

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

DOLPHIN WAHOO COMMITTEE OF THE WHOLE

**Renaissance Orlando Airport Hotel
Orlando, Florida**

June 10, 2010

SUMMARY MINUTES

Dolphin Wahoo Committee:

Tom Swatzel, Chairman
Dr. Roy Crabtree
Dr. Wilson Laney
Charlie Phillips

Robert Boyles
Ben Hartig
Rita Merritt
Red Munden

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Dr. Brian Chevront
Ben Hartig
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The Dolphin Wahoo Committee of the Whole of the South Atlantic Fishery Management Council convened in the Ballroom of the Renaissance Orlando Airport Hotel, Orlando, Florida, June 10, 2010, and was called to order at 2:00 o'clock p.m. by Chairman Tom Swatzel.

MR. SWATZEL: We'll call the Dolphin and Wahoo Committee of the Whole to order. The first on the agenda is approval of the agenda. Any additions to the agenda? Hearing none, the agenda is approved. The second item is approval of the September 2009 meeting minutes. Any corrections to the minutes, any changes? Hearing none, the minutes are approved. Basically, we're here to continue to review some action items and alternatives for inclusion into the ACL Amendment for dolphin and wahoo. I'll let Gregg lead us through the decision document.

MR. WAUGH: This is Attachment 1. I've got just the extracted actions up here that I'm projecting. We've got the actions of MSY and we've got the no action. The complications with MSY is that MSY is specified for dolphin in the Atlantic, U.S. Caribbean and the Gulf of Mexico.

Option 2 is an estimate from the production model, and we have Options 4 and 5 that were to be filled in. We did not get a recommendation for MSY from the SSC. We do have an MSY. There is no need to change it. It raises the complications of involving the other councils, so we may not want to make that an action item.

MR. SWATZEL: Any comments or concerns about the MSY? Roy.

DR. CRABTREE: I agree with Gregg. We don't have any new information so I would not make it an action item. I would just take it out and not deal with it.

MR. SWATZEL: Do we need a motion for that?

DR. CRABTREE: I would move that we not include MSY as an action item and remove it from the document.

MR. SWATZEL: Second by David. Any discussion? Any opposition to the motion? Hearing none, that is approved.

MR. WAUGH: The next item is the OFL. We've got an MFMT and an MSST in place. We did not get any recommendations from the SSC, so again I would recommend we make this not an action item since we have existing values.

MR. BOYLES: Mr. Chairman, I would make a motion that we not include this as an action item.

MR. WAUGH: Excuse me, I misspoke, we do have a recommendation on OFL. It is average landings from 1994-1997 of 11.88 million pounds.

DR. CRABTREE: I guess I'm still not sure it needs to be an action item. I mean, that is what it is and unless there are issues with it, it seems to me that is what we have and it would just be discussed in the document but not an action item.

MR. WAUGH: The one difficulty we have is that the MFMT that is specified is a fishing mortality rate and it doesn't have a yield associated with it; so if we need to specify a poundage, then we're going to have to use a poundage.

DR. CRABTREE: Well, an option that we should consider throughout these ACL documents is the guidelines state that councils should decide which of two methods they're going to use to gauge whether overfishing is occurring. One is to use maximum fishing mortality threshold, but the other is to use the OFL.

For most of these data-poor stocks, we don't have fishing mortality rate estimates so it seems to me we would use the OFL. I don't think we have fishing mortality rate estimates for dolphin or wahoo. At least we haven't had an assessment in many years so it seems to me we could withdraw the MFMT and replace it with the OFL. Basically that would mean if catches are below the OFL, we're not overfishing; if catches go over it, we are. It seems to me that would be one way to handle that.

MR. SWATZEL: What is the pleasure of the committee? Charlie.

MR. PHILLIPS: Well, where would we get the OFL numbers from?

MR. WAUGH: Well, we have a value recommended from the SSC, and again that is based on the average landings from 1994-1997. Farther along, Table 1 shows you the landings so that you can gauge – it is on Page 11 of Attachment 1. If you look at that, you see that the landings came close in 2007 and then in 2000 and 2001 they exceeded that level.

MR. CUPKA: But we really don't have a total of that, do we, Gregg? We've got total commercial and total recreational, but we don't have the overall total. It may be other years it was exceeded.

MR. WAUGH: I'm pulling up a table that has the totals. Okay, this is a table that takes the data that you were just looking at in Table 1 and adds a grand total. Again, if you look back, 11.88 million pounds came close in 2006-07, it was exceeded in 2002, 2001 and 2000; very close in 1999.

DR. CRABTREE: Gregg, the landing seems to have dropped in 2003; isn't that about when we put the size limit and did some other things when the Dolphin Wahoo Plan was implemented?

MR. WAUGH: I believe that's correct.

MR. SWATZEL: Okay, what is the guidance on this item?

DR. CRABTREE: Well, **I'll make a motion that we withdraw the MFMT as the measure of overfishing and we indicate in the document that we're going to use the OFL as the measure of overfishing.**

MR. SWATZEL: Second by Ben Hartig. Discussion? **Any opposition to the motion? Hearing none, it is approved.**

DR. CRABTREE: And, Gregg, I think that is something that ought to be a decision point on all of these. One of the problems we've had constantly is we get an assessment and we take management actions to end the overfishing, but then we may not get another assessment for four or five years, and it stays on the list of stocks that is undergoing overfishing until we get another assessment.

If we change that on most of our stocks and said we're going to use the OFL as the measure, then as long as we brought the catches down, it would go off the list as undergoing overfishing if the catch is below the OFL. I think that is a way to get around what has been a long-standing complaint on this council and to have the list of stocks reported to congress and all that reflect the actions we have taken.

