

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

GOLDEN CRAB COMMITTEE

**Holiday Inn Brownstone Hotel
Raleigh, NC**

December 7, 2011

SUMMARY MINUTES

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Jessica McCawley

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Andy Strelchek
Brad Whipple
Kate Quigley
Dr. Theo Brainerd

Dr. Jack McGovern
Otha Easley
Dr. Carolyn Belcher
Howard Rau
Doug Boyd
Red Munden

Other observers attached to the end of the document.

The Golden Crab Committee of the South Atlantic Fishery Management Council convened in the Roosevelt Ballroom of the Holiday Inn Brownstone Hotel, December 7, 2011, and was called to order at 8:30 o'clock a.m. by Chairman David Cupka.

MR. CUPKA: I'll call to order the Golden Crab Committee. The first order of business is the approval of the agenda. Are there any changes to the agenda? I'd like to make one change at the beginning before we get into a discussion on Amendment 6. You will recall at our last meeting that we pared down considerably the number of actions and alternatives.

That really needed to be done, but there was some concern on the part of the AP that there might have been some misunderstandings and some confusion with the result of all the changes, and so I wanted to give Howard a few minutes for a opportunity to come up here and address some of the AP's concerns and make sure there aren't any misunderstandings and also give you an opportunity to ask questions if you need to in order to get some clarification.

With that one change, if there is no objection I will approve the agenda. The next order of business is approval of our September 2011 committee meeting minutes. Are there any corrections or additions to the minutes? Seeing none, then those minutes are approved. Most of you are aware that since our last committee meeting that the golden crab fishery and our golden crab management process suffered a real loss with the passing of Bill Whipple.

Bill, of course, was chairman of our advisory panel and was very instrumental in this amendment we're working on now. I would like to ask you just to observe a moment of silence with me for Bill and his family before we go on.

(Moment of silence)

MR. CUPKA: Okay, thank you for that. At this time I want to give Howard Rau, whose is now speaking for the AP, an opportunity to come forward. Howard, did you wish to make some comments before we start going through the amendment?

MR. RAU: Would it be all right if I brought Brad up first?

MR. CUPKA: Sure. This is Brad Whipple for those of you who haven't had a chance to meet him, Bill's son. Brad, our condolences and we appreciate your being here.

MR. WHIPPLE: Thank you, everyone, for the respect for my father. I have comments first regarding Action 1, which the AP preferred Alternative 4, which establishes a control date of December 7, 2010, as having a permit to be eligible to participate in the fishery. I purchased my father's permit shortly before he passed away, and the Golden Crab AP would likely have a different preferred alternative now given the situation. This is because the intent of the alternative was to restrict new entrants from outside the fishery.

In this case I've fished for golden crab for many years and been involved directly or indirectly in the fishery since 1996. I'm not a new entrant as envisioned by the Golden Crab AP. Preferred Alternative 4 currently eliminates two permits from receiving an initial allocation. We prefer a

new alternative that has no control date and for that to be the new preferred. In this way myself and other fishermen are able to receive an initial allocation. Thank you.

MR. RAU: Howard Rau, golden crab fisherman, AP member. I guess I've been in this for close to 30 years, this fishery. I'm going to continue. Action Number 2, establish vessel catch history initial allocation, the AP chose Alternative 5B as the preferred unanimously. This alternative reads as follows:

Alternative 5, use the following formula to conduct initial allocation; 75 percent catch history plus 25 percent equal allocation; Subalternative 5B, vessel catch history for 1997-2010, must have 50,000 pounds aggregate to receive allocation portion. We agree with this. Moving on to Action 3, establish criteria and structure of an appeals process; the AP voted unanimously to have a 2 percent set-aside for the appeals. This has not been incorporated. We ask that the council make this an alternative and make it the preferred.

Action 4, establish criteria for transferability; the AP voted unanimously to have Alternative 2 as the preferred. Alternative 2 reads shares or annual pounds can be transferred to golden crab permit holders. We agree. Action 5, define quota share ownership caps; the AP chose Alternative 5 as the preferred alternative. Alternative 5 reads as follows: A maximum of 49 percent of the quota can be owned as shares by any one entity. We agree. The alternative most closely reflects the status quo. However, at this cap the highest producer will have to sacrifice a significant portion of his catch history.

Action 6, use-it or lose-it policy; the Golden Crab AP chose Subalternative 2B as the preferred. Subalternative 2B reads shares that remain inactive for three consecutive years will be revoked and redistributed proportionately among the remaining shareholders. Inactive is defined as less than 10 percent of the aggregate annual average utilization of the catch share quota over a three-year moving average period. Subalternative 2B, landed crabs and/or transfer of annual pounds, we agree.

Action 7, cost recovery plan; the Golden Crab AP chose Subalternative 2B, 3B and 4A as preferred. They read: Alternative 2, cost recovery fees would be calculated at time of sale at a registered dealer. Preferred Subalternative 2B, cost recovery fees would be based on standard X-vessel value of landings as calculated by NMFS. Alternative 3, fee collection and submission, Preferred Subalternative 3B would be the dealer. Alternative 4, fees submitted to NMFS, Preferred Subalternative 4A would be on a quarterly basis. We agree; however, we would like the language to state that the cost recovery will not exceed 3 percent.

Action 8, establish boat length limit rule; Alternative 1 reads no action, do not establish boat length limit rule. Change the wording in Alternative 1 to reflect status quo, do not eliminate the boat length limit rule. Let me describe status quo. Under status quo boats can currently increase size by 20 percent.

People can also combine two permits to increase boat size by another 20 percent. The northern zone has no vessel length limit. The AP prefers Alternative 1, no action. We agree but with the

changes suggested. We prefer Alternative 1 for various reasons. The Nielson's initially recommended the boat length limit rule in part to help prevent gear entanglements.

The creation of IFQs does not address the issue of gear entanglements. One option is to limit trawl length. Gear restrictions such as limiting trawl length could increase the need for grappling, which is the most dangerous and difficult of the golden crab fishery. While the case may be made that a larger vessel is a safer one, that does not mean that a smaller vessel is unsafe.

