia aerial surveys show that right whales are pretty uniformly distributed throughout their whole aerial transects, which go from shore out to about 30, 35 miles out.

Also, just to briefly mention, humpbacks and finbacks are also known to occur in this area, particularly young humpbacks. Most humpbacks, the adults will go down to the Caribbean during the winter months to breed. They also give birth to their young down there, but a number of juveniles that aren't part of the breeding process yet will stay up off of North Carolina and into Virginia.

We see a lot of the juveniles here in the winter and also you can see fin whales there as well, and they're primarily here to feed.

This is just a map of the reported entanglements for 2002. Those dots represent areas where whales were reported to be entangled. It does not necessarily mean that's where they became entangled.

That's one of the problems that we face, or that the entanglement network faces is that with larger whales, when they crash into gear sometimes, or come in contact with gear, they're so large they just get entangled in it and break through it and keep swimming.

They just swim off with the gear. So by the time you see them entangled, they could be miles, they could be in a completely different region from where they originally got entangled.

In order to do some strategies in order to reduce or eliminate entanglement risk, you really need to know where whales are becoming entangled -- that would be very helpful -- also, to learn more about how whales become entangled and what elements of the gear they may be getting entangled in.

For management purposes and the studies that have been conducted, there was a study done by Dr. Phil Clappam, who is up in Woods Hole. He works for NOAA Fisheries up there. He looked at what gear had been pulled off whales that had been entangled and had been identified as ground gear or ground line or vertical line, whatever elements they could identify.

A lot of times, when you pull gear off an animal, you're just getting parts of the line or parts of the net, so sometimes you can't even attribute it back to a particular fishery as to where the gear came from.

But in this study, he looked at the gear, he did a gear analysis of gear taken from whales that have been entangled, and he found that ground lines often pose a very big risk for whales.

With regard to gillnets, they were finding floating anchor lines, float lines, and what they refer to as lines used in the surface system, which would be lines that are connected to buoys, high flyers, and buoy lines.

Pretty much vertical gear and horizontal gear and virtually all gear can be involved in an entanglement, but it seems like ground lines and vertical lines tend to be the most high risk.

Also, that's the same for areas of whales that become entangled. They can get entangled around the head, the tail, the flipper. They can have various body parts that become entangled.

Interestingly, with right whales, they appear to get entangled more around the head; with humpbacks, more around the tail stock, and humpbacks also tend to have a higher rate of entanglements with gillnets. Right whales tend to get entangled more in pot or trap gear.

Some of the recommendations that the Atlantic Large Whale Take Reduction Team is discussing presently for the Southeast and Mid-Atlantic region is to immediately require weighted buoy lines to eliminate floating lines at the surface.

They don't want any floating line at the surface areas where whales can snag as they swim by. They're looking at a phase-in time for using non-floating line for the top two-thirds of buoy lines and to use non-floating lines to anchors.

Some of this may not even apply to you, depending on how you fish your gear, but for anchored gillnets only, to use an 1,100 pound breakaway and vertical lines to the anchor.

They prefer lines to be as knotless as possible because knots are known to get entangled or snag up in the animal's baleen. And also for gillnets set overnight with two anchors, an 1,100 pound breakaway and one weak link for every 300 feet of net.

Now, again, these are recommendations that are under discussion. One thing we would like to get from the AP, if possible, is some feedback on what you think about these or if you have further suggestions or any feedback you want to give.

The Atlantic Take Reduction Team Sub-group, the Mid-Atlantic and the Southeast Sub-group is meeting this next Monday and we're going to be discussing these recommendations. We're also going to form two subcommittees.

A marking committee; it would be very important to come up with ways to -- what they want to do is mark gear and hopefully mark it uniquely enough so that you are able to trace it back to a fishery or to a region.

Again, if you can identify high-risk areas for entanglement issues, you can then tailor your management strategies to that. As it is, if you don't know where whales are getting entangled, you look at all fisheries that are using gear that is known to entangle whales, and you take more of a universal approach to your management strategies by managing all the gear the same.

A compliance committee is also being formed, and that's to find ways to evaluate and monitor and improve compliance with the plans.

But as I mentioned, on Monday we're meeting up in Philadelphia, the Southeast and Mid-Atlantic Sub-group is meeting, and if you have any feedback, I would be happy to hear it. Dave Cupka is also on the team, if you want to talk with him as well.

Also, in the packets you were handed out, there is a whole list of the entire team members. You're always welcome to attend any take reduction team. They are open to the public, but if you have any information that you want to share with the team, contact your team representative or, again, you can contact Dave Cupka or myself.

Also, what they're going to do with this feedback at this next meeting is they're going to use that to put together alternatives for when they go out in July to do some scoping; and from the information they get from the scoping meetings, which I can keep you informed of when and where those will occur if you would like to attend those, they're then going to go ahead and develop alternatives for their EIS process.

And at that time, when the proposed rule comes out for review, you can give comments at that time as well. Does anyone have any questions?

Also, I just wanted to mention if you have any specific questions about gear, such as what breakaways are or what they're considering for weak links and stuff, I can give you the names of two of the gear guys that are working with the team, Glen Salvador and Bill Foster.

Mr. Erickson: I haven't heard anything about the floating line subject come up lately. I'm a shark fisherman and we use drift-nets, and we're closed from November 15 to April 1. We can't do any fishing at all with our driftnets, unless we're south of Sebastian, and that's with the observers only.

Well, of the ten years I've carried observers, they haven't seen a whale yet down here; and when I've seen them, it's always been from shore to about five miles out. If this is going to affect our floating driftnets, I mean, it's going to pretty well put us out of business if that goes in place.

Ms. Murphy: Actually, that's a good point because when we were talking about putting in a -- when the team was talking about these recommendations, it's not clear at this point whether these new measures will be implemented just in the restricted area or if they're going to become region-wide.

It's not actually set yet where exactly these restrictions may go into place, and that's something else they would like to have feedback on. That is something I would like to talk to you about and get some information on that I can bring to the team meeting on Monday.

There was also another proposal that was put on the table I just forgot to mention is that there has been a proposal put out to the team to allow for fishermen to target Spanish mackerel and shark with tended gear at night during November 15 through the 30 south of what he called False

Cape, Florida, which is 29 degrees north all the way down to the southern edge of the restricted area. If you have any comments on that as well, I would like to hear them.

Mr. Geiger: Done with the questions? Thank you, Margaret. We took an opportunity to introduce everybody in the AP and the committee members, and I might have been remiss by not taking an opportunity to recognize the outstanding council staff for the new AP members.

Just by way of introduction and so you know who they are, they're an absolute wealth of information and will respond immediately to any request. I know they are prompt and want to help.

Of course, Margaret is our protected resources specialist, and back at the table here with Bob Mahood, who you see, we've got Kerry O'Malley and we've got Kathi and Roger and Vishwanie, and Rick DeVictor is sitting in the audience.

The only person who is not here, but I'm sure introduced herself to you as you came in, was Kim Iverson, who is our public information officer. They're outstanding folks and are willing to provide instantaneous response to any question. I know because they do it for me. With that, we're going to take a 15- minute break, please.

(Whereupon, a recess was taken.)

Mr. Geiger: Moving along with the agenda items, we've got the SSC comments and the overview of the framework decisions. That's in Attachment 4.

Mr. Waugh: John is Chair of the SSC and they met on Monday and reviewed the mackerel stock assessment, and they accepted it as being the best available science at this time. I don't think there were any additional discussions beyond what was already reflected.

Mr. Carmichael: That's correct.

Mr. Waugh: If we turn to Attachment 4, which is our options paper -- and let me just take a few moments here to sort of orient everybody to where we are in terms of mackerel management now, and that was part of the reason for the large volume of materials you all received.

A number of you are new to the advisory panel. Some have been on for two years and haven't met yet, and, in fact, the AP has not met for two years. What we wanted to do was to give you the background information on how we have ended up with mackerel management structured the way it is now.

What we have done in the past is every two years we get a mackerel stock assessment, in the interim year just an update to make sure everything is okay.

In our framework we have certain items that we can change, and the idea is to use a framework

process to implement changes more quickly; and then the plan amendment, where you can look at more comprehensive changes, we use the plan amendment process. We'll be discussing items for Amendment 15 either later today or tomorrow.

In terms of frameworks, generally what we look at is specifying the total allowable catch; and then based on the allocations that have been set up for king and Spanish, that translates into a recreational allocation and a commercial quota. A commercial quota is tracked and once that quota is taken, the fishery would close.

On the recreational side, we use an indirect way of limiting the recreational sector to their allocation, that being a bag limit. The expectation is that over time, if that bag limit needs to be adjusted to reduce the harvest or adjusted up to allow the harvest to increase based on the allocations, we would do that.

We also look at commercial trip limits, size limits, and those sorts of changes, and those are the changes that we have done routinely.

That's what you see laid out in this material, starting out on page 1 with Atlantic migratory group king mackerel, and then we go through the TAC and then the bag limit; the same for Spanish and then the trip limit.

Well, this year is a little bit different in that we received the assessment. It's been several years since we had one, and we have requested that we get an expanded assessment completed next year that will look at this issue for Atlantic kings, of this mixing zone on the Florida east coast.

Right now, a hundred percent of those fish are counted as being Gulf king mackerel when we know that is not correct. Some information has shown as much as 98 percent being Atlantic fish, and there are other estimates that are lower, perhaps half of them being Atlantic and half Gulf.

Well, the assessment we get next year will allow the assessment to be done varying that percent mixing. So, when we look at next year's assessment, we'll have a better idea of what the estimates of MSY and ABC are for Atlantic and Gulf kings, and that will require some changes to how we manage king mackerel, and we'll get into that in Amendment 15.

But where it puts us now is were the council to begin a framework measure now, we would have the assessment next year and new numbers for Atlantic king mackerel MSY, ABC's before we could get the current ones in place.

So we've asked the National Marine Fisheries Service and NOAA GC, if instead of going forward with a framework this year, we could defer until next year when we get the updated assessment, the expanded assessment, and that will go through the SEDAR review process, which will perhaps, as John Carmichael pointed out, allow us to address some of these issues that haven't been fully evaluated in a number of years, and it will allow us to look at that mixing zone issue.

So we're mentioning this and asking you all to take that into consideration as you go through items for what you would recommend that the council look at under framework. If we were to go forward with a framework for any one action, then I think we would be hard pressed not to use the revised estimates for king and Spanish mackerel.

So if there is something in here that you want to see changed, our feeling, our recommendation would be let us know about it and we would fold that into Amendment 15 to work on next year.

On the other hand, if it's something you feel strongly and want to go forward, then you have to recognize the position that's going to put the council in, should they go forward with that, is using these newer estimates for Atlantic, king, and Spanish.

I think with that, I'll end there. Other than the TAC and bag limits towards the back, we've got some alternatives looking at trip limit modification.

There has been a suggestion from Carl Erickson, who is on the Mackerel AP -- this is shown on page 5 -- to look at some alterations of the Spanish mackerel trip limit and also for a king mackerel limit allowance.

So there are some things in here where we've already had some interest expressed on behalf of the AP to modify. But, again, that comes at a cost, so to speak.

On page 7, we've got issues on mercury. We'll have a gentleman here tomorrow to give us an update on where we stand with the mercury issue in the state of Florida.

The council's current position is just to disseminate information related to mercury in fish and do no more. I would be glad to answer any questions about these specific alternatives if anyone has questions.

Mr. Erickson: You said it comes at cost if we change -- like my proposal to bring it to November 15 or the first, whatever it decides, how would that -- the gentleman earlier said that if we caught our quota, our unlimited quota, it wouldn't affect the MSY. So how could that --

Mr. Waugh: What I was referring to there is if we go forward with a framework action now, we would have to use the new MSY's and ABC's for king and Spanish, and then we would be looking at much lower TAC's right now. If we put off that action this year and fold it into our considerations for Amendment 15, then we'll have updated figures next year.

Mr. Erickson: Okay, I understand that, but we're not planning on -- are we going to meet every two years now so that the next time you're going to bring us to the table would be two years from now?

Mr. Waugh: No, the plan is to reconvene the AP this time next year because we are working on Amendment 15. After we get finished Amendment 15, then I think we'll go back to that two

year and depending -- it may be a three-year cycle, again, because these two stocks are not overfished and we're not experiencing any overfishing.

The feeling would be set the regulations and let them sit for a while until we get an updated assessment. It would only be deferring action from this framework to Amendment 15.

We will have material going out to you asking you to review and get your comments back to us prior to next year's meeting. But right now, the next time planned for you all to meet with us is June of next year.

Mr. Gay: I had a question for Gregg. Gregg, so from what I'm understanding you to say, the council can choose not to do anything, make any adjustments to the mackerel frame amendment, any regulations pertaining to Spanish or king mackerel for the Gulf or the Atlantic; and if they make any at all, they have to accept the new estimates of MSY. They can ignore it, but they can't change it. In other words, they have to accept that MSY as that 5.9 if they do anything; is that my understanding and you can correct me?

Mr. Waugh: That's correct, but we wouldn't be ignoring it. What we would be doing is recognizing that we are going to have revised estimates before we could get these in place, and so what we would be doing is acknowledging that fact, and we would be making the adjustments to MSY and ABC via Amendment 15 next year with the newer assessment information.

Again, we feel we can do that because these two stocks are not overfished, there is nothing pressing that needs to be done at this stage.

Dr. Crabtree: We aren't ignoring it because we've spent a lot of time looking at it and reviewing it. Based on the record that we have and what we heard from John from the SSC, the conclusion would be that no action is needed at this time, and then we would move on in and proceed with Amendment 15 to do what we think needs to happen.

Ms. Smit-Brunello: One other thing to think about, too, is that you don't have the socio-economic data at this time, and it would be imperative for the council to consider that information when they're making decisions and any changes to this. I would think that you would want to have that complete information at least before the council before they go ahead.

Mr. Hartig: One thing, Gregg, that may be helpful -- I mean, this group hasn't been exposed to the SEDAR process, the new review process. Can you explain that a little bit to them and what that will entail on the next go around on this new assessment?

Mr. Waugh: Sure. It's an expansion of what we have done for years down here with mackerel. It's patterned after what is done up in the northeast, and I think they're up on 37, 38th cycle through, and it really is a huge improvement on how stock assessments are done.

What you do is a first meeting is a data workshop where you bring together folks from the states,

the federal labs that are working on collecting data, and the assessment scientists, and they go through the data in great detail, and you try to get agreement on what data is going into that assessment at that stage.

The way they've been done before is an assessment is assigned to one or two assessment biologists at a particular lab, and they contact people and try and get them to send information in bits and pieces, and so it gets adopted in various degrees and various levels.

This way with the data workshop and we bring -- one thing we've done a little differently than up in the northeast is we bring fishermen into those data workshops and throughout the process. It gives a lot of ways for the people collecting the data to get questions resolved from the fishermen, from the assessment scientists to get information explained and resolved from the fishermen as well.

So the first step is you get your data together and a data workshop report is prepared from that meeting. This then goes to an assessment workshop where you bring in your population dynamics folks, and we are going to try and incorporate socio-economic scientists in association with that to do some of the socio-economic analysis as well.

But that's where you actually run the models. They talk about the type of model to run, how best to do it, produce the assessment there at the meeting, and it's reviewed by the individuals at the meeting, and we've had fishermen participate at that level as well. That's when the assessment is done.

Then the third and final step is a review process and that's where you try to get an outside review. You try to bring in people who are not involved with the data workshop and the assessment workshop, and it's to give it this peer review.

There are two people from the Center for Independent Experts that are contracted to come in. One chairs the meeting and one participates as a reviewer. This is a process that the National Marine Fisheries Service uses and they contract through -- I believe it's run through the University of Miami.

And we don't know who those individuals are going to be ahead of time. So those are two individuals that come out that are not particularly familiar with the particular species that are being assessed.

This way you get an unbiased scientific review component. Then you have individuals from the National Marine Fisheries Service, from the council process, and state folks, as well, and fishermen participating in that review panel.

We've had a number of fishermen participate in that process. We've used the chair of our Snapper Grouper Advisory Panel, Mark Marhefka, for the black sea bass assessment. Jodie Gay was involved with that.

So at the end of the process, you've got an assessment that went through a data workshop where everybody agreed to the data; the assessment workshop; and then a scientific critique that comes out of that.

That material then goes -- and this part is being done differently between the South Atlantic and Gulf Councils right now.

What the South Atlantic Council has done is we have on our Scientific and Statistical Committee an assessment subcommittee that reviews that material and then brings a report to the full council.

The reason we do that is under the Magnuson Act we are required to have our Scientific and Statistical Committee review all our technical material.

So you can see it's a very rigorous review; and at the end of it, the goal is to have the best assessment possible. Now, it doesn't mean we're all in total agreement with the conclusions of the assessment, but by the time we go through all those steps, it's had the most rigorous review that it can be given.

Mr. Geiger: And correct me if I'm wrong, Gregg, but at the black sea bass and red porgy SEDAR, one of the independent experts wasn't even a fisheries guy.

He was basically a statistician and there to really lend credence to the data that is used for statistical analysis; and without any knowledge of fisheries, they challenged the data, the quality of the data, the quantity of the data, which I think lends another level of credence to the effort.

Dr. Daniel: I was getting ready to jump the gun. I was going to make a motion, but I think we need one from the AP first.

Mr. Gay: Mr. Chairman, at whatever point you're ready for a motion, I would ask for recognition.

Mr. Geiger: Before we do that, I would like to turn the meeting over to Ben Hartig, who is the chairman of the AP, and allow your AP to go through the motions there, Ben, whatever you need to do.

Mr. Hartig: Thank you, George. That was an excellent job and I appreciate you being the new mackerel chairman. You're doing an excellent job.

I also would like to welcome our new members. It's good to see you all. Sorry some of you had to wait two years to get here; and based on what Jodie's recommendations may be, we might not have a whole lot to do today. But, Jodie, do you want to make a motion?

Mr. Gay: I would, Mr. Chairman, thank you. In light of everything that we've heard

today and I think the uncertainty that even John expressed in some of the science at this time, and especially with new data coming that can go into that assessment in a fairly short period of time, and in light of the fact that we're not overfishing, I would make the motion that we advise council to defer until implementation of Amendment 15 framework actions pertaining to the 2003-2004 fishing season.

I do that with the realization that there's probably some changes some members would like to make. There's some I wouldn't mind seeing myself, but there's going to be some serious ramifications if they go to action and have to revert back to the 5.9 million pounds on mackerel.

There's some serious ramifications, especially for the commercial fishery at that point, and I would certainly like to have a more warm and fuzzy feeling about the assessment before doing so.

Mr. Wickers: I'll second that.

Mr. Hartig: We've got a second and now we have discussion.

Mr. Dunn: That was my first question, does this prevent any discussion of these options? I personally would like to bring up and discuss the Spanish mackerel bag limit.

When it was originally put into place, there had been no time to see what effect that might have. It's been a couple of years since then now.

I think I can speak for the recreational fishermen, at least in my area, to say that the extra five is a bone that we don't really need. Most of us are not utilizing it effectively, and it is then putting pressure on the charter boats that feel like if they don't max out with 15 per person, they're getting some pretty high numbers. There was some interest that be reduced to a boat level of 60.

Mr. Hartig: I don't want to try and stop you because I know it's the first meeting. Basically we've tried to keep this as a board that's not really tied to motions and everything, but as a point of order, we have to really address Jodie's motion in our questions first.

Then after we get through with that, we can have as much discussion as you want about any of these, but we'll see how much farther you can go with any of them. But right now, the only discussion we need to have is with Jodie's motion, if that's okay with you.

Mr. Dunn: That would be fine. I was just afraid we would move on to another subject and this opportunity wouldn't come up again.

Mr. Hartig: Certainly, we'll be able to address your bag limit considerations in just a minute.

Mr. Gay: And, Ben, it's certainly not my intent to stop anyone from giving their opinion of anything. Maybe I would want to back up at this point and ask can we separate king mackerel

and not take action on the mackerel under framework and do so on Spanish mackerel, I mean, if there is interest among the AP of doing that.

You know, it's certainly not my intention to stop the other stuff from being done that some folks -- at least being discussed that some other folks wanted to put on the table. So at this time, before we were to take action on my motion, I would ask can we split the two out and do them separately?

Mr. Waugh: I think we would be hard pressed to do that because if we're going forward with a framework, then I think we would be pressed to put all the actions in there.

Maybe one way of resolving this is when you get finished your actions as far as a framework, what we're going to do then is pick up on items that you want to see addressed in Amendment.

Maybe before jumping to 15, we can go back through these items like the Spanish mackerel bag limit; and if there is interest in changing that, you can give that direction to staff, and we'll work that in as an option for Amendment 15. So we can go ahead and start working on that, it just wouldn't be through a framework.