I think throughout the Comprehensive ACL Amendment that is kind of a decision point that we ought to make. Then when you get a stock assessment, the OFL should correspond with whether you're above the MFMT. I don't really think there is a whole lot of downside for it, and I think it would give a truer picture of what is going on with our stocks.

MR. WAUGH: Okay, the next item is the ABC Control Rule and ABC. Option 1 is no action. Option 2 is the potential ABC range based on 65 to 85 percent of MSY. Option 3 is looking at separating an ABC for the Atlantic. Option 4 is the ABC based on the SSC's data-poor control rule, and their recommendation for ABC for dolphin is 8,912,174 pounds.

That would cover the area that our management plan covers, New England, Mid-Atlantic and South Atlantic areas. We've got other non-SSC control rules as we have talked about for other species that are included in here as well.

DR. CRABTREE: Now, Gregg, make sure I'm not wrong, but I think what they did was set the ABC at 75 percent and that is how the control rule worked out for dolphin and wahoo. But, I think we have the same issues with this ABC Control Rule that they came up with that we did in the others.

My preference, to be consistent, would be to move this to the considered but rejected, but then I think we can adopt, which is essentially effectively the same thing, which is ABC is 75 percent of OFL. It is going to give us the same number, but I think it is more consistent with the way we handled the snapper grouper and the other species. I would like to hear how you guys feel about that, so I'm not making that as a motion right now.

MR. SWATZEL: Let me just point out that I believe based on this SSC ABC recommendation, that I think eight out of the last ten years that would have been exceeded, so just something to think about. Ben.

MR. HARTIG: One of the things that bothered me yesterday when we set ABC equals 75 percent of OFL are things that are unique with some species that we manage, and dolphin is certainly one of those, which has a very short life span and grows very rapidly, spawns in less than the first year.

Eventually I certainly would like to see us take a little more latitude to try and set that at a little bit higher percentage. I should have made the motion for a range yesterday, but I certainly think that dolphin especially you could go to 85 percent without any trouble.

MR. BOYLES: I make that in the form of a motion, Mr. Chairman, **that we specify ABC at 85 percent of the OFL for dolphin as Alternative 6C in the document.**

MR. SWATZEL: Second by Ben Hartig. Discussion? Roy.

DR. CRABTREE: So the rationale with dolphin would be because they're such a productive stock, they grow so rapidly that we're willing to accept more risk because the consequences of overfishing here are likely to not be very severe because the stock would recover very quickly.

MR. HARTIG: Yes, they spawn at age one or less.

MR. SWATZEL: Any further discussion of the motion? **Any opposition to the motion? Hearing none, it is approved.** Roy.

DR. CRABTREE: I then would **move that we move Option 4 to the considered but rejected portion. That is the SSC data-poor control rule.**

MR. SWATZEL: Second by David Cupka. Any discussion?

DR. CRABTREE: I think the rationale is the same as we discussed in the snapper grouper committee and we're just being consistent with the issues we have already raised with that control rule.

MR. SWATZEL: **Any opposition to the motion? Hearing none, it is approved.**

MR. WAUGH: The next item is OY; this is on Page 8 of your document. Again, for similar reasons is the mention for MSY. OY is currently specified; the amount of harvest that can be taken by fishermen while not exceeding 75 percent of MSY. That MSY is tied to the Gulf and Caribbean areas also, so I would recommend we not make that an action item.

DR. CRABTREE: Well, we need to think about this. If we leave OY at 14 to 34 million pounds, that is higher than what we just set the OFL at, and I have a hard time seeing how that is

reconciled. It seems to me we ought to set OY equal to the ABC that we just set because that is what we're going to try and achieve.

MR. HARTIG: So moved.

DR. CRABTREE: So, Ben, **your motion is to make Alternative 2 the preferred?**

MR. HARTIG: Yes.

DR. CRABTREE: I would second that.

MR. SWATZEL: Any discussion?

MR. HARTIG: The motion is adopt Alternative 2, OY equals ABC, as our preferred alternative.

DR. CRABTREE: And Monica just whispered in my ear do we have another reasonable alternative, but I think because we have a lot of alternatives for ABC that that means the OY is equal to ABC is so we therefore have a lot of alternatives. In fact, Gregg, I think you could take this out as an action and simply merge it into the ABC action if you wanted to. It doesn't much matter to me, but it does seem to me that because we're equating those and there are many versions of ABCs, that we therefore have a lot of potential alternatives for OY.

MS. SMIT-BRUNELLO: I agree.

MR. SWATZEL: Any further discussion?

DR. CHEUVRONT: Gregg, I think that is supposed to be 85 percent of OFL.

MR. SWATZEL: Okay, have we got it straight now? **The motion is to adopt Alternative 2 as our preferred, OY equals ABC. Any opposition to the motion? Hearing none, it is approved.**

MR. WAUGH: Next is dealing with allocations. We've got a number of alternatives here, and I'll try and blow this up so that you can see the numbers. A lot of them result in the very same allocations, and I will point these out. Alternative 1 is status quo, no allocations. We have in place now what has been called a soft cap of 1.5 million pounds on the commercial sector, or 13 percent of total landings, but that only triggers the council looking at the issue.

Alternative 2 would develop allocations based on the years 1999-2008, and it is using the table I just showed you, and we can go to that and look at that if you need to. That would result in 7 percent for commercial, 93 percent for recreational. That is Alternative 2. Alternative 3, looking at more recent years, 2006-2008, you get 8 percent commercial, 92 percent recreational.