The refrigerated seawater system actually stabilizes the vessel. Limiting the vessel size is the current approach and works well. The boats that have historically performed well in this fishery are not larger vessels. Action 9, address quota share allocation among golden crab fishing zones; Alternative 3 reads eliminate box in the southern zone originally established to protect against very large vessels.

Alternative 3 should be its own action since it has nothing to do with the quota share allocation among golden crab fishing zones as the action title indicates. Including elimination of the southern zone box under this action is confusing to fishermen. Elimination of the southern zone box is the preferred alternative of the AP and we agree.

Among the other two alternatives, Alternative 2 is the AP's preferred alternative. It reads Alternative 2, participants can use quota in any zone for which they possess a permit, and we agree. Do you want to continue, Brad?

MR. WHIPPLE: Action 10 establishes criteria for permit stacking. Alternative 2 allows for stacking of up to three permits on one vessel so that any zones for which the vessel has a permit can be fished in one trip. We agree with the concept of stacking permits, but we would like to change the language to allow for the stacking of permits on one vessel so that any zones for which the vessel has a permit can be fished; that is, we would like no limit on the number of permits per vessel.

This is because we want to be able to keep as many permits as we own on our own vessel to avoid having to lease another vessel to place the permit on. Action 11 addresses monitoring and enforcement. The AP did not choose a preferred under this action. The AP did make the following motion with which we agree: Recommend that VMS be used for detecting landing sites and not for monitoring fishing areas because of previous conversations with enforcement and the declaration that VMS is not appropriate for the golden crab fishery for monitoring the allowable golden crab fishing areas within the HAPC.

In addition we have applied for a grant to place transponders on crab traps to indicate their location in the allowable fishing areas. Transducers will be place on vessels to indicate their location relative to traps. This two-year project will test the usage of these tools for monitoring and increase the efficiency of gear retrieval. We've also suggested an apprenticeship for a future amendment in an effort to protect habitat.

Action 12 establishes criteria for a new entrant's program. We have made recommendations in the past concerning new entrants and look forward to discussing these and other ideas in January

with the rest of the AP. Action 13 addresses annual pounds overage. The AP preferred Alternative 3, allows up to 20 percent overage on the last fishing trip of the year and includes payback in the subsequent year. We agree with this preferred alternative.

Action 14 involves establishing approved landing sites. The AP preferred Alternative 2A, which establishes that all participants must land at one of the approved sites. Approved landing sites will be selected by fishermen and must be approved by NMFS Office of Law Enforcement. We agree with this; however, we would like to increase the flexibility under this alternative.

As the fishery develops, landing sites may need to change for various reasons. Certain boats won't be able to go into certain areas due to boat size and depth. Also fishing patterns may change due to crab movements. Availability of offloading options can also change over time. We want to ensure that approved landing sites can change with our business needs. Thank you.

MR. CUPKA: Thank you, Howard and Brad. Are there any questions for them before we start going through the document? I think there have been some changes made that will address some of those issues that you brought out, and that will become apparent as we go through it. Charlie.

MR. PHILLIPS: Howard, it seems like one of the – the use-it or lose-it policy, Alternative 2, shares that remain inactive for three consecutive years will be revoked and redistributed proportionately among share holders. Inactive is defined as less than 10 percent of the average utilization of the catch share over three years. You all preferred landed crabs and/or transfer of annual pounds. Why did you do that instead of landed crabs?

MR. RAU: That was pretty much the AP's decision on that. I agree with that. In the initial setup it's going to take a while to get things rolling, so you would need that three-year period to be able to do either landed crabs or transfer the pounds. Does that make sense?

MR. CUPKA: Well, also they wanted to make sure they were utilized and there was two ways you could utilize. Either you could crabs yourself under that permit or you could allow somebody else to use it to allow landing of crabs. Charlie.

MR. PHILLIPS: And I guess what I see possibly happening as a public resource that you are landing for the public, if all you're doing is transferring the shares, they may or may not land the crabs. Transferring 10 percent of the shares cover it. The possible loophole I see – and I don't think it's intentional, but I think it's totally unintentional is you can transfer shares that are not fished and then you end up not having the landings, the public doesn't have access to the resource.

You can transfer shares that covers everybody, but there is not a firm commitment to keep product landed, and from what I see you only have to land 10 percent of what your shares are, which to me is reasonable, but I would like to make sure we're seeing landings for these share transfers. That is kind of what I'm seeing.

DR. LANEY: Brad and Howard, we talked about this briefly during lunch yesterday, but just for the record would you explain why you don't support the control date anymore; and per my

recollection the reason we put it there in the first place was to address the concern that additional vessels might be coming into the fishery; so if you would just address that concern for the record, I would appreciate it. Thanks.

MR. WHIPPLE: With regard to what you just said in terms of additional vessels, that is the intent of the action is to prevent additional vessels and new entrants. In this case the permit is not going to – the transfer of the permit is not going to mean the entrance of a new vessel. The language is just a tricky one here. The intent of the action was to limit new entrants from outside the fishery and not to eliminate history, which as it specifically reads now it would effectively eliminate a significant history. Again, I don't think I would be characterized as a new entrant under the intent of the action.

DR. LANEY: I understand the intent of maintaining your participation in the fishery. I guess I would refer back to Page 12 of the minutes from our last meeting and Howard was expressing the concern that there were new entrants coming in at that time and specifically referred to some new person in New Jersey that bought a permit and another vessel out of Ft. Pierce.

I think that was the rationale for behind us putting the control there in the first place. I guess the direct question to Howard is that's not a concern anymore? I guess these new vessels are already in the fishery, but there is no potential for an additional surge or increase, so the feeling is we don't need a control date now?

MR. RAU: Yes, I feel that we don't need a control date, but these two fishermen, actually three fishermen, they still concern me but I would hate to see the historical fishing that has gone on under the Lady Marian and the Falcon be eliminated from this fishery. I think that would be the best way to go.

MR. CUPKA: Are there any other questions? We need to move ahead and start going through this document. Our main objective today is to get a document we can approve to take out to public hearing, and we'll be getting more input on these through the public hearing process as well before we take any final action. In some of these actions we don't have preferreds for yet and if we can get preferreds, that would be good before we got to the public hearing. Brian, do you want to start taking us through the amendment.

