

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

DOLPHIN WAHOO COMMITTEE

Sheraton Atlantic Beach Hotel

Atlantic Beach, North Carolina

December 8, 2004

Summary Minutes

Committee Members:

Rita Merritt, Chair
Dr. Roy Crabtree
Benjamin Mac Currin
Anthony Iarocci

Bill Cole
David Cupka
George Geiger
Spud Woodward

Council Members:

Dr. Louis Daniel
Charles Duane Harris
Mark Robson

Dr. John Dean
Lt. Commander Scott Rogers
John Wallace

Staff Members:

Bob Mahood
Dr. Vishwanie Maharaj
Margaret Murphy
Kim Iverson
Cynthia Morant

Gregg Waugh
Dr. Kathi Kitner
Rick DeVictor
Julie O'Dell

Observers/Participants:

Ginny Fay
Karen Raine
Joe Grist
Joseph Hendrix
Craig Whitfield
Crystal Watters

Monica Smit-Brunello
Dr. John Merriner
Bev Lambert
Jennifer Lee
Carole Yoder
Ron Smith

The Dolphin Wahoo Committee of the South Atlantic Fishery Management Council convened in the Pamlico Room of the Sheraton Atlantic Beach Hotel, Atlantic Beach, North Carolina, Wednesday morning, December 8, 2004, and was called to order at 10:15 o'clock a.m. by Chairman Rita Merritt.

Ms. Merritt: I would like to call to order the Dolphin Wahoo Committee. Committee members received an agenda and I would like to see if there are any changes or corrections. Hearing none, the agenda is approved. You were also provided with the minutes of the December 5, 2002, minutes via CD and if there are any corrections or changes to the minutes, please state that now. There being none, the minutes are approved. Gregg Waugh is going to give us an overview of the approved measures in the dolphin wahoo plan, which is your attachment under Tab 8.

Mr. Waugh: Rick is up here to help with this as well. Rick is our staff person in charge with the dolphin wahoo FMP, but given all his fun and activity with snapper grouper now, I volunteered to help just put the materials together for this meeting.

Behind Attachment 1 we do have a list of the actions that were contained in the dolphin wahoo plan. The ones that were disapproved, I've crossed through those. If you look at Action 11, that's the one that deals with the issue of recreational sale, and the action itself was to prohibit the sale of recreationally-caught dolphin or wahoo in or from the Atlantic EEZ, except for allowing for-hire vessels that possess the necessary state and federal commercial permits to sell dolphin harvested under the bag limit in or from the Atlantic EEZ.

We also included the action itself and that starts on page 164 and if you go through, we were looking at that time of an upper estimate of the level of harvest of on the order of 856,000 pounds annually in the South Atlantic. That's all hook and line. That was an upper estimate of the potential level of recreationally-caught fish that were being sold. For wahoo, it was on the order of 72,000 pounds.

If you look through all of this, there's no mention of tournament sales and this gets into the next agenda item a little bit. We went back and searched the minutes from the committee meetings and we couldn't find any mention of tournament sales either. It just looks like that wasn't an issue that surfaced while we were preparing the dolphin wahoo plan. The one item that we haven't researched yet is to go back through all the public comments and see if it was ever mentioned at a scoping meeting or a public hearing, but the FMP itself doesn't address the issue of tournament sales.

We did get material put together from the state of North Carolina and Louis is going to cover that. You'll see on the agenda I had information presented from the other states and I've talked to them. Due to issues that surfaced since the briefing book went out, I haven't had time to get with each of the state folks to gather information from the other states.

Some of them will be able to offer some input on the level of tournament sales, but we've decided, in talking with each of them, is should there be a desire on the committee and council's part to go forward, then we'll follow up with each of the states and compile data similar to what North Carolina has put together. That covers us right down to Agenda Item 5B.

Ms. Merritt: Any questions for Gregg? Louis Daniel is going to give us a status report of the tournament sales in North Carolina and there is an attachment that has some data regarding the reports submitted from the tournaments in North Carolina.

Dr. Daniel: If you'll look behind Tab 8 at Attachment 2, North Carolina put together some information. This is a significant issue here in North Carolina and I wanted to just review the information that we have gathered thus far. I would also like to acknowledge Crystal Waters, our Big Rock tournament director, is here. They have an interest in this issue, as you might expect.

Just to go through some quick background, in North Carolina fishing tournaments that desire to sell their fish have to apply for a recreational fishing tournament license to sell fish in North Carolina. That is a permit that's gotten from the Division of Marine Fisheries and it's valid for a week, generally the extent of the tournament.

The tournament organizers can only sell to licensed dealers and they've got to submit a trip ticket to the Division of Marine Fisheries and also and importantly, at least in my opinion, the proceeds from the sale of fish have to be used for charitable, religious, educational, civic, or conservation purposes and proceeds are not to be used to pay for tournament expenses.

Another point I would like to make too is that historically in the Blue Water tournaments they typically sell dolphin, wahoo, and tunas and we also have king mackerel sales. If you'll look at Table 2, you'll notice that there are also sales of flounders, both southern and paralicthys flounders.

The next page you'll see that there's some sales of speckled trout, but the dominant species sold from our tournaments are king mackerel. It's the dominant species, obviously. In Table 2, the average for king mackerel over the last three or four years was about 42,000 pounds from the various tournaments.

The dolphin average is around 2,500 pounds and wahoo, which is on the next page, averages about 1,500 pounds per year. Those fish are used in many instances. We collect a lot of fishery dependent information from those fishes. In the Blue Water tournaments, we collect otoliths, we collect DNA samples, we collect length, weight, and sex information.