Under Alternative 4, where we get into our ratio approach, looking at the earlier years and more recent years – in snapper grouper where we've applied this before, we've gone back to 1986, but our recent data that we have is 1999-2008, so I've just provided the figures looking at 1999-2008

and 2006-2008, and you come out with 8 percent commercial and 92 percent recreational, exactly the same as Alternative 3.

Alternative 5 where you're looking at three sectors, the ratio approach, you come out with 7.7 percent commercial, 0.3 percent to the for-hire, and 92 percent to the private recreational. Then Alternative 6 is a straight 50/50 allocation.

DR. CHEUVRONT: I've got a question here. Back when Alternative 1 was set up as the status quo; has there been any significant management changes to the fishery since that had happened because I'm wondering if there is any outside constraints that might have – I mean, 13 percent was set as the soft cap back then; and, clearly, except for maybe last year, it sounds like the commercial sector hadn't approached that amount, roughly 7 to 8 percent of the total landings.

I was wondering if there was something that had been done management-wise that might have influenced either the commercial or the recreational landings in the intervening years since the status quo was put in place.

MR. WAUGH: We have not amended the Dolphin and Wahoo Plan since it was put in place.

DR. CHEUVRONT: Thank you; that answers my question.

MR. GEIGER: Mr. Chairman, for purposes of consistency, **I would make a motion that use Alternative 4 as our preferred.**

MR. SWATZEL: Second by Ben Hartig. Discussion? Roy.

DR. CRABTREE: And, Gregg, you don't consider what we did in the Dolphin and Wahoo Plan with the soft cap to have effectively established an allocation?

MR. WAUGH: That would be up for you all to determine. It doesn't trigger anything other than a review by the council; so if you all conclude that's an allocation – the 13 percent commercial and 87 percent recreational, then we can expand that.

DR. CRABTREE: I don't think an allocation in and of itself necessarily does trigger anything. It just is an indication of how you think things should be partitioned; and then unless you set up hard quotas or something like that – you know, this is just an issue of what is the status quo. It seems to me you could at least argue that the status was the way we set it up in the Dolphin and Wahoo Plan. Who was here back then? David, did you consider that? I was on the council when we passed it, but would you have thought of that as an allocation when we did that and that was kind of the intent?

MR. CUPKA: No, it was really thought of as kind of a soft cap. We were trying to maintain that; and if it differed from that, then we would come back and revisit and see if we needed to change those percentages. In a way, you could look at it that way, but I don't think we intentionally set it up to be an allocation.

DR. CRABTREE: I guess just to me if that was kind of what we intended the mix of the fishery to be, that sounds a lot like an allocation to me.

MR. PHILLIPS: Gregg, Brian asked you if there was anything that would have changed I guess the amount of mahi being landed; you may not have done anything in mahi, but we had a lot of effort shift because of other regulations. I would bear that in mind.

MR. SWATZEL: Any other comments or discussion about the motion? Ben.

MR. HARTIG: Well, when was the swordfish – how far back was that? Well, basically when you moved the longliners out of the South Atlantic for the most part of at least the South Florida area, between South Florida and South Florida – all right, we didn't, all right – well, HMS. Gregg, do you remember what time period that was? No, I don't either.

MS. SMIT-BRUNELLO: Well, I'm just looking at the Dolphin and Wahoo Final Rule, and the HMS time area closures already were in existence when the final rule was established.

DR. CRABTREE: I'm reading the Dolphin and Wahoo FMP, and this is in the section where the cap was established and this is the analysis and the biological impacts. It says, "Provided measures are in place to ensure overfishing is prevented, allocation of the resource between commercial and recreational sectors is not likely to have an impact." Economic impacts; the analysis says, "This is a non-binding allocation."

It seems to me when you read the text of it, it was treated as an allocation. I think, just based on what I'm seeing, that the status quo probably ought to reflect that. It seems clear when you read through the text here that it was analyzed as if it was an allocation.

MS. SMIT-BRUNELLO: What does a non-binding allocation –

DR. CRABTREE: Well, I don't but the social impact statements says "the establishment of an allocation scheme for the recreational and commercial sectors". I know you wouldn't want to have to explain to a judge how it wasn't an allocation with all of that language in there.

MR. GEIGER: Believe it or not, I still remember that was the first call I ever received from Dr. Crabtree, and it was on the 23rd of December when the plan was approved. It was with assurances that if the cap was exceeded, that the trip limit portion of the Dolphin and Wahoo FMP that was disapproved by NMFS as part of the Dolphin and Wahoo Plan would be rapidly employed.

Since then we have had those discussions and it sounds like we have to go through a framework action to put trip limits in place or take whatever action is necessary should that cap be put in place. To me it seems like it is exactly that, it is a quasi-allocation. Now, do we have to have an allocation or not? If we want to allocate and we want to remain consistent throughout all of our fisheries, we have come up with a methodology for doing it, and that methodology is Alternative 4, which is why I made the motion.

DR. CRABTREE: And, George, I'm not saying anything about – if you want to change it, you can certainly change it. All I'm making the case is I think the status quo probably is best to reflect what was the setup in this plan. Now, you're more than free to change it. Yes, I think if we exceeded that cap, then I think you would have rationale to come in and do several things.

One, you're going to put an ACL in place and I assume you will put a commercial ACL in place. You could simply make that a hard quota and then you know it won't be exceeded; or if you want to come in and look at trip limits, you can do that. The way the council set this up, it is not a quota and so there is not an automatic closure or anything like that, and there is no way to put the trip limits in place without a framework action or doing something to put them in. They don't just automatically come to life. I think you use that as a rationale for doing it if you want to.