DR. CHEUVRONT: We've kind of run through all the actions very quickly with the discussion with Howard and Brad this morning, but I just wanted to point out a couple of things and kind of what the plan is for this at this point. I'm working from the Golden Crab Decision Document, the one that you see projected here. It takes the actions direction from the amendment. You were e-mailed this on Thursday I believe of last week.

It might be the easiest way for you to follow along, but I'll also reference pages in the actual amendment that was also in your briefing book that you had received earlier so if you prefer to follow along that way. If you need to look up any of the discussion associated with any of the actions, these pages that I'm giving you will help you get to that place to navigate so you can see what the background discussion is that you want to have.

As Chairman Cupka has said, there was a huge amount of work that was done on this amendment in September and it really got us in a good place from where we were before because it really was kind of all over the place. We just didn't have enough direction at that time. Well, now I think we've got some pretty direction. I think we have gotten some more clarification from the fishermen and from the AP what their interests are.

Just to give you brief history behind this, remember this is a very, very small fishery with very few participants in it, and these guys worked with this council very, very closely when the MPAs were set up I believe in Amendment 14 for snapper grouper. They worked closely with setting them up to keep their gear out of the coral areas.

Some of these guys go back far enough to the point where they were participants in the fish pot fishery that they got shut out of years ago by the council when they decided to eliminate the use of that gear, but they've hung in there and have tried to work with the council. I think some of their willingness and activities with the council and working with the council process in many ways – I mean, having been a former council member myself – I think is a pretty good model that it would be great if a lot of our fisheries worked this way.

But, anyway, that was my plug, but before we get going too much I want to go over the dates. If you're looking at the document that I've got up here on the second page, we have the general timing for this amendment just so you're aware of what we're planning on doing. If at all possible we need to approve this document for public hearings probably today.

The public hearings will occur at the end of January or early February of next year. We're also talking about having an AP meeting that would actually occur on the weekend between the public hearings down in Florida. It fits with the schedule for the public hearings, but it also will have some council staff down there in the areas where these guys are working, so it's convenient all the way around for us to get together.

Primarily I think what we're going to be working on is the new entrants issue, which is Action 12 in this document. We'll discuss it some more when we get there, but that's kind of the plan that we might have that AP meeting at that point. We'll bring all the comments and everything back to you at the March meeting and you can decide at that point how you want to handle any of the actions and any of the public hearing comments.

Hopefully then the document will be ready for final review and approval at the June meeting, and then after the June meeting it will be tightened up and sent off to the Secretary of Commerce for review. That is what our plan is at this point. Between the September meeting and this meeting, the council's Science and Statistical Committee met and they did discuss this amendment. What I'd like to do now is ask Dr. Carolyn Belcher to come up here for a minute and just give us a summary view of what the SSC had to say about this amendment and the actions therein.

DR. BELCHER: Most of the review was actually done by our Socio-Economic Panel, which is a subgroup of the SSC. Basically they review a lot – well, I shouldn't say a lot, but they're given an agenda of items that they review relative to the socio-economic impacts and their thoughts.

They provided us with a lot more insight on issues with catch shares. They obviously are more in tune with the pros and the cons of the socio-economics of these types of programs.

The comments that the SSC put forward were pretty much piggybacked right on top of the SEP report, which was presented to us and is actually an attachment in your briefing book. Some of the generalized comments that came out of the SEP was their lack of support for a share cap mostly because the major shareholder does not hold the majority of the vote. As far as they were concerned with this particular with this particular fishery, the share cap didn't really serve a purpose.

The use-it or lose-it, they felt that there is a variety of reasons why fishermen choose not to fish and that you shouldn't be penalized for that. It could be sickness, the market is just not supportive, so in that sense they really didn't feel that was a good thing to work with. The other thing is that with the lower harvest there is also the benefits to the stock because you're not exploiting to the maximum level so there should be some biological put back in.

As far as supporting for the separate zones, they didn't support necessarily separate zones and should allow for stacking of permits. Their main concern was just focused on whether or not that effort would have impacts to marine mammals. As long as that wasn't happening, there was no issue as far as they were concerned with that ability. Those were the main points that I pulled out of that. If anybody has any specific questions, I can try to address those as well.

MR. CUPKA: Any questions for Carolyn? Wilson.

DR. LANEY: Carolyn, could you just elaborate on why the SEP didn't support the zone concept?

DR. BELCHER: It just indicated that the SEP didn't see a social or economic rationale for the zones; supports the ability to be able to stack permits subject to biological constraints and to the extent that gear entanglements can be avoided. That was a general comment from the SEP.

MR. CUPKA: Other question? Okay, thank you, Carolyn, appreciate that. Brian.

DR. CHEUVRONT: Right now I'm projecting from the decision document and right now I'm on Page 3 of the decision document. If you're wanting to follow along in the actual amendment itself, it's PDF Page 61 or Document Page 4-1 if you have a hard copy. This is the action to establish criteria for a golden crab catch share program.

The IPT has made some recommendations for some language changes. It doesn't change any of the intent of any of the alternatives that you have originally. It does tighten the language slightly. Instead of referring to current participants in the fishery as you see in Alternatives 2 and 3, the language changes refer to valid commercial golden crab permit holders, which is probably a little more a defensible.

Also, the notion that we had in Alternative 4, when we had the control date plus six months to renew, that plus six months to renew is already included because that person would still be a

valid commercial golden crab permit holder, so that language was not really needed to be put in there because that would not have excluded anybody if that language was not there. What I'm showing now is the revised language, and you've also heard some comments from the folks representing the AP about some additional changes that they would like to see made as well.

MR. CUPKA: Okay, we did choose a preferred earlier. You have heard from the AP and they would like another alternative added. Phil.

MR. STEELE: Mr. Chairman, I'm not on your committee but one thing you may want to consider after hearing the testimony this morning, one thing we've done in other IFQ Programs is to restrict – an alternative you might want to consider is eligibility for participation could be defined as having a valid golden crab permit as of date of implementation of the final rule. Of course, that would allow any new entrants between now and the final rule time to come in that; but what I'm hearing from the testimony from the AP this morning, this may solve your problem.