Mr. Gay: With that, I won't withdraw the motion if it is still on the table.

Mr. Hartig: Is there any other discussion of Jodie's motion?

Mr. Pelosi: What he is more or less asking for is that we would just keep the status quo until next year when the Amendment 15 is taken up; is that correct?

Mr. Waugh: Yes, that would be the net effect of this motion, yes.

Mr. Pelosi: Okay, so the same quotas, the same bag limits and everything.

Mr. Hartig: The only problem I have with the motion, does it preclude us from taking any framework actions next year and putting everything into Amendment 15 the way the motion was worded, it was given to us?

Mr. Waugh: That's a good point.

Mr. Gay: The intent of the motion is simply this, to keep the regulations in place that are in place for this year and to not add to them or to take away from them, for the 2003-2004 fishing season, that they stay where they're at, status quo.

That's the intent. And after that point -- and thank you for clarifying me on this. After that point I don't care how we take up the other issues again, whether it be under plan amendment or under framework.

Mr. Hartig: Is that okay with the seconder?

Mr. Wickers: Yes.

Mr. Gay: Is it any cleaner just to take Amendment 15, any reference to Amendment 15 out of it? Does that make it better? I think everybody is clear on the intent, whether we need any more wordsmithing or not.

Mr. Wickers: When you say about Amendment 15, the framework will be outside of the amendment, though, correct?

Mr. Waugh: Well, it depends. If we're going ahead with an amendment, it would be less difficult to get one action through the federal review process than two. It just depends.

If Amendment 15 is going to move along at a fairly quick pace, with a question mark because we're talking about splitting king mackerel between Atlantic and Gulf, then we may want to use the framework. I would suggest leaving the mechanism to be determined next year when we have a better idea.

Mr. Wickers: The reason I asked the question would be since you don't have a lot of answers to how you're going to split, I just can't see how you may have enough information other than passing a framework.

The amendment may take a couple of years or so, the way I look at it. You know how you get stuck on the fine points or whatever you call them.

Mr. Gay: Ben, just to be clear, it's not my intent to tie the council's hands one way or the other as to how we move forward after this year. I poorly worded the motion in haste, but the intent is simply to leave it alone for this year and not to tie the council's hands one way or the other.

They can use their best judgment at that point whether framework is best and a plan amendment, or the two be tied together. I think, after being around this process a lot of years, I'm seeing a new and improved maybe relationship with the Fisheries Service and the council that they can work together to decide which way is best to move forward at that time.

Mr. Hartig: Any other questions? The motion is to advise the council to defer framework actions on mackerel. The 2003-2004 fishing regulations remain as status quo. That's the motion. Is there any objection to that motion? Seeing none, that motion is approved.

Now, Gregg, do you want to take these as people -- do you want to take them one at a time and go through these or how do you want to do this, or ones that people want to discuss, just go ahead and discuss them or how should we do them in the amendment or framework?

We should probably do that next year then as far as determination goes. But as far as discussing them, they can discuss anything right now that they think should be in the amendment.

Mr. Waugh: My suggestion would be right now to go through those items in the framework option paper; and any that you all want to see done next year, give us that indication and we will work them into the Amendment 15 options paper.

Then next year, if it looks like that it going to drag, then we can pull out items next year. I think it would be helpful right now just to go through the framework items. Rather than go through them one by one, Ben, I would suggest just let people point out which ones they're interested in.

Mr. Hartig: Would you like to discuss the recreational bag limit?

Mr. Dunn: Yes, I would, thank you very much. Do we have data showing what affect the additional five has had on the Spanish take over the last couple of years from the recreational community?

Mr. Hartig: That's a good point. We'll ask Gregg if it has increased the recreational landings.

Mr. Waugh: Let me find the table in the assessment that shows Spanish mackerel landings. I think it's Table 2. It's on page 14 of the mackerel assessment, which is Attachment 1, and you can see, based on that data that we have now through the 2000-2001 fishing years, when we went from the 10 up to the 15-fish bag limit, you can see that the recreational harvest increased from 1.5 million pounds in 1999-2000 under the 10-fish bag limit.

During 2000-2001 the landings went up to 2.7 million pounds under the 15-fish bag limit. Part of the difficulty in attributing this just to the bag limit is we don't have information right here before us in terms of number of trips.

It could be that recreational trips have increased. That's something we can look at in more detail. But just from looking at this information in terms of the bag limit going up, you can see that the catch went up from 1.5 to 2.7 million pounds.

Mr. Dunn: Are there any other feelings on the panel, anything that you've heard from folks you represent or anything regarding this?

Mr. Pelosi: Yes, the fish are out there. Even with this increased bag limit, we're not getting our quota. To be able to raise the bag limit has made the mackerel fishery, especially the Spanish mackerel fishery, one of the best examples of the success in fishery management, and the people in our section of Florida are very happy with the limit where it is at.

They don't want it any higher. We now can fairly easily during the season catch our limit of 15 fish; and everybody, as I say, is very happy down there, our recreational fishermen. We're just talking about the charter and the regular recreational fishermen.

Mr. Gay: Ben, I tend to agree with Mr. Dunn. Out of my area, I've heard a lot of charter boats complaining and saying that they would like, at least in North Carolina, a boat limit. It seems like -- 15 seems like a lot to them for a charter boat with six people on board.

But yet, 15 doesn't seem like a lot for a guy going out by himself, you know, fishing. It's like there's a big thing there.

But at the same time, as I recall, one of the reasons we were so happy to be able to get it to 15 was that it didn't only help the recreational crowd out, but since it's based on -- the commercial quota is based on a certain percentage of the total allowable catch, that it also helped us to be able to raise the commercial Spanish mackerel TAC at the same time, the commercial allocation or the commercial TAC; did it not, Gregg?

And, you know, we did that somewhat in sympathy to the -- after the Florida net ban, it was one of the few things they could still target in federal waters. As I recall, there was a little more involved in it than just setting the number at 10 or 15. There were some other ramifications for not raising it.

But I do share, you know, what you're saying; and I think when the time comes, there will be more discussion on this, and we may be looking at offering something as far as a boat limit and perhaps leaving it at 15, if that's what satisfies the Florida folks and looking at some type of boat limit.

We've got different bag limits from Florida to North Carolina now on king mackerel, and I don't see why we can't do the same on Spanish mackerel.

Mr. Carmichael: I've put a table up here. The assessment panel talked about this somewhat. This table, from this column here, Florida east, Northern North Carolina, North Carolina, South Carolina, and Georgia, these columns are the recreational landings and these are the years.

I'm trying to make it as big as I can so you all can see it, but the bottom year is 2001-2002 and the next line up is 2000-2001, so those are since the 15 fish in Eastern Florida.

What we did notice in looking at this table -- which is not in the summary document, this is in the full stock assessment document -- is that total landings went up, as Gregg pointed out, for the recreational fishery.

Nearly every state did go up, say, from '99-2000 through 2000-2001 and 2001-2002, and that east coast Florida went up from the last couple of years, say, around 320 to 346,000 fish to 862,000 and 740,000 fish.

So we did kind of think, without looking at trips, certainly it looks like there is some increase in catch there due to the 15 possession limit. To really get a handle on it, which would need to be

done if this was done properly in an amendment, is to look closely at the trend in trips and also consider the trend in other states that perhaps didn't implement that regulation.

I think we do have some good information that we can put together to analyze this and show what kind of impact it has had.

Mr. Pelosi: Putting a boat limit on, I don't object to that, like 60 fish or something like. And as Jodie said, there's a difference between one guy going out and getting 15 and six guys on a charter boat getting 90, and I guess they're allowed to get their crew's limit, too, so that would be 120.

I can understand some complaints there, especially if the crew has to clean them at the end of the day. The fact is that in our Florida case there we see the big increase. The fish have stayed in state waters and they're concentrated, and the recreational anglers have been able to have access to them, where in the past we've had years when they stayed out in the federal waters, in the deep water, and recreational fishermen really didn't have much of a shot at them.

What we're seeing now is the fishery has gotten very popular and there's more people in it and there's a lot more trips, and that really explains the increases, I believe.

Mr. Wickers: We don't get very many Spanish mackerel down in the Keys, at least we don't fish for them, anyway. But, the only thing that I would say is that what I recall of the discussion, when we raised it to 15, we were doing it at the time, what I remember, was because we were saying that this was a success story.

You had this huge abundance of fish that was not being used. We've never reached either quota, commercial or recreational. It's just sitting there, and from the perspective of a fishery, from a public relations standpoint, you could now at least go to the public and say, "Hey look, this is recovered enough to which you can catch more of these fish instead of always taking fish away."

That's what I remembered. It doesn't really matter to me because we don't catch hardly any Spanish. We catch more silver mackerel in the Keys than we do Spanish mackerel because we very seldom fish for them.

But that's what I remember of the discussion. It was more of a PR deal, that you could finally go to the public and say, "Look, instead of taking something away from you, we're actually going to turn around" -- and now that it's recovered and we've got all this abundance that is not being utilized, then let's use some more of it. That's what I remember.

Mr. Hartig: What is also interesting is that it is being utilized more, which was our intent, trying to get that recreational fishery more interested and get their landings back up to a higher level, and so far the trend looks like it has done that. That's very interesting.

So, certainly, direction to staff to revisit this, and I would certainly like to hear from the public

on this issue. That sounds like definitely an amendment, one we can add to the amendment; do you think?

Mr. Waugh: And the idea would be to look at a boat limit? Look on the top of page 4; are we also looking at reducing the bag limit or just proposing, in addition to the current bag limit, a boat limit so that it would have either --

Mr. Hartig: To me, it sounds like a differential boat limit is what North Carolina is asking for as one of the options. I think we can work that into the options to take to the public.

Mr. Gay: What you get is pressure among the charter fleet. They tend to flock together where they dock; and whoever can hang the most Spanish mackerel on a nail this morning gets booked this afternoon, you know, and so now they're under pressure to put over a hundred fish on the boat in a four-hour trip, because that way they'll be the one that gets booked this afternoon.

I mean, that's basically just the way that it's working. The small boat folks, I'm not hearing that much flak one way or the other, you know, in favor or against, but I do hear -- Carl Snow, who has sat at this table in the same capacity we see here today, has had this argument for years.

He's one of the ones that -- ever since we went up, he's been saying it was the wrong thing to do. I think now the charter folks in North Carolina would like the opportunity to comment. I may be wrong, they may come out dead against it, but I think we should put it up as an option to be discussed.

Mr. Davis: Bill, I would like to suggest there's a new use for these Spanish mackerel. One, I see that it's being used now to introduce new people into the trawling fish aspect of life. In our area, we found out that the jetties are very close to small boats.

I'm finding out there's young people, five, six, seven years of age, being taken out there by their dads and trolled around catching Spanish mackerel and really enjoying it. It's a real introduction to fishing, particularly sport fishing, to young people.

Also, with the demise of the menhaden in the area, I also find that people are going out there and picking up the Spanish mackerel and taking them offshore and using them for live bait.

But I would like to see that aspect, particularly the bag limit of 15, keep that to get these young kids out there. I think that's a wholesome and enjoyable way to introduce our sons and our grandchildren into the fishing.

Mr. Hartig: I couldn't agree with you more. We see big evidence of that happening. The access is so close to shore and a lot of times when the wind is blowing out of the northwest in the wintertime and you can't get offshore, you can take your kids and let them catch Spanish. It's a great success story and we see a lot of that happening.

Mr. Iarocci: Thank you, Mr. Chairman. I'm not a member of this committee, but I also think that the public should have an opportunity to touch on this issue, and also the charter fishery out of the middle Keys and the upper Keys, and also there are people that do target Spanish mackerel on both sides, into the Gulf and into the South Atlantic, and I think they should have the opportunity to address the bag limit also.

Mr. Hartig: The next item that someone would like to discuss that we have us or not before us?

Mr. Erickson: First, Gregg, I wanted to change a thing on the kingfish where it said the Cape area only. That was kind of a misprint, and I would just like to take that part out of it and see where it goes from there.

But the Spanish mackerel, we've been two years on the 3,500 pound and then the unlimited and we haven't caught the quota. We would like to try to move it up to November 1st -- that's the suggestion I got from a lot of the guys down south -- and see if we can catch a quota up.

The fish are there. If they'll come offshore, it can happen. My understanding earlier is it won't hurt the TAC or the MSY at all if it does get caught up. I would like to leave that in a proposal for next year and see where it goes.

Mr. Hartig: That's just moving the start date from -- what is it now, Carl?

Mr. Erickson: The unlimited from December 1st to November 1st.

Mr. Hartig: Okay, moving it 30 days ahead?

Mr. Erickson: Yes.

Mr. Hartig: We don't have to have a lot of discussion on these if you don't want to. If you want to discuss them, you can, if you've got something you want to say about them, but we'll certainly be revisiting them next year. Do you want to take a lot of time today or take it next year?

Mr. Dunn: Can I mention a new item for consideration for next year; is this the time?

Mr. Hartig: If we're finished with Carl's. I think we're finished.

Mr. Erickson: Yes, that's all.

Mr. Waugh: Carl, I think you also -- in addition to that item on the bottom of page 5 that dealt with the start date, you also were recommending the item on Page 6, Option 2 there in terms of the allowance for the shark driftnet fishery with the deletion of Cape Canaveral north only; right?

Mr. Erickson: Right. There is going to be paperwork and stuff brought from Carlson on the shark bycatch issue, and we're going to have a lot more material to bring to you next year about

that. What we're trying to do is get rid of the discards.

We're catching 15 to 20 fish. We're only allowed to keep two, and we're trying to get rid of having to discard these things. We have a lot of bycatch records to prove that's the case. But I do want to get rid of the Cape area only and just take that right out of that.

Mr. Dunn: I have a new item for consideration. This comes from several of the fellows in my area that are very serious SKA king mackerel tournament fishermen.

They do feel like the species are very healthy. They say they're catching tons of fish in the 15- to 20-pound category. Of course, the trophy fish are getting harder to come by.

One thing that they wanted to have considered is an idea of your three-fish limit, only one fish of the trophy size, and they suggested that would be over 45 inches to be of significant length and weight to be good for a tournament, to possibly be considered.

In other words, keep your three-bag limit, but only one over 45 inches killed and brought ashore. That might somehow go along with the mercury problems and other things.

Mr. Hartig: That would certainly address Louis' concerns that he has had over the last several years about that North Carolina problem that we addressed for those great big fish that are being landed there. So, yes, certainly I think that is warranted, and we'll see what the public has to say about that issue. I think that's a good one.

Mr. Ogle: Well, coming back to the one fish over 24 inches, what would be the biological basis of that limitation? The fish are healthy, there are fish out there. If you get three fish and if you happen to catch a 24 or a 47 inch, why can't you keep them both?

Mr. Hartig: One fish over 45 is what he proposed.

Mr. Ogle: Well, I'm saying what is the biological rationale for that? The stock is healthy and there is no reason to have that kind of a limit that I can see.

Dr. Daniel: Well, the stock is healthy in relationship to the BMSY, but I don't think anyone would suggest that the age structure of the population is back to the levels that it was historically.

I personally see no reason why a recreational fishermen, two or three or four in a boat, need to go out, especially during the fall of the year off North Carolina, and catch and retain several bag limits of 40-, 50-, 60-pound fish.

I mean, that's our spawning stock. That is the key component of the spawning stock. I'm not going to even mention the mercury issue, but just, to me, just a general conservation ethic would say that if you're taking that many big fish for personal consumption, I just can't believe that they're all being utilized appropriately.

I appreciate the suggestion and would like to see that taken out for comments. I think it would get a lot of support. I hope it would.

Mr. Hartig: And certainly, Tom, I think we can have your justifications written up by Gregg and look into that. Maybe we can see how much the recreational fishery has increased over time and what kind of impact they are having on the resource.

So if we have comparable numbers like John has for Spanish, I'm sure we can look at those numbers on kings, too, and see the trends in catch on the recreational fishery.

We might not have the sizes, but we're going to have some trends in catch overall, which concerns me in South Florida, quite frankly, with the number of anglers we see there. Any other options to be considered under Amendment 15 or considered next year?

Mr. Pelosi: I would still like to see, if the stock can handle it, that Florida have the same bag limit as the other states of three king mackerel. The argument in the past was that there weren't enough of them there.

I would like to see the mechanisms there that if a stock can handle the additional fish, that Florida be allowed three king mackerel per day to be equal with the other states.

Mr. Hartig: Certainly, we can do that. What is going to determine that in my mind is what we see as the stock assessment next year. Of course, it's going to determine a lot of what we're talking about, but we can certainly look at that.

Mr. Pelosi: I would like to see it looked at. Thank you.

Mr. Wickers: Normally I would like to wait, like you said, on something like that because I don't know whether -- because everybody says that fishing has been really good, and then actually in the Keys, well in the Key West area, our king mackerel have been off for about three years.

But it's not that -- they just haven't come within range of the boats is the problem in the charter fleet. The commercial guys, you know, they can run down 40, 50 miles to the west and they've been doing okay. But even then, you know, they seem to have to go a little further.

I would feel a lot more comfortable, before we increased any bag limits, to see what the new numbers would be because I'm not real sure whether this is just a three-year glitch or whether this is a long-term thing.

But, we have been having trouble in our area getting our quotas down there and filling our bag limit, but it could just be our area. We had a really bad red tide about three years ago, and it seems like every year since we have not had normal fishing, not up to our standards that we consider, anyway.

Mr. Hartig: Ronnie, you want to keep that size limit, looking at that size limit decrease in there, so we can look at it?

Mr. Houck: Yes. I thought the stuff that was already on the agenda would come at the next meeting. Do we need to discuss that?

Mr. Hartig: No, we don't really need to discuss that. I just wanted to make sure that you wanted to have it included in this.

Mr. Houck: I don't know if it's necessary or not.

Mr. Ogle: While you're on that, I would like to know why that's on there? I mean, what is the rationale for lowering the size limit? Isn't that what the proposal considers? Why change from 24?

Mr. Houck: Did you want to explain it, Ben?

Mr. Hartig: Yes, I'll try. The rationale was that it said in the SAFE report that less than one percent of the commercial fishery was catching fish under 24 inches. Well, when we put that regulation in effect, we actually find that's not the case.

There are significant numbers of 23-inch fish in the catch, and what we see is we have a lot of mortality associated with that smaller size fish on the gear that we catch them with, electric reels and paravanes so forth.

We got a lot of fish with dislocated turtle latches. And also we have a lot of predators in the midst of what we're fishing with barracudas and dolphins, which haze the schools we're working on, and any fish that has any sign of stress is picked off rather rapidly.

We think by decreasing the size limit we can actually have less mortality on our bag limit. We can catch our bag limit quicker and have less mortality on the fish by going to a smaller size limit. We won't kill as many fish. If we can keep a 23 or a 22-inch fish. We won't kill as many as we are now by discarding them in the process of fishing for them.

Mr. Ogle: Isn't that coming in the back door of fisheries regulations? What I recall about making the 24-inch limit was that these fish had a higher probability of spawning at least one time.

A 24-inch fish is about five pounds, and I believe that was considered to be around the threshold of spawning. Tell me if I'm incorrect about that, but a 20 inch fish hasn't spawned. That's pretty definite, so the thinking was before fish were killed and taken out of the fishery, they ought to have at least an opportunity to spawn.

Mr. Hartig: And we agree with that. It's just that we're going to end up killing more fish by

having that size limit. If you decrease it even another inch, you're going to get significant gains in the commercial.

If we have a 50- or a 75-fish trip limit and if we have to throw 25 or 30 away, they're only an inch short; otherwise, we keep that 25 or 30 and we're done fishing.

Mr. Ogle: Well, I kind of see what you're saying, but it depends on what proportion of the whole group of 20-inch fish that involves, and whether you're really better off allowing most of them to escape and have a chance to spawn.

I know we're beginning to catch a lot of fish below the 24-inch limit and we can release them, and they seem to be healthy, as far as you can tell.

I think that in a lot of cases these smaller fish are going back into the fishery and perhaps having a chance to spawn. I would like to have a lot more data about it and know what proportion you're talking about, because that's the key.

Mr. Hartig: And that's what we're going and try and do here. We're going to try and get you more data to look at. It will also include some tagging studies that were done in the Keys where they tagged, I think it was 1,300 of these fish of this size and not a single tag return came back from these fish because -- well, who knows why, but the mortality was probably very high on those fish caught with that gear in that way.

Mr. Wickers: My recollection was like he had said, was to give them a chance to spawn once. And the other thing is that I know, in our area, anyway, usually most of the fish run in schools that are pretty close in the same size.

Another thing would be that if you got into an area where you were catching an awful lot of small fish, you could maybe look for a school that runs larger.

