

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

MACKEREL COMMITTEE

**Sea Palms Resort and Conference Center
St. Simons Island, GA**

March 7, 2011

SUMMARY MINUTES

Mackerel Committee

George Geiger, Chair
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Ben Hartig
Mark Robson
Red Munden

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Observers/Participants:

Dr. Bonnie Ponwith
Dr. Carolyn Belcher
Jessica McCawley

Monica Smit-Brunello
Bob Gill

Other Participants Attached

The Mackerel Committee of the South Atlantic Fishery Management Council convened in the Sea Palms Resort and Conference Center, St. Simons Island, Georgia, March 8, 2011, and was called to order at 2:25 o'clock p.m. by Chairman George Geiger.

MR. GEIGER: I want to welcome everyone. Hopefully, our meeting will be relatively brief this afternoon. The first order of business is the approval of the agenda. Are there any changes or amendments to the agenda as published? Seeing none, is there any objection to the agenda? Seeing none, the agenda is approved.

The next order of business is approval of the minutes. Any changes or corrections to the minutes? Any objection to the minutes? Seeing none, the minutes are approved. The first order of business is to review Draft Mackerel Amendment 18/EA. I'll turn it over to Gregg to walk us through the final document here, hopefully.

MR. WAUGH: Everybody was e-mailed a decision document this morning. That's what we'll be using along with some spreadsheets to complete your guidance to us. The amendment that's in the document is the same one that the Gulf Council has used. It has not been updated yet. When I provided that to the Gulf, it was mainly to take care of the joint actions up front. They weren't taking actions on our items.

I had most of that completed, but the little tunny was laid out as options they could take, and we'll get to that as we move through the document, and then the cobia actions weren't complete. We can refer to this document for some information, but what we're going to work through is that decision document that Mike e-mailed to everybody today.

This follows along with the actions. The first action deals with modifications to the fishery management unit. At our last meeting we had approved a preferred to include and analyze alternatives to retain little tunny in the management unit. We developed two approaches that we provided to the Gulf Council for their review and consideration.

Approach 1 would have had the Gulf Council, if they had agreed to retain little tunny, then the actions and alternatives will be included as joint actions to be approved by both councils. The councils could also agree to a management boundary and managed as two separate migratory groups as was being done for cobia. That would require both councils to establish ACLs, AMs, et cetera, for their respective management group.

The second approach, if the Gulf Council does not agree to retain little tunny, then the one joint action would be to create a separate Atlantic Migratory Group at the council boundary similar to what is being proposed for cobia, and the South Atlantic Council would then develop ACLs and AMs, and we gave them several alternatives for the boundary. What they came back with was a recommendation that their preference would be for us to address little tunny in our Dolphin and Wahoo Plan.

I discussed this with some of our committee members and they weren't too keen on doing that and felt it was more appropriate for it to stay in mackerel – in the coastal migratory pelagics. The way the Gulf redid their alternatives for this action is it lays out where we can approve

keeping little tunny the South Atlantic Region. If we were to do this, they indicated that they would be supportive of taking that approach.

What we've got outlined here is our old preferred is Alternative 5 and what we are suggesting is instead of that, that we adopt the Gulf's preferred, which is Alternative 3, and what this would do is remove cero in the Gulf and the South Atlantic. It would remove dolphin – and we approve 3A and 3C and 3D – it would remove dolphin in the Gulf and South Atlantic.

It seems strange that we would be doing that since we have a separate Dolphin and Wahoo FMP, but we never went back and removed dolphin from the Coastal Migratory Pelagics FMP after we developed the Dolphin and Wahoo Plan, so this is sort of a housekeeping issue. And then, of course, bluefish are managed in the Atlantic by the Mid-Atlantic Council and the ASMFC, so the Gulf is removing that from the Gulf of Mexico Region. We actually need two motions or do it together is to adopt the Gulf's preferred 3A, C and D, and then we would adopt Alternative 2B, Sub-I.

MS. SMIT-BRUNELLO: Gregg, a question; Alternative 3, Option D on bluefish, it says remove it for the Gulf of Mexico Region only, so am I to understand that currently in the Coastal Migratory Pelagic FMP bluefish is not managed by the South Atlantic or it's not even in the fishery management plan in the South Atlantic area; right?

MR. WAUGH: That's correct; and for those of you that have been around for a while, we're on the receiving end of a true lead. Some of you will remember what that is.

MR. HARTIG: And just to add to that, bluefish is managed by the Mid-Atlantic Council throughout the region.

MR. CURRIN: George, I'll make the motion to select Alternative 3 as our preferred.

MR. GEIGER: All right, so your motion then would be to adopt Alternative 3A, 3C –

MR. CURRIN: 3A and C I believe is what it is.

MR. GEIGER: And D.

MR. CUPKA: I was going to second that and I was going to ask Mac if he meant all of 3 or just A, C and D and you clarified that for me. Mac's motion is for Sections 3A, C and D; correct, Mac?

MR. CURRIN: Yes, that's the motion, David, and that unfortunately leaves little tunny in, and I know we had discussion about leaving in or taking it out. My bottom line is I want to see that done. I want to see that species get under management. I talked to Gregg a long time about it. I don't think it ought in dolphin and wahoo, but we need to find somewhere to put that. I'm willing to take it out of 18. It seems to make it cleaner.

I'll rephrase my motion in a minute, but I don't want the council to lose sight of that species and I'd like to get it moving as quickly as we can and perhaps in Mackerel 19 if that's the quickest way for us to get it done. And I'm under the impression the Gulf wanted little tunny out as well so their preferred was to remove all of those species, Gregg?

MR. WAUGH: Yes, it was, but they indicated that if the South Atlantic Council wanted to continue to include little tunny in the coastal migratory pelagics they would be amendable to that if we did it in such a way that it was only the South Atlantic Region. They don't want to do anything with little tunny in the Gulf.

MR. CURRIN: Okay, my motion then is to select Options A, C and D as the preferred.

MR. CUPKA: Second. Then I'm going to make a further motion after we get through with this one in regard to little tunny.

MR. GEIGER: Okay, we've got a motion and we've got a second. Is there any other discussion? Ben.

MR. HARTIG: I'll just go back to little tunny again. I guess the commercial landings are as high as 600,000 pounds. Frankly, and I've said this before this council, it's the most abundant coastal migratory pelagic we have; maybe not exponentially higher than king mackerel but orders of magnitude higher.

I don't think at this time that we're in any problem of having this resource see any problems with the low level of harvest that we have. I don't know that it's worth the trouble to go through to put it in this amendment at this time. I'm certainly, Mac, willing to work with you in the future on this. Until the SSC gets their ABC control rule right, until they can come to a rational way of looking at little tunny as landings where you could increase landings without any problem,

I'm not comfortable that we're going to get the right decision on little tunny and that we'll be placed in a situation where we're going to have little tunny dying because they can't be harvested. They don't survive very well released on commercial vessels. I don't know about recreational vessels. They don't survive; they fight their hearts out; and usually they're got to the boat, they don't survive very well. Having to have another bycatch species that we're going to waste in my opinion is not the way to go in managing this species. I'll argue against including little tunny in this. I like to see it done at a later date when we have a more sane road to go down.

MR. CURRIN: Ben, to that point, the motion I just made does not include necessarily little tunny in this amendment. In fact, my intent is to take it out later and look at it. All it does is leave it in the management unit so that we can then do something in the future with it.

MS. SMIT-BRUNELLO: Well, it's not in the management unit now. It's in the FMP for data collection purposes only. The way the Magnuson Act was revised and then the National Standard Guidelines make it such that you have to decide whether it's in the fishery or out of the fishery; so either you're going to manage it or it's going to be an ecosystem component species. You can't just leave it in for data collection purposes only.