MR. CURRIN: Not a comment but a question perhaps for Monica; the situation that Brad described is I guess fairly unique in that the death of his father occurred just literally months ago. He came into possession of that permit some time before his father's death. Is there no provision for passing permits within families that would allow that permit to be considered valid or in the fishery? That seems like a unique case and certainly I don't think the council's intent as far as transferring permits and moving permits would be to restrict that sort of thing or eliminate somebody because of a death of an immediately family member.

MS. SMIT-BRUNELLO: Mac, I will double check the transferability requirements, but I think that there are not a lot of restrictions on the transfer of these permits. It's not like snapper grouper where we have it set up where it goes to immediately family members and then we define what immediately family members are.

However, in this case it's even less restrictive in the sense that it can be transferred to you, to Duane, to whomever wants to buy it to get into the fishery. Now, what you're talking about I guess is permit history and I think that this council can state that they would like permit histories to be transferred with the permit. That would make some sense to me.

I think the best thing is for the council to specify and discuss what they would like to have happen and then it's clear in the record in terms of whether the catch goes with permit or anything like that. But if you have a situation right now where you're worried about – and the AP has discussed – a participant who may not be able to continue to participate under the eligibility criteria as it's set up in here, then I think maybe you even want a new alternative or you want to tweak a present one. Now, I'm not sure I've answered your question correctly.

MR. CURRIN: I think you have unless there is something that you can dig out and further research into the language, but I think you're probably right that it's very, very broad and would not address this particular case. I think your advice to the committee is good as well. One more question regarding the use of the language that was suggested by the IPT; am I to assume then that the term valid commercial golden crab permit holder is the appropriate language and that "valid" is not a wishy-washy term that needs to be further defined in any way?

MS. SMIT-BRUNELLO: Yes, I think it's not wishy-washy, and I think that situation from the IPT is a really good suggestion, because you note right here they say that valid means if they're active or able to renew the permit. I think that's a good more concise definition.

MR. CUPKA: Roy, did you have something?

DR. CRABTREE: Well, it just seems to me in all of these that I've dealt with the landings history goes with the permit. Unless you somehow put something in there to say it doesn't, then it does. It's not clear to me why – if someone after December 7, 2010, buys a permit in this fishery, the way the preferred alternative is set up they would be out, and it's not at all clear to me why we would do that. It seems to me there are a very limited number of permits and if there is a permit transferred, then whoever buys it would get the landings history that goes with that permit and they would get catch shares associated with that permit.

It's not clear to me why we would use these earlier dates to restrict eligibility. I'm just not sure what we're trying to do here, and I think what we've done in past IFQ Programs is the eligibility date was the effective date of the final rule. Maybe I'm missing something, but I'm just not sure what the purpose of these dates was.

MR. CUPKA: Well, I think the purpose was to preclude somebody coming in and buying a permit that hadn't been in this fishery and it didn't have any history or any knowledge maybe on how it should be prosecuted so that they wouldn't create any damage or whatever and that they would have some idea of how the fishery should operate.

DR. CRABTREE: But after the IFQ goes in place someone could come in and buy shares and permits and get in the fishery, right? I'm not sure what we're doing.

MR. CUPKA: Well, I think the more important issue is this thing about catch history and maybe what we need to do is put some verbiage in there indicating that when permits are sold that the catch history is transferred with it and that would take care of the problem that we're trying to address here.

DR. LANEY: Well, in the interest of moving us along, Mr. Chairman, it sounds like based on the preferences of the AP and suggestion made by Phil and Roy's comments just now; can we take care of this if I make a motion just to amend the language of Preferred Alternative 4 to read – and I'll just read the end of it – “is defined as having a valid commercial golden crab permit as of the implementation of the final rule.” Does that fix everything?

MR. CUPKA: Well, that's the way it's set up in some but I also think we need some verbiage in there regarding catch history because that's part of the problem, so that we understand that when a permit is sold or transferred that the catch history accompanies that permit. That's I think the real problem. Roy.

DR. CRABTREE: That's certainly clear to me, but I think that would be good to clarify in the document. I also think you ought to clarify there that on the effective date of the final rule we're going to lock down transfers of these permits until we issue and implement the IFQ Program.

That way no one can come in the day after the effective date transfer the permit and then they're lost. I think that makes sense.

DR. LANEY: Well, can we just add that clarifying language then to the document that specifies that per Roy's understanding catch history goes with the permit and that as of the date of the implementation of the final rule no more transfers would be allowed. Did I understand that correctly?

DR. CRABTREE: Yes, I think for some period of time until we issue all of the quota shares to everybody and actively put in place the catch share program.

MS. SMIT-BRUNELLO: And I think that can just go in the discussion.

DR. CRABTREE: And the fishing year I'm assuming is January 1, correct? So we would implement this program on January 1 after the final date of the rule, assuming that the rule doesn't become effective December 25th or something like that, but we'd try to have it go in place at the very beginning of the year. If the final rule published on October 1st, we wouldn't allow any transfer of permits from then until the catch share program went in place on January 1. At least that's how I'm thinking about it unless Andy or someone sees something differently.

MR. CUPKA: Okay, so we can in the discussion include the verbiage about freezing transfers and all, but what about the verbiage about the catch history going along with the permit; do you think that could covered in the discussion as well or should we make that –

DR. CRABTREE: Yes, I think we all will assume that's the case but I think it would be helpful if you clarify in the document that is the case.

MR. CUPKA: Okay, further discussion?

DR. LANEY: We need a second.

MR. CURRIN: I'll second.

MR. CUPKA: We've got a second from Mac. Further discussion on the motion? **The motion is to amend the language of Preferred Alternative 4 in Action 1 to "a valid commercial golden crab permit as of the effective date of the final rule." Is there any objection to the motion? Seeing none, then that motion is approved.**

DR. CHEUVRONT: Okay, one of the things I'd like sure that we avoid doing is – one is making sure that the direction to staff is very, very clear, so I would like to get a statement that I can write down into the record here of exactly what you're saying about catch history going with the permit to make sure it gets included in the document. Also, what we need to consider here is this motion that we have fixes the one issue about the control date, but you haven't made a motion or decided what you want to do about the amended language from the IPT yet. We're not quite finished with this action yet.