I mean, that's the same way with the dolphin. That was one of the ideas with the dolphin size limit, was to stop these people from just sitting there and hammering the small undersized fish that haven't matured yet. But that was my recollection of it.

Mr. Hartig: And, certainly, we'll have more discussion next year on this item. It seemed a reasonable way for us to try and reduce mortality in the long term in the actions of the way we catch those fish. So we'll see; we'll look at it. Any other additions? Is it the intent of the committee to go ahead and look at everything we have?

Mr. Gay: It's just a real quick addition to that. I'm not sure if it has to be done under the framework or a plan amendment. I should by now, as many times as I've wanted to discuss it, but make sure the change of the start of the fishing year is open as an option for discussion next year.

Mr. Hartig: That's included in this suite of options, if I'm not mistaken.

Mr. Waugh: It's included in what we'll get to in a few minutes. We've already got some items in the options paper for Amendment 15, and the first one I think on our list is changing that start date, changing it to begin March 1 rather than April 1.

Mr. Hartig: I'm not hearing anything else; we'll move right along.

Mr. Waugh: We need to let the committee take action on the framework recommendation you all provided; and then after that, what we'll do is jump over to Amendment 15 options paper.

Mr. Hartig: So we turn that back over to George.

Mr. Geiger: Thank you, Ben and AP members. I'll open it up to the committee for discussion of the framework recommendation from the AP. Do I need to read it for the committee members, those that are here? I open it up for discussion. We've opened up the AP recommendation, Louis, to discussion by the Mackerel Committee.

Mr. Cupka: I was just going to make a motion that we adopt the same approach. I think that's what Louis was intending to do.

Dr. Daniel: Second.

Mr. Geiger: Any discussion? Hearing none, I see it's unanimous, and I guess our committee motion will mirror the AP motion to advise the council to defer framework action on mackerel (2003-2004 fishing regulations remain as status quo.).

Any other discussion concerning the framework or potential framework actions that were identified this year to be included in Amendment 15 to be addressed next year? Any additional items?

Mr. Waugh: What I would suggest we do is jump over to --

Mr. Geiger: Before we move on, Louis.

Dr. Daniel: I think Gregg was getting ready to suggest what I was going to ask, and that was if we were going to go to Amendment 15 items.

Mr. Geiger: Yes.

Mr. Waugh: And what we've got behind Attachment 6, you've got two items. You've got a Gulf scoping document and you've got our options paper. We need to go through both of these. I would suggest that we go through our options paper first, and these are items that have been recommended that be included.

We've taken action on these in the past. I don't know that we need to go through each and every one of them. We certainly can, but I know some members of the committee have some additional items that they wanted to discuss.

And, again, since we're just giving sort of direction to staff, I don't know that we need to go through and have motions by the committee. It's just consensus would be good; and as we're doing this, we could have the AP offer their comments as well.

Our intent would be to go through our list, go through the Gulf scoping document, and then we would work together with their staff to produce a scoping document with all of these alternatives in them.

Mr. Geiger: All right, I guess what we'll do is, based on advice from Gregg -- he's always ready with advice -- to open it up to a joint committee/AP discussion on an item-by-item basis, if you choose. We can take them in order or you can skip around, however you feel comfortable, if you have a particular item you want to go to or anything new.

Mr. Wickers: Yes, I have a question on the date. Why wouldn't you go to a January date?

Mr. Geiger: You're talking about the date of the amendment itself?

Mr. Wickers: Yes, it says changes to the fishing year. Why wouldn't you just go to a January -- aren't most of your fisheries on a January through December fishery? Wouldn't that make it more simple?

Mr. Waugh: I know Jodie can add to this, too, but the concern here, if you remember, is what we're doing is counting fish towards a quota, and you've got a slightly different season in North Carolina versus down in Florida.

If we were to start January 1, it would provide the opportunity for a good portion of the quota to be caught in North Carolina before the fish start showing up and being caught in Florida.

The idea for moving it back one month from April 1 to March 1 is to give the fishermen in North Carolina an opportunity to harvest some of those fish in March when we've got other fisheries closed. I think Jodie wanted to elaborate on that some as well.

Mr. Gay: You have a confused look on your face, Bill. What it is, the east coast of Florida is fishing on the Gulf quota in March and I think January as well.

January 1 would suit me fine, don't get me wrong, but I would expect it to cause some heartburn with Ben and some of the guys down this way perhaps. If we got to getting into low TAC's and looking at -- of course, if we don't have low TAC's, it doesn't matter if we change the fishing year.

But, I think especially in light of what we've seen with the assessment this year, it brings a new urgency, in my mind at least, to look at this again.

It's not only do we have a gag closure, a red porgy closure and that type of thing in March already, it's also the Lenten period when the fish are generally — it didn't hold true this year necessarily, but generally the fish are worth more that time of year. You know, the prices will be higher during Lent than any other time of year.

I just want to make sure that we utilize those fish. The offshore fishermen in North Carolina have pretty much two choices to fish for that time of year, unless they're real long term and stay out forever and get killed in great big boats.

They can fish for gag grouper and red porgy, or they can fish for king mackerel, and we need something to make the March boat payment on. And the gag and the red porgy are already closed, and we're also looking, I think, with the snapper grouper stuff of some other stuff, being closed as well that time of year.

That may even force the big boats to not be able to -- that want to die -- but it's basically to get more money for the fish. Like I said, I would not have any objection to a January 1 start date.

I agree with you, it's simpler, but that will give us a three- month head start, I believe, in North Carolina that we would be fishing on the Atlantic quota that Florida would not be.

Mr. Wickers: The only thing that to me doesn't follow is because the commercial quota, to my knowledge, on the Atlantic has never been filled; correct?

Mr. Gay: But it has.

Mr. Wickers: Oh, it has?

Mr. Gay: Yes, and that was something we were really looking down the barrel on I think when we walked in here today if we accept, you know, what they had proposed as MSY. We were almost certainly looking at a closure again.

Mr. Pelosi: Remembering way back when when we set the starting season was the king mackerel were overfished at the time in both the Atlantic and the Gulf, and they chose the April 1st date because that was usually the date when they considered that the Gulf fish went back into the Gulf, and we would only be counting the Atlantic fish.

And if a closure came, it would come during usually February or March when stocks of fish were in the South Florida area; and since they were already overfished on both sides, a closure would take place at that time.

So that's what the history was of why April 1st was the start of the season. So keep that in mind if that has any bearing on the management, and if you wanted to change it.

Mr. Geiger: Isn't institutional memory grand. You must be taking your gingko boloba.

Dr. Daniel: Well, that's the nice thing about the situation we find ourselves in now. We're not overfishing and we're not overfished. And as Jodie said, I mean, my main intent in getting this in here was, first, the assumption that we're going to have a TAC.

I think that's a discussion point. And, secondly, the issues particularly in North Carolina and the problems that we're having and the potential increase in those problems with Amendment 13B to the snapper grouper plan coming, it just has the potential to be very costly, particularly to North Carolina and South Carolina. And so by getting that back -- I'm like Jodie, I would just as soon have it in January, too, but that would create problems.

I don't think March 1st would create a problem for the Florida guys, but it would certainly relieve a lot of stress for the North Carolina guys. Again, that's assuming that we're going to have a TAC, which if not, that would make this moot.

Mr. Geiger: I don't want to force anything in here, but there's some boundary issues. Do we need to go page by page?

Mr. Wickers: Well, that was what my question was. We're discussing about what an effect of a January would be, but if we go to this boundary change, you're talking about, I assume, moving the boundary from Volusia County all the way down to the Tortugas. I mean, I don't know how that will affect --

Mr. Waugh: That would have an affect on what the ABC, the MSY, and where we might set TAC, but it would still have that issue of when you start counting fish towards a quota, a differential impact in states to the north versus the south, so that issue would remain.

The idea of fixing that boundary is to not have regulations changed. What will happen is we would still have to build in a mechanism for accounting for fish in that mixing zone.

So whatever the best available science indicates they are -- if it's 50/50, then in the winter now, when that boundary seasonally shifts up there, during that time period half the fish would be counted towards a Gulf quota and half the fish would be counted towards the Atlantic quota.

So, we're still recognizing that there is this mixing zone. We would just have a fixed boundary for management regulations, and setting TAC and so forth would be done separately within each council area.

But the accounting of the fish during that mixing zone would still have to be done; and whatever the mixing rate is, those fish would be partitioned, either to the Atlantic and Gulf quotas.

So in my mind, the boundary issue doesn't affect your start date. As long as you have a quota, then you still have that issue with the start date.

Mr. Geiger: Well, we've got some other issues here. We've got the fishing year taken care of. Changes to the framework?

Mr. Waugh: I think here there are a couple of issues. One, Option 4 -- and this is on page 2 -- Option 4 gets to this issue of where we are limited to 10 percent above the best point estimate. This option would make it that the TAC is limited by the top end of the MSY range.

We've also got this issue of timing for assessments. The way it's set up now is in even years we're supposed to get a full assessment and in odd years a mini-assessment. Option 2 would have some change based on what was in the 2002 Mackerel Panel Report, and I'll have to look and see what was in there.

But, I think also there was some discussion about maybe going to a three-year period where we have an assessment done -- for instance, if it's done completely next year, then we wouldn't have another assessment and wouldn't meet to set quotas and so forth for another three years. So if that's something that's of interest, we need to add it into this process.

Dr. Crabtree: I think we ought to look at that. These stocks are in good shape, it looks like to me. I think with Gulf king mackerel, we probably need to stay on the cycle we're on now, but with Atlantic king and with Spanish mackerel, I think going to a three-year assessment cycle makes a lot of sense.

I think instead of going with something on the order of Option 4, we could look at some control rule options, which you could essentially take the status of the stock as comes out of the assessment and determine what your optimum yield would be and those kinds of things.

I think it's worth really taking a hard look at the framework with the notion that these stocks have recovered and they're in good shape.

If we can take steps now to simplify and streamline this process and to provide some more stability to the fishery so that we don't have to go through these worries about changing TAC from year to year, I think there would be a lot of benefits from doing that. I would suggest we explore a range of alternatives of different ways to look at these in the framework.

Mr. Hartig: And it would certainly free up some of our stock assessment people's time. We don't have to be doing assessments if we don't have to be doing them, and I think you're exactly right, Roy, in what you just said.

Dr. Crabtree: And that's a good point. We've got a lot of stocks where we do have problems, and we know we do, and I would like to see our attention focusing on that.

Mr. Hartig: So would I.

Mr. Waugh: The boundary issue, this is what we had talked about before, and these are the options we would be looking at. We would have this laid out in a lot more detail, as well as the scientific information, looking at what the current mixing rates are, but these are varying percentages based on scientific work that has been done thus far.

Mr. Wickers: Basically under the new science, you're saying that -- in other words, Option 2 was the original mix; is that correct?

Mr. Waugh: If you look on page 7 is where we talk about the percent composition, and Option 1 was the original decision and what is currently in place. When we did that, we knew all those fish were not Gulf fish.

At that time, based on tagging data, 60 percent of those fish were Gulf fish and 40 percent were Atlantic fish. It was a conscious decision on behalf of the South Atlantic Council to count all of those fish as Gulf fish to help rebuild the overfished Gulf king mackerel stock.

There was never evidence that all those fish were Gulf fish. Even back when it was originally done, the highest percentage was 60 percent, and you can see how that has changed over time to where some of the more recent information has shown even a hundred percent of them are Atlantic group.

I think part of the confounding issue here is depending on stock status of the Gulf kings, when they're more abundant, they come around in greater numbers in that mixing zone. So, this percentage is going to shift over time as the stock status shifts, and this has been seen with other migratory groups of fish as well.

It's something that we're going to have to adjust periodically as well. It may be something that is folded into that three- year stock assessment where each three years you look at what was the mixing rate and then use that for the next three years until you get an update at the next assessment.

Mr. Wickers: So the latest data then is either 11 percent is Gulf and 89 percent is -- or is it a hundred percent?

Mr. Geiger: Well, correct me if I'm wrong, Gregg, but there is a chemical analysis of otoliths underway currently that will be available for --

Mr. Waugh: That is correct, there is work that is ongoing now. The results should be completed some time later this year. So when we look at this next year, we'll have more recent information on what the mixing rate is.

Mr. Wickers: Well, I mean, because what I'm asking is because Option 3 and Option 4, it says they're both supported by the same information and I was wondering how you --

Mr. Waugh: They're two different studies.

Mr. Wickers: Two different studies?

Mr. Waugh: Yes.

Mr. Wickers: See, years ago when you all first set this thing up, I had contended that the fish come down both coasts, but they don't come across.

In other words, we've always thought that the fish that we catch on the Atlantic side were an Atlantic stock, and they just traveled down the Atlantic coast during the winter; and the colder the winter, the more they come down.

The fish that come in the Gulf, I don't know whether they come across the Gulf or what, but they usually don't go around and come up the other side.

They just stay on the Gulf side and we catch them -- you know, we don't do that much fishing on the Gulf side. That's been our contention all along, that these are Atlantic fish, and I guess your statistics or your science is backing that up now. Because years ago when they first did this division, we didn't think that was correct.

Mr. Waugh: It's showing that they're definitely -- they're not all Gulf fish, but they're showing -- based on the tagging information, there is evidence that at times there are Gulf fish on the east coast. The information is not showing that they're all a hundred percent Atlantic either. There's some mixing going on.

Mr. Wickers: But what I'm reading here is I guess the most recent study is either a hundred or 11 percent. There's been no others since or is there one more?

Mr. Waugh: These don't include the ongoing work now. The two most recent studies have it somewhere between zero and 11 percent being Gulf, and that was current as of two years ago when we looked at it. The study that is ongoing now will update what the most recent level of mixing is.

Next, if you want, is over on page 9. This occurred both in our options paper and the Gulf's, this issue of sale of recreationally caught fish. We just mention king and Spanish here. The Gulf has it in more detail.

Removing dolphin from the Coastal Migratory Pelagics Management Unit, that's something we have to do on the Atlantic side. That's also in their list of items.

And then the final items on page 9 there are to add some species to the management unit, and then we can look at what the Gulf has in their scoping document as well.

Mr. Geiger: Excuse me, Louis, do you want to talk to that issue concerning Atlantic bonita and blackfin tuna.

Dr. Daniel: Sure, as long as I'm not asked to spell the scientific name again. These are two species that currently are afforded no protection.

In my work with the HMS issues, blackfin tuna aren't included in the highly migratory species. Neither are Atlantic bonita included in either highly migratory species or in the coastal migratory pelagics plan.

One thing I know is that at least in certain times off North Carolina, and I know off of South Carolina and certainly off of Florida, blackfin tuna are a very important component of the fishery, and Georgia, and as well as Atlantic bonita are becoming much more prolific in the catches, particularly in the recreational catches off of North Carolina and South Carolina, as well as the commercial catches, and right now they're afforded no protection at all.

My fear is just from the standpoint that unless we rely on the individual states to take action, which could be inconsistent, and they are primarily a federal species or a federal water species, or in most instances are, that it would behoove us to get those into the management unit because they do fit into the coastal migratory pelagics very nicely. They are both very important resources that I think need to have some level of protection.

Mr. Wickers: I needed to ask a question on the same page 9, about the sale of the recreational fish because that's a big issue with us in the Keys with the charter boat fishery. Is this something that you're asking to put in the amendment?

Mr. Waugh: Yes, we've had a suggestion that be included. And also, if you look at the Gulf's document, their scoping document that is listed as Attachment 6B, on page 2 they have got prohibition of sale of coastal migratory pelagics.

They've got prohibit the sale of recreationally caught fish that are managed under the coastal migratory pelagics FMP, so they're expanding it to all species in the coastal migratory pelagics FMP.

Mr. Wickers: In the past this council has not prohibited sale in the EEZ. In the state of Florida, this issue just came up back in, I believe it was August or something like that, this last year, and the state of Florida did not prohibit sale by a 7-2 vote on their committee. Mr. Crabtree would probably remember. Was it May or I can't remember exactly -- it was August, wasn't it?

Dr. Crabtree: I don't remember exactly, Bill, but it did come up.

Mr. Wickers: It was somewhere around August or September, but, anyway, this was discussed again for the fourth or fifth time before the council since about 1985 or '86, and the state still said it was a state issue. It's a very important issue to us in the Keys.

It may not be an issue in a lot of other areas. I know Ms. Shipman is usually -- she says in Georgia they sell a lot of fish off the charter boats, but it's extremely important to the charter boats in the Keys.

The other thing is it doesn't make a lot of sense. It's not a biological thing because you're not even filling the quotas as it is, so it's not like we're catching -- you know, the small amount of fish that we sell.

The other thing is the data that you all have is old data. It's from 1996 that the Gulf has put in here. There is virtually no after-quota sale now because the quota runs right into March, and in the last couple of years sometimes they don't even catch their quota.

So it just seems like -- you know, the Keys is a very, very difficult place to make a living. We have people moving out all the time because of the cost of living down there, and every little bit hurts, and this is something that the charter boat crews are dependent on that basically over the years has become part of our business. We are in a different situation than a lot of areas.

In the winter months, we get a lot of people that actually fly into the Keys, and they have no interest in taking these fish home and they leave them with the crews, just like tips, and we end up -- we all have licenses.

You have to have state licenses and you have to have federal licenses, and we've got all the licenses you have to have. So a lot of these fish -- and so we take them to the markets. They're not our fish, but, I mean, if the customers don't want them, they leave them with the crews.

The crews take them and sell them to the fish market, and that's been going on for 50 years. I can speak on behalf of the Islamorada Charter Boat Association. too, because they're in the same situation.

They've come before this group many, many times. I don't know where to go on that other than I would like to see this taken out, if that's possible.

Mr. Waugh: Well, that's certainly up to the committee. It's in for the Gulf as well, and they have asked the South Atlantic Council to consider this action for the Atlantic as well.

Mr. Ogle: I would like to go back to the other item about bringing Atlantic bonita and blackfin tuna into the coastal pelagic. I think it's a perfect match and would support that. I believe I read in one of these documents that little tunny is already considered part of this complex, and so it makes perfect sense to bring these other two. Thank you.

Mr. Geiger: Going back to Bill's concern, do we have any committee members who want to address the concerns with recreationally sold kingfish in the Keys?

Dr. Daniel: Well, we sort of addressed that issue in the dolphin plan, and I personally would rather wait to do anything like that on king mackerel until we at least get some kind of feel for how it's going to work with dolphin.

I mean, dolphin is going to be a big test case for us. And then we get into this discussion at just about every FMP, the recreational sale issue, and I just am fearful of moving forward with another big species like king mackerel, as critical as king mackerel is, until we get at least some feel for how it's going to work with dolphin.

Dr. Crabtree: Well, I would like to see some consistency in how we're going to handle this and how the Gulf Council is going to handle this, because I think we're going to get in some awkward situations, particularly down in the Keys.

I don't know where the Gulf Council is going to go with this, but since they're looking at it, I think my preference would be that we go ahead and try to deal with this. I would like to see some options remain in the document.

Mr. Dunn: When does a fish change from recreational to commercial? It was a recreational trip, I guess, but if the boat and the crew have the proper licenses and the fish are given to them, would it not then become commercial rather than a recreational sale?

Dr. Crabtree: Typically, the way that's handled, in plans where it's addressed, is if the fish was caught under the recreational bag limit, then it's a recreationally caught fish. At least in the Gulf Council's plans for reef fish at least, there are specific prohibitions against the sale of fish caught under the recreational bag limit. We don't have comparable type things in the coastal migratory pelagics plan.

Dr. Daniel: It's like if a charter boat out of North Carolina goes out and they catch — their six pack catches their three- fish bag limit. Those captains, when they leave the dock, they're on a recreational trip; and so when they bring those fish to the hill, they are recreationally caught fish.

Now recall that a person with a charter or headboat license can go out with just three people on board and make a commercial trip and become a commercial vessel. Then they fall under the 3,500 pound trip limit.

It's similar to the issue with dolphin, and what we did with dolphin was is we said that we only prohibited recreational sale for recreational anglers and excluded the charter/headboat folks for the reasons that Bill explained, that has historically been a tip.

It's part of their business, it's part of their income is being able to sell those fish that people don't want to cart off after a trip. You'll hear arguments, well, release them, then, but that just doesn't

happen and is not realistic.

So that's kind of where we are. I don't personally think we have to do what the Gulf does. I understand the concerns if the Gulf does it, but I don't want that to dictate what we do.

But if we are going to keep some of this stuff in the document, what I would like to see is some options similar to what we did for dolphin.

Mr. Wickers: What Louis is talking about, when they did the dolphin, because this was discussed at, gosh, I don't even know how many hearings, I forget, there is so many, but I think it was if you had all the proper state and federal licenses, the charter was an exception made, because we all have to have the licenses.

