

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **DOLPHIN WAHOO ADVISORY PANEL**

**Crowne Plaza Hotel  
North Charleston, SC**

**April 7-8, 2011**

### **SUMMARY MINUTES**

#### **Dolphin Wahoo Advisory Panel**

David Harter, Chair  
Harris Huddle  
Fred Kinard  
John Tortorici  
Richard DeLizza  
Ray Rosher

Dewey Hemilright, Vice-Chair  
Joseph Shute  
W.A. Phinney  
George Patterson  
Tin Nettles

#### **Council Members**

George Geiger  
Tom Swatzel  
Dr. Brian Chevront

Duane Harris  
Robert Boyles

#### **Council Staff:**

Bob Mahood  
Kate Quigley  
Myra Brouwer  
Mike Collins

Gregg Waugh  
Kim Iverson  
Dr. Mike Errigo  
Julie O'Dell

#### **Observers/Participants:**

Dr. Carolyn Belcher

Don Hammond

Other Participants Attached

The Dolphin Wahoo Advisory Panel of the South Atlantic Fishery Management Council convened in the Crowne Plaza Hotel, North Charleston, South Carolina, Thursday afternoon, April 7, 2011, and was called to order at 1:00 o'clock p.m. by Chairman David Harter.

MR. HARTER: Gentlemen, if you guys are ready, this is David Harter, and I'm your chairman of your advisory panel. One of the first things I guess we need to take a look at and see if there are any suggestions or changes to the revised agenda that we have before us. First of all, gentlemen, if there are any changes to the agenda, anything you want to add to it, why let us know right now.

It is important that when any of us do speak, that we identify who we are or else I may jump in and identify you if we forget to do that. I think we want to start out if there are no changes to the agenda, and start out and everybody around the panel introduces themselves. Harris, if you could start out first, tell where you're from and certainly what aspect of the fishing and dolphin industry you're involved in.

MR. HUDDLE: I'm Harris Huddle; I'm from New Bern, North Carolina. Basically I run a private fishing boat and I am a recreational fisherman. I do a lot of fishing for dolphin and wahoo and a little bit of everything else.

MR. SHUTE: Joe Shute, Captain Joe Shute's Bait and Tackle in Atlantic Beach, North Carolina; inshore and nearshore charters. I do lure manufacturing, a little bit of everything. We do a good bit of dolphin fishing. I'm here from the great state of North Carolina to sit here in this beautiful warm weather today when I should be fishing.

MR. PHINNEY: Captain Wally, charterboat captain for the last 30 years. I've been in Beaufort County since 1946. I go by Major Phinney. I was in the army for 20 years, two tours in Viet Nam, three tours in Turkey and one in South Korea. I still love my country and I'll die for it any day. Basically on the dolphin, I fish pretty heavy for it in July when they come close to shore.

MR. DeLIZZA: Richard DeLizza, recreational fisherman from South Florida. I do most of my fishing for dolphin in Islamorada down in the Florida Keys.

MR. ROSHER: Ray Rosher, Miss Britt Charters in Miami, Florida; two charterboats, R & R tackle. That's about it. I've dolphin fished my whole life, born in Miami and second generation.

MR. WAUGH: Gregg Waugh, South Atlantic Council staff. I'm tracking the dolphin wahoo parts of the Comprehensive ACL Amendment; and you'll hear from Myra Brouwer, who is tracking the overall amendment. She is going to be presenting the SSC recommendation on the comp ACL in a little bit.

MR. HARTER: You all know I'm David Harter, your chairman. I'm out of Hilton Head. I'm in a recreational fishing community. Of course, where we are out of Hilton Head you have to really be a hard-core fisherman to keep running out for dolphin as far as we've got to go out there, but that's what we do.

I'm with the Hilton Head Island Sportfishing Club and also we've got the Hilton Head Reef Foundation. The Hilton Head Reef Foundation is a big supporter and helps Don Hammond coordinate his funding for his dolphin-tagging project. We work closely with Don Hammond.

MR. HEMILRIGHT: Dewey Hemilright, commercial fisherman, pelagic longline fisherman from North Carolina, enjoying this nice warm weather down here. I wish I was home fishing. My boat is out fishing with somebody else on it, which is the first time in 20 years that somebody has ever done that. I haven't gotten any phone calls. I'm looking forward to the meeting.

MR. KINARD: Fred Kinard from Charleston, South Carolina, recreational fisherman and represent the South Carolina Wildlife Federation.

MR. TORTORICI: John Tortorici with Low Country Shellfish for Wholesale Seafood Distributors. We distribute to restaurants, hotels, supermarkets throughout North and South Carolina.

MR. NETTLES: Tim Nettles, recreational fisherman from South Florida. I mostly fish for dolphin and wahoo and occasional billfish, located in the Palm Beach area. Dolphins are a main gig down there.

MR. PATTERSON: George Patterson. I'm charterboat captain, now part time in Savannah. Your very right, we've got to run a little bit. It's a long way from Savannah to 226 Hole. Of course, dolphin and wahoo are our primary targets; ain't any tuna so that's that. We held the Georgia state wahoo recreational record for five years, at 117. Glad to be here and glad to see some familiar faces again.

MR. HARTER: Gregg, is there anybody from the council that you want to introduce that's important besides yourself?

MR. WAUGH: Well, having put it like that, we've got to introduce everybody. Starting with Tom go right around.

MR. SWATZEL: My name is Tom Swatzel. I represent the South Carolina Fishery council, and I'm chairman of the Dolphin Wahoo Committee. We certainly appreciate your being here today and giving your time.

MR. GEIGER: George Geiger, council member from Florida.

MR. BOYLES: Robert Boyles, council member from South Carolina.

MR. HARRIS: Duane Harris, council member, Georgia.

MS. BROUWER: I'm Myra Brouwer, council staff and I mainly work with snapper grouper issues.

DR. ERRIGO: Mike Errigo, fishery biologist, council staff.

MS. QUIGLEY: Kate Quigley, council staff.

MR. MAHOOD: I'm Bob Mahood, executive director, and I didn't know George Patterson was still kicking around these days. I'm glad to see that.

MS. IVERSON: I'm Kim Iverson and you all know me.

MR. HARTER: We're going to step into Don Hammond's presentation right now. Of course, Don Hammond has been probably one of the few remaining and best marine scientists that have been studying dolphin over the last number of years, ever since Don left the South Carolina Department of Natural Resources.

He handled the dolphin program for them, and then, of course, he stepped into private practice and has continued it. Don has continued to be a great friend not only of any of the fisheries research. It doesn't make a difference whether its dolphin or cobia or whatever, he has immersed himself in this and we are very fortunate to have Don here to talk to us.

MR. HAMMOND: I appreciate the opportunity to appear before this august body of fishermen, even though they may be a little bit smelly, but still a very important group. To bring you up on some of the findings of the program; and what I'm going to talk about is basically a summary of some of the aspects of the study that are pertinent toward the management issues and hopefully answer some of your questions.

As Dave was saying, this program actually began under the South Carolina Department of Natural Resources. Robert Boyles was great in supporting this program for the first four years of it. At the end when I retired from the state, at that time they started having the economic crisis within the Natural Resource agencies and they didn't have the staff or money to continue the study, and so I was allowed to graciously take it out the door with me to continue to study.

As such, since 2006 it's been a private research program that's funded virtually wholly by private donations. This is a program by the people for the people and because they are also the ones that are doing the research work in this. Hilton Head Reef Foundation, which Dave heads up, is an integral part of this and they receive donations for the study in their 501©3 to provide full tax deductible status.

I'll give you some statistics on this program. For the first nine years of the study, we've had 870 boats that have been involved in this study. More than 1,800 anglers have participated in the study, tagging more than 13,000 fish of which 361 have been reported recovered. We've had fish that travel as long distances as much as 2,500 miles.

We've had 20 fish that have traveled more than a thousand miles before they're recaptured. These fish can travel fast, up to 130 miles a day. We've had 23 fish that have been recovered

that average traveling speeds of more than 60 miles per day. They are really amazing animals. Let's take a look at the distribution of the tagging activity over the nine years.

The white number to the left is the number of fish tagged. The red letter is the number of recaptures and the yellow is the percent of recovery rate that we've seen. In the Mid-Atlantic Bight, north of North Carolina, we've only had 143 fish tagged over the period and we've had three recoveries; a little over 2 percent recovery rate. Off the North Carolina coast we've only had 344 fish tagged with 3 recoveries there; less than a 1 percent recovery rate.

Off of South Carolina, now South Carolina anglers have contributed more than 20 percent of the fish tagged in the study. They've tagged over 2,600 fish, 64 recoveries, and 2.4 percent. Off of east Florida, that's where the bulk of the tagging takes place, but roughly 64 percent of all the fish tagged in the study were tagged off the east coast of Florida. Out of the 8,400-plus fish that have been tagged, we've had 254 tag recoveries or over 3 percent recovery rate.

Gulf of Mexico, we've only had 113 fish tagged and we have yet to have the first tag recovery in that area. Hopefully this year – I'm working with a graduate student at Texas A&M University – we hope to see that number really increase and some tag recoveries and start gathering some information there. Bahamas, we've had over 1,100 fish tagged in the Bahamas; 33 recoveries for just under 3 percent recovery rate.

Western North Atlantic, which really translates into the north shore of Puerto Rico, we've had 157 fish tagged and we've had 3 tag recoveries there for just under 2 percent; Caribbean, 162 fish tagged in that area; one recovery down in that area. That gives you an idea of the distribution of the tagging activity.

Now, let's look at the Florida fish movements. These are domestic movements; these are fish that have traveled up the eastern seaboard on their first pass by the coast. Now 234 reported recoveries for the domestic recoveries; 177 or 74 percent of all the fish tagged in Florida and then recovered off of the east coast were recovered before they got out of Florida.

Well, actually it was 75 percent. The other 25 percent were scattered up the eastern seaboard, from Georgia, South Carolina, North Carolina on up. You look and you can see North Carolina is at 40. They have actually harvested 70 percent of that other 25 percent that escaped out of Florida. So you can see the two big players in the dolphin fishery are Florida and North Carolina, very clear. The fish, of course, move right on up into the Mid-Atlantic Bight.

These fish travel at fairly rapid paces; Islamorada to Oregon Inlet, 835 miles in nine days, 93 miles per day; fish from the Keys up to Cape May, New Jersey, 1,123 miles in 23 days, 49 miles per day on average. All of 1,200 miles in 51 days from the Florida Keys up to off of Montauk, well, Atlantis Canyon off of Montauk.

Now one of the slowest-paced travels that we've seen for a Florida fish going north was 986 miles in 103 days, or basically ten miles per day on average. Overall, fish that were tagged off of Florida and recovered up north from Georgia on northward averaged more than 20 miles per day in their travel range. That is something to keep in mind; there will be a test later on.

Now South Carolina, that was the other big area where we've had primary tagging activity. Here we see 13 fish were recovered out of the 60; 22 percent were recovered in-state before they ever got out of state, that's all; much lower than in Florida. Then from there we see that the tag recoveries largely based off of North Carolina and into the Mid-Atlantic Bight, all the way up to New York area.

Again, you see that North Carolina is the primary recovery point for the fish tagged in South Carolina. Some of the travel speeds that we've seen for the South Carolina fish, 396 miles in five days, basically 80 miles per day; 692 miles in 26 days is 27 miles per day. One of the slowest that we've seen was 720 miles in 152 days, or five miles per day. The average travel speed for South Carolina fish traveling north is only eight miles per day. That is significantly less than what we have seen in Florida. Now why the big difference?

My hypothesis on this is that it relates to two semi-permanent gyres that are set up off of the Carolinas, one off of South Carolina, one south of Hatteras. Current buoys that have been dropped in the Gulf Stream to monitor the Gulf Stream flow have been entrained in these large circulating bodies of water for several months at a time, just going in circles around.

These gyres set up on the western side of the Gulf Stream; so fish being tagged off of South Carolina are very susceptible to being caught in those gyres and spend considerable time. An example is that fish that was tagged off of Charleston was recovered 71 days later only 11 miles away from where it was released, just 11 miles.

Dolphin will get entrained in these gyres and spend considerable time, and that's why I would say that these fish are much slower than Florida fish. The other side is that Florida fish, you have to understand what they have been through, a very traumatic experience, and that is the area from Key West up to about Stuart is known as The Gauntlet for the number of hooks that are in the water on any given day and especially during the prime run of dolphin through there.

What I feel is happening is basically the dumb fish are getting removed and the smart fish are being pushed over to the eastern side of the Gulf Stream; so that by the time that they are starting to move past the north end of the Bahama Banks, the Gulf Stream starts to spread out and those fish are staying to the east side, because the ones that are on the west side are being removed by the Florida fishermen.

We've only had three tag recoveries for Florida fish off of South Carolina and that's it. North Carolina, however, as you saw, had a large number of Florida fish being recovered and the reason is the thousand fathom curve comes within striking distance of the fishermen up in that area. In other words, the east side of the stream comes within that area. I think that this is the big factor that accounts for the difference in the speed, rate of travel, for these two groups of fish.

MALE VOICE: So the South Carolina dolphin are coming from where; Northern Florida?

MR. HAMMOND: That's what I was getting into; that's where I'll get into on the next slide.

MR. HAMMOND: North Carolina and the Mid-Atlantic Bight domestic movements, I've combined those areas and there were a total of six recoveries for the domestic recoveries for those fish. Four of those were what I call end zone or local recoveries, short-term, short-distance recoveries in those areas. And then the other two occurred to the south but they expand into the next calendar year.

These were actual return migrations of the fish returning to the east coast for the second pass along the eastern seaboard. Those we'll talk about here in just a minute. Now, Bahamas movements, and this is something that is very important here in the Carolinas and on up into the Mid-Atlantic Bight in that we've had ten fish that have moved from the Bahamas to the U.S. East Coast.

The important part here is that this shows a second origin of fish moving to the East Coast, and I believe that this is where a major portion of the dolphin that are caught in South Carolina and in North Carolina are actually coming from; are coming across the Gulf Stream and there. Fish tagged over on the east side of the Bahamas have shown up from Ft. Pierce to Brunswick to Wilmington and all the way up into, well, actually in international waters, east-southeast of Nantucket., from the eastern side.

Those fish tagged in the tongue of the ocean have shown up off of Georgia and up off of Cape Hatteras, moving northwards. Those fish tagged off of the eastern side, there have been four recoveries from those, and again they have shown up off of North Carolina and on up to New York and the Atlantis Canyon area that they've been recovered.

We're looking at fish that have moved 621 miles in 21 days or 30 miles per day, 1,162 miles in 45 days, 26 miles per day for those fish. The average rate of travel is 15 miles per day, which is splitting the difference between what we saw for the fast-moving Florida fish versus the South Carolina fish.

I think what we're seeing actually here is that the fish fan out over the entire Gulf Stream. Some of them are staying on the eastern side traveling fast, whereas those that are moving to the western side, some of them do get caught in the gyres that are set up on the western side of the Gulf Stream off the Carolinas.

Now, Puerto Rico is beginning to give us information on origins of the dolphin fish during the wintertime where they are coming from, headed toward the coast. We have had three domestic recoveries of dolphin that were tagged off of Puerto Rico. All three of these fish have moved to the west, moving east to west; tagging off of San Juan, moving to the west.

The two on the North Shore were relatively short term, a week or so in duration of freedom and short distances, 50 or 60y miles in distance. On the south shore, that one actually, I cheated a little bit, that just happened this year. It was a fish tagged. The fish up on the north side are being tagged in December/January, those on the south side are being tagged in February. That fish was out four days, moved 72 miles in that four-day period to the west; following those deep channels that you see, the trenches that will run on the border, Puerto Rico on the south and north side.

Additionally, we've had one fish that was tagged off of San Juan in October show up at the western border of the Dominican Republic, 388 miles in 81 days, or basically five miles per day. All these fish – the important thing here is all these fish in the wintertime are tracking to the west, following the trenches, I believe, that border the Caribbean Islands.

Ultimately I think this will eventually take them back into the Florida Straits. Now this table, this little spreadsheet represents 17 recoveries that I feel represent fish that are making their second pass along the U.S. Eastern Seaboard. Those in red are the fish that were tagged one year and recaptured the subsequent year, so they overwintered somewhere else.

The recoveries in white represent fish that were recaptured the same year that they were tagged and with varying liberties from anywhere from, I think, about three or four months on up to about seven or eight months in duration. But, the important part here is that 5.3 percent of my recoveries indicate that dolphin fish are returning to the Eastern Seaboard for a second pass. It's not a case that these fish are just moving along the coast one time and that's it.

What I think this represents is really a good demonstration of how fishermen can invest in their own fishery. A recovery this year shows this very clearly. In July of 2010, Don Gates, a primary tagger of mine, tagged a 16-inch dolphin down off of Marathon; that's less than a two-pound fish.

In February that fish was recaptured off of Jupiter Inlet, a 22-pound bull. In a seven-month period you're looking at a 20-pound gain in this fish. I think that shows a very wise investment as far as the fishermen can make for themselves to benefit themselves from this. Now, let's talk about our fish, you know, our fish off of the Eastern Seaboard, and let's look at the international dispersal of these fish and just where all they show up.

There are three primary origins for these fish. The red is the Florida fish that have been tagged in the Florida Keys and yellow is fish tagged off of South Florida, white is for fish tagged off of South Carolina. February 2005 we had a fish recaptured in the Eastern Atlantic south of the Azores Islands by a Spanish longliner. That's a 2,500 mile distance.

February of '06, fish that were recovered in the West Indies off of Antigua; February of '08, fish off of Venezuela from South Carolina; March of '06, fish were recovered off the southwest point of Puerto Rico; March of 2010 a fish recovered, the first one was off the Florida Keys; the second one was off of South Carolina.

Now here's the spooky part. Those two fish recovered four years apart were recovered within 19 miles of each other; the recapture locations, on exactly the same day of March. Is that coincidence or is there a story here? March, '09, east of Havana, Cuba, on the north shore, we've had a Florida fish recovered there. April of '05 off of Mexico at the border with Belize, a South Carolina fish is recovered there; April, '06 off the northeast corner of Cuba, a south Florida fish shows up there.

April, 2010, a Keys fish shows up off of Long Island in the Bahamas. And then May of 2010 we have another fish show up off of St. Kit's right next to Antigua in the West Indies. And then finally December, we have a South Florida fish show up off of the Dominican Republic, the north shore. Here you see "our fish", the U.S. fish and their dispersal throughout the entire Caribbean. That right there shows a very clear picture that we are sharing fish with these areas.

Now let's look at another phase of my research program and that is using pop-off satellite tags to evaluate the essential habitat for these animals and looking at some of their behavior. One drawback with using pop-off satellite tags and that is that with these instruments, especially – this is the old model, this was the original size. This is the current model, X model that is being used today, which is half the size of the original one. This is the E model that is being, has been promised by Microwave Telemetry for two years now and they have not delivered.

These are so large that it requires that you use a 30-pound fish or greater to be able to tag, and in this case your tagging basically the geriatric segment of dolphin society, because dolphins seldom live beyond two years of age. So you take a 30- pound fish and that is one of the oldest ones, and most studies on animals have shown that the older age class animals behave differently from the younger ones.

What I'm going to talk about today is basically relating to the large older fish in the population and it may or may not directly apply to the younger ones. But these instruments are basically small computers and they record time-specific pressure, temperature and light intensity. The instruments that I've used, primarily are for 30 days, called high res, and it's to track the behavior and the temperature. It takes a record every two minutes where the fish is, the pressure, temperature and light intensity.

This is something that the first time that people have used this to really try to evaluate the environment that dolphin inhabit. It has really been an eye opener, and for those of you who have checked the stomachs of dolphin to see what they're eating, you've probably found some strange critters, especially like squid, paper nautilus, and rock shrimp.

Well, those animals belong to a group of animals that stay hidden in the deep depths of the ocean during the day and only rise up at night, especially rock shrimp. It just baffled me how dolphin were eating rock shrimp, because they burrow into the bottom actually during the daylight period. What we found was that dolphin engages in extensive deep-diving behavior. They are more prone to it at night than they are in the day, and it also varies area to area.

Now these are two 24-hour graphs comparing the fish. This is South Carolina fish and this is a fish in the Florida Straits. Richard, this is yours; Richard DeLizza has put out three of the satellite tags for this program, and this is one of his fish here. And you notice how they do more deep diving at nighttime and early morning, late evening and at night than they do in the daytime, and staying mostly at the surface.

A majority of these tags have clearly shown that the dolphin did spend most of the time at the surface on these initial studies. Now, the South Carolina fish, as you see, engages in a lot more

deep-diving activity during the nighttime and even during the daylight period. This, I believe, accounts for those animals, the rock shrimp, the paper nautilus, the squid.

They are in fact utilizing—they've basically got two menus and the menu is one is a deep-depth menu, those animals that live in the great depth of the ocean and rise up at night, that they feed on. Then the ones like in the Florida Straits, I think that in the Florida Straits here that it is basically channelized and that it doesn't spread out and that more food is available at the surface during daylight hours for dolphin in the Florida Straits that they do not need to dive as deep; whereas up off of South Carolina the Gulf Stream is spread out much wider.

The surface animals prey are able to scatter more and that the dolphin up here must rely on deep diving to produce more of its food up in this area. But, again, and note this, that is 400 feet deep right there, so that was pretty impressive, that they would use that much of the vertical water column. Nobody really ever had considered that they would engage in this.

It does vary by area and we just need a lot more because as I said we've only put out 11 tags so far in this study. Then there was last year and in this case this fish was tagged off of Melbourne, Florida, in May, and it was tagged in 2,000 feet of water out on the eastern side of the Gulf Stream.

This fish, first off, those two points there are below 700 feet deep. This fish actually dove down to depths in excess of 840 feet deep. Beyond the shelf they were diving to and not only that but notice it rarely visits the surface. It shows another totally different behavior that I have not seen and that is that they're using more of the water column or staying deeper for a longer period of time and just seldom visiting the surface.

The fish last year off of Florida exhibited – another fish exhibited similar type of behavior. This is something we are just learning as we go along. One of the other things that we've been able to monitor at the same time that we're getting these depth graphs, we're also recording temperatures. That's something that has been somewhat of a surprise for us as well.

This compares two tags, two off of the Florida Straits and than two off of South Carolina, late May early June when these tags were deployed. You see that they're using really very different levels of temperature in the two areas, and especially in the motile and the average temperature. You see the average daytime temperature for Florida was at 82.7 during the day, 81.5 at night; but then off of South Carolina it's 78.1 in the day and 76.5 at night, much cooler.

What that relates to is the thermal composition of the water column. What we're seeing here is that the optimum or preferred temperature of four dolphins will vary with area and with season. You would actually need to be able to track the fish throughout their entire range to see how their temperature preferences change by area and by season or month.

Now what we can say in this temperature is what we've observed is that dolphin will use waters from 16 degrees, that's 61 degrees Fahrenheit, much cooler than what people previously believed they would use, all the way up to 32 degrees centigrade or 89 degrees Fahrenheit. The preferred temperatures that we've seen is basically between 78 and 84 degrees.

As I said earlier, the temperatures will vary from area to area and with seasons. Water temperatures below 22 degrees appear to be utilized principally during foraging excursions and not to be occupied for any extended periods. That gives you some idea where we've been with this program; some of the facts that we've been able to come up with for dolphin fish.

And this is the people, the businesses and organizations that make this research possible; and as you can see it goes from the Bahamas to South Florida, North Carolina and all the way to Minnesota and Wisconsin. Actually, one of my primary sponsors lives in Jackson Hole, Wyoming. Now, you'd really go to Jackson Hole, Wyoming to look for funds for marine research. I've been extremely blessed from the standpoint that these people have actually found me and have been taking an interest in the program and want to see it continue.

MALE VOICE: What is the range of donations?

MR. HAMMOND: The range of donations, anywhere from 20 dollars to 10,000 or actually 25,000 one time. Most of my donations are a thousand dollars or less in size. I welcome any and all donations on it. They are fully tax deductible thanks to Dave Harter's generosity in making the Hilton Head Reef Foundation a receiver for donations for this program. You do get a full tax write-off for it. With that, I'll be happy to answer or try to answer questions that you have about the fish, over this program.

MR. HEMILRIGHT: I've read a number of your reports online and tagged a few fish in the earlier beginning. Something I don't see much of is a lot of length of the dolphin that have been tagged, their migratory pattern. I see more done with the distance and time but the length of the fish, meaning that length of the fish that was tagged in Florida, I don't see many of your lengths of the fish. I see more – because length tells me a few things, what size of fish are being caught.

When we make inferences of looking at catches between recreational charter and commercial, commercially longlining, I'm not going to catch that small fish, never have, so your length frequencies, I'd like to see in lot more and seeing your stuff I think would help. I don't know how it would enhance it more, but length of the fish that are tagged; you don't see that in none of your stuff.

MR. HAMMOND: Well, this is something I do have. Most of the lengths, well, it's about a 50-50 split, that when the fish are tagged, 50 percent of them are being physically measured but the other 50 percent are being estimated. There are good estimators and then there are bad estimators and I don't have any idea. That's why I've really – and most of the recovery lengths are estimates and occasionally I get a few that are measured. It's very unreliable but, yes, I agree with you and that's something that I can put down within my reports as to what size the fish started out as.

MR. HEMILRIGHT: Well, when I've looked at the reports, I was under the thought that all of them were measured, so the estimation, maybe you could put – I mean that changed my whole thought process, if you don't have any of that in your things that one is guesstimated and one is actually measured., that does change a little bit different in theory.

MR. HAMMOND: Well, and that's why you'll see in so many of my reports I don't talk about growth is because either one end or the other was estimated or both ends were estimated. It does give you – like you say; it gives you the class of fish; was it a little schoolie, was it a slinger, was it a gaffer that was tagged. That's something that I'll be happy to include in the future; I certainly can.

MR. HARTER: I think Don, too, as you pointed out to us before in the biology of this fish; you can have two fish that are essentially the same age, but there can be 100 percent difference in their weight and size just because of the food that's been available to them.

MR. HAMMOND: That is something. Food is everything to dolphin. You have one fish that stays on food and is well fed and you'll have – those are the ones that can reach 40 pounds in 12 months, but then you have that one that lives on the verge of starvation. He may only be 12 or 15 pounds at one year of age. There can be a considerable gap in the difference in the size at age.

MR. PATTERSON: Don, just out of curiosity, a lot of times when we overrun the fish out of Savanna, which is easily done, running 80 or 90 miles; looking at your eight miles a day for, let's just say, Savanna, the south ledge up to 226, maybe at Georgetown Hole; a lot of times we get warm water eddies inshore of the break. How does this – I'm sure you are aware that this must affect the days traveled if a fish gets into one of these eddies. There are plenty of fliers in there. That fish is going to stay there to do what you just said, eat. I'm wondering how much affect this will have on mileage traveled on these.

MR. HAMMOND: It's very similar to the gyres that set up off the Carolinas. They get into those eddies and it will slow them down because they are going to stay there where the food is. They are not leaving it. Once they find food they'll stay. Yes, that's going to slow them down. Their northward movement will be much slower unless; unless that eddy is all the way out in the Gulf Stream, it has not pushed up over the shelf to drag along.

If it's in the main Gulf Stream, they'll still stay in that eddy but they are going to rip right along at the speed of the Gulf Stream. They'll still be traveling. You have to understand this. I had a drifting satellite tag make 127 miles in a 24-hour period as it drifted downloading data. It has no propeller. These movements that you're seeing on the dolphin fish actually indicate that they're swimming against a current during this period because a block of wood can make a hundred miles a day.

MR. ROSHER: Almost all the fish we see off the Miami area are, all the more mature fish, are swimming south. Only the little tiny ones are going north. You can watch the birds and know what you're approaching just by the direction the birds are going.

MALE VOICE: Don, except for I think down in Florida and South Florida, have you had much evidence of a southward movement of any of the Mid-Atlantic or South Atlantic fish at all, other than assuming that they're going around the Gulf Stream?

MR. HAMMOND: Rich, you didn't bring this one up? You paid him to do it, right? Talking about the southerly fall migrations, there have been a lot of contingents. Just like Ray was saying is that the charter captains and fishermen that fish off of south Florida regularly, they see these fish swimming south, because they are facing into the current waiting on bait fish to be swept to them.

I've had a couple of nice long discussions with several fishermen down there that they swear that there is a fall southerly migration of fish down there. The data had not supported any of that. There have been a few short southerly movements, but most of those short southerly movements occurred in May and June when everybody said the fish are supposed to be moving north.

It just so happened that I just had one fish that was – when was it tagged, in January – no, no, tagged in December and recovered, it was like 17 days later down off of Key West, very much a very clear southerly movement during this short period of time that would not permit it to have the time to go out and around the Bahama Banks to make a short migration around. There are anomalies, what can I say? If you study fish long enough, you'll start picking up on these subtle variations within a movement, but that was a clear case of southerly movement for a South Florida fish.

MR. HARTER: But nothing for any fish that were further north than that?

MR. HAMMOND: The only southerly movements for fish that were tagged north of that area were cases where they had been out for overwintered. They were caught the next spring making a second run along the east coast.

MR. HARTER: Don, do you have any feel or impression for the impact of the commercial fishery down in the Caribbean and its impact upon either the Mid-Atlantic or South Florida fishery?