MR. CUPKA: Is there any objection to the amended language from the IPT? Seeing none, then we can go ahead with that, Brian. I guess the other question is, Wilson, did you intend for that amended Alternative 4, which was preferred before, to remain the preferred alternative?

DR. LANEY: Yes, Mr. Chairman.

MR. CURRIN: Brian, if you need a motion I'll be happy to do that – yes, and you're trying to capture it there. I think just to make sure the record is clear that the council's and the committee's intent at this point is that we explain in the document that our intent is that the catch history of the permits remain with the permits as they're transferred or have been transferred.

DR. CHEUVRONT: Do you think that sentence captures what you all were saying about that?

MR. CURRIN: Yes, I think so.

MS. SMIT-BRUNELLO: Just so the record is clear, "go along" means it gets transferred right along with the permit transfer, right?

MR. CUPKA: Correct.

DR. CHEUVRONT: Okay, moving along to Action 2, PDF Page 64 or Document Page 4-4 or Page 4 of the decision document. What I'm doing now at this point is I'm attaching the motions to the decision document. The page numbers are not going to line up on the document with what I'm telling you, so don't catch your page numbers off of the screen here because they're not going to line anymore.

Okay, Action 2 is to establish vessel catch history initial allocation. Right now you do not have a preferred alternative. The AP has suggested that they prefer Subalternative 5B. There also has been some suggested language change again by the IPT that is designed to tighten up the language of the alternatives.

Mainly what we have here is there actually was a typo in Subalternative 5B. It said 1997 through 2020. That obviously needs to be changed to 2010. And for Alternatives 2 and 3 the language is going to be changed so to read "distribute initial catch shares proportionately among eligible participants based on the aggregate annual golden crab landings from logbooks associated with their permit permits through the time period 2002-2010."

And then Alternative 3 was 1997 through 2010, the same basic language. And then Alternatives 4 and 5 basically remain the same and has to do with how much of the initial catch shares are distributed equally among the participants and then how much of it would be based on catch history. Alternative 4 would say that 50 percent of the catch shares equally among the participants and then distribute the rest proportionately among their actual landings based on logbooks.

And then Subalternatives 4A and 4B have to do with how much landings that the individual permit had to have during the time period to be eligible to receive catch share distribution based

on logbooks. 4A was 25,000 pounds; 4B is 50,000 pounds. Alternative 5 is exactly the same as Alternative 4 except that only 25 percent of the initial catch shares would be equally distributed and 75 percent based on logbook landings, and that is what the AP preferred, Subalternative 5B, using that 1997-2010 years based on 50,000 pounds.

Alternative 6, distribute initial catch shares proportionately among eligible participants based on the best consecutive three-year average – and that’s the part that changed – of golden crab logbook landings associated with their current permits during the time period 1997-2010. So what you to do at this point on this action, if you could, is decide whether you approve of the IPT’s recommended language change, make any other changes that you want to with this; and if you would care to, to select a preferred alternative.

DR. LANEY: Mr. Chairman, I would move the committee recommend to the council that we select Alternative 5B as preferred in keeping with the AP’s recommendation and that we accept the proposed IPT modification to Alternative 6.

MR. CUPKA: Okay, we have a motion; second by Mac. Discussion on the motion. **The motion is to select Subalternative 5B in Action 2 as the preferred and select the IPT recommended language change. Is there any objection to the motion?**

DR. LANEY: It just needs to say IPT recommended language change for Alternative 6.

DR. CHEUVRONT: Actually there were changes throughout the whole thing.

MR. CUPKA: Further discussion. Monica.

MS. SMIT-BRUNELLO: Just so I’m clear, does 5B mean that if you don’t have 50,000 pounds during that timeframe, then you won’t receive that 25 percent – you won’t receive any of the 25 percent of initial catch shares distributed equally among – I mean, you just won’t get that 25 percent, is that accurate, or a piece of the 25 percent?

DR. CHEUVRONT: I think it’s the other way around; you get an equal share of the 25 percent. You don’t get any of the rest of it based on the 75 percent that is based on logbook landings. No, I’m sorry, that was that 25 percent. I just reread the number and you were correct, Monica. I apologize, I mixed that number up. They wouldn’t get a share of the 25 percent. They would get their landings based on logbooks of the 75 percent but they would not get an initial distribution from that original 25 percent.

MS. SMIT-BRUNELLO: Okay, thank you.

MR. CUPKA: All right, further discussion? **Any objection? Seeing none, then that motion is approved.**

DR. CHEUVRONT: Okay, Action 3 is to establish criteria and structure of an appeals process. Currently the council’s preferred is Subalternative 2A, which was the one the AP had suggested that perhaps that you might want to add a 2 percent set-aside. The IPT only had one wording

changed recommendation and that was to remove the term “ITQ” from Alternative 2 since that’s not really a term that we use anymore under Magnuson. At this point I think what you need to do is decide whether you approve of removing the term “ITQ” and whether or not you want to change your preferred or any of the other subalternatives.

MR. CUPKA: Okay, is there any objection to making the change recommended by the IPT? Let’s deal with that first. Okay, seeing none, then we will make that change. Now is there any desire on the part of the committee to make any changes to the alternatives either by adding another alternative or by changing our preferred? Mac.

MR. CURRIN: David, I’d move that we add a Subalternative 2D stating that 2 percent of the golden crab shares will be set aside for appeals as recommended by the AP.

MR. CUPKA: Second by Wilson. Your motion is just to add an alternative; it’s not to change the preferred or anything at this point? Yes, okay. **The motion before us is to add Subalternative 2D under Action 3 to set aside 2 percent of the golden crab shares for appeals. Is there any discussion on the motion? Is there any objection? Seeing none, then that motion is approved.** Brian.

DR. CHEUVRONT: I just wanted a note in there for us to recall that you did not change your preferred alternative just to make there is no question. Okay, Action Number 4 is establish criteria for transferability. There are actually two minor language changes that the IPT has recommended. One is actually just simply a numbering of the alternatives.