You know, we've always had the licenses. The other problem that you have is if you have all of these licenses, unless you've got a million marine patrol, who is going to determine when you get to a fish house whether you caught them under charter or you went out on your day off.

So you've got a real dilemma there, and we're not talking about a tremendous amount of fish here. It means a lot to the people in the Keys. And I don't know, there's probably other areas, too, that don't come here and talk about it. I've been talking about it since the late '80's, and you're probably tired of hearing me.

Mr. Geiger: Bill, could you be a little more specific in regard to the licenses that you have?

Mr. Wickers: We have to have a Florida saltwater products license with a restricted species endorsement. We have to have the charter boat -- what do you call it -- the headboat/charter boat South Atlantic license.

We have to have the headboat/charter boat license from the Gulf, and now we have to have the restricted Gulf licenses where you have the limited entry charter out there.

A lot of the boats, the majority of the boats also have the commercial kingfish license so that -- a lot of things that you all try to do is that you try to put everything in a little box; and a lot of times when you get into fisheries, we don't all fit in a box.

Years ago we had a Cuban missile crisis, and I can remember you couldn't have found a tourist in Key West if you would have given them a free room. So, my dad had to go commercial fishing every day just to make sure we could eat, and he was a charter fisherman, mostly.

But, I mean, things change so that -- people in the Keys always try to cover all the angles. I know people that do the stone crabs, they do lobster, they catch kingfish. You know, they do whatever it takes to make a living because they have to.

It's the same way in the charter business. You know, the tourist business some days is good.

Like the last two years hasn't been that great. Some of the times I have to commercial fish, so it's kind of a mixed thing.

You can't put us in a bag. We're in that area, I guess, that I would consider a gray area. Yes, we take out people that recreationally fish, but do you think that I honestly would go out and recreationally fish two hundred and some days a year? No, I would not.

But, that's the charter business, and we are in a situation, especially in the Keys, where most of these people fly down or come down and they're just down there to have a good time.

Sometimes they'll tell you, oh, yes, we want our catch, then you get to the dock and all of a sudden oh, it's hot. and I'm going to go home and I'm going to go to happy hour. Then what do you do with the catch? You know what I mean?

You've got all kinds of situations where it means a lot to the crew. It's not like we're there saying, oh, you've got to leave us the fish. Most of the people down there -- I would say 75 percent of the people we take out, they could care less about their fish.

You know, they just like to go out and have a good time and they give them to the crew for tips. As a result, we've made sure over the years that we have all the licenses required by law to be able to sell them.

We're not talking tons or tons of fish because we're all restricted by bag limits. It's just that we would like to be able to whatever they leave us, you know, sell that one or two per person.

Dr. Crabtree: It gets complicated when you deal with the charter boat fishery, but there are issues beyond that. The current coastal migratory pelagics permits, the king mackerel/ Spanish mackerel permits are permits to exceed the recreational bag limits, but they're not required to sell these fish. So if you're in Florida, if you have a saltwater products license, you can catch the recreational bag limit and bring them in and sell them.

So one of the things we could look at is also requiring that you have to have these federal permits in order to sell; and then assuming the state of Florida would enact a comparable regulation in state waters, which they have done for snapper grouper permits and for reef fish permits, that would preclude some of this, and then the council could deal with the issue with charter boat permits.

And if you want to look at something along the lines of what you've done in the dolphin/wahoo plan, you could do that. But there are some loopholes here and that's part of what has come up at the Gulf Council meetings in terms of the discussions and try to address some of those.

Mr. Geiger: What you're addressing I think is in Action 2, on page 2, under Action 2 in the Gulf that said Attachment 6B, Gulf Scoping Document, scoping options -- Page 2, Action 2 in bold print under B.

Dr. Crabtree: Yes, I think those do address some of those issues, and that's what the Gulf Council is looking at.

Mr. Geiger: So the Gulf Council, as I look at this Action 2 then, is they're looking at A, B, and C. They are not individual options to be chosen from, but they're considering the possibility of each and all of them.

Dr. Crabtree: Well, I'm not sure. I mean, it's early in the development of this, and so I'm not sure how they're going to want to look at these. I know they have concerns, number one, with just the sale of recreationally caught fish; and by that I mean fish caught under the recreational bag limit.

Two, they have concerns that are addressed under Action 2B here, which is changing the federal permitting requirement to include that you have to have it in order to sell.

Then there was also the issue with cobia, which they're looking at. Now, how they're going to end up going with these, I think it would be premature to make a judgment to that.

Mr. Geiger: Well, I've heard two comments basically from the committee, the intent that we leave that recommendation in our scoping document for 15, and we'll --

Dr. Crabtree: And one of the things along the lines of addressing this issue, Gregg, that I think needs to be in there would be to mirror what the Gulf Council is looking at in terms of including a provision that you have to have the federal permits in order to sell.

I mean, depending on what you want to do with charter boats, as Bill said, a lot of charter boats already have the federal permits, so it wouldn't affect them necessarily.

Now, you can go ahead and look at the whole issue of fish caught under the recreational bag limits as well, but there is that loophole in the permit that I think we need to address.

Mr. Geiger: Gregg, do you want to continue on through the Gulf document?

Mr. Waugh: Okay. The first item is adding species to the management unit, similar to what we're doing, and I think we've already addressed that as far as species we're interested in.

Mr. Hartig: And this follows right up on what Roy was discussing. I mean, we have one other action that we wanted to see in Amendment 15, and that was the permit moratorium on Spanish mackerel.

We would like to see that set up, and it addresses certainly some of what Roy had to say about requiring the federal permit to be able to sell those fish.

Mr. Waugh: So the idea is to build in an option to cap the permit numbers where they put a

moratorium in place on Spanish mackerel permits?

Mr. Hartig: Right, no more additional permits.

Mr. Waugh: Commercial?

Mr. Hartig: Commercial.

Ms. Smit-Brunello: Ben, to that point -- and I guess I'm going to jump ahead -- if you look at page 6, it's in the Gulf document, they bring up the fact that the moratorium on king mackerel permits is going to expire October 15th, 2005.

So, it's good to start thinking now about how you want to address that, and maybe you want to do something in combination, I don't know. I don't know that another -- we'll have to discuss it or I'll discuss it with other NOAA GC folks, but there has been a permit moratorium on king mackerel, and I think it's been extended once. I'll have to check on that.

I don't know that you're going to get another permit moratorium extension in there. I think that it's time for probably the council to start thinking about whether they want to go to a limited access kind of system. Otherwise, it will revert -- you know, if it expires, you revert back to open access.

So you all ought to think about that and then all the limited access components. It's really done under the Magnuson Act to achieve optimum yield, and there's a number of factors you have to consider, present participation, past participation, and other things. So, maybe you want to put Spanish in there to go limited access, I don't know. It's something for you all to think about, anyway.

Dr. Crabtree: Yes, it's an October 15, 2005, expiration date, and, believe me, it's not too soon for us to start working on that because we don't want to end up in another situation.

At the last Gulf Council meeting, what we talked about was establishing a coastal migratory pelagics permit that would then have a king mackerel endorsement, Spanish mackerel endorsement, and they were talking about a cobia endorsement, and then the determination of -- I think Monica is probably right.

Rather than just continue with the moratorium, we need to address what we're going to do in terms of qualifiers, effort limitation, and we could make some decision.

I think we need to work closely with Gulf Council on this because one of the things I think that we need to do in the southeast is to get some more consistency in our permitting requirements.

It's particularly a problem in Florida and down in South Florida, and so from my view if we

could come up with some consistency in terms of the permitting requirements, I think it would be easier on the fishermen, and it would save a lot of time and wear in terms of us in terms of permitting and all. But, we definitely need to start thinking about what we're going to do and moving forward on that.

Dr. Daniel: Two questions. First, Gregg, we've got a sunset too, right? When is our sunset?

Mr. Waugh: It's the same one.

Dr. Daniel: The same one. Secondly, I'm concerned about limited entry on Spanish mackerel, at least for the entire South Atlantic, because that gives the fishermen, at least in North Carolina and South Carolina, I know a lot of flexibility, and I know that there have been a lot of people lately that have been getting Spanish mackerel permits in North Carolina at least, at my recommendation, because I felt like they needed to have them to be fishing in the EEZ.

But every fishery in the state of North Carolina in state waters, it encounters Spanish mackerel. We do not require them to have a Spanish mackerel permit in state waters because we would have ten thousand permit holders.

But we do need that flexibility that's afforded a healthy resource that's under quota. I understand perhaps the reason for going limited entry in Florida, but I would oppose it for North Carolina. I just ask people to be thinking about that. I mean, we get into limited entry flippantly sometimes and that concerns me.

Mr. Waugh: If we could turn back to our list of options on the top of page 4, I think one area we need some guidance on -- it's tied in with the heading boundary issues between Atlantic and Gulf migratory groups of king mackerel.

But if you read that first bold bullet, what we were instructed to do was to begin the development of a separate FMP to manage Atlantic migratory group king and Spanish mackerel, cobia, sero mackerel, little tunny within the South Atlantic Council's area of jurisdiction, except that the boundary for Spanish mackerel was to remain the same; that is, the Dade/Monroe county line on the Florida east coast.

I think some discussion and guidance from the committee would be helpful here. How do we go about this? In essence, what we're doing is separating and making our divorce between the two councils permanent, and developing our own coastal migratory pelagics plan, which would have the boundary for all the species except Spanish mackerel be the council's boundary.

Then we would manage in the Atlantic separate from the Gulf with the only issue then being periodically is to set that mixing rate on how we account for fish in that mixing zone. I think some discussion and guidance to staff on how we proceed with this would be helpful.

Dr. Daniel: I mean, half jokingly I said rapidly proceed, but I don't like being tied into the Gulf

decisions and having to go through their documents every time we get together and do this. I think there is enough separation between the groups that moving forward with this option is a good one.

I think Gregg has been doing this a long time. I think he knows exactly what we need to do in order to move forward with this. I think the way he's got it set up is adequate and appropriate.

I encourage us to move forward as rapidly as we can to make this one of the primary issues of Amendment 15, because there's a lot of differences between the Gulf and the way they manage their stuff and the way we manage our stuff, and I think we need that solidarity to manage the Atlantic group.

Mr. Waugh: There are a couple of other items in the Gulf list on page 4, modifying the management for cobia in terms of size limits, bag limits. If, indeed, we're separating our FMP from theirs, then we can set those limits where we want to.

Item 5 is the standardized bycatch reporting methodology. We had some discussions on snapper grouper this morning where there is a data collection module from the ACCSP, the Atlantic Coast Cooperative Statistics Program, that lays out a methodology.

That would be consistent with the Gulf program as well, because those two have been tracking fairly well. And then Action 6 is something that is specific to their Gulf king mackerel eastern zone. Action 7 is where we get into separating groups for cobia. Action 8, well, we talked about 8 and 9 just now.

So, to me, I think based on the direction that Louis outlined, we would have some discussions with the regional office and with NOAA GC on exactly how to proceed; because, if we are separating the two FMP's, then we don't need to be approving all the specific measures that they want to do in the Gulf and vice versa.

So I think some of the details, we'll have some discussions amongst the staffs and figure out how to proceed. But, to me, as outlined, the sort of first step would be separating these plans along the council boundary for all species except Atlantic Spanish, and then we would proceed from there which measures we were interested in separate from the ones they were.

Dr. Crabtree: Yes, we can look at that. Just a couple of concerns. One, if we're going to do that and split this into separate plans, there's going to have to be a rationale for why we need to take that action, so we need to be aware of that.

Two, we probably have sufficient evidence to indicate that the stocks are assessed separately and those types of things. One of the concerns I have, though, is that I believe in many respects our management has gotten too complicated, and particularly with regard to permits it has gotten too complicated.

One of the consequences of a split that I would not like to see would be a new requirement that we have a Gulf king mackerel permit and a South Atlantic king mackerel permit, Gulf Spanish mackerel permit and South Atlantic.

Now we have a single king mackerel permit and a single Spanish mackerel permit, and so I would like to see us give some consideration as to whether we could continue to recognize a single permit that would allow you to fish throughout the region.

A lot of these guys, particularly down in Bill's area, move back and forth, and I've had I can't tell you how many fishermen complain about, well, I've got to have a Gulf reef fish permit on this side; and if I go over here, I've got to have a South Atlantic snapper grouper permit.

I just wouldn't want to see a consequence of a split like this to be a whole new set of permitting requirements and make this more complicated, because I think where we need to get with all this is to simplify things to the extent that we can.

Mr. Geiger: I think your point is well taken, Roy.

Mr. Cupka: I agree with what Roy said, and it would be nice to somehow recognize each other's permits, as long as it was just strictly whether or not they had a permit and there weren't any other requirements, differing requirements attached on to it. It might get a little dicey there if it's just strictly a permit to fish.

Dr. Crabtree: Well, I think it does get a little dicey in the case of king mackerel where we're talking limited entry; and if we're going to both recognize the same permit, we're going to have the same permitting requirements, which we do have now.

But I think that's one of the things we've got to take into account as we're looking at the rationale behind is this a good idea to split these things, and so I just want to raise that.

Dr. Daniel: But what I'm hearing and what I've heard the last few minutes is we need to consider recreational sale, which we might not really want to consider in the South Atlantic. We're talking about possibly limiting entry on Spanish mackerel, and we might not really want to do it, just to make the permitting easier.

That's where I'm coming from from the separation-type thing. I mean, I understand the need to simplify things. I think that there are a lot of places -- and Roy brought up one point in the back of the room that I think would tremendously simplify this plan.

But, I don't like being tied into what they're doing for simplicity's sake and have it affect the South Atlantic to simply comply with what the Gulf is doing, and I'm sure they feel the same way. I'm tired of we're being dictated what we need to have in our plan based on what they want. I don't like that.

Dr. Crabtree: Well, I'm just not aware of a circumstance where you've been dictated to by the Gulf Council, not at least in the time I've been here; and while you each review the other's plans, I haven't seen – I mean, I guess I need to be convinced that is creating a problem.

Dr. Daniel: Well, I would just go back to the years that we've dealt with mackerel and we've dealt with these plans, and I know the frustration level that we've had in trying to deal with these.

I can't think of a specific instance right now, but I know at least the first four years when we were really dealing with this every year, it was a frustrating exercise trying to get our framework actions in and their framework and get them to approve our framework and vice versa.

I know staff had a real difficult time working with it when we were actively involved in doing it. Now we haven't had to do it in a couple of years, so the problems haven't really surfaced as they are now, but I think as we move forward with this particularly, and we're going to have to justify it, moving forward with actions that aren't our own is going to make it difficult.

I'm sure that we can look in the minutes and we could bring up -- we could document some of those issues and that may be something reasonable for us to look at, Gregg. If we're looking at the justification for the split, I think the minutes of some of our meetings would pretty adequately address some of those issues, particularly the '99 St. Augustine meeting.

Mr. Mahood: I just get this warm feeling that we need to have a joint mackerel committee meeting with the Gulf Council and get back to the good old days of mackerel management.

I think we're really in the early stages of this. I think this is a scoping document we're looking at, so anything and everything should be considered. I think it's wide open.

Another facet to this is that our mackerel regulations are fairly complex in some areas that they probably don't need to be so complex anymore.

One of the things the Law Enforcement Committee is going to look at -- we've been talking about it, but I think we're going to have a meeting sometime later this summer -- is to look at the mackerel regulations and how we can get -- not just mackerel, but a number of regulations and how we can get in there and simplify especially some of the landing regulations we have relative to Spanish mackerel and that type of thing, to get in there and try to clean some of these up.

I just wanted to point out, I mean, this is the time anything goes in this scoping document. We shouldn't reject anything at this point.

Mr. Wickers: He may have just answered my question because I was going to ask whether we needed to really leave the recreational thing in because I've heard comments that -- I would say that just going through this -- and Dr. Crabtree was the executive director -- the state of Florida basically said to the Gulf Council the same thing Louis just said.

They didn't want to be dictated to by the Gulf Council. They liked the status quo and they didn't want to spend their time or their resources on an issue they had already voted on five times since 1983.

That's why I don't understand why we have to continually have to bring up the same issue. Basically that's what I recall the commission in Florida saying, and he was standing there and listening to it. I don't know why we have to go through this all over again.

Mr. Davis: Maybe this can be resolved fairly simply. I know that when you're in the south nobody wants to hear what they do up north, but when you take a look on what goes on up north when you get into New York, New Jersey, Connecticut, Delaware, and Maryland, these states are so close together, that all the boats are facing fishing in dual jurisdiction.

Instead of taking and putting boundaries in the water, what port did the boat come out of -- for example, if you take a boat out of New Jersey and you fish in New York and your boat is going back into New Jersey, you fall under New Jersey rules and regulations, even if you're fishing in New York waters, and visa versa.

You have the same thing in Long Island Sound, the port that you leave is the determining factor of what rules govern you. I think this might be something that might take into consideration down into the Keys is you leave one port, and it falls under the South Atlantic area fishing management commission, these are the rules you'll abide by when you come back into port, and that port you also have to leave.

In other words, you can't leave, say, a Gulf management port and then come back into a South Atlantic port because your fish fits better in that category. It's something you may want to consider.

Instead of dealing with these barriers that you have in the southern part of the state, it might be done on a port basis so you will know exactly where you stand and what you can bring in and what you can't get into.

And this is their jurisdiction and this is our jurisdiction based upon physical location of your boat and the registrations you have at that point.

Dr. Crabtree: Back to the splitting the FMP's and Bob's comments, I don't mean to give the impression that I'm opposing doing that because I'm not taking a position on it one way or another, because I haven't looked at it hard enough.

I'm just bringing up some of the concerns that I think are going to come up. With regard to the recreational sale, I just believe we have a loophole in terms of the federal permit requirement, and I think we need to address that.

But I think it's fine to take a look at splitting the FMP's up. I think there are pluses, but I also

think there are minuses, and I think we're going to need to look at them carefully.

Mr. Geiger: I think we've captured all that on the record. Anybody have anything else that they would like to see added or discussed?

With that, for being on time from breaks and everything, we're going to adjourn on time tonight, and we will reconvene tomorrow morning for a public hearing at 8:30.

(Whereupon, the meeting recessed at 5:00 o'clock p.m., June 18, 2003.)

The joint meeting of the Mackerel Advisory Panel and Committee of the South Atlantic Fishery Management Council reconvened in the Dunes Room of the Hilton Cocoa Beach Oceanfront Hotel, Cocoa Beach, Florida, Thursday morning, June 19, 2003, and was called to order at 8:30 o'clock a.m. by Chairman George Geiger.

Mr. Geiger: If I could get all members of the Mackerel Advisory Panel and Committee to the table please, we'll go ahead and commence with the public hearing.

Good morning, ladies and gentlemen. I am Council Member George Geiger, and today I am acting as hearing chairperson on behalf of the South Atlantic Fishery Management Council. I am here with South Atlantic Council and staff, and we would like to thank you all for taking the time to attend.

The purpose of this hearing is to allow you to comment on the proposed fishery management framework actions for mackerel in the South Atlantic and Gulf of Mexico regions. We are seeking your suggestions on the alternatives presented here to implement MSY, OY, overfishing, and overfished criteria for mackerel and cobia.

You should keep in mind that the measures are going to be proposed for regulation of the fishery, and we are here to receive your recommendations and comments on those proposed framework actions.

The council will review the framework comments and determine if the framework actions should be revised or modified based on your comments.

The proposed framework actions are scheduled for submission to the Secretary of Commerce in June or July. Proposed regulations will be published in the Federal Register and the public will be provided with an additional comment period.

This hearing will be conducted in the following manner: First, Gregg Waugh of council staff, to my left, will present the proposed management actions and the alternatives that the council has considered.

This information is contained in the regulatory amendment document. Then you will be invited

to comment on the proposed management options and any other aspects, including the other alternatives.

All comments will be recorded by staff and shall become part of the permanent record. Your comments will be supplied to each council member for their consideration. If you have not already done so, please complete a registration card with your intention to speak at the public comment period.

We ask that you limit your comments to the measures proposed in this amendment. Gregg Waugh of council staff will now summarize the proposed management actions and briefly discuss the options that were considered by council.

Mr. Waugh: Thank you. Everybody should have a copy of this. It's behind Tab 3. It's Attachment 5 and it has a cover letter from the Gulf Council, and it's entitled "Framework Seasonal Adjustment."

What I'll do is just walk briefly through the document. The first action is shown on pages 14 and 15. This sets the TAC level for Gulf group king mackerel.

The proposed alternative is shown on page 15. It's the status quo to retain the TAC at 10.2 million pounds for Gulf group king mackerel, which is also the midpoint of the ABC range under the F 30 percent level.