MR. SWATZEL: Let me make a suggestion; why don't we dispose of this motion, and we can always go back concerning if you want to recharacterize Alternative 1, but we do have a motion on the floor. Is there any other discussion about it? **Is there any opposition to it? One opposed; the motion is approved.** Does the committee want to recharacterize I guess the status quo concerning Alternative 1; any feelings about that? David.

MR. CUPKA: Well, again, back when we set it up, it operated like an allocation, but we didn't intend it strictly in the sense that we use allocations now. I think the approach that has been suggested here under this alternative is consistent with what we did; because if you look at those landings, those landings are held to certain levels.

That ought to be reflected when we do this allocation. In other words, they ought to be same. If those landings really got out of whack, which they didn't, then you might end up with a different allocation. If you set something that you call an allocation and it is clearly an allocation, I think it would be consistent with what was done originally even though back then we didn't call it strictly an allocation, but they ought to consistent, I think.

MS. SMIT-BRUNELLO: I would suggest to be accurate and so the public understands, too, that you discussed this non-binding allocation that was put in place then. I think you should characterize no action as just that, what was done when the plan went into effect. You can discuss it under the discussion as to what that meant and all that, but I think it should include it.

MR. SWATZEL: Well, is there any desire to formally change the language in Alternative 1?

DR. CRABTREE: Tom, I agree with Monica, and I think staff can just reflect what was done in the plan non-binding allocation or something like that.

MR. SWATZEL: Okay, that's fine. Anybody disagree with that? Mark.

MR. ROBSON: I'm not a member of your committee, Mr. Chairman.

MR. HARTIG: This is a committee of the whole.

MR. ROBSON: Oh, yes, that's right, sorry. I have a question; is it really necessary for us to have Alternative 6?

MR. SWATZEL: You bring a good point up, and maybe we can get a motion to consider to take that one to the appendix.

MR. ROBSON: As a new member of the committee, I would like to get a motion in. **I would like to move we move Alternative 6 to the considered but rejected appendix.**

MR. SWATZEL: Second by David Cupka. Any discussion? **Any opposition to the motion? Hearing none, it is approved.**

MR. WAUGH: Okay, next is the annual catch limit. Option 1 is no action. Option 2, 3 and 4 tie the ACL to the MSY, and again that is problematical in that the MSY value is for the three council areas. Option 5 would set the ACL separately for the Atlantic, and I think this should equal the ABC, 8,912,174 pounds. This equals the ABC recommended by the SSC. Option 6 would allow you to reduce it from the ABC.

DR. CRABTREE: Well, **I would move that we remove Options 2, 3 and 4 from the document because they exceed the OFL we established.**

MR. SWATZEL: Second by Duane Harris. Discussion? **Any opposition to the motion? Hearing none, it is approved.** Any other guidance from the committee concerning the options?

DR. CHEUVRONT: On Option 5 do we want to remove the sentence, "This equals the ABC recommended by the SSC", because I think that would make it a little more consistent with some of the earlier decisions that we made. I realize the number is the same, but we got there a different way. **I would like to make a motion on Option 5 we remove the sentence that says "This equals the ABC recommended by the SSC."**

MR. SWATZEL: We have a motion; second by Ben Hartig. Any discussion? **Any opposition to the motion? Hearing none, the motion is approved.** Roy.

DR. CRABTREE: And, Gregg, you would just Option 6 and flesh out a couple alternatives out of that like 90 percent and 80 percent, something like that? Okay.

MR. WAUGH: Okay, given that we're looking at an ACL of 8.9 million pounds and if you remember from our look at the total landings, that is close to where we have been in a couple of years over it, so we need to determine whether we want to look at setting an ACT either on the commercial or the recreational sector.

We've got that same suite of alternatives that we've looked at before on the commercial; stepping it down to 90 percent or 80 percent. On the recreational we're looking at 85 percent, 75 percent or looking at using the actual PSE value. The PSE values are shown in Table 3 in the document that you have.

MR. SWATZEL: What is the pleasure of the committee? Are you okay with the range that is there? Brian.

DR. CHEUVRONT: I'm almost wondering, you know, this is such a productive stock that is 90 percent even itself almost too conservative. Could we handle a 95 percent?

DR. CRABTREE: Well, I think the way you ought to think about this because you're going to have accountability mechanisms; and that means if you go over the ACL, something is going to happen. It is predominantly a recreational fishery, really 90 percent, and I would think you will want to avoid having the recreational fishery go over the ACL. I would look at how volatile have the recreational catches been over the year and then try to set things up so that you keep recreational catches safely below the ACL. Otherwise, you could end up closing dolphin down one year, and we don't want to do that, I don't think.

DR. CHEUVRONT: Well, we could consider this separately, though, for commercial and recreational.

DR. CRABTREE: Yes, because that is the way it is set up, and I think on the commercial side, if you want to have a hard quota or something you probably don't have to worry about it.

DR. CHEUVRONT: So I guess what I'm kind of thinking is that perhaps – I mean, ACTs are optional, but if you have one for one sector do you have to have one for both sectors? It is pretty clear that we would be able to keep the commercial constrained pretty close. It might be a little more difficult with the recreational sector, so I guess what I would like to do – just for discussion sake, **I would like to recommend that we set Alternative 1 for the commercial sector as our preferred ACT for dolphin.**

MR. SWATZEL: We have a motion; second by Charlie Phillips. Discussion? George.

MR. GEIGER: Well, I guess my question is then by de facto does that become a quota, a hard quota?