We actually had one, three, three. We had a counting issue there so we just need to change one of the three’s to a two. Then the IPT suggested inserting the word “only” in this new alternative – well, Alternative 2 so that it reads “Shares or annual pounds can only be transferred to golden crab permit holders,” which we think fits the intention of the AP and what this action is really about. Just to let you know and to remind you, the AP preferred this Alternative 2. What we need for you all to do is to either accept the language recommendation changes from the IPT and decide if you want to set a preferred or any other actions or alternatives you’d like for this action.

MR. CUPKA: And the IPT recommended inserting the word “only” between the words “can” and “be”, not “can” and “only” right?

DR. CHEUVRONT: Sure.

DR. CRABTREE: Well, I have a question about this one. Earlier I heard there was great concern about folks coming into this fishery without sufficient expertise and yet here we have an alternative that would open the program up to all U.S. citizens after five years, and I wonder why we’re doing that. I know the Gulf IFQs do that for red snapper and grouper.

In fact, red snapper will open up to everybody, the five years is up January 1, but it has become a big controversy in the Gulf. Most of the participants in the fishery don’t like it at all. I’m just curious as why we’ve set that five years in here and how that’s consistent with the belief that it requires great expertise.

MR. CUPKA: Well, I think later on – Brian can correct me – I know the AP has talked about trying to establish some sort of program where people could be taught how to fish in this fishery as sort of like an intern program. I don't think that will come to pass, but it's certainly their intent to try and have some way of doing something along those lines, which I think would meet part of the concern there about just opening it up to anybody. I don't believe that's in there now but it will be discussed. Mac.

MR. CURRIN: Yes, that's a good point, Roy, and I'm not sure I've got an answer for you there. In thinking about this, I've got a concern on the other end of the spectrum. Perhaps with the limited numbers of people here, if a share cap is established at 49 percent, at some point I guess we could consolidate the fishery ultimately to two people and then there would be an extra 2 percent that would just stay there forever. Unless you have some means of allowing new people in, then it may end up consolidating to two folks, and maybe that's not a concern either.

DR. CRABTREE: But I don't see how this addresses that. I'm assuming that if someone buys quota share after five years and they don't have a golden crab permit, then they wouldn't be allowed to fish. Two people could buy up the whole fishery and not have golden crab permits and not fish. This doesn't address the share cap. It's there whether you do this or not. It seems to me, David, if you're talking some internship program, this seems to be directly contradictory to that and would undermine it. I'm just not sure why you're doing this with the five years. I don't know where – who suggested it and where did it come from?

DR. CHEUVRONT: If you'll remember, at the September meeting we had a lot of actions and alternatives that were in this amendment that were rather generic that had come from other catch share type programs and actions and alternatives that were considered in those other programs, and this just may be a holdover from that.

What we're kind of proposing to do is whether there is going to be a training program to bring new people in, that's all part of what the AP wants to discuss at their January meeting is figuring out how to get folks in. I don't think anybody has any intention, Roy, at this point to just let anybody into this fishery who wants to.

That part about opening it up to all U.S. citizens and permanent resident aliens thereafter, I'm not sure that anybody is seriously considering that at this point. I think it really was a holdover; so if you all want to figure out a way to delete language or however you want to deal with that alternative, go ahead and do so.

MR. CURRIN: Mr. Chairman, I would move that we move Alternative 3 to the considered but rejected appendix. That only leaves us two; either do establish criteria for transferability or do not. I guess we could add a third one if we need it for NEPA purposes that say – I don't see much difference in that and Alternative 3, though – that could be transferred to anyone, but I think that's more or less, in thinking about it, what Alternative 3 does, anyway. If we're okay with two alternatives, either establish criteria for transferability or do not – I don't know; I'm confused about it now.

DR. CRABTREE: I guess if that's not where you're going in terms of your preferred, I don't know that – if you have a NEPA issue you can just leave in there. I was just curious where it came from and if there was reasoning behind it as to why we would want to do that, but it sounds like it was just carried over for NEPA purposes from other programs.

MR. CURRIN: Yes, based on your comments, Roy, it probably came out of the Gulf ITQ Program for red snapper.

DR. CRABTREE: I guess I'd just leave this.

MR. CURRIN: All right, I'll remove that motion then and just leave the three alternatives there. I'll withdraw it.

MR. CUPKA: Okay, the motion is withdrawn. Is there any desire to select a preferred? If not, we can go out to public hearing with that one. The language change; is there any objection to the IPT recommended language change? Seeing none, then we'll make that change. Monica.

MS. SMIT-BRUNELLO; Just for the record, it's the council's intent that the golden crab permit requirement continue, so you'll have a golden crab permit and then you'll have – in order to fish the permit or whatever or to fish the ITQ shares, you would need the permit, but it's not the council's intention to eliminate the permit requirement; is that correct? We still have a vessel permit requirement and this is just in addition to the permit requirement, correct?

MR. CUPKA: There was no intent to remove the permit requirement, for sure. Brian.

DR. CHEUVRONT: Okay, on Action 5, which is PDF Page 74; Document Page 4-14, we have again some recommended language change by the IPT that clarifies what is really meant by any one entity but also includes corporations in there as well. The numbers have not changed from what you had seen before, but it tightens the language basically saying no person including a corporation or other entity may individually or collectively hold shares in excess of whatever that percentage of the shares is. The AP had told you a little while ago that their preferred was Alternative 5, which is 49 percent of the total shares. What you could do here is select a preferred alternative or approve the recommended language change by the IPT.

MR. CUPKA: All right, let's deal with the language change. Is there any objection to adopting the language recommended by the IPT? Seeing none, then we will make that change. Is there any desire on the part of the committee to select a preferred at this time? Mac.

MR. CURRIN: David, I'd move that we select Alternative 5 as the preferred; no person including a corporation or other entity may individually or collectively hold catch shares in excess of 49 percent of the total shares.

MR. CUPKA: We have a motion; second by Wilson. Is there any discussion on the motion? Monica.

MS. SMIT-BRUNELLO: In one document I have it says 49 percent. The one that I'm looking at online says 45 percent. I just want to make sure which number the committee wants.