For king mackerel, the majority of the king mackerel that we survey for our age/length keys come from the tournament sampling. There's a lot of information that's gathered, especially on these rarer species like wahoo and some of the bigger tunas, that we're able to get that information. In fact, Dr. Dean was involved in that with us for a little while and now NC State is in charge of collecting the information from the Big Rock tournaments.

The way we set this up, you can see in Table 1 it gives you the number of tournaments that requested licenses to sell fish. It averages out to about thirty tournaments per year. Table 2 goes through and just summarizes the pounds of the various species that are landed each year with a total and an average and the other stuff is just various iterations and breakdowns of that data.

Madam Chairman, that's really the summary that I have. It's an important component of the tournaments for the folks and we had a -- Right after the rule was approved and implemented, we

had a big sailfish challenge that was sponsored by the Big Rock tournament organizers and they were at that point, because of some uncertainties and some discussions that we had with NOAA General Counsel and NMFS Enforcement, they were advised to have the fishermen return their fish after they were weighed to the fishermen and so that was done. One question that I have, and I haven't researched this fully enough, but whether or not we can deal with this issue under framework if the committee so desires and the council ultimately so desires to make any changes to this. I'm not sure if we can do this through framework or whether or not we would need a plan amendment to make any changes.

Mr. Waugh: We'll look at the framework and see, but again remember the budgetary discussions and were we to go forward, the recommendation would be to fold this into the FEP comprehensive amendment. It almost makes it a moot point, but we will look and see if that's something that can be done under the framework as well.

Ms. Smit-Brunello: Louis, it depends on how you want to do it. The framework allows for permit requirements to be folded in and so if you want to provide for some kind of a tournament permit or something along those lines, that certainly could be done, I think, in the framework. If you wanted to handle it another way, tell me how and we'll look and see if there's a way to fold it in.

Dr. Daniel: To that point, one idea that I've had was if we could simply require the tournaments to be properly licensed by the state, as we currently do, and as long as they're properly licensed by the state, then they would be allowed to continue their sale.

Ms. Smit-Brunello: Gregg, I think you may have mentioned this and I'm sorry if I missed it, but do we know what the other state requirements are, South Carolina, Georgia, and Florida, and if they have those kinds of tournaments that take place offshore?

Ms. Merritt: Monica, we're going to try to get some information from our state representatives.

Mr. Cupka: In South Carolina, we don't have this occurring. I've checked with our people and there have been no sales of dolphin and wahoo taken during tournaments. In fact, for them to do so the tournament would have to get a wholesaler dealer's license, which allows them to receive fish and handle fish.

In addition, once they had that they could only get fish from either other wholesale dealers or licensed commercial fishermen. That means everyone in the tournament would have to buy a commercial fishing license and so we have not had this particular practice going on and I think it would be difficult without some changes in our laws to do it very effectively.

Mr. Robson: We haven't been able to get any detailed information, but in the development of our state consistency rule for dolphin and wahoo, which the commission just passed last week and will become effective in January, we hadn't received any comments or concerns raised about tournament sales.

We just haven't been hearing about it, but we haven't really had a chance to beat the bushes to see what may be going on out there. We don't have any kind of state tournament or license provision at this time and under our consistency rulemaking that the commission just passed, we would be implementing the current prohibitions on sale.

Mr. Woodward: As far as Georgia goes, we had one tournament in 2003 where there were a very small number of dolphin and wahoo sold. That individual who organized that tournament in 2004 decided to not sell dolphin and wahoo with the approval of the plan and the confusion that was out in the fishing community. They just decided they were not going to take a chance and get caught in the situation.

We do allow the sale of tournament-caught fish in Georgia as long as the individual associated with the tournament possesses a personal commercial fishing license and then they act as the agent of the tournament and sell the fish to a licensed wholesale dealer.

They can do it and it's a very simple process and as is the case in North Carolina, the majority of tournament-caught fish sales in Georgia is king mackerel. Even on king mackerel, it pales in comparison to what North Carolina has.

In that 2003 dolphin and wahoo sale, it was probably less than 500 pounds aggregate in that event and since then, there's been no interest and we have four Blue Water billfish tournaments and there's been no interest in selling fish in those tournaments.

Mr. Geiger: Just a question for Louis. Louis, it looks like North Carolina really has a great program here documented in regard to tournaments and how you take care of tournament sales of fish. One question. Did it create a problem in that sailfish tournament? Was it a sailfish tournament where you said that the fish were returned to the anglers? Did that create a problem for anybody?

Dr. Daniel: Historically, the charities that are supported by the tournaments, the Boys and Girls Club of Carteret County and various other charities, they weren't able to give that money that they normally give because they weren't able to sell the wahoo. I don't know that they had a lot of dolphin weighed in at that tournament, probably not. Certainly the wahoo with the price, it's a pretty good chunk of money that goes to those local charities.

Mr. Geiger: Louis, have you had any violations of the proceeds of sale provision of your state requirements?

Dr. Daniel: I am unaware of any, George. Most of these tournaments are affiliated with some type of charity, either the king mackerel tournaments or the Blue Water tournaments. Certainly the record of say the Big Rock tournament has been very charitable and I would not expect that to have happened, but I can't tell you for certain it's never happened.

Mr. Geiger: What about the SKA events?

Dr. Daniel: Like I say, from the king mackerel perspective I don't know. I know a lot of our really big tournaments are all affiliated with things like the fire departments and police departments and things like that and so they are directly affiliated. There are some money-making ventures, but as is stated in our rule the proceeds from the sale of the fish are supposed to go to a charitable organization or charitable event.

I think it's also important too to just keep in mind, and my intent in bringing this forward and discussing this was so that we could have some discussion at the committee level on this and I think what we've gotten thus far is great.

