

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

DOLPHIN WAHOO COMMITTEE

**Hutchinson Island Marriott
Stuart, FL**

June 10, 2013

SUMMARY MINUTES

Dolphin Wahoo Committee:

Tom Swatzel, Chair
Steve Amick
Doug Haymans

John Jolley, Vice-Chair
Anna Beckwith
Dr. Wilson Laney

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Mel Bell
Dr. Roy Crabtree
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John Carmichael
Amber Von Harten
Dr. Mike Errigo
Roger Pugliese
Dr. Brian Chevront

Observers/Participants:

Monica Smit-Brunello
Dr. Bonnie Ponwith
Otha Easley
Lt. Morgan Fowler
Dr. Marcel Reichart

Dr. Jack McGovern
John Sanchez
Tim Nettles
Dr. George Sedberry
Dr. Luiz Barbieri

Additional Observers Attached

The Dolphin Wahoo Committee of the South Atlantic Fishery Management Council convened in the Plantation Room of the Hutchinson Island Marriott, June 10, 2013, and was called to order at 3:25 o'clock p.m. by Chairman Tom Swatzel.

MR. SWATZEL: Okay, we're calling the Dolphin Wahoo Committee to order right now. The first item on the agenda is to approve the agenda. I have got one item to add to the agenda before it is approved. I had agreed to allow Tim Nettles, a Palm Beach County recreational fisherman, about three minutes after we deal with Amendment 5, to talk about some issues about transit of dolphin and wahoo that are caught in Bahamian waters over to Florida.

Other than that, that is the only change I have; and if I don't hear any other changes, I will assume that we have approved the agenda. The next item is approval of the March 2013 committee meeting minutes. Are there any corrections of changes? Hearing none; then the minutes are approved. The next item is the status of the commercial catches versus quota for dolphin and wahoo. Jack.

DR. McGOVERN: Mr. Chairman, the commercial landings for dolphin are associated with the snapper grouper landings. They're under Tab 5, Attachment 1A. Based on information through May 30th, 14 percent of the 1,065,523 pound ACL has been taken; and 20 percent of the wahoo 64,147 pound ACL has been harvested.

In 2012 38 percent of the dolphin ACL was landed and 99 percent of the wahoo ACL was landed. For the recreational sector, the final 2013 recreational landings were received in April. Based on the data, 45 percent of the 13.5 million pound dolphin ACL was met. Landings through Wave 1 in 2013 revealed that about 1 percent of the recreational ACL was met thus for dolphin.

For wahoo, in 2012 the 1.4 million pound ACL was exceeded by 9 percent. The recreational AM for the species is to look for persistence in increased landings and the year following the ACL overage; and if needed to shorten the length of the following fishing season. The landings for the first wave in 2013 are about 3 percent of the recreational ACL.

MR. SWATZEL: Any questions for Jack? Hearing none; we will move to the next agenda item, which is the Dolphin Wahoo AP meeting and their comments on Amendment 5. Brian.

DR. CHEUVRONT: The Dolphin Wahoo AP met in March of this year. They received a presentation from Don Hammond regarding his dolphin research. Primarily, one of the big things that he talked about was the movement of dolphin throughout the South Atlantic and in other adjacent areas.

That might be something that might be relevant to the discussion you all have when you get to Action 5 of the amendment. Action 5 was the one to consider putting in a commercial trip limit for dolphin. They very briefly – and let me go through the different actions you will see on the version of the decision document that I am projecting; that it will have the AP's preferred alternatives.

I will just tell you real briefly what they are right now. Action 1 was the action that looked at using MRIP and updated numbers for determining the ABC and ACL for dolphin and wahoo. The AP did not take a formal vote on that particular action, but it was clear from their discussion that they were all in support of Alternative 2, which is to begin to use the MRIP numbers to estimate landings.

Under Action 2, which has to do with modifying the AMs for dolphin and wahoo, they actually looked at this slightly differently than the council had in the past. They separated the two. For dolphin they had suggested staying with Alternative 1, no action. The feeling was that they didn't think that they're needed to be any payback provisions for dolphin should the ACL be exceeded simply because they considered dolphin to be much more like an annual crop, and therefore it was difficult to see the impact of management measures from one year into the next.

Penalizing fishermen for going over one year they didn't think was going to likely help the stock any by reducing the available catch. However, for wahoo they endorsed Alternatives 4 and 7 largely because those were the two alternatives that were least likely to trigger paybacks for that stock should they go over the ACL.

In Action 3, which was to modify how dolphin were allocated between commercial and recreational sectors, the AP endorsed Alternative 4, which was to look at the most recent five years of landings and assign the average of commercial landings as the ACL for the commercial sector, and that would change the commercial ACL to 10 percent and the recreational sector get 90 percent.

Under Action 4, which is to change the framework, the AP endorsed Alternatives 2 and 3, which would basically attempt to make the dolphin framework look much more like what the council has worked out for snapper grouper. Under Action 5, which was to implement a commercial trip limit for dolphin, the AP supported Alternative 1, which is no action, do not institute a commercial trip limit for dolphin.