MR. HAMMOND: Well, honestly, the answer briefly is no, because I do not have and have not been able to acquire any type of commercial landings for the Caribbean area to see what is going on down there. Domestically here, the only type of problems that I see within our commercial fishermen could create would be what I would call just a temporary or short-term depletion where they'd been fishing an area for a day or two and they've taken that group of fish out there; but given that these fish are constantly moving, the next day or the day after they are replaced by new fish. The Caribbean commercial fishery could be a problem in the future, it certainly could be.

MR. HEMILRIGHT: I want to add something. For your observation there most of the stuff in the Caribbean, I've never fished there much but I would think is more artisanal fishery. You don't see a lot of the Caribbean fish being imported into this country. That's the second thing, most of the import and importation would be coming from Panama, Pacific type of stuff.

Second of all, to your question about commercials here in the United States depleting the area that fish have tails; that could also be used for the recreational aspect of it, these have tails. To base your theory on localized depletion is a bit troubling and puzzling a little bit. It's just kind of

pure speculation. Until there is some study done that said this fish stayed here for four days, it's migratory, a lot of different areas happen in the Gulf Stream and some happen in the eddies, but as far as saying localized depletion, that could be just the same for the other side and the commercials.

MR. HAMMOND: You're exactly right, Dewey, is that anytime you have concentrated fishing pressure in an area, you can take those fish out and you create a gap right in that water mass. That water mass is moving north. Whoever comes back in and are fishing that particular water mass as it moves north would find like a gap where you've erased a line. You draw a continuous line on paper and then you erase a couple of places, that would be where the fish are taken out. That's when I call a localized depletion, just in that water mass as its moving north.

MR. HEMILRIGHT: So it would be a moving piece of water that's had localized depletion.

MR. HAMMOND: Right, you have to understand the dolphin habitat is constantly moving. You can't think of it in a hard geographical area and just put down latitude, longitude and say this is the dolphin habitat. That's the dolphin habitat right at that time maybe when you caught that fish; but you give it an hour and its already gone north. It's constantly moving and you've got to think of it as such.

MR. PHINNEY: Yes, question; like I tell you, I can catch the dolphin when they come close in. Around July and August they come up to Betsy Ross, which is 20 miles offshore. If I see flying fish or something, they'll be eating that. Basically, I catch my majority from the 50 mile to the 20 mile off of Beaufort there. You mentioned the pressure. What's the type of pressure of the dolphin? You had the pressure, the temperature and the light intensity. You gave the temperature range but you didn't say much about the pressure or light intensity.

MR. HAMMOND: Well, the light intensity basically is helped to use to determine the longitude to locate – to come up with a location for the fish at the time, to plot that. Also, that helps in determining predation on the animal, because unfortunately I have had – all too often I've had the lights go out on my satellites tags and stay out for four days.

Then all of a sudden they come back on, the tag pops to the surface and starts downloading data. That means that a predator had consumed the fish and had passed the tag eventually. Then it had survived passage through the alimentary system and downloads the data. But the pressure was indicating the depths, all the different depths.

We're following actual depths by pressure and that's how we gauge the depths on that. But the light intensity is really used when you do a longer period to where you use the time of daylight to establish longitude. Then you use water temperature to establish latitude when you're trying to plot a track for the animal during its monitored period.

MALE VOICE: Have you learned how long it takes a blue marlin to digest a dolphin?

MR. HAMMOND: As a matter of fact, I did monitor that. When I monitored a blue marlin – this is the other thing, and that is because so many studies have been done on these apex

predators with satellite tags to where we've monitored pelagic sharks, we've monitored swordfish, we've monitored blue marlin, white marlin, sailfish; so that you can look at the behavior of the predator because the tag still continues to monitor temperature and pressure while it's in that fish.

You'll see that the temperature is buffered so that – like in a swordfish, we had a 35 pound bull eaten by a swordfish. The fish was captured at night and then at daybreak, just before daybreak, the tag went down to 2,000 feet deep. During the daylight, what should have been daylight period, of course, there was no light; it was flatlined at 2,000 feet.

When nighttime was supposed to fall, it rose to the surface, within a hundred meters of the surface and stayed there during the nighttime period; again at daybreak back down to 2,000. We are able to see the behavior of the animal or the apex predator that ate it and can get an idea of what type of fish did prey on the fish. It's kind of neat science; not exactly what I spent the money to gather, but still neat science. Are there any other questions?

MR. PHINNEY: You mentioned 20 pounds and they only lived two. I thought they were 30 pounds and lived for three years, on the dolphin.

MR. HAMMOND: The way the structure is, the oldest dolphin that's ever been documented was four years of age. The natural total annual mortality rate is estimated to be 99.7 percent. They have studies in the Caribbean that have shown that they can achieve 40 pounds within the first 12 months of life, but that's not saying all of them do, but that gives us some of the parameters. They begin to mature sexually when they are 14 inches in fork length. They are fully sexually mature when the fish are 22 inches fork length, and that's about a three to five month old fish.

MR. PHINNEY: Another question on the reproduction situation. How many eggs do they produce and therefore how many little fishes come about?

MR. HAMMOND: Well, it really depends on size. Some of them, the estimates are 250,000 up to a million eggs, but their back spawners and I think that they spawn at regular intervals. They do have a peak spawning period probably in the spring. Sometime after they leave Puerto Rico to the time they get over to our east coast; I think is a primary spawning period. Then they spawn throughout their visit to the east coast.

For those of you who have caught dolphin, have you ever caught a female dolphin, checked its roe, that you did not find developing eggs in the ovaries? I never have; I've always found developing eggs every month. There is some kind of reproductive activity for most of the year, it appears. Age-and-growth studies have shown that dolphin are born every month of the year somewhere in the Atlantic. Are there any other questions? Thank you very much; I appreciate the opportunity to speak.

MR. HARTER: Thanks, Don, and Don is going to be with us throughout the panel meeting both days. He is considered to be somewhat of our biological advisor for this panel; so anytime you want to ask Don any questions about what we're going to be talking about as far as any

regulations and whatnot from a biology standpoint, why feel free to do so with Don. Now I think Gregg is going to go into I guess the overview on the dolphin and wahoo.

MR. WAUGH: What I'd like to do; the SSC has finished and they have some new recommendations for us. We've got Carolyn Belcher, who is the chair of our scientific and statistical committee, and she can present their recommendations. Then if you want, you guys have been sitting for a while, we can take a short break and then come back and we'll walk through the document and pick up on the SSC recommendations and get your recommendations as we go through the document.

DR. BELCHER: Thanks, Gregg. To give you a little bit of background, this is kind of – I gave this run a little this morning and Dewey has probably already heard a good chunk of this from sitting in on the meeting this week. But one of the things that the SSC talked about relative to setting the OFLs and ABCs for these species where we only have landings is that one thing that wasn't really caught on until folks started looking at alternative approaches to coming up with the recommendations for your ABCs is that usually when we look to set limits, we're setting it towards the average or the central tendency of the data set.

You want to try to find something that's in the middle. You don't want to go with your peaks. You don't want to go with your valleys, because obviously those are extreme situations. You try to find the balancing point. What happens with the ABCs and then, of course, ACLs is you're setting a limit. Where your landings kind of fluctuate from year to year and they bounce around a lot, if we set a limit we basically make it so that you can't exceed that value.

The idea is you want the norm, but the way that that limit is imposed you can't ever exceed the norm, you have to keep hitting the norm. We're restricting you to a low level that we hadn't really acknowledged early on. What the group has done – and we've done this for snapper grouper species as well as for the dolphin and the wahoo – is we've gone with picking – the cut-off is at the third highest value.

This is basically to help get above that mean, get a lot more variability around that number; so instead of picking that midline, we're giving you enough room to exceed it by some but we really don't want to hit your too-high values in case they do have an impact on the fishery, or on the stock.

When we went back and revisited dolphin, we actually ended up setting your ABC at 14,596,216 pounds with an unknown overfishing limit, because we really don't know anything about the biomass. We don't have an assessment to inform us on where we are relative to a virgin stock or what rate we've fished it down to. We can't tell you anything about really where the danger is. Relative to landings we can't get that information from there.

Based on what we see and knowing about the productivity, we were all comfortable with setting it at that third highest value. For wahoo, same general idea and discussion, and there's your actual landings trends. We can go back to dolphin for a minute, so you can kind of see where those values are. The red line, which is the highest line in that series, is where we put the cut at. You can see the majority of your time series for your annual landings.

You can see the bulk of the years since 1986 fall below that line. We're letting you have that normal tendency for the landings to be up and down and up and down over that timeline, where if we went to the middle value where we were recommending before, that's actually the lowest line, so you can see that there is fewer points that go above what that central tendency is.

We've released that lower cap, which had been a problem with folks, or at least the discussions have been relative to how low that cap was. Now we can go into wahoo? Again, that red line at the top – I apologize, I can't exactly do straight line stuff – that's where our focus is for that third largest. With wahoo we did the same approach. Again, we have no stock assessment, no information about the biomass, so we don't have an OFL because we really don't know at what point you're overfishing the stock.

We went ahead and did the exact same thing where before here is your median value, this lower line. Obviously, what we did was again it restricted it to fairly low levels. By releasing it and coming up to this third largest, you get the majority of the catch data; or where you guys tend to fish in that level for landings. The majority of that is represented. This basically equates to about 20 percent of your values being above that line. That value for wahoo ends up being 1,491,785 pounds. Dolphin was 14,596,216 pounds.

Some of the information, too, that we took into account, especially with wahoo, these lower years here; this is obviously a function with the bag limits. These kinds of things you didn't want to infer obviously that there was problem with the population, because some folks would focus on these last ten years and see what looks like a downward trend with one high point. The group, again looking at what management has done, these low values are actually more of a function of your management, which is again why we focused at that third highest point for the cut-off.

MR. WAUGH: Those are recommendations for ABC, and your OFLs for both species were unknown.

DR. BELCHER: Unknown.

MR. PHINNEY: I missed a point or something, but you say you had no value. What do you do with all the figures that our charterboat captains send in to you each month? I've been doing this since the South Carolina Wildlife came out with the requirement back in '92 or '93 and there is about 200 charterboat captains sending all these figures all the time. You're not utilizing them, you're telling me?

DR. BELCHER: Well, the problem is the stock assessments; whether or not we have them available and if we do if they're dated. Currently we don't have any new stock assessment information to base this on, so the only information we have available to us to work with is the landing stream.

MR. PHINNEY: Well, you're not going to the charterboat statistics that we sent in?

DR. BELCHER: It's ancillary information if it's available to us to help inform us about the time series, but general management is focused on the landings.

MR. WAUGH: The charterboat, the headboat catches, to the extent that there any, and the commercial, all that data is put together and that's what you're seeing here. They are looking at the landings. What Carolyn is saying is there is no stock assessment. We don't have an updated stock assessment for dolphin. There was a preliminary one done many years ago; there is nothing for wahoo.

In the absence of a stock assessment, what the National Marine Fisheries Service Southeast Fishery Science Center has advised is that the SSC use landings' data to come up with their recommendations for ABC and OFL, the allowable biological catch and the overfishing limit. That's what they are doing and that's what they are showing here and that does include all your recreational and commercial data.

MALE VOICE: I've got a question. I don't know if this is the right time to address this, how many more times we're going to get into a subject that's going to allow this discussion, but one thing that's always crossed my mind is, seeing I read almost the entire 64 pages, it seems like it's a lot of science is being based on a lot of assumption and a lot of you're proposing this, proposing; it's a lot guess work, I hate to say it.

I'm trying to say it politely but the bottom line is – I mean, my whole life I've hunted and fished and it seems like – and I know this isn't easy to achieve, but I think it's a direction that we should at least study. When you go, let's say, hunt in Wyoming, you're given a one-time use tag. If that animal does not have that tag on it, you're in violation of the law, period. I've always for most of my career wondered why we don't put a one-time use tag through the gills of every species that we catch, recreational, charter, commercial.

Because if for no other reason, maybe it doesn't happen the first year, but by two or three years of doing this, you're going to watch a flow. Obviously, these tags would have to be fairly inexpensive; they'd have to be somewhat secure where you can't forge them. You'd have to have some means of having an authentic tag.

If they could be produced for a low enough dollar value, which, I'm in the tackle business, I source stuff all over the world, it's not that hard to do. If I was required whether I'm recreational fishing, charter or commercial fishing to have tags representing each of those activities; at least we would start working towards a trend of what I killed, what the next boat killed, what the next boat killed, no matter what category they're in.

Then all that's left to do is take a shot at what your average weight is. I'll give you a statistic that I had my wife look up after I read this on the plane today. I have two charterboats. We probably run 450 days a year between those two boats. I had her go back and count our daily logs with two boats, 450 days total, that means a little over 200 days each, and everyday we were ready to catch dolphin.

I carry a chum bucket in my icebox every day. In other words, there is no day that goes by that our customers wouldn't like to have a dolphin for dinner. With all of that effort we killed 674 dolphins last year. That number is important. I think some people in this room may assume that we killed 2,000. It's not as much – and it doesn't matter whether my number is higher or lower than what people would guess; but the point is we're basing a lot of action here on minimal and true information.

Like I said, I don't know if this is the time to get into this, but all the other places in the world that I've hunted or fished, at least hunted, there is a one-time use tag; and if you could produce these for, I'm guessing 15 cents each, 20 cents each, and every boat out there had to have them. I know the reporting back is spotty at best. But if I had to have them and if I got pulled over, it makes management, the money you could save on – I have people come to my boat and do counts.

You're going to get the count just by virtue of my flow of purchase of tags. I've got to have those tags everyday. After a while if I buy a thousand count bag or a 500 count bag or a 100 count bag, I'm going to have to replenish those. Then all that's left is to say my 674 dolphin, I could probably tell you pretty close it's about a six pound average, seven pound average. I'm catching juvenile fish for the most part. Those are the ones I kill.

So now you do the math, it's about 36 – call it 4,000 pounds, so each boat killed about a ton of dolphin a year. Now you've got something tangible to base all the science on. Just an idea, and I'm not saying – obviously I'm not trying to bog this process down; I'm trying to create accuracy. I know it's going to be a burden to me, it's going to be a cost to me, but I would do it for the sake of science and for my children's future of fishing; just a thought.

MR. HEMILRIGHT: I'd like to address just a little bit of your concerns. I've been in this a long time. This is truly baffling, but when Magnuson was reauthorized, and in 2000 they said they wanted to stop the overfishing in 2010. When you look at the worst way to do this, is to address just mean landings – all right, so they chose not to look at CPUs all this other stuff for unassessed stock. The best way to reduce is what they reduce is basically reduce in fishermen. It has nothing to do with the stock of the dolphin.

Some of the things you propose in a perfect world would be great. They can't even get done today what's going on, so to ask for these tags and everything, that just ain't going to happen. But what they ask is –

MR. HARTER: Excuse me just a second, guys, if there are no more questions for Carolyn, we need to let her go.

MR. SHUTE: Carolyn, I just want to ask in all your facts and for your highs and lows, have you ever gone back and researched and factored in wind and weather days?

DR. BELCHER: We've been talking about available data – and this is something that the Mid-Atlantic has proposed and I know we've talked about as a group with the SSC is getting input from the APs to help us be more informed about what's going on with those data trends. That's

where again a lot of the concession, to bring up to a higher value that seems like it's more feasible and we're not capping you too low is where that basic common ground of giving you to that third highest value has come into play.

We do have built into what we worked on this week, if we have a situation – like we're looking at the trends, too, because we're looking at the last ten years. If there is a decreasing trend or an increasing trend, that's where it becomes more problematic for us. The stable trend pretty much just says landings are staying, general operating, there is not a huge removal, there is not a decrease.

If we see decreases in landings, you have to ask yourself is that because there is less fish available, or something that you guys are doing is causing that. We talked about the bag limits on the wahoo. Those drops were not a function of the landings and the availability of the animals. It was a function of what was imposed on you for management dropping those to lower levels.

If we have that information available, we can start doing better-informed adjustments to the landing stream. When we don't have it available to us, then we're kind of forced to look at it the way that we've been looking at it.

MR. SHUTE: Because just for a matter of fact, from the first of November of last year until today, which I had to come here, the wind in North Carolina – we catch a lot of wahoo from November to the current time right now. Over the last 120 days there have maybe been 20 to 25 days in North Carolina that I would say would have been worth your time to go without breaking a boat.

The average seas have been five to twelve feet. The effort is not there, so you're going to see a big decline, plus right now and over the last two or three years with the fuel prices the way they went, I noticed – I didn't download everything, but when I looked through the wahoo landings it showed a decrease in 2009 and '10 and then the current in '11. That's a big deal. People are saving their fuel and saving their money to when they know they are going to get a pretty day so they can go and unfortunately we haven't had very many pretty days.

It's going to be a huge difference from '07 and '08 to now. That's just one thing I just wanted to bring up because a lot of the fisheries; I don't care whether it's snapper grouper, whether it's dolphin, cobia or whatever, I've never seen wind and weather factored into anything. That is the biggest deterrent and the biggest reason there are plenty of fish out there right now because we can't go get them 70 percent of the time.

DR. BELCHER: Right. and unfortunately that's obviously – and me coming and talking to you, you can't really see a lot of the discussions that we had, but those are conversations that we had, especially in situations where we see downward trends in those last ten years. Because, again, there is two competing things; is it going down because you've changed fishing practices or is it going down because the availability of animals is going down.

That's where this problem of the biomass is unknown. We can't tell you you're overfishing it. There is no way we can actually tell you anything relative to biomass. In getting that information from you, Dewey talked with us quite a bit about different species yesterday and gave us indications. I mean, we're all aware of obviously fuel prices driving things down.

And we did at least – again in looking where that cut-off was, if we were not sure that was a factor, that buffer would have been larger. We would have actually made it so that the buffer or that range was smaller. You would have had less of a ceiling to shoot for. We would have dropped it from that cut-off at three down to four or five or some percentage above the mean. But when we could have those conversations and actually hear that information, we did feel more confident about leaving it at that higher value.

MR. PHINNEY: What is your suggestion catch per person then on wahoo and dolphin?

DR. BELCHER: I couldn't even begin to recommend because I personally am not familiar enough with the fishery to know what general trends are in that fishery.

MR. WAUGH: I'm sorry, if I could just make something clear. The SSC, our scientific and statistical committee, is not the group that's responsible for doing a stock assessment. That responsibility lays within the National Marine Fisheries Service; in our case the Southeast Fisheries Science Center. We had asked them to provide calculations to give to the SSC for them to use in meeting the new Magnuson Act requirements to come up with the ABC and OFL values.

They told us that due to their manpower and funding and timing issues that they could not provide us anything outside of a SEDAR stock assessment, so there is a SEDAR stock assessment scheduled. This will eventually be assessed, but in the interim the recommendation from the Southeast Fisheries Science Center to the SSC was to use landings' data.

If there is any criticism to be leveled, it's not towards our SSC. They've done the best they can given what they got from the Southeast Fisheries Science Center to meet the new requirements. These questions and issues about what's going on with the stock; that all needs to be addressed to the National Marine Fisheries Service, and that will be – once we get a stock assessment, then we'll know more about what's going on. In the interim we have no choice but to use the landings' data.

MS. BROUWER: I just wanted to add a little bit to the discussion and tell you about a report that we are proposing to prepare with our APs. As Carolyn mentioned, this is something that the Mid-Atlantic Council SSC proposed. The idea is to get the advisors for the various fishery management plans together to give us that sort of ancillary information that you were just talking about, so that the SSC can have extra information when they go to make these decisions and when they go to try to interpret these landings' trends.

We're in the process of trying to get a template and get a process set up where we can go to our APs and have an annual report that gets put together where you guys would be the primary authors in providing the input. The Snapper Grouper AP actually made a motion at their last AP

meeting and they were in agreement with pursuing this as something that would be valuable for the council and for the SSC.

Next week when the AP meets we're going to have more discussions and our social scientist, who is unfortunately not here, is going to be the one helping out with that, to try to come up with a way to get the information that you guys can provide into a report that can then be used by the council and by the SSC when they go to interpret the information.

MR. HARTER: Dewey, I know I interrupted and I apologize, but Carolyn is on a time schedule here so we need to –

MR. HEMILRIGHT: Well her answer was basically, no; weather is not taken into account.

DR. BELCHER: Not directly in the sense of quantitative. It was like you talked to us yesterday and gave us information and that kind of – again, interpreting, Gregg, can you just show that slide again for wahoo? I mean actually even in some of these, as he flips through slides, you'll see all these different informational trends that we see.

But, again, you look at wahoo, and with the exception of that one extremely high year out here, there is this downward trend that looks like its happening. Every year is lower, lower, and lower with the exception of a little turn here. The question as a scientist is why are the landings going down? Is this because you guys changed out fishing, is it because of management, is it because of less available fish?

That's what we are trying to interpret. In having Dewey at the table yesterday, at least he came up and gave us some insight. As we interpret this, especially like these two points, you're dealing with an imposed bag limit that caused the landings to be lower. There is an issue of fuel. There are issues of effort, which we do not have available at the time that we're looking at this, but all of that helps us then say, well, is this okay, can we leave it at the third highest; or because there is a chance this might be indicating the stock is declining, we need to lower that limit to something closer to that middle value.

So we chose to give you that higher value and leave it there because we feel that what we're seeing as a downward decline is actually more a function of what is going on within the fishery and reactions to economy; whether number of effort went down because of what you're talking about with weather; hurricanes kept you in. That's the more indicative. Those stories that we get through you and capturing it in a report to know changes in technology that have happened over the evolution of the fishery.

All of those things will be very helpful for helping us interpret, like this upswing that's continued from 1991-2001; how do we interpret that? Is it a building fishery? Did we not start seeing this decline because of issues of fish? You guys can help us fill in those answers as to how to best interpret that. That's what we are hoping will happen with that AP report. Again, Dewey was very helpful yesterday in helping us deal with these points out here.

MR. HARTER: Yes, to compound the weather situation, I think even some of the studies that Don Hammond has done about the effect about the prevailing position of the Gulf Stream has a huge impact on some of these fisheries data; because a lot of times, especially off of South Carolina and Georgia, it will push it to the point where all of a sudden it's out of the reach of the normal recreational or sportfishing sense, so all of a sudden the fish are out there but we can't get to them because it's beyond the range that we will normally fish. As I say, it's another compounding situation on top of the weather.

DR. BELCHER: But in those situations you would expect that as those change out, your landings will show that. The problem is, is when you get sustained downward; can we explain that based on what's happened within the fishery as opposed to assuming it's a problem and a critical failure going on in the population.

That's the problems with landings is that it doesn't tell us anything about the underlying availability of fish that are there. I mean, if there are a million fish available, we don't know what that percentage of the removals are. In situations where you have—again, economies as far as gas prices and all keep you in, it's a reduction in effort that's leading to that landings' decline and not a direct relation to less available fish. That's the hard part with the landings is it does not give us any indication of how healthy the stock is.

MR. HARTER: Any other questions for Carolyn?

MALE VOICE: Just in reference to the economy, what other variable besides fuel prices do you take into account; like is it disposable income, gross domestic product, unemployment, what kind of –

DR. BELCHER: I think it's just the general overall and understanding that availability for folks to put – you know, when the economy and times get tight everybody pretty much shifts away from recreational activities. I'm a horseback rider, to give you an idea, fuel prices for me because my show sites are all outside of three miles, I'm not showing like I normally would do because I drive a diesel truck at \$4.00 a gallon.

I would prefer not to spend \$200 dollars just to get there. So that kind of thing is – that price, you know, you cut back and tighten up just to make sure in case you lose your job or something changes out, furloughs happen. Everybody has to react to what's critical so folks just aren't putting money into trips, your headboats and that kind of thing.

MR. HARTER: Carolyn, thank you very much and I guess we're going to take a break at this point and come back and listen to Gregg.

MR. WAUGH: What we're going to do is start up now with the document that you were sent. We do have some more hard copies back here if anybody needs one. So, that document, I'll project it; and if you guys want to make motions, I'll give you the decision points along the way and then we can deal with whether you all want to give just your input by consensus or whether you want to do motions. It's up to you.

But first in terms of the fishery management unit, the common dolphin and pompano dolphin are in the fishery management unit. The issue here is for any species in the fishery management unit we have to set up all these parameters. You have to come up with MSY, OY, and all the SFA parameters. The conclusion that the council has made thus far is that pompano dolphin is considered a part of the multispecies group in this amendment.

Pompano dolphin are included in the landings of common dolphin. This is something you all discussed last time as well. It's the council's intent that the MSY, OY, OFL, ABC, ACL and AM parameters set for common dolphin also include pompano dolphin. Thus, it's not necessary nor possible to specify these parameters separately for pompano dolphin. They're staying in the management unit, but we're not specifying separate parameters for them. We consider them included in the dolphin information.

Then we talk about what measures were included in the first amendment. Then going through MSY, the MSY that was specified in the original plan covered the Atlantic, the U.S. Caribbean and the Gulf and it ranges between 18.8 and 46.5 million pounds. There is no updated MSY. The SSC did not provide any new guidance so we're not changing that. That's going to stay that way as specified as that range until we get a SEDAR stock assessment.

The minimum stock size threshold, again this was specified for the Atlantic, U.S. Caribbean, and the Gulf of Mexico. We laid out a formula, and so the minimum stock size is 50 percent of the biomass at MSY. That information will stay in there. We don't have a numeric estimate of that. We perhaps will get it when we have a SEDAR stock assessment.

In terms of the overfishing level, the SSC provided a recommendation at their April 2010 meeting and that's what the council was working off of before. The SSC provided a new recommendation at their March meeting, and they have now reaffirmed that the overfishing level, the OFL is unknown. I suspect the council will come back and say that the overfishing level is indeed unknown.

In terms of what they had specified originally, this is shown on the top of Page 3 and they had used originally the landings' data that was included in the original FMP back in 2003. Subsequently NMFS has updated the recreational and the commercial data for the years '1994-1997, and so that's what's shown in Table 4-33B. So if you calculate the mean in 1994-1997, you get a larger number, 13.7.

But again, what the SSC has done is looked at the information and said that it is unknown. They have now developed a new ABC recommendation because their recommendation before was to establish an ABC control rule and set the ABC equal to the OFL. Well, now their OFL they're saying is unknown. Carolyn presented their new information, their new recommendation to you and that value for the ABC is 14,596,216 pounds.

This is sort of the first place where you – and the council has some input – is to specify the ABC control rule and the ABC value. The council will be finalizing this document in June and they will be looking at the new value recommended by the SSC. We need your guidance on what you think about that.

MR. HEMILRIGHT: I've got one question for Gregg here on these updated landings. Where did they come from?

MR. WAUGH: From the National Marine Fisheries Service.

MR. HEMILRIGHT: So we look at '94, '95, '96, '97, all of a sudden you see increases in '97 of almost 2.5 million pounds for the recreational. When I say for the National Marine Fisheries Service, are they giving any explanation of where they found them, in what drawer, behind what counter for updates and this type of stuff?

MR. WAUGH: For the recreational estimates, what they've done is gone back and they have slightly different methodology. I don't have all the details. We can get that for you, but they have slightly different methodology for estimating the recreational catch and they applied that new methodology back in time and that resulted in these values changing.

The commercial, the explanation is they just have updated that with more current information. When the councils first put the plan together the National Marine Fisheries Service couldn't provide us the landings' data so we hired Phil Goodyear, who had recently retired from the National Marine Fisheries Service as a consultant to put the landings' data together. That's the source of the data that was in the original FMP.

I might just mention, too, that now the MRFSS has now changed into what's called MRIP and they have a new methodology again that's going to be applied back in time but only through 2003, so it won't affect these data but we are supposed to get new estimates of the recreational catches going back through 2003. We're supposed to get that sometime in May.

MR. DeLIZZA: Gregg, the ABC in the 2004 plan; was that established?

MR. WAUGH: No, that wasn't a requirement back then, and what the council did – and the council had to fight tooth and nail to get the dolphin and wahoo plan implemented because there was no problem then. The council wanted to get precautionary management in place before there was a problem.

That's what the council did is develop the Dolphin and Wahoo FMP, but they didn't put in that type of value because they didn't feel that was necessary at the time. Here is what they did. They prohibited the sale of recreationally caught dolphin or wahoo except for allowing for-hire vessels to sell dolphin.

They established a cap of 1.5 million pounds or 13 percent of total landings, whichever is greater, for the commercial fishery; and if the commercial landings had exceeded that amount, the council would look at it and see if there needed to be some changes. This was precautionary management we put in place.

MR. DeLIZZA: Today does the Magnuson-Stevens Act require an ABC to be established?

MR. WAUGH: Yes, it requires an ABC, it requires an annual catch limit so that you have to track the landings of each sector to make sure that the total annual catch limit is not exceeded. Those are new requirements.

MR. ROSHER: I was just curious how are they going to track recreational, for-hire. I also am a commercial fisherman, I, of course, count my fish through trip tickets and federal logbooks. That's kind of what I was saying earlier, it seems like there needs to be some method of getting reliable data because there has been almost no checking of limits in my life's experience in South Florida that I've seen. I've fished a lot of tournaments and you never really see anybody putting hard numbers to it. I don't know, can you explain to me a little more how they achieve the numbers?

MR. WAUGH: Sure. The commercial comes – we've got trip limits and in some cases we've got logbooks. The recreational, there is two parts to the recreational survey. One is where they have people come down and intercept at the end of a trip and look at the fish, identify the fish, count them, measure them. That gives you a catch per trip.

The other part is a phone interview part that randomly dials coastal households to get an idea of the number of trips. There's a statistical methodology that multiplies those two and makes an adjustment and comes up for your total estimate. Now there have been issues identified with that methodology.