The second action is shown on pages 24 and 25. The proposed alternative is to set maximum sustainable yield for Gulf group king mackerel as a yield associated with F 30 percent SPR when the stock is at equilibrium. The current estimate of that poundage is 10.7 million pounds.

You can see for each of these the other alternatives that the council has considered. OY for Gulf group king mackerel begins on page 27 and carries over to page 28.

The proposed alternative is to set OY for Gulf group king mackerel as a yield corresponding to a fishing mortality defined as 85 percent of the fishing mortality rate that will produce MSY when the stock is at equilibrium. That poundage is currently estimated at 10.2 million pounds.

The fourth action sets the overfishing threshold level for Gulf king mackerel. The proposed alternative is that the stock would be considered undergoing overfishing if the probability that the current estimate of fishing mortality is larger than the fishing mortality rate that would produce MSY. If that probability is greater than 50 percent, then the conclusion is that the stock is undergoing overfishing.

The definition for the overfished threshold begins on page 35. The proposed action is to set the minimum stock size threshold using the default formula recommended in the guidelines, which is one minus the natural mortality rate times the biomass at MSY, or 80 percent of the biomass at MSY.

Gulf group king mackerel stocks in the Gulf of Mexico will be considered overfished if the probability that the current biomass is less than that minimum stock size threshold level. If that probability is greater than 50 percent, then the stock is considered to be overfished.

Then switching to Gulf group Spanish mackerel, this is shown on page 39, and we'll walk through the same estimates. The maximum sustainable yield for Gulf group Spanish mackerel is the yield associated with an F 30 percent SPR when the stock is at equilibrium, currently estimated at 8.7 million pounds.

The OY alternatives are shown on page 42 and 43. The proposed alternative is that OY for Gulf group Spanish mackerel is the yield corresponding to a fishing mortality rate defined as 75 percent of the fishing mortality rate that would produce MSY when the stock is at equilibrium. The current poundage is estimated to be 8.3 million pounds.

The overfishing threshold alternatives are shown on page 46 and 47. The proposed alternative is to set the maximum fishing mortality threshold at F 30 percent, which is also considered the fishing mortality rate that would produce MSY.

Gulf group Spanish mackerel stock would be considered to be undergoing overfishing if the probability that the current fishing mortality rate is larger than the fishing mortality rate at MSY if that probability is greater than 50 percent.

The overfished threshold is shown on page 49 and 50. The proposed is to basically use the same formula, one minus M times BMSY or 70 percent of BMSY. Gulf group Spanish mackerel stocks would be considered overfished if the probability that current biomass is less than that threshold level if that probability is greater than 50 percent.

Then, finally, we go through some alternatives for cobia. These numbers are based on the current stock assessment that was done, including all of Monroe County landings in the Gulf. These alternatives just address setting MSY and the overfishing threshold. It does not imply any set management boundaries.

So the proposed alternative for MSY is to set MSY for the cobia stock in the Gulf of Mexico as the yield associated with FMSY when the stock is at equilibrium, and that's currently estimated to be 1.489 million pounds.

The OY alternatives are shown on page 56 and 57. The proposed alternative OY for cobia stock in the Gulf of Mexico is the yield corresponding to a fishing mortality rate as 75 percent of the fishing mortality rate that would produce MSY when the stock is at equilibrium, and that poundage is currently estimated at 1.452 million pounds.

The overfishing threshold is shown on pages 60 and 61, is to set the fishing mortality threshold at the fishing mortality rate that would produce MSY.

Cobia stock in the Gulf of Mexico would be considered undergoing overfishing if the probability that the current fishing mortality rate exceeds the fishing mortality rate at MSY if that probability is greater than 50 percent.

The overfished threshold is shown on pages 63 and 64, set the minimum stock size threshold at one minus M times BMSY, or 70 percent of BMSY, and the cobia stock in the Gulf of Mexico would be considered overfished if the probability that the current biomass is less than that threshold if that probability is greater than 50 percent. That's the final action.

Mr. Geiger: Thank you, Gregg. Are there any questions about what Gregg just covered? Seeing no questions, we will now open the hearing for your comments.

First we shall hear from those persons who have indicated the desire to speak on their registration card. Again, if you have not filled out a card and you desire to speak, please fill out a card at this time, and please include your mailing address.

In making your statements, please come forward to the microphone so that we may record your comments for the record. Also, please state your name, and for the record the name of any organization for which you may be acting as an official spokesperson. The first person who has indicated the desire to speak is Mike Baker. Kim, have all the AP members received a copy of Mike's letter and his handouts as well?

Okay, Mike has provided written comments and has provided some back-up documentation as well that we're going to ensure that all the AP members receive a copy of. Thank you.

Mr. Baker: My name is Mike Baker, President of the Southeast Florida Shark Driftnet Fishermen and former member of the take reduction team for right whales and a member of the take reduction team for bottlenose dolphins.

Gentlemen and ladies, I'm here to speak about discarded fish and how they have no value and how we can take them to a value. Under current regulations, a shark driftnetting vessel is permitted an incidental catch of two head of king fish per person on board a 24-hour period.

The industry proposes that this catch be increased to 20 to 25 head per vessel during the non-right whale and right whale seasons. This is supported by Carlson 2001-2002 non-right whale observer reports, which will be provided to you later. I didn't have enough time to make the adequate prints.

But in that paperwork, you'll find how many trips were made and how many kings were actually landed, or not landed but caught, and then what the average is, and we came up with the 20 to 25, and then we're discarding those fish.

Currently the industry consists of five vessels. In the past, we consisted of twelve. So, our number is reduced greatly since you got rid of the drift king fishery, which we had as many 20, 24 boats.

We would like to turn these discarded fish into a positive product not only for the consumer, but the wholesaler and the increased revenues of the vessels, the five vessels. Also, to land these fish, count them toward the quota and place a real value on them, because right now discarded fish are just discarded. They have no value.

The shark driftnetting industry proposes the following three items. A vessel will have a history of observer activity in the past. This option will prevent any of the 250 shark permitted vessels and/or 1,500 king fish permitted vessels to participate in this means of production.

And by that, I mean somebody running out and hanging a piece of gear just to go catch king fish and not really be active in the shark fishery. This is an incidental catch to the shark fishery. This will keep the boats down to five.

The vessel will be permitted to land 25 head, doing away the two per person on board. The reason for that is most regulations regarding landings reference a boat and not the amount of men on board.

If a king fisherman goes out to get his 75 head, it doesn't matter if he's got one, two, or five people on the boat. I can sit there and pile ten kids on my boat and go out and catch 20 head of kingfish. It's not feasible, though.

The activity will be restricted geographically from the St. Lucie Inlet north to the Georgia border. This will cover all five boats of concern.

What we have here is we have three vessels fishing out of the Cape Canaveral area, one out of the Salerno area, and one there out of Mayport, and he ventures up towards Georgia and there is no sense in him discarding his fish either.

When you get your information from Carlson, you'll find out that during the critical habitat period, when we're subject to be south of Sebastian; and we're normally that time of the year, from November the 5th to the 15th of April, we're drifting for large coastals, and we use a bigger mesh net, 7 to 10 inch; and if you look in the report, our incidental catch of kingfish is down to around four head during that time of the year.

But when we switch over and go after the non-ridgeback small coastal species, we use a smaller mesh, and that's where we come up with a few more head of kingfish. And like I said, the average is 20 to 25.

But we're asking that this proposal be adopted, carried on to public comment, and that we take this discarded fish that has no value and bring it to the dock. If you have any questions, I'll be

happy to answer them.

Mr. Geiger: Mike, I have a question. The five boats, the five boats that currently participate, do they have a federal mackerel permit?

Mr. Baker: Yes, sir, that would be part of the fine tuning. All of the shark vessels, these five vessels have king mackerel permits, that's correct.

Mr. Hartig: Mike, you mentioned the Georgia border. Is that the northern Georgia border or the southern Georgia border?

Mr. Baker: I believe it says -- yes, in the paperwork it says the northern Georgia border. Any other questions?

Mr. Houck: Yes, Mike, isn't there a fishery similar to this in North Carolina? What is it, a stab net fishery or is it --

Mr. Baker: Yes, they've got a stab net fishery, but they also have the option that -- they can drift up there, you know, in state waters.

There is not a law against drifting in state waters, but I don't know how much activity there is. But what I know personally from talking to some of the fishermen up there, it's primarily a stab net fishery.

Mr. Houck: So this fishery is happening in other states?

Mr. Baker: Well, the king fishery is. This is strictly an incidental catch issue. These five boats aren't going to target kingfish. We're shark fishing and we're having an incidental catch that we've got to throw overboard.

At the two head per person, we've been able to take real good care of those fish, and we've been getting handline value for them.

But it's just a shame that on the average, if you take the weather and the moon phase, it leaves a whole week during the month during the moon phase, our actual fishing days are probably about two and a half percent days a week.

It's not a heavy activity and we're only talking about five shark boats versus 1,500 handline boats. Where that gentleman can go out and catch 75 head, I'm asking for 25 just to bring in with a crew of three to five men.

Mr. Houck: This is just incidental, and there is a directed fishery, you say, in South Carolina and North Carolina?

Mr. Baker: North Carolina, but you've got to remember, we're not looking to target kingfish.

Mr. Houck: This is incidental, yes.

Mr. Baker: I want to put measures in this thing that will prevent somebody from going out and just targeting kingfish. And the observer coverage, the five shark boats that are authentically shark fishing, we've been under observers for five years now, one hundred percent coverage during the right whale season and sporadic covers during the non-right whale season.

Mr. Cupka: Thank you, Mr. Chairman. So, in essence, you're not proposing any changes to the way that you fish now as far as the requirements on you for whales or anything like that? You're just asking to increase the bycatch allowance; is that correct?

Mr. Baker: I am asking to increase — what we're under now is a bag limit, and I'm asking to take that bag limit, earmark it as an allowance of an incidental catch, yes, sir.

Mr. Iarocci: Thank you, Mr. Chairman, I'm not a member of this committee. Mike, this is very well put together. Let me ask you a couple of questions. Could you give me a little information on the size of the net, mesh size, length, and what you're using right now for gear?

Mr. Baker: All shark fishing gear is regulated under the right whale proposal, and it's old, it's history. It's 2,700 yard length and the mesh size varies from five to ten inch, depending on who is fishing what.

Basically, I think even the ten inch is becoming a dinosaur. It's moving down to seven inch. It's a little more productive and catches more of the non-ridge or small coastals.

So that stays under regulation. The gear is marked every hundred yards. It follows everything that is required under the right whale. Some of the boats don't fish that much gear. You know, later on this summer, like August, we have a good invasion of small coastals, and that much gear is too much to handle, so we reduce that length.

Twine size pretty much goes anywhere from 9 to 24 twine, and they relatively all fish the same depth, and that's around 40 feet. I understand that up off Georgia and in Northern Florida, that they're stabbing those fish. Then the other system, they're strike netting the sharks, which they pretty much have a zero incidental catch rate.

Mr. Cupka: Mike, one other question. Aren't you all also proposing to make some changes in regards to the areas that you can fish relative to the right whale restricted areas?

There has been some talk at the take reduction team about maybe removing the prohibition from the southern part of that area because there hadn't been any whales documented there. Is that your understanding?

Mr. Baker: That's correct. What we've got right now is during the November the 15th to April the 1st, we're closed from Sebastian north. We can't fish up there with a driftnet, but we can strike net fish to the south of that and driftnet. The proposal actually is going to be to move that critical habitat line north, further north.

Mr. Cupka: For striking?

Mr. Baker: Striking and drifting, if I'm correct, because historically we have no interactions with right whales anywhere from the Cape south, so why restrict that area to fishing, you know, as long as we follow the guidelines.

Mr. Iarocci: Thank you again, Mr. Chairman. You know, I'm looking at this and I'm looking at the discard issue. I'm looking at a quota-managed fishery, and I would like to see -- when we're looking at discard issues, and we look at them in all fisheries, but when discards are being thrown back, I think for the issue of a quota-managed fishery I would rather see those fish, instead of discarded -- and we're talking fair and equitable fisheries management here, if these guys are catching these fish and they're going back, I think we should consider this option.

Mr. Houck: Yes, Mike, it's really disturbing that there's discarded fish. That bothers me. Is 25 something that -- is there any other options besides 25? Have you thought into that a little bit?

Mr. Baker: Yes, I would like to see 40 or 50.

Mr. Houck: How about a little bit less?

Mr. Baker: Personally, I would like to have 75.

Mr. Houck: I bet you would.

Mr. Baker: I mean, I've got a kingfish permit, come on. You know, driftnetting has been around. We've had our battles and we've had our fights. But we're finding out, for lack of better words, that we're a little more environmentally friendly than what the terror first was.

The PBR hasn't been set on the bottlenose dolphin, but our take on those is relatively small compared to other fisheries. Our turtle interactions, most of them -- which an interaction is just if they're seen close to the gear. The high percentage of them are alive.

So, I mean, the fishery, like I said, the fear of the wall of death that was back in the '90's and the late '80's is pretty well gone.

But the other fact is we went from twenty something boats down to five, and we have five boats that have kingfish permits that have been active in this industry for the last 20 years. We've been discarding these fish.

I know there's some dispute on the health of the quota, but we're still -- when you get the printout and see Dr. Carlson's landings and our activity and what we're discarding, it's ridiculous.

We keep and can sell everything that we catch as far as Bonita's, little tunas, sharks, king mackerel, Spanish mackerel, Pompano, which those incidental catches are fairly low, and you'll see that information when I hand it out to you there. We can sell it all except for the rays.

We can't sell rays. And once in a while you get a guy that says he wants some rays for bait. But we don't, you know, normally catch those anymore like we used to. We found out that if we go further offshore, we get into a little better sharks, and we've been, over the years, developing that.

The other thing is -- and I'm not going to blow any smoke -- if we want kingfish, if I wanted to go catch kingfish, I know right where to go get them like any bottom fisherman knows where to go get his snapper and grouper.

I know where I can lay that gear out there and get all I want, but I also know where not to go or where to go to get out of them, and that's what we've been doing and that's proved in the observer reports.

I think there is adequate data there in an adequate number of trips to support the idea that we know how to stay out of those fish.

Mr. Houck: Mike, what about enforcement? That would be one of my biggest concerns, is enforcement.

Mr. Baker: Well, enforcement is enforcement. Right now every hand liner is restricted to 75 head. It's a head count. It's easy to enforce. Pull up your boat and let's count them.

Right now, when I hit the dock, it's two per person. How many you got? Well, 25 of my crew just ran down the dock and went to the bar, and I'm here left by myself. That's a ridiculous thing, to me. If you're one over the 25, I'm just as guilty as you being one over the 75.

Mr. Houck: Yes, that's something like one strike and you're out and I would be more inclined to go along with something like this because it's nothing --

Mr. Baker: I'll go along with that if the hand liners want to go along with it. If they want to do a one strike and you're out, it's fine with me.

Mr. Houck: This is considerably different than what the handliners are doing.

Mr. Baker: Why, because I'm using a different piece of gear? I think when you break the law, you break the law. I mean, if a guy is going to come in with over his 25 head, he's the same guy

that's going to put a hundred head on his handline boat. But if that's what it takes to keep from discarding the fish and turn this into a value, that's fine with me.

Mr. Dunn: What's the average size of the kings that you're boating with this size mesh net?

Mr. Baker: The five-inch small coastal shark net will catch an average of 8 to 10 pounds. During the winter, when we're fishing the bigger mesh nets, which our incidental catch is way down, I'm talking to two to four head maybe, and most of the time is non-existent. Because of that mesh size, those fish will be fifteen pounds and greater.

Dr. Kimmel: Mr. Baker, I'm curious about how long do your nets stay in the water? I've got several questions, and one of them is how long do the nets stay in the water and what condition are the fish when you bring them up, on average, and what is an average catch of king mackerel during an average set?

Mr. Baker: I just want to clarify we're not looking for king mackerel. There is an average and it's in Carlson's report. It's anywhere from four to five hours, and sometimes it's less than that.

You know, every circumstance is that sometimes you'll run that gear out, 30 minutes later you run down it, you better start pulling out of the water because you're going to get too many sharks.

As far as quality, on the two-head bag limit, which even if I was on 30 head, or 25 head, excuse me -- Boy, I'm pushing for that 30, ain't I -- it takes me just as long to get the gear up regardless of how many head of incidental catch I've got.

Our quality has been so good -- in the past we used to get 30 to 40 cents less than the handline price. Today I'm getting the same thing, but that's due to mechanics on the boat as far as slushing them and then dry packing them right away.

Dr. Kimmel: Just a follow up. When your fish are landed, or not landed, but when you bring them on the boat, they're dead most of the time?

Mr. Baker: Yes, that's the other part of it. You know, being a mackerel, he has got to be a constant swimmer and once he's in the gear he drowns.

Mr. Geiger: Mike, no other questions, thank you very much. The next speaker is Bill Wickers.

Mr. Wickers: Good morning. Since this came up yesterday under the framework discussion, I wanted to bring it up again under the public hearing. I am going to speak on behalf of the Key West Charter Boat Association and the Islamorada Charter Boat Association.

Our associations have been involved in fishery conservation issues for over 25 years. Our association has imposed bag and size limits on our members before there were federal councils

or even a Florida Fishery Commission.

We have always supported regulations that protected the fishery from overexploitation. For example, when the amberjack fishery showed signs of decline, it was the Key West Charter Boat Association that spearheaded the need for regulations, proposing bag limits, size limits, and spawning closures.

We were also instrumental in imposing the original two-fish recreational bag limit on kingfish in Florida in the early 1980's.

Today I would like to address a proposal by the Gulf Council and also in the South Atlantic's framework document about the prohibition of sale of all bag limit caught fish on charter boats.

I have addressed this issue many times before, and the South Atlantic Fishery Management Council has been supportive of our position, as well as the state of Florida's Fish and Wildlife Commission.

We hope that you will continue that support. The major reasons to continue these sales are, number one, except for a couple of Gulf states, most states allow the sale of bag limit fish on charter boats, providing they have the proper licenses.

From Florida to Maine, just about every state allows sale. So do most states on the Pacific coast and in Hawaii. Almost all the fish sold in Georgia are caught on charter boats.

This council allows sale of bag limit caught fish on charter boats and has repeatedly turned down the Gulf Council's request. You did so most recently in the Dolphin Fishery Management Plan. We hope that you will continue your position.

Number two, in the Keys about 75 percent of the kingfish and around 60 percent of the dolphin caught on charter boats are left with the crew. Many of our customers fly in. They do not want their fish, only the fun of catching them.

They leave them with the crew as tips, much as the same as a waiter is tipped in a restaurant for good service. I want to make it clear that these fish may be taken by our customers. It is their decision whether to take them or not. Most just do not want them.

Three, our charter fleet has historically sold our catch since the establishment of charter boats in the Keys back in the 1930's. The income derived from these sales are very important to the crews.

The Florida Keys has the highest cost of living in the state of Florida and probably the United States and any loss of income severely hurts. Most of the mates have to share apartments with two, three, or more people in a small apartment because of the astronomical rents.

Four, in closing, I would like to say that the South Atlantic Fishery Management Council -- I would like you to know that the charter fishing business is a tough one in which to make a living. In order to survive, we must have more than one source of income. Fish sales are one of these sources.

Just like a lobster fisherman who supplements his primary source of income by selling snapper, grouper, or kingfish, a charter fisherman needs to supplement his income with sales of fish that are not wanted by customers. That's all, and if you have any questions, I would be glad to answer them.

Mr. Geiger: Any questions for Bill? Thank you, Bill. That concludes the total number of requests to speak at the public comment session. Kim, have we received any others? There being no others, we will close the session.

The next order of business would be to turn the meeting back over to Ben and the AP to discuss the comments and the Gulf Council regulatory amendment.

Mr. Hartig: Is there any more discussion on the public hearing comments? I heard a lot of discussion during them.

Mr. Waugh: What we're doing right now is addressing the Gulf framework. The two public comments would pertain to the South Atlantic framework, were we going forward with the framework, so those will be folded into Amendment 15 as we discussed yesterday.

So right now really what we're looking for is any recommendations you all might have on the Gulf framework document where we're setting the TAC and then all the MSY's for Gulf king, Spanish king, and cobia in the Gulf.

Mr. Hartig: Are there any comments on the Gulf?

Mr. Wickers: Just for clarification then. The proposal that the Gulf made on Amendment 15, then that's not what we're talking about at all, then?

Mr. Waugh: No, that would be going into Amendment 15 is where that would be discussed. Right now, the only thing we're looking at is that Gulf framework document that I went through. It's Attachment 5. All it addresses is the TAC and then MSY, OY, overfishing, and overfished levels for Gulf king, for Gulf Spanish, and then Gulf cobia.