We're trying to clean a lot of these amendments because in the past some things were in the amendment but they weren't in the fishery management unit and there were no management measures for those. Some fish were in the fishery management plan for data collection purposes only. This kind of changes – the new National Standard 1 Guideline change that, so it's not like you can leave it in for data collection purposes only.

MR. CURRIN: Well, to that point, George, if I might, Monica I think my intent at least is to include it at the appropriate time. If it's cleaner to include Option B in the motion I just made to remove it from the plan, then we go back somewhere else and we'll add it back in the plan, I guess. Is that what you're suggesting is the best that –

MS. SMIT-BRUNELLO: Well, I think that might be the cleanest way to go about it; because if left and you wanted it in the fishery management plan and you wanted to manage it, you're really going to need an action to then include in the fishery management unit.

MR. CURRIN: In this amendment, then?

MS. SMIT-BRUNELLO: If you want to manage it in this amendment, you could take it out – go along with what the Gulf said, take it out of this amendment and then in Amendment 19 put it in with all the requirements that you're going to need in order to manage it, including optimum yield, ACLs, all those sorts of things.

MR. WAUGH: What is the timing on Amendment 19? My understanding Amendment 19 was going to be a single issue to deal with the prohibition of sale, and we were going to write that up and bring something back to you in June. You're not doing anybody any favors in moving it from 18 to 19 unless 19 is going to be a longer time series. Mac, perhaps I jumped the gun.

I thought when you started to make your motion and just said Alternative 3, you only wanted 3A, 3C and 3D, and we're going to come back and make another motion to just do little tunny in the Atlantic; but if you want to exclude little tunny right now and deal with it in the future, then the motion to do that would be to adopt Alternative 3 in its entirety.

MR. CURRIN: And that's very clear to me; but Monica brought up the point that if we're not going to take action in this amendment on little tunny, then we should remove it. If that's what the committee and the council wants to do, that's fine. I want to see it moved under management as soon as we possibly can, and I'm getting feedback from you that 19 may not be a good place to do it.

Then we're looking down the road at Mackerel 20 or somewhere else and that's becoming unacceptable to me. We've been fooling with this crazy little fish that's extremely important to the recreational community since I got on the council eight years ago, trying to get it under management somewhere and we've not. It's still there.

I appreciate what Ben is saying and I understand that; and I hope that we get around to setting ACLs for this species, that the SSC will consider exactly what is going on in the recreational fishery. I fully agree with you, the things are much more abundant than the landings indicate.

They're a bycatch species in a number of other fisheries and they're not targeted. Their population abundance is a hell of a lot higher than the mean commercial landings over the last ten years; and to select something like that as an OFL would be totally wrong, I think. I hope we can get around that with not only little tunny but several other species as well. We're really not talking about the motion that's on the floor right now. Let's go ahead and clean this motion and then we can move on to what to do with little tunny.

MR. CUPKA: Well, Mac, that was my original intent to second this. I was going to come back, as I said, and offer a second motion to include little tunny just for the South Atlantic. Hearing some of the discussion, I guess my question would be to Gregg what would be the downside in doing that?

MR. WAUGH: The downside of including it just in the Atlantic? Well, the region has pulled together the landings' information so we have the landings' information to show you, and we've got the decisions laid out that you would have to make to come up with some interim OFLs, ABCs and so forth.

Given we're going out to public hearing, we would perhaps be coming up with an interim OFL that we would want the SSC to review and provide comment and their guidance since that's their responsibility before we go to public hearing. I mean, we've got the numbers here for you to look at. As I said, when the Gulf's action was run by the Mackerel Committee, a number of people objected to waiting on little tunny so we've got the information here and you can make your decisions about interim OFLs, ABCs and ACLs, and we can see what precautionary management you would want to put in place to prevent those from being exceeded.

MR. CUPKA: So in terms of time that's not going to be a problem, is that what I'm hearing, in terms of getting this amendment through? What about in terms of time – not time but in terms of setting a value that's too low and going to result in bycatch mortality; can the interim OFL be set high enough that it wouldn't be a problem?

MR. WAUGH: Well, it depends what OFL you choose now. The SSC has not provided an OFL. They've said the OFL is unknown. We have alternatives in here that would use the Gulf Council's control rule, and that sets the OFL at the mean plus two standard deviations. You'd have to look at that relative to landings and see how you think that would impact the fishery.

There is a little bit of downside in terms of this being under a statutory deadline. It's not an EIS so it's an EA, which means we don't have to deal with the DEIS comment period. Adding the suite of alternatives for little tunny will require some more analytical work, but we're doing that for cobia and the others so the methodology is the same. It will require a little more work to set it up, but I think that can be accomplished.

MS. SMIT-BRUNELLO: This isn't meant to throw ice water on this discussion but if you include little tunny into the FMP with all the parts and bells and whistles it needs, we're going to have to evaluate that and see whether under NEPA that would change the requirement such that the EA might need to become an EIS, but I don't know.

MR. HARTIG: I had two things; one is a question of Bonnie from the Science Center. If we don't proceed with management of little tunny, will you still be collecting landing information on little tunny in the logbook program? We have a number of species in logbooks that we have no management plans for. Is that something that would be removed because of that action or not?

DR. PONWITH: Likely not and any change to the logbook that was contemplated, there would be a lag. Right now I guess I don't see a motivation for pulling it from the logbook.

MR. HARTIG: And the other question I had; wasn't it several meeting ago I think I made a motion to the effect that we weren't going to do any of these species until we had a SEDAR assessment on this? Didn't we make a motion to that effect, Gregg, at a previous meeting?

MR. WAUGH: I think you did, yes.

DR. CRABTREE: Mr. Chairman, I'm not on your committee but my recommendation to you right now would be that you're better off to revisit this issue in a future amendment. I understand, Mac, that it's drug on, but I think you're going to have a difficult time getting all this worked out. You're going to have issues about where does the management unit start and what are the management measures.

I don't see how we're going to get any of that done between now and June when we're scheduled to vote this up. It seems to make more sense to me to go ahead and leave it out of the plan for now and then come back in at one of these future amendments and add it back in when you have time to figure all of these things out.

MR. HARRIS: Mr. Chairman, I agree with what Roy just said. There is a new stock assessment for the coastal migratory pelagic scheduled for 2012. I am very reluctant to try to establish ACLs on species like little tunny without any information from the stock assessment and I would vote against doing so. If we tried to do at this time, I'll vote against sending it forward.

MR. CUPKA: I agree with Roy, also; and I guess having said that, I would like to offer a substitute motion that Alternative 3 with all parts of it become our preferred.

MR. HARTIG: Second.

MR. CURRIN: Well, just for Duane's point, if you think about it, Duane, we've got a whole lot of species that we're going to manage and are in the throes of managing right now that we don't have SEDARs for and probably won't get SEDARs or assessments in a heck of along time, if ever. I'm not sure that we need to hold that as a hard and fast criteria for including species because we're stuck with some right now that meet that bill.

If the argument is, well, let's not compound our problems by adding another one, I can see some validity in that. It may not be a big issue; it certainly has not been to date, but the attempt to do this and put this species under management is an attempt to be a little more proactive. We get caught behind the eight ball so many times and don't start doing anything until species are in

trouble, and then they stay in the cellar for a long, long time and we fight to get them out. It's an important recreational species in our area. I know it's caught recreationally in a lot of other areas, and it just makes sense to me to find some way to get this species under management.

MR. WAUGH: So if SEDAR is the coastal migratory pelagics in 2012 and little tunny isn't in the coastal migratory pelagics, it won't be assessed.

MR. HARRIS: Mr. Chairman, I think that's a good point that Gregg just made. I hadn't thought about that, but I would like to see little tunny assessed but there are a lot of species I would like to see assessed. Like I said – and this goes for all those species that we don't have stock assessments for – I'm going to be very reluctant to vote to set ACLs for any of those species until such time as we have a stock assessment. I know that probably goes against Magnuson, but at this point in time that's my position.