One of my issues is the data collection process and being able to collect information on these species. A lot of the billfish stuff and especially the larger wahoos and tunas are pretty uncommon to see and it's hard to go down to the docks and regularly see those fish like some of the other species that we deal with and we'll be talking with the MRFSS folks and they'll be discussing a lot of these rare events maybe and the LPS survey.

It does give us an opportunity that we don't otherwise get and it would be hard, I think, to ask these fishermen to wait while we process their fish and cut them open and have a bloody mess going back to their boats when we return them back to them.

I don't know how that will impact our ability to continue our biological sampling programs at the Blue Water tournaments. Certainly it would really be a disservice to our program if we weren't able to collect and sample from the king mackerel tournaments.

Mr. Iarocci: I'm very supportive of this program North Carolina has right now and I'm basically very impressed with the data collection that comes out of this. Living in the Keys and seeing how many dolphin tournaments we do have from south Florida all the way to Key West, I would hope that we could maybe someday get the data collection out of our tournaments. Louis, with that said, I would like to in any way I can support this program and get that on the record.

Dr. Dean: I'm not a member of the committee, but I have a couple of questions. Are these tournaments commercial ventures?

Dr. Daniel: Some are, yes. Some are absolutely money-making ventures for some people. Like I said, the amount of money thus far that's been donated to charitable organizations through the Big Rock tournament exceeds a million dollars since the outset of that tournament and the other tournaments are likewise. But yes, I can't imagine that they're not all money making, at least to some degree, for some folks.

Dr. Dean: It may be a legal point, but it seems to me that if it's a business venture where they're using the resource, I see no substantive difference between that and a commercial dock that has fishermen that come and buy and sell and trade at that dock and I think that's an issue that has to be adequately addressed and that's kind of a Monica point that we need to get sorted out.

If they're using that resource as a profit-making venture -- Any business can simply distribute a

portion of their income as a gift and get tax credit from it and so I don't think that really should be the driver on this. The other one along those lines, Louis, what category then, once the fish are sold, to what category are those fish counted in the landings data, recreational or commercial?

Dr. Daniel: They're considered to be trip ticket landings and that's all commercial, but they are distinguished in our trip ticket database, as you see here. You can pull out all tournament-sold fish specifically so that when we go through and I ask for the landings of king mackerel by gear type, there will be gillnet and there will be trolling, and there will be hook and line and there will be various categories.

Then from the hook and line I can split out the tournament sales and account for every pound of fish sold from a tournament. I can distinguish that, but we don't necessarily have a program -- We don't include those fish, I don't believe, when we talk about our recreational landings.

Dr. Dean: I understand that and I got that from there. Just for sake of discussion and record, what would happen and how would an angler that fished in the tournament respond to the MRFSS phone survey about recreational fishing and fish caught and landed?

Dr. Daniel: Most of our tournaments only allow you to weigh one fish and so if they had six fish on board, or however many fish they elected to retain during that tournament, I would assume that they would indicate how many fish they actually caught. Now whether or not MRFSS asks if this was during a tournament and did they weigh in any fish that were retained by the tournament, I don't know the answer to that.

Dr. Dean: On the phone survey, they would certainly respond that they were recreationally angling and that's another place where we can get certain confusion, it seems to me. I think then that I would -- It's puzzling to me when we know that there is a kingfish tournament trail, and even though this is not the issue for this committee, but it certainly comes into play, that there are people whose profession is catching fish recreationally so called and yet they're making their living. It seems to me that when you're a professional and you make your living off a resource, then that's a commercial venture. It's a personal point, but I wanted to put that out.

Dr. Crabtree: To go back to this issue of how the fish are counted again, it seems to me that there's likely double counting taking place because the MRFSS telephone survey is just used to get effort. It's not used to get what they count.

If MRFSS random digit dialing calls one of these folks who was in one of these tournaments and asks him if he went recreationally fishing, I'm almost certain they're going to say yes and they're going to give them the data and so that recreational fishing trip will then go into the overall effort, which combined by the dockside interviews, will be used to expand the catch. Then at the same time, these fish are going to come in and trip tickets will be filed and so it seems to me they would be double counted. I would add that Tom Sminkey from MRFSS is due to come in this afternoon. We're having a recreational data discussion this evening and we could ask Tom about that. I'm not sure how to avoid double counting. I think you would have to then figure out about

how many of these tournament fish there are and you could probably make an adjustment to the MRFSS effort to account for it, but I don't think that's done right now.

Louis, how are the fish handled when they come in? Are these fish put up on the nails on the big board outside and everybody gathers around and gawks at them and then they go through a big showy process of weighing them and putting them back up in the tournament or are they all kept in coolers on ice? How are they handled when they come in?

Dr. Daniel: I would say that they're handled very well and no, they're not stuck up on nails and left hanging around. Sometimes the billfish are left hanging, in some instances, but those aren't sold or consumed. The game fish category species, which are yellowfin tuna, wahoo, and dolphin, they're handled quickly and professionally.

Dr. Crabtree: Has anything been done to see if all the HASP standards that commercial fishermen are required to comply with are being complied with by these tournaments?

Dr. Daniel: As far as I know, that would be done at the fish house.

Dr. Crabtree: The fish come in and after it's all said and done and weighed, then I guess the tournament organizer takes the fish to a dealer and gives the fish to the dealer and then the dealer sells the fish and gives the proceeds to some charity that's been earlier identified. Is that how that works?

Dr. Daniel: No, the tournament would receive the payment and then they would distribute the monies to the charities, as far as I am aware.