NMFS has made some changes. They have put in a requirement that either you have to have a federal saltwater license or a state license. That's to identify the universe of anglers, such that now they are starting to draw – they're going to run a comparison for several years, but they are going to start, instead of just randomly dialing households to get a number of trips, they are going to randomly draw from a known universe of recreational anglers, which will improve the precision.

They've also modified the methodology to adjust for how the data are collected in terms of interviewers. In the past they have gone to a site. If there's nobody there they'll move to another site. That introduces some statistical error or variability. That is being corrected. Those methods are what's being put in place now and will be in place from here forward. They're going to apply some of those corrections back through the 2003 data. We do have some logbook programs on the charterboat and headboat sectors.

MR. ROSHER: I've participated in some of those dock surveys and the problem is, like in my marina I'm the only charter, I have two boats, and it was so bad that they'd have to call me, which was my recommendation. Instead of them sitting down there for four hours waiting, because I fish half days, three quarter days, full days, so I would try to help them by giving them a heads-up when I'm going to be in so they could come count my fish, and it just seems like a very costly method.

You've got someone just sitting there for hours waiting on boats to come in. It just seems insane, an insane cost and a really random scattered count when, as was brought up earlier, weather conditions change what people catch. Like Dewey said, there are water currents and –

you know, there are stocks of fish that move through. I've never understood how we can really get an accurate grip on it. I'm not trying to be critical; I'm trying to educate myself on what's currently being done and what can be done better.

MR. WAUGH: There have been suggestions over the years of various ways to improve the recreational data and some have argued that the for-hire sector should be on a hundred percent logbook. Then you could take your limited resources and then focus on the private recreational angler. There have been suggestions to look at ways to voluntary supply data.

There are some that argue; well, its self-reported data, how do you validate it and make sure that it's accurate? It's being used for highly migratory species. There are some research projects in North Carolina looking at ways that anglers can report their catch using cell phones. All of these things are being looked at.

We're going to be looking at, in the near future, for some of our species that have very low allocations, perhaps using a tag. But the concern that has been expressed from the federal side is they don't have – in the federal marine side they don't have the experience of issuing tags like many of our states do for hunting. So those are all things that could be done in the future, but right now we're stuck with MRFSS and now it's morphing into MRIP.

MR. ROSHER: One last comment on that point. The national side or the federal side has implemented online reporting now for our billfish landings. I can tell you that's a huge improvement. At the very least – I know I mentioned tags earlier, but at the very least an online reporting takes seconds. Literally, we have a billfish landing; it's really a matter of seconds. You go to the boxes, click it off and now you've got again something tangible that's a little bit more thorough, a lot more thorough. Every single billfish that gets landed is reported online now. It used to be paper, which took forever.

MR. PHINNEY: Same line of thinking. Here's Dave over there in Hilton Head Sportfishing Club. Here I am on the other side of the river a sportfishing club. You could send us an e-mail or some kind of format to send back to you, because I could get that out to about 100, 150 fishermen on my side, and Dave could probably do the same way, so that gives you three to four hundred people of fishing input from Beaufort County alone, if you all come up with some kind of format for us to fill to send back to you reporting.

MR. WAUGH: I don't mean to be deflecting this, but the council is not responsible for the data collection. We're responsible for developing the management plans. We have fought with the National Marine Fisheries Service over the years to try and make improvements to the data, and it's their job to collect the data and provide the data. It is changing slowly. They are making some improvements to how the recreational data are being collected, but it's not something under the authority of the council.

MR. PHINNEY: Well, why can't we send it direct to them then?

MR. WAUGH: You can.

MR. PHINNEY: All we need is some type of format and some type of procedure. I'm pretty sure Dave would get on the program and I could get on the program on my side of the river.

MR. WAUGH: I think Kim can probably get us the e-mail contact – is it Darby that heads up the recreational data collection – and you can provide those recommendations. Like I said, we've participated through a number of efforts, Atlantic Coast Cooperative Statistics Program, to try and get changes to the data programs. You are seeing some changes now. They're going to be pulling the effort side of the survey from a known universe of anglers and that will improve the precision. We're trying to get them to go to electronic logbook reporting on the commercial side.

MR. PHINNEY: It would be a lot easier.

MR. WAUGH: Yes, it would, but it's a long process.

MR. PHINNEY: It's frustrating; isn't it?

MR. WAUGH: Beyond.

MR. NETTLES: Gregg, quick question here. Every time we meet with this, the data is in pounds. Now that makes sense for the commercial fishery because they have trip tickets which tells how many pounds of fish they sold to the fish house, but if MRFSS is calling people and getting estimates – I mean, Ray was up front, he said their average fish is six pounds.

You talk to most recreational fishermen and they're going to tell you that it's ten or twelve pounds. My point is by calling someone that's not really accustomed to giving these weights, it would be better on the recreational side to go to a fish, like a count instead of a weight, to get a better reading?

MR. WAUGH: That's how the data are collected. The average weight comes from that intercept portion where the surveyors are actually looking at fish and generally they measure the fish and then there's a length-weight conversion factor. It's not coming from people's reporting the weight; it's coming from the actual lengths.

MR. NETTLES: So it's not coming from the surveys?

MR. WAUGH: It's coming from the interviewer actually looking at the fish and measuring the fish.

MR. NETTLES: But not the phone surveys?

MR. WAUGH: Not the phone surveys; the phone survey just gets effort.

MR. NETTLES: Second question, back to the ABC Richard went through earlier; here is my concern with the ABC. I know that the Magnuson Act says we have to set one. We all know that wind, economy, fuel costs is making the catches go up and down. If for some reason that

something changes, we have a great weather year, fuel mysteriously drops to two bucks a gallon again and we have a bounce back up; is the council going to be required to make some sort of immediate reaction if we have one year where it bounces back up, or is there some sort of lag? There's always a lag, I know everything takes forever with this, but is there going to be some sort of requirement to do something for immediate action?

MR. WAUGH: You're not going to like the answer, but there isn't a mechanism to raise it, but we have to put in a mechanism to deal with if there is an overage. If what you described happens, and your catches do go up in one year above your recreational ACL, then we have to have measures specified called accountability measures that we'll get into that are going to lower your harvest the following year.

Then we've also got issues to deal with if you go over your ACL; that needs to come off, that overage needs to come off your quota for the following year. Now if we get another stock assessment that shows this limit can be raised, then, yes, the council can raise that through the framework or a plan amendment.

But the new requirements – the whole intent of the Reauthorized Act was two prongs; one was to have the scientists and not the council specify these critical overfishing parameters, the ABC and the overfishing level, so that's being done by the scientists. So this ABC that we have, that's the limit. The council can't set its ACL, the annual catch limit, above that.

They can go right up to it but they can't go above it. That was one. The second was that congress wanted everybody to talk about specify overfishing preferably in terms of pounds so that then it's easy to keep track of what's going on. You just track as best you can the poundage. As long as landings are below that ACL, then everybody agrees ahead of time there is no overfishing.

If you go over that then if the commercial goes over it comes off of their quota next year. If the recreational goes over it comes off of their quota next year. There is a whole shift to quota management for both the recreational and commercial fisheries. The top end of those quota levels are set by the scientists, not the council.

MR. PATTERSON: During our last get-together just down the street here, I think I told everybody that I participated between boats with a company called Quan Tech, who supposedly collected data for the National Marine Fisheries. We were very limited on where we could go. I was supposed to ride a headboat, no pelagic species whatsoever. We went to landings through Beaufort County, Chatham County. It was a very, very poor way to collect data for a stock assessment unless you were just looking for redfish and trout. I just wanted to put that two cents worth in.

MR. HEMILRIGHT: I've got one other thing to bring up that's pertinent to this is something I haven't heard from the council or staff on direction. These are highly migratory fish. If the season and there's a quota put in and suppose it's a bang-up year in South Florida, they catch all the quota; as it migratories up how's that going to be taken to account?

The reason why I bring this up, I've seen this in North Carolina with spiny dogfish. The season started out, the northern area caught the fish before they got there. That's something I've not heard and I think all of us need to think about; because when you start to go with these hard numbers what charterboats are catching and the states putting up.

There could be a possibility that it's got to go to state-by-state quotas whether we like it or not. I mean these are some really serious things that need to be talked about. Second of all, I thought that with the recreational overages, if there was one for a quota, that they were going to use like a three-year running average for the simple reason it's real hard to track the recreational side from year to year. Did I read that correct?

MR. WAUGH: That's correct; we are looking at a three-year average. The first year this goes in place we'll use one year and then the second year – Myra, did we switch this to where even in the first year we're using a three-year running average? This is on page 18 of the document you have. It shows that for 2011 we're only going to use 2011 landings. It's at the bottom of page 18 and I'll project it as well.

MALE VOICE: Is this calendar year?

MR. WAUGH: This is calendar year; the dolphin and wahoo are on a calendar year. For 2011 we'll just look at 2011 landings. They'll compare what you caught in 2011 versus what your – in this case we're talking about an annual catch target; what you were supposed to catch. The council's current preferred is that if you exceed that recreational ACL the regional administrator would publish a notice to reduce the bag limit by the amount necessary to ensure landings do not exceed the recreational sector ACL the following year.

MR. NETTLES: My understanding now is the council will set the ACL and not the ABC.

MR. WAUGH: That's correct. The ABC comes from the scientists and that's where we're looking for your input on the ACL.

MR. HARTER: I think this is at the core of some of what Dewey is asking about, about the catch kept going up so high that we end up having to reduce our catch limit for the following year. Of course, the question is vice versa, if we don't catch enough is that also carried over also, Gregg?

A lot of what some of the research that Don Hammond has been doing will hopefully down the road be able to help better define which fish stocks are related to other fish stocks. We're finding this with cobia and some others. The question is if they overfish them in Florida will it have any effect on South Carolina and vice versa.

Hopefully, some of the research that's going to be coming up in the next few years will help us to better define what fishery is affecting what other fishery. I certainly, just like Dewey, I would hate to see that the Florida has a bang-up year and then we have to worry about it on the rest of the coast, too.

MR. HEMILRIGHT: I just used Florida as an example. I know in North Carolina when I look at the charterboat for-hire industry and I look at some of these numbers I showed you earlier, some of the charterboats in North Carolina account for in certain years 90 percent of the landings for the for-hire for everybody else. I have a problem looking at some of these numbers to even believe them when I'm looking at them because I still think there's a problem. If also overage; if you don't harvest your quota, how much of it is rolled over for the next year?

MR. WAUGH: We don't have any underage or overage provisions. When I said that earlier, I was still in mackerel mode from this morning. Since dolphin are not overfished and not overfishing and we're not close – when you see the numbers, we're not close to exceeding those ACLs, the council has concluded that the only adjustment is going to be to reduce the bag limit for the following year. Your ACL for the following year is not reduced.

MR. HEMILRIGHT: How about commercial?

MR. WAUGH: Not commercial either; those limits will stay in place for both recreational and commercial. Now if we are consistently exceeding them, then the council is going to have to come back in and look at it and make some adjustment. But their preferred right now is 6C, which is on the top of page 19, which is just – if the recreational sector ACL is exceeded, just reduce the bag limit.

MR. HEMILRIGHT: What page is that?

MR. WAUGH: At the top of page 19. Now there is an alternative in there also that would close the fishery if the ACL is projected to be met. But the council – that's not a preferred alternative that's in there, that's something they considered, but right now they don't feel that there is any need to track it and close it and there is no need to reduce the ACLs the following year.

MR. HEMILRIGHT: Would that be also for commercial? For my reasoning, what I asked about commercial is if for one year you bump up against your annual catch limit, I would hate like heck to see it close down, because what's going to happen here if that possibility does, you'll have other states, as these fish migrate up, they're going to have no dolphin fishing, when I look at this.

There are some scenarios that really need some thought here. If we're so close on these quotas and stuff, even though we're putting different hard quotas in effect for both user groups here, if there are four or five million pounds; or a couple million pounds left on the recreational and that commercial guy goes over a hundred thousand or vice versa there – I mean, there are some real scenarios that need to be played out, given that we're given hard quotas.

MR. WAUGH: The accountability measure for the commercial sector is shown on Page 17. This is just below the Table 4-38, Alternative 3 preferred. After the commercial ACL is met or projected to be met, all purchase and sale of dolphin is prohibited and harvest or possession is limited to the bag limit. So across the board for our commercial sector, when we set an ACL the accountability measure is to track those landings, close the fishery when it's met.

In dolphin – and that’s going to apply to wahoo as well – for dolphin and wahoo there is no overage provision such that if due to the issues with the quota monitoring program you go over, that’s not going to be deducted from your quota the following year. You’ll get the same ACL the following year, the same quota.

MR. HEMILRIGHT: I’m just really worrying – this will be my last comment. I mean, I don’t see the parallel of equality there, because one is to a hard standard and the other one is given a running standard based on the – there is a lot of difference here for both, but there’s a lot of wiggle room for both. I just want to give that as my comments there.

MR. ROSHER: Did you say that there is – I’m still trying to follow you; did you say that because they’re not overfished, neither group – I know we’re talking about proposals here, so you’re talking about all these maybes, but did you say that absolutely there will not be reductions because they’re not considered overfished? I’m just trying to be clear on that. I know there are proposals that do have that provision but that’s what we’re here to talk about is which proposal the council would adopt.

MR. WAUGH: Right, and if you look at this spread sheet – and you don’t have this in your material – this is a new recommendation from the SSC. Myra, what years are we comparing the reduction for dolphin; is it 2005-2009? Okay, so I can blow this up a little bit, but I want you to be able to see that yellow.

This will run through the decisions we have to make. The SSC has said now the OFL is unknown, so I would suspect the council will specify OFL as unknown. They’ve said the ABC for dolphin is 14,596,216 pounds. Now the current position of the council is to set the ABC equal to the OFL and then we set our ACL equal to 85 percent of the ABC. Our ACL, based on the new recommendation from the SSC, will be 12,406,784 pounds.

MR. ROSHER: That’s been adopted?

MR. WAUGH: No, that’s the council’s preferred. We’ve already gone out to public hearings. The council looked at this in March and they’ve given us preferred alternatives. You should interpret these preferred alternatives as pretty indicative of what the council is going to do. They will look at this – the current schedule is for them to look at this in June and approve it to go to the Secretary of Commerce in June.

Now the National Marine Fisheries Service is responsible for preparing the environmental impact statement. They are trying to get that filed next week and that will go out and you will have another opportunity to comment when that gets filed. You will also have an opportunity to comment prior to our council finalizing this at our June meeting. Now the June meeting is in Key West; so if you’re not down there or plan to be down there, you can send in written comments. The council’s current preferred is to set the ACL equal to 85 percent of the ABC.

MR. DeLIZZA: With the SSC’s admission that they can’t tell us that dolphin are being overfished, what would be the logic for setting the ACL at anything less than ABC; why 85 percent?

MR. WAUGH: The rationale here in stepping down, your ABC is suppose to reflect your uncertainty about the stock status, the uncertainty about your overfishing level. They have said that your overfishing level is unknown. Under the new requirements, that would indicate that your uncertainty about the overfishing status is higher than if you had a stock assessment. What the council has done is in setting the annual catch limit they're stepping it down by 15 percent to account for management uncertainty.

MR. DeLIZZA: To paraphrase, because they've not done their job and provided accurate information, they are going to penalize the fishermen by reducing the amount of fish that can be caught from the landings that have been recorded based on their own numbers. I'm going to propose that we vote as an AP that ACL be set at 115 percent of ABC; because if we're making up numbers, why not make them up that way?

MR. WAUGH: You all can – you know we're here to get your input and you can provide any sort of recommendation you want to. Under the constraints of the new Magnuson Act, the intent is to be more conservative. The intent is in the face of uncertainty that you be more conservative to help ensure that you don't result in overfishing.

MR. DeLIZZA: Whose intent is that?

MR. WAUGH: Congress; they are the ones who passed this. Because we don't have – for species that we don't have a SEDAR stock assessment, then we have been told by the National Marine Fisheries Service Southeast Fisheries Science Center to use landings' data. That's what our SSC has done. Now their recommendation gets the ABC up considerably higher than where it was before.

If you run these numbers through, even with that step-down to be more conservative, the council's commercial allocation is 7.3 percent, the recreational is 92.7 percent and they are using the variability around the estimates of the recreational catch, which is 7 percent, so they are stepping down the recreational ACL 7 percent. That's your target. We are looking to set our management measures to keep the harvest on the recreational side at about 10.7 million pounds.

Now if you look and compare that number to the average of 2005-2009, that's saying that it's 8 percent below the average. That's telling you that your current management is working at keeping your recreational catch below this number. This is saying that with these new numbers, even with these step-downs reflecting the uncertainty, that we're still below—the average landings are below this target level so we don't need to change our management. There is no need to adjust the bag limit.

MR. DeLIZZA: Are you basing this on the one on Page 10, I guess the chart, because based on that you only have one year since '03 that would even be close to that 10,000,400; is that correct?

MR. WAUGH: Right, and that's why we're saying that if you look at the average of 2005-2009, which is what the council has said we should use to compare it to, we're below that average and in fact landings could increase by 8 percent and still not exceed that level.

MR. DeLIZZA: So we're a pretty safe level based on these catch figures.

MR. WAUGH: Yes. What the council is proposing for management measures under dolphin are two actions – and this is on Page 24 – there is no provision to change the bag limit. Their preferred is to prohibit bag limit sales of dolphin from for-hire vessels and they want to establish a minimum size limit of 20-inch fork length off of South Carolina. Those are the only two provisions because right now there is a 20-inch fork length off of Florida and Georgia, so they're extending that off of South Carolina. That's the only proposed changes.

MR. ROSHER: I've been involved in all three sectors. I have to say representing the for-hire I'm adamantly opposed to restricting the for sale provision. It's discriminatory against a group that is properly licensed to do so. We're talking about a fishery that has no proven overfishing. I would be more prone to allow things to stay in that – first of all, you have to understand that it's kind of like Dewey said, there are different situations that occur in different regions.

In other words, in other states for hire or sale has not been a provision that's standard. In South Florida, in all of Florida it's been very standard my whole life and even prior to that, that charterboats sell their catch at the end of their day. The number I gave you, 674 dolphin, I don't think we're talking about a huge – and we target them – we're not talking about a huge difference in the big picture of annual catch.

But the more you chip away at each one of these benefits, maybe I could say, to being in the for-hire business, the less the chance that my son is going to be able to follow in my footsteps. It is really difficult to make a living in the charter business. It's not because we're killing too many dolphin. Fuel prices, dockage and insurance have all tripled in the last four years for me.

The only reason I'm successful is I've been doing it my whole life fulltime. I've paid off one boat and have the other boat almost paid off. I built my first boat with my own hands and a helper. That's what it takes to make a living. To attack a for-hire ability to sell fish is really discriminatory and I'm adamantly opposed to it.

Being conservative and protecting the fishery stocks, of course, I'd be foolish to be against that, but we have provisions for those. Like you said, I think it was 2004 you implemented the per person limit and the boat limit. Representing the charterboats that I'm representing; I would say reduce our daily catch per boat; because at 674 fish, how many times do you think I'm limited?

I don't limit, intentionally, I want to go home to my family. I don't want to clean 50 dolphins. I would beg the council to allow for-hire sale and reduce my daily catch limit; allow me the ten per person or the nine per person or eight per person. Take a 10 or 15 percent across the board cut of my daily take of fish, you're not going to upset me by making me keep fewer dolphin at the end of the day, but don't take away for-hire sale.

MR. HARTER: Gregg, before we get any deeper in this, I just want to make a comment about this. I know we've got a whole process of things that we have to vote on here. Is this something that we're jumping ahead on?

MR. WAUGH: I'll tell you, we just did this – yes.

MR. HARTER: Explain to me a little bit of what we have to take a look at here in this document that we're looking at in front of us here so we don't start jumping all over the place.

MR. WAUGH: We did the same thing with our Mackerel AP yesterday afternoon and this morning. What we did yesterday afternoon was similar to what we are doing now is talk about all of these things, get you guys comfortable with understanding what's here, you get a chance to think about it and talk about it overnight and then in the morning come through and go through action by action where the council has a decision to get your AP's decision. If you guys get ready to do that this afternoon, we can start this afternoon, but what we want to do is go through at some point action by action and get your input on each item.

MR. HARTER: Okay, so in other words, it's time now just to get it off your chest.

MR. WAUGH: And to make sure you understand what's in here and what the impacts are and then come back and give us your input.

MR. TORTORICI: But just another perspective on your prospective on the ability to sell as a wholesale distributor, you know in many ways we're held to a higher standard than an individual boat would be. Not to be rude but we would say the ice was on the beer and not on the fish, so therefore dolphin being a histamine producer there are some inherent risks if people don't ice it and it hits a threshold and activates histamine.

Then if people want to go without having to meet the same standards of HACCP that we have to meet, the same levels of liability, same accountability, if there is ever a food-borne illness at those restaurants, I think every individual fisherman would have to meet those same standards if they want to go deliver it backdoor.

Because what's happened in the past is that we're regulated, tremendous documentation, independent audits, FDA audits, and then there is a food-borne illness which can affect our livelihood just like things can affect your livelihood, and then FDA goes in and does a research, where'd you buy it? Well, they're not going to say they bought it backdoor from a fisherman.

What they're going to do is point to the distributor. We've had cases where we've had to go in and prove, well, if they bought it from us they bought it two weeks ago. "Oh well, Jeez, I did buy it from this guy over here." I mean, just from the other side of the fence, there's just certain parameters that would have to be in place to allow that.

Even with the laws in place that you're not allowed to go and sell backdoor, when the wind blows our business picks up, because there is still a tremendous amount of people that ignore the law and run around and sell backdoor without having to incur the same costs that we do in order to make that sale.

MR. ROSHER: Everything you said, I totally agree with; and just so you know I'm talking about only allowing for-hire vessels that are licensed and qualified. Just so you know, I've been involved in all three categories and I've seen fish come off my charterboat that are better iced. Every fish that I have ever killed – my business is primarily, when I was in the seafood business, I brokered and commercial fished for about 15 years, and my main focus was sushi.

What I'm trying to say is that I'm fully licensed, wholesale, retail, all categories. I've seen my fish in better shape than have come off some commercial boats. I'm aware of the core temperatures and so on. I'm saying those that can meet that standard should be allowed and not every Tom, Dick and Harry and not every charterboat, by all means. Maybe I didn't clarify that, only guys that have earned the right is what I'm saying.

MR. TORTORICI: I recognize that and there are some people do a great job. It's just kind of like if you let the cat out of the bag, where do you control it? I recognize certain people do a very good job.

MR. ROSHER: What I'm saying is, it is currently legal. If you take that away, you're not going to take away the backdoor sales. That's the paradox. I understand that. Trust me; the last thing I want to be is illegal. I can't afford it. I am totally visible and will not break a law. I count my fish during the day; I make sure that all laws are met. I'm just in a position in my life where I cannot afford one violation. I just would not do it for my reputation sake. The problem is it's hard to police that through this meeting.

But I'm saying, to me it's discriminatory to say that I've done this my whole life. I've earned the right no different than Dewey. How can you take it away from me? That's not fair. But, anyways, we've got much bigger fish to fry, so to speak, and thank you for your input, and I understand your point.

MR. HARTER: Well, it's a good topic of conversation because we've been going through the same thing with the cobia fishery certainly in our area. It applies to a lot of fisheries across the board right now for us. Each of us has different concerns depending upon which fishery that we are in. I, even as a recreational guy, I have a lot of charter captain friends of mine and I'm very sympathetic to the problems they have of trying to make a living and looking at all the appropriate ways to do it. I agree with you on it and I think it's a good topic of conversation. I think it's one that we should continue.

MR. PHINNEY: I've got a stupid question, okay? You are talking about the total catch. That's for the big picture, right? Now, you've got Florida, South Carolina and North Carolina, okay. Now down in Florida why don't they catch one-third the catch and then we come up to South Carolina we catch one-third and then North Carolina has got the last one-third? Is that a possibility?

Okay, I forgot Georgia, okay, four, four; okay, one-fourth, one-fourth, one-fourth. I was just wondering – you know you've got a total count here. In Florida, man, they're having a field day because sometimes – do you know how many Spanish mackerel I caught last year? I mean the most I caught one time was maybe 15 and I put out about eight lines trolling.

I'm almost like a shrimp boat when I drag spoons. But basically it was the sorriest Spanish mackerel and the sorriest king mackerel fishing I had last year and one of the poorest dolphin seasons, too. But basically, what I'm doing, I'm blaming Florida about catching and all. Why they didn't leave some for us; I ain't saying anything about Georgia, but, anyway. But I do throw – I catch a lot of fish but I release over 50 percent. But, that's my point of view.

MALE VOICE: One thing I'd like to bring up, like Richard touched on a little while ago, about your percentage of how you decrease or increase the catches. It's just like he was saying just a minute ago; we're so dependent on the weather and fish cycles, and what happens down here and temperature breaks here and there. The people in this room that do it for a living have done it for a living for a number of years and can read all these facts and figures.

I can tell you why we're not catching fish here. The problem is we've got a bunch of people in D.C. that don't know what's going on that don't fish, that can't even get a budget for the state, that are telling us how many fish we can catch. There has got to be something else, some different way to come up with this.

Because like last year, dolphin fishing; we normally have tremendous dolphin fishing from the end of March, 1<sup>st</sup> of April, all the way through July. Last year we had a slug of cold water come in, all right? We didn't catch any dolphins until about the middle to end of May to amount to anything; and then it got so hot so quick, we had a ten day to two-week window where we caught the big gaffers and it was over. I mean they went on. We were left with nothing but little small bailers the rest of the year. Stuff like that comes up that can't be factored into a quota amount of what you're going to harvest.

If you start reducing our harvest based on one or two bad years like that and then all of a sudden the year that you reduce the fish, we have a banner year of big gaffers, what am I going to tell my party when we get out there and catch X amount of fish and we still have the opportunity to catch X amount more or to go to what our old limit use to be and say I'm sorry guys, we've got to quit and go in; you just paid \$2,000 dollars to go out here and catch half the fish we should have been able to catch.

It really becomes a problem and it's a problem in all fisheries. But there is just so many variables in here, I just hate having somebody that doesn't have a clue about what the hell is going on in the water telling me what I can and what I can't do, especially in a stock of fish that we don't know what overfishing level is and we'll never know.

I'm sorry, we don't have enough science to ever tell what the dolphin and wahoo population is going to be because they're always – they are protected by Mother Nature. The wind won't let us go but so many days, the water temperatures won't let us go but so many days, the Gulf Stream moves.

It's hard to sit here and I believe if we've got to go with changing figures that are going to affect people's livelihoods, we should go on the high side instead of the low side, like Richard was

saying. Because, man, it's hard, like Ray was saying, right now the charter industry and the tackle business industry, unless you're a mega store and have plenty of bucks behind you, it's getting tight to make a living.

With all these restrictions and everybody is calling up – it used to be we could go from one fishery – if you're limited to wahoo or whatever or we had a bad day offshore on wahoo, no big deal, we'll slip inside and we'll catch some groupers and snappers to make the day and we'll come in. Well, I can't do that now. With all the new restrictions going on, I really feel sorry for the bottom fishing guys and our headboat guys.

What are you going to tell a headboat when a party of 50 people come down from North Carolina and says you can't keep but five black bass now when you use to be able to keep 15 or 20? Next thing you know – right now the trips up there on bottom fishing are dogfish and bluefish. Now who wants to go pay to go out and catch dogfish and bluefish, but it's all we can legally catch right now.

I can foresee that coming for dolphin and wahoo or cobia or king mackerel. It's just hard to swallow when somebody is saying you can't have this and you can't have that because somebody said that it might be overfished. I'm all for repealing the Reauthorization Act and the Magnuson-Stevens Act and we'd all be in better shape.

MR. ROSHER: I just want to say one thing. Not that it's going to change a lot, but when I was a young man I fished with a guy named Buddy Kerry out of Miami. He ran a charterboat fulltime from about 1940-1995. I asked him, "What is your take on the overall health of dolphin fishing?" He says, "As long as I've been doing it, I've watched highs and lows happen every few years, cycles." I've heard estimates from seven to ten years.

So it relates to what Dewey is saying, what we've heard from several that it's hard to put hard figures on something, and the last thing I want to do is punish one species of fish because we have restrictions in snapper group or et cetera. I think we have to be careful to take away one of the remaining – the ability to catch one of the remaining fish that are keeping a lot of us in the fishing business afloat.

I mean, we have to be reasonable and that's why I said, I'd rather just see a reduction in the daily catch limit, boat limit or something like that if you want to feel good about that. Not many people in the charter business and in the recreational sector are really catching their boat limit; Maybe in the Carolinas during their peak time when the weather is perfect and so on, you'll see boats coming in with a full limit. I could count on one hand the number of limits I've seen in two years on my boat. I'm just throwing that out there. Thank you.

MR. HARTER: I think that's one thing. Those of us that were involved in this process back in the beginning; and, of course, one of the reasons that we all got excited about doing something about dolphin was because we were more concerned about the impact of the commercial fishery and especially commercial fishermen that were going to come in with longline boats and raid each other's fishery.

I think there was a classic example down in South Carolina where we had 19 Rhode Island boats fishing out of South Carolina competing with us, both us “sporties” and the charter guys all in the same area. That’s why we originally started this process. But the other thing that I think was really important when we started this is we were looking at the historical data and the historical catches that we had.