MR. GEIGER: Okay, we've got a substitute motion on the floor. Is there any objection to that motion?

MR. ROBSON: Could you read the substitute motion for clarity?

MR. GEIGER: The substitute motion is to adopt Alternative 3 as our preferred.

MR. ROBSON: That included all of the options, right, and not just the highlighted one?

MR. CUPKA: That is true; that would include A, B, C and D.

MR. GEIGER: Were you voting in dissent, Mark?

MR. ROBSON: No, I just want to make sure everybody was clear that we're –

MR. GEIGER: Okay, so we've got two votes in dissent; all the rest who are in favor signify with a show of hands, please. **Okay, that motion carries; the substitute now becomes the main motion. Is there any objection to the motion? We still have two objections; the motion carries.**

MR. WAUGH: Okay, Action 2 deals with modifying the framework, and at our last meeting for spiny lobster we adopted the base and for mackerel we adopted the more broad framework. At the Gulf Council Meeting their NOAA GC advised them to go with the base, that perhaps the more broad approach was a little too far reaching, so the Gulf chose Alternative 3, Option 1, as their preferred.

MS. SMIT-BRUNELLO: Yes, and in discussing this with my colleagues back at the office, you kind of have bookends for NEPA purposes to look at these various frameworks, how they would set up, and I think the base is – I would recommend that is probably the better way to go.

MR. CURRIN: Just a question I guess for Monica; do you understand the hesitancy that the Gulf General Counsel had regarding the broader framework?

MS. SMIT-BRUNELLO: I think for discussion purposes we made it pretty broad. However, legally there could potentially be some issues if you chose to use the broader approach with certain items that are in that broad framework; i.e., some of them should be a plan amendment instead of a framework, but for discussion purposes I think he made it fairly broad. If you want me to get specifics, I can get you specifics, but I know we talked about this real quickly that legally probably the better approach would be to take the base framework. You have a narrow one and a broad one and the base is in the middle, and he thought that was a better idea. I can certainly get more specifics and get back to you.

MR. CURRIN: No, thank you, the specifics I'm not particularly interested in at this time, but I just feel in general that the broader we can make our framework the less cumbersome our job becomes and the more quickly the council can act. I'm a proponent of making our frameworks as broad as we possibly and legally can. If these are legal concerns, maybe, then I might be willing to take a chance on that; but if there are legal concerns that we know we're going to have if we attempt to do something under a framework that we can't do, then I'll buy into that.

MR. GEIGER: And, Mac, the way Shepherd Grimes explained it to me at the Gulf Council Meeting was that they developed this broad suite of alternatives for the broad framework basically to have another alternative, but it went far beyond what was needed in a basic framework and the medium framework is what we really need and can act upon expeditiously. I think it was a nod to NEPA in developing an additional alternative.

MR. HARTIG: Well, just going through both of them and seeing how they would actually work in the long term, there is going to be a lot of Roy and a lot of Monica in all of that; and if they make the decision that if there is any gray area at all, it's not probably going to go in our favor. I don't know what we get to go into a much broader one.

It seemed to me that there is probably too much leeway in the broad one. Although I agree that you would like to have it as broad as possible, how it would actually work, in thinking about it, I don't think we gain much by doing it.

MR. GEIGER: Okay, what is your pleasure; give me a motion, please. Ben.

MR. HARTIG: I'll move Option 1, adopt the base framework procedure in Appendix B.

MR. GEIGER: Second by Mr. Robson. Is there any opposition to that motion? Seeing none, that motion carries.

MR. WAUGH: Action 3 deals with separating Atlantic and Gulf Migratory Groups. Alternatives range from no action, keeping it one; separating it at Miami-Dade/Monroe County Line. Both councils are in agreement for Alternative 3 that would separate the two migratory groups at the South Atlantic Council/Gulf Council Boundary. We're both in agreement; there is no action needed on that.

For Action 4 on are the Gulf actions dealing with Gulf Group King Mackerel, Spanish mackerel and Gulf cobia. The Gulf Council voted to add ACL alternatives based on the ABC control rule

in their generic ACL Amendment. Their staff is in the process of adding these actions and information. Their SSC is meeting in March and they will get recommendations on those ABCs. They will add that – it puts them out of sync with us, but they’re going to deal with this at their April meeting and then they’ll do their own round of public hearings and then we’ll be in sync for June for the joint meeting to finalize the document.

They approved all our preferreds for Action 14 though 21 pertaining to the Atlantic as were approved. I think inadvertently they just missed to pick up Action 13 and we’ll get them to address that at this upcoming meeting. We’ll go through our specific actions. Again, and what we will be taking out to public hearing will be those joint actions, one through three, and then our actions.

The summary document will focus on that. The amendment document itself may have some actions for the Gulf, but the Gulf will then be coming back after us and doing hearings on the same three joint actions and then their specific actions. The ABC control rule; our preferred is to adopt the South Atlantic Council SSC recommended ABC control rule, establish ABC as 10.46 million pounds.

MR. HARTIG: Gregg, as long as in the hearing document – can we describe how the SSC arrived at that and so the public knows where that number came from?

MR. WAUGH: Yes, we will.

MR. HARRIS: Remind me, Gregg, when was the last time the stock assessment was conducted for king mackerel?

MR. WAUGH: I don’t know; John, do you recall when SEDAR last looked at king mackerel? We’ve got a SEDAR schedule that was in that material that was e-mailed on Friday.

MR. HARRIS: Yes, I think it was 2008. What I’d like to get on the record for all of these species at this meeting is when we take these issues up when we last had a stock assessment for a particular species. Thank you.

MR. CARMICHAEL: It included the 2005-2006 fishing year, it looks like the last time it was assessed.

MR. GEIGER: It included the – say again, John.

MR. CARMICHAEL: I say it’s the 2005 and –

MR. GEIGER: 2005 and 2006 fishing year.

MR. HARRIS: Mr. Chairman, Doug just said that SEDAR 16 was 2008, and that does confirm that. Thank you.

MR. WAUGH: In terms of the ACL for Atlantic Migratory King Mackerel, our preferred is to set ACL equal to OY equal to ABC at 10.46 million pounds. Our annual catch target is not to specify one on the commercial side because we track that fishery and close it when it's met. The preferred ACL is 3.88 million pounds. The recreational sector, our preferred is to set a recreational sector ACT using the formula. That ACT is 6.18 million pounds.

Accountability measures, we're asking for some permission here to modify some of the wording in your alternatives, and this would apply for all the king mackerel alternatives. It would be to add "met or" before "projected to be met", so the commercial AM for this stock is to prohibit harvest, possession and retention when the quota is met or projected to be met.

The second is to clarify – and we'll do this in each instance – where we've got 2011 here. The intent – and please us know if this is not your intent, but the intent is for those species that the fishing year is the calendar year it would be 2011. When we say 2011 for a species like king mackerel that has a fishing year, that is referred to the 2011/2012 fishing year.

What we're proposing is since we do have fishing years for king mackerel, that we change that to read the 2011/2012 fishing year and change the 2012 to be 2012/2013 fishing year and change 2013 to read 2013/2014 fishing year. You can either do it by consensus if nobody objects; if there is any concern, then we need to have a motion.

MR. GEIGER: Okay, I'm seeing heads nod that it's okay with everybody and there is no objection. All right, without objection.

MR. WAUGH: The Alternative 2 that deals with the recreational sector that would implement accountability measures; again, it's looking at these – Subalternative B would reduce the bag limit to ensure landings do not exceed the recreational sector ACL for the following year. In terms of payback for both commercial and recreational, our preferreds are 3A and 4A.