DR. CRABTREE: Well, I think what you did with the annual catch limit is you just set a single annual catch limit for dolphin. I don't think you set a recreational catch limit and a commercial catch limit. Well, does setting the allocation automatically set separate ACLs; that is your intent? Okay.

MR. GEIGER: So then the question still is does that then become a hard quota? Okay.

MR. SWATZEL: Any other discussion on the motion? **Any opposition to the motion? Hearing none, it is approved.** Any other discussion about ACTs?

MR. WAUGH: Here is a table of the recreational catches; 2009 is preliminary so look from 2008 going back; 8 million to about 13.7 million back in 2001. Attachment 1, Table 3 on PDF Page 13 shows you the PSEs. They're not hugely variable.

MR. GEIGER: Mr. Chairman, **I would like to make a motion that Alternative 4 be our preferred alternative for the recreational sector ACT.**

MR. SWATZEL: We have a motion; second by Ben Hartig. Discussion?

MR. GEIGER: I think because it is not hugely variable; those landings are not hugely variable; those fish are caught when they're there; they're not always there, I think it is a safe bet to go with that Alternative 4. It accomplishes what we intend to do is not ever incur a closure in this fishery. I think it will adjust for the effort shift that we may get in the area resulting from the closure.

DR. CHEUVRONT: Which year's PSE do we use?

MR. WAUGH: I would suggest giving us guidance whether you want us to use a three-year average or the five-year average and whether that should be a running three-year or a five-year.

MR. SWATZEL: Any thoughts on that? George.

MR. GEIGER: **I would modify the motion to say make Alternative 4 our preferred alternative with a running five-year average.**

MR. SWATZEL: Is everybody okay with that change? Okay.

MR. GEIGER: Now, if I may, Mr. Chairman, what is the mechanism for coming back and making adjustments to any of these items? If in fact we see we've used our best judgment here, but it turns out that it is not and we need to make adjustments to it, how do we come back and alter all of these decisions concerning accountability measures?

MR. WAUGH: It would be a framework.

DR. CRABTREE: Yes, you would have to take a framework action, I guess, but I have a question about the way – a running five-year average, that means the ACT is going to change every year because you're going to change the running five-year, and I don't think you want the ACT to be changing every year; do you? If you use the running instead of just the most recent five years or something, it will be a constantly changing target.

MR. GEIGER: Well, if you use the most recent five years, won't it change then again every year?

DR. CRABTREE: No, for this one it says you'd be using 2005-2009, and it looks to me like it is going to about 0.75 or something like that, and that means that your ACT would be roughly 93 percent of the ACL, and that is just what it would be, and then you'd know what it is. Otherwise, you're not going to know what – you'll have to wait until you get the MRFSS number, get the new one and then recalculate it and we might have to publish a notice in the Federal Register and do all kinds of things like that.

MR. GEIGER: Do we need to add “based on the most recent five-year period”?

DR. CRABTREE: I think that’s it right there.

DR. CHEUVRONT: But it would change over time?

DR. CRABTREE: No, we’d just be setting it until you come in and change it. If you look at those CVs, they’re pretty stable. If they really jump or you feel like you want to change it, you can come in and change it.

MR. GEIGER: Okay, I understand what you’re saying. Okay, so the motion is to make Alternative 4 our preferred with a five-year average using the years 2005-2009, if that is okay with the seconder.

MR. SWATZEL: Everybody okay with that? **Anymore discussion about the motion? Any opposition to the motion? Hearing none, the motion is approved.**

MR. WAUGH: Okay, the next item is to look on PDF Page 14. This is looking at accountability measures. Status quo is that there is no hard quota for dolphin and there are no AMs in place. Option 2 would set the commercial AM for this stock to prohibit harvest, possession or retention when the quota is met. We should probably change that as “projected to be met”.

All purchase and sale is prohibited when the quota is projected to be met. Implement accountability measures for the recreational sector. If the ACL is exceeded, the Regional Administrator shall publish a notice to reduce the length of the following year by the amount necessary to ensure landings do not exceed the sector ACL for the following year.

We compare the ACL with recreational landings over a range of years like we’ve done for others. The first year use 2011; then 2011 and 2012; then for 2013 on use the running three-year average. Option 3 is the same except it would be to publish a notice to reduce the bag limit. Option 4 gets into payback for the commercial sector; and Option 5, payback for the recreational sector. You see the recommendations that have come from the AP there.

DR. CRABTREE: Gregg, what is the bag limit now and is it the same everywhere?

MR. GEIGER: Ten in Florida.

MR. WAUGH: Yes, this is shown on Page 15. The recreational daily bag limit is ten dolphin per person per day and not to exceed 60 dolphin per boat per day, whichever is less. Headboats have a slightly different bag limit. Headboats are allowed a bag limit of ten per paying passenger.

MR. GEIGER: Would it be possible, Gregg, to have Option 4 and 5 completed with a little more detail explaining to the public what it would actually mean? I understand payback, I understand that, but it might not be fully understandable to the public at first blush. I think the range of

alternatives are sufficient and let's get public comment on it. If we need a preferred, **I would make a motion that Option 3 be our preferred alternative.**

MR. SWATZEL: I don't think you necessarily need a preferred, but if you want to make the motion that is fine.

MR. GEIGER: Well, what it does is it does give the public the idea as to what the intentions of the council are, and it might cause them to speak more loudly.

MR. SWATZEL: Okay, we have motion to select Option 3 as our preferred; second by Mark. Any discussion on the motion? **Any opposition to the motion? Hearing none, the motion passes.** Roy.

DR. CRABTREE: So we set an ACT for the recreational fishery and the accountability measure is set up around the ACL, so what does the ACT do exactly; what purpose is it serving as it stands?