Really, even back then, all the limits and the guidelines that we set were well within what we were already experiencing. They were pretty safe and everybody was very comfortable at that time with what we set up. That’s going back when obviously we had a higher catch data then we have now. I for one feel relatively comfortable with that.

The portion of it that probably scares me the most, especially when I start looking at other fisheries, is that if all of sudden – if in fact we do get a whole lot better at collecting data, we may find all these figures blown out of the water one way or the other. We may find that we’ve only set it half as high as we should have or we’ve set it twice as high as we should have.

In a sense we’re almost back to where we were early on which is trying to take it where we really ended up putting some requirements, some restrictions in there mostly to keep the commercial sector from going nuts on us is what it was; not necessarily the recreational guys, because we were looking at average catches and the average catch for these boats was way below what we were putting in there as far as a bag limit. We were pretty comfortable with it at the time and I’m still fairly comfortable with it myself. I think there are some other things in here that we’re going to argue about.

MR. TORTORICI: One comment there, because my perspective is a little bit different, I think your variables and your numbers are going to go up due to factors that are unrelated to the catch or the sustainability. I mean/ just for example this year, we buy a lot of mahi out of Ecuador, you know, frozen, Peru. Viet Nam is starting to catch more mahi.

I mean, there are all sorts of countries out there that have huge mahi catches and all of it goes to the freezer, but some of those countries this year are off 70 percent. I mean, to me it’s going to be interesting to see does that mean there is more fish that come this way, less fish that come this way? I don’t know, but they had a great catch last year, 70 percent off this year. I don’t think it’s a direct result of fishing pressure.

When we talk to people from different fisheries that we buy from over the world, like tuna catches can vary just like mahi, and you ask them why, no one really knows. Obviously, you have your El Niño’s, your ocean currents, but they don’t know. Volcanoes come up, earthquakes come up.

There are so many different variables that can significantly skew the data from year to year that we see. I hate to see quotas being set or people’s livelihoods being affected based on those years that could be skewed based on events that are unrelated to the biomass and things of that nature.

MR. HARTER: Yes, and those international events, even we’re talking about – you talk about the availability of dolphin. That’s why I think one of the things that’s kept the commercial catch

down a little bit is because our dolphin are more expensive than the imported one. I think that probably – I had heard at one time, I mean it was like doubled.

Whether you're talking about three dollars a pound versus five or five and a half a pound for ours here, but the other part of it is that as international pressure and also developing economies, all of a sudden they can afford more fish. They can afford to keep more fish within their area than they did before. Rather than selling all of their dolphin to ours, they are starting to consume them now because they can afford to do so. You're right, there is a lot of things that are affecting your business in that respect.

MR. TORTORICI: Just along that line, it's just unbelievable between the debt we have in this country, the strength of the dollar, and the increased middle class in Asia, the increased demand in China, the whole world stage is in terms of fish demand, the amount of fish we'll be able to import into this country and the cost of the fish is all changed in the last couple of years; more than it has, I think, ever.

In some ways that's good for the domestic fisherman in the U.S. because we're going to be paying more for all the fish that's imported in this country this year, next year and foreseeable future. I mean if China decides to buy something, like if you take the Chilean sea bass for example, China decided they liked Chilean sea bass, well, Chilean sea bass for H&G fish that used to be four dollars a pound is now at eleven and a quarter.

And I think as far as the price being more expensive for the domestic fish that can go either way. Back in I think the year when all of this started, maybe in the early nineties when there was that bumper year when all the boats were all over out there, dolphin was selling for like a dollar and that upset everybody. I think that might have been when this all began. For the most part, domestic fish would require more money due to some of the market of it that's been in place and things of that nature where people will pay more for local species, but it's not always true.

MR. HARTER: Anybody got anything else they want to vent about? You said if we have time we can start to get into these?

MR. WAUGH: Yes.

MR. HEMILRIGHT: I've got something I want to vent on somewhere in the venting session here. One is the commercial recreational allocation that's chosen by the council. On the commercial, when this stuff was looked at, it was based on like soft numbers of 87-13. If the commercial stayed in this parameter, then we'd look to visit.. When these numbers are put before us, one, you have a guestimation survey, that we're guestimating that the recreational side MRFSS is based on what their landings.

The commercial side is at a hard number. So instead of taking this – when I look at the split here, one side is based on hard landing facts and the other side, the council, was based on a MRFSS survey. I call it the smurf survey; I've always called it like that because it's basically a guestimation. There is a little bit of difference here when you look at making these hard quotas.

The hard quota is – the other side, the recreation industry or for-hire, we’re going to give a three-year running tally. If they go over we’ll worry about it the next year. The commercial side, the council is advocating if you go over you’re shut down., which I got a problem with in looking at shutting other fisheries down and having to throw a dead mahi over.

Hopefully it won’t happen, but just some food for thought there, and in your recollection there, talking about your recreational/commercial, something else to look about, the commercial side might be different, or look at it a little different, but the size of the fish I catch are a lot bigger. The sizes of the recreational catch, in some components are a lot smaller. One thing that’s helped out, so actually basically they kill a number of more fish than I do.

The second component that’s probably helped out is you have to protect your young and this minimal size that’s been done in Florida, South Georgia and stuff, as you know, has allowed these fish to get over the 20 inches to produce, to at least spawn, because that’s just like you’ve got to protect your young with your lobsters, young of the year sharks and all that. So that’s good but in actual numbers that some people like to talk about and look at, the recreational side is going to kill far more number of dolphin than the commercial side in actual number of fish. .

MR. WAUGH: So in terms of decisions, first going through dolphin, the ABC control rule, that’s the first decision. Right now the council’s preferred alternative was to set the ABC equal to the OFL that we had from the scientific and statistical committee. Now what the scientific and statistical committee has said is that OFL is unknown and their value for ABC is that it equals 14,596,216 pounds.

Given that’s the recommendation from the scientific and statistical committee, I would imagine our council would adopt that when they meet in June. You might want to talk about that. I’ve got in this spreadsheet that shows what the additional decisions are and we will talk about each of those and you can offer your input there. But as far as the ABC itself, that’s a scientific determination. The council has input into the control rule and has to adopt the control rule. It would be difficult to – it would be impossible, according to the law, for the council to go above that ABC value.

MR. HEMILRIGHT: One thing that you said with the ABC, it’s a scientific conclusion by the experts, but it ain’t a scientific conclusion, because it was based on nothing but landings, I understand that. We basically have no – I don’t see we could recommend something different. But as far as scientific, you have to have in my opinion data that’s used of everything that would go into a stock assessment to validate scientific. As far as this is just opinion by the scientific experts that are given at hand, and they’re probably just as frustrated as us sitting around the table, because they’re asked to rebuild an engine with a hammer and a chisel, but you’ve got to rebuild it. So, I don’t believe it’s done with – the expertise, but not scientific information. I don’t see how we can get around – we can ask for the sky, it should be higher, but it falls on deaf ears.

MR. DeLIZZA: These other alternatives that are listed in there, by virtue of the fact that they are listed, does that give council the right to select one of those, and do we have the ability to recommend that any of these alternatives be removed?

MR. WAUGH: Yes, to both of them. The council can select any of these. The Alternative 1, no action, is in there because that has to be in there for us to analyze. If the council was to choose Alternative 1, that would not meet the current law and so would not be legal. The other alternatives – again, now that the SSC has said that the OFL is unknown, we wouldn't be able to plug in values there.

In Alternative 4, at the top of the next page, was the Gulf Council's control rule to set the OFL equal to the ten-year mean plus two standard deviations and the ABC equal to the mean or the mean plus 0.5 up to 1.5, and there is a table that shows that on Page 6. The new value from the SSC is approximately the mean plus 0.5.

MR. HARTER: All right, any other discussion? If not, I assume that we have to do – and we can do this fairly easy with a hand vote on each alternative. Did we all agree that Alternative 1 is worthless to vote on?

MR. WAUGH: The council wouldn't be able to choose that and meet the law.

MR. HARTER: So can I have a show of hands, first of all, on Alternative 2, which is the preferred alternative.

MR. WAUGH: That's with the new value of ABC of 14,596,216.

MR. HEMILRIGHT: Can the record reflect that some of us – our hands are being raised under duress and just plain hacked off?

MR. HARTER: Then we have Alternative 3.

MR. WAUGH: Do you want to get any no votes?

MR. HARTER: It looks like a 9-1. Any votes for Alternative 3? A yes vote; and a no vote. Alternative 4, yes votes; and no votes for Alternative 4.

MR. WAUGH: The next item is allocations and that is on the top of Page 8.

MALE VOICE: Are we going to vote on biological effect?

MR. WAUGH: Not really because that's an analysis of each of those alternatives. If you see something that looks wrong, be sure and provide that information to us. The same with the economic and social, those are our estimation of what the impacts are.

MR. HARTER: Yes, if you guys see anything in between these alternatives that you want to discuss, don't hesitate to stop us and we'll go back and take a look at it.

MR. WAUGH: The alternatives that the council looked at for the allocation was no action due to basically use the allocations that were in the soft allocations, if you will, or soft cap that was in

the original FMP; 13 percent commercial, 87 percent recreational. Alternative 2 was to use the years 1999-2008.

MALE VOICE: What page is it?

MR. WAUGH: Page 8. Alternative 3 is their preferred, which bases half of the allocation on the whole time series 1999-2008 and half on the recent years which are 2006-2008. Based on the new data, that would be 7.3 percent commercial and 92.7 percent recreational. It so happens that – well, when you do Alternative 4 – and that's splitting it into three sectors – 7/3 percent commercial, 38.4 percent for-hire and 54.4 percent recreational. The council's preferred is Alternative 2, which would be 7.3 percent commercial and 92.7 percent recreational.

MALE VOICE: I think for the commercial end, to decrease the quota would be somewhat unfair just because I think based on the economy and fuel prices and everything else, that you're probably going to have less recreational effort in that environment. But at the same time the cost for a commercial guy to make a living is going to go up because of fuel prices and everything else. To cut down the percent of the quota and then say that's going to be held at that going forward without the opportunity to get a vote and get around to doing that, I think that might be a little bit aggressive in my opinion.

MR. ROSHER: The same argument can be made for commercial and recreational. As I said before, I've been involved in all three sectors so it's not – I absolutely have no – I'm all for a guy making a living in a purely commercial sector. But just for the heck of it, the last two days on my charters I polled the people that I fished to kind of get a feel for what they spent to catch what was a total of 11 dolphins.

Granted, we released some sailfish and kingfish, et cetera. My two groups spent about \$7,000 on their travels, hotels and charters. We killed 11 dolphins. That's why I'm a little more protective, of course, of the charter business. I look at when you talk about economy and proliferation of business, I have to -- that's kind of my job here,

I'm representing charterboats probably primarily, and recreational because, that's my position in this matter because I think that those two sectors spend the most per pound to harvest a dolphin. It's a very tough situation because I'm very sympathetic to what Dewey does for a living. I've been there; I've done it and still licensed to do it.

But that's I think what all of us are saying why are we tying each other's hands, so to speak, by the recommendation of the council on a species that there's really no hard science on. The last thing I want to do is fish something to extinction. They're not buffalo and I don't want them to become buffalo. I'm just trying kind of counter what you said. There is also a huge value per pound money spent locally to catch fish for hire and recreational.

MR. HARTER: On that same note, what do you think about Alternative 4 about splitting out the for-hire and the recreational guys with different percentages?

MR. ROSHER: Not knowing what the ramifications of that truly are going to be, because again I'd have to know how many charterboats are we talking about – Dewey brings up a good point about miles of coastline. Do we want to measure miles of coastline and allocate fish, because I've been in his shoes. You hate to have a species harvested before it gets to you. I think Joe was talking about the same thing.

I know this can't go on forever, but it's a very deep subject; and to answer your question, I see Dewey's point and I agree with it in the sense that I wouldn't want the for-hire sector to lose their ability to fish because another sector was met or we factored the percentages wrong. What I'm trying to say is as much as I'm very sympathetic to commercial fishing, the value per pound of fish harvested is highest for recreational and charter.

I think what your point that you made earlier about the boats coming from other regions and putting Dewey out of business, I'm against that, for sure. I think a guy like Dewey – and I'm sorry to talk so much about you Dewey, but you're obviously –

MR. HEMILRIGHT: Hey, I don't mind, at least it's somewhat positive this time.

MR. ROSHER: No, it's hard to do, just like I said, all my costs have skyrocketed in the last four years. I'm sure yours have, too. We all perform a very important function in our local economies and our national economy. We have to make wise decisions because what happens here and with the council, when they decide, we're all going to have to live with that. The last thing I want to do is hurt somebody unnecessarily or claim a bigger piece of the pie than I deserve.

MR. DeLIZZA: I'd like I think point something out, but at least get a clarification. In reading through this plan, it seems like the current landings' data, the measurements, there have been some statements that the most accurate measurements come from commercial landings. Gregg, can you confirm that?

MR. WAUGH: Yes, and the reason is that we have our commercial fishermen permitted. They are required to fill out trip tickets.

MR. DeLIZZA: Okay, so with that being the case, if you lower the commercial percentage and the management is going to take the tact of measuring those commercial landings, when that commercial quota gets met, they're going to declare the species overfished. That would be the only measurement tool that they have.

You can shake your head no, but, look; this council has earned the right to not be trusted. I'm here to tell you that if you lower that, they're going to measure that commercial catch and they're going to declare this overfished, and they're going to start putting more restrictions on everybody.

I think that there is a paradox in the way this is done, and I represent the recreational sector. We look at this as, oh, hey, they're going to give more to the recreational sector, and I don't think that's what's going on here at all. I just want to put that out there for everybody to think about.

MR. HEMILRIGHT: I've got a couple here. When I look at this preferred alternative, for me in North Carolina, I've got my landings' data for North Carolina, my trip ticket program. We have the best in the country in North Carolina for charter, recreational and commercial, so I went and got all that data. When I looked at preferred Alternative 3, it is the worse years for the commercial in them last three numbers used, the 2006-2008 and it's probably the best for the recreational in North Carolina.

The second thing is when we get talking about what people see and the amount of money that's spent by people going charter and recreational fishing is great magnitude; there is no doubt about it. But on the commercial end, I give access to people who don't have money for that charter or to go recreational fishing. And to me, I still believe in this country, that giving access to all Americans without regard to financial status is just as important in my end as it is to somebody that has money for a charter.

I understand the parallels and I almost think that some of this stuff is here to pit us against each other on certain things; but as for my perspective, I see giving access to all Americans without regard of how much money you have. We have groups in this country that chose that the only way you get access because of who you are. I say this as all open.

When we look at these allocation schemes here, I think some of the council chose not Alternative 4 because they wanted to keep the recreational and charter together. Because something else here, with these surveys, this is a guestimation on these surveys. You can only do the best you can.

I just don't want at the end of the day, when the commercial guy is a hundred thousand pounds over on his quota, if he gets there, that he's shut down. But there is going to be problems and it might have to be historical records where states that have written down the most and put their numbers at the table is going to get the largest piece of the pie.

So therefore I can see instances where North Carolina charterboats and our state has the data, that when it comes by someone in Florida, Georgia and South Carolina, the guys are going to say, oh, we've got to stop because the fish got to get to North Carolina. So there are some major problems here, but I almost think that we should have stayed at the 87-13 and look at it.

But that's too simple, so we're here to make judgments on stuff we have no data for, but it comes down to the landings. When you tie it to landings, then you're just fighting over the fish. It has nothing to do with the history and the stock of the fish. We can argue our points, and at the end of the day it probably basically doesn't matter because that council and that vote have got to decide what happens.

MR. ROSHER: I was just curious; how much has the council, I mean –

MR. HEMILRIGHT: We're advisors.

MR. ROSHER: Advisors, I know, but how often is there much accomplished by hearing the regional concerns.

MR. WAUGH: As long as you're not talking about instances where the advisory panels recommend taking no action and the council has to take action. The council I think has a good record of listening to the advisory panels. That's why we pull the advisory panels together. That's why you've got several council members here listening to deal with this.

The council is not enjoying this box anymore than you all are. You guys pay the price for it; they have the angst over having to meet all of these requirements. Its new rules put in place by congress, and the reason is the process has earned some of that. We have overfishing still going on after the Magnuson Act has been in place for over 30 years.

That's why congress tightened things down. I don't particularly like the one size fits all. There are problems with it, but it's hard to argue why after 30-plus years of Magnuson Act you still have overfishing going on. Why haven't we done a better job of ending overfishing? Congress said, well, we will take the responsibility for setting these levels away from the councils, give it to the scientists and then we're going to require you to track the landings and make sure that each sector doesn't go over their portion.

I understand various people have feelings towards the council. There is no hidden agenda here. The council is doing its best to meet the requirements of the new Act. You're lucky here that these limits that you're looking at for both dolphin and wahoo don't put constraints on your catches. It's not the same across a lot of other species.

MALE VOICE: I have to disagree with you on one fact when you said if we choose no action, the council has to make their own decision and use one of the other alternatives. But if we choose no action, that's the same as saying we want it to stay as it is, 87 percent, 13 percent. That's not a no action, that's a percentage.

MR. WAUGH: I'm sorry; I was referring to things like setting an ABC. I wasn't specific to this allocation. Certainly, if you all recommend that the council use 13 percent commercial, 87 percent recreational, that's something the council could do.

MR. ROSHER: For the sake of poor science, poor counting, we could talk for days about all these issues and who deserves what. Is it possible, and would you guys, as an advisory panel, agree that first of all many laws get passed and before the effect of that law can truly take place, more laws follow up, maybe more restrictive laws.

I've just seen that pattern in my career that it is a mistake I think to create more and more restrictions before we even have seen the result. A good example might be red snapper. There's endless stories from reputable captains, commercial and charter and recreational of huge bodies of fish and we have greater restrictions than ever and more restrictions following.

What I'm getting at is if as a group here we could agree to say there is no proof that this fishery is overfished. The council has to do something to fall under Magnuson-Stevens, would everybody be comfortable at 87-13 and a 10 percent reduction across the board on limits, and simplify this process?

Maybe that's too simple but we could sit here and talk for hours and hours about all these proposals, and yet isn't a simple 10 percent reduction in catch keeping the allocation the same? Unless someone wants to talk about 87-13, you know, reduce your daily catch limit for recreational and charter, accomplish some preservation of the species just through a simple 10 percent across the board. If everybody was unanimous on that, would we get somewhere?

MR. SHUTE: I think that's what we did on our initial deal when we first started out. There was no stock assessment that said either one of these fish were overfished, that there was no danger of either one of them ever becoming overfished. We decided then, well, let's just put a ten fish per person limit on dolphin and a two fish – so we'll never have to what we're trying to come up with right now. It's already been done.

It's not that we have to reinvent the wheel; the wheel got done ten years ago. Exactly, there was a lot done and it comes right down to it's just more regulations is all it is. It's just like any other industry; everything in the United States now is getting regulated out of business. If we continue on this route, we're going to get – although we're fortunate, like Gregg said. That just kind of reiterates my point. He just said, well, we don't have a problem with dolphin and wahoo. I said, why are we talking about it?

We did what we were supposed to do years back. We did it before anybody ever suggested there was any overfishing of dolphin and wahoo, and that's the reason we did it so we would never have to approach it again. I mean, if there was something wrong back then, we would have set the limits at five dolphins and one wahoo back then, but there's not and there wasn't and there's still not.

There is nothing to prove to me by anybody except somebody in Washington says, well, one of the people from one of the conservation groups say, "You know, I'm tired of all these fish getting killed and I gave X senator up there a million dollars and I want him to do what I want him to do." You know, we've got to quit catching fish, we're hurting them." I'm tired of that.

You're letting people that don't have a clue to the history of fisheries. And I'm talking about the conservationists and the people in congress, they don't have a clue to what goes on in the fisheries. To continually regulate people and regulate species just because we can isn't right. If we need to – the commercial and charter industry, if there is a problem, we want it fixed.

I don't want to put myself out of business. I'm smart enough to know when that happens and I don't need somebody that doesn't have a clue, that's probably never put a damn hook in the water in his life, to tell me this is what you need to do. It's just not right. This is what we're coming down to. We don't have a problem.

We're trying to be led to believe that we have a problem or might have a problem that can't be proved because the numbers were made up to start with. You are in a real bad spot, but I don't want you to put us in a real bad spot. It's the same thing that's going on in North Carolina right now and pretty damn much the same numbers we're talking about with the speckled trout right now.

They are trying to make speckled trout a game fish, which will help my business tremendously, I love it. It's about an 87-13 split, recreational and commercial, but there's no need of it. There's more damned speckled trout that I can shake a stick at, but a handful of people with more money and more time say uh-uh; you know, we had a cold freeze, so all these fish died, we've got to stop this, and we've got to stop the commercial sale of these fish.

I've been doing this for 25 years. It happens every year and if we go by what they want to do right now, they want to shut us down to two fish a day for speckled trout with a seven-year recruitment to get us back to where they say the stocks won't be overfished. North Carolina has got a history of cold freezes every two to four years.

We will never – if they go to two fish, we will never ever get away from two fish because we can't go in a seven-year period without a cold stunt and setting us right back to zero. That's exactly what's going on with the dolphin and wahoo fishery. There is not a problem, we're fabricating a problem and that's just the way I feel about it.

MR. WAUGH: If I could, again, we're not saying there is any overfishing, any evidence of overfished or overfishing. In fact, what the SSC has said is the overfishing is unknown. But what we're doing is putting in these limits to meet the requirements of the Act to head off any problem.

Now you all asked about the 13 percent commercial, 87 percent recreational. Here is taking a new number from the SSC, the 14.6 million, stepping it down the 15 percent; and then instead of using the 7.3 commercial and 92.7; if you use the 13 percent, 87 percent, it shows that the commercial comes out – their quota would be 1.6 and the soft quota that we have on them right now is 1.5. On the recreational side you compare this recreational ACT around 10 million to the average catch from '2005-2009; and it's not restrictive, it's still 2 percent, it could increase 2 percent above that.

What this new system does is it puts a cap in. It would change – whichever alternative you accept, it would put a hard cap in on the commercial fishery and the council's current preferred is to allocate 7.3 percent, so their hard quota would be about 905,696. Under the 13 percent it would be 1.6.

Then on the recreational side, you're putting in this target level and under the preferred, it's 10.6 and now it would be 10.0. That's still saying you don't have to change your bag limit; but if you were to exceed that at some point, you can look at that table and see when you've exceeded it in the past, 2007 –

MR. ROSHER: Yes, it looks like in '07 we would have exceeded it.

MR. WAUGH: So it would have been exceeded in '07 and if you exceed it, then the following year your bag limit is going to be reduced in order to make sure you don't exceed it the following year. So it has nothing to do with saying the stock is in trouble; its setting these levels and saying you're not going to exceed them because we don't want to in the future create an overfishing situation.

We did the same thing when we put the plan together with your recommendations without specifying hard numbers, and we felt the regulations were sufficient to prevent any future problems. The one provision that wasn't implemented was a commercial trip limit that would have spread out the harvest more. That's the two differences. It doesn't have to do anything with stock status. It's meeting these new requirements and those are the impacts of specifying those as more hard values than what's in place now.

MR. HEMILRIGHT: The difference back then was 87-13 for all of the fisheries; the flow of the weather, the flow of what was happening. It wasn't tied to just landings. This is tying it to landings. That's where both sides have problems. Before we allowed the natural cycles of the ocean to flow, what was happening and all of a sudden the commercials were catching up there so the different ones said, "Hey, we've got to look at this or we've got to put a soft cap so we keep it historical like it is."

I just don't want to in a year or two we'll be out there fishing commercially and we pull – here's this gift to us and its shut down to where, you know – there is going to be when it gets like this a migratory pattern of what happens and different things. The 87-13 was the natural evolution or natural flow of the cycles of the fish and what people were catching. They took that away and they put landing pounds out.

When you put landing pounds in, it takes away all the naturalness; what happened with the fuel prices, what happened with the weather, what happened with hurricanes? As you noticed with dolphin, sometimes we only have in North Carolina – some of the best times just a six-week period when you're going to catch the dolphin coming through for commercial side, just to say when they get going; the same with the charters and different things. There's a lot to think about here but it's a tough one.

MR. ROSHER: What do you think about the possibility – I mean we're kind of forced a 15 percent reduction here. That's why I mentioned it a few minutes ago. What if we as a group talk about making a 10 percent reduction? What if we average these restrictions over a two- or three-year period, Dewey, to accomplish what you're saying as our recommendation? Again, it's a recommendation; they could throw it in the garbage. But if there wasn't a cap at a point in your season, where let's say you went over this year by 200,000 pounds; they wouldn't act on a cap unless it went on for two years or three years. Do you see what I'm getting at?

MR. HEMILRIGHT: I would agree from the commercial standpoint to look at some roving figure here. The world is not going to come to an end on dolphin fish if somebody goes over 100,000 pounds on something. First of all, we don't sit around this table, believe it. I would like the same luxury, even though I still don't agree with the allocation scheme of a rolling thing for three years to look at something.

But at the end, suppose all three years we all of us go over; are they going to take that off of there where next year come dolphin, there could be a lot of dolphin out there; then all of a sudden we had to pay back half our quota for both. These are some realizations when you're tied to hard landings.

But that's what Magnuson wanted, the people that wrote it; and they knew they could achieve it. Because they didn't have the science to do this work, nobody did their homework. Everybody just keeps on capitulating, going on. So therefore, we're tied to landings; fishermen argue, we'll reduce it to landings; had nothing to do with natural cycles or what's happening so I don't know what else to say.

MR. ROSHER: I guess that's why I'm saying if we're going to be forced to something, instead of 15 percent – and I agree with you, I don't want to agree to anything to change. But, if we have to, according to Gregg – I don't know that we have to, I mean that's something I'm trying to understand. But, I guess what I'm saying is there is not a proposal that says 10 percent and there is not a proposal that includes a three-year average, let's say.

If that's better than their proposal, I'm trying to say maybe as a group that's in the field we can put that on the table for the council to look at. What I'm saying is my numbers may not be what everybody agrees with, but I'm trying to say let's get something done to put in front of them that maybe is more amenable to everybody here. Let's talk about it; then we're getting somewhere.

We're doing something instead of, you know we all are busy people and we've got things to do I'd rather get something accomplished if there has to be action. Gregg, I don't know, you just came in, but what I was saying is are you saying that we have to accomplish some change, some hard numbers? Dewey is opposed to putting a hard number for fear of it hurting his business. I feel the same way about all the recreational and charter.

Is there a way to put forth a number, fill in the blank, 10 percent, you guys change it if you like; instead of 15? Let's give it three years to sift out. One of Dewey's comments and concerns, which I agree the same for recreational and charter, is what if we go over for one year? Are we going to suffer a restriction the next year? How about a three-year average? Let it be whatever it's going to be because of the natural cycles that occur in pelagic fish such as the dolphin. Can we put that on the table as one of the alternatives? In other words, do we have to stay within the box of your proposal?

MR. WAUGH: This number from the SSC is a ceiling. We can't allow the catches to go above that. The council has flexibility in this amount of step-down. They have chosen to step it down by 15 percent. They could choose to set it equal to the ABC. We've done that for a number of other species. The guidelines for implementing Magnuson say that should be a very rare event, that you would set it equal to the ABC. I think given dolphins life history characteristics, you could make a good case for setting the ACL equal to the ABC.

MR. HARTE: SEDAR is 2014.

MR. WAUGH: Is it, I can't remember where.

MR. ROSHER: Yes, I think I saw that in there.

MR. WAUGH: Is it 2014? That's the ceiling there. The council has to set this ACL, which is another ceiling. They have flexibility to set that equal to or less than the ABC. So in

formulating your recommendation you could recommend that they set the ACL equal to the ABC., which would reduce the likelihood that you're going to exceed that ACL even more.

MR. NETTLES: Or as Ray was discussing, I think we're kind of stepping back a step. If you set the ACL at 10 percent instead of 15 percent, now you've put yourself a little higher cap, a little extra room to work with until a good assessment is made of the species.

MR. WAUGH: Right, so your saying instead of reducing it by 15 percent, just reduce it by 10 percent?

MR. NETTLES: If everybody in the room agrees on that, maybe five, maybe whatever.

MR. ROSHER: It seems like 15 is a little extreme for a species that has poor science behind an action; and a species that out of Don Hammond's own mouth has a 99.7 mortality rate each year. I'm not, again, trying to kill the last buffalo, but I think the council would be a little bit more amenable to some restriction. That's why I say 5 or 10 percent, whatever the room agrees on.

To address Dewey's concerns of a one-year overage hurting his following year, a two- or three-year average before action is taking, meaning it buys us a little time to observe and our recommendation could be based on the natural life cycles of dolphin and wahoo. In other words, just like that old captain said, it's been cycling for 50 something years. It does that.

Rather than punish the next year's harvest because of a good year, I think it's a species that's so oceanic, so pelagic, and so widespread; it's the only species that lives in the tropical zones of the entire globe. We're talking about a fish that is going to cycle. Rather than punish industry, all industries, which every one of the three is an industry; and it has a lot of people involved in it and a lot of money at stake, let those cycles occur over a two- or three-year period before we have some knee-jerk reaction.

MR. WAUGH: If you guys don't like the fact that you're going to be under these limits, this is a legal limit that we have to live with. There's lot of other species that have much longer life cycles that the council has already set the ACL equal to the ABC. Go for the most. Recommend they set the ACL equal to the ABC; be done with it. I mean what you're doing here is you're defining the pie. That gets you the biggest pie. Then you figure out how you're going to share it.