Dr. Crabtree: The tournament sells the fish to the dealer and gets the money from the dealer and then they give it -- Do we track all that? Is there a record to show exactly how much money was here and how much money went there? Do you all watch that to make sure that all of it is above board and --

Dr. Daniel: We have economic data that we collect.

Dr. Crabtree: Do you require that they show you the receipt from the fish house and here's how much we sold it for and then require that they also show a receipt from the charitable donation and you make sure the two match?

Dr. Daniel: No, we don't go to that extreme, no.

Dr. Crabtree: How do we know if a tournament is keeping some of the money? It doesn't sound like there's a way to really know that.

Dr. Daniel: I don't believe we have an auditing program that would go to that extreme to keep up with such a trivial amount of fish.

Mr. Cupka: Louis, having lived through the dolphin wars there in Charleston several years ago, I remember the concern on the parts of recreational and commercial fishermen. The recreational that the commercial guys were out there when they were trying to fish and it was creating gear conflict problems and then the commercial guys concerned about all these fish that the recreational guys were dumping on the market and all.

I was just curious whether any of the commercial fishermen up here have ever complained about this practice. I know you say it's important and significant, but if you look at the poundage involved it really isn't all that much and so I was just curious if you've ever heard of any commercial fishermen up here getting excited about this practice.

Dr. Daniel: Yes. It was back in about 1996 or 1997, I believe, and Dale Ward and I worked on some issues on tournament sales of fish and what we did was we were able to use our trip ticket program to look at the catches of the tournaments and see if there could be a real significant impact on the commercial fishermen and their markets, particularly after a tournament weekend.

What we found was in our biggest tournament, which is the Atlantic Beach King Mackerel Tournament, that they averaged about a trip limit per tournament was what they sold, about 3,500 to 4,000 pounds of fish. That was one trip limit. How that impacted the market, probably not much. The big issue that has arisen really throughout the South Atlantic from discussions with advisory panel members is the counting of those fish against the commercial quota and I think that's a separate issue and one that we probably need to address at some point is having those tournament-caught fish or recreationally-landed fish counting against any recreational allocation or percentage.

I think Madam Chairman and I have talked about those issues, as well as some other council members. I don't believe that this -- We're looking at the landings of dolphin and wahoo in North Carolina and certainly these amounts of fish have a small bearing on the total landings, from the recreational sector, at least. We're averaging seven or eight million pounds a year of recreationally-caught dolphin, compared to an average of about 2,300 pounds sold at tournaments. Wahoo is a little bit higher percentage, but still a small amount.

The main issues and concerns that have arisen since the permits went into effect was having a resource that is a healthy resource and they're not overfished or overfishing and we have some -- We were very receptive to the charter industry and recognize the economic consequences of prohibiting the sale of charterboat-caught dolphin and made the exception for them to have the ability to sell their dolphin.

I just wanted there to be some consideration that perhaps if the tournaments were properly sanctioned by the state and monitored as they're being monitored now that this committee, and ultimately the council, may be able to come up with some type of provision that would allow these tournaments to continue to sell those fish as long as they were still giving the money to charities and still allowing the full and free access that we have to those tournaments to go in and sample those catches for the biological information.

Mr. Currin: Louis, one question that I think roughly thirty tournaments that you included in the tables, do those include the king mackerel tournaments as well?

Dr. Daniel: Yes.

Mr. Currin: Typically dolphin and wahoo aren't sold at king mackerel tournaments. It's embarrassing to turn in a wahoo at a king mackerel tournament, but it has been done. We're talking really about as far as Blue Water tournaments, out of that thirty there's a much smaller number, on the order of, if I had to guess, ten less?

Dr. Daniel: I would say it's probably about ten.

Mr. Currin: Just to put those numbers in perspective. There's another point that I would like to make, and the issue has come up, but the money that is donated to charities, and they span, as Louis said, from Boys and Girls Clubs to in the case of the Raleigh Saltwater Sport Fishing Club's king mackerel tournament to Take a Kid Fishing and churches and a whole host of groups that receive that money.

I just spoke with Spud on the side here and he's aware of tournaments in Georgia, and I know it happens in North Carolina, where the amount of money donated to charity oftentimes, I can't say always, but oftentimes exceeds the amount of money that is received from the sale of fish. So there's more money. They are money-making ventures for the large part, and good ones for some of the clubs and groups that sponsor these things, but they do donate more money than just the money received from the sale of fish oftentimes. The other issue I would like to hear discussed is we do allow sale of tournament-caught king mackerel and I think there's a consistency issue here with the council that I think we should spend some time discussing.

Dr. Crabtree: Bear in mind though that the king mackerel permit is not a permit to sell. It's a permit to exceed the bag limit and the dolphin permits are permits to sell. So there are some differences in how the permits are structured.

This sounds like a good thing and the amounts of fish do appear to be trivial. I'm a little worried about how do we police it. Have you defined what a tournament is because I look and the only definition of tournament I find in the regulations is an HMS regulation and it just says a tournament means any fishing competition involving Atlantic HMS in which participants must register or otherwise enter and which a prize or award is offered for catching or landing such fish.

My worry is what if I get six of my buddies and say we're a tournament now and we're going to register and I'm going to give a dollar to whoever catches the most fish and we get a permit and now I can sell the fish that are caught and then how do we define the charity? Can the charity be my kid's 521 fund and so now I'm going to take those fish and I'm going to sell them and I'm going to put the money in my kid's 521 fund and I just worry that unless we're real careful of this we could have those kinds of things just sprouting up all over the place.

All of us are aware that recreational sale and unlicensed sale is a big deal to the commercial fishing industry and it's something we've put a lot of efforts into trying to police. My only concern here is that we open up kind of a back door way to set up a scam that really is just allowing people to sell recreationally-caught fish. Now I think we could probably structure it in a way to make it work, but I think we would have to be real careful in terms of how we are defining things in order to police it.