MR. CUPKA: Yes, I noticed that earlier and called it to Brian's attention and it should have been changed. When it was drafted, it didn't get changed, but I went back and looked at the actions we took at our last committee meeting and saw that Mac had made a motion changing it from 45 to 49 percent. There were different people working on this document and whoever was handling that section of it didn't carry through with the change, but it is 49 percent. **Is there any objection to the motion? Seeing none, then that motion is approved.**

DR. CHEUVRONT: The next action, Action 6, the use-it or lose-it policy is PDF Page 77 or Document Page 4-17. The IPT has some recommended language change here that tightens up some of the language in the original alternatives. It doesn't change any of the intent of what you all had from before, but it talks again about the three consecutive years and whether it would be revoked and the definition changes is what is referred to as inactive.

In Subalternative 2A it's landing less than 10 percent of the aggregate annual pounds a shareholder is allotted over a three-year moving average period versus Subalternative 2B which is landing or transferring less than 10 percent of the aggregate annual pounds a shareholder is allotted over the three-year moving average period.

The difference between Alternatives 2 and 3 has to do with that percentage that has to be landed or transferred. Alternative 3 is 30 percent as opposed to 10 percent in Alternative 2. Again, the AP has preferred Subalternative 2B which is land or transfer 10 percent of the aggregate. What you'd need to do here is to approve the language change or change it however you wish and then decide if you would like to select a preferred or add some other alternatives as you choose.

MR. CUPKA: Brian, you said it didn't change anything, but I'm not sure. Before they were talking about the aggregate annual average utilization because they were concerned about if they only fished a part of the total allocation, that it be based on that; whereas, the IPT changes talk about the aggregate annual pounds a shareholder is allotted. What they were getting at is if they wanted the use-it or lose-it to be based on the amount of crabs that were actually harvested rather than the amount they were allotted I think, so I'm not sure it hasn't changed from the original intent was.

DR. CHEUVRONT: I think that the intention of the IPT was not to change the original intent but try to clarify perhaps what the council was thinking about and having ways that it could be more easily measured. If you would like to adjust that language however you see fit, then please do so at this time.

MR. CUPKA: I want to ask if anyone else shares my concern. I'm not sure that the original intent is retained with the way it's worded now. Monica.

MS. SMIT-BRUNELLO: David, would you tell me again what the aggregate annual average utilization means?

MR. CUPKA: And again you brought up this point at our last meeting and said we ought to include an example of that so it would be clear I think when the document goes out to public hearing. My understanding is that if the industry as a whole, say they harvested a million pounds, that the use-it or lose-it would be based upon that million pound harvest and not on the total amount that was allocated that could be harvested. The use-it or lose-it was to be judged against what is actually harvested as opposed to what they were allowed to harvest because they may not want to harvest all of it. Monica.

MS. SMIT-BRUNELLO: So then I would ask the question if that's the way it goes and it's based on an amount that's actually harvested, how would that individual permit holder person know how much they need to harvest in order to keep their particular quota shares? For example, if you're allotted X amount – you know, you're allotted 25 quota shares out a hundred quota shares, then you know that 10 percent or whatever percentage you're choosing is 10 percent of your shares or your quota amount; but if you're talking about the total amount that was harvested, that would mean that we'd have to look back and see how much was harvested and then see whether that shareholder caught whatever percentage, 10 percent, whatever – do you know what I mean? Believe me, I'm not a scientist so maybe I'm misunderstanding this, but I'm just kind of wondering how much notice that shareholder has as to how much he needs to harvest in order to keep his permit from going away under a use-it or lose-it.

MR. CUPKA: I think you raise a valid point because the way the IPT has it worded they would know ahead of time and they would know up front what they needed to harvest to retain their permit. The way it was stated originally you wouldn't know that until after the season was over; and by then it's too late to qualify, I guess, so if you didn't meet the qualification then you would just be out of luck. I think the intent was good but in practice I'm not sure that it can be done. I think you raise a good point. Mac.

MR. CURRIN: If I did my calculations correctly, if you had let's just say roughly 50 percent of the fishery, which is the cap or might be the cap, and you only had to land 10 percent of that, I think 10,000 pounds in a year would be 10,000 you either land or have somebody else land under your transferred permit, that doesn't seem to be too onerous to me for a fishery of this magnitude. At this point I'm comfortable.

I think Monica raises a very good point; and I think if it were interpreted the other way there would be no goal post for the fishermen to understand until the end of the season what their required landings were to retain their shares. I think the suggested language makes sense to me. I would recommend we adopt that. It at least lets the fishermen know what they have to meet.

MR. CUPKA: Well, I agree with you, Mac, and I think it is different than what it was originally, but I think that's the way it would have to work. Otherwise, they're going to be in a box.

MR. PHILLIPS: Mr. Chairman, as the discussion earlier, I want to see landed weight. I don't want to just see a transfer just for the sake of keeping it. I want the public to have access to the resource. Then we're going to have figure out if somebody buys shares in the middle of the year, are they also going to – how are you going to figure that into the equation?

If you know what you've got, say, 10,000 pounds at the first of the year, you know you've got to land either 10 or 30 percent, whatever we choose – if we choose anything – and then they know their goalpost. But if they buy some shares or lease some shares, how is that going to figure in? I see that he has got his hand up in the back so maybe he has got the answer.

MR. WHIPPLE: I was wanting to mention that it's not the intent of the action to allow fishermen to simply transfer shares and be able to keep them. The intent is that the shares will be landed by someone else. Just in the case of hardship for a particular fisherman, extreme hardship, we'd want the ability to do that without losing the shares. As far as buying shares in the middle of a season, I'd have to think about that one.

MR. CUPKA: So the intent is that not only to transfer but if it's transferred then it has to be fished. Now if it's not, does that onus then fall on the person that it was transferred to or the person that transferred it? It would seem to me it would have to fall on the person it was transferred to. Roy.

DR. CRABTREE: I'm not sure how that would work because if we're talking leasing, which I assume that's what we're talking about, and they don't fish them and then you take those shares away, you'd take them away from the original owner and penalize him because the person he leased them to doesn't fish, so I don't see how that would work.

MR. PHILLIPS: And to Roy's point I agree. I think if a fisherman is awarded 10,000 pounds. They only have to land either 10 or 30 percent under these scenarios. If they lease part of it under a hardship, they need to make sure that whoever they lease to is fishing it so the public has access to their resource. I think that's pretty simple and clear. I agree with Roy.