MR. HEMILRIGHT: When I look at that point, if the commercial goes over on his quota one year, or whatever; if we go over, there's going to be a lot of dolphin, because the recreational and charters are going to go over. It's not that that commercial boat, because not only that, a lot of this is stipulated by price if I can go fishing. There were times when dolphin, a few years ago, got cheap, and I went bottom fishing, because I can't go out there and break even, just turn money over trying to catch a mahi, with fuel and ice and stuff.

I'm just asking for this – first of all, your dealing with hard numbers with the commercial, a guestimation with the recreational and charter. Second thing is it's just the same ability to look

at the running cap, the same way that the recreational are given. Third thing, I think we should go with the ABC of what's right there.

That's below stuff we talked about, the maximum sustainable yield from 18 million to 46 million in 2009. That's just kind of my thoughts. We can look at the '98, too, is based on a guesstimation hard fact. I'll probably lose my argument but I'm still going to argue for it or something a little different. But, that's it, same luxury as a running thing as the recreational are looking at. Because if the commercial is over, that recreational is going to be over pretty much, or right there at it. Maybe by three years we'll have a stock assessment, make sure we have all the data and everything that's needed for a good stock assessment, supposedly and then we look at it the year after the stock assessment comes up.

MR. NETTLES: Gregg, quick question. Once we set the allocation, that's based on weight, not on percentage as far as a hard number for the caps each year? Here's the reason why I asked that. Back to this Table 10, I'm just looking at it, there was one year, '07, that the recreational, when it went over, that ten point something, whatever it was if we stayed at 87 percent; based on a hard landing on poundage, but if you looked at the percentage, then every year except for one, the recreational wouldn't have went over 87 percent. How would the council look at that? Would they look at it by the percentage, would they look at it by the weight?

MR. WAUGH: By the weight.

MR. NETTLES: By the weight.

MR. HARTER: I assume there is no more discussion. Really what we're voting on here is the various alternatives as far as the percentage allocation. From what I understand, Gregg, that Alternative 1 is an acceptable one to vote on here because that would not be – in other words, to continue to do as we originally allocated; which would be Alternative 1. Then, of course, 2 is to go to the 7-93 deal. Of course, then there is the preferred alternative and Alternative 4. Is everybody ready to take a vote on that one without having to get into specific ABC catch?

MR. ROSHER: I think to set that you'd need to know what the ACL is going to be; because if the ACL is set lower, like we voted on originally at 15 percent off and now we're saying 87 percent recreational, you're going to lower the number of poundage for the recreational. Whereas, if the ACL was, let's say, equal to the ABC, now we're at 87 percent, you may not have the issue with the allocation with the catch limit.

MR. WAUGH: That's why the first step is define the size of the pie. What are you going to recommend the ACL as? Here's the numbers down here. These are based on – so that's stepping it down by 15 percent and then allocating 13 percent commercial and 87 percent recreational. The second set of numbers here is not stepping it down using the ABC, allocating the ABC by 13 percent commercial, 87 percent recreational.

Then you step down using the formula. Your recreational target, using the ABC as your ACL and using the allocation formula that you all are talking about; the 13 and the 87, would give you

a recreational ACT of 11.8 versus where you are with the new numbers of 10.7, so you're higher. If you compare that to the 2005-2009 average, you're 20 percent below it.

MR. ROSHER: That's not listed as one of the alternatives, though, is it?

MR. WAUGH: It is because it's using one of the allocation alternatives and it's within the range of what's presented for the ABC alternatives. I'm sorry; I've got to look at the ACL alternatives. The ACL; there is an Alternative 2 to set the ACL equal to the ABC. It is within the alternatives that are presented in the document.

As I understand what you're talking about doing is you want to consider – and you tell me if this is right and I'll write it up – you want to consider setting the ACL equal to the ABC, which is this number here, 14, 596,216. Then you want to allocate it, 13 percent to the recreational, which gives you – I'm sorry, to the commercial; which gives you 1,897,508. You want to allocate 87 percent to the recreational, which gives you 12,698,708.

If you use a formula to step that down to account for the variation in the recreational catch, then the recreational target would be 11,809,798 pounds; which is 20 percent below the average from 2005-2009. You can look at that table on Page 10 and see when 11.81 million pounds was exceeded on the recreational side and you go back to 2002.

MR. ROSHER: So basically once the restrictions that applied in 2004, is that right Joe, when you guys made the changes; since then there has not been a problem with those limits.

MR. DeLIZZA: Gregg, to answer your question, that's certainly what I would be voting for. I don't know if we're ready to bring that up to a vote. We do the ACL first; I think there's almost universal agreement on that. The allocation might require a little bit more discussion. But I think if we go to Page 13 and look at Alternative 2, I think we should be voting on the alternatives on Page 13.

Gregg, just to clarify Alternative 2, that 13,709,523 pounds would be changed to the new number of 14,596,216?

MR. WAUGH: Yes.

MR. HARTER: So does everybody understand what Richard was proposing and the sequence of events that will happen here? I'm proposing on this as we do this backwards, but that's all right. Well, if everybody is ready to vote, we'll go ahead and vote on the specifying the allocations between the fisheries. All of those in favor of Alternative 1, which was no action. We'll jump ahead to Action 18, which is establishing the annual catch limits, ACL, and the optimum yield for dolphin. Alternative 1, which is there is no ACL specified for dolphin; all those in favor of that; all opposed. We're on Page 13; we jumped ahead to 13, sorry, guys. Alternative 2, which is the ACL essentially ended up being equal to the ABC.

MR. WAUGH: The new number is 14,596,216 pounds.

MR. HARTER: Instead of the 13,709. All in favor of that proposal, that would obviously be zero. The preferred proposal, Alternative 3, which was to set it at 85 percent of the ABC; all in favor; and all opposed. Alternative 4, which is to set it at 75 percent of the ABC; all in favor; all opposed. Alternative 5, which was to set it at 65 percent of the ABC; all in favor; and all opposed. Okay, now we can jump back in time.

MR. DeLIZZA: Gregg, as we jump back in time to the allocation, on Page 9, I'd like for you to explain the first sentence in the last paragraph and how that will be used as far as measuring the allocations.

MR. WAUGH: On Page 9, what we're talking about there is looking at the no action alternative and describing what the no action alternative did. When the plan was put together, it established this non-binding allocation of 13 percent on the commercial harvest, or 1.5 million pounds. What that paragraph at the top of Page 9 is saying is at that time it was the council's intent to monitor the fishery. If commercials' landings exceeded either the 13 percent or the 1.5 million pounds, then the council would determine if additional regulations were necessary.

MR. DeLIZZA: So did they write that because the commercial landings are accurate, so therefore they would have an accurate number on which to take an action?

MR. WAUGH: Well, they did that because the overall objective of the dolphin and wahoo plan was to keep the catches about where they were, to keep the shares about where they were. What the council did was rather than set a hard quota that would require tracking, just said we will look at it; there is no evidence of overfishing and overfished, we'll watch the harvest.

The big impetus was high catches of commercial landings in certain areas at certain times. What the council put in was a commercial trip limit to spread that harvest out so that you wouldn't have a lot of commercial effort, longline effort in a restricted area that would reduce the availability in that particular area; and that if the commercial landings exceeded, either 13 percent or the 1.5 million pounds, the council would get together and look at it and see if there needed to be some change; because they wanted the allocations between recreational and commercial to stay about the same. Now NMFS, when they approved the plan, they chose not to implement that commercial trip limit.

MR. HEMILRIGHT: What was the reasoning for not implementing the commercial trip limit?

MR. WAUGH: Because they didn't see a problem with overfishing and they didn't want to see that impact put on the commercial sector. You're now back at allocation, right? What you did by that previous action is you set the ACL equal to the ABC here. Here are your numbers. If you want to see the numbers – if you use the council's preferred that would be – you've now set the ACL equal to the ABC, so that's this number here; and if you allocate that 7.3 percent to the commercial sector, it's a little over a million pounds; 92.7 to the recreational, its 13.5; the recreational ACT would be 12.6.

If you did the same thing but allocated 13 percent to the commercial, they would get 1,897,000 and the recreational would get 11.809. Under the 87 percent allocation here, the recreational

target is 20 percent below the average. Up here if you allocated 92.7 percent to the recreational sector, you're 27 percent below your target. These numbers aren't in there. This is a spreadsheet so that if we had different numbers come in from the SSC, I could plug them into this spreadsheet and show you what the impacts are.

MR. HEMILRIGHT: For the recreational side, that's just on the years of 2005-2009?

MR. WAUGH: Yes, that's comparing the 2005-2009 recreational, but what you can do is turn to that table that's on Page 10 and take either – in this case you can take that commercial catch of 1,897,000 and look back in time. That's never been exceeded.

MR. HEMILRIGHT: Why did the council choose these weird years; like eight years and then half three years of this? I mean, there has got to be some rationale for thinking.

MR. WAUGH: There was. For the allocation the idea was to compare the whole time series, which would give you an indication of what is taking place historically – that generally favored the commercial sector – and then to look at what was going on more recently, and that was for the recent years, and that tended to more favor the recreational; and then balance the two by giving equal weight to it; basing half the allocation on the total time series and half on the recent time series.

MR. HEMILRIGHT: Was it looked at just total? I mean, in my opinion, historical was yesterday. Was anything based on just historical? Oh, you said it gave a little bit to the commercials if you went through the whole historical record. But if the whole historical record is going to be 87/ 13, I don't see how it's given much more credence then – never mind.

MR. ROSHER: '04 is when we -- was it '04 that we instituted that stuff, Joe, the limits?

MR. WAUGH: Yes, the dolphin and wahoo plan was implemented in 2004.

MR. ROSHER: So, is that part of the explanation where we went from 11 and 14,000 and 13,000 in recreational and down to average of eight and nine except for one year or is there another – is there anything else anyone can bring up on that?

MR. WAUGH: There were no regulations in place in 2003. Regulations first went in place in 2004. You can see that 2007 are higher. I suspect it had something to do with the regulations providing some cap, but I think also it has to do with the fluctuating abundance of dolphin.

MALE VOICE: In '04 we had hurricanes like every other week in South Florida. Can we vote somewhere between – I mean, we changed the recommendations on the other one. Here is my concern is you're talking about a jump in the commercial from something that's averaging right around a million to a million-eight. We would be borderline possibly on recreational some years; so maybe a 90/10 or something; it's something in the middle. Just as a thought for discussion.

MR. WAUGH: To help you look at it, this shows graphically – and we can come back to this looking at here's your dolphin, here's your commercial landings on this right side that Mike put together looking at the trend over time. This is going back farther. This is using the whole time series that we have from 1986 on. Recreational on the left panel, you can see that the preferred ACL is this top line here and that's based on the one we just adopted, right?

These figures are using the council's preferred. But you can see – oh, on the allocations; that's the 87/13. Okay, super. So you can see what happens over time and certainly in more recent years you've been below it, but there have been years, these four years would have been above it under the council's preferred. If you did one to the 87/13 you're down here, so one more year would have been above it.

MR. DeLIZZA: Gregg, on the measurement of these allocations going forward; will they be monitored independently? In other words, is it possible that actions would have to be taken in the future in one sector, but not in the other, the recreational catch exceeds the limit and that has to be modified, whereas the commercial catch hadn't, so that stays the same.

MR. WAUGH: Yes, and those are the accountability measures. What the council is proposing right now is just like what we do with all our other commercial fisheries is track the commercial catches. When they've filled their quota, that would be closed. But the recreational, if you were to exceed your ACL, not your target but your ACL, then your bag limit would be reduced the following year; no closures, but your bag limit would be reduced.

MR. HEMILRIGHT: I'm sitting here in a little bit of a quandary, because what's happening here is this is getting based on landings again; which is totally out of the norm the way the fishery has operated for all these years. They are basically looking at tying our hands. I'm not looking here to get 1.8 million pounds for the commercial fishing industry on this.

But somehow I know when you get tied down to these percentages, then it sometimes gets set in stone. Historically, when you look at the numbers here for commercial,, from 1999-2009, I think 2010 might not have any good; the highest number we've got is like 1.1 million. When you go over here to look at the recreational side, you've got a number of – one year they had 15 million. Based on tying on these things, I'm probably crazy for thinking this, but how about like a 90/10?

But see that's changing -- it's changing to the way we operated because in the future if we see that the quotas should be more, with stock assessments, are we going to go back to 87/13? It's not looking for – there are a lot of limitations here on the commercial side and a lot of you know this of how the fishery is prosecuted.

Something else that's going to have to be thought about here with these bag limits and different things on sizes; as these fish move up the coast, that guy off Maryland or New Jersey has got just as much right to this fish as we do, but it's where it starts from. So as we're thinking here, we're in a pickle because nobody wants to give any more because they've tied it to landings.

It's almost like, you know what, when you go to thanksgiving dinner, this is the only thing you're going to be able to get for the next few years here. Some of us, we can eat more than

others. It's a quandary. When I just happened to say 90, that's 10 percent of what's allocated and I don't know why I say 90/10.

If you had that number, the number of 14 million if it was to come to that; that's somewhere around that soft figure of what we looked at if it got over a million and a half. That's all I'm trying to do here. Because when you start putting out the pie and see who is going to get what, everybody gets their little feathers up and gets thinking here, but you have been more gracious in your thought process. I don't know where we're at there.

That's just something I'm throwing out, 90/10 and look at it. If something changes, how does that fit into the management scheme? I really don't see – because I know if we get over that 10 percent, then you all are going to be catching a heck of a lot of fish unless something dramatically happens, fuel or whatever. That's my reason for saying that is changing allocation schemes, but this is more of a hard change versus the other with a soft change to look at something. That's what I throw up. I don't know how that incorporates into options, whatever, but that's just my two cents worth.

MR. NETTLES: I'd like to throw this at you real quick; just as a "what if". As an AP we're recommending ABC to equal ACL, to be equal. The council could very well go with 85 percent. They could, as you put it, throw it in the garbage. If we went with a 90/10 on our allocation, even if the council went 85 percent, I still think both sectors would be safe. I think the reason everybody wants to be safe is because this is a fishery that we all feel is not overfished. We don't feel it will ever be overfished.

But we're being asked to put numbers on it and we can make a decision here on what we feel and then the council does something different, take one on one thing and one of another, and we could, excuse me for putting it this way, screw ourselves. I was just looking at it and if I just ran the numbers, if the council did choose 85 percent and we did 90/10, then 90 percent for recreational would be 1,166,000, so I think that would be a safe figure and it's kind of an in between. Commercial would be, well, 1.2, so just above where you're at now.

MR. HEMILRIGHT: How do we address that in that? Is this something else that when we look at it, suppose you're getting up there close to that 1.2 million or suppose you all are getting up there close on whatever, but it takes a little while longer on the recreational side to figure it out for next year, which could have ramifications.

I don't know, but I'm just – there comes a limit to what almost the commercial could catch given a period of time unless the whole world turns to dolphin and the same with the charter side and recreational fishermen as this fish travels. There are closures off certain areas, certain times of the year. One is the Straits of Florida.

There is one up at the Charleston Bump, but I believe the fishery season opens back up in April 15 or May or something. There is a little bit of limitations, but just to keep everybody fishing. We don't believe any of this is a problem, whether it's biologically or whatever, fast-growing fish and we've got some hard times here.

MR. ROSHER: I like Tim's proposal. We never know what's going to happen, but obviously I think it was a real strong point that we were unanimous in our vote. I think it would be hard for them, not impossible, but hard for them to ignore that. The 90/10 gives ample quota I think to both sides. Gregg, is there any chance to create protection for what Dewey is concerned about and we all should be concerned about if we establish a hard number?

Can we put in a proposal for 90/10 with a way to not react too quickly if there is a one-year bumper crop, so you've averaged it over a two- or three-year period, or even I was thinking what if you allowed let's just say commercial was a little heavy, yet the sum of 14,596,000 or whatever wasn't exceeded; what if you let, for that season, the commercial eat into the recreational.

In other words, don't shut them off, but let them – I know this is apples and oranges here and we're talking two different issues; but 90/10 is one, but I'm trying to also protect everybody's ability because it could go both ways. It could be the recreational having a little cushion there. In other words – or you just put 90/10 with a 10 percent cushion before there's a reaction? The advisory panel should be consulted because we're in the field.

MR. WAUGH: I would be surprised if the council would change the position. We've got several council members here and they can correct me if I'm wrong, but I would be surprised to see them change a commercial allocation to where we didn't track it and close it. We're doing that across the board. And remember when we set these ACLs, we have to insure that it's not exceeded.

In this case, under your scenario, your recommendation, we're setting the ACL equal to the ABC, so you don't have any buffer built in. It's more critical to keep each sector to their ACL. I would be surprised if they backed off of that. Under this scenario with 90 percent, the commercial sector is at just under one and a half million pounds. Back through time since the dolphin and wahoo went in place, they haven't come close to that.

Now on the recreational side the intent is to do averages, but for the first year we're using – the question is how best do you get an estimate of what the catch is going to be in 2012? Across the board what we're doing is using the most recent year's landings to estimate that. For 2012 we'd use 2011; for 2013 we're going to average the two years. For the third year we use a three-year running average. But, if you compare this target, the 12.2, look back in time and that hasn't been exceeded on the recreational side since 2002. That was before the dolphin and wahoo plan went in place.

MR. ROSHER: Now, just to throw this out there; fuel is four something a gallon now headed to where – I don't see our catch this year going up, to be honest about it.

MR. WAUGH: Then it's not likely that you're going to exceed this; so what's the problem?

MR. ROSHER: Do we vote; do we make a proposal and vote next?

MR. HARTER: If you want to you can present a motion to do a different allocation if you wanted to go with 90/10, yes, we can and it has to be seconded and it has to be voted on as

another alternative. Otherwise, we'll vote on the ones that we have. If anybody wants to make a proposal on that, why feel free to do so.

MR. ROSHER: I'll propose it a 90 percent, 10 percent allocation.

**MR. HARTER: Okay, it's been moved that we put in our own alternative; I guess Alternative Number 5, which is a 90 percent allocation to recreational and a 10 percent allocation to commercial.**

MALE VOICE: I'll second that.

MR. HARTER: Any further discussion, gentlemen?

MR. HEMILRIGHT: How would it work? When you look at this, how would it work if one – so we're going to look at – if this was an allocation 90/10, you're going to look at if you have a hard quota on one side, and you would think that the council members have got to hold it hard and fast there. How are we going to address? Never mind, that's addressing something else I've got, never mind. I'll shut up, how about that?

MR. HARTER: Well, if we're ready we'll take a vote and I'm going to go through them as Alternative 1, with Alternative 5 down at the end on the 90/10. Let's start and we'll keep this in order. On Alternative 1, which is no action, which is to continue the allocation that we set originally, which was the 13/commercial, 87 recreational. All in favor of that; all opposed. That would be 11.

Alternative 2, which is doing the 7 percent commercial and 93 percent recreational; all in favor, 1, and all opposed, Alternative 3, which is the preferred one, which actually is a 7.3/92.7; all in favor, 0; and all opposed. Alternative 4, which is basically setting out an allocation for both private recreational and for-hire as a separate allocation in Alternative 4; all in favor of that; all opposed. **Alternative 5, which essentially sets out a 90 percent recreational and a 10 percent commercial allocation, with no other stipulations; all in favor, and all opposed, 1 no.**

I will tell you that originally we did some of the same things before when we did the 2004 assessment. We put in some of our own recommendations, so there's nothing – do you gentlemen want to keep going?

MR. WAUGH: It's up to you; we can go on or we can break and pick up at 8:30 in the morning. It's up to you guys. It depends how much you talk, Dewey. What we've got left for dolphin are the accountability measures and the management measures and the council is not – like I said before on the management measures they are proposing to prohibit bag limit sales, and we've already heard some of the views on that; and then increasing the minimum size limit on 20-inch fork length off of South Carolina.

MR. HEMILRIGHT: We've also got a little bit of wahoo.

MR. WAUGH: Yes, then we've got all these same decisions for wahoo.

MR. HEMILRIGHT: I don't know nothing about it, so I can't talk.

MR. HARTER: I have a feeling if it's like we did before, we thought the same about wahoo as we did about dolphin for the most part as far as the management of them. Let's look at one more alternative here, which is the establishing accountability measures for dolphin and see how controversial that is. Yes, I'm at Page 17, gentlemen.

MR. WAUGH: On the commercial side, which we deal with that first, the council's preferred is not to set this ACT, so we're leaving it, and that new number for the commercial sector would be 1,495,622. That would be the number and that would be the commercial ACL. Then the council's preferred is after the commercial ACL – this is Alternative 3 preferred – after the commercial ACL is met or projected to be met, all purchase and sale of dolphin is prohibited and harvest and or possession is limited to the bag limit. We considered reducing the commercial sector ACL the following season by the amount of the overage, but the council decided not to do that.

MALE VOICE: I know we're talking the commercial here, but is this how we always address the commercial? they just shut it off; is that standard?

MR. WAUGH: Yes, because we have better data there and we've got trip tickets and many fisheries have got logbooks, and so we track the landings. Then when it's either met or projected to be met, we close it. We have had instances where the Southeast Fisheries Science Center is trying to implement an electronic commercial trip reporting program, which will be more accurate and bring it in line with what's been in place from North Carolina north for quite a number of years. This will make it more efficient at tracking these quotas. We have had some situations where the fishery has been closed and the quota hasn't been met and it's been reopened. It does happen, but yes, across the board that's how we deal with the commercial sector.

MR. HEMILRIGHT: The thing with the commercial sector on mahi-mahi, if it takes time to shut something down, then by the time it gets back open there is no more fish because time is over with. I also see scenarios of different states. When you talk about north of North Carolina, that is electronic logbook by dealer reporting, correct?

MR. WAUGH: That's correct and we're trying to get the same system and have been trying to get the same system implemented in the southeast.

MR. HEMILRIGHT: Because all this is based on – to have good commercial landings is based on how not only good the dealers do follow up to give them in, I have heard scenarios of where in flounder fishery all of a sudden the dealer didn't send his stuff in and the next thing you know there are 20 to 50,000 pounds of flounder to be caught that was already caught. The scenario is there where hopefully everybody is on the same page with the reporting. Were it says here, do not set a commercial sector, that means when a quota is caught you quit fishing, is that right?

MR. WAUGH: No, what that means is the ACT would step down; it's this table 4-38. It's on Page 17. What it would do is say that our ability to track the commercial sector is not where we would like it; so to make sure we don't go over, we're going to shut you down when you reach or are projected to reach 90 percent of your quota under Subalternative B.

Subalternative C would retract you and shut you down when you reached 80 percent of your quota. The council's current preferred is not to step down the commercial ACL but to use a commercial ACL as your quota. You are recommending that we set it the – but here's the new number. Instead of the 850,676, what you are recommending for the commercial will be 1,459,622 pounds. Right.

MR. HEMILRIGHT: (Turned on microphone here) – put it back up for a little bit of poundage, well, the season's already done, so it's not like something you can readily go catch.

MR. WAUGH: We tried this with some of our other species where we wanted to implement a lower trip limit when we got to 90 percent of the quota. What the National Marine Fisheries Service Southeast Fisheries Science Center advised is that the current state of their quota monitoring program is they could not monitor those species that closely, that quickly to let us know when 90 percent occurred. They recommended that the council not put in that measure and the council didn't.

MR. HEMILRIGHT: How about you're state-by-state landings? I know North Carolina has an exceptional program. I looked at the other states that would be harvesting magnitude of commercial catch would probably be South Carolina. How quick is South Carolina? The reason why I looked at this, I know in states, man, there's not like there are 50-100 dealers.

With a pen and a piece of paper, a phone call and a thing, you basically could get a – I know it don't work that way, but I guess my question is how about South Carolina reporting – you know, the states are going to do the best.

MR. WAUGH: It isn't a problem with the states. The goal of the Southeast Fisheries Science Center is to have the dealers sending this in electronically, and that's what happens North Carolina and north for Northeast Fisheries. The current way they do this in the southeast, as their trying to implement this electronic dealer reporting, is they look at last year's dealer landings and select dealers and ask them to report to the National Marine Fisheries Service.

If you have a situation where you get a new dealer or the distribution of landings by dealer changes, then they can be off in how they track the landings. Once they finally get the electronic dealer reporting implemented; which they tell us it will be by the end of the year, then this shouldn't be an issue.

MR. HEMILRIGHT: Because when I look about it up and down the coast, I don't see a whole bunch of new dealers coming in the dock that's going to land 100,000 pounds of fish. I understand that part. Can we set the ACT at like 90 percent of the catch?

MR. WAUGH: Well, you need to be careful for what you're asking for here because I think what you want is you want some alert to go out to the fishermen that you're approaching your quota of 1,459,622 pounds. That's different from this. If you set an ACT at 90 percent, then you're going to be closed when you reach 90 percent.

What you want is for the National Marine Fisheries Service to put out some alert that we're reaching 80 percent, 90 percent. They put these numbers on their website. That would be a way to do it. It's not kept as current as would be helpful for you all. They are trying to get it to where it's done more frequently. As I understand the way it's done up in the northeast with the electronic, they can send out notices and let fishermen know and let states know where they are. We're just trying and trying and trying and trying to get that implemented in the southeast.

MR. ROSHER: That's what was behind my dissertation on zip ties or tags. I mean it's kind of unfair, Dewey has got, and I do, too, with my federal logbooks, within seven days of my sale, I have to have that logbook submitted and that's paper in triplicate. I have to hire – I have people that do that, because I'm busy, I'm working on the boats, fishing or whatever.

There's a significant cost associated to that when you added up their time through the end of the year. But the problem is, A, it does need to go to electronic, period, hands down. I don't know if any action on our part or recommendation has any impact on that. Secondly, it needs to happen in fairness to Dewey, and the entire commercial sector it needs to happen on the for-hire and recreational also.

Again, I know you have to be careful what you ask for, but that's why I went on that rant about the tags. There is no policing for the recreational sector. Just like I'll try to protect certain things, conversely, I'll try to tell you where you've got problems. You have a problem and we all know this, but there has to be some system to monitor flow.

And if you make it voluntary, like, for instance; Dewey's got a – and a dealer has to be responsible for that paperwork before the sale can be accomplished or to be legal. But if you made it electronic reporting for recreational and for-hire, all people have to do is look over their shoulder, no one saw me, I don't report it. That's the problem. That's why over the years I've thought of no other way than if you had a heavy penalty for not having a tag on a fish, you're going to tag every fish. You're going to put a ten, twenty cent tag in every fish to be legal. If not, you get a thousand dollar fine the first time, five thousand the second time.

Think of all the money we would be saving all these entities trying to count and guess and get their crystal ball out. You'd actually have a flow of something that's tied to the number of fish in it. Like Dewey said, it's true, the recreational and charter for-hire do kill smaller fish. Well, numbers would hurt us, but that's the facts. Anyways, I'll get off my soapbox.

MR. WAUGH: They claim they are close to getting this implemented on the commercial side. There is no intent that I know of to do this on the for-hire side to make that electronic dealer electronic reporting. We had some measures in our Amendment 18A that would have required electronic dealer reporting, and I believe it would have also required electronic reporting by the

for-hire sector, but arguments were made to not do that and they are now in the considered but rejected portion of Amendment 18A.

MR. HEMILRIGHT: So what's going to happen with this here; what can we recommend?

MR. WAUGH: I honestly think you've gotten about a sweet deal as you can get. You've got your commercial ACL up to a million and a half pounds. It's going to be tracked and closed. Be happy. Honestly, within the constraints we're operating under in the management system, that's about the best you're going to get.

MR. ROSHER: Is it possible to put a flag, like you said, some warning for both sections, because I believe it should apply also to for-hire and recreational. I'd like for all three groups to know when the quota is close. Like, for instance, if I'm in the for-hire sector and I know we're at 90 percent, and we're coming near the end of the season, I might get on the phone and move some charters closer so that we can get out charters in.

MR. WAUGH: I can't agree with you more. Most people would want to plan for this and would build in some way to give people notices. I think your asking for that is totally reasonable.

MR. HEMILRIGHT: But just asking for it and knowing the process, a little bit of it, it takes forever for the recreational and the for-hire unless there is some type of logbook or something, and I'm not advocating that, but unless something – because it's just the way it works, dockside surveys and stuff.

So given a three-year running average or something to say, look, we've got to address something in the next year, I almost believe even though you can advocate for change now is only the way it's going to work for the recreational or charter for-hire right now.

MR. ROSHER: Yes, I was just proposing that we all have some flag before a fishery gets shut down, that's all. I agree with what you're saying, don't shut it down at 90 percent; just tell us when it's coming, when we've got 10 percent left. Is that something we could make a proposal and second?

MR. WAUGH: Yes, because honestly, we'd like it, too. We don't like when these things close when we're headed out to public hearings. We'd like some warning as well.

**MR. ROSHER: I'm going to make a proposal that we have a flagging system at 95 percent or would you guys be more – say 90 percent and maybe give you more time to react; 90 percent of any quota being met by any sector, just a warning.**

MR. HEMILRIGHT: A flag or attention, that's all. I'd second that.

MALE VOICE: Am I understanding that we're going with Amendment Alternative 3, just amending it to have some sort of flag?

MR. HARTER: In other words, Alternative 5.

MR. HEMILRIGHT: The number keeps popping up.

MR. HARTER: Alternative 5; this is like Area 51.

MALE VOICE: Dave, might I suggest that Alternative 5 read exactly like Alternative 3 with additional language, with the notification.

MR. HARTER: And it's notification of all sectors?