The last thing is they had some additional discussion. Again, the AP really would like for the council to consider allowing bag limit sales for the for-hire sector in the dolphin fishery. They feel that this has been a big part of this fishery historically. The council has discussed this several times, but they asked me specifically to bring it up again one more time with the council to see if you would reconsider this. That concludes the Dolphin Wahoo AP report.

MR. SWATZEL: Any questions for Brian on the AP Report? Okay, hearing none, I will let Brian lead us through the Amendment 5 Decision Document.

DR. CHEUVRONT: The Dolphin Wahoo Decision Document is Attachment 2 in your briefing book. What I would like to do go through – now, my page numbers don't line up exactly the same as yours because what I plan to do is to imbed the motions and all that you will make as part of this, and I sort of put in some placeholders for some of those motions, so my page numbers may not line up exactly as your.

The first thing that we would like to do is to bring up the purpose and need. The IPT has made a couple of minor amended changes to the purpose and need for this document. One is that you added an action at the March meeting, and that was to consider establishment of a commercial trip limit for dolphin. That was tacked on to the end of the purpose.

To the need, the IPT is recommending to add this sentence – the beginning of the first sentence says, “The intent of Amendment 5 is to base conservation and management measures upon the best scientific information”, to take into account what you’re trying to accomplish through Action 1. Mr. Chairman, I think what the committee needs to do is to discuss whether they are okay with these recommended changes or what they would like to do.

MR. HAYMANS: Mr. Chairman, I would make a motion that we accept the IPT’s recommended wording for the purpose and need.

MR. SWATZEL: We have a motion from Doug; seconded by John Jolley. Any discussion of the motion? Any opposition? Hearing none; the motion is approved.

DR. CHEUVRONT: Okay, moving right along, let’s jump down to I believe it is Page 4, which is Action 1. Alternative 1 is no action, which you would not be using the MRIP information or the updated commercial and for-hire landings for estimating the compliance with ACLs. Alternative 2 would revise that.

I put “preferred” next to the AP preferred. They didn’t actually take a vote on that, like I mentioned during the AP Report, so I put “preferred in italics there because it was inferred from their discussion. The IPT recommends the wording changes. It doesn’t change anything with the meaning of it. It just makes it very clear what the IPT is recommending.

The first is Alternative 1, no action, acceptable biological catches, annual catch limits, and annual catch targets for dolphin and wahoo are based on the Marine Recreational Fisheries Statistics Survey, Commercial Accumulated Landing System and NMFS Headboat Survey. Alternative 2 is revise the acceptable biological catches, annual catch limits and the annual catch targets for dolphin and wahoo with landings from the Marine Recreational Information Program, Commercial Accumulated Landing System and NMFS Headboat Survey. What would be good here is if you all would talk about what you’d like to do in regards to the IPT’s recommending wording; and then, if possible, to choose a preferred alternative.

MR. SWATZEL: I am looking for either discussion or a motion to accept the IPT’s recommended language. Doug.

MR. HAYMANS: Mr. Chairman, I would move that we accept the IPT’s rewording or recommended wording for Alternatives 1 and 2.

MR. SWATZEL: Okay, we have a motion by Doug; second by Anna. Any discussion of the motion? Hearing none; the motion is approved. Doug.

MR. HAYMANS: Mr. Chairman, I make a motion that we accept Alternative 2 as our preferred.

MR. SWATZEL: Second by Anna. Any discussion of the motion? Any opposition? Hearing none; the motion is approved.

DR. CHEUVRONT: One of the things that this committee might want to do is to pay attention later when we get into the ORCS discussion; because if this method is accepted as a way to set ABCs for the fisheries, for both dolphin and wahoo there were fairly large increases. Right now ORCS is recommending about a 200,000 pound increase to the ABC for wahoo and about 5 million pounds for dolphin, going basically from 15.7 million pounds to 21 – I think it is about 21.7 million pounds, so that is probably closer to 6 million pounds for dolphin – or, excuse me, 21.4 million pounds; so it is quite a bit of increase that could possibly occur.

If this process all goes through and the ORCS method is approved and later in this amendment we have actions to speed up the adoption of new ACLs and things; that the council could come back later on and do a regulatory amendment and to accept these higher values for dolphin and wahoo, so that is a bit of potential good news if that is what you all decide you want to do to have more fish out there available. Depending on how quickly that process goes through, we might have a pretty quick way to be able to make those fish available to the fishermen.

MR. CUPKA: Brian is giving you the good news. The bad news is in order to accept the ORCS and make it part of the ABC Control Rule requires doing an amendment, and so it may take a while to get it in place. Once that is approved, he is right, we will have the framework set up to make those changes fairly quickly.

MR. SWATZEL: Okay, Action 2.

DR. CHEUVRONT: I was just trying to present the good news. Okay, Under Action 2 is to revise the accountability measures for dolphin and wahoo. The IPT has recommended some wording changes that don't change any of the content of the alternatives. If you will remember, at the March meeting we actually got rid of a couple of alternatives from this action, so you're left with a suite of alternatives that are pretty good to look at.

The language that the IPT has recommended simply for Alternative 1 shortens the information that is presented. Basically, it collapses both dolphin and wahoo together because the wording is the same for those two species. Then Alternatives 2 through 7 simply clarifies in a little greater detail exactly what happens should these be chosen as preferred alternatives.