Mr. Wickers: So as a member of the AP, if I ask the AP to advise the board to not go forward with their recommendation on prohibition of sale, that would be not in order?

Mr. Waugh: Correct. You made those points yesterday under Amendment 15. If you want to, when we get finished this, I believe the chair was going to see if anyone had any additional items

or thoughts on Amendment 15 since you had a chance to think about it over night. That would be the time to bring it up.

Mr. Pelosi: The actions that Gregg read there seem very reasonable to me. I have no problem with any of the proposed regulations that Gregg read there.

Mr. Hartig: Yes, a lot of the scientific stuff is a little bit much for us to be getting into. I have no problem with the Gulf's document. I mean, it's just a matter of the way the system is set up for us to approve it, basically.

Any other discussion on the Gulf's regulatory amendment? Is there any objection to moving the Gulf Council's amendment forward, approving the Gulf Council's regulatory amendment? Seeing none, that motion is approved.

Mr. Geiger: Thank you, Ben. We now need to take it up in the Mackerel Committee. It's open for discussion. Can we get an amen?

Mr. Erickson: I don't know whether I misunderstood part of the conversation yesterday about requiring the Spanish mackerel to have a federal permit to sell in the state of Florida waters. Did I understand that right?

Mr. Waugh: That's not a part of this framework document.

Mr. Erickson: It wasn't?

Mr. Waugh: No.

Mr. Erickson: I wanted to clarify that.

Mr. Cupka: If you need a motion, Mr. Chairman, I would be glad to make a motion to approve the Gulf Council mackerel regulatory amendment.

Mr. Geiger: Pete Pearce second. Any discussion? Are there any objections to the motion? Seeing none, it passed without objection.

With that, we're going to invite Dr. Henderson to come forward and give us an update from the Florida Marine Research Institute. While we're setting up for this, if you want to take five minutes, it's ten after now; please be back at 9:15.

(Whereupon, a recess was taken.)

Mr. Geiger: If we could get the AP and the committee members back to the table, please. I'm going to turn it over to Dr. Henderson from the Florida Marine Research Institute.

Dr. Henderson: Thank you. My name is George Henderson, and I'm with the Fish and Wildlife Conservation Commission at the Marine Research Institute in St. Petersburg. I coordinate the marine aspects of fish collection to support the Department of Health and their consumption advisories.

We've been doing this since 1989, and over that period of time the Department of Health has come up with several different advisories. I'm going to just touch briefly on what their advisories are.

But note, it is the Florida Department of Health's advisory and it's done in cooperation with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission.

In 2003 the health department came out with a new and more comprehensive advisory, which added quite a few fish and changed the way they were issuing their advisories. They hope that they can make it a more web-based system and keep it more up to date.

They were getting quite a bit of discussion from external parties that they were being unresponsive to the public in not getting advisories out in a more timely fashion. If you have any questions as we go along, please let me know and just interrupt me.

The mercury consumption advisories are contained in a larger six-page document. It's available on the Florida Department of Health's website, which is doh.state.fl.us, or go to myflorida.com, go to the health department, and navigate through their environmental health section and that brochure is available only on line right now.

There's a few hard copies still kicking around, but the few that they had all went out fairly quickly. It covers not only fresh water fish, but also these marine organisms.

The advisory is only for recreationally caught fish. The Florida Department of Health has the authority to issue advisories for fish that are caught by recreational fishermen. The Florida Department of Agriculture has the role that's shared with the FDA, Food and Drug Administration, to issue advisories in the commercial field.

So these are only advisories. They are targeted at recreational fishermen. The other important thing about the way these advisories have been changed is that the Department of Health previously had an advisory that said no consumption based on fish being greater than 1.5 parts per million of mercury in the flesh, limited consumption based on 0.5 parts per million mercury in the flesh, and unrestricted consumption based on less than 0.5 parts per million in the flesh.

They've changed this advisory. In the current advisory, you will never see numbers. You don't see 1.5 and you don't see 0.5, and this is because they're making their decision based on their public health interpretation of what the data might mean, and they do not want to be constrained by numbers.

You know, if it's 0.488 and all the fish are high like that, they're going to put a limited consumption advisory on it. The other thing they did was they got rid of the unrestricted or unlimited consumption category and changed that to "See EPA guidelines," and the EPA guidelines are fairly complex.

But they break down to a simple concept of if you're a woman or the at-risk child population, then you should limit your consumption of fish to one meal a week as opposed to unrestricted consumption. And for us older males, you know, they don't care what we do.

So that sort of brings you up to speed about where the state health department is coming from. What we have done is supplied them over 7,000 fish in the past almost fifteen years, and we have looked at over a hundred different species.

Unlike our freshwater counterparts who look at about, well, two fish regularly and maybe four or five when they get down into the Everglades and start getting sick with another fish -- you know, the marine system is a lot more complex.

At any rate, over the years the advisory has changed several times. This is the current health advisory, and you'll note -- we'll start with right at the top -- all coastal waters in the state of Florida, king mackerel greater than 39 inches, no consumption. That's been in place since '96 or so.

Sharks greater than 43 inches was added this year. All coastal waters, to limit your consumption, and that means one meal a month for the target population of women and children and one meal a week for the rest of us.

King mackerel 33 to 39 inches limit. Sharks less than 43 inches, all shark less than 43 inches, limit consumption. And the change here is it used to be limited consumption for all shark. Now there's a no consumption part of it.

Spotted sea trout greater than 20 inches, to limit consumption statewide. This was an addition that actually the FWC and the DEP recommended to the health department based on the slot limit for spotted sea trout being 15 to 20 inches with one fish greater than 20.

When we analyzed the data, we found out that if you -- we had about three different coastal areas that had limited consumption on spotted sea trout. If you factored those larger fish out, they fell down into the 0.45. Spotted sea trout is still pretty high.

But, you could make a more understandable advisory that everybody could adhere to and would understand. It wouldn't be Charlotte Harbor, limit; Tampa Bay, no limit; Cedar Key, limit.

So they moved to this. The one fish greater over the slot limit you should limit your consumption. And then we have a whole series of primarily coastal pelagic like fish that have been added to the limited consumption advisory, little tunny, cobia, greater amberjack, bluefish,

crevalle jack, and then a series of local areas where the data doesn't support a statewide advisory for one reason or another.

Either we don't have enough fish or in fact there are enough regional differences that the Department of Health wouldn't be comfortable, and neither would we, with a statewide advisory, and included in that is Spanish mackerel, which you'll see Tampa Bay has an advisory on, and so does Charlotte Harbor.

But the other regions of the state do not, and I'll talk about that a little bit more. Finally, just the overview. In the Florida Keys, there are several fish. The Keys are much hotter than the rest of the state of Florida for mercury, and some of the fish that we don't see accumulations in in other places -- the wahoo are iffy; we only have a few fish around the state.

But, certainly, the red drum, which is pretty low most every place else, and see all spotted sea trout in the Keys are limited.

We went out of our way and found a lot of small snapper and a few other fish down there that are less than 0.5, but because of the way the Department of Health has changed the advisory, we're no longer listing fish that we have the data on that say that they're lower.

We're just saying all fish, whether we have data on them or not, that are less than 0.5 or we don't know is follow EPA guidelines. So let's move on to the fish that you guys are interested in.

Mr. Geiger: George, before you move on, I think there might be a couple of questions. I've got one to start with, Bob, if I might, and, Richard, you might want to jump in on this conversation. You know a hell of a lot more about it than me. But you've got Indian River lagoon up there and you've got snowy grouper and blackfin tuna fish, how does that happen?

Dr. Henderson: That happens because again at the top of the list, the advisories listed in this table apply to all fish taken from marine waters within a one-day fishing trip from the body of water.

It's an artifact of the fact that the program initially started using just the fisheries-independent monitoring program that we have working in bays and inland waters.

We've expanded that, since the year 2000, to also include our fisheries-dependent monitors, who primarily are the people who are collecting biostatistical data at the docks from the recreational fishermen that are coming in.

We've also done some limited sampling in fish houses, but mostly the biostatistical sampling from the recreational fishery is the one we've been attacking. That's why you see these deep water, offshore fish pop up, and the same with gag, too.

Mr. Pelosi: That was a point I wanted to address because when that study was first published

here, a year or so ago I guess, it just lost all credibility because of grouper and blackfin tuna, especially snowy grouper, which are way offshore fish, in the Indian River, and I think you need to figure a different way of listing those because the general public just, you know, when they saw that, they didn't believe anything in that report.

Dr. Henderson: We have struggled with just saying offshore waters, but the -- especially with the gag grouper in the Gulf coast, you do see an increase, or a decrease, rather as you go from Tampa Bay to Cedar Key to Apalachicola in the mercury levels going down in those grouper.

In fact, the gag grouper in Tampa Bay are about 0.55 or something along those lines. Right now, there is a health advisory on them. This goes again back to the artificial distinction that has been made in the past.

The gag grouper in Cedar Key are only about 0.48 parts per million of mercury. One of the interesting thing about that, and it has to do with our sample size, something that we keep on trying to impress on the Department of Health, is that between October of '02 and January of '03, when we got about twenty more fish in from the Cedar Key area, that average of mercury went down from 0.54 to the 0.48.

You know, our sample size has not been great enough to get the noise out of what the mean is of those fish, and we don't expect to until we have, you know, several hundred from every area, which is a monumental undertaking when it's an unfunded program. Were there other questions?

Mr. Dunn: Any thoughts on why the Keys are such a hot area for mercury?

Dr. Henderson: Yes, the thought is that they're the cleanest area. Mercury is strongly allied with organic material, and so in very polluted areas, where there is a lot of organic material, the opportunity for the mercury to become sequestered in the sediments is greater than in those clear water areas.

That hypothesis goes along with the fact that the oceanic pelagics, such as the swordfish and the billfish and the large tunas, are the highest that you see, and that's back in the cleanest -- it's even cleaner than the Keys.

Mr. Geiger: George, do you sample marine mammals as well, like bottlenose dolphins?

Dr. Henderson: No, we haven't sampled any dolphins. We have done some manatees, which are quite low. There has been work done on setations, primarily in the north, real north like Northern Canada, Hudson Bay, especially the beluga population, which all of those different whales, especially the tooth whales, have quite high levels of mercury associated with their flesh.

Now that I've lost my train of thought, let's jump ahead into a couple of the fish that you're interested in. We'll start with the king mackerel. Our mackerel value is based on 265 fish.

These were done back in November. However, I don't think we've put any more king mackerel into the database since then.

You can't see it too well because they're lumped on top of each other, and I'm going to show you another graph in a second. What I would like to point out, though, is that you can see there's a pretty strong relationship between the size of the fish and the amount of mercury that's in those fish.

If you look at the 0.5 level, which isn't marked on this graph, and then go over, you'll find that at about 31 inches, 30.5 inches is where they really reach that 0.5 part per million level.

So the health department was pretty much looking at this straight linear relationship. In some analysis that we've been doing, we're trying to improve upon that in looking at some curvy linear relations, and, again, you see the very strong size to mercury level concentrations.

But you'll see that there are some outliers that can be pretty big, 1100 and 1500 millimeter fish that's just a little bit above 0.5. But you can see some 800 millimeter fish that are way up there, greater than 0.25.

The relationship here is pretty strong with R square of 0.8, so we're pretty sure that represents a real value. One of the places that we're missing fish is at these lower classes, the lower size classes, and we're trying to collect some smaller king mackerel, which is something that the recreational angler doesn't really try to do very much, to see how this curve will flatten out at the lower end.

Because the health department, while they didn't change their advisory from the 33 inches, they recognize that 31 is now a more appropriate scientific number, if you can call it science based on 265 fish.

You'll see that one of the reasons that it's a statewide advisory is because we have 61 fish in Jacksonville, and the Pensacola says 14, but there's now about 30 fish out of Pensacola, and they all showed the same trends. If we did these graphs individually, just on 8 or 20 fish, you would see the same kind of size-to-mercury relationship.

So that's fairly convincing evidence, and, again, it's very strongly related to length, and we feel that is length at age, that the older the fish are, the greater the mercury.

Now a couple of the other less -- well, I'll do Spanish mackerel next. Spanish mackerel is a different story because it grows faster, it doesn't live as long. Actually, I shouldn't say it grows faster, but it doesn't live as long.

It has a lower legal size. These are all adjusted to the legal size that they are allowed to take, so that the Spanish mackerel, you could take them at 12 inches and the king mackerel is 24.

Again, you can see that while the trend is to increase with age and with size -- primarily we're talking about size here because we didn't age these fish -- and you see some very high numbers in some fish that are only between 600 and 700 millimeters.

You see that a lot of the values are clustered at the lower end of the graph. When we looked at the data, we see that there is not a strong trend from the east coast to the west coast. The Spanish mackerel were bigger that we caught on the west coast, were bigger in Tampa Bay and Charlotte Harbor, primarily.

You see there's 119 fish from Charlotte Harbor and they make up the bulk of the smaller fish. Tampa Bay had 203 and they have the smaller and the larger fish.

The upshot of that is that there is not a strong correlation between the Indian River Lagoon and Tampa Bay. In other words, it looks like there might be some slight differences in the way these fish are accumulating mercury quickly and early in their life.

The primary suppositions right now have to do with actually the way the mercury is being incorporated into the food chain, whether it's coming through a mangrove system or a seagrass system.

That's largely speculation, but there seems to be some evidence of some other fish that are primarily residential. In the Indian River Lagoon, they are, again, different from the Charlotte Harbor or Tampa Bay fish.

When I say different, the Indian River Lagoon is almost always lower in mercury than the west coast fish. It may have something to do with mangrove-dominated versus salt marsh dominated pathways for the mercury coming into the environment. That has not been well studied. It's something that lots of people would like to look at.

Again, so not a strong mercury-at-length issue here. Even in Tampa Bay, it's not a good correlation, and it partly is because these fish are young and getting their mercury quicker.

Let's look at cobia. Cobia was one of those fish that the Department of Health, as well as the Florida Marine Research Institute, were hearing a lot about from primarily newspaper reporters because this is a large coastal pelagic fish, the legal size is 33 inches, so they must be high in mercury.

And as you can see, they are high in mercury, but they're not as high as one might expect. There is, however, a reasonable relationship between the size of the fish and the amount of mercury that's present in the fish tissue.

And, again, the health department, based on the fact that there was fish from the Indian River, from Pensacola, from Tampa Bay, several fish from those areas, and then a few to fill in some of these gaps along the coast, that there wasn't going to be any coastal differences among those

fish. They all were showing the same size-to-mercury relationship, and so that's why they issued a health advisory for them.

The final graph I have -- and then I will open it up for some questions unless somebody wants to stop me now -- is bluefish. You can see again the Indian River Lagoon had the highest number, 103.

I have to say we have a couple of researchers over here in the Indian River Lagoon who are very interested in the mercury program, so they're always getting us fish from their sampling efforts; whereas, some of the other programs, they'll take a smaller subset, and this has helped us early on in the program.

But 43 from Tampa Bay, 50 from Charlotte Harbor, and then, again, a good solid mix. Volusia County you got 12. Up into the Panhandle, we're a little bit small on fish. Primarily they don't catch as many up there, I believe.

At any rate, the interesting thing about the bluefish is that they're -- again, in the Indian River Lagoon, while the fish tend to be smaller and they were lower in mercury, there was a very poor correlation between size of the Tampa Bay fish and mercury.

So small fish in Tampa Bay were high, large fish in Tampa Bay were high, but the fish in the Indian River Lagoon all tended to be considerably lower; whereas, the highest fish of all were the bluefish in the Charlotte Harbor area.

What we haven't done is we haven't filled in some of these other blank areas to get around the state. There is a probability, I think, that if we got more fish in the Volusia County area -- they were high up there -- and off of Jacksonville.

In fact, the values might go up high enough that they would overwhelm the Indian River Lagoon subset of the population, and the DOH would probably consider putting out a coastwide advisory.

They feel that the coastwide advisories are clearer to the people, that you know you're supposed to limit your consumption, and you don't have to guess what to eat.

You know, a one-day fishing trip from Charlotte Harbor is clearly Tampa Bay, so there is an awful lot of overlap in the way they're determining those distances.

At any rate, because of the statistically insignificant lower numbers from the Indian River Lagoon, the state-wide advisory was not justified, and so it is limited to the Tampa Bay and Charlotte Harbor at this point in time. We just don't have any -- if we had bluefish from the Keys, it would be high.

That's all I brought today. I limited it to some of these coastal pelagics. If you would like, I can

answer other general questions about both area specific as well as general questions about the mercury program.

Mr. Davis: How does your study compare to the other coastal on the eastern part of the United States, say, from the Virginia line down? Are you finding the same thing the other states are finding? Are they finding higher percentages of mercury, or what's the story?

Dr. Henderson: Well, the first part of the story is that the king mackerel advisory runs basically from the Virginia/North Carolina border to the Texas/Mexico border, the same advisory of breaking that 33 to 39 for limited consumption and greater than 39, no consumption.

That's because on North Carolina and Georgia, both have programs that are much smaller than ours, and South Carolina is even smaller than that. But the fish that they have gone and collected have all fit into these curves.

Randy Manning in Georgia did an analysis of the entire dataset three years ago, which is when they came up with the unified South Atlantic Advisory.

For other fish, the data is that they have much fewer data points. Speaking to the Gulf of Mexico right now, the Gulf of Mexico program, about four years ago, went out and pulled all the mercury data from all the Gulf coast states, and it looked like Florida was much higher than any place else.

But in reality, it was because where there were five fish in all of Texas, we had several hundreds of fish, and so other states are coming along in the programs.

I think what we haven't found, in Florida at least -- and we've looked -- is hot spots, with the exception of some areas coming off of the Everglades and the Keys where some highly resident spotted sea trout look like they may be even higher than other spotted sea trout.

We've gone to, especially the outfalls of old paper mills where they were using mercury as a slimicide into the '60s', to look and see whether there were concentrated areas.

We've gone and looked at the boat yards where they used to be using the curicidal paints in some of the painting processes to see whether we found higher levels there, and we found no difference between the general population of that specific area and the overall population.

So, we haven't found a point source of pollution for Florida. That being the case, I don't think that you'll see differences between Georgia and South Carolina and Northeast Florida.

There is evidence -- In Texas there is a chloroakalide plant which was an NPL site, or one of the cleanup sites, which was contaminated with metholmercury similar to some other outbreaks.

They have a seven square mile no fishing zone, and the fish within that seven square miles, even

though it's in Lagoona Madre, it's all in the same lagoon, are actually significantly higher than the fish that are outside of it, by quite a bit.

I was really surprised to see that because obviously the red drum weren't migrating as much as I thought they would. But, there was some really high numbers in some of their fish when you could actually identify a point source.

So unless you identify a point source, I think you're going to have pretty uniform distribution among your marine fishes, with the possible exception if we find some characteristic of the early food chain environment that actually limits it, such as whether more metholmercury is being produced out of an anaerobic mangrove system that is being produced out of less anaerobic salt marsh systems.

Mr. Hartig: Has there been any attempt by the state to look at archive museum specimens of the species in question to look at what the base levels might have been back in time? Has there been any kind of a thrust to do that?

Dr. Henderson: That was done back in the '70's, actually, when mercury first became an issue, and it's almost worth doing again, I think, if somebody can find some specimens.

The problem has been that museums have used so much mercuric chlorides over time as a pesticide to kill the beetles in the collections, that most old, you know, 1880's kind of fish from then has been sitting in a fairly mercury-saturated environment for a hundred years.

So the short answer is, no, they didn't find any difference, but that's one of the possible mitigating reasons. They were looking primarily at swordfish at that time.

Mr. Ogle: I have a question. Last spring there was an article in the "Mobile Register" that pointed out that bottom fish that were caught by recreational fishermen from around the oil barracks had extremely high levels of mercury.

Apparently this is because mercury is used as a lubricant in the drilling process. I wondered if you had looked at any such areas in the Gulf near Florida?

Dr. Henderson: When those articles came out, it was one of the first things that DEP said was, see, we're protecting the Florida public by not allowing oil and gas development in Florida waters.

But the true answer is no, we haven't looked at any rig situations. Some of the values that they got, it's the barium that has small amounts of mercury associated with it.

Right now, the Gulf States Marine Commission and the Gulf of Mexico Program have a joint mercury task force and NOAA, their seafood safety laboratory in Mississippi is doing a synoptic look at the Gulf of Mexico.

They're doing about four bays, one of which is Tampa Bay, several clean offshore sites, and several rig sites to try to see whether they can get a better handle on that. I can say from the experience that I have with the Florida fish, some of the fish that they had high levels in were fish that we don't see high levels in.