MR. WAUGH: That should be changed now to read "ACT". Since we have specified an ACT, that is similar language you've used in others where we haven't set an ACT, but now we have set an ACT, so we should change – and if you give us editorial license we will change that to reflect the ACT unless you all want it not to happen unless the ACL itself is exceeded. That is another possibility.

DR. CHEUVRONT: Yes, and that was the point I was going to bring up as well because, remember, our preferred alternative for the commercial was not to have an ACT. I think the ACT for the recreational side, if the recreational side goes over that ACT but does not exceed the ACL, is there a problem with that? I mean, I think the issue is if there is going to be any kind of payback or change in management, I would prefer it to be based on the ACL

DR. CRABTREE: Yes, and I'm of a like mind. To me, I would get rid of Options 4 and 5. I don't think there is any reason for a payback in this fishery. That's up to you. I'm just trying to think, though, Brian, if that is how we're doing it, then what is the point of the ACT? We're not using it for anything, so we need to think of some way where the ACT actually does something to help us avoid hitting the ACL.

DR. CHEUVRONT: Well, I think the ACT still would do that.

DR. CRABTREE: How?

DR. CHEUVRONT: You're going to try to stop the fishing or manage to the ACT, giving yourself that little bit latitude if you do go over a little bit. ACT is your goal but ACL is only when you – if you exceed ACL is when, for example, you would go in and reduce the bag limit the next year. I can see conceivably you go over the ACT but you don't go over ACL, the next year you don't change the bag limit. If you go over ACL you would change the recreational bag limit.

MR. WAUGH: And don't we need to – once you see this the next time, you will see it all fleshed out with the numbers, and then we'll need to look and see if our existing management measures have a sufficiently high probability to keep the catches below your ACT. If they don't, then we'll need to change our management measures.

DR. CRABTREE: Yes, I think something like that would make some sense. If your intent is you're going to look at the existing management measures and ensure that they have minimally a 50 percent probability of keeping us at or below the ACT, that might make some sense. That could mean we need to make adjustments to the bag limit or something; I don't know what it will mean. Then I think there might be some utility to it.

MR. WAUGH: And that's our next item; we're going to look at management measures next.

DR. CHEUVRONT: **I would like to go ahead and make the motion that Roy had suggested to remove Alternatives 4 and 5 under the accountability measures to the considered but rejected appendix.**

MR. SWATZEL: We have a motion; is there a second? Second by Ben Hartig. Any discussion of the motion? **Any opposition to the motion? The motion is approved.** Mark.

MR. ROBSON: This many have already come up, but on Option 2 how would you actually deal with a change in the fishing year with something like dolphin as an accountability measure? Would this be applied to both the commercial and recreational sector? I'm asking because I think there is a high level of seasonality to when and where dolphin occur, and I'm not sure how that would actually work if we ever had to consider that.

MR. WAUGH: Well, reducing the length of the season under Option 2 would just apply to the recreational because the commercial we're going to track and close it when it is met. There is that seasonal nature, but the idea under Option 2 is if you did exceed it, you would – at least in the first year then you wouldn't be reducing. You would be closing part of the year.

MR. ROBSON: But again I'm trying to figure out which part of the year you close would have a very differential impact on a different part of the region.

DR. CRABTREE: Well, if MRIP stays on the same two-month lag it is on now, we would find out that we exceeded it sometime in the spring of the following year. Unless you specify something else, the shortening of the season would be at the end of the year. It couldn't be at the beginning of the year because you wouldn't even have the data then. It seems to me it would need to be the end of the year.

MR. GEIGER: We talked we've about the difficulty of in-season monitoring in the recreational fishery and the variability in MRFSS landings, especially for an in-season adjustment. It would seem to me appropriate because of when the fish are there and when they're not there that you want to possibly look at when the overage occurred and possibly shorten the period of time during the same period the following year when that overage occurred in an effort to curtail landings because that would presumably be the same period of time in which you could either

exceed it again or you get the most bang for your buck in really getting a reduction that you're looking for.

DR. CRABTREE: And we're not talking an in-season adjustment here; this is an adjustment the next year. If in one year the ACL was reached on September 1 and now we're in the next year and we're looking back and said, well, they went over, they caught it on September 1, then what we're going to do is publish a notice in the Federal Register saying, okay, for this year the fishery closes on September 1.

Then I'm going to come in here to you as the council say, hey, they're closing on September 1, you need to take a framework action and reduce the bag limit or make some other adjustment. Otherwise, next year they're probably going to go over it again and you don't want that to happen. That is kind of how it would work; the fishery would just close on the date that we saw them go over in the previous year, I think.

MR. HARTIG: Well, the reduction in bag limits would impact everybody equally, so that is what you were looking for.

MR. ROBSON: And that is our preferred.

MR. HARTIG: Right.

MR. GEIGER: Yes, but it wouldn't necessarily get you there though, Ben, if the fish aren't there. You could reduce the bag limits and if the fish aren't caught between that September and December period, you've closed the fishery but what are you going to get? If the high landings that put you over occurred in the period between May and June, for example, or May and July, it would make sense the following year to me to look at some type of a partial closure during that period so that you got the reductions in landings that you were looking for subsequent to being over the previous year. No? That may be a hard thing for the Service to do.

DR. CRABTREE: Well, I think my personal preference with this would be – given the bag limit is ten, would be if they run over we're going to reduce the bag limit. My worry is if they go way over we could end up with a really low bag limit, but if that happened I guess you could take some sort of action to put a fixed seasonal closure or something in at that point. I think the fishermen would object less to a bag limit reduction than they would to a closure unless the bag limit gets down to like one or two fish. Hopefully, it wouldn't happen.