If you need a moment to read those recommending wording changes, now would probably be a good time to do it. Also, I did want to mention that in the CFR that currently exists for dolphin and wahoo; there is actually a mistake in there. Each time it references the federal charter vessel/headboat permit for South Atlantic Snapper Grouper; and we verified that is actually in the CFR.

So we're aware of the fact that when action is taken on this specific action, that language is going to be changed to make sure that it points to the appropriate dolphin wahoo permit. We're

aware of that issue, but what is printed here in the document as the CFR under the old language technically is correct. Remember, the AP preferred Alternative 1 for dolphin and Alternative 4 and Alternative 7 for wahoo.

MR. HAYMANS: Mr. Chairman, in an attempt to augment Alternative 1 with the new Alternatives 2 through 7, I would make a motion that we accept the IPT's recommended wording for Alternatives 2 through 7.

MR. SWATZEL: I just want to make sure you're not going to accept Alternative 1 language, too?

MR. HAYMANS: My apologies; I was looking purely at Page 8. Yes, Alternative 1 as well.

MR. SWATZEL: Okay, we have a motion to accept the IPT's recommended wording for Alternatives 1 through 7. Seconded by Wilson. Any discussion of the motion? Any opposition to the motion? Hearing none; the motion is approved.

DR. CRABTREE: As I read through these AMs, even with the IPT's modifications and all, boy, are they confusing when you read them. It still seems to me, Brian, there is a lot that could be done in terms of rewording these to make them more straightforward. I have to sit here and read them multiple times just to understand what they do.

DR. CHEUVRONT: I think one of the things that might help, and just now thinking about this, is that they are separated by sectors. The Alternatives 2, 3 and 4 are basically the same as Alternative 5, 6 and 7, and it refers to the different sectors and allowing the council to determine if they wanted to apply these additional actions to the AMs that already exist, but allowed to choose separately based on the sectors.

Just as you said, I thought perhaps what we could do is provide some headings that would define these by sectors to help make that a little more explanatory. Other than that, the differences between them are fairly subtle. I think we captured all the discussion that the council had had before.

We can go back and look at the wording and see if we can make it a little clearer, but I think the issue is that we've capture what the council has said they wanted before. I want to avoid getting into any new alternatives that would be outside the range or scope of what we're going. One of our goals here at this meeting is to vote on this to send it out for public hearing.

If you ask us to change something significantly, my fear would be – and we take it out to public hearing, would we have to go back out to public hearing later, and that is the thing I would really like to avoid, if at all possible, just so we can get this thing moved along.

MS. BECKWITH: When I read through these the first time, I didn't go ahead and comment on the wording because it is already what is in the Code of Federal Registry. The first couple of times I read through this, when it says during the following year and then a little while later it talks about reducing the ACLs in the following season, the first few times I read that, it was

almost like a year, two-year, three action, like a multi-year action. I think I understand obviously what the original intent is, but I agree that the wording is not the best. It is not so much the alternatives that we're adding in; it's just the original language is not great.

DR. DUVAL: Mr. Chairman, I'm not on your committee, and I'm wondering maybe, Brian, if this gets at what Roy is trying to say if these were actually condensed into two alternatives with subalternatives underneath them where Alternative 2 would be if the commercial ACL is exceeded, then you have Subalternatives A, B, and C; and Alternative 3 if the recreational ACL is exceeded, then you have Subalternatives A, B and C.

That might make it a little bit easier for folks to digest that really we're just talking about a few subtle subalternatives for the commercial sector and then those same equivalent subalternatives for the recreational sector. Again, I'm not on your committee, and I just offer that up.

DR. CHEUVRONT: I think that is probably a really good idea, and I think we could probably work that out by the time we get to Full Council if you want to wait until then to decide if you like the wording or want to wordsmith it a little bit and maybe wait until then to see if you want to choose a preferred if we can get it to a form that you would want to have at that time.

DR. CRABTREE: Well, I can give you an example of what I'm talking about. For example, Alternative 6 here, it says if recreational landings estimated by the SRD exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for persistence in increased landings; and if necessary the RA shall publish a notice to reduce the ACL in the following the season.

I'm not sure if that's the following season following the following season that we just brought up by the amount of the overage. That is one issue. Then it says, however, the length of the recreational season will also not be reduced during the following fishing year.

If the RA determines based on the best scientific information available that a reduction in the length of the following season is unnecessary – aside from way too many “followings” that gets confusing, so it says there that I won't reduce the length of it if the RA determines it is not necessary, but it doesn't say that you will length of it if it is – you know, it doesn't say you'll close the fishery if you hit it the next year.

DR. CHEUVRONT: Point taken and we will work on that.

DR. CRABTREE: And that is the problem with it; all these “followings” get really confusing and then sometimes it is more focused on what you're not going to do than rather just coming right out and saying if this happens here is what you do. That is kind of what I'm getting at.

DR. CHEUVRONT: Okay, I think we got it.

MR. HAYMANS: Roy, to your point, if I read that, it is basically looking at two years; that if it is over one year and if it is over the second year, then you're going to take action; is that the way you read it?