In terms of management measures, there are none proposed right now. There are no changes. When you look at the projected ACLs, ACTs to landings, it does not look like they will be triggered. That takes care of Atlantic King. Moving on to Atlantic Spanish, Action 16, right now OFL is unknown.

Our SSC provided the following OFL recommendations at April 2010. No estimate of MSY is available. The SSC decided to develop ABC recommendations based on landings' data. Overfishing was not occurring based on the SEDAR 17. The SSC decided to bypass OFL estimate and recommend ABC as the median of landings over ten years.

Our SSC met via conference call last week and reviewed some of the information. We asked for some clarifications about ABC values, and they reiterated that their OFLs were unknown for these unassessed species and are recommending ABCs. Monica may have some guidance for us on this.

MS. SMIT-BRUNELLO: Yes, Gregg, are you talking about the SSC's decision to not recommend any OFLs?

MR. WAUGH: Yes, and we can we go forward in an amendment saying the OFL is unknown?

MS. SMIT-BRUNELLO: I don't think so. I think if the SSC takes their best shot and they can't figure out what the overfishing limit is, I think that reading the Magnuson Act and the National Standard 1 Guidelines that we're going to have to come up with an overfishing level that we're going to need to put in for these various species. Gregg, did I misunderstand your question?

MR. WAUGH: I don't think so. We have been – the last several versions of this document that we have looked at we've shown for Atlantic Group Spanish that the OFL was unknown. Now the advice is that we have to specify an OFL. I think the SSC was under the impression that when Mike McLemore was at their meeting he told them it was okay not to specify an OFL.

MS. SMIT-BRUNELLO: I spoke with Mike McLemore about this and he said that's not the advice he gave them necessarily. He told them that they shouldn't make up numbers; and if they had incomplete information they should try to go through some sort of exercise in which they should take their best shot and specify an OFL. If the SSC doesn't specify an OFL, then I guess it goes to the council to specify an OFL. I'm going to talk with him some more I think later this afternoon. I will bring this back up to the group once I speak with him again.

MR. HARRIS: Mr. Chairman, I can tell you for one if the SSC cannot specify an OFL, I would be very reluctant as a council to try to specify an OFL. I don't know that we'd have any better information than the SSC has, and it would just be perhaps a wilder guess for us to do it than for SSC to guess at it. I don't like anybody guessing at these things, but I'm not willing to do it.

MR. HARTIG: The last sentence there, "The South Atlantic Fishery Management Council SSC is meeting in April and they can review the council's interim OFL." Yes, they could but the conversations I've had that they're not. If we make a decision now and ask the SSC to consider it, John, can we get that done?

MR. CARMICHAEL: They'll review whatever you ask them to review, but Ben and I talked about this on Friday and it isn't in their plan. Their intention is to go through many of the unassessed stocks and apply them to tiers with the idea that then we get ABCs for many of those stocks in November.

Now this is dealing with I guess some of stocks that have already been assessed, so we'd be asking them to look at them again. We really don't have any information for them to look at and I don't know that they're going to come up with OFLs for things they don't have OFLs on without some guidance that tells them how to get OFLs. I think we just keep rolling around. I think we can ask them to look at things.

They will be asked to review your document so if you put various alternatives in here they'll be obligated to review those at that time, but it's not in their plans and we don't have information in a lot of cases anything new to give them at this time. We hope for many of these species to have some new information – you know, the snapper grouper species through efforts that are going to be build on in April and lead to information hopefully in November.

MR. WAUGH: My advice would be – you know, we're trying to approve this to go to public hearing and again we've got this June 2011 deadline looming – would be if our attorneys are giving us the advice that we need to have a number in here, the Gulf Council's control rule that their SSC has developed gives you one.

I think we could make our argument here for why that is a good interim until our SSC has the opportunity to review this for this specific species in this specific amendment. They are continuing to work on how we might deal with specifying OFL for these longer-term species, but quite frankly some of the advice they have been receiving has not always been clear and the guidance at times has been late, and so we're left with this looming deadline. If we've got our attorneys saying we need a number, here is a methodology that has been through the Gulf SSC and the Gulf Council has adopted.

And, indeed, we have adopted that control rule for spiny lobster. It would be my recommendation to use the Gulf's methodology as an interim and label it so, and then our SSC would review it at their April meeting.

MR. GEIGER: And I have two people who want to speak, but I'd certainly entertain a motion from a committee member to proceed. Ben.

MR. HARTIG: Yes, I'll make that motion that we use an interim OFL for Spanish mackerel that equals the mean of ten years' landings plus two standard deviations, and that OFL would be 6.14 million pounds based on the Gulf Council's ABC control rule.

MR. GEIGER: Is there a second? I have a second by Mr. Burgess. Discussion?

MR. ROBSON: Well,, Gregg, did you say you did have landings and how that OFL level looks in comparison to landings?

MR. WAUGH: I've got the landings projected. I'll look at the more years, 2009/2010, the total was 4.74; 2008/2009, 4.55; so you can see that the 6.14 you would have to go back to 1994/1995 for that to have been met.

MR. GEIGER: We have a motion and a second; any other discussion? Charlie.

MR. PHILLIPS: This interim OFL, how long would it be good for; is it going to be open ended from –

MR. GEIGER: Yes, it will be good until the next stock assessment and we have to review it then. Monica.

MR. SMIT-BRUNELLO: Charlie, I think interim gives the public an idea that you intend at some point to change it, but any action you take is interim in effect because you can always change it later. I do think it's a good signal to the public that this is what we're using for now and we're going to look at this again.

MR. GEIGER: Okay, is there any objection to the motion? Seeing none, that motion carries.

MR. WAUGH: ABC, both councils are in agreement, preferred Alternative 2. The number you looked at in the last meeting was 4.91 and you told us to use the updated landings that we had and that number is 5.29 million pounds. We're agreement there and there is no need for action. The ACL, both councils are in agreement; the ACL equals OY equals ABC, 5.29 million pounds.

ACT, on the commercial side there is no ACT; we track it and close it. Their ACL is 2.91. The recreational ACT using the formula that we've used for other species; that results in an ACT equal to 2.19 million pounds. In terms of accountability measures, the same; we would like to add here "met or before projected to be met" and change – since Spanish mackerel is under a fishing year that's different than the calendar year, we want to make that very clear. I assume that your guidance from the previous –

MR. GEIGER: Is there any objection to making those same changes here that we made in the king mackerel? Seeing none.

MR. WAUGH: And your preferred is to reduce the bag limit to ensure landings do not exceed the recreational sector ACL the following year. Payback, both councils are in agreement; commercial and recreational payback regardless of stock status. In terms of management measures, the preferred is to reduce the individual bag limit from 15 to 10.

When you compare the ACLs and the ACTs to landings, we're either right under or close to so there is no percent reduction to go after; but since we are so close, you all made the decision to reduce the bag limit from 15 to 10. The table here shows what level of reduction that would achieve by different areas.

If there are no questions, we'll move on to cobia. We had an OFL before. Again, the council used the SSC methodology, updated that. The SSC provided their new recommendation March 3rd; the same recommendation as Spanish, that in the interim we use the Gulf control rule and set the OFL at a mean of ten years' landings plus two standard deviations, which would be 1.68 million pounds.

MR. HARRIS: Gregg, when was the last stock assessment done for cobia?

MR. WAUGH: There was done for the Gulf; there has never been one done for the Atlantic.

MR. GEIGER: Okay, we need a motion. Dr. Chevront.

DR. CHEVRONT: Mr. Chairman, I'd like to make a motion that the council set the interim OFL equal to the mean of ten years' landings plus two standard deviations for cobia.

MR. GEIGER: Thank you, sir; do we have a second? Mr. Hartig. Is there any objection to that motion? I guess we should have discussion before we see if there is any objection. Ben.