MR. GEIGER: I agree with that. I think that's right.

MR. SWATZEL: Anymore discussion about accountability measures? If not, we will move to the management measure section.

MR. WAUGH: In your Attachment 1 this starts on PDF Page 15. The no action alternative is show there. We already talked the recreational bag limit at ten per person per day with a boat limit of 60; headboats it is ten per person; a minimum size limit of 20 inches fork length off Florida and Georgia; and we've got allowable gear specifications.

The AP recommendation is staying with Option 1. Option 2 would prohibit bag limit sales from for-hire vessels. Option 3 would establish minimum size limits off North Carolina and South Carolina. Option 4 would establish minimum size limits in the New England and Mid-Atlantic areas. Option 5 looks at increasing the minimum size limits to 22 or 24 inches.

Option 6 would reduce the boat limit. Option 7 would examine harvest by powerheads and evaluate whether it should continue to be allowed. Option 8 is look at a series of trip limits on the commercial fishery. These are alternatives that have been suggested throughout the scoping process, and we would hope we could whittle this down some.

MR. HARTIG: I'll **start by making a motion to remove Option 7**, examine harvest by powerheads and evaluate whether it should be continued because that has got to be a very low, low harvest. I'm sorry, I'm going on.

MR. SWATZEL: We've got a second by George. Discussion? Ben.

MR. HARTIG: It is a very, very, very low level of landings and I don't think it is going to get anywhere.

MR. SWATZEL: Any other discussion? We have a motion and a second. **Any discussion about the motion? Any opposition to the motion? Hearing none, the motion is approved.** Any other thoughts about the options? Roy.

DR. CRABTREE: Well, just to thin them down; is there any interest in minimum size limits off North Carolina, South Carolina or –

DR. CHEUVRONT: No.

DR. CRABTREE: – north of North Carolina? Are you going to make a motion?

DR. CHEUVRONT: I was still processing the last one, but, yes, I was getting ready to make that motion, if that is all right.

MR. SWATZEL: Go right ahead.

DR. CHEUVRONT: **I would like to make the motion to move Alternative 3 to the considered but rejected alternatives.** I don't know that we're going to gain anything management-wise that is going to help improve this stock to do this. At least we don't think off in North Carolina, but I see a South Carolina hand going up.

MR. SWATZEL: Well, let me see if we get a second first.

MR. HARTIG: I will second it for discussion.

MR. SWATZEL: All right, seconded for discussion. Robert.

MR. BOYLES: We've talked about this with some of our constituents in South Carolina. A number of our guys are very interested – I shouldn't say "very" – they would entertain some proposals and some discussions to look at establishing a minimum size. This is coming from a number of folks who I think have been concerned about the large-scale recreational harvest of peanut dolphins.

I would like to see it stay in at a minimum at least off of South Carolina. This is before my time on the council, but my understanding of the reason the minimum was not maintained off of the Carolinas because at the time South Carolina had its own in-state measure. That measure has been challenged in court and has been overturned. I think for the purposes of public discourse I would like to see the idea of a minimum size retaining off of South Carolina at a minimum.

DR. CHEUVRONT: Then maybe what we could do is modify that option and drop "establish minimum size limits off of South Carolina" and that would satisfy everybody.

MR. SWATZEL: Well, we need to dispose of the motion that we have up there right now. Do you want to withdraw that motion?

DR. CHEUVRONT: I would withdraw the motion to remove Alternative 3 altogether.

MR. SWATZEL: Is that okay with the seconder and the rest of the committee? Okay, the motion is withdrawn. Do you want to start over?

DR. CHEUVRONT: Yes. I would like to make the motion that we revise Option 3 to establish a minimum size limit off of South Carolina.

MR. SWATZEL: We have a motion; is there a second?

MR. HARTIG: Well, I'm going to second it for discussion.

MR. ROBSON: I have a question, I guess, for the fishery in North Carolina. Are the landings predominantly pier-based and land-based harvests of small fish or is there an open-water harvest?

DR. CHEUVRONT: The vast majority of it is open water. We actually have a short season that lasts for only a couple of weeks, usually in the early fall September time where the smaller dolphin do actually come in close enough that people can catch them off of fishing piers. For us, this is an access issue because we have plenty of people who would never ever be able to catch a dolphin otherwise because they just don't have the access to get into a boat and catch it in the open water.

This is a traditional thing that has always been going on in North Carolina. Lots of times it is the only way children are ever able to catch these fish, and so we feel pretty strongly since this is not a – if there was an issue with the stock, we would be among the first to say let's go ahead and

restrict this, but there doesn't appear to be any problems with the stock, and we would really like to keep this fishery open.

MR. SWATZEL: Any other discussion of the motion? Gregg.

MR. WAUGH: And in terms of looking at what size limit, it would be to consider the same 20-inch limit that we have in Florida and Georgia.

MR. BOYLES: I would just move for a consistent size limit. Is Option 5 still in? I mean, there is a discussion about increasing the minimum size, so I don't think we're talking about doing something specific for South Carolina.

MR. SWATZEL: Any other discussion of the motion? **Any opposition to the motion? Hearing none, the motion is approved.** Any other discussion about the management measure options? Any desire to change any other ones? I guess we've finished that discussion.

MR. WAUGH: I thought I heard Mr. Munden offer some guidance that the Mid-Atlantic and New England probably wouldn't be interested in a size limit. I wonder if we could move that to the appendix.

MR. MUNDEN: I've heard no discussion on size limits for the Mid-Atlantic or New England.