DR. CRABTREE: Well, I think that is what it means, but it is awful hard to tell for sure, and that is really the problem with it. You ought to be able to write this in a way, it seems to me, that is clear and not leaving you to kind of I think it is what it means. That is where we get in trouble; because whoever writes the rule will think it means this, but maybe that doesn't.

MR. SWATZEL: Maybe I could suggest on this action that we will defer until the Full Council and allow Brian a chance to recraft some of these alternatives and maybe regroup them also, and then maybe at Full Council we could deal with whether we like the language or not and also then pick a preferred. Is that maybe the consensus of the committee?

DR. CHEUVRONT: That's fine.

MR. HAYMANS: So should I remove that motion?

DR. CHEUVRONT: It actually hasn't been approved.

MR. SWATZEL: We haven't approved the motion.

DR. CHEUVRONT: No.

MR. SWATZEL: I assume we can withdraw the motion. Is there any opposition to basically removing the motion? Hearing none; then the motion is removed, so we will defer action on Action 2 until the Full Council.

DR. CHEUVRONT: Okay, Action 3, that's to modify the sector allocations for dolphin. This is another action that came from the AP in 2012. Currently the sector allocations are determined using the same methods that were used for many of the other species in the Comprehensive ACL Amendment, which was to use a combination of long-term history and short-term history to determine the sector allocations.

The AP felt that because in essence the council had had sector allocations in place for this dolphin fishery prior to Magnuson, which was the soft cap and all that, it was just a lot of the fishermen felt that it was pseudo-sector allocation, and they would like to go ahead – you know, they brought it up that maybe we should consider using that allocation method that was in place before that the fishermen had approved as the actual allocation for the sectors.

In looking at this, the Alternative 1 is to stay with what is currently in the Comprehensive ACL Amendment. Alternative 2 looks at going back to making that soft cap allocation the actual allocation, so that would make it 87 percent recreational and 13 percent commercial. Alternative 3 that was developed would look at in the five-year period from 2008 through 2012, set the commercial allocation at the highest percent of landings during that time period.

Alternative 4 was to look at setting the commercial allocation equal to the average of the percentage of total catch by the commercial sector over that time period. When that was all presented to the AP at their March meeting, the AP selected Alternative 4 as their preferred

alternative for this action. There are some suggested wording changes as well from the IPT. Basically, what it does is it tells you what the actual percentages would be under the Alternatives 3 and 4.

MR. SWATZEL: I guess we're looking for a motion to approve the IPT's recommended language for the alternatives and then maybe we can deal with the issue of a preferred.

DR. LANEY: Mr. Chairman, I will move that we accept the recommended changes by the IPT.

MR. SWATZEL: Seconded by John Jolley. **Any discussion of the motion? Any opposition? Hearing none; the motion is approved.** Is there a desire on the part of the committee to choose a preferred alternative? Anna.

MS. BECKWITH: I'm not quite ready for a preferred, but I was going to make a couple of comments based on Brian's discussion on the potential ORCS bringing up dolphin to 21 million pounds. If my memory serves, part of the discussion at the Dolphin AP was still kind of trying to keep it to that 1.5 million cap.

I think probably is not as important right now; but certainly keeping to the original vision and intention of the Dolphin Plan, it was to maintain this as a recreational fishery and to maximize the commercial harvest to about 1.5 million pounds. I just want to bring up for the record that if we were to bring the ACL of dolphin to 21 million pounds, the original Alternative 1 would still surpass that 1.5 million pounds that was the original intention of the FMP. I just kind of bring that for the record, but I don't have any significant problem with the AP's Alternative 4.

MR. SWATZEL: Okay, does the committee want to move forward without choosing a preferred alternative here? I don't see anybody really eager to do anything.

MR. HAYMANS: Mr. Chairman, a quick clarification, if I could, and I guess maybe to Jack, because I didn't catch the beginning; but have we ever exceeded the dolphin ACL?

DR. McGOVERN: The ACL just went into place last year, so we have never exceeded it. The landings have come close to what the ACL would be in previous years. I would have to look in the amendment. I think Brian might it with him, but I think maybe in 2008 or 2009 we came close to it.

MR. HAYMANS: And that was actually my question; but that is on the commercial side; correct?

DR. McGOVERN: On the commercial side.

MR. HAYMANS: We're still woefully away from the recreational maximum?

DR. McGOVERN: Right; we're like 45 percent of the recreational ACL last year is I think what I said.

DR. CHEUVRONT: And to your question, Doug, Table 3 on Page 5, if you look at 2009 for dolphin, had the ACL – actually the commercial sector caught 14 percent so they did actually exceed the percentage version, but it was not over the 1.5 million pounds at the time, so that really didn't trigger any further action. It hit one side but not the other, so nothing happened as a result of that.

MS. BECKWITH: I would move that we remove Alternatives 2 and 3 to the considered but rejected appendix and just take Alternatives 1 and 4 out to public comment.

MR. SWATZEL: Okay, we have a motion by Anna to move Alternatives 2 and 3 to the considered but rejected appendix; seconded by Steve. I have a second by Steve Amick. Discussion? Roy.