Dr. Dean: Roy nailed one of my concerns is exactly that, that for us and in other activities that I've been involved with, if you're going to give money it's got to be actually a documented 501(c)3 organization and there are a lot of organizations that receive contributions and gifts that are not 501(c)3s and so that could be one of the kinds of criteria that could be in there.

I like the idea, Roy, of the tournament that you've proposed, a recreational -- John Wallace and I were talking yesterday about a recreational shrimping tournament. It has certain advantages for the shrimping industry and it might take care of some of their concerns that are out there right now.

But seriously folks, I really am concerned with the health issue in this regard. I'm not sure how HASP actually does get into this, but these are not HASP fish that the commercial fishermen have to deal with, HASP regulations. We know two things. One, we're dealing with species that can generate histamines in a way that can generate histamine toxicity.

Secondly, we're dealing with fishes that at least if we can broaden this to consider king mackerel, since it's, I think, legitimately on the table in this, we know we have a mercury advisory out on king mackerel. Tournament fishes focus or target large king mackerel. Large king mackerel carry higher mercury burdens.

If for some reason the agency charged with mercury evaluations were to go into the market and sample six of these tournament fish, you would see very high mercury levels entering the market, which then would make the internet and we would have another mercury and fish scare.

Anytime there is a seafood toxicity issue that makes the media, whether it's mercury in king mackerel or pesticides in salmon, even though they are at 10 percent of the level that's required for an alert, or a red tide alert in the Gulf of Maine, all seafood sales in the country suffer. All sales go down.

I'm concerned that if we had some situation occur with a tournament fish that's a recreationally-caught fish and it then impacted that way, you're looking at a very short-term gain versus a very long-term negative cost. I think that the health issue and the implications of health issues on these fish is something that needs to be addressed just as much as the disposition of a very modest amount of money relative to the benefits to charities.

Dr. Daniel: First to Roy's comment, it is a good thing and we do have some sense here in North Carolina and it is an application. We know the tournaments that exist in North Carolina. We

don't have Blue Water marlin tournaments popping up all over the place like some other tournaments we have.

We know the tournaments that exist and we know there's about nine or ten of them and it's a very important component of their civic duties and responsibilities that they take on. If you want to get into fish health and advisories and things, then that opens up a tremendous can of worms that this is just one of a thousand worms.

You start looking at some of these fish that come into these king mackerel tournaments that are sold and they've been laying on the deck all day long, in some instances. Certainly with the recreational sales of all the other species that we allow, they're not handled in near the way that these Blue Water game fish category species are held because there's big money involved in those fish. They want to keep those fish in as good condition as they possibly can so that they have -- Sometimes a pound will make a difference in a \$5,000 check or a \$2,000 check. So they're very cognizant of the quality of those fish that are coming on board and the way that they're handled.

You probably did a lot to deal with those issues and problems when we prohibited the recreational sale of dolphin and wahoo, the intent of which was to get rid of the back door sales and the problems that were occurring primarily outside of North Carolina, because we have a license to land and sell and we have a standard commercial fishing license. A recreational angler can't just come in and sell his recreational bag limit in North Carolina and hasn't been able to for ten years or more.

I recognize we can throw all sorts of monkey wrenches into this thing. I don't know how histamine-prone dolphin and wahoo are. Certainly tuna are and maybe wahoo and dolphin are just as bad or maybe not. I don't know the answer to that question, but it's an issue that needs to be vetted because it's going to come up in the next tournament cycle that begins in May with the Hatteras Shootout and when we have to go in and tell them that they can't sell their fish any longer.

I certainly would like to see the committee and the council come up with some way to accommodate these folks that have worked within the system and that have applied and have been seen by the division and have been carefully monitored and have been very cooperative with us and have tried everything to make their tournaments as conservative minded as they can by increasing size limits, by promoting circle hooks, by working with National Marine Fisheries Service to make sure that these things aren't a problem for the resource.

Those are issues that we need to keep in mind when we just blanket say -- We never had a discussion on this, as far as I know. I never remember this issue coming up in the discussions of the dolphin wahoo plan and Gregg was not able to find any discussions of this on the record and so that's why I felt like it was an important issue for the committee to discuss.

Mr. Currin: Roy, regarding your point about the difference between king mackerel, which the way they're dealt with and then dolphin and wahoo, with king mackerel you said there's an

allowance to exceed the bag limit. Couldn't there be something developed along those similar lines with respect to dolphin and wahoo to allow exceeding the bag limit and give them a permit which would then allow the tournament to sell more than the bag limit? How does that work exactly with king mackerel?

Dr. Crabtree: It could be done. My point was just that you're right that there are inconsistencies and that's because there are inherent inconsistencies in our permits. I believe in Mackerel 16 Amendment one of the alternatives in there, and I can't remember if it was the Gulf Council that put it in there, but there's an alternative in there to make the king mackerel permit a permit that's also required to sell, which would be consistent with most of our other permits.

There's no question that you could come up with a permitting scheme to accommodate this kind of activity and allow it and I don't mean to imply, Louis, that we're not properly monitoring these certainly in North Carolina. Just if we're going to get into -- It seems to me that if you want to do this, there are two ways to go.

It might be possible to just recognize the state tournament permits and let the states handle it. If we get into making a federal permit that's going to allow this, I think we need to be careful in how we -- We're going to have to come up with what is a tournament exactly and how do you meet that definition and then how are we going to track what people do. The council would need to decide do you want to allow this to happen anyway and then if you do, do you want to let the states handle all of it or do you want to try and amend the plan to create some sort of federal permit to allow this to take place?