One of them was tripletail. Even down in the Keys, the tripletail are lower, and they had values of much greater than 0.5 for their tripletail. So I don't know whether they had some analytical problems with that, but it was strong enough that the Mississippi and Alabama delegations got money to NOAA to go and look into this more fully.

We did sampling for them back in January. They're about halfway through now, and I haven't heard back any of the results that they have gotten yet, though.

Mr. Wickers: I was just wondering, did you all sample any black grouper or just the gags?

Dr. Henderson: We got a couple of black grouper in the list. When I say a couple, I think I mean two, and they were higher than 0.5 and lower than 1. We shy very much away from listing fish -- one of the reasons we don't have as many of the offshore grouper and snapper is because, again, of the way the program was focused early on.

We wanted to make sure that we got fish that we knew what they were, that we knew where they came from, so we could get into some of those distributional problems that if the mercury was being point-sourced; and using the fisheries-independent monitoring program, we weren't getting offshore fish.

So we're just starting now to fill those into our collections using the dependent program. Over the next few years we'll get a whole lot and we have some more now. The Commission has a publication that's out, which is called "Mercury in Marine Fish in Florida,"

It's Technical Report, TR-6, Mercury Levels in Marine Estuarine Fish in Florida, and it was published in 2001, but I don't recommend you getting it. It was based on fish through '95, and what we did when we put this together was we did all the preliminary background on the fish life history and additional information about each species.

We are in the final stages -- it's in the final edit stage right now of a revised version that takes it up through 2001 and it will have over 6,800 fish discussed in it.

That should be out in October and as soon as it comes out, I can get Gregg, or anybody that is particular interested, we'll send you copies. We're starting to make these available electronically on our website, which is floridamarine.org.

You'll be able to go to the library and pick it up right there as soon as it comes out. It will have a lot of the discussion that I had, only on all the fish that we've looked at.

Mr. Hartig: Have you incorporated any commercial samples into what you do yet?

Dr. Henderson: Yes, but not as commercial samples. We have some fish house samples, especially early on with some of the shark work. The shark is a little bit of an anomaly. You notice that it's just all shark and they're all lumped together.

That turns out to be legitimate. The small coastal sharks are just as high as the large offshore sharks, and even the bonnethead are greater than 0.5. So when we first started with sharks, it was an issue that was raised to the Department of Health by the state of Wisconsin who was going to sue the state of Florida for having food violations into their state.

So we went to commercial fish houses to get some shark tissue, as well as did an independent study through Moat Marine Lab to look at tournament sharks that were caught, so that we would get a quick and large sample that the DOH could evaluate, so that they could stave off the suit from the state of Wisconsin.

After that health advisory came out, Wisconsin was satisfied. The state had an advisory issued, even though it was not posted at a place of sale.

Mr. Pelosi: Dr. Henderson, are you interested at looking at that tripletail association in the mangrove community? I think that juvenile stage and their association is extremely strong, and you sort of talked about seagrass versus the mangrove community, about its contribution.

Dr. Henderson: That's still pretty highly speculative, and it's a research item that a couple of the different universities are undertaking with EPA just to look at the dynamics of the bacterial communities.

The mercury has to be converted from inorganic or elemental mercury into an organic form for it to be positively uptaken by the fish and have it incorporated into their musculature. It's within those systems that methylation is occurring.

With the exception of a few fish within the Indian River Lagoon, and these differences are fairly small, fish from the east coast to the west coast looked the same, but there are a few fish that are different, and it could be associated with that point.

Until a little bit more research is actually done on that methylation process, I think we would be spinning our wheels. We don't have any research dollars for this program at this point in time, although we're always looking. The legislature, this past fiscal year, turned down a modest request because we're in a no new program mode right now.

But if you want to get me some more tripletail, then we're always interested in a few more fish from different areas around the state. We wouldn't be actively pursuing how they were incorporating that mercury at this point in time, only that they have it.

Mr. Geiger: Is there any way to keep track of website hits on the advisory portion?

Dr. Henderson: I'm sorry, say that again?

Mr. Geiger: Is there any way to keep track of the number of hits you get from the public on the website in regards to the posted announcements?

Dr. Henderson: You know, I don't honestly know. I'm sure that the DOH has a counter on it. We have a counter on our website.

Mr. Geiger: It would be interesting to know if the public is actually going there and reading. I mean, there is no way to know if the public has any interest in this, but that might be one way of indicating that there is public interest, by seeing website hits on how many people were accessing it and reading it.

Dr. Henderson: This is sort of a sidebar to that, and it drops back again into the area of public health, which I always like to say I don't know anything about.

Whenever a negative article comes out -- there were several articles in a couple of medical journals and the lay press in the middle of last year concerning potential mercury symptoms among people who were eating large amounts of seafood. In San Francisco it was the sushi tables and in New England it was the -- well, they didn't clearly tie to any particular thing, but it was the seafood it was tied to.

When that happened, we got a lot of calls saying, you know, what are you doing about this? Is this a problem for us; primarily from citizens who had caught those articles and were concerned for themselves or their family's health.

Just recently there was a whole flurry of articles from Lancet that basically was discussing one of the long-term studies. There have been two long-term medical studies on human intakes of mercury from island communities.

One of them said there was a problem and one of them said there wasn't. Well, the Sashell study just came out again, reiterating after their ninth or twelfth year of following the cohort of children, that there didn't seem to be a problem. We've gotten no calls asking us about fish as a follow up to that.

I guess we get the negative. When there's a negative call or a negative press, then people call us to find out about things. When it says the status quo is fine or don't worry about it, nobody calls up and says, well, why are you putting out this advisory if the medical community says you don't need it?

Mr. Geiger: Dr. Henderson, thanks very much for a great presentation this morning and if any AP members -- I'm sorry, John, go ahead.

Dr. Dean: Am I eligible on this one?

Mr. Geiger: You are eligible, absolutely.

Dr. Dean: I'm intrigued with this. This has been an issue that we've followed for some time. As I understand it, all of the values that you showed us are based on concentration on the basis of size, length and weight; is that correct?

Dr. Henderson: All of the mercury values that I've shown you were based on a tissue sample from the left dorsal musculature of whichever fish that we had, and we also took the suite of information whenever available, but especially what the fin program was doing on sex, on length, and there has even been some aging versus length and weights.

Dr. Dean: That's what I am particular intrigued with, is this specific information on concentration in muscle against age, specifically determined age and not presumed age.

Dr. Henderson: And most of that, we have not done. If we bring a couple of our studies together, but especially for some of the fish that were collected in association with the other studies -- we did a fish trap fishery study looking at those snappers down in the Keys.

All those fish, not only do we have lengths and weights on them, but we also have otolith ages and fecundity information. and we could compare all that against each other, but it hasn't been done yet.

Dr. Dean: That was my question because we do know that there's very high variance in size at age. A specific example is you cannot statistically tell the difference in age and size on a six- to sixteen-year-old striped bass, and that would be a significant difference in periodicity relative to the ability to accumulate mercury, would it not?

Dr. Henderson: Well, yes, and I think that's one of the reasons that you see such a variance just in the slides that I saw with some of these smaller fish being very high and some of the larger fish having low comparative levels. I think it has to do with the growth of an individual versus the growth of a cohort and just what we happen to sample.

Dr. Daniel: To that point, the R square, John, of the king mackerel information that we did in North Carolina, we aged all the fish, and the correlation between mercury concentrations and length was about identical to what we just saw at about I think it was around 0.7, 0.65, .7.

When we plotted that against age, the relationship was much tighter, much better, and it went up to about 0.9. So, there is a much higher correlation between mercury and age than mercury concentration and length.

But it's interesting what Florida has done -- and they've added a lot of fish, it appears to me, on king mackerel particularly, since our little joint venture and those numbers are staying relatively

-- the 33, 33 to 39, and 39 plus, which is the way to do these studies, I mean, because while they may not be catching a lot and using a lot of commercial samples, we did.

The reason we pushed for that so hard in North Carolina was because we knew that the commercial catches were generally smaller fish. So, really, a consumption advisory for fish less than 39 inches, not having that advisory, or it not being a no consumption advisory, really didn't impact the commercial fishermen because they're out looking for larger quantities of smaller fish, at least off North Carolina.

They're not going out after a lot of big fish, like the recreational community will, and so we put out the same advisory that Florida did, South Carolina, Georgia, with the size limits. But when the new EPA advisory level went down to 0.4 or 0.5, or whatever, our health folks just said no consumption now of king mackerel.

So just two years after all the effort to break it out and do it reasonably like it's been done here with king mackerel, we reverted back to just a blanket no-consumption advisory on king mackerel.

I just encourage anyone getting into these studies, you need to look at a full suite of sizes, age the fish, and try to get them from as many locations as possible, because I can agree with some of the comments from the AP that it is confusing to look at the list and see that only gag from one county are affected and not from everywhere.

There may be some slight variability, but, certainly, when you look at age, you see a very nice relationship, and it looks like it's right about four years old and classic bioaccumulation, as we discussed earlier.

Dr. Henderson: I would just like to add to that I agree completely. One of the reasons we don't use age for this particular monitoring program for the Department of Health is because you can't expect the fishermen to be able to age the fish.

And, likewise, you know, North Carolina has a real aggressive health department program to try to get the word out all over the community, and they are trying to make it as simple as possible.

Really, once FDA actually said that the target population of women and children should not eat king mackerel, I mean, it made it easy for some states to go back and just adjust their advisory according to the FDA.

There's a lot that I didn't go into about the reference doses and how much you're getting and how long it stays with you, and I can discuss that, but I don't think you want it today.

Mr. Geiger: Dr. Henderson, again, thanks for a very informative presentation, and I would encourage any of the council members or AP members to get with -- Andy, go ahead.

Mr. High: One quick thing. When all these advisories are going out -- Louis, you might be able to answer this for me -- is anybody also telling the FDA admits there is a tenfold safety factor built in that one part per million of mercury?

Dr. Henderson: There's a safety factor built into all of these advisories.

Mr. High: Right. I mean, what it's doing is scaring the public, which they're shying away from the product.

Dr. Henderson: In the full advisory, of which I have one of the few hard copies available, it does discuss how FDA, how EPA, and how the state have come up with their advisories up front. Now if somebody actually wades through that, I don't know.

I think most fishermen go, okay, I'm going fishing in this river, and they look to see whether it's listed; or, I'm going marine fishing and they look through the list and they probably skip right over the first couple of pages.

Mr. Geiger: Thanks, Dr. Henderson, that's really quite impressive work. For having an unfunded program, I think it's great. Thanks very much.

Dr. John Merriner, let's go ahead and cover your bycatch issues, if we could, please.

Dr. Merriner: Thank you, Mr. Chairman. In your briefing book, there's a report there that was sent forward by Dr. Thompson. That report is actually prepared by John Poffenberger, who handles the statistical datasets in the Southeast Science Center.

Particularly, the report addresses a new program that was begun actually in August of '01. For the first year this summary is provided just to give you an idea of what levels of discards may be from different fishermen on various trips.

It is not an expansion of bycatch by fishery or the grand total bycatch discard. It is a sample from the universe of logbooks, logbooks in the snapper grouper fishery, in the mackerel coastal pelagics fishery, and in the shark fishery.

You will see in that a breakdown by the different categories by both coasts; that is, the South Atlantic Council jurisdiction and the Gulf of Mexico jurisdiction.

And what you see before you are the responses, just a summary of the responses provided by the selected fishermen, and these are the actual numbers submitted by the fishermen. They are not estimates of total discards.

And the basis of whether these are -- the use of this information, from these there could be means to expand for particular species, and that's the basic plan, is to use discard information that is provided by the logbook programs, by any other specific study, like that alluded to for the

shark fishery from Dr. Carlson, utilize those data as they come in for discards or captures by various fisheries when you're doing a stock assessment.

So that's the utility of this information, is both to have a magnitude estimate in general, and then to apply these data as they come in and you're doing a stock assessment specifically for species.

As I said, these are a sample. The breakdown in the strata are revealed there in the various tables. The responses for discards included the range of all of them dead, all of them alive, and various in-between six categories.

When you break it down to individual species and individual gears, among the categories you will find that the sample size is not as robust as some might like, but it is a sample to give us an estimation of what is going on.

It is one way to get information on discards. There's another program in place now in the South Atlantic Council's area of looking at electronic reporting of discards, electronically reporting catches and discard information.

So there are ways, a variety of ways that the data could be expanded for particular species. The logbook information was just applied in the assessment for yellowtail snapper in means of expansion, based upon the numbers of trips and average catches per trip. That's the kind of application you get.

But it seems that if you look at the table, particularly that as it pertains to the South Atlantic Council and particularly as related to the coastal migratory complex and king and Spanish mackerel, that it is a fairly low encounter rate, a fairly low instance of discards.

With that, Mr. Chairman, if there are specific questions, it's expected that this will continue. It's expected that the selectees who did not respond may well be selected again next year, and the hope is that this information will be very useful to the stock assessment. And with that, I will stand to questions, if I can.

Mr. Geiger: John, thank you very much. No questions? Thank you, Dr. Merriner. Before we move on to the close of the session here, I would like to reopen it one more time.

We did this yesterday, but we've all had an opportunity to sleep on what was discussed in the potential of Amendment 15 yesterday afternoon, and I was just curious if anybody had any new material that they might have ruminated on overnight that they might want to get out and discuss, seeing as how this is our opportunity to do it.

Mr. Wickers: Just based on what I had said earlier, I don't want to have to put you through reading all that again. I would really like to have the advisory panel recommend the recommendation to prohibit the sale of all pelagics caught on charter boats, if we have our permits and all, that would be removed from the document.

You know, it's something extremely important to us in the Keys. We've been having to come and discuss this thing, gosh, since the '80's, and so far you all have supported us on this.

I just hate to have to drag through it all over again and have to go to all those meetings all over again. It gets expensive for our organization to keep sending us around to all these places.

I would like to make a motion -- if it's legal or whatever -- to have that so it doesn't go forward.

Mr. Geiger: Ben, do you want to handle that?

Mr. Hartig: Yes, I will. Certainly, we can do that right now, can't we, Gregg? Can we go ahead and rediscuss that. Certainly, there is different philosophies around the table about the sale of recreational caught fish, and I know that for a fact. Before we discuss it, we need a second, a second to that motion.

Mr. Gay: I'll second it for Bill to get it on the table. It doesn't mean I'll support it necessarily, as it's worded at least.

Mr. Wickers: We can use the wording that you used in the Dolphin FMP. In the Dolphin FMP, you allowed the sale on a charter boat providing they had all of the state and federal permits, I believe is the way it was worded.

Mr. Gay: I believe it also restricted private recreational boats from selling; correct?

Mr. Wickers: Right, that's the way I --

Mr. Gay: Allow the sale by the charter fleet, but not the private recreational angler.

Mr. Wickers: Right, it basically recognized the charter boats as a commercial type enterprise, you know, that we're a business and not a recreational boat.

I don't have the exact wording the way it was in there, but basically it would allow the sale of any fish left by the charters that they didn't want, because they are theirs and they want them, providing that the charter boats had the state and federal permits that allow the sale. Where are we on that dolphin; is that almost passed or --

Ms. Smit-Brunello: I'll be glad to respond to that. It's being processed, I believe, in the regional office. If you'll remember the Sargassum FMP, that notice of availability has been published and the proposed rule is out. I believe the Secretary has to make a decision on that in the middle of July.

I bring that up because there's some aspects of the sargassum plan that were referred to in the dolphin/wahoo plan. I believe when the sargassum plan is -- the decision date or whatever is done with that, dolphin/wahoo will go through the system.

Mr. Hartig: All right, we have a motion and a second.

Mr. Gay: This is a question I guess for Gregg. If I recall right, when the percentage of the allocation for king mackerel between recreational and commercial was set up, since this is a quota fishery, and we're talking about allowing what's been going on to continue, but wasn't there a -- as I recall, and don't hold me to the exact numbers, it was supposed to be 71 percent recreational and 29 percent commercial to account for the sale of some bag limit caught fish.

Two percent was added to the commercial, or something along those lines, that would balance that out somewhat and make it fair. Do you remember anything of that nature? Do you know what I'm talking about?

Mr. Waugh: Jodie, I believe you're right. It was either in Amendment 1 to mackerel where we were looking at the recreational commercial allocation, and I believe there was a percentage transferred to accommodate sale of recreationally caught fish.

Mr. Wickers: Yes, it was two percent of the quota, so it would be like -- if it's the 10.3 million pound quota like in the Gulf and whatever -- ours is 10.

It was shifted from 71 to -- like you said, two percent was shifted over to cover the sales because that basically covered all the sales that they had at that data. At the time, it was like two hundred and some thousand pounds that they shifted from the recreational to the commercial to cover that. That was in the kingfish plan.

Mr. Gay: I would just add one more thing, Ben. It doesn't look like it's stirring the conversation like I thought it would, but the charter fleet in my area, and I believe most areas, is just as commercial as anybody else is.

They may be one one day and another another or certainly from season to season, but they're all making a living on the water. This isn't that big of a deal up my way, but it obviously is in the Keys.

I think we should let them keep doing what they've been doing. I would add that this is moving in that direction of prohibiting the private recreational boat from selling, which I think is widely supported in both the recreational and commercial community.

Mr. Hartig: To that point?

Mr. Wickers: Yes, on what he's saying. The other thing is a lot of the grief that comes in this recreational is the back-door sales, and all the sales that we do are up front. I mean, we've been licensed from day one.

We sell our fish through the fish houses and we make sure that they're taken good care of. It's not like the flak that you get about, well, they're selling them in the back door of restaurants and

driving down prices and all that kind of stuff.

Our fish that we're talking about has always been legal fish. It's counted, and in the state of Florida we even have the trip tickets where they check off that they were caught on charter boats. I mean, they can actually tell you how many were caught in the little box there they mark.

Mr. Pearce: I think maybe Bill is somewhat answering the question that I was going to ask, which is do you support a ban on recreationally caught fish other than charter boats?

Mr. Wickers: Yes, we've always considered ourselves to be more commercial than -- you know, we take out recreational fishermen. The problem that we always have, like in the Keys, is that the recreational fishermen, they come down and they leave the fish with us.

That's why we've always kept our licenses. And then a lot of times like when things get tough, we do use our licenses and go out and commercial fish also because we have to make extra money.

It just doesn't, in my mind, make sense that on the day that we run out and use our licenses, we can sell the fish; and then the next day if I have a customer and they leave us six or eight kingfish, that we can't do something with those fish, if we have all the licenses to do it.

Mr. Hartig: To that point, Pete, go ahead.

Mr. Pearce: On an average month, how many fish would you have left with you that you sell?

Mr. Wickers: It varies a lot because the fishing varies a lot. On an average trip we'll have four customers; and with the captain and the crew, we get maybe a dozen fish. They may want to take a couple of them to the local restaurants for supper that evening or whatever and leave the rest with the crew, and we would sell it.

But in the last couple of two or three years, like I said earlier in testimony, our kingfishing has been off down there, and so we haven't really caught the numbers that we were used to. But, you know, that can always change because that's why they call it fishing.

But our main fishery would be from probably about the first week of January through probably March 1, something like that, so it's just a couple of months on the kingfish. Then our dolphin are mostly May, June, and early July. That's our main times we catch fish.

Mr. Hartig: Okay, I've got Louis and George, but I'm going to let Gregg read the dolphin and wahoo definition.

Mr. Waugh: Just to clarify what's in the dolphin/wahoo plan, Action 11 says prohibit the sale of recreationally caught dolphin or wahoo in or from the Atlantic EEZ, except for allowing for-

hire vessels that possess the necessary state and federal commercial permits to sell dolphin harvested under the bag limit in or from the Atlantic EEZ.

Dr. Daniel: This motion, Mr. Chairman, would prevent you from doing that. I mean, if we remove the option to do that from Amendment 15, it's a moot point. I think there may be some interest in pursuing exactly that for king mackerel.

I mean, my personal opinion, just not speaking certainly for the committee or the council, would be to support something like that for kingfish. But when we move forward in Amendment 15, as you well know, it's likely we will have a no action alternative, that we'll have that alternative, and we'll have that alternative, and the council will pick a preferred option.

That would be the way that I would like to pursue it and suggest we pursue it, and I know that there is some interest in the Service of moving in that direction. My only hesitation is that we haven't seen the impacts of doing it with dolphin/wahoo yet.

But, certainly, before we get to a point, hopefully we will have gone through a time to get some handle on how it has affected dolphin/wahoo before we take final action on Amendment 15. But if you pass this motion, I mean, assuming that the committee goes along with you, you've eliminated that opportunity.