DR. CRABTREE: Well, I'm not on your committee; but if you're going to have an action in here to re-look at the allocation for dolphin, I can't imagine that only one alternative would end up being sufficient for that. While if you believe you have good reason to change this allocation, you're certainly free to do that, but you need to be very careful and make sure that you adequately analyze a full range of alternatives and whatever change you make to this, that you have a very solid record to back it up. I can assure you this will be looked at very carefully by the public, and it will be controversial.

MR. HAYMANS: And additionally, Alternative 2 was the preferred of the AP. I would hate to send it away.

DR. CHEUVRONT: It was recommended by the AP in 2012; but at their 2013 meeting, when we brought them these additional alternatives for consideration because we needed to have – for exactly what Roy said, we needed to come up with additional alternatives for consideration for changing the sector allocations for dolphin, the AP changed their preferred alternative to Alternative 4.

MS. BECKWITH: That's fine; I'll be happy to remove my motion.

MR. SWATZEL: Okay, Anna is wanting to basically withdraw her motion with the acceptance of the committee. Is there any opposition to that? Hearing none; the motion is withdrawn.

MR. HAYMANS: Brian, was that in the document; am I missing the AP's new –

DR. CHEUVRONT: No, I told you that today. It was in the AP Report, but it was not in the decision document.

MR. HAYMANS: I have to hear it, see it, read it, write it and –

DR. CHEUVRONT: I understand.

MR. SWATZEL: Okay, is there any desire on the part of the committee to designate a preferred alternative on this action? If not, we will move on. Okay, let's move to Action 4.

DR. CHEUVRONT: Okay, Action 4 – and we've had some problems with the wording on this action in the past, and you asked us to look at this again. This is the action to modify the framework. This is a very, very wordy action because it includes all the framework text that is in there.

One of the things that we felt was the council's intent was to try to make sure that the framework for dolphin wahoo basically followed along with what the council recently has done in regards to snapper grouper in Amendment 17B and then again in Amendment 27, which put in the process that allowed you to do the quicker changes for changes to the ACL. What we did was we looked at the language that is in there and we modified it slightly.

We didn't change the actual intent of what you were trying to accomplish; but what we did is we changed the alternative slightly so that Alternative 1 is what is the no action, current status quo. Alternative 2 would you allow you to achieve what you achieved in Snapper Grouper Amendment 17B, and Alternative 3 is designed to allow you to achieve what you got in Amendment 27.

If you would like for dolphin wahoo to follow exactly what you did in snapper grouper, you probably would need to go ahead and make Alternatives 2 and 3 as your preferred alternatives. Now, what we have done – okay, on Page 14 of the document, if look where it says Alternative 2, the recommended wording change is that the framework language will reflect SEDAR and SSC roles in setting MSY, OY and ABC.

Previously that was included as Alternative 3, and part of the old Alternative 2 language was to put in the procedure that would allow you to institute the ACLs more quickly, but that is what you did in Snapper Grouper Amendment 27. We pulled that part out of Alternative 2 and made that now Alternative 3; so all the actions that you were trying to achieve with this amendment are still here.

None of that has changed, but we have made it so that they would follow more closely the orderly path that you took with snapper grouper. Alternative 3 is to institute an abbreviated process for revising ABCs, ACLs and ACTs according to the existing ABC Control Rule outlined below, and that is number nine.

We would have numbers one through eight, which is revising the language so it would match what was in Snapper Grouper 17B, and Alternative 3 is the language that you would add for the abbreviated revision of the ABCs, ACLs and ACTs. Now, following number nine, just to keep them in numerical sequence, is number ten.

That one is not affected by any of the Alternatives 2 or 3 in this, but we left it there at the end so that you could continue to read what the wording would be if you decided to go ahead and do this. If you want to achieve the same thing that you have got in snapper grouper, you would need to select Alternatives 2 and 3, and you would need to decide whether you want to accept the

reworking of the concepts as the IPT did it to sort of line them up with those two snapper grouper amendments.

MR. SWATZEL: I guess we'll first look to see if you want to accept the IPT's recommendations for the changes. Doug.

MR. HAYMANS: Mr. Chairman, I would make a motion that we accept the IPT's recommended changes to the wording for Alternatives 2 and 3.

MR. SWATZEL: Seconded by Anna. **Discussion? Any opposition to the motion? Hearing none; the motion is approved.** Monica.

MS. SMIT-BRUNELLO: Brian, I applaud your efforts, but this is really confusing. I think you have done a great job, but maybe we can add some text boxes or something to kind of keep people follow along a little bit. I think that frameworks are always a dry kind of thing anyway, but they're so useful that it would be – if we can figure out a way – listen, I'm a lawyer – to try to make it easier for people to understand. I think that is an unusual thing something sometimes for us to say; but anyway if we want to do that, I think it would be really helpful if we could do that.

The other thing that I would suggest is that – Chairman Cupka alluded to this a little bit before, but changing the ABC Control Rule is not in the Snapper Grouper Framework, and it is probably something we should add to the Snapper Grouper Framework. For example, you're going to be given I think a new procedure or recommendation from the SSC on ORCS on dealing with those kinds of species.

To change then your ABC Control Rule, you're going to need to do a plan amendment. I have noted that in the Gulf Reef Fish FMP changing the ABC Control Rule is part of the framework process; so specifying ABC is part of the framework process and then changing the ABC Control Rule is part of the framework process.