MR. HARTIG: Gregg, based on our landings, that improves quite a bit over what we had before and we're still probably going to be close on a year or two, but that gets us quite a bit farther away from where we were; am I right on that?

MR. WAUGH: Yes, it does.

MR. GEIGER: Okay, is there any other discussion? **Any objection to the motion? Seeing none, that motion carries.**

MR. WAUGH: In terms of your ABC, we have been using this formula; both councils in agreement, Alternative 4, your ABC equals 75 percent of the OFL. What this shows is your previous OFL; here is the interim OFL that we're using, 1,682,789 pounds. Your current ABC is 977 because you're stepping that down by 25 percent.

MR. HARRIS: Can you remind me why the decision was made to drop that down to 25 percent without a stock assessment? I just need to be clear as why we made that decision.

MR. WAUGH: The idea of stepping that down is to account for management uncertainty; the difference between your OFL and your – well, I'm sorry, in stepping down from your OFL to ABC is to account for scientific uncertainty, and generally that would come from a stock assessment.

But you raise a good question; if you're just using annual landings or landings to generate your estimate of OFL, then what is that telling you about uncertainty? John has had some discussions with us about that and he might want to come up and comment on why you might not want to do that for some species that you're just using landing's data; what insight into uncertainty does that give you.

MR. HARRIS: I would like to hear that if John would come up and talk about it; whatever you want to talk about, John.

MR. WAUGH: The issue of how the step-down from the OFL to ABC is to account for assessment uncertainty and if you're just using landings and what are you really doing.

MR. CARMICHAEL: Well, that's right, the guidance is that the difference between OFL and ABC is the assessment uncertainty. When we have the assessments with P-star analysis we have used the probabilities specified through the control rule to get all that, so you'd have OFL would be the yield at Fmsy, a 50 percent probability, and ABC would be that yield at, say, 25 percent probability of overfishing occurring. That's for all the assessed stocks.

Now, this is cobia in particular so you don't have an assessment; it would fall under – what the ABC clarified their intent is for unassessed stocks is that the ABC is the median of the 1999-2008 landings and OFL is unknown because we don't have a measure of the assessment uncertainty.

One way of looking at that, though, is to look at the landings plus some standard deviation, but that's a measure of uncertainty in the landings. That really doesn't say anything about whether or not that landings' level results in overfishing occurring, which is what the difference between OFL and ABC is supposed to be taking account of.

Without an assessment, the scientists have no way of doing that so that's why they have clarified that their intention is that, well, we don't know OFL; because the SSC's opinion is that without an assessment how we can say anything about the relation between landings that have been observed and what the stock can sustain? Now, you have the 25 percent rule but that was the council's choice as a default interim ABC control rule.

MR. HARRIS: Yes, and that's why I asked that question because we're dropping the potential catch down by 25 percent without, in my opinion, any real strong rationale for doing that. I don't see that the species – we don't have anything that says the species is overfished, but yet we're just making a huge drop in the available fish for the public, and I just don't know we did that. I just want some clarification.

MR. CARMICHAEL: Well, based on what the SSC clarified in their call this week – and they were clarifying the language that they had regarding the Comp ACL Amendment essentially in November – was that the council – you know, you wouldn't be in the position of deriving ABC from an OFL, so there wouldn't be the 25 percent step-down at least between OFL and ABC.

Where we were was OFL is the median landings and the council said – you know, you didn't like their original control rule they had done last April and so at the June meeting last year the council said, well, we'll use the interim 25 percent step-down for that. The SSC had supported it, but then they talked about it more and they were more comfortable saying their real intent is that the ABC should be the median, the ABC itself and the OFL be unknown.

So if the council agrees with that, then you could change what you have here in many of these and your ABC now becomes what you had in December essentially as the OFL; and that 25 percent step-down doesn't go and then you decide what do you do from ABC to ACL. I think the SSC tends to agree, it's hard to say take this cut down for this uncertainty when we don't know.

I think in our deliberations back and forth at the technical level and talking about it with different SSC members – if you can recall back when the SSC first gave you some recommendations on black and red grouper and they recommended them at 90 and 95 percent of landings and it was said what is the basis for that reduction?

Well, I think that same argument then applies to reducing by 25 percent. Suddenly there is a justification for that if the percentage is greater? Because there wasn't a justification for stepping down black grouper to 90 percent of its average landings, how is there justification for stepping down cobia to 75 percent? I think the same logic applies and the SSC has recognized that so that is where we're now at a substantial change in most of these documents to the ABC going up to where at least in December you had your OFLs.

MR. HARRIS: So the question then would be if we don't step down, we'd set the OFL at ABC?

MR. CARMICHAEL: I don't think you would want to do that at all. We just had the discussion about what OFL would be and Ben made a motion for Spanish about setting it at the mean plus two standard deviations. Another approach that has been discussed at the SSC – and we expect to talk about this more at the April meeting in conjunction with looking at the Gulf control rule – is using some sort of percentiles of the average landings where perhaps the OFL becomes the 90th percentile of the observed landings so it would be up to near the maximum of the observed landings over the time period.

An option would be just to say, you know, if we used this 1999-2008 period, set the OFL at the maximum landings observed between 1999-2008 for these unassessed stocks. I think all of those are quantifiable values that could be considered as options. I think it's hard to quantitatively pick any one over any other because you'd still have no information about what the overfishing level really is. But at least tying it to something like the maximum or the 90th percentile of that distribution of landings, at least it's an objective way across the board to dealing with it.

MR. PHILLIPS: What would be the problem of setting an annual catch target without setting an OFL or an ABC because it seems like you know either but you may have an idea of what you want your catch target to be and just set an annual catch target; and then when we get an assessment, then we can set OFLs and the ABCs.

MR. CARMICHAEL: I think the problem would be the Act tells the SSC they have to give you an ABC, so we wouldn't be in compliance with the guidance that we have; and that's where then the issue of getting an OFL comes in, also. I think if you were to do that you'd have this big hole and you might have difficulty getting the plan approved because you're not having one of the required things.

It's pretty clear that the SSC needs to provide an ABC. We can debate the OFL but we have the ABC and the council can't exceed the ABC recommendation of its SSC. At least over the last couple of years we have been really pushing on this point that we have to have the ABC, and then that's been viewed as a starting point. I'd just think that we'd be in a legal problem. For a biologist's opinion of a legal matter, that's what I think.

DR. CRABTREE: Didn't the committee pass a motion to use the Gulf Council Control Rule so the OFL would be the mean plus two standard deviations or did we not do that for cobia and you did it for the other ones or did you do that for cobia? You did for cobia; so if reduced from that by 25 percent, are you still at the regular landings' level or are you still above it, because I don't know what the standard deviation is.

MR. CARMICHAEL: I think it all depends on –

DR. CRABTREE: I can't see any of those numbers.

MR. CARMICHAEL: – the distribution of landings you could be anywhere, but I think we do have an ABC recommendation; so as long as you set an OFL that's higher than that, you're all

right, but we have to recognize that we do have an ABC recommendation for cobia from the SSC and it's based on the 1999-2008 average – median of the 1999-2008 period without any step-down median on that because –

DR. CRABTREE: It seems to me, John, we start getting into trouble if we're setting OFL based on mean landings and two deviations but then the ABC is based on median landings and somewhere in here we're going to have to explain why one is median and one is mean and all the rest of this, and it's getting very confusing to try and understand how any of it works.

MR. HARRIS: Mr. Chairman, can we take a break and talk about that?

MR. GEIGER: Actually, no, we're behind schedule. If you want a break let's finish up here quickly. Press on.

MR. CARMICHAEL: I think the part that you will end up with situations like that because you're picking things from your SSC where they have given you an ABC, as they're bound to do, and then you're taking things from another council's SSC, which they haven't met together, they haven't talked about these together. The South Atlantic's SSC has not even had an opportunity to talk about the Gulf's approach that they have put forth on the table and they have chances to talk about it. A lot of the things that are in the Gulf rule now didn't exist when they met in November.