Mr. Geiger: My sentiments are exactly with Louis, I can't believe it. But, that's exactly right, and I think for unanimity we should have it the same as the dolphin/wahoo plan. I think that's a great idea, and speaking personally, I would personally support that.

Mr. Thomas: I've got a couple of questions. Number one, are you asking for this in Monroe County alone? Is it county specific and is it species specific?

Mr. Wickers: No, I'm not requesting it just for Monroe County, no. I mean, if that's what it would take -- I know that there's charter vessels in other areas that sell catch. I mean, it couldn't possibly be that we're the only place in the world that does that. It may just be a little higher there, I'm not sure.

I mean, I'm just trying to stop something from ending up in a contradiction to -- it took a lot of work to come up with the wording that we came up with in the dolphin plan, and I'm trying to maybe come up with something that's -- I have no problem if it was exactly like what was the wording in the dolphin plan.

I just don't know how to -- because the way what is in this document that is going to public, it basically says you can't sell anything, anything that's caught, any pelagic, period, that's caught under recreational bag limit, whether you're on a charter boat or a pleasure boat, and that's like a blanket.

But, I mean, that even goes against what you all have already done in the dolphin plan. I don't

know whether I need to reword the motion or what, but that's why I said I would like the wording -- you know, if you can get the wording up there the way it was in the dolphin plan, that would be fine. I would like to withdraw that motion and make another motion.

Mr. Thomas: What about my questions?

Mr. Gay: Second.

Mr. Hartig: Does the seconder agree with the withdrawal of the motion?

Mr. Gay: Yes, I do.

Mr. Thomas: I want to say a couple of things. Number one, I'm against waste. I think it's terrible to discard. I don't know what is happening to these tips, but I also wonder, as a new fledgling individual on this committee, is where will the tips stop?

What I'm assuming is that they leave other species with you too, and we're not talking about those, and when do we stop buying this and buying that?

At the same time, four years ago I read a very disturbing article. It was in "National Geographic" and it was the March issue, I do believe, and it was on the Tokyo Fish Market. They had all these bluefin tuna laid out there with the heads chopped off and the tails trimmed off and frozen. They came from all over the world.

But the writer was from the United States, and in there he said that if you bought a bluefin tuna on the Tokyo market, the chances were 50 percent or better that it was caught by a recreational fisherman.

Now, ethically, you're transmitting signals out there that we're going to open up possibly a sales of all these other species that are restricted, because they're tips. I understand what you're talking about when a party leaves your boat and they leave the fish, they don't want to mess with it.

They're going to get back on their plane and they're going to take off, and I hate waste. But at the same time, you've got to realize I am a commercial fisherman from the word go.

But, at the same time, I hold a charter boat license, too, and I am a licensed captain, and I know when I am one and I am the other, and I understand that. But I can see trouble down the line of people interpreting -- you know, they're allowing the sale of restricted species here now off these charter boats.

Now we get into a conflict where some people have to qualify for their license in the Florida waters based on a count, a weight, and they could lose their license, but some guy on a charter boat could sell, and he doesn't have to go through that weight requirement.

For instance, the stone crabs, if you didn't produce a certain amount, and this is logic of it, you lose your license. If I don't produce a certain amount of spotted sea trout, dollarwise per year, I lose my license under restricted species.

So here we are talking about a miniscule of a little tip, you know, compared to a volume that somebody else may have to produce down the line and lose their license to sell that fish. So this is a big problem to me.

Mr. Wickers: Well, what I'm saying is we would have to have the same licenses. In other words, we would have to meet those same restrictions. Right now, for instance, I have a kingfish commercial license. I have to meet the same requirements as if you had a kingfish commercial license to get it. It's a federal license.

I have a snapper grouper minimum. So, I mean, if you didn't have those licenses, if you didn't meet the minimum requirements that's required by the federal permitting process, and also the Florida restricted species license, which I have also and most people in the charter industry do in the Keys, you couldn't be able to sell your fish. I mean, you have to have those commercial items also.

Mr. Thomas: But evidently, you know, if you open this up -- what I'm saying if you go from king mackerel to spotted sea trout, make that jump, okay, because in the state they're going to start looking at this possibility of selling the bycatch that's caught with charter boats.

You're going to disrupt the entire venue there for issuing these licenses to start with. For instance, let me go back. This is very simple -- and help me with this because I can put one boot in one uniform and one boot in another.

But, to qualify to catch spotted sea trout, I have to produce a said dollar amount between June the 1st and August the 31st or I do not get my restricted species endorsement, and there is a dollar amount there.

Now what I'm saying is I lose my license, I'm out of the spotted sea trout business, but I'm a charter boat captain, but I can go and take a tip, eventually, down the line, and maybe sell that species. I'm going to have a lot of trouble with that, you know, as an individual.

Mr. Wickers: You wouldn't be able to sell them unless you met the minimum qualifications to get your restricted species endorsement. That's the whole purpose. I mean, you have to have the licenses and the restricted species endorsement and the federal licenses to be able to do this.

Mr. Thomas: My question is, is the general public going to all these commission meetings going to understand that fine point? I mean, the signal is you are selling a restricted species or selling it as a tip, taking it as a tip and selling it, and what are you transmitting about all the other species you're laying out there that we're now going to consider?

Now we're getting into charter boats can sell, and they will be the sole operators of selling these fish eventually because you're going to eliminate the other crowd.

Mr. Wickers: We sell such a small percentage of the total fish that we're able to get our licenses, but, you know, the minimum.

Mr. Thomas: Well, I wish you could sell them and nobody would know about it, you know, legally, and that's the issue, whether it's legal or not.

Mr. Wickers: Well, we've been doing it for fifty years.

Mr. Thomas: Illegally.

Mr. Wickers: No, legally, it's legal now. It's always been legal. It's legal right now. What the proposal that the Gulf is doing is to make it illegal, and I'm asking you all to vote so it is legal.

Mr. Thomas: Then you just answered my question.

Mr. Wickers: It's legal now.

Mr. Thomas: Then you've answered my concern.

Mr. Wickers: I'm just saying I would like to you to leave it the way it is.

Mr. Thomas: Leave it alone then.

Mr. Wickers: Yes, it's been legal. It's never not been legal. They're saying let's make it illegal, and basically, you know, then you've got an issue then what are these guys going to do? Are they going to start running around and try to sell them through the back door, which is another issue, you know, that I could --

Mr. Thomas: On other species?

Mr. Wickers: Yes.

Mr. Thomas: Currently.

Mr. Hartig: And certainly, Richard, we've got a pile of testimony. I don't think I can reach that high over the years on this --

Mr. Thomas: Well, we should all be against waste, I'm telling you.

Mr. Hartig: We appreciate your comment.

Mr. Thomas: Thank you for clarifying that for me.

Mr. Wickers: No, it's legal now. I'm just asking don't make it illegal.

Mr. Thomas: It just went down easier.

Mr. Hartig: So we have a motion on the floor -- no, we don't.

Mr. Wickers: Okay, I'll make a motion of what's on the board there. Let me read it. I would like to make a motion that we include as an option in Amendment 15 to prohibit the sale of recreationally caught coastal migratory pelagics in or from the South Atlantic EEZ, except for allowing for-hire vessels that possess the necessary state and federal commercial permits to sell coastal migratory pelagics harvested under the bag limit in or from the Atlantic EEZ.

Mr. Hartig: Do we have a second?

Mr. Davis: I'll second the motion.

Mr. Hartig: Seconded by Gil Davis.

Mr. Pelosi: That will include Spanish mackerel and cobia; is that correct?

Mr. Hartig: Yes, that will include those species.

Mr. Love: I'm not on this committee, but I thought in the dolphin/wahoo plan that we would not allow the sale of wahoo. I thought that was in the plan; it was just that they could sell dolphin; and the way this reads, it doesn't say that.

Mr. Waugh: That's correct, the wording in the dolphin/wahoo plan allows the sale of dolphin by the for-hire sector if you have all the appropriate permits.

What we did here, as I understand Bill's intent, is to track that provision, but include, where we just allowed the sale of dolphin, to allow the sale of all coastal migratory pelagic species, all the species in the management unit by the for-hire sector if they have all their permits.

Mr. Love: The other thing is I've talked to Bill about this before and I think -- isn't about 98 percent of what you all sell mackerel and dolphin; the bulk of what you --

Mr. Wickers: At least 90, 95 percent, I would say, yes, at least because we don't get that many wahoo or anything like that, not percentagewise.

Mr. Love: To me, it would probably cause less heartburn if you, in some way, would get together and just take those two species to sell, and that would stop any more recreational or game fish that could be sold.

That would not be a big financial burden on you to do something with them other few species of fish you got; just make it king mackerel and dolphin, and that's it.

I don't know whether you can do that at this committee, but I think it would satisfy the bulk of your needs, and it would also satisfy other people that's concerned about other species of fish.

Mr. Wickers: So if I amended this motion just to say kingfish instead of all pelagics, that would be satisfactory to you? I mean, I can live with that if you can. I will amend it to just say kingfish or king and Spanish or whatever. I don't know, I'm getting nods around the table.

Mr. Love: I don't know if just naming the two on here, if that would solve it, that would probably be fine and that would probably make you all happy, and it would probably make other individuals that's concerned about other species that may wind up getting on the market as commercially caught fish, retail. I wouldn't have no problem with it if we just had those two fish.

The other thing is NMFS has always been beating on our heads about trying to stop the sale of recreationally caught fish, and I heard you say earlier that it's done everywhere.

I would like for NMFS to respond if this is true. Do they allow the sale of charter boat fish in all these other states that Bill had mentioned earlier?

Dr. Kimmel: NMFS' position on the recreational sale of fish has generally been against that provision. As you know, in the South Atlantic area, we've had various states disagree, and so we haven't been able to prohibit the sale of recreational fish throughout the South Atlantic at this point.

The various state governments certainly have their own rules and regulations, and we can't control that all the time. If they have compatible rules with what we have, then we can generally get them to agree to prohibit the sale, but it is not a universal prohibition sale of recreationally caught fish.

Mr. Dunn: Speaking from the recreational side, to me this clarifies and simplifies the point I've had for a long time. We've heard the charter boat captains say they really consider themselves commercial.

They have all the proper permits. This is a really small, little, tiny catch compared to what they could do on another day.

I think it's fair and proper for them to be able to sell these and put them into the commercial quota where they're counted, and let that be that. I would not recommend limiting it. If we're going to do this at all, I would leave it open like it is for all coastal pelagic species.

Mr. Hartig: We have a change in the motion, is that correct?

Mr. Wickers: Well, I had changed it at the request of Fulton. I mean, I personally would like to see all of it, but I'm trying to get this through the council.

Mr. Hartig: Well, also the committee is going to be able to look at this also, and they're going to be able to do what they think they want to do. I mean, we can advise them of what we believe they should do and then they'll go ahead and do what they think is --

Mr. Wickers: You know, the original motion was -- but I could live with either one, I'll put it that way.

Mr. Hartig: Gil, is that acceptable to you?

Mr. Davis: I would like to leave it the way it was. I think the states have got to say something in this, and there is going to be a little bit of concern. I know South Carolina is not going to like this one, but I would like to see the full bag. If you want to sell your fish, be my guest. If you don't want to sell it, that's all right, too.

I think the main concern I have is keep the average person like myself out of selling fish to a local seafood market, the restaurant, or anybody else that wants to buy it.

I think there is too much of this, and I think there is too many fish that are sold that haven't been kept properly under storage or under ice and so on and so forth. I think we're getting into a health factor here.

Mr. Hartig: So we're back to the original motion. Anymore discussion? The motion as it stands now, the motion in Amendment 15: to prohibit the sale of recreationally caught coastal migratory pelagic in or from the South Atlantic EEZ, except for allowing the for-hire vessels that possess the necessary state and federal commercial permits to sell coastal migratory pelagics harvested under the bag limit in or from the Atlantic EEZ.

All those in favor of the motion, raise their right hand; all those opposed. The motion passes without objection.

Mr. Geiger: Committee members?

Dr. Daniel: I just wanted to try to give a little bit more direction to staff from something that I think Dr. Crabtree alluded to yesterday. That was in looking at alternatives to management of king and Spanish mackerel, and what I would like to look at is the historical record on why we put a TAC on these species.

It was to recover them; they are now recovered. We're not overfishing, nor are we overfished. And, as John very well put yesterday, depending on the various recruitment estimates we get, which we don't know for four to six years, and dependent upon the selectivity patterns that may change over time, the MSY's are fluctuating all around, between five and ten million pounds.

Well, that's not a significant concern when we set TAC well above the current catch levels, but we're in a situation now where if we were to move forward with framework action or we were to move forward with the current estimates, we would run a significant risk of having to shut the fishery down early.

Then we may come back four years from now and find out that recruitment was better than we thought, we could have actually caught an additional million or two million pounds of fish, but because the MSY's were fluctuating all around, we didn't do that.

So. I believe one of options that we really need to seriously look at, and what would tremendously simplify this document, would be to remove the TAC, take it away. You've got a three- year assessment cycle, you can manage the fishery without a TAC.

We don't manage fisheries with TAC's that are -- many fisheries with TAC's at all. It eliminates a lot of paperwork and administrative difficulties. and it eliminates the problem of the fishing year start. It eliminates a lot of problems.

You maintain your current trip limits, your bag limits, all your restrictions, but then that way you kind of account for that natural variability that we're seeing in the MSY's.

We don't unnecessarily shut the fishery down and affect the fishermen. And, we can kind of track it and we can see that if we're starting to get a level of harvest where we go, oh gosh, we're up in the 8 million pound range for two or three years in a row, then we may need to come back and revisit.

I just think that's a reasonable option to consider. I think it's kind of what Roy was getting to yesterday. We can manage based on one of the control rules, and we could basically know where we need to be every year to keep a handle on it.

Then it would avoid us having to come back in here and try to set TAC's every couple of years, and so it would just save a tremendous amount of administrative headaches as well.

I just bring that up for clarification to staff and also to just give the AP sort of a heads up of one approach to consider and discuss for the future.

Mr. Geiger: Thank you, Louis, that was a very good point. And for clarification, I guess, for the AP members, as Gregg helped clarify it for me, was that Bill's motion, without a motion from the committee, actually becomes an option in the paper. And, what Louis just discussed also becomes an option that's included in that document.

It does not require any motion or anything else. We're just looking for things to be included as options in the scoping document.

Mr. Woodward: Thank you, George. Just a comment about Bill's option and something we're

going to have to deal with, and that is going to be impacts on tournament sales of king mackerel and what that might mean, because there are a lot of tournaments that accumulate pretty substantial quantities of king mackerel which they are in turn selling -- that are either passed through to charities or used for proceeds for tournaments and that sort of thing.

This is going to create an interesting situation if this were to be an action that was approved and carried forward in Amendment 15. It's just something we're going to have to think about.

You've got the potential of promoting a lot of waste because people are not going to want those fish back, and it may be illegal for the tournament to sell those fish if they're classified as recreationally caught fish. It's just something we've got to consider down the road on this.

Mr. High: In North Carolina, I believe, and, Louis, correct me if I'm wrong, but doesn't the tournament have to go buy a permit from the state before they have -- so they're really considered a commercial entity, so wouldn't that be a loophole, supposedly?

Dr. Daniel: Well, we could do that in the federal plan, I think. We can add a provision to -- I think Spud's concerns are valid. I mean, we take care of it that way in North Carolina and it may be that we could require a federal tournament permit or something like that.

I mean, I hate to add more permits, Lord, have mercy. I mean, that's an option to deal with it, but it's something we can flesh out over the next year as we develop Amendment 15.

Mr. High: I would hate to see the proceeds -- especially since North Carolina is making the tournaments turn it over to charity, I would hate to see that eliminated from anything.

Dr. Daniel: And to that point, I did an analysis of the tournaments, at least in North Carolina, and found that generally you're looking between a thousand and three thousand pounds per tournament. So it's about a trip limit, for North Carolina at least, at the high end.

But it does need to be addressed, because a thousand pounds of fish, trying to get rid of them, it's hard to take them to a soup kitchen because they just can't process that much biomass, and many times they won't accept them when they come in that quantity.

Mr. Ogle: In tournaments in South Carolina, we've been able to get a land and sell license from the state authorities, if the sales proceeds would go to charity, and these fish were sold in New York, and the proceeds given to local charities.

Mr. Geiger: Any other discussion?

Mr. Davis: The question I raised, when we talk about mercury and when we talk about fish 39 inches and larger we shouldn't eat, but right now we're advocating the sale of fish over 39 inches to anybody that wants to eat to the detriment of their health.

You know, I've been raising the question, and I know we don't want to take it up, that we're not the control of what mercury is in fish or should we sell it, but I do believe we're at this point selling fish for human consumption that our scientists recommend that we don't eat. I think that's something that should be considered.

Mr. High: I understand his concern, but I don't agree with it. I see too much data saying just the study he quoted there is no problem with the mercury. I see just as many saying there is and there isn't.

The EPA and the FDA both agree there is tenfold safety factor built in, so, really, the level that could be used is ten parts per million instead of one. So, again, we aren't the health department. When the health department comes to us and says you definitely cannot let the public eat it, then it should be something we take up, but not until that point.

Mr. Ogle: I agree, too, and a lot of fish have mercury in them, and in fact the FDA lists the four species that have the largest amount of mercury as sharks, tilefish, swordfish, and king mackerel.

King mackerel has the lowest of the average values of those four. King mackerel has between 50 percent and 25 percent lower levels than sharks, swordfish.

So if we want to do something to help the public, I think we ought to focus on those species. There are advisories on how to handle a fish that is 33 inches or longer, and that is to eat much smaller amounts, and for people that are not in the high risk group and this information is available through the EPA and also through DHEC.

Our Department of Health and Environmental Control states that people can still safely eat fish taken from the state waters if they follow the consumption guidelines for specific species of fish. That's from Alan Boozer, chief of DHEC in South Carolina.

I think if the proper guidelines are followed, even these fish that have rather high burdens of mercury can be safe. Thank you.

Mr. Erickson: I don't see Ben in here right now, but I just want to put it on the record that I'm against making Spanish mackerel required federal permits to sell in the state of Florida. To start with, right now they have to have an RF -- they've got to qualify for RF's to sell Spanish mackerel, and they're under a 1,500 pound catch limit.

The biggest reason I've got is federal permits are vessel permits. My shark permit is no good unless it's on my vessel. My mackerel permits, it's no good unless it's on my vessel. Kingfish too, the same thing.

In state waters, you can use a boat as long as it's got a commercial license. If you have the right RF, you can jump on another boat. If yours broke down, you can jump on another boat with a commercial license.

You can't do it if it's a federal permit. You've got to be on the same vessel all the time. That's just a few of the reasons and as far as I'm concerned, that's enough. I'm just going to put it on the record that I'm against that.

Mr. Geiger: Any other comments from the ruminations from last night, which were pretty good? Seeing no further comments, we're adjourned.

(Whereupon, the meeting was adjourned at 11:55 o'clock a.m., June 19, 2002.)

Tape of Proceedings on File (3)

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SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

JOINT KING & SPANISH MACKEREL COMMITTEE AND ADVISORY PANEL

**Hilton Cocoa Beach Oceanfront Inn
Cocoa Beach, Florida
June 18-19, 2003**

DRAFT MOTIONS

**AP MOTION: ADVISE THE COUNCIL TO DEFER FRAMEWORK ACTION ON
MACKEREL (2003-04 FISHING REGULATIONS REMAIN AS STATUS QUO).**

APPROVED BY AP

APPROVED BY COMMITTEE

APPROVED BY COUNCIL

**MOTION: APPROVE THE GULF COUNCIL MACKEREL REGULATORY
AMENDMENT**

APPROVED BY AP

APPROVED BY THE COMMITTEE

APPROVED BY COUNCIL

**AP MOTION: REMOVE THE OPTION TO PROHIBIT THE SALE OF
RECREATIONALLY CAUGHT FISH FROM AMENDMENT 15 - WITH THE INTENT
THAT THE WORDING REFLECTS WHAT WAS USED IN THE DOLPHIN WAHOO
FMP.**

MOTION WITHDRAWN

**AP MOTION: INCLUDE AS AN OPTION IN AMENDMENT 15 TO PROHIBIT THE
SALE OF RECREATIONALLY CAUGHT COASTAL MIGRATORY PELAGICS IN OR
FROM THE SOUTH ATLANTIC EEZ EXCEPT FOR ALLOWING FOR-HIRE
VESSELS THAT POSSESS THE NECESSARY STATE AND FEDERAL
COMMERCIAL PERMITS TO SELL COASTAL MIGRATORY PELAGICS
HARVESTED UNDER THE BAG LIMIT IN OR FROM THE ATLANTIC EEZ.**

APPROVED BY AP