You may want to add changing the ABC Control Rule into the framework here; and then when we get to the Snapper Grouper Committee we can discuss perhaps how to add it if you want to add it into the Snapper Grouper Framework.

DR. CHEUVRONT: Monica, I agree. I think this is a hugely long action in here. The first thing is now that the committee has chosen to accept the IPT's recommended wording, half of the language goes away because a lot of the stuff is repeated in there. I think your suggestion of adding some text boxes that would simplify and then give that explanation like what I had said would probably help make this to be a little more understandable. We can work on that and certainly we will get that into the public hearing draft of the document that goes out, and you will see it in the document when the council looks at it again in September.

MR. SWATZEL: Is there a desire on the part of the committee to adopt a preferred alternative or alternatives?

DR. CHEUVRONT: You might want to see if the committee wants to include the ABC Control Rule in the framework, and that would fall under Alternative 2.

MS. BECKWITH: I would move that we add language to add changing the ABC Control Rule into Alternative 2 of the framework.

MR. SWATZEL: Motion by Anna; seconded by Doug. **Is there any discussion of the motion? Is there any opposition? Hearing none; the motion is approved.** Doug.

MR. HAYMANS: Mr. Chairman, is it my understanding that if we select 2 and 3 as preferred that we line it up with snapper grouper? Then I would make that motion.

MR. SWATZEL: Okay, we have a motion to have Alternatives 2 and 3 as the preferred alternatives in this action; second by Anna. Any discussion of the motion? Any opposition? Hearing none; the motion is approved. That brings us to Action 5.

DR. CHEUVRONT: Okay, Action 5, this was an action that you added at the March meeting. This was to look at establishing a commercial trip limit for dolphin in the EEZ throughout the SAFMC jurisdiction. We went back to the original Dolphin Wahoo FMP, and there was an action in there that considered looking at trip limits.

I believe in the original document it went up to 5,000 pounds. Now, as we discussed it you decided to add alternatives going up to 10,000 pounds, 15,000 pounds and 20,000 pound trip limits. We went back did the analysis of the data, and there is a table on Page 22, and you will notice it only goes out to Alternative 7.

The reason behind that is because there were – in the last five years there were no trips north or south of latitude 31 north that exceeded 15 or 20,000 pounds. What you have there, if you look at Table 5 you can see in terms of the numbers of trips, the vast majority of trips were less than a thousand pounds, both north and south of latitude 31. The other issue is – and I mentioned this when I had talked about AP presentation – is that the presentation that was given to the AP by Don Hammond talked a lot about movement of dolphin.

He showed there is a real strong movement of dolphin up the coast from Florida going up past Georgia and up to the Carolinas. In thinking about this – I'm not pushing for one way or the other. I am just trying to give you some informed information to make your decision – is that is the council concerned for the potential of a localized depletion if as these schools move up, could one or two trips really wipe out what is happening to the dolphin as they're moving north and then make them less available to people fishing further on down the line in the migration.

I don't know if that is an issue that you really need to be concerned about or not, but I thought I would be remiss if I didn't bring that up as something that you all might want to talk about in deciding what you wanted to do. I can say that the AP recommended no trip limit for the commercial fishery.

MR. SWATZEL: I was at the AP meeting and I thought that Don Hammond made a good case about the movement of dolphin and the fact that they're moving so rapidly that it is really hard to have localized depletion. I think that was pretty convincing for the AP in terms of their action to say effectively we don't need trip limits. What is the pleasure of the committee? Anna.

MS. BECKWITH: I would like to see this go out for public comment, but I don't feel we need to pick a preferred.

MR. HAYMANS: If that is the case, Mr. Chairman, I would like to at least eliminate some of the subalternatives for consideration; and based on the numbers that I see, I don't think I'd go beyond 5,000 pounds. I would at least eliminate 7, 8 and 9 and move to the considered but rejected.

MR. SWATZEL: Is that your motion? Second by John Jolley. **The motion is to move Alternatives 7, 8 and 9 to the considered but rejected appendix. Any discussion of the motion? David.**

MR. CUPKA: Again, I'm not on your committee, but I was going to make the comment that Table 5 gives you total pounds in numbers of trips, but it doesn't really tell you what you can calculate as an average, but you don't know if one trip was a thousand pounds and the other was 10,000 and so it was 11,000 pounds; and if you just pick an average is 5,500. It wasn't clear to me whether some of those trips may have exceeded that maximum amount or not.

DR. CHEUVRONT: What this is, for example, if you look under Table 5, Alternative 6, you have 34,965 pounds on average by an average of five trips. All of those trips on average did not exceed 10,000 pounds. So all those trips, on average there were five trips that somewhere between 5,000 and 10,000 pounds each year.

I'm looking at just for north of 31; so we know that somehow they fell into that box, but we don't know exactly how much – we can figure that out, but would be confidential data, so this was a way to present the data so that they would not be confidential and you could get an idea. We do know that there were five trips on average each year that landed between five and ten thousand pounds, which would put them in that Alternative 6 bin.

MR. CUPKA: But that still doesn't give you a breakdown of the pounds landed by trip. It just tells you what the average is.

DR. CHEUVRONT: Well, you could average it again, but, yes, you don't know specifically. We just know that the minimum of those trips was at least 5,000 pounds.