The Gulf SSC met and changed their rule quite a bit, so they even had the opportunity of discussing it. Yes, if you pick and choose from different SSCs, we'll end up with things that we have medians in one and means in another, and we need to get all this resolved and be consistent at some point.

DR. CRABTREE: Well, I agree because I think you're going to be in a very difficult spot trying to pick and choose from these; so it seems like if you're going to accept the Gulf Council's control rule, then you need to accept the whole thing, but trying to piecemeal this together like we're doing now is going to create a lot of issues for us, I'm afraid.

MR. WAUGH: What is shown in this table is the impacts of your decision in terms of your setting your ACLs, the commercial ACL and recreational ACL, because your preferred alternative is 92 percent recreational, 8 percent commercial. What we've got over here on the right – and I know some of you can't see this from the back – again depending on whether we resolve this here or at full council we can look at this closure, but this green row going across here is based on the Gulf's control rule.

And perhaps something to consider is building the best case we can in this amendment for an interim control rule to be used until our SSC has a chance to work on this more and that we include this for public hearings. They will have a chance to look at it in April and then you can try to resolve this issue in June.

But if you do apply the Gulf's control rule, again their OFL, as we talked about, is based on the mean plus two standard deviations. Their ABC is the mean plus 1.5 standard deviations. As

we've done before, if you set your ACL equal to OY equal to ABC, allocate it recreational and commercial and use the recreational formula to set your ACT, what that does in terms of looking at the required percent reduction from various sets of landings; and the IPT is recommending for the Comprehensive ACL Amendment that we use the 2005-2009 average, that would show that there is no reduction is necessary.

We might consider choosing to do that on an interim basis, build the best case and ask our SSC to look at it in April. They're going to get a presentation on the Gulf control rule. I think if you step back a second on cobia, we put in precautionary management before it was cool to be precautionary.

So if you don't change those regulations, it doesn't mean that you're somehow not doing your job. We do have the issue of high catches during the spawning season, and that could be addressed here if you want with some reduction during the spawning season. We've got an alternative that looks at some closed seasons.

MR. HARRIS: Mr. Chairman, I would move that we establish whatever Gregg just said as the interim control rule until our SSC has had a chance to look at this in April and get back to us and then make a final decision at our June meeting. Is that clear enough?

MR. GEIGER: Hold on just a second until we capture that. **Okay, we have a motion to adopt as an interim control rule the Gulf Council control rule and ask the SSC to review that control rule at their April 2011 meeting. Second by Dr. Chevront.** Discussion?

MR. CUPKA: I was going to ask Gregg what happens if they review it and then they don't like it, and then we've got to recalculate all this in time to meet the deadline or what?

MR. WAUGH: Well, we would take the other alternatives out to public hearing, so we would have the range covered and we would resolve that at the June meeting. Now, the case to be made to the SSC is this is not usurping their role or their authority. We recognize that they haven't completed work on this portion of the control rule to the extent that have in others.

This is also a joint plan just like spiny lobster. We have adopted the Gulf's control rule for spiny lobster and they'll be looking at all of that information there as well. I think it's just if we can package it as it is a way of dealing with this on an interim basis, we'll get the stock assessment, and then we will look at their control rule. I think that's the best we can do going into public hearings.

MR. ROBSON: And again to clarify, this would then make it consistent across the board where we're looking at an interim OFL based on the Gulf Council process. This is the ABC control rule based on the Gulf interim process. So, in that table across the line you're consistently working towards that ACT and ACL levels based on that Tier 3A?

MR. WAUGH: Yes, this would set these values; your ABC would be 1.57; for your ACL, also; your commercial allocation would be 125, 712 pounds; your recreational allocation would be 1.45 million pounds. Your recreational ACT would be 1.21 million pounds.

MR. CURRIN: I'm a little concerned with this. I fear that we're going from being precautionary when precautionary wasn't cool to throwing precaution out the window by adhering to the Gulf's approach here. It may be fine; but when you start talking about two standard deviations above the mean and one-and-a-half standard deviations of the mean, that is a lot of slop in a lot of stocks that we've looked at, anyway, and it is in this one as well.

We've got another way I think we can get at OFL that we haven't talked about because the SSC, where they've had opportunities to give us OFL, have recommended ABCs at some percentage step-down from that, like 75 percent in one case, I believe – correct me if I'm wrong, John – of the OFL is the ABC. That's how they get there.

So we could get in cases where we don't have an OFL to an OFL from the ABC that is provided us by just doing the opposite, dividing by 0.75 and that gives you an OFL that's 25 percent above – or the ABC would be a reduction of 25 percent from that. That being said, I'm still not very happy with the approach that we have been given so far for these data-poor stocks where we're looking at the – or being given the median of the landings over the last eight or ten years.

Again, I'll say it makes the assumption that we've been overfishing for half that time at least, and I'm uncomfortable with that, very uncomfortable in a number of stocks, cobia being one of them, because the landings' trends just don't indicate that there is anything funky going on with the species. I appreciate the desire to have some quantitative approach to this thing, but it's getting us into a hole on a number of species like this. I'll support the motion but I do it with a certain amount of discomfort.

MR. GEIGER: Mr. Gill, last word.

MR. GILL: Mr. Chairman, I'm not on your committee, but for clarification the Gulf ABC Control Rule has as its default ABC is one standard deviation above the mean. We did use 1.5 and that is an option, but the default is one standard deviation.

MR. CARMICHAEL: Is that 3A, if I'm looking at above and below, the ABC is two standard deviations for cobia and so then what is the OFL?

MR. WAUGH: The OFL is the mean plus two standard deviations; the ABC is the mean plus one standard deviation. My understanding is that's what the Tier 3A is. Bob Gill is saying yes.

MR. CARMICHAEL: I was looking at Line 73 on the bottom and it says mean or is that 75 percent –

MR. WAUGH: That's a different spreadsheet.

DR. CRABTREE: Well, I was just going to – coming back to what Mac was saying and Bob, if you look at Gulf Control Rule in its entirety there are a series of four sub-options for ABCs that are tied into the amount of risk involved, and you make one of those choices, which we haven't really gotten to yet, and that's where your idea of precaution comes in.

You could choose anywhere from the ABC is the mean of landings plus 1.5 standard deviation or you could choose ABC equals the mean of landings. There are other choices to be made in here and there are estimates of what the risk of going over the OFL is, and that's where the precaution comes in.

MR. GEIGER: Okay, we've got a motion; any other discussion? **Seeing none, is there any objection to the motion? Seeing none, that motion carries.**

MR. WAUGH: The point John was making, looking at this other spreadsheet was here it's saying it's two, and that should be 1.5. I just checked the formula and it is 1.5, so it's just that labeling that's incorrect.

MR. CARMICHAEL: Just for a point of reference, what are the maximum landings over the period? I guess you're using the 2000-2009 for cobia. I just wondered where this ABC falls relative to the maximum observed over that time.

MR. WAUGH: We've got the data here from 2000-2009; and broken it out, this is your preferred, so your high landings were 1.655. In terms of allocations, both councils are in agreement to use the formula, that results in 8 percent commercial and 92 percent recreational. ACLs, we'll add an alternative with the numbers that you just specified as well as the ACT.

As these numbers have changed, that will require the Gulf to look at them and they will do that in April. We're still in agreement with the ACT on the commercial; the no action alternative. On the recreational we're both in agreement to use the formula; the actual number will have changed now and we will update that. In terms of accountability measures the same thing, cobia is under a calendar year so it's okay to just use the 2011, 2012 and 2013. We do need your guidance on using – and here we've got just "is met"; we want to insert "or projected to be met" after that.

MR. GEIGER: No objection to that.