MALE VOICE: Well, I think you would address the recreational sector when we get to the recreational part.

MR. PHINNEY: I've got a question; how quick would the recreational sector find out about this, because the way we get our data is kind of a year behind. You know it's not going to work, not for the recreational. It will work for the commercial.

MR. ROSHER: Asking may prompt a change in the system is what I'm hoping.

MR. WAUGH: Maybe I misunderstood your intent, but I thought what you wanted to do was have some method of notifying each sector, the commercial and the recreational when they met 90 percent of their quota.

MR. HARTER: Okay, so it's an amendment to Subalternative 2B.

MR. WAUGH: Do you want this just to apply to the commercial or is this applying to the recreational and commercial?

MR. ROSHER: I'd like to know it for recreational, too, and if they don't have the means to do it maybe this will create some urgency to accomplish that. I believe that it's unfair to count every fish the commercial sector takes and the recreational have no accountability really. I don't agree with that. I know we can't fix it today, but that's kind of where I was going with the tag thing. You've got to have a way to count. We're just guessing.

MR. KINARD: My understanding was that it would apply to all sectors and that would include recreational. Whether it's successful, I don't know, but I think it should apply or we would like it to apply to all sectors, including recreational.

MR. HARTER: So I guess back to my previous question, are you talking about a 90 percent notification?

MR. WAUGH: Yes, we are, when 90 percent of their quota is being met. Right now we've only got – you're saying notify the for-hire as well, but we've only got two sectors really, the commercial and the recreational. The net effect of this would be to ask for a system to be developed to track the commercial sector when they hit 90 percent, notify the commercial sector; and for the recreational the same thing. When they reach 90 percent, notify the for-hire boats and get the word out to the private sector.

MR. SHUTE: Yes, because for-hire boats are going to be a whole lot easier to get to than the recreational sector because God knows we get called for everything else so they might as well call us for that.

MR. ROSHER: Tackle shops may be the way to go on recreational, notifying tackle shops. They're all listed; it's easy to get a list of that.

MR. SHUTE: Yes, you can always put up a public notice.

MR. HEMILRIGHT: Recreational side, isn't there some type of fishing permit you've got to have? There's not? I thought to go highly migratory fishing you had to have a –

MR. SHUTE: You have to have a tuna permit for highly migratory species, but the for-hire sector has to have a dolphin and wahoo permit, but the recreational do not right now.

MALE VOICE: So, is this flag also going to have an accountability measure where it's shut down after the 90 percent or what do you –

MR. WAUGH: No, this is totally separate. We're still going to track and close the commercial fishery when they reach or are projected to reach. All this is saying is rather than let it go just straight to the first notice they get is that its closed is you'll get a notice when it hits 90 percent.

MR. DeLIZZA: Before we vote on this section, ACT, which is annual catch target, it seems to me that functionally that's just a way of lowering the ACL for purposes of management. Can you explain a little bit the difference?

MR. WAUGH: Yes, it's saying how good are your systems to track that ACL and make sure you don't go over it. On the commercial side the council feels pretty confident that the commercial monitoring system can accurately prevent us exceeding the ACL. They're not proposing to step it down any. On the recreational side we recognize that it's more difficult to track those landings. You've got your ACL, your limit that you don't want to go over, so we're aiming for a little bit below that based on the variability in the recreational catch estimate and setting our bag limits to make sure you stay below that as your catch goes up and down.

MR. HARTER: So we have a motion which is on the board up there and Alternative 5 is develop a method of notifying the commercial sector and the private recreational sector when 90 percent of their quota is being met. There's a second on that?

MALE VOICE: Yes.

MR. HARTER: Any more discussion? **All in favor of considering that motion, 8; all right, all no on that motion, 0. Now if you're ready we'll vote on all the alternatives here. Alternative 1, which is no action, all in favor, all opposed. Alternative 2A, which is the preferred one about not specifying a commercial sector ACT, all in favor, 1, and all opposed, 8 no.**

Subalternative 2B, which is the commercial sector ACT equals 90 percent of the commercial sector ACL, all in favor, and all opposed. Subalternative 2C, which is the commercial sector ACT equals 80 percent of the commercial ACL, all in favor, and all opposed. Alternative 3 which is the preferred one also – how we got two preferred ones I don't know – after the commercial ACL is met or projected to be met, all purchase and sale of dolphin is prohibited in harvest and/or possession is limited to the bag limit, all in favor 1, and all opposed.

Alternative 4, if the commercial sector ACL is exceeded the regional administrator shall publish a notice to reduce the commercial sector ACL in the following season by the amount of the overage, all in favor 3, and all opposed 5. We're on Alternative 4, all in favor on Alternative 4; and all opposed on Alternative 4, 8. Okay than Alternative 5 really talks about basically getting, when we reach the 90 percent of the ACT, that we have notification for both commercial and recreational fisheries.

MR. WAUGH: That was our new one; we already voted on that.

MR. HARTER: We voted on considering it.

MR. HARTER: Isn't that the proper procedure, consider it as a motion, but I think we still have to vote on it as an alternative, is that right? All in favor then of Alternative 5, 9; and all opposed to Alternative 5, 0.

MR. DeLIZZA: I think this is the first action that we've had where there have been two preferred alternatives selected. Is the council able to approve multiple alternatives for a single section or action?

MR. WAUGH: Yes, and the reason they did that here is it addresses different issues. On the commercial, the question is do you set an ACT and the decision was to not set an ACT. Then the other decision was, well, do you track it and then close it, so there are two different issues on the commercial sector.

MR. DeLIZZA: So what they preferred was to not set an annual catch target?

MR. WAUGH: But to track the commercial ACL and close it when it's met or projected to be met.

MR. DeLIZZA: Okay, do you want to call for another vote on that? Do you think everybody understood that when they voted?

MR. WAUGH: On the commercial side, yes, and we had one person support it and 10 no.

MR. ROSHER: Wouldn't it be better read that both commercial and recreational, when it's been met?

MR. WAUGH: This doesn't have anything to do with recreational. I guess I don't understand the point of confusion.

MR. DeLIZZA: The way I understood it from what you said earlier is setting an ACT actually lowers the allowable catch before an action is taken. Based on the conversation, I would have expected this group to support not setting an ACT based on conversation.

MR. WAUGH: That's what the group did; the group voted -- okay, right.

MR. DeLIZZA: The group voted no on yes.

MR. WAUGH: When that came up, there was one yes and eight no. You're right, if this doesn't accurately reflect your preference, then we can just reconsider it and you all revote.

MR. DeLIZZA: Well, I can't; I'm not the chairman.

MR. ROSHER: Well, I think it makes sense to talk about -- or everybody understand and revote if necessary. I didn't understand the ACT, I'm sorry.

MR. HARTER: We're referring to Subalternative 2A again.

MALE VOICE: Can you explain or just give us a little cliff notes on what that's saying?

MR. WAUGH: It's shown in this table here. Let's use the number before the 850,000. That's your ACL. What the council decided is not to lower it because we feel that we can accurately track the landings. Then the commercial quota would be 850,000 pounds. If they had chosen to set an ACT at 90 percent, then your quota would have been 765,000. If they set it at 80 percent; your quota would be 680,000. So given that we have better commercial data, they are choosing just to set the quota at the ACL and not step it down.

MR. ROSHER: Would the ACL now be 1.45?

MR. WAUGH: Correct, and so we've already set the ACL being that, but what you did when you got here, you voted against all the subalternatives under ACT. If you don't want the council to set an ACT, you just want the ACL to stay there, you should approve Alternative 2A which is the council's current preferred.

MR. ROSHER: Okay, I think as a group we misunderstood what we were voting on there. Is it okay to revote?

MR. HARTER: Yes, we can do that. We'll take a revote on Subalternative 2A, which is the preferred one, which I think that was the last one where we had a 1 and 11 vote or something like that. So on preferred Sub Alternative 2A, all in favor; and all opposed. Thank you, gentlemen, I guess we will adjourn until 8:30 tomorrow morning.

The Dolphin Wahoo Advisory Panel of the South Atlantic Fishery Management Council reconvened in the Crowne Plaza Hotel, North Charleston, South Carolina, Friday morning, April 8, 2011, and was called to order at 8:30 o'clock a.m. by Chairman David Harter.

MR. HARTER: I think John is not going to be with us today. John has got another business engagement today. I think we've got everybody here. Gregg, do you have anything you want to talk about first or should we jump right into our next –

MR. WAUGH: We can pick up right where we left off.

MR. HARTER: Gentlemen, that should be on Page 18, talking about the recreational aspects of the ACT.

MR. WAUGH: Again here what the council has done is they looked at – and again the idea with the ACT is to step it down a little bit in recognition that our recreational data are less precise than the commercial. You're not penalized if you go over your ACT. The ACT is used to determine what management you want.

You would compare your poundage under your annual catch target to your catches. If your above it then you want to put in some more management to look at lowering it. Where we are, just to remind you on your recommendations for the recreational side; that annual catch target is at 12.2 million pounds. That's 24 percent below the average 2005-2009 landings.

There is no need to change the management. What the council is proposing, and we've done this across the board, is to specify as their preferred this formula for calculating the ACT that basically reduces the annual catch limit by an indication of the variability in the recreational data. That's shown in table 4-39 and those numbers are low.

That shows that the estimates are pretty good. The council has used the five-year average and that reduces the ACL by 7.5 percent. Again, that's the number here of 12.2 million pounds and no management change is needed. The other alternatives for the ACT are to set it equal to 85 percent of the ACL or 75 percent.

MALE VOICE: Gregg, can you explain what happens when the ACT is met in a given year?

MR. WAUGH: Nothing; as long as you don't go over your ACL. The recreational ACL would be 13,136,594. As long as you don't go over that, nothing happens. Again, this is a target, so what we want to do is keep the recreational catch around that target. That's the idea of lowering it by the average amount of variability in the recreational data. We recognize that some years you'll be below this; perhaps some years a little bit above it, but again this is 24 percent below the '2005-2009 average. But if you were to land 13 million pounds, nothing would happen. Next year your ACT is the same; your ACL is the same. After we deal with where you set your ACT, the next alternative is to deal with what happens if you were to go over your ACL, your recreational ACL and not the ACT.

MR. HARTER: Then from what I understand then, that their preferred alternative if we go over is to reduce the bag limit? Does that condense it?

MR. WAUGH: That's correct, and that's shown on the top of Page 19. I can just touch on these real quickly. We'll look at evaluating the ACL, the recreational ACL against the 2011 landings

for 2012. Then for setting the limits for 2013, we'll use the average of the 2011 and 2012; then from there on use a three-year running average.

That would calculate what your landings are. If you are over that ACL, the alternative 6A would be reduce the recreational sector ACL the following year. 6B would reduce the length of the fishing year the following year; and 6C, which is the council's preferred, is to reduce the bag limit. Alternative 7 that's in there that is not the preferred would close the recreational fishery when the ACL is projected to be met.

The only time the council is using this closure provision is if a species is overfished for the most part; that's what we've focused on. Because if the stock is overfished and in a rebuilding plan, then it's much more critical to limit each sector to their catches so that you don't exceed the levels that will allow the stock to rebuild. That is not a factor for dolphin or wahoo.

MALE VOICE: Does anybody have any comments on 6C? That seems the preferred and seems to make the most sense.

MR. HARTER: Yes, I think so, too.

MALE VOICE: It keeps the fishery open and addresses the issue the next season.

MR. NETTLES: Gregg, back to setting the ACTs, the council preferred a three-year average over the five-year average is what I'm reading, correct?

MR. WAUGH: That refers to these PSEs and I may have misstated – I can't remember now if I said they use a five year, but they are using this three-year average, which is a 7 percent. What that's saying is they are using the three-year average of the PSE, proportional standard error, which is just the variability of the estimate; to come up with this average of seven.

What that does in this formula for calculating your ACT is reduce from the ACL by 7 percent. That's how we come up with – you go from your annual catch limit shown in this spreadsheet on the screen is 13,136,594. So to calculate your ACT, basically it's a 7 percent reduction from that. Then in the future, what they'll do is next year they'll look at 2011 landings, the following year 2011, 2012 average. Then after that they'll compare the three-year running average to this ACT and ACL number.

MR. NETTLES: So based on that, we're not even close to that number. Since the current regulations were put in '04, the closest year for the recreationals was 10,400,000 and change. I think that's very fair.

MR. WAUGH: And if you remember, we had this graph; and I've got these here if you ever want to see these as we're discussing it. But, yes, that shows you what happened – 2004 is right in here, so after the plan went in place, here's where your catches are hanging around and you're talking about that recreational ACT is at 12.2. That's up here.

MR. DeLIZZA: For discussion points; I agree philosophically with Subalternative 6C, but for discussion I think everybody needs to turn to Page 30 of the package. What Page 30 is going to show is the reduction in landings as it relates to lowering the bag limit; just so that we all have an idea of what 6C could potentially mean. As an example, lowering the bag limit to 40 fish has a reduction of 8.8 percent. Gregg, just thinking this through, if the fishery went over by, say, 8 percent one year the bag limit would be lowered to 40; assuming these numbers don't change.

MR. WAUGH: That's correct. You would have to exceed – in order for that to happen you would have to exceed your recreational ACL of 13 million pounds. It's right up in between these two lines here; so if something happens such that your catches went from where they are now; which since the plan was in place a high of a little over ten million, if they went up another three million, then you're correct, the council would look at that.

Whatever the percentage that went over, they would then look at – according to their preferred is reducing the bag limit to account for that. Now let me mention something that our Mackerel Advisory Panel came up with when they met yesterday and the day before. We hadn't thought about this before. Their suggestion was that the only time that you should reduce either sectors catch the following year is if you go over your total ACL.

If the recreational sector was to go over their ACL of 13.1 million by a hundred thousand pounds and the commercial was under by a hundred thousand pounds, then when you add those two together you're still below your ACL, so there's no overage above the total ACL so then there's no need to reduce anybody.

Vice versa if the commercial went over and the recreational didn't; such that the total was still at or below your ACL, then there is no need to address the commercial issue. It doesn't penalize anybody because if both sectors went over then each sector would – well, well on the recreational side you would have a reduction under the bag limit to account for that. The feeling is the commercial we're going to track it with the commercial landings and not exceed it.

As we discussed that for king, Spanish and cobia, the advisory panel – and we had good representation from both commercial and recreational – they were comfortable with this recommendation and that it wouldn't penalize either recreational or commercial sector, but could help either one if one of them went over. I just offer that for your consideration.

MALE VOICE: Gregg, you said that would not affect the bag limit or would affect the bag limit?

MR. WAUGH: The only time it would affect the bag limit is if the total ACL was exceeded. Yes, they recommended that the council consider building that in.

MR. ROSHER: Do you want to make a proposal to do the same thing? I mentioned that – that is kind of what I was alluding to yesterday where if one side was low and the other was high; yes, same thing. That way the commercial and the recreational are kind of helping each other instead of one side getting punished.

MR. NETTLES: I would agree with that because the whole thing is your annual catch limit total, it's not sector. If the fishery itself is not being affected, why should you penalize one group and not the other?

MR. ROSHER: Can we make a motion to – or I'd like to make a motion to adopt that policy.

MR. HARTER: Yes, Gregg is going to pull up the mackerel committee.

MR. WAUGH: So here's the wording that the Mackerel Committee approved – and they applied this to king, Spanish and cobia – to recommend the council modify the accountability measures to only adjust bag limit or season length and deduct overages only if the total ACL is exceeded.

MR. ROSHER: My recommendation would be to take season length out to where they only adjust the bag limit.

MR. WAUGH: We can do that. They put this in here to go with each alternative because the council does have that alternative in there as a bag limit. It wasn't indicating that they – in some instances for some species they favored a bag limit reduction and some they did a season. But if you are comfortable with saying you just want the bag limit, then, yes, you can.

MR. NETTLES: My problem with the season limit is, being this fish is a migratory fish, if you shut – the Keys and South Florida and Central Florida have a great year, you could shut it down for the North Carolina guys, whereas if you adjust the bag limit, it still allows the whole fishery to be in effect.

MR. HARTER: Gregg, does this need to be a separate alternative or can this be attached to another? Does that wording look right to you, Gregg? Ray, do you want to make the motion?

**MR. ROSHER: Yes, I make a motion to adopt Alternative 8, recommend the council modify the accountability measures to only adjust bag limits to deduct coverages only if the total ACL is exceeded – deduct overages only if the total ACL is exceeded, sorry.**

MR. NETTLES: I second that.

MR. HARTER: Tim Nettles seconded; Ray Rosher made the motion. Any more discussion about it? All right, then we'll vote. All in favor of including this motion raise your hand; and all opposed. The motion passes to include it as an alternative; 10-0. Now we need to come back to the beginning and at least vote on each of the alternatives, starting with Alternative 5 at the heading of that page.

MR. DeLIZZA: Dave, I'd like a little bit more discussion on Alternative 7. I understand that it's not preferred. The closing of the dolphin fishery is something that can never happen or ever be accepted because of the devastating economic effects it will have on the people who fish for dolphin. How do we strike Alternative 7 from ever seeing the light of day or even being something that the council can consider?

MR. HARTER: Well, we can vote overwhelmingly against it, but I think as Tim brought up, why the real problem even there is seasonality on the fishery. I don't think anybody wants to take that on. In other words, because of the different times of the year and they're in different places, we can't really close the season on that. We agree, I think for the most part. The best way to do it is just to come with a unanimous vote against it, which we can do.

MR. WAUGH: You don't have to vote on each of them, but it does raise the issues. These alternatives are all under consideration to varying degrees. The council has indicated their preferred. I don't think it hurts for you all to indicate your preference for all of them; because the purpose of going out to public hearing and to you all is to get your input on all of these alternatives. I think it just helps in the future if for some alternative we were to get overwhelming public support and you were against it, I think that would help the council formulate its decision.

MR. HARTER: All right, if everybody is clear on that, we're doing Subalternative 5A, which is essentially to do with; take 85 percent of the ACT; all in favor, all opposed. Subalternative 5B, which is to take 75 percent of the ACT; all in favor, and all opposed. In both cases on 5A and 5B, we had 0 yes and 10 no. Subalternative 5C, the preferred one, which is essentially to have the ACT equal the ACL and using the three-year average on 5C; all in favor.

MR. WAUGH: Excuse me one second, it wouldn't be equal to the ACL; it would reduce the ACL by 7 percent, based on this average PSE value.

MR. HARTER: Okay, all in favor, in favor is 10; all opposed, opposed is 0. Alternative 6 and this is essentially deciding how we're going to adjust for going over the ACL; Alternative 6A, which is to reduce the recreational in the following season by the amount of the overage. All in favor – I'm sorry, go ahead Ray.

MR. ROSHER: Is that accomplishing what we talked about a few minutes ago where it would not affect any – there'd be no closed seasons? It would only affect – if both parties, commercial and recreational, exceeded their limits, the total ACL, then it would affect the bag limits the next year.

MR. WAUGH: That is a separate motion that we'll get to. You added that as a new alternative. What this is addressing is just looking if the recreational sector ACL itself was to go over, then this alternative would reduce that recreational sector ACL the following season by the amount of the overage. That other motion you applied would address this and would not require that this be used.

MR. HARTER: Everybody got that clear; it's superseded by our alternative. All in favor of 6A, that's 0; all opposed, 10 opposed. Subalternative 6B, which is to reduce the length of the fishing season to adjust, all in favor, that's 0; and all opposed, that's 10, 10 opposed. Subalternative 6C, which is to use the bag limit as an adjustment – is that essentially what it's saying, Gregg?

MR. WAUGH: Yes, but the one subtlety here is that this is saying that if the recreational sector ACL is exceeded, then you reduce the bag limit. What I think you all are saying is your

preference is your new Alternative 8, that you would only reduce the bag limit if the total ACL was exceeded.

MALE VOICE: Commercial and recreational.

MR. WAUGH: Correct, commercial and recreational.

MR. DeLIZZA: So for Alternative 8 that we're proposing, it's basically 6C with the change being, instead of exceed the recreational sector, exceed the combined recreational, commercial.

MR. WAUGH: That's correct.

MR. HARTER: Yes, I think that's how I understand it, too.

MR. DeLIZZA: Because we want the—I'm assuming we want the measure to be a reduction in bag limit. That should be in our Alternative 8, correct?

MR. HARTER: Right, I think it is. We've got just bag limit adjustment on there. All right, so 6C, all in favor, there's 0, and all opposed, there is 10. Alternative 7, which is to close the recreational season when the ACL is reached, all in favor, that's 0; all opposed, 10. Finally, Alternative 8, which is up on the board right there about when we reach the ACL for both recreational and commercial we would deduct the overage in the following season if necessary, all in favor, 10, and all opposed, 0.

MR. WAUGH: All right, the next item we deal with is management measures and this is on Page 24. The council's preferred is to prohibit bag limit sales of dolphin from for-hire vessels. It's the council's intent that if a for-hire vessel has a commercial permit they would be allowed to sell their catch only when they are not operating under a for-hire mode.

The second preferred is to establish a minimum size limit of 20-inches fork length off of South Carolina. We've got a 20-inch fork length off of Florida and Georgia now. We talked about applying this in North Carolina as well, but there is a fishery from the piers at a time of year that they can catch dolphin, so if you went with a size limit like this you would eliminate that fishery. The councils preferred right now is just off of South Carolina.

MR. DeLIZZA: I am fascinated by this pier fishery for dolphin, because I never heard of it in my life. Anybody up here know how often that happens; what kind of number of fish we're talking about?

DR. CHEUVRONT: This is Brian Chevront. I'm a council member and I work for the Division of Marine Fisheries in North Carolina. We do actually have a short pier fishery that occurs for a week or two in the fall, not every year but in several years. Part of the reasons why we wanted to allow this to continue was because this is the only access that some fishermen ever will have to getting dolphin in North Carolina.

If they don't own a vessel, they're not going to get out there and get it. In many cases people take children out and they can catch a dolphin off a pier. It doesn't happen every year, there are

not a lot of them caught, but this is a traditional fishery that provides access to a group of folks who would never get access to the fishery any other way. We wanted to try to allow that to continue.

MR. HARTER: Yes, it would also seem to be kind of difficult to get these fish back in the water alive, dragging them up on a pier and dehooking them and throwing them back if they had to. I doubt that many of these dolphin would survive something like that.

MR. SHUTE: Like he was saying, it's a short fishery, but sometimes in July and August when the Gulf Stream really comes into the beach; we used to have a pier, it's gone now, but a lot of our people use to access – now we're talking about inside the turning basin at the Morehead City high-rise bridge, catching 20- to 24-inch dolphin on gotcha plugs. Like I said, it's a very, very rare account, but when people have the opportunity to do it.

People trolling for Spanish with a cork spoon usually in July and August will catch fairly decent numbers sometime. I mean, our dolphin fisheries, it tickles me; all the big boats go way offshore. I take my little boat and I run out to the sea buoy and I sit there and I watch them all go and I wave at them as they go by.

They go offshore and have a real poor catch and I stay at the sea buoy with my fly rod and my top water spinning plugs, I catch limits of dolphin up to 30 pounds right there on the beach and I just watch them go by. They do come in close to North Carolina and there's more than people actually give it credit. Our Gulf Stream swings in so close then in some years, not every year, but about every second or third year you have a real good inshore dolphin bite.

MALE VOICE: How much fuel do you burn?

MR. SHUTE: I guarantee you; I love those trips; That's all I can say. I make plenty of money.

MR. HARTER: Yes, George, if we could ever see the blue water from the shore over there, huh?

MR. SHUTE: Look, two years ago we caught 15 sailfish in 15 feet of water off Cape Lookout Shoals, in there balling bait, So we get a lot of strange stuff comes right to the beach at times.

MR. DeLIZZA: I'm certainly sensitive to traditional fishing, but it sounds like as far as from a management perspective, the amount of catch is insignificant. I don't know what the mechanism would be, Gregg, maybe you can give us guidance, but I do feel pretty strongly about that 20-inch minimum being consistent throughout the range of the fish. How would we work an exception for shore-caught fish? That doesn't seem all that very complicated to me to do. Coming up with a management measure based on one-half of 1 percent of the catch affecting 99.95 percent of the catch seems kind of ridiculous to me.

MR. WAUGH: It's an interesting question you pose. I would suggest rather than worrying about how we do it, if that's what you all want to see done is in the essence in the EEZ have that size limit all the way up to Maine and allow in state waters that not apply. Then just make that

motion and we'll present it to the council and see how we can accomplish that if they're interested in pursuing it.

It does raise law enforcement issues and other issues, but I think rather than trying to sort that out here, if that's what you guys want to see, just make that as a motion and then we'll present it to the council and see what we do with it.

MR. HARTER: In other words, you're suggesting that let the state follow or make their own limits within that three-mile limit, is that how it would work, or would we have to make a recommendation?

MR. WAUGH: Well, it would be up to how you all want to make the recommendation. I think what Richard is getting at is have that 20-inch consistent size limit in the EEZ from Florida to Maine. Then if you want to just make an exception for state waters in North Carolina – okay, that's true, you make a shore base – Duane made a suggest to make a shore base.

MR. DeLIZZA: That's what I would say because I know how this goes. If you try to separate state waters from federal waters, then there is going to be an objection from law enforcement that it becomes unenforceable, because you don't know where the fish were caught. If you make it shore-based, guys walking off the piers, you don't worry about measuring their fish. A guy comes in on a boat, you measure the fish. It's pretty simple to me.

MR. HEMILRIGHT: I'm going to have to disagree with Richard on this one. Up off North Carolina charterboats sometimes in the late fall catch a 20-inch dolphin. If they didn't catch that, they wouldn't catch nothing certain times. The magnitude, I think is real small compared to the overall catch, but I think that the council, even if sometimes we disagree with them; on this they looked at that, because in North Carolina a charterboat is one of the major industries up our way

Through the summer they'll catch the dolphin and then as it gets to the fall sometimes they'll find a board or something; not that they'll sit there and belt 60 dolphin, but catch a few dolphin. I would go with the Alternative 3 if that's what people in South Carolina chose. I look at some of the reductions that we've done, I know the longline industry, we only have a 16-ought hook or an 18-ought hook we had to use, so that reduced us some, a lot because we use to use a smaller hook.

It's still amazing how sometimes the small fish will bite that big hook, but the majority of the make up of the North Carolina charterboat industry, I don't think there is 20-inch dolphin, I'm pretty sure. I just don't want – there is no need to shut somebody out. That's my only reason for looking at that. I don't think it's a magnitude of the make up.

MR. SHUTE: I don't run a large charterboat, but the majority of the fleet from Wilmington up to Hatteras, especially into Morehead City, Hatteras, Ocracoke area, there is a timeframe, usually from late July all the way through the mid part of September that we have pretty much a dead zone out there. The big dolphin have migrated through, they're gone.

Tunas are gone; you have a few blue marlin out there the guys fish for. If it wasn't for the bailer dolphin, the majority of the big charterboat fleet would have absolutely nothing to fish on. Like I said, it's only about a month and a half timeframe, but they rely on the smaller fish. Personally, I don't keep them, but in order for them to bring something back, that's all they have to fish on out there.

MR. HARTER: George, Fred, do you guys have any –since the three of us are the South Carolina representatives on this; do we feel we're being discriminated against or does this sound okay with you?

MR. PATTERSON: We had a lot of discussion about this and the state of Georgia followed the federal mandate. I can understand, especially with the proximity to the Stream, the dead time, whatever; generally speaking, our fish, with the easterly flow later in the summer, are caught in anywhere from 85 out to 110, 120 foot of water.

Most of the fish that we see later in the season, basically April through September, the Stream moves in closer and we see big fish. In my opinion, if I don't run over the fish, which I'm famous for doing, run 30 miles past them, I'm good with the 20-inch limit that we have in Georgia and South Carolina, or Georgia, I'm sorry. You can cull the fish.

As far as stopping at a piece of plywood and pull out the squid and the spinning rods, we basically don't do that. Our fishery, I'm not slapping you guys in the face because you've got to make a living, but categorically our fish are generally larger even during that period of time. I say larger; most of the fish are 12 to 15 to 20 pounds closer inshore. It's worked for us; nobody seems to have a problem in Georgia with it.

MR. HARTER: I agree, and those of us that don't like cleaning fish past midnight, too. It's always been a subject to guys who were going to sell the fish seemed to be the ones that were most excited about getting a pot of 20-inch fish, unless you've got a lot of guys to clean them. I agree with George.

In our area, too, most of our dolphin are really caught by trolling rather than sitting and bailing on them. I don't think the South Carolina people will have any objection. I've never heard any objection from our captains about sticking with the 20 for us and letting the other states do what they want to do.

MR. NETTLES: Maybe Dr. Hammond or Sammy could answer this. We went through this back in the early 2000s. What was the breeding size range? I remember there were a certain percentage up to 20 inches and then another percentage up to 24 inches. That's what I remember, we went with the 20 inches because it allowed the fish to spawn more; is that correct?

MR. HARTER: This is Don Hammond talking.

MR. HAMMOND: Yes, thank you for correcting me. Anyhow, dolphin begin to mature sexually at 14 inches fork length. By the time fish are 22-inches fork length, that's when they're

100 percent sexually mature, so all dolphin at 22 inches are fully sexually mature. Twenty inches gets a majority of the fish up to sexual maturity, but not all of them.

You're reaching sexual maturity, and you have to understand that typical in spawning the larger females are the bulk providers of the spawn. However, with dolphin, the small females are providing far fewer eggs, but there are so many more of them that they could be a significant contributor to the annual spawn.