MR. CUPKA: Right; but does it tell you whether any of those were – if you're just dealing with averages, it would have been better to see – maybe we couldn't see it because of confidential data, but it would have been better to have a breakdown by the amounts and the number of trips that landed that rather than dealing with averages. I'm not going to press the point.

I'm just saying that to my way of thinking it doesn't really tell you whether any of those trips exceeded, say, Alternative 7 where they exceeded 10,000 pounds. You know there was an average of two trips taken out of that period that landed 27,688 based on averages, but couldn't one of those have been a thousand pounds and the other 26,000?

DR. CHEUVRONT: No, that would not be the case. They all had at least 10,000 pounds and none of those trips exceeded 15,000 pounds, so all the trips fell in that bin for all the years –

MR. CUPKA: So these really aren't totals; they're averages is what –

DR. CHEUVRONT: That is the average by year. We had two trips and if you averaged that, it would come out to roughly, for example, under Alternative 7, north of 31, it would have come out to roughly 13,800 pounds. That would be the average. You just divide that number by the number of trips that were taken, and that would tell you the average poundage per trip, but we know that the minimum was 10,000 and the maximum would have been 14,999. It could not have been more than that. We just knew that they fell within that range.

MR. PHILLIPS: Mr. Chairman, I'm not on your committee, but just trying to crunch some math here and looking at this table, if you take out Alternative 7, you theoretically could be taking out 10 percent of the production even though it is only a couple of trips; and if they're looking at having a much higher TAC, I don't understand the rationale of trying to lower production when we should be getting more fish. It doesn't make sense to me.

DR. CRABTREE: I was just going to say I think in the amendment on PDF Page 102 there are a couple of graphs that show pounds per trip; but when you look at them, there is virtually not much at all you can see above 500 pounds that even shows up. This is a tough one because I think, Brian, you said something about a couple of trips could cause some localized depletion, but then we're talking about a fish that has a total ACL of around 14 million pounds and 90 percent of it is the recreational fishery, so it just seems very difficult to make the case to me that this is causing any significant problems. It is hard for me – I'm not on your committee, but it is hard for me to see where the rationale is for a trip limit here.

MR. SWATZEL: Okay, we have still a motion on the floor to move Alternatives 7, 8 and 9 to the considered but rejected appendix. Any other discussion of the motion? Doug.

MR. HAYMANS: Just in relation to Charlie's comment, so those two trips that caught 27,000 pounds are going to get at least 10,000 pounds of that, so you're not losing the whole 27; but if it makes you feel better, **I would amend the motion to get rid of Alternative 7 and just be 8 and 9 to the considered but rejected.**

MR. SWATZEL: You're amending your motion?

MR. HAYMANS: Yes, just to be Alternatives 8 and 9 to the considered but rejected.

MR. SWATZEL: John was the seconder, and you're okay with that?

MR. JOLLEY: Yes.

MR. SWATZEL: Okay, so the motion has been modified to move Alternatives 8 and 9 to the considered but rejected appendix. Any further discussion? Any opposition? Hearing none; the motion is approved. Do you want to consider any preferred on this action at all? I'm seeing heads shake no. Since we're still working on the language to consider, rather than taking a vote to move it to public hearing, I would suggest waiting to do that at the Full Council meeting rather than doing right now. Does anybody oppose that? Anything else having to do with Amendment 5?

DR. CHEUVRONT: No, Mr. Chairman, I think that handles it.

MR. SWATZEL: Okay, we have got just a little bit of new business now to consider before we adjourn. We have Tim Nettles here, a recreational fisherman from Palm Beach County, if we get him to come up to a microphone, wants to speak just a few minutes about an issue about dolphin and wahoo that are caught in Bahamian waters and some transit issues relating to that.

MR. NETTLES: Thank you, Tom. My name is Tim Nettles, recreational fishermen from Florida, Palm Beach County. Also, I think I'm a lifetime member of the Dolphin Wahoo AP. The slight issue we have is – it is not only an issue, but it started as a slight grumble and it is starting to roar a little bit – recreational boats returning from the Bahamas; there is an exemption to where they can bring back filleted snapper and grouper.

But, pelagics, dolphin, wahoo and tuna must be returned head and tails intact. The grumbling is smaller boats going over and in the Bahamian waters they're allowed to keep 18 fish. To keep 18 tuna or dolphin of the size that are normally caught in the Bahamas, it is really hard to keep properly iced and managed as a whole fish. There are a number of people starting a push to see if we can extend that exemption to even pelagics being transported back from the Bahamas. I know John has been approached and several other people in other APs for the council. I think this will come up later on in the council meeting this week.

MR. SWATZEL: Are there any questions for Tim? The snapper grouper regulation that you refer to; is that a Florida regulation or – we're trying to figure where it is in the –

MR. NETTLES: I actually printed off a couple of copies. It is in the commercial regulations. It is 622.38; and then I guess you would call it Paragraph A, it talks about everything being landed by heads and tails are intact; but then in Paragraph H, there is one paragraph that states, "In the South Florida EEZ snapper grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with heads and fins intact provided valid Bahamian fishing and cruising permits are on board the vessel and the vessel is in transit through the South Atlantic EEZ .