Mr. Currin: A follow up to that. I'm content to let the states deal with it on an individual basis as long as it doesn't cause any big problems. A couple more things occurred to me during the discussion. One, John, we've been wrestling with the HASP certification and requirements in the state for a long time and it's been an issue and still is an issue here in North Carolina.

All of our dealers are not required to be HASP certified and so that's an issue much broader than just this and to follow up on something Louis said, I would agree with Louis that there's a huge impetus for the fishermen to care for their fish and I think many of them go to great extremes to make sure that the fish are kept cold and handled properly so that they don't lose weight because, as Louis said, there's sometimes a difference of a pound or two. In the case of king mackerel, ounces can make a difference between prizes and huge awards or lesser amounts.

The mercury thing is certainly an issue, but we've got HMS species, tunas, that also contain mercury and certainly the larger king mackerel do and I'm not sure whether it's an issue with -- It should be with large wahoo and I'm not sure about dolphin because of their longevity. We've got tunas that because they're regulated under HMS they can be sold, but also mercury is an issue there. It's a real hodgepodge of things that we're dealing with here and not all of them are under our jurisdiction.

Dr. Daniel: Certainly the easiest thing would be to let the states handle it themselves and allow us to continue operating the way we are and not create problems for some of the other states. It

sounds like Georgia has a system in place that works for them and we have a system in place that works for us. South Carolina would have to do a lot that they may not be willing to do or need to do since they don't have a precedent set to do it and it might be more of a problem for them than it's worth.

These fishermen that are participating in these tournaments are complying with all the on-the-water federal regulations. They have the HMS angler permit for the tunas, they have the dolphin -- If they are charterboat, which a lot of these participants are, they'll have the charter/headboat permit and so as long as they're landing under a sanctioned tournament sanctioned by the state, then they should be okay to donate that fish to the tournament and allow the tournament with a license to sell those fish. That would seem to me to be the easiest way.

One final comment on the way that the fish are handled. When we go to these big tournaments, the dealer that is usually associated with these tournaments is at the tournament. They supply the big mullet boxes, the big bins, and the ice and they actually inspect those fish as they go into the holding tanks so that if they do have a fish that's questionable, they will not accept that fish.

They also will be tested just to make sure that they're good and fresh and clean and they've been caught that day through tory meters or just through physical examination to make sure that the fish are suitable and have been recently obtained and not one that's been frozen for six months from last season or something.

There is some quality control there to make sure that they're not taking on a bunch of -- Those dealers don't want to have those problems and they're making sure that they avoid that as best they can.

Dr. Dean: That's very interesting because I like tournaments in a sense, conservation tournaments. I'm not opposed to that and I'm not opposed to charities, but the very comments that you both have made here about the quality of the fish and the efforts that are gone to and so forth and so on and the difference between one pound and ounces in terms of what that person can win as a prize, it seems to me, and when you describe what the dealer does for the quality of fish, you're describing a very standard practice for commercial fisheries and what their expectations are.

If the expectation as you enter a tournament is that you have the opportunity to win a significant cash prize and my understanding is that the Big Rock, for example, has a significant prize, cash prize, for first place, second place, and third place and there are some fringes that go with that we haven't even put on the table this morning that ounces can make a difference, that's a commercial fishery.

The way to handle this is if you're going to do that and you're going to get that much income from engaging in this, a commercial venture, it sounds to me like you ought to have a commercial license to fish that way. I think that's a legitimate concern in the process of the management of the resources that has to be addressed.

On a local basis, the amount of fish sale going back to the organization that puts the tournament together, that's fine if you end up doing that. If you're really concerned about the fish sale and so forth, why you can say 10 percent of the entry fee goes to the charity and that's clean and then that individual gets a tax deduction for that contribution.

It happens with the tickets I buy for the South Carolina Philharmonic Orchestra. A certain percentage of that I can receive -- It's a letter that I get from them and so there are ways to do this, but I think we also have to constantly look at what is the consistency between the way we manage this fishery relative to this one activity and the demands we put on other sectors of the fishery for their activities.

Dr. Crabtree: I think if the council decides that they're okay with this kind of activity, I think I agree with Louis. My preference would be to let the states handle it and I think what we could do would be to amend the plan to provide an exemption provided the tournaments have a state permit.

You could even ask each of the states to provide a -- You could require they provide a plan and say here's how we're going to define a tournament and here's how we're going to define a charity and here's how we're going to ensure that the fish are properly taken care of for health reasons and here's how we're going to track it.

They could have to submit that plan to the RA and then the RA could review the plan and write the state back saying, okay, you've met what the council wanted and the regulations require and by letter you're therefore eligible for this exemption.

We could do something like that, I think. It would still require a plan amendment and I'm not sure, Louis, that that could be done on the timeframe of next year's tournaments in May and so we probably are going to have a problem there. But maybe if they knew we were working on a fix we could suffer through it some. It seems to me that would be a preferable way to go rather than setting up some complicated federal permitting kind of condition.

Mr. Geiger: I was going to try a motion until I just heard Dr. Crabtree speak. I'm going to try it anyway and this has been going on for a long time and I'm not sure that the intent of what the dolphin wahoo plan was and the consequence of what we're experiencing today was the intent of the dolphin wahoo plan and so let me try a motion.

Allow the sale of tournament-caught dolphin and wahoo in North Carolina consistent with current state law and approve other states as requested for tournament sales of dolphin and wahoo contingent with development of state regulations similar to those currently in existence in North Carolina. Additionally, ensure fish sold as a result of tournaments are not counted against the commercial quota.