MR. WAUGH: The preferreds; the commercial, prohibit harvest and retention when the closure is met or projected to be met; the recreational, reduce the length of the following fishing year by the amount necessary to ensure landings do not exceed the sector ACL. We're in agreement on the paybacks; just a change in the numbering system here that said four and it should be five.

Then we get to management measures, and the alternatives you had asked us to include were reducing the recreational bag limit from two to one cobia per person. We've got the analysis in here to show what the impacts of that is. It would reduce catches an average from the 2005-2009 year off of Florida by 6 percent – remember Florida's regulations are more restrictive – off of Georgia by 64 percent; off of South Carolina by 16 percent; off of North Carolina by 13 percent; and off of Virginia by 2 percent.

We also have alternatives in here to reduce the recreational bag limit from two to one cobia per boat per day. That is necessary to address some of those alternatives that would have a much lower ACT on the recreational side; but needless to say that is generating a lot of interest even

before we head out to public hearing. In fact, next week we've been invited to attend a meeting in southern South Carolina that several of the fishing clubs are putting together to discuss cobia.

Some concern has been raised that there are high catches during the spawning season in the Beaufort area, and you asked us to include an alternative to establish a closed season for the recreational fishery. We will continue to look at that. Perhaps you can give some more guidance on what you're looking at there.

We have to be extremely careful with our data. We have gotten some guidance that it's okay to show you annual cobia landings for the recreational sector and commercial sector for the entire South Atlantic/Mid-Atlantic area. When we get into monthly data, we get into confidentiality issues. When we look at catches in a specific area, we'd definitely be in confidentiality issues. I'll end it there.

MR. HARRIS: Mr. Chairman, I don't want to belabor this, but, Gregg, at some time I'd like to have a discussion about what that table actually means; a hundred percent reduction. In 2009 if you reduce it from two fish to one fish, I'm having a hard time wrapping my head around that, so sometime if you'll explain that to me.

MR. GEIGER: Gregg, under Alternative 5 could we put establish – as this is a public hearing document – “establish a closed spawning season for the recreational fishery”. Robert.

MR. BOYLES: Mr. Chairman, I'm not on your committee, but, Gregg, I was wondering given where we are with proposed specifications of the fishery, I just have a hard time kind of wrapping my mind around a spawning season closure. Certainly, we are concerned about the proliferation of the recreational fishery in the Broad River. I think I'd probably be a little bit more comfortable if we were looking at a management measure of a reduced bag limit during that time period, but a complete closure I'm not sure is what I had in mind when we were discussing this earlier.

DR. CHEUVRONT: On behalf of my colleague from South Carolina, who is not on the committee, I would like to make a motion that we have an alternative here that looks at reducing the bag limit from two fish to one fish per person during the spawning season.

MR. CURRIN: Second.

MR. GEIGER: We've got a motion and a second. Any discussion on that motion? **Seeing none, is there any opposition to the motion? Seeing none, that motion carries.**

MR. ROBSON: I want to go back to the management measures. The ones that are outlined here as alternatives are in consideration of an ACT based on the previous preferred methodology for setting stepping down from an allowable biological catch, and we changed – aren't we changing that? I know we're in mode where we're not really in a position to do a lot of changing in the stock, but are these still necessary management actions based on a potential preferred alternative that would use a starting-out point of a larger OFL?

MR. WAUGH: And again just to use this table to illustrate the alternative, your preferred alternative now does not require any reduction. However, there are other alternatives in there and we agreed to take them out to public hearings in case we end up having to adopt a different alternative.

The alternative with the corrected – your previous control rule corrected results in a 36 percent reduction being necessary, so you need some big reductions in the bag limit in order to achieve that level of reduction should you choose that. You can see that going from a two to one doesn't get you much of a reduction. So if indeed you end up back at that as a preferred alternative, then you have to have a bag limit alternative that would achieve that level of reduction.

MR. ROBSON: We still have a motion on the floor; is that correct.

MR. GEIGER: The motion was approved.

MR. ROBSON: So given that we have preferred alternative that is different in terms of the step-down, can we establish a preferred alternative for management action of Alternative 1 and take that out to public hearing? In fact I think I would make that motion.

DR. CHEUVRONT: And, George, I'd like to second that.

MR. GEIGER: Okay, we've got a motion for Alternative 1, no action, to be our preferred alternative and a second by Dr. Chevront. Discussion? Seeing none, is there any objection to the motion? Seeing none, that motion carries.

DR. McGOVERN: George, going back to that alternative to reduce the bag limit during the spawning season, I was wondering if the committee wanted to identify the spawning season.

MR. GEIGER: Can you?

DR. McGOVERN: I don't know it right offhand, but I don't know, peak spawning or what. I can look it up and come back.

MR. GEIGER: Would you do that, please, sir? Thank you; that's a good idea. Mr. Currin.

MR. CURRIN: Yes, and, Jack, I'm sure you can find that information, but, yes, I think if we covered the peak, we'd be in good shape. Off the top of my head, if I had to do it right now, I'd probably April, May and June and that would cover certainly most of Central Florida, I would guess, and certainly cover North Carolina in the June closure and southern North Carolina in the May closure. It may have to go back a little bit earlier to cover South Florida. I just don't know much about when those fish come in to spawn down there.

MR. WAUGH: Next we have made significant revisions and we need to approve the amendment for public hearing and give editorial license to staff to incorporate changes from the new data and alternatives.

MR. GEIGER: And opportunity to shine. Dr. Chevront.

DR. CHEUVRONT: I'd like to make a motion that we approve Mackerel Amendment 18 for public hearing and give editorial license to staff to incorporate changes for new data.

MR. GEIGER: We have a second by Chairman Cupka. Any discussion? Seeing none, is there any opposition to the motion? Seeing none, that motion carries.

MR. WAUGH: All right, public hearing dates and locations; they're the same spiny lobster. We covered that before. Timing and task: make the necessary revisions to Mackerel Amendment – he said that I don't have to read it.

MR. GEIGER: Well, yes, but the committee may not be clear as to what our timing and task – there may be additional items.

MR. WAUGH: Make the necessary revisions –

MR. GEIGER: I'll tell you what, let's give the committee just a minute to read over because everybody can read and we don't have to have it read to us. Okay, read it then, please.

MR. WAUGH: Make the necessary revisions to Mackerel Amendment 18/EA and provide the revised document to the Gulf Council for use at their April 11-14, 2011 meeting; prepare the necessary documents for public hearings; provide the documents to the Mackerel Advisory Panel for their meeting April 6-7, 2011, in North Charleston; coordinate with the Gulf Council to conduct the Joint Mackerel Committee and Joint Council Meeting during the Gulf Council's June 6-9, 2011, Meeting in Key West; the committee, June 9th from 8:30 to 11:00; public comment June 9th, the afternoon; joint council session, June 10th from 3:00 to 4:00 p.m.; target final approval of Mackerel 18/EA for June 10th during the Joint Council Session. Mackerel Amendment 18 and the EA will not be discussing the South Atlantic Council's June 13, 2011, meeting in Key West; work on Amendment 19 – we need to come back to Amendment 19 or you can give us guidance in June – work on Amendment 19 to have alternatives for the committee and council to review at June 13-17, 2011, meeting; provide materials for the South Atlantic Council SSC to review Mackerel 18/EA with the Gulf Council's Control Rule at their April 2011 meeting and ask whether it could be used as an interim approach for Spanish mackerel, cobia – little tunny is moot now – until the SEDAR stock assessment in 2012.

MR. GEIGER: Thank you. How about a motion? Dr. Chevront.

DR. CHEUVRONT: I would like to make a motion to approve the timing and task activities as read by Gregg.

MR. GEIGER: And seconded by Mr. Robson; any discussion; any objection. That motion carries. Gregg, you're right, I did miss 19; do you want to review Amendment 19, please.