That has not been looked at; that is something that is a good question to be answered by future research work. I hope that helps you out there. The other point that I'd like to make is how fast these fish are, going back to what I presented yesterday, how fast they are traveling up the Eastern Seaboard, and that these little fish, I mean 10, 16-inch fish; will completely pass through U.S. territorial waters within three months.

Now within three months that can allow them to grow about five inches, maybe six inches during that time period. That does increase by the time they get up into the Mid-Atlantic Bight or whatever they are going to be larger. Those fish that started out at 15 inches would exceed the 20 inch before they would leave Mid-Atlantic Bight. I hope that gives you a little bit of idea.

MR. PATTERSON: Don, reading your newsletters – and I'm trying to remember what I've retained, which sometimes isn't much – what would be the benefit to Alternative 5 as far as roe fish spawning, which would state that Florida and Georgia go to 22 inches – how much benefit do you see as far as that affecting the fishery overall and the reproductive aspect, if you will?

MR. HAMMOND: Well, it would certainly help, but again without an assessment of the contribution of the smaller fish to the overall spawn, it would be a guess at best. The thing is I just see that these fish travel the Eastern Seaboard so fast that you penalize – you're making a fish sacred in Florida. Well, case in point the 800 fish that went 835 miles in 9 days, Islamorada to Oregon Inlet; in Islamorada one week it was sacred, the next week it's killed in Oregon Inlet and it's no longer sacred. Why the difference? You have to ask yourself that.

MR. HARTER: Don, another question. Their ability to spawn; is it a function of age or size?

MR. HAMMOND: That's a good question, Dave.

MR. HARTER: Considering the two 22-inch fish wouldn't necessarily have to be the same age.

MR. HAMMOND: No, good question. We'll just keep making notes for research projects.

MR. HARTER: You're going to work on that one; okay, we'll get you a grant, Don.

MR. KINARD: Don, refresh my memory; how old would the average dolphin be when it reached 20 to 22 inches?

MR. HAMMOND: You're looking at three- to five-month-old fish.

MR. ROSHER: I can tell you that keeping a 20-inch fork length on the entire east coast sure makes it easy for all fishermen. One of the biggest complaints I get from other fishermen who ask me questions about fisheries laws is there's division of federal law, state law, kind of almost what day of the week is it?

It gets to the point where it's hard for people to follow the law because we've all heard stories and probably have experienced even law enforcement vessels have come to us and they don't the law. I recommend keeping it at 20 inches, just a uniform size limit to keep things simple, to keep law enforcement easy, and let's see where this takes us after a year or two or three and understand does that need to be adjusted.

I think we've already put provisions in to address that if we have a problem with harvest, then we're going to fall back to a reduction in the bag limit or size limit if need be. The only thing I think we're unanimous – one thing that we are unanimous on is we don't want to cut someone's season off, like Dewey mentioned. We catch them in Florida and he doesn't want to be cut off up north. I understand that and agree with that 100 percent. That's just my opinion is keep it at 20 inches and let's see where it takes us.

MR. HARTER: What about the shore-based,, guys, what's your feeling about that?

MR. ROSHER: I absolutely agree that keeping those guys' interested keeps people – it gives people access that would otherwise not have access. I absolutely think for two reasons it's good to weaken the size limit; A, those fish have a higher incidence – my experience has been the fish closer to shore typically are smaller fish; B, I'm also in the bait business and if you touch – you grab a goggle eye for instance, you put him in the well, he'll live all day.

He'll do great, but you put that one in the well next to one that you dehooked with a wire dehooker and three days from now the abrasion that occurred or contamination from your hand is going to cause the mortality of that bait a hundred percent of the time. Just the act of releasing a dolphin in my opinion – this is a subject we haven't even gotten into – I believe that it should be mandatory to use a dehooker, a mechanical dehooker to release dolphin.

Every time you throw a rag on them or lay them on the deck or put your foot on them and throw them in the water, based on my experience of catching and selling live bait, that fish isn't necessarily alive three days from now. He gets weak and the barracuda or blue marlin, whatever, eats him if he doesn't just die from infection. The slime coat is not different than your physical skin. That's the best way I can describe it.

Because if you pulled a piece of your skin off, it's going to get a rash; well, that's what happens when you take the slime off of a goggle eye, a cigar minnow, any slick-skinned fish. Even though a dolphin has scales, it is slick enough that when you grab one one time and throw him in a live well and watch your finger marks an hour later appear on their back, that's my take on it. We personally release all of our undersized dolphin with a wire dehooker. I make three sizes in my tackle business and that's one of the reasons I made them, so I had them.

MR. HARTER: You know Ray has brought up a good point, Don, about the release on fish. I know that's one thing you and your fishermen paid a lot of attention to was the handling of dolphin and we'd appreciate your input on it since you actually see the tag recoveries on the dolphin and have a fairly better idea about how they were handled when they were tagged.

MR. HAMMOND: Don Hammond on the dolphin tagging study. What I have seen is that handling makes a very large difference in survival rate as it's interpreted by tag recovery rates for individual anglers. Anglers who utilize – especially the ideal is lifting them out of the water with a rubberized net to minimize damage, minimize slime loss and then having a towel where you can lay them on a towel, cover their eyes with a towel to tag them and then get them back in the water quickly, a much higher tag recovery rate.

Ideally, especially during the heat of summer, fish should not even be removed from water, ideally, for maximum survival rate. A dehooker would be advantageous except, I personally have not mastered that with circle hooks. Circle hooks are another bear in trying to remove those from a fish. That's a hard one and I don't have an immediate answer for it. One other comment I'd like to add is that antidotal information shows – and I've had this on numerous occasions in the Gulf of Mexico, in Florida and in the Bahamas – and that is that even large gaffer dolphin occasionally will enter extremely shallow water. There is a case where a nice 15 pounder was caught off of South Florida by a kayaker right outside the surf zone. Yes, you can encounter these fish in closer waters.

Maybe instead of just the shore-based for North Carolina, it may be shore-based, period. just for the whole Eastern Seaboard, consider that, because it's a rare-event fishery, it's not going to be significant in the overall survival of the species; but as this committee has said, that it does stimulate interest in the fishermen, they've caught something rare and great, they enjoy and so maybe allow it for the entire seaboard as well, something to consider there. Thank you.

MR. HARTER: So far I'm seeing kind of – if I understand it, consensus is we'd like to go with a consistent limit but we'd like to also exempt the shore-based guys from having to go with that limit. Any further discussion on that?

MR. SHUTE: Yes, just one thing I'd like to bring up. Like I said, with the small fisheries for the dolphin we have off North Carolina, personally, like I said, I don't partake in it and I don't keep anything usually smaller than 24 inches or less, but the big boats do depend on that. Something that bothers me, you're talking about the catch and release, when you've got boats out there that are trying to make a living and want to bring something back for their party, and that's all that their catching right now, I'm afraid you're going to have a whole lot of mortality and discard because they're going to be measuring every one of those fish they bring on board the boat.

I mean, they're going to take him and they're going to go right on the hard board, oh, we can maybe stretch him to 20 inches. I'm afraid you're going to have a whole lot of mortality. The charter fleet would be a whole lot better than our recreational fleet. The charter mates, most of them are professional guys, they can look at the fish and they can tell, well, he's going to be

close, we'll let him go, but the recreational fleet is going to pull every one of them on board the boat and measure them.

I agree, personally I like a 20-inch limit, but I can see a lot of financial hardships for the big charterboat fleets in North Carolina just for that month and a half period of time, but the problem is now the way the economy is, you get damaged in a month and a half of fishing and those guys are on a shoestring budget now. They could possibly go out of business.

That's just something I wanted to bring up, and like I said the mortality, because I'm afraid even with dehookers, most of the recreational crowd isn't going to do it. Like I said, most of our fishing is trolling just like yours, but there are a lot of people that bail dolphin and I'm afraid there would be a lot of mortality.

MR. HARTER: We kind of have to take your word for it, Joe, because we just don't see them down where we are that small and it's rare. It's rare that we're going to encounter much of anything to speak of much less than 20 inches, and so thank you.

MR. DeLIZZA: Don, if I can borrow you one more time; on Dave's point is there something inherent in the biology or range of the dolphin population that we have a larger concentration of small fish further north?

MR. HAMMOND: Good question. The fact is that there can very well be a larger concentration of small fish further north as a result of what I feel – and this is speculation on my part – that a major spawn occurs during April and into early May in either the Caribbean or the Southern Bahamas area, and that those fish by the time that they're entering Florida, they're still very small, but they're growing as they move north and by the time they're getting up to North Carolina, that they could present a large population of small but catchable dolphin; whereas where they would be down in Florida, they may be only 10 inches long down there.

Most anglers don't keep 10-inch dolphin. But by the time that they get up to North Carolina, they could be of a size where they would want to be retained at that time. Yes, there could be just in the general biology of the fish, where you have areas, because just conversely to this is that in Puerto Rico you are hard pressed to see a dolphin less than 24 inches. You don't see them there.

That means that somewhere before they get there, spawning has stopped so that you do not have that recruitment of young fish coming into Puerto Rico. Well, if you had that, if you don't have that recruitment there, then you could have an area where you have a large massive recruitment of fish coming into another area because of where they're spawning. That's one of the things that I'm working on trying to identify is the spawning area for the fish that are really being caught off the U.S. East coast.

MR. HEMILRIGHT: I've just got a general observation. A few years ago we caught probably about a 17- or 18-inch mahi that bit my hook. Then I had a 25 pound mahi that bit the hook, slid up the line. Kind of I think the good Lord above made these migrations; if those small fish were with the big fish, they'd all get eaten. How many times I have gutted one of those mahi and I've

seen turtles, Clorox jugs – I mean there was one time I laid out there, there was ten different things.

It happens for a reason because if those little 10-inch fish travel around they'd all get eaten. For the sake of discussion about the 20-inch fish up off North Carolina, do I think it's some great magnitude, no, but at the end of the day I'd just hate if somebody went out there to access if there is no reason for it. It's always a reason, we could have bigger size limits. If there was something in the future you got close to your bag limit, then look at it. I just don't want to shut anybody out when there's no need of it. That's the only reason for bringing that up.

DR. CHEUVRONT: There was a peer-reviewed study done by East Carolina University biologist Paul Rudershausen that was sent to the council and to the SSC that addressed the issue of mortality after dehooking short fish off of North Carolina. It actually found that it was counterproductive to try to dehook and release smaller fish off of North Carolina; that it was actually more harmful to the overall stock than to have no size limit whatsoever at least off of North Carolina.

This is a peer-reviewed study, and I know that, Gregg, you might even be able to get Mike or somebody to send it out to the AP. I'm not sure if it was done. He had sent a summary e-mail about three or four weeks ago to the council addressing the release of short fish off of North Carolina and how counterproductive it would be based on the research that he has done. If you'd all like to see that, I think we can get Gregg to have somebody from council staff send that out to you. I'm sure I have it somewhere, but I'm not sure exactly where it is right now at this point. I think it will show you that at least off North Carolina it's counterproductive for the stock to do that.

MR. ROSHER: I'm a little puzzled how it can be counterproductive if he has successful tagging from released fish. Do you know what I'm saying?

DR. CHEUVRONT: He's talking about how when the average fisherman is doing it and not as part of a research. He had handled the fish the way fishermen do and basically showed that the mortality rates exceed the benefit that you would have from having the survival rates of the short fish.

MR. HAMMOND: To follow up on that; you look at my recovery rates; on the best year I've ever had it's only 5 percent. What is going on with the other 95, we don't know. It's just a big question mark. That's all I can say on that as far as the survival rate. One thing, if I could, Dewey asked a question yesterday following my talk about what size fish were being tagged, what size would they tagged at that they were being recovered.

The answer to that is more than 90 percent of the fish that were tagged and later recaptured were under 28-inches fork length, but less than 10 percent were actually under 20 inches that were recovered. The smallest fish that has been tagged to be recovered was a 10-inch fish. The largest fish that's been tagged and then later recovered was a 52 inch. That's the range that I'm having tagged and recovered.

MR. HEMILRIGHT: You know, in the earlier times, a few years ago I tagged some smaller fish that we have to catch in October. I'm telling them be careful, you know, because you're trying to make sure you release it in the easiest way when you lay them on the washboard and all, it's a little delicate.

I know in North Carolina when they instituted the minimal size for yellowfin tuna, that people were catching, hey, we're catching footballs, or they'd have to measure them, and you're going through. I think with the dolphin you need to be a little more careful because of the slime factor on a small dolphin versus a yellowfin tuna and something that's going to be laid on that washboard and all different types of scenarios.

MR. ROSHER: To talk a little bit more about when do the small fish come, through; in South Florida we see them in the month of June and July and there are thousands of them. There are days where we literally look at over a thousand fish from the tower. There are schools of usually 50 to 100 fish and almost all of them are swimming north.

That's what separates the – I think I mentioned yesterday most of your legal fish are swimming south. They'll swim south anywhere from one to five miles an hour. Most of the fish – I have trolling valves. Both my boats are single engine, and I have to feather the trolling valve to stay with them. There are days where I have to be fully engaged at six knots to stay ahead of them.

Those are the ones going south, and I can't say that I understand what makes them swim real fast one day and slow the other. The windier days they seem to swim a little faster, calmer days they swim a little slower is the only pattern I've seen. But those small fish – and they are generally 15- to 20-inch fish, and that's a three- to six-week period in June and July every year without fail, and they usually have five or more black birds on them. The smaller fish swimming north have more small birds on them. The bigger fish, the bigger they are the fewer birds.

There'll be a couple, one to ten big gaffers and they'll be swimming south and they'll have one to five black birds on them. That's the average over a lot of years of looking at them. When my mates see two birds flying south, we get ready for big fish. When we see 15 birds circling north, those are all the 15- to 20-inch fish.

To talk about mortality, you take a triple wrap on the leader, you take a dehooker and slide it off, slide it up the line; the hook goes upside down, even the circle hooks. The key there is using a wide-gap circle hook. If you use some of the tighter-gap circle hooks you have real problems getting them out, but the VMCs and mustads typically have a little bit wider gap.

If you use a wider gap circle hook on dolphin with a dehooker, you just have to get into a little bit more – instead of up and down shaking, once he's on the barb of the hook, all you have to do is visualize where is the point going. If it's a circle hook and the points going to the left, when you shake it, instead of shaking straight down, you're putting pressure on the tip. You'd actually get the fish to that barb and switch your angle to the side and he comes right off. That's the answer.

MR. HARTER: Gentlemen, considering that we've got to take care of wahoo also, I think we'd better move this along unless somebody has got some really – I'll tell you what, this has been a great discussion, I've gotten a lot out of this. I think this is a very important one here. Let's take a vote on Alternative 1, which is no action, or essentially leaving everything the way it was I think, retain the current management practices. All in favor of Alternative 1, which is to keep everything as it was before, that's 8 for; all against leaving Alternative 1, that's 1.

Alternative 2, which is the preferred one, which is to prohibit the bag limit sales of dolphin essentially and allow it to catch only when not operating under a for-hire permit. As you notice on any of these, we can vote on all of these and contradict ourselves. Alternative 2, all in favor of Alternative 2, that's 2 in favor; and all against Alternative 2, which is the preferred, 7 against.

Alternative 3 is preferred; establish a minimum size limit of 20 inches fork length off of South Carolina, all in favor, that's 9 for; and all against, that's 0 against. Alternative 4, which is establish a minimum size limit from Florida through New England, all in favor of that – yes, sir.

MR. PATTERSON: Are we addressing the pier fishermen in North Carolina on this?

MR. HARTER: That is going to be – I think you probably couldn't see it on the board there, George. He had really typed that up there for it as Alternative 9, I'm sorry, you're in a bad position over there, that's all right. So we'll go back again; establish a minimum size limit of 20 inches from Florida through New England on Alternative 4, all in favor, 6; and all against; 6 for, 2 against.

Alternative 5, which is increase the minimum size limit in Florida and Georgia to 22 or 24 inches fork length, all in favor is 0 and all against is 9. Alternative 6, reducing the bag limit applies only to charterboats and recreational fishers and not headboats and also varying percentages, but we'll take Alternative 6 in bulk, all in favor of that. Well, do you want to discuss or argue with the percentages, or do you want to vote on each percentage? I'll do whatever you want. You're going to say no on the whole thing? That's one way to move things along. Let's put it this way, if I get a lot of yes votes we'll go talk about the individual percentages then, okay?

All in favor of Alternative 6 in any of those forms is 0; okay, there is one yes for Alternative 6; on Alternative 6, all opposed, 8 against. That's fine, we love this discussion. Richard, which one would you like? 6A, okay, 6A has one vote; 6A has 8 votes against it. Alternative 7 and I'm assuming Richard wants to discuss each of these pound limits on Alternative 7, also.; consider series of trip limits for the commercial fishery such as 4,000 pounds with alternatives higher and lower.

MR. WAUGH: Let me just mention here that Subalternative 7A is what was in the original dolphin and wahoo plan that the National Marine Fisheries Service disapproved. That's where that wording comes from.

MR. HEMILRIGHT: I don't see one here where it says no trip limit, which is the current what's happening now. I guess I would be asking to add Subalternative 7G, which would be no trip limit, which is in effect what's happening now. It's a current management practice.

MR. ROSHER: Dewey, tell us a little more about what happens in – I'm not really familiar with what happens in the northern regions. What are the lengths of your trips; can you teach us a little bit?

MR. HEMILRIGHT: We have boats that go out;; I'm a 42-foot boat. I've got probably about a 8,000 pound fish hold. We have boats that go out and can catch 25,000 pounds, but the length of their trips is 10 to 15 days. When you average that out, that's only a couple thousand pounds a day. That's iced, no frozen, it's all fresh market. They cut the gills out and stuff like that. Sometimes over the season they'll get two or three trips.

We've operated up to this point with no trip limit. And the reason why Subalternative 7A, which was included in the amendment when the FMP was produced is the National Marine Fisheries felt there was no need of that at that time and that's why that was rejected. I don't see any reason why, unless we butt up against something or look at something, where it should be any different.

MR. HARTER: Well, the way I read it then, if you vote against Alternative 7 we revert to what you want anyway. We don't have to – it will go back to no limit.

MR. HEMILRIGHT: Well, as long as that's the way the chairman reads it, then that's what I –

MR. HARTER: Maybe we can get some clarification from Gregg, but this is the way I read it also.

MR. HEMILRIGHT: I think you're right, also.

MR. HARTER: They are trying to put in limits and we don't agree to put in any limits.

MR. HEMILRIGHT: I think so. Well, basically the trips are a couple days; you know I'm out, to 14, 15 days. A lot of times I see guys that are fishing – Mark, this one individual, he's nowhere in sight, he doesn't see no other boats, you know, different. That shows you the wide variety of how the magnitude of these mahi and the depth that he catches them at, and he's like, it's amazing, I'm fishing a hundred feet below the surface and you never see the mahi. I would just say no trip limit; I guess vote against Alternative 7 is what I'd like.

MR. HARTER: Gregg, is that how we understand it then; if we vote against Alternative 7 we're essentially saying no trip limits.

MR. WAUGH: Yes.

MR. HARTER: The only thing Alternative 7 was putting in some trip limits and we don't agree on that.

MR. WAUGH: That's correct.

MR. HARTER: That's good. Okay, on Alternative 7, all in favor, that's 0; and all against, and it's 9, 9 against and 0 for. Alternative 8, which is to reduce the recreational bag limit to 9

dolphins per person, all in favor, 0; all against is 9. Then our motion which is Alternative 9, which is establish a minimum size limit of 20 inches fork length from Florida through Maine, with no size limit for dolphin caught from shore-based fishermen, all in favor, there would be 8; all opposed is 2; was that 7 for and 2 against? I think we need to jump over to the wahoo which is on – do you guys want to take a break? Okay, let's take about a ten-minute break, guys.

MR. HARTER: Let's get started on the wahoo and I think Gregg has got it up there, what the current guidelines are that we set, the FMP that we set the last time. I'll let you review this

MR. WAUGH: As Dave said there are the measures that are in place in terms of MSY. In the original FMP we had an estimate of MSY, a proxy for the Atlantic, the Caribbean and the Gulf, between 1.41 and 1.63 million pounds. There is no new updated estimate, so we're keeping that original MSY proxy.

The same thing for the minimum stock size threshold, we specify a formula for calculating it. There's no updated information. Once we get that, that will be added in the future. Overfishing level, the SSC originally at their April 2010 meeting came up with a value but now they have gone to the point of where, as you were told yesterday, that the OFL is unknown, so I imagine the council will adopt that.

Just as with dolphin, the first point for our discussion is about the ABC and I'll go to that spreadsheet. Remember the value that Carolyn reported that the Scientific and Statistical Committee is recommending as the ABC is 1,491,785 pounds. The council's current preferred in terms of setting the annual catch limit is to – let me double check that – the council's preferred before was to set the ABC equal to 85 percent of the overfishing level.

They wanted a 15 percent step-down. Now that the OFL is zero, I would anticipate that to accomplish the same thing, they would then set the ACL equal to 85 percent of the ABC. We'll see what their decision is in June, but similar to dolphin we would have that 15 percent step-down. If you did that, then your ACL would be 1,268,017 pounds. The preferred allocation alternative is 4.3 percent commercial, which would make the commercial ACL 54,525 pounds. The recreational allocation would be 1.2 million; and using the same type of formula, here we're reducing the ACL to get to the ACT by 13.9 percent, so more variability around the recreational catch estimates.

In terms of measuring what our reduction would be, we're looking at the average landings from 2005 through 2009, but removing 2007 that was an abnormally high year. If you do that, then this recreational ACT of just a little over a million pounds is 29 percent below that average. Now for dolphin, to remind you what you did for dolphin is you recommended that the ACL be equal to the ABC.

This set of numbers that I've added here would accomplish that using the same allocation formula that the council has of 4.3. That would increase the commercial quota from the 54-5 to 64, just a little over 64,000 pounds. Similarly, the recreational would increase as well, such that now you would be 52 percent below that 2005- 009 average without the '07 landings.

For dolphin you considered a different allocation formula. Should you want to consider that here, I can calculate those values as well. With that sort of as an overview, the SSC gives you that ABC value. We've got alternatives on Page 40 that look at that, and then you would want to talk about setting the ACL; whether you wanted to do the step-down or whether you want to do similar to dolphin and set it equal to the ABC.

MR. HARTER: Yes, so if we want to keep the ABC and the ACL the same, then we would have to put in a separate alternative if anybody wanted to make that motion. I don't know; I don't have a feel one way or per the other on that on wahoo. I think at this point it's fine if you gentlemen want to have a general discussion about wahoo and your experiences.

Especially in looking at some of the charts on 38 and 39, which certainly show general landings of wahoo have been declining every year, and I think certainly as far as I'm concerned in South Carolina that has more to do with fishing pressure and fishermen than it has to do with stocks. I can say certainly off of South Carolina we've had some outstanding wahoo fishery over the last few years, so it hasn't been for lack of – it's been more of a lack of fishermen being able to account for them. I don't know how you guys in North Carolina; that's a separate wahoo fishery up there.

MR. SHUTE: I'd like to discuss just a little bit. Unlike some other states, South Carolina is probably about the same; or maybe not to the same extent we are; from about the end of August, 1<sup>st</sup> of September, all the way through December, wahoo is the directed fisheries in North Carolina. It's not a bycatch, it is a directed fisheries and a good day on wahoo for us could be anywhere from four or five fish to 15 or 18 fish.

They range anywhere from 15 to 110 pounds, with the average fish being in the 40s and 50s. Our charter fleet, if there's any – and looking at these, the first thing you've got to do when you look at these numbers is we've got economic problems and that's one reason that the wahoo numbers are down. Fuel is high. Weather has been atrocious; there is none of this going 15 to 20 miles to get the wahoo, you're anywhere from 40 to 60 miles to get the wahoo consistently. We've been trying our best. The wahoo bite in North Carolina right now is off the hook.

You can catch all you want. In the last 120 days there's been maybe 20 days that you could have gone fairly comfortably on a big boat to get out there, so the weather is going to take care of all the wahoo. I really don't understand why we're even talking about any possible reductions in wahoo. Any reduction at all will definitely affect the North Carolina fleet.

Forty percent of our business for big boats is a directed wahoo fisheries. If you cut down, if we get to the point where their talking about reducing the take, I can't see that at all. It would be an extremely harsh economic decline for our – actually it will put them out of business. With everything that's going on right now, if there's a reduction in the harvest of wahoo, or significant reductions in wahoo, you might as well put piers where the charter docks are because they'll all be gone.

They're barely hanging on right now; you take 40 percent of the income off and their done. Recreationally and not just charter-wise, it's still a very big factor. I'd say in my tackle shop 30

percent of my sales is directed towards wahoo in the fall and the winter. Not only are you going to devastate the charter fleet but the recreational fleet as well. Like I said, Mother Nature takes care of these fish. You can't get out there to fish for them. Like you see the big declines here, I don't put any stock at all in that. Like you said, that's got nothing to do with the fish stocks at all.

MR. WAUGH: We're not proposing any management here. The council's preferred is no action.

MR. HARTER: In other words, you're happy with the regulations as they stand right now, no change, right?

MR. HAMMOND: Just to pose one question, in the graph that's showing the annual harvest of the wahoo, a question that comes to me is how much of the decline after the institution of the bag limit on wahoo was actually created by the bag limit, so that it's not necessarily a decline in population, but a decline in the retention of the fish.

I keep going back to both dolphin and wahoo; we really don't have hard data to show that these stocks are in decline yet. My whole problem is having proper data to really assess these stocks. Neither one of them, we just don't have that information. You have to ask how much of that is artificial, based on the current restrictions? That's just something to keep in mind, because right now we just don't know enough about either of these fisheries to really say yea or nay about their health. That's one comment just to keep in mind.

MR. HARTER: Yes, I think when we set these guidelines back in 2004, those of you that were – I think most of you guys were with us – they were admittedly somewhat arbitrary because of the lack of a lot of informational data, but quite frankly I think we did a pretty good job back then. I personally am a little reluctant to fool with it right now on any basis.

MR. WAUGH: Let me clarify again it's just like yesterday for dolphin. We're not saying there is anything wrong with the wahoo stock we're not saying there is overfishing; we're not saying it's overfished. The SSC, in fact, said that the overfishing level is unknown. We're not proposing any regulations; but just like we talked about for dolphin, we have to come up with these ABC recommendations – well. we get the ABC from the Scientific and Statistical Committee. Then we have to set the ACL and go right down the line with all these other recommendations in order to comply with the law.

We're not proposing any changes to the management regulations. Even with that 15 percent step-down, your recreational ACT is still 30 percent below the average landings, the measure that the council is using. I you then, like you did for dolphin you set the ACL equal to the ABC, and then your target is 52 percent below, so your catches could go up by 52 percent before you even reach your target.

MR. NETTLES: Based on 15 percent, we're still – when you say 29, mine says 30 percent. We could have a 30 percent increase before anything would be triggered based on the 15 percent.

MR. WAUGH: That's correct, and again that's just to get to your ACT; and remember nothing happens until you get to your ACL. Your previous motion, as I understood it, about not taking any action until the total ACT was exceeded would apply for wahoo as well. That's what the Mackerel AP did and passed it and it applied to all three stocks there.

Nothing would happen in terms of any bag limit adjustment and so forth until the total catch exceeded the ACL, if that's your intent; and as I understood it, that was. I mean, you've even got bigger buffers here. I know people are concerned, but just to remind you based on your actions with dolphin you were 24 percent below your target. Here, if you apply those same decisions, without even changing the allocation this is 4.3 and 95.7; you're 52 percent so you should be twice as comfortable with wahoo.

MR. HEMILRIGHT: I've got a question for you, Gregg. I'm looking on Page 38 and 39. I guess just like in the dolphin numbers, SEFSC has corrected and updated 1994-1998; what was the reason for correction?

Even though it's a small amount of correction, I see where it's reflected less on the commercial catch and more on the recreational catch. Just like with the dolphin and now with the wahoo, is there any explanation; just because the SSC did it; what was the rationale?

MR. WAUGH: No, this doesn't have anything to do with the SSC; this is the National Marine Fisheries Service updating.

MR. HEMILRIGHT: Updating, what were they updating?

MR. WAUGH: Same as dolphin; they have different methodologies now for estimating the recreational catch, and so they applied that back in time to make adjustments. They have found that the commercial numbers that were reported before are incorrect and so they have updated them.

MR. NETTLES: Just from reading through this, based on the council's preferred action, there's really not going to be any change, any limits or take that I can see. The only year that it would even affect anything was 2007, which those numbers to me look totally skewed, and I see no reason why one year, the number is over double what it had been historically since any other time. I think it's pretty simple; we can move through and –

MR. HARTER: Yes, I agree, and I think if I understand it, Gregg, then really all we need to really establish is ABC; is that right?

MR. WAUGH: No, the SSC establishes that; you need to set your ACL and then talk about whether you want that equal to the ABC like you did for dolphin or whether you're okay with the council if they want to step it down by 15 percent. Then are you okay with the allocation? Then that's basically it, because those levels are – I'm sure you would want to comment on the different management measures and accountability measures. My understanding is that trigger, you said you wanted a trigger when either sector is approaching 90 percent that they get notified;

that would apply for wahoo, also. Yes, we need you to talk about your ACL and then the allocations.

MR. ROSHER: Would you guys feel comfortable mirroring what we did for dolphin, just to get that rolling, and say we want the trigger at 90 percent? Dewey, how do you feel about allocation of 4.3?