Each state would then come forward as they develop a plan if they want to include tournament sales of fish and present that plan to council and we would approve each state individually thereafter.

Ms. Merritt: Do we have a second?

Mr. Iarocci: I'll second for discussion.

Mr. Cupka: I had raised my hand earlier because I was going to make the same comment that Roy did. I think irregardless of what the intent was when we passed this plan or whether we really thought of all the ramifications, to me the bottom line is that what historically has gone on up here and that would not be allowed under the plan and we can change that through an amendment, but, again, I don't think we're going to get something through in time for your next tournament season. I just don't see any way we can do that. I agree that it probably ought to be left to the states, but the bottom line is, the fact of the matter is, that under the current plan that we can't do this until we change it somehow and that's going to take some time that we just need to be cognizant of.

Mr. Harris: I'm not a member of this committee, but I just had a question of Monica. Monica, you said earlier that we could establish permits by framework action under this plan?

Ms. Smit-Brunello: Yes, it looks to me like the permit requirements are under the framework.

Mr. Harris: My thought was that maybe we could establish a state tournament sale permit under framework action and do the similar kinds of things that Roy outlined to qualify for that permit and then you could do it under framework action.

Ms. Smit-Brunello: I'll certainly look at it. It's a good idea.

Dr. Crabtree: I guess, Monica, I was thinking more along the lines of not requiring that we issue them a permit, but just that we put an exemption in the regulations to allow state-permitted tournaments to be exempt from the permitting aspects of our regulations and that all the state and the tournament would really have to be would be essentially a letter of acknowledgement from the RA that they qualified for that exemption.

That's much easier, I think, than a permit, but I think I would like to ask Monica and staff to kind of work at looking at -- I want to make this as bureaucratically simple as we can, but I do think we would want the states to provide us with a description of how they're handling it and looking at the things that we've discussed here today.

I think we ought to have Monica and staff look at what are our alternatives on that and then come back to us. With regard to the double counting and those kinds of issues, I think we definitely need to look at that at some point, but I don't know that that needs to be part of the motion here. I think that's just something that when the Science Center starts putting landings together they would need to take that into account.

In the case of dolphin and wahoo, there's no quota anyway and so it's not an issue, but this will spill over ultimately to king mackerel and even there it's not that many fish, but it does seem to

me that we would want to make sure that when these fish are counted they're counted against the recreational side of things and with dolphin, we've got that cap on commercial landings.

Even though it's a trivial amount of fish, it ought not be counted on the commercial side towards their cap. These are recreational fish and they need to be treated that way and so that's something else that would need to be dealt with. I think that would be my advice on it right now, let GC and staff work on it a little bit and let Monica look into what flexibility we have and then we could come back to this at a follow-up meeting.

Mr. Cole: I'm inclined to agree with Roy. Let's keep this thing simple. The simpler we keep it, the better it's going to work. I am very, very concerned from a National Fishery Information Systems standpoint, specific to the Gulf and Atlantic ACCSP, when councils start monkeying around, frankly, with the definitions that are in the nationally-accepted Fishery Information Systems for what's recreational and what's commercial, we are going to have the same confusion that we had early on in all of our national statistics programs.

I think that if we don't want to count this little amount of fish in a certain manner, then we can subtract it out, but I don't think we need to put it in the regulation and start allocating fish that are caught one way, this way, and that way. It undermines, frankly, our whole statistical programs. For that reason, I can't support having that language in there. If there's another way to do this by having the states do the allocation adjustments and report it, then fine.

Ms. Merritt: Bill, before we go to Mac, I have a question. If we were in your mind flip flopping the data and going from allocation in a commercial column versus a recreational column, what's wrong with going with a third column that is recreationally-caught sold fish?

Mr. Cole: The statistical program can probably handle it as a tournament-caught fish like we have in the for-hire industry. There may be another way to do it, but the bottom line is the way the system is set up is once you trade, barter, sell, exchange, all those kinds of things, that becomes a commercial endeavor under the commerce clause of our Constitution and that's what that is based on and it then is recorded in our statistical system as a commercial transaction.

There are obviously a lot of recreationally-caught fish that get sold. There are a lot of recreationally-caught fish that don't get sold, but the minute they are exchanged, bartered, et cetera, et cetera, et cetera, it becomes a commercial endeavor and that's the way it's recorded and that's the problem. When we start saying that something is not commercial, we're going against the whole essence of our accounting systems and it's going to give us nightmares that we cannot envision today.

Mr. Currin: One comment and then a question of the NOAA folks. Regarding John Dean's comments on the commercial venture upon entering a tournament that there's some expectation of a reward, I'm not so sure I would agree with that. I think to be a commercial venture you have to have a reasonable expectation of a more or less short-term award and I'm not sure that I would agree that we should require that they purchase commercial licenses. We may have to issue another category of license, some sort of gambling license or something, because that's

really where I see that entering.

There is a very, in my mind, low expectation of reward for entering a tournament and I think you can talk to a lot of people who enter tournaments and if they stay in the game long enough, they're very, very lucky to break even over the long run, even if they win the Big Rock one time during their tournament life. I view that really as it's almost gambling as opposed to having a reasonable expectation of reward. Then a question for either Monica or Roy. Is there such a thing as an exemption permit? Timing on this is one thing that's important to us and can we issue a permit to exempt people from some regulations?

Ms. Smit-Brunello: I think what you would do is exempt them from the regulations. I don't think you want to issue a permit that would exempt them from the regulations. There's really two ways to go that I see initially, without having looked into it further, that Roy described. One would be a specific kind of tournament permit, which I hear most people around here not really wanting to get into, and the other would be to exempt these individuals who are permitted by the state, whatever North Carolina does, to exempt them from the requirements that are in the regulations right now and that seems to be the cleanest and maybe easiest way to go.