MR. WAUGH: Amendment 19 was sent out in the first briefing book. This deals with the consideration of bag limit sales. The purpose of proposed action is to consider modifications to

the sale provision for socio-economic, data quality, enforcement reasons. Permit changes may be necessary to enforce the prohibition on sale of coastal migratory pelagic species harvested under the bag limit.

We've got options in terms of options to consider bag limit sales of coastal migratory pelagic species. I'm not going to go into this in great detail here, but we've done this with snapper grouper. The council has expressed in the past their intent to do this for all species. We do run into some issues here in that there is not a cobia permit. We don't have dealer permits for cobia.

We outline the issue. A permit is not required to harvest or sell cobia. King and Spanish mackerel permit is one permit for the Atlantic and Gulf. We need to deal with we handle that. The issues for the council to consider; if you prohibit coastal migratory pelagic species harvest under the bag limit, which species to include – I would assume your intent is to include them all – which permits are needed to sell which species; establishing a coastal migratory pelagic dealer permit rather than just a king and Spanish mackerel permit and should that be joint or separate by council area; establish a cobia permit, a separate permit or incorporate it into an existing permit; any income and other requirements; and then modifying the king and Spanish mackerel permits, to separate them; modify or eliminate the income requirements. So the idea, as we discussed at the last meeting, was to flesh out this decision document a little more and bring it to you here and get some guidance on how to proceed.

MR. GEIGER: Well, one of the problems I see right away in trying to determine what type of a dealer permit you need, whether we need a joint permit with the Gulf or individual permits, is we don't know the ramifications of doing that and what benefits or legal pitfalls there might be based on other permits. How do we get that analysis to make some type of an informed judgment as to what would be the best way to go?

MR. WAUGH: Well, you can direct the IPT to look at how you would go about requiring a separate Atlantic permit; and if your direction is to examine how best to create a separate Atlantic king mackerel permit and Atlantic Spanish mackerel permit and Atlantic cobia permit, then we could do that analysis and bring it back to you.

MR. GEIGER: Is there any objection to doing that? Mac.

MR. CURRIN: No, George, no objection at all, but I'd like for the – and I'm sure we'll get the input from the Regional Office about the cleanest and best way to do this. I think my intent would not be to open this up for cobia so that we get all these new entrants into the fishery. If they could tied I guess to some of the existing permits, that might help us some.

We might even consider some kind of a consolidation of the permits into a single coastal migratory pelagics, and I know there are headaches there because some of them are limited at this point, I believe. I don't know the best way to do it, but I think the folks that have to manage these permits and deal with them on a daily basis should have good insight into what works easiest and best.

MR. GEIGER: Yes, I think it goes beyond insight. I think it would take the form of a recommendation. Can we task the IPT to come up with recommendations as the most expedient?

MR. WAUGH: I think it would just be helpful to give us some guidance. Are you looking to establish three separate – do you want separate permits for the Atlantic Migratory Groups of King, Spanish and Cobia, and then we could look at that. I think we just need a little more guidance on what you all want.

DR. CHEUVRONT: Am I understanding the issue correctly here? It's sounding more like whether we have separate permits is more of an administrative issue from NMFS perspective, I think, because it shouldn't matter to the fishermen whether it's a separate permit or all one permit. At least I can't see how it would matter that way. I think that's more of an administrative or logistical issue that would need to be worked out.

I would like for us to consider the idea – and I'm not sure it's captured here in your issues for the council to consider. I would for there to be a consideration of including cobia with Spanish mackerel permit as an example so we don't have to add a new one; what would be the advantages and disadvantages of doing that. That's an open permit right now and so anybody could get one who is already – who wants to.

And then look at an option that would somehow be a little more restrictive and who can get that cobia – get a permit that would include cobia. I don't know if it's appropriate to include it with king mackerel. I don't think it is because like, for example, I do know that most of the cobia, for example, in North Carolina are caught in state waters, so it doesn't make sense in my mind to add it to the king mackerel permit.

I'm a little bit confused here as to how to look at that, whether we need to consider a separate cobia permit. I think that is one of the options that we already have. I would like to see us look at it and making it part of the Spanish mackerel permit. I don't know if there is any other options that make sense.

MS. SMIT-BRUNELLO: Well, I think you raise a lot of good questions that definitely the IPT and then the council and the committee is going to have to consider. Right now there is no permit for cobia, so it's two per person per day whether it's commercial or recreational. Spanish mackerel is something kind of what we call an open access permit in that there is no limited entry but there is an income qualification that you have to meet. It's kind of mixed bag there, so I think you raised some good points.

MR. WAUGH: I think that gives us some alternatives to look at for addressing this and focusing in on cobia because we already have permits for king and Spanish. I think trying to tackle that, it raises too much complexity. If the intent here is just to prohibit bag limit sales, the one loophole is the lack of a cobia permit, so we've got that. You might want to talk some about the dealer permit and should we go forward and look at establishing a requirement for a dealer permit to handle cobia.

MR. HARTIG: Well, this just goes to my disappointment with how we changed the permit system years ago. Back in the day we had separate Gulf and separate Atlantic permits for both king and Spanish mackerel, and we knew the universe of fishermen because of that. I think we lost a lot when a unilateral decision was made – it wasn't a council decision – a unilateral decision was made that they're going to combine them into one permit.

I still have problems with when that was done and it creates problems when you're trying to figure out who is doing what in the management units. I would like to see those permits separated for every species that we manage.

Basically you have a cobia permit, you've got an Atlantic king mackerel permit, you've got a Gulf king mackerel permit, you've got a Gulf Spanish mackerel permit, and you've got a Gulf king mackerel permit, and you've got a cobia permit, both Gulf and Atlantic. Those things aren't hard to do. You've just got another sheet paper and there is another permit; it's not a big deal. That's the way I would like to see it done.

MR. GEIGER: Yes, the coastal pelagic world is fraught with disappointments. Mac.

MR. CURRIN: Yes, Ben made some very good points and I don't disagree with them. I was going to talk to the coastal migratory pelagic dealer permits. I don't quite understand why there is a need to have anything other than a coastal migratory pelagics dealer permit so a dealer does not have to have a king mackerel dealer permit, a Spanish mackerel dealer permit and a cobia dealer permit. And again I'd like to see those separated for the Gulf and Atlantic as well. That makes the most sense to me and there may be reasons that's it's not being done or hasn't been done.

MR. MUNDEN: At the Mid-Atlantic Council we require permits for all of our finfish-managed species. They're all limited access permits except for spiny dogfish.

MR. GEIGER: Individual species?

MR. MUNDEN: Yes, and we find that – and as an example, summer flounder, scup and black sea bass are all managed in one fisheries management plan, but they all have individual permit. But oftentimes if a fisherman sells one permit, he might want to hold on to two others, so that's the advantage of going with the individual's permits. The qualification for these limited access permits was a landing history. There was no requirement to show a particular amount of income. I know that the individual permits have worked very well for the Mid-Atlantic.

MR. GEIGER: Anybody else? Gregg, is that sufficient discussion to provide guidance?

MR. WAUGH: Yes.

MR. CURRIN: Well, it just kind of bears on Brian's point in that we have an existing permit with the Spanish permit, and there were income requirements to obtain that permit; so linking that with cobia I have no problem with. Ben says he'd like to see it separate. If it is separate, that is fine with me, too, if that works better for fishermen and everybody else. I still think we

need some sort of either landing or income requirements to qualify for that such that anybody and everybody in North Carolina with a commercial fishing license can't go out and grab a cobia permit.

MR. GEIGER: Okay, anybody else? Any other business to come before the committee? Okay, no further business, we stand adjourned.

(Whereupon, the meeting was adjourned at 4:10 o'clock p.m., March 7, 2011.)

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March 7, 2011
St. Simons Island, GA

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