"For the purpose of this paragraph; a vessel is in transit through the South Atlantic EEZ when it is on a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ." So, yes, it is actually a federal regulation.

MR. MAHOOD: Tom, this was something we did; and, Gregg, I can't remember how many years ago it was, but it was a long time ago. As a matter of fact, we were talking with David about it earlier and he says he even thinks it was before he was a council member, so it was a long time ago. It took a lot of work.

We had to have I think the NOAA folks talk with the Bahamian government. You read the regulation as to how it was set up. One of the key items there was that you couldn't stop and fish on the way back. It would have to be the same, but it would have to be a process that would go through a plan amendment.

There would have to be some sort of agreement with NOAA to work out that particular regulation. We certainly can start looking into it to see what it would take to add onto it. You would think it would be simpler now that we already have the process for snapper and grouper, so we will start looking into it. We have had a number of inquiries about how we could do that.

MR. HAYMANS: I hate to ask a stupid question. Head and fins intact; does that mean filleted or does it mean removal of heads and gutted. Have we stretched what head and fins intact means? I'm not sure what it means; that is why I'm asking. It is one thing in the shark world; and I don't know what it is –

MR. JOLLEY: Well, I can tell you my guesstimate would be 65 to 75 percent of the boats; there is no way to store all of your dolphin heads and tails for a week on 32-foot boat or less. It isn't being done, number one.

I don't even do that; and some of us are going to the islands for a month and then we fly back and forth; but on the return trip we might be bringing back some stuff that is frozen. I can guarantee you none of it is frozen whole.

MS. SMIT-BRUNELLO: The gist of what you've said about the regulation is pretty accurate. The regulation, though, that I have just looked up in the Code of Federal Regulation reads a little bit differently, and so I will just read it into the record. It is actually 50 CFR 622.186.

Landing fish intact; Paragraph A states, "South Atlantic snapper grouper in or from the South Atlantic EEZ must be maintained with head and fins intact, except to specify in Paragraph B of this section such fish may be eviscerated, gilled and scaled but must otherwise be maintained in a whole condition.

"The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on that vessel in the EEZ are maintained intact; and if taken from the EEZ are maintained intact through offloading ashore as specified in this section."

Paragraph B talks about the Bahamian exception, "In the South Atlantic EEZ, snapper grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact provided valid Bahamian fishing and cruising permits are on board the vessel and the vessel is in transit through the South Atlantic EEZ. For the purpose of this paragraph, a vessel is in transit through the South Atlantic EEZ when it is on a direct and

continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ,?

MR. HAYMANS: To me that reads like sharks, and that is a log. I mean, that is a wahoo log or a dolphin – I mean, that is not a fillet, and it sounds like we have got a bigger issue and maybe we need to address the total of this and not just dolphin and wahoo but the definition for what you can bring back.

MS. SMIT-BRUNELLO: Well, I'm sure I can get our enforcement attorney's opinion and read it later in the meeting; but when you have fillets at sea, it is very difficult to tell what fish those fillets came from. I think I was a new enforcement attorney at the time when this was put in, but I remember, as Bob said, there was a lot of working with the Bahamian government and other sorts of things to figure out what they needed in place and what we wanted in place.

MR. HAYMANS: That is also a reason to leave the skin side on, too, right, to help identify.

MR. SWATZEL: Well, Bob has said that he would have staff start looking into trying to make some changes or suggest changes to us for resolving the issue that Mr. Nettles has. I am assuming it is the consensus of the committee to support that; hearing no opposition to that.

Tim, I appreciate you bringing that to the committee's attention. Any other business to come before the Dolphin Wahoo Committee? Hearing none; we are adjourned.

(Whereupon, the meeting was adjourned at 4:30 o'clock p.m., June 10, 1913.)

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44	Delancey, Larry	delanceyl@dnr.sc.gov 14 min
35	LEW, CAPT	capt@captlew.com 2 min
31	Mehta, Nikhil	nikhil.mehta@noaa.gov 319 min
19	holiman, stephen	stephen.holiman@noaa.gov 201 min
17	sandorf, scott	scott.sandorf@noaa.gov 79 min
16	Martin, Gretchen	gmartin@edf.org 178 min
14	Langowski, Greg	greg_langowski@rubio.sena... 51 min
14	DeVictor, Rick	rick.devictor@noaa.gov 283 min
14	Raine, Karen	karen.raine@noaa.gov 16 min
12	Eich, Anne	annemarie.eich@noaa.gov 350 min
12	Bresnen, Anthony	anthony.bresnen@myfwc.com... 315 min
11	steele, phil	phil.steele@noaa.gov 350 min
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7	Neer, Julie	julie.neer@safmc.net 220 min
7	Baker, Scott	bakers@uncw.edu 199 min
6	Gore, Karla	karla.gore@noaa.gov 194 min
6	Helies, Frank	fchelies@verizon.net 205 min
6	FARMER, NICK	nick.farmer@noaa.gov 231 min
5	g, a	andrea.grabman@safmc.net 16 min
5	Michie, Kate	kate.michie@noaa.gov 66 min
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1	c, m	mec181@yahoo.com 24 min
0	Laks, I	captaindrifter@bellsouth.... 0 min