MR. GEIGER: **I would make a motion that we move Option 4 to the considered but rejected portion of the document.**

MR. SWATZEL: Second by Ben Hartig. Any discussion? Robert.

MR. BOYLES: David just leaned over and said do we not want to hear what the public might have to say about this one. It's a highly migratory species; we share management. I don't feel strongly, but I would be curious to see what kind of public reaction we would get. I've heard a lot from our anglers in South Carolina concerned about the long-term health of the dolphin fishery.

MR. GEIGER: Well, I guess we could hear from the public, but how do you go about forcing – can we force a size limit on the northeast?

MR. BOYLES: I think it would be healthy for us to consider all the options. To answer your question, George, no, I can't see us forcing either the Mid-Atlantic or New England, but I think if we brought forth to them some concerns on behalf of the constituents, I think those folks would – I know they would be interested in hearing it. Now whether they decided to do anything about it is their business, of course.

MR. SWATZEL: Okay, anymore discussion on the motion? **Any opposition to the motion? I see two in opposition. The motion is approved.** It looks like we're now ready to get into wahoo. Gregg.

MR. WAUGH: The information on wahoo starts on PDF Page 17. You can see that the catches in headboat and commercial are extremely low. Recreational has been variable with a peak in 2008 or 2007 and has declined since, and 2009 is preliminary. We have got the MSY options as for dolphin. This MSY proxy is for the Atlantic, the U.S. Caribbean and Gulf of Mexico. We made it not an action item for dolphin and we may want to consider the same for wahoo.

MR. SWATZEL: Do you want to treat this like we did dolphin; any action? No action?

MR. WAUGH: So then this would not be an action item.

DR. CRABTREE: I would think we would treat most all of these things for wahoo the same as we did with dolphin. I don't think there is any difference in the situation; is there, Gregg?

MR. WAUGH: No, other than the numbers recommended are much lower.

DR. CRABTREE: **So can we just make a motion to treat the MSY reference points, status determination criteria the same way we treated dolphin?**

MR. SWATZEL: Okay, we have a motion; second by Ben Hartig. Any discussion? **Any opposition? Then the motion is approved.**

MR. WAUGH: So that would get us over to allocations, and we have no allocations and we have no allocations for wahoo. Alternative 2 would use the years 1999-2008. It comes out to be 5 percent commercial and 95 percent recreational. Alternative 3 using the years 2006-2008 are 4 percent commercial and 96 percent recreational. So in terms of total landings, here is what your total landings look like from 1999, 1.5 million pounds; variable through 2007; and then down in 2008.

Alternative 4 – and this would be using instead of the 1986 forward it would be 1999-2008 and using – there is a recent period, the 2006-2008, you come out 5 percent commercial and 95 percent recreational; the exact number as Alternative 2. Alternative 5, looking across the same years; across the three sectors, 5 percent commercial, 0.4 percent for-hire and 94.9 percent private recreational; and then 50/50 in Alternative 6.

MR. BOYLES: Gregg, remind me why the '99 rather than '86 as a starting date for the time series.

MR. WAUGH: We just had the issues with getting accurate and more recent data, and this came out after the AP meeting. The data set that we have for both dolphin and wahoo are 1999-2008. The 2009 figures are preliminary.

MR. BOYLES: **I make a motion, Mr. Chairman, that we select Alternative 4 as preferred.**

MR. GEIGER: Second.

MR. SWATZEL: We have a second. Any discussion? Any opposition. Robert, go ahead.

MR. BOYLES: Of course, with 1999 as the beginning year of the time series.

MR. SWATZEL: **Any opposition to the motion? Hearing none, the motion is approved.** Is there a desire to get rid of Alternative 6? Do I hear a motion?

MR. BOYLES: I would make that motion to move Alternative 6 to the considered but rejected.

MR. SWATZEL: Motion by Robert Boyles; second by David Cupka. **Any discussion? Hearing none, that motion is also approved.**

MR. WAUGH: The next item is your ACL. The ACL was set at 826,000 pounds, and we may want to just remove this last sentence for wahoo; or, if by your previous motion we just track all the dolphin changes, then that would work as well.

MR. SWATZEL: Is the consensus of the committee simply to track the dolphin changes? Then we will do that.

MR. WAUGH: And does that apply for the ACT actions as well; do we want to just track those?

MR. SWATZEL: Is the committee okay with that?

MR. WAUGH: Let me call your attention to the numbers for the PSEs for wahoo. They're higher than dolphin, which you would expect. They're caught more rarely. The top of PDF Page 26, so range from a low in 2006 of 11.1 up to 17.7 in '04, and then we just use the five-year average. We would do the same for accountability measures. We would track the accountability measure changes that you recommended for dolphin and we would track those for wahoo as well.

MR. SWATZEL: Everybody okay with that? Okay.

MR. WAUGH: Then the final actions are management changes for wahoo. What is in place now is a 500-pound commercial trip limit; the recreational bag limit of 2, and we have allowable gear. Should we look at any alternatives?

MR. SWATZEL: Anybody have any thoughts about other options there? Gregg.

MR. WAUGH: I was just going to say perhaps when we bring this back and we do have the actual numbers, we'll look and if it does appear that the recreational catches under the existing management measures will exceed the ACT, then we'll just put together a suite of alternatives for you to look at.

MR. GEIGER: Mr. Chairman, could we include boat limits in that?

MR. SWATZEL: Any other thoughts about that? Okay, I think we're about at the end. Is that it? Any other business to come before the Dolphin Wahoo Committee? Hearing none, we're adjourned.

(Whereupon, the meeting was adjourned at 3:22 o'clock p.m., June 10, 2010.)

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