Dr. Crabtree: Mac, there's no provision in the regulations now that would allow me to exempt them. I can exempt scientific research from the regulations and those kinds of things, but there's nothing for this.

I would offer a substitute motion that staff work with NOAA GC to develop some options to allow us to recognize state permits in some fashion and it's our preference that it not entail issuance of a federal permit, if that can be avoided, and to come back with some alternatives to look at at the next committee meeting.

Ms. Merritt: We have a substitute motion with a second by David Cupka.

Dr. Crabtree: Let's add in sale by tournaments with state permits and develop some process for the states to provide a plan to the Regional Administrator documenting how they're going to handle the process. Also my motion was that staff work with NOAA GC.

Dr. Daniel: I just would like to ask Monica and staff when they're looking at this to see if there's any way that we can handle this through framework. The quicker we can do this, the better off we'll be, assuming that the committee and the council approves of this action.

Mr. Waugh: Hold that thought and discuss it when we get to full council and look at Executive/Finance because we were talking about staff workloads and there's no such thing as a simple framework. There's no such thing as a simple federal document anymore. In addition to the FEP and FEP comprehensive amendment, 13B, and 14 is hanging out there, to add a

framework action to dolphin wahoo would have significant negative impacts on those other items.

Dr. Crabtree: Even if it could be done with a framework, there's just no way anything would be done by this spring's tournaments under any circumstance and we could end up pushing it to have it done by the next spring, I'm afraid, but that's probably doable.

Dr. Daniel: I'm very much aware of the budgetary concerns and constraints, certainly. I just would like to be able to tell these constituents that are interested in this how we're moving forward with addressing it, whether we're not going to address it all and maintain what we have in place or possibly through framework, recognizing the budgetary concerns, possibly through plan amendment, again with the concerns, and then ultimately if those don't work out from a council-wide standpoint, through the FEP.

What I see is no action. Obviously that's the quickest thing and they're not allowed to continue to sell. A framework might be quicker and an amendment a little slower and the longest term solution would come through the FEP. As long as the committee understands that, those are the three options I see to handle this issue, one taking much less time than the extreme latter and I think Gregg would agree with me on that.

Mr. Waugh: One point of clarification. To me, the amendment to the dolphin wahoo plan would probably be a similar timeframe to the FEP is the only clarification.

Mr. Cole: If we do an amendment or a framework, do we have to run this by all the other councils also, I would assume?

Mr. Waugh: We would involve the Mid-Atlantic and New England. They sit on this committee as well and so those we would have to, yes, involve.

Dr. Daniel: Certainly if we do it under the FEP, we may want to look at the whole -- One of the ideas of the FEP is dealing with these permit issues and in talking with Karen Raine and Tracy and some of our other NMFS Enforcement folks and such, in order for this sailfish tournament that occurred in October -- We tried to figure out how we could get around this problem. Right now, they all have HMS angling permits and the charterboats have a charter/headboat dolphin wahoo permit, an operator permit, and have to have a commercial vessel permit in order to sell. That's four permits in addition to a state charter/headboat permit that they have to have in order to sell a dolphin and so clearly there's a permit morass that hopefully we'll be dealing with in our FEP and so that's one way that this whole thing may be folded into that process.

Ms. Merritt: We have a substitute motion on the floor. Any more comments? Are we ready for a vote?

Mr. Waugh: **The substitute motion is that staff work with NOAA GC to develop options to allow sale by tournaments with state permits, but not require a federal permit, and develop some process for the states to provide a plan to document how they will handle the process.**

Ms. Merritt: **All in favor, a show of hands; all opposed. Seeing none, the substitute motion is passed.**

Mr. Geiger: Before we move away from this, I would like to thank Father Fish and Wildlife for his emphatic comments and bringing me back into reality. My intention was to not to obfuscate data collection and to cause a problem, believe me. It was an issue of fairness and something that needs to be addressed in the future because I truly do not believe -- I know based on my re-education this morning of data collection and the definition of where fish are caught, but truly those fish are recreationally caught and commercial fish are commercially caught and sold and so it's just a matter of at some time maybe we can adjust the fairness of that because to count those fish, especially dolphin, against a very small commercial allocation I think is unfair.

Mr. Cole: To that point, George, I fully understand that. The way the systems are attempting to operate, since nobody can document an individual's intention when they leave, what we try to do is to measure the disposition of the harvest, regardless of what intention they had when they left the dock. That's the basis of the current system. That's the reason when we start making recommendations to adjust and to declare what the intention was, not how the product was disposed of, we're creating a new measurement system that is not consistent anywhere in the United States and that was the reason for my strong comments to let's stay with the system and let's then let the states, like Louis does, when they report the findings to the statistical programs they make those adjustments.

Ms. Merritt: George, I know you were ready to reel your line in on that motion just then, but from what I understand, we still have to vote on it. The fish is alive and we're ready to take a vote unless you're going to withdraw on it. It's now the main motion and so we still vote on it.

Mr. Geiger: I would like to withdraw that motion if I can.

Ms. Merritt: So we did pull the hook on his motion? Okay. Now we have a whole new fish on the line and so we're ready to take the vote on the main motion, which was presented as the substitute motion. **All those in favor, raise your hand; those opposed. The motion carries.**

Does anyone have any other items on this issue they would like to present? There being none, we'll open the floor to any public input on the ecosystem-based management if anyone has something in that regard. There being none, is there any other business beyond what we were discussing? There being none, this committee is adjourned.

(Whereupon, the meeting was adjourned at 11:30 o'clock a.m., December 8, 2004.)

Tape of proceedings on file (1)

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