MR. HEMILRIGHT: I don't catch wahoo, so whatever Joe wants to do. I like to eat them, I don't catch them, but this is one where I don't have much to say.

MR. ROSHER: Well, there isn't really a very active commercial fishery in South Florida. There are a couple guys I know that fish live speedos and they might catch two to three hundred pounds a day, but it's nothing that anybody is surviving on. It's just a bonus on the full moons in the fall and winter when they are there. I don't have any red flags that need to be waved in South Florida, so whatever you guys feel comfortable with I'm all ears.

MR. HARTER: So, Gregg, would that be Alternative 5 for us to go with the ABC and the ACL to be the same as we did with dolphin?

MR. WAUGH: Well, what you're looking at here under Action 21 is the ABC and that, in essence, is a call by the Science and Statistical Committee. You all can weigh in on this, and really what the SSC is recommending now is Alternative 3 with their new number as 1,491,785. Given that's something that we get from the SSC, I don't know that you need to weigh in on that. You can if you want to. What's more critical, if we look ahead to the ACL, which is Action 22, that's where we have the alternatives – well, we talk about the allocation first, but then the next action is the ACL. This is Action 23 where the council's preferred right now is to set the ACL equal to the ABC.

MR. HARTER: In other words, this is like we had to do with the dolphin; we've got to go forward before we can go back again.

MR. WAUGH: Exactly.

MR. HARTER: We certainly can do that, so Action 23, which is on Page 48, we would then agree that we would take the Preferred Alternative Number 2, which would be the ACL, the OY and the ABC are all the same. If you gentlemen are comfortable with doing that, we can vote on that first and then we can go back and take care of our other alternatives just like we did on the others; is that all right, Gregg?

MR. WAUGH: Yes.

MR. HARTER: So go on to Page 48 and on Action 23, and I'll get a yea or nay vote on each of those alternatives unless somebody wants some further discussion on that.

MR. ROSHER: I just have one question; that 15 percent reduction to 1.022,000; is that truly a reduction in that quota, which is currently 1.4 million pounds? Does that really constitute a true limit? They're going to restrict the ceiling, so to speak?

MR. WAUGH: Yes, the ABC is the scientific cap, if you will, and then the council sets its annual catch limit that accounts for management uncertainty. That would be the limit; and if catches went above that, that would trigger management. Now what you recommended for dolphin was to not step it down, to set the ACL equal to ABC.

MR. NETTLES: Which is what the council – their preferred right now is to have ACL equal to ABC on wahoo?

MR. HARTER: Right, but they did that slightly different for wahoo than dolphin because they took that 15 percent reduction in establishing the ABC, because previously they had an overfishing level from the Scientific and Statistical Committee and they reduced that by 15 percent to get to the ABC. I think if you all just focus on do you think there should be a 15 percent reduction in setting the annual catch limit; you said no for dolphin, do you want to say the same thing for wahoo?

MR. ROSHER: Do you think there is any negative impact from the council towards – in other words, does it weaken their respect of our recommendation if we are, in this case, not recommending any change?

MR. WAUGH: What do you mean when you say any change?

MR. ROSHER: In other words, if we were to not take the 15 percent reduction as our recommendation, is there any downside to that? In other words, are they going to throw the entire proposal into the garbage? In other words, I think what I'm getting at is if there is a reason why there needs to be a reduction, then obviously we all want to protect the species,

But if there is no reason for alarm; and as Joe said, in the Carolinas I know those fish are very, very important to the charter and recreational fishery, which as Joe mentioned, you're not just taking about the boat owners that you're affecting. It's the trickledown effect, the hotels, restaurants, tackle shops, et cetera, and airlines, all that gets affected when you start potentially stopping a fishery, especially one that's critical in the Carolinas. It's not as critical in Florida because we have other fish to target and the numbers of fish are not as high, numbers of wahoo available are not as high; it's an incidental catch.

MR. HARTER: Well, we still have to talk about management tools so that's the other part of it. We don't necessarily have to shut down a fishery because of it. We have other alternatives on that. I think the basic thing we want to get through with right now is whether we want the ACL equal to the ABC or we want no action at all. I think that's probably pretty much what this group wants. Then we can go back and talk about the management wants.

MR. SHUTE: I think that's what Ray was saying. It doesn't make any difference what we just choose, Alternative 1, no action, leave it the way it was.

MR. WAUGH: If you're talking about this no action here, to not specify an ACL, then the council is going to ignore your input because it's not legal.

MR. ROSHER: That was my question; we need to take an action.

MR. HARTER: All right, gentleman, let's take a vote on this particular one, we can go back and discuss the other action. On Action 23 on page 48, Alternative 1, which is no action, obviously we have to take a vote on that anyway, all in favor of no action is 0; all against Alternative 1, and it's 8 against. Alternative 2, which is the preferred one, where the ACL and the ABC are equal, as we did on dolphin, all in favor, that's 9 for; all against would have to be 0.

Alternative 3, which is 85 percent of the ACL, all in favor; and all opposed; there are 0 for and 9 against. Alternative 4, which is 75 percent of the ABC, all in favor, 0; all against, which is 9. Alternative 5, which is 65 percent of the ABC, all in favor, which is 0; and all against, which is 9.

MR. WAUGH: Allocation should be the next one.

MR. HARTER: We're talking about allocation, or do we go back to 21, which is establishing an ABC?

MR. WAUGH: Okay, we can do that.

MR. ROSHER: That was already set.

MR. HARTER: In which I guess there is no preferences by the council on that; other than to –

MR. WAUGH: 3C is the council's preferred. Yes, again here at this time we had an OFL that we were working from. What the SSC has said now is that that the OFL is unknown. What they have done, the council will have to add a new alternative or add another subalternative under Alternative 3 to set – no, that's a percentage of the OFL. We'll have to add a new alternative to adopt the SSC's ABC control rule and adopt the ABC value of 1,491,785.

MR. DeLIZZA: Gregg, so I understand what's going on here; we don't have any say in the ABC; that's put together by the SSC?

MR. WAUGH: Yes, but you can provide your input because the council has to take the SSC's recommendation and put it into the amendment. The council has in past provided guidance to the SSC as they've developed the ABC control rule, but the actual recommendation for the ABC control rule and the value come from the SSC.

MR. DeLIZZA: Because whatever rule they come up with, everything else that we're discussing sort of falls out from that, correct?

MR. WAUGH: That's correct.

MR. DeLIZZA: This is really important and we don't have any idea what the council has in mind because there is no OFL anymore?

MR. WAUGH: Correct, but since the SSC has recommended this value -- and we've got several council members in the room -- my anticipation would be that they would adopt that value as the ABC because that's the recommendation from the Scientific and Statistical Committee. If you look at the alternative that the council added in here, Alternative 4; was using the Gulf Council's control rule to try to get this number higher.

What the council wants to do is meet these new requirements; and for species that we have no indication that there is any biological problem, to do that in a way that does not cause us to change the regulations unnecessarily. Now the SSC has come back, they've looked at this new alternative and they said what we're going to do instead of adopting that we have come up with a different way of doing it and here is our number, and that number is sufficiently high such that we don't need to change our management regulations. The question that the council will be dealing with is where they set their ACL; do they set it equal to that or do they step it down? But they won't change this ABC value.

MR. DeLIZZA: We can vote to agree that the ABC should be set at the 1,491,785.

MR. WAUGH: Yes.

MR. ROSHER: Do we need to make a proposal to adopt the same principal that we did on the dolphin where there is a marker or a notification at 90 percent and we can share that quota?

MR. WAUGH: Yes, we don't have to do that motion again. My understanding is that was your intent that it would apply to dolphin and to wahoo.

MR. ROSHER: Yes, I feel comfortable with that and I think it's a good principle to set that either fishery can take advantage of an unmet quota on the other side; recreational or commercial.

MR. HARTER: So from what I understand then, Gregg, Alternative 1 is not really an option on this; do not establish an ABC, so they'll ignore us if we vote for that. The closest then to keeping the status quo really is Alternative 4?

MR. WAUGH: No, it's to adopt -- let's just do it like this, let's come up with a new motion. There you go; you guys just approve that and you're in good shape.

MR. ROSHER: Do we need to also add that language that we did on the dolphin for the notification at 90 percent we can share quota? That's later, okay.

MR. WAUGH: Here I would suggest you just vote on this one motion and then not deal with the rest of these other alternatives under Action 21.

MR. HARTER: Ray, do you want to make that motion then?

**MR. ROSHER: Yes, I'll make the motion to adopt the SSC value for the ABC to equal 1,491,785 pounds.**

MR. NETTLES: Second.

MR. HARTER: Tim Nettle seconds the motion. Is there any further discussion? **All in favor of adopting that motion, that's 9 in favor; and all against adopting that motion, that's 0 against.** The motion is that we adopt the SSC value for the ABC at 1,491,785 pounds allocation. Is that Alternative 5, is that how it was? In other words, we've got to go through and vote on these alternatives?

MR. WAUGH: No, you don't.; I wouldn't vote on all the other ABCs.

MR. HARTER: We're through with that.

MR. WAUGH: Yes, move on to allocations.

MR. HARTER: We're going to Page 45 then, which is Action 22 on specify allocations for wahoo.

MR. WAUGH: Here the alternatives are, one, no action, do not subdivide it between the two groups; and Alternative 2, we'd just use the years 2006-2008. That would be 4 percent commercial and 96 percent recreational. Alternative 3 would be to use the same approach that was used for dolphin to base it on the whole times series 1999-2008 and half of it based on the last three years.

That gets you to 4.3 percent commercial, 95.7 percent recreational. The fourth alternative would split it amongst the commercial at 4.3, the for-hire at 29.1 and the private recreational at 66.6. The council's preferred is Alternative 3, which would be 4.3 percent commercial, 95.7 percent recreational.

MR. HARTER: Again, I'm assuming that Alternative 1 is not a reasonable consideration.

MR. WAUGH: Well, for here it could be because we aren't required to allocate amongst different sectors. The council could choose to keep this together as one. The difficulty there is we have different data systems to track landings. It's felt across the board that it's better basically to track each sector separately and then you know what's going on with that sector.

MR. HEMILRIGHT: A few comments on this one. As I look back over the mechanism for deciding allocation is again we choose the best years for the recreational. When you look at the years, does anybody believe that in 2007 that the private boat industry increased its sales threefold from 2006, 1.6 million?

I mean, these numbers – and when I look at the allocation here of this, why were these three years chosen? Nobody believes that number for 2007. Then you look at 2008, it drops down. Is there any response from – I just want to go on record again as saying we chose the best year for

recreational here instead of looking at commercial. But those numbers of 2007 for private, there's a problem with somebody's math. Does anybody believe that, sitting around this table – how do you justify those numbers, I guess I'm trying to say.

MR. WAUGH: Those are the best available data that we have from the MRFSS program. The council has – in defining their allocations they're applying the same formula not just here, but across the board for snapper grouper species. Half of the allocation is based on the time series 1999-2008, and then half of it is based on 2006-2008. We have received lots of comments about the 2007 figure and the council has decided not to use that figure in looking at the percent reductions that may or may not be needed, but they thus far have not taken that number out of the allocation formula.

MR. HEMILRIGHT: What would be the allocation formula if it was based on – you might not have this – just based on the years 1999-2008 without the 50 percent here and the extra here?

MR. WAUGH: I don't have that but I could calculate that for you.

MR. HEMILRIGHT: Well, I just want to go on record it's another thing, and I'm looking at allocation here. Why were these chosen for these years? You're looking at 2007, there's definitely problems wrong with that even though it's the best available through the smurfs survey, but there's just something wrong. We're going to base our allocation history on hard facts, landings, and the other one, one that we know there's anomaly here, but we're still going to use it.

MR. ROSHER: If we're going to follow the same train of thought we took with dolphin to where if one sector goes over and the other sector goes under, the allocation wouldn't really make that big of a difference; because if the commercial went over and the recreational did not, it's not going to trigger anything.

MALE VOICE: Yes, I agree.

MR. HEMILRIGHT: I also believe when I look at the commercial landings, I don't know much about the wahoo fishery, but I don't expect there's too many people leave the dock that day going out on a commercial trip to catch the wahoo. I would suspect that more of the commercial landings – and I might be wrong and very well could be, is for people that go out charter fishing; catching a wahoo, or getting in them coming in and having the license to sell, and selling their bag limits.

I would suspect I don't think I'd make too much money on commercial wahoo fishing if that's all you did. I just want to bring up the point of how the allocation was chosen, the years; but would also be more inclined to go with what we did with dolphin as far as if it gets up, because it's probably more of a private for-hire; and a little bit of commercial, it's probably a bycatch of somebody snapper grouper fishing, light lining or something like that.

MR. HARTER: Yes, I think that's a lot of peoples impression, it's generally a bycatch situation with the commercial guys. It's not targeted for them so they probably in all likelihood could care

less what the allocations are, and don't keep up with it on either a daily or seasonal basis whatsoever as much as recreational guys. If you guys are finished, we'll consider these alternatives, or have we got some more discussion?

Specifying allocations for wahoo, it's on Page 45; the Alternative 1, which is no action, which as we already discussed may or may not be ignored, all in favor of Alternative 1, which is 0; and all opposed to Alternative 1, which is 7. Alternative 2 which is to define allocations for wahoo based upon the landings from the ALS, MRFSS and headboat data's from 2006 to 2008; all in favor, which is 0; and all opposed, just 7.

Alternative 3, which is the proposed one, define allocations based upon landings from the ALS and MRFSS and headboat data and I'm assuming that would keep the allocations about the same as where they are for the last few years. All in favor, that's 8 for; and all opposed, which is 0 against.

Then Alternative 4, which is defining the allocations, and basically what we end up doing is breaking down commercial, for-hire and private recreational as proposed for dolphin. All in favor of Alternative 4, which is 0; and all against Alternative 4, which is 8, 8 opposed. Page 52 gentlemen, establish accountability measures for wahoo.

MR. WAUGH: Here again as before the council is saying they're not going to set a commercial sector ACT, so what you've done is recommend that the ACL be equal to the ABC. You agreed to the allocation so that commercial ACL would be 64,147 pounds. In that table 4-54, that's the new number, 64,147.

If the council was to choose one of these other alternatives, then they would be lowering that; 2B would lower it by 10 percent, 2C would lower it by 20 percent. Their preferred alternative right now is not to specify a commercial ACT, but their preferred is that we will track this 64,147 pound commercial ACL; and once it's met or projected to be met, we would close the fishery. All purchase and sale of wahoo would be prohibited; harvest or possession would be limited to the bag limit.

MR. ROSHER: Is this where we would talk about the warning at 90 percent and the sharing of the bag limit?

MR. WAUGH: Yes; and if you want that same thing to apply, I think you can say that without us having to revote on it. If you want those two measures that deal with the notification at 90 percent and that no management take place – no reductions in management take place unless the total ACL is exceeded, if that's your intent, we can apply that.

MR. HARTER: Could I have a vote on that, all in favor of that, which we did for dolphin, which are 9 for; and all against, which is 0.

MR. PATTERSON: David, does that include trading off from commercial to recreational?

MR. WAUGH: That includes not taking any additional management action unless the total ACT is exceeded. Let me clarify that the bag limit is not adjusted unless the total ACT is exceeded.

MR. HARTER: Gregg, does that leave us essentially agreeing with Alternative 3 with that codicil?

MR. WAUGH: Let me just go back real quick and see what you did on dolphin, because I think you still went through and gave your indication on each of those accountability measures.

MR. HARTER: I guess that's what we're asking, whatever we agreed to on dolphin we were comfortable with, do we need to – which alternative is going to be closest to that.

MR. WAUGH: What you did on dolphin is you agreed 9 yes and 0 no's to Subalternative 2A, which is do not specify a commercial sector ACT; and you voted against the other two subalternatives. Then for 3 there was 1 yes and 10 no for tracking commercial quota and closing it.

MR. HARTER: Does everybody understand? If there is no further discussion, we'll vote on these. Alternative 1, which is no action, all in favor of that is 0; all opposed to that, which is 7 opposed. Alternative 2 and 2A which is to not specify a commercial sector ACT, all in favor of that, which is essentially, that's what we voted on for dolphin; Alternative 2A, which is their preferred one, which is not specify an ACT, that with the allocation codicil we put in there is essentially the same thing we did for dolphin then. So I am assuming then that if you want to do what we did with dolphin, you would approve of Alternative 2A.

MR. PATTERSON: Can we vote again on that, sir?

MR. HARTER: Yes, you may. I haven't counted anybody, anyway, so all in favor of 2A, that's 8 for;, and all opposed, that's 0. Then we'll go through Subalternative B and C; Subalternative B, all in favor, which is 0; and all opposed, which is 8. Subalternative 2C, which is 80 percent, all in favor, which is 0; and all opposed, which is 8. Alternative 3, which after the commercial ACL is met or projected to be met, all purchase and sale of wahoo commercially, harvest and possession is limited to the bag limit, all in favor.

Alternative 3 is the preferred since we already put in our two cents worth on that. Alternative 3 then, all in favor of 3, which is 0; and all against Alternative 3, which is 8. Alternative 4, if the commercial sector ACL is exceeded, it can reduce the commercial sector ACL in the following season by the amount of the overage – and that also is contradictory – all in favor of Alternative 4, which is 0; and all against Alternative 4, which is 8. Now we can discuss the recreational management tools, and, Gregg, I'll let you go through.

MR. WAUGH: What we have here is the same as we did for dolphin. We are setting the ACT; 5A would reduce it to 85 percent; 5B to 75 percent; and 5C, which is the preferred, is to use this formula based on the five-year average, which is 13.9. So in essence there we're reducing it by 13.9 percent and the spreadsheet shows what that number would be and that would be 1,229,197.

MR. ROSHER: You're saying that Subalternative 5C accomplishes 1.23 million pounds?

MR. WAUGH: Yes.

MR. ROSHER: Because it says, unless I'm not reading the whole thing.

MR. WAUGH: That's the old value.

MR. ROSHER: Oh, I see, okay. We would change that 765,639 to 1,229,197 and that is consistent with what we voted on earlier.

MR. WAUGH: Yes.

MR. HARTER: So if we voted for that Subalternative 5C it would automatically give us the 1.2.

MR. WAUGH: Yes, and I've shown that up on the screen.

MR. ROSHER: I think we're ready to vote.

MR. HARTER: Unless there is any further discussion, it's pretty much mimicking what we did on dolphin, gentlemen. Alternative 5A, which is to go with 85 percent of the ACT, all in favor, is 0; and all opposed, which is 8. Subalternative 5B, which is 75 percent of the recreational sector, all in favor, which is 0; and all opposed, which is 8. Subalternative 5C, the preferred, which including our recommendation would put it to 1.2 million pounds. Subalternative 5C, all in favor, that's 8; and all opposed, which is 0.

Subalternative 6, which is proposed, and this is also mimicking what we did with the dolphin. Alternative 6A, which is the reduce – if we exceed the ACL, it would be to reduce the following season by the overage; all in favor, which is 0; and all opposed, which is 8. Subalternative 5B, which is to reduce the length of the fishing year as a management tool; all in favor, which is 0; and all opposed, which is 8.

6C, the preferred one, is to reduce the bag limit to one fish and reduce the season as necessary; all in favor, which is 0; and all opposed, which is 8. Alternative 7, which is the regional administrator shall publish a notice to close the recreational fishery when the ACL is projected to be met. This I am assuming is the one that does contain the codicil about we've reached a certain percentage.

MR. WAUGH: That you be notified?

MR. HARTER: Yes.

MR. WAUGH: Yes, but you've indicated at least for dolphin that you did not want the recreational fishery to close.

MR. HARTER: Right, okay. So Alternative 7, all in favor.

MR. ROSHER: Excuse me, I'm sorry, are we going to amend that at all; 7, to accomplish our goals at the notification at 90 percent and not to close recreational, so we already did that?

MR. WAUGH: Yes, to me you've already approved a motion that would give notification when you hit 90 percent; and if you vote against this, that's indicating that you don't want it to close. When we finish this, before we move on to the management measures, it would be helpful if you provided some guidance to the council. In the future, at some point if there was a need to change, would you rather the bag limit or the season be changed? You did that for dolphin, so we need to address that here once you've finished voting on this one.

MR. HARTER: Okay, well going back to Alternative 7, I had 0 for; and how many voted against, and we have 8 opposing that.

MR. ROSHER: What we're saying is we need to put an Alternative 8, which is pretty much Alternative 6C, just crossing out the reduce the season as needed.

MR. WAUGH: So now it would be helpful again just to indicate that in the future if there should be a need – even with all the adjustments you've made, if there is a need to change the recreational, would you rather the season or the bag limit be adjusted?

MR. HARTER: Considering how we're talking about one fish per person in the boat versus two per fish in the boat, this is a little bit more critical than certainly we had with the dolphin fishery; so I think we need some input from all of you guys on that.

MR. ROSHER: I think there are two options here. First of all, I think it's pretty unanimous we all would rather have a bag limit reduction than a season closure. The two ways you could do it is go down to one fish per person, or you could do what they do with cobia in Florida where it's one per person, six per boat, whichever is less.

Applying that principle here, you could say two per person or X number per boat, whichever is less, and that would help Joe's point. When you have a charter with three or four people, you could say there are six per boat maximum, so you're allowing the boat to catch a certain number if you have a – somebody pays to charter the boat for \$2,000 and there is a two-person party or a three-person party it's a little friendlier to them, makes it a little bit easier to justify. The way the charter business works, of course, is nine times out of ten they are just chartering the whole boat. If someone is willing to pay the extra money, it gives them the benefit of a couple extra fish.

MR. SHUTE: I agree with that. I'd rather have them be able to have – if they have to take a reduction for the two fish per day per person, I would like to see a cap set to where – whether it's a half a dozen fish or whatever per vessel because, like he said, nobody is going to pay two grand to go offshore to keep two fish.

MR. HARTER: Yes, and I think that certainly considering a six pack and we get into the alternatives, do we include the captain and the mate and stuff like that? But I think as long as we – I would feel comfortable with a six per boat cap on something like that, which is essentially saying one per person on a boat like that.

**MR. ROSHER: Do we need to make a motion to accomplish that and at what point do we do that? Okay, I make it a motion to, if required in the future, reduce the bag limit two per person or six per boat to achieve the necessary reduction.**

MR. SHUTE: I'll second that.

MR. HARTER: Seconded by Joe Shute.

MR. WAUGH: Just to clarify, and so if in the future six per boat wasn't enough and you need a little more, then you'd prefer the boat limit to be lowered rather than the total bag.

MR. ROSHER: Individual bag limit.

MR. WAUGH: So, in other words, if you could keep it at two per person and five per boat.

MR. DeLIZZA: Gregg, I think the language here maybe should be instead of using bag limit, reduce the boat limit, I think is what we're saying. I don't know if that's considered the same thing in the rules.

MR. ROSHER: Yes, it's the bag limit. I think the one thing we have to add to that motion is the words, "whichever is less". In other words, if you had two people on the boat, you'd have a four- fish limit. I mean that's the way they word it for cobia, so that we get the language right up front.

MR. WAUGH: To the question about whether it's a boat, we talk about the recreational bag limit and usually it's expressed in terms of per person, but there are times when we have a per boat and it's still considered a bag limit.

MR. ROSHER: It just seems like this is a little bit less damaging way to approach it for the charter business.

MR. WAUGH: Just remember you're 50 percent below the average catch. If this were to be triggered, it would be in the future at some point.

MR. HARTER: Any further discussion and I'm assuming with all the changes you're still comfortable with the motion, Ray? Okay, no further discussion, we'll take a vote on the motion on the board about the ability to reduce the bag limit to two per person or six per boat, whichever is less to achieve the necessary reduction. **All in favor, that's 9, and all opposed, and that's 0.**

MR. WAUGH: Okay, next are the management measures and this is on Page 58. The council's preferred is no action, not to change them. The other alternative is look at a boat limit of 2 to 12, ranging from 2 to 12 per boat or vessel, per day in the recreational fishery. Again, right now we're 52 percent below the limit, so there is no need to go forward with regulations and that's why the council changed their alternative to be no action.

MR. HARTER: Any further discussion, gentlemen? I think we got most of that out of the way on the last section, which is perfect. I think we know how we all feel. If there is no further discussion, Alternative 1, which is the preferred, all in favor, which is 9; and all opposed, which is 0. I'll take Alternative 2 as a group rather than going through these subalternatives. Alternative 2, all in favor, which is 0; and all opposed, which is 9. Is that it?

MR. WAUGH: Mr. Chairman, that's the last item that we have and that takes care of the Comprehensive ACL Amendment. Just in terms of what happens next, our staff and the staff of the National Marine Fisheries Service are doing these analyses. The National Marine Fisheries Service is trying to finalize the draft environmental impact statement and get that filed. That was scheduled to happen next week and we're not quite sure – this is before the potential of a government shutdown. We weren't sure it was going to happen, but if the government shuts down, obviously that won't happen.

MR. WAUGH: The councils at times are considered to be federal and not; generally if it works in our favor, we're not federal employees, and if it works in our – we always get the short end, but this is one time where no, we have funding, at least for a period of time, depending on how long it stays shut. I'd urge you to get our travel orders in quickly.

MR. HARTER: If we do them online, we'll get it faster than if we mail it in, right?

MR. WAUGH: I don't know if you can do it online. If you are interested in that, we'll carry that recommendation back. Seriously, there will be a draft environmental impact statement published at some point and we will let you all know. You'll have an opportunity to comment to the National Marine Fisheries Service on that. The council is scheduled to consider this at their June meeting.

Our briefing materials will be posted to our web site two weeks before that meeting. We'll make sure you all know about that and I'll pull out the relevant dolphin and wahoo section like we did here so you don't get the big document. If you think dolphin and wahoo at 64 pages was big, Myra, how big is the Comp ACL approximately?

Yes, 400, so we'll be kind to you and we'll pull out the dolphin and wahoo stuff and we'll send it to you if you all want to offer some more comments. Those of you who are down in the Keys, we're meeting in Key West and there will be an opportunity during the full council session, before the council votes to send it to the secretary for public comment again.

MR. WAUGH: It is at the Keys Marriot and the Gulf Council is meeting there the week before and we'll be having some meetings with them dealing with spiny lobster and mackerel. Our dolphin and wahoo and the rest of the Comprehensive ACL Amendment will be during our meeting, which will be the 13<sup>th</sup> through the 17<sup>th</sup>. That's all we had. Nobody said that they had anything under other business.

What happens is the council took action at March and gave us their guidance based on all the public hearing comments. They wanted us to run it by you guys to get your input, so we will modify the document and insert in – you can look for your input under the council conclusions,

because there will be a section there describing under the dolphin and wahoo each action; describing what you all recommended. The council is scheduled to go through that.

You have recommended a number of changes both to dolphin and wahoo, so they'll consider that and they can change those positions at the June meeting. They are scheduled to approve it to go to the secretary at the end of that June meeting. We will send you the materials two weeks before when they're ready. You can send in letters if you want, you can call the states you're in; you can talk with your council members to encourage them to look at your AP recommendations. If you're down there, you can be there and offer testimony at the meeting. We're not covering your costs for coming down to that meeting.

MR. HEMILRIGHT: Is there a report that's going to be generated on our recommendations that will be sent to us so that we know what's given to the council and council members and their staff?

MR. WAUGH: Yes, we can do this a couple of ways.

MR. HARTER: Won't that be in the minutes?

MR. WAUGH: You'll get a set of minutes, and also what we'll do is we're going to revise this section that you all worked on and add that material in there. I think perhaps what would be helpful – and I can get this out within maybe the next two weeks, because we've got two weeks of public hearings coming up, but get out just two or three pages that show what you all recommended so you have that.

MR. HEMILRIGHT: Because I know sometimes when you look at the meeting minutes, it will read the amendment at six months out. I just want to make sure that our thoughts were passed along to the council, whether they choose to use it or not.

MR. WAUGH: Yes, and you will see that. In addition to what I'll send out within the next couple of weeks, you'll see that reflected in the dolphin and wahoo section that's included in the briefing book for June. When you get that – and we'll send you just the dolphin and wahoo section, but you can look under each action and there'll be a heading, "Council Conclusions". One of the first items under that will be what your AP recommendations are.

MR. HARTER: Any other business on where and when we're going to get notified so we can register our complaints at that time; but that'll be just a few weeks before the June meeting; is that right, Gregg?

MR. WAUGH: Yes, we get our documents out to the council; we aim for two weeks beforehand. I don't see a problem with us making these revisions and using that in the first briefing book. But again, like I say, I'll put something together that shows the actions and what you all did and get that out to you within two weeks.

MR. HARTER: Okay, well if there is no further business, then we'll be adjourned and thanks, guys, for making this easy on me. Nobody appreciates it more than I do.

(Whereupon, the meeting was adjourned on April 8, 2011.)

Certified By: \_\_\_\_\_ Date: \_\_\_\_\_

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May 2011

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**DOLPHIN WAHOO AP MEETING**  
April 7, 2011  
N. Charleston, SC 29418

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<i>Paula J. ...</i>	386-239-0948	32120-9351
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<i>...</i>	843-595-1179	5003 Lucelia St. BEAUFORT, SC 29906
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South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
North Charleston, SC 29405  
843-571-4366 or Toll Free 866/SAFMC-10

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**DOLPHIN WAHOO AP MEETING**  
**April 8, 2011**  
**N. Charleston, SC 29418**

NAME & ORGANIZATION

AREA CODE & PHONE NUMBER

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