MR. CURRIN: Brian, if you want a motion I'll make it for you or either just direction to staff to make sure that it's clear in the document that under this action shares that are transferred must be fished and/or landed by the recipient in order to be a part of that 10 percent or whatever percentage required be landed every year – fished/landed is probably better.

That's getting at Charlie's point which I think is a very good one to just make sure that the physical act of transferring the shares is the only thing that's required; that's certainly not the intent here. The intent is that those transferred shares are fished in order to qualify toward whatever percentage requirement there is.

DR. CRABTREE: Well, if I leased a hundred percent of my shares out and then whoever I leased them to didn't fish, you're going to then take them away from me because the person I leased them to didn't fish?

MR. CUPKA: No, I think the intent was the person that you leased them to would be the one that action would be –

DR. CRABTREE: Well, he only has them for one year, anyway. He just leased them for the season, right?

MR. CUPKA: Well, that's correct.

MR. CURRIN: You couldn't lose them in one year, Roy. If you did that one year, then, yes, it would put a little more pressure on you to certainly not lease them back to the same ne'er do well the next year; and if he wanted lease them, lease them to somebody who is going to fish them because you've got three years to make your – if you're the maximum shareholder at 50 percent of the entire fishery, over three years somebody is going to have to land 30,000 pounds of golden crab, if that's the way we go, or you're going to lose your shares.

DR. CRABTREE: I think part of what this is getting at, what we hear in the Gulf with red snapper are complaints about sea lords, and there are people who own red snapper quota allocation and don't have a reef fish permit and never fish. They just lease their shares out and they make money leasing out their shares.

Now some people don't like that and some people do and maybe that's what you're trying to get at with this, but it's not clear to me exactly what this motion does. It's also not clear to me; it says shares that are inactive; so let's say we approve the 30 percent landing and so I only fish 25 percent of my shares; does that mean I lose everything I have or does that mean I lose only the portion of my allocation that I didn't fish? I read this that I only lose the part of my poundage that I didn't fish and I get to keep the part I did fish, but it's not entirely clear to me what our intent is here.

MR. CURRIN: And I'm not sure; many of these alternatives were developed by the AP, most of them, in fact, and I'm not sure what their intent was on this. Perhaps we can get some kind of clarification of that.

MR. CUPKA: Well, let's let Kate address that first.

MS. QUIGLEY: Just a couple of things to clear up; first of all, it says here aggregate annual pounds. We're not talking about shares; we're not talking about leasing; we're talking about annual pounds. Those annual pounds would be sold; they would not be leased; they would not revert back to the original shareholder.

What we're talking about here is annual pounds in the language, so that's annual allocation. We're not talking about quota share. We're not talking about leasing of shares. We're talking about annual pounds. If it's sold once, it never reverts back to the shareholder. It's just a one-time deal.

Yes, the intent of the AP was if you do not use that, you have that 10 percent taken away and not the entire – not all of your shares taken away. The AP thought this was a good idea, but in practice this is, of course, probably very difficult to implement, and that's why other catch share programs have not done this in the past, but they did want to reassure people that they were aware of people's concerns regarding this.

DR. CRABTREE: All right, this isn't about leasing then; so if I'm a shareholder and I lease all my quota out and I don't fish for three years, then I'm going to lose everything?

MS. QUIGLEY: No, you would not. If you're a shareholder and you lease everything out, there is nothing in this amendment that prohibits you from doing so. What is prohibited is that you receive your annual allocation, you don't use any of it for three years, you will get 10 percent of it taken away in three consecutive years if you do not use it. Right now there is no prohibition on someone receiving shares and leasing it out for someone else to fish. There is nothing in this amendment that prohibits you from doing that.

DR. CRABTREE: No, but I have to show landings and we said the transferring means selling your quota share and not leasing; so if I lease it all out and don't fish at all, I have no landings, so it seems to me the way this is written, then after three years I'm going to lose all my inactive shares?

MS. QUIGLEY: Right, so I think it needs to be clarified. The language probably needs to be cleared up quite a bit, but what the AP intended was for you only to lose that percentage specifically and so using the word "leasing" is a little confusing to me because annual pounds you sell quota share.

You've got quota share which you sell or you've got annual pounds which you sell. If someone uses absolutely nothing, they receive shares and they use absolutely nothing, then they're going to lose 10 percent of quota share – I mean, it says catch share quota, so I guess you'd lose 10 percent of your catch share quota. It's not something the AP knew how it would work administratively. It was a conceptual idea. Unfortunately, the AP left that for the council and NMFS to sort out if it's possible or not.

MR. PHILLIPS: Well, that's a way to do it but that's not what I'm reading. I'm also reading the three-year moving average, so I'm thinking it's 10 percent or 30 percent of your poundage per year needs to be used, and you can use 10 percent every year for three years and you're good or you can use 30 percent of it in one year if you're using the 10 percent and you're good for the three-year moving average. That's what I'm reading and I'm totally willing to be wrong.

And if you lease it and it's fished and you lease it to somebody else that has shares, then you're going to have to keep track of which shares are they landing under. Are they landing under the ones that you leased to them or are they landing under their own shares? You're going to have to keep track of whose shares you're leasing – what they're landed under. I think that's doable.

DR. CRABTREE: Could I ask that Andy come up and explain to us what we can and can't do and how this might work?

MR. CUPKA: Help us out here, Andy.

MR. STRELCHECK: Where I see the complication is the transfer of shares, and I think you just brought up a great point, Charlie. We wouldn't be able to track if you transferred allocation from one person to the next to define, okay, Charlie's allocation went to another person and that's going to be fished or not fished. It's all lumped into the same allocation pot.

In terms of landings, that's a pretty obvious one. We can track that against your particular permit. You can determine how much was landed relative to the amount that you received. There are still complications to that as well because you can lease allocation during the year; but if you define it based on just the quota share that you receive and not the leased allocation that you get during the year, then it's a fairly simple percentage that would be calculated in order to meet that landings threshold or not.

My recommendation is to steer away from the transfer of allocation if you want to pursue a use-or-lose provision mostly from an administrative standpoint, that it's going to be very difficult to monitor and track that allocation.

MR. CUPKA: What is the committee's preference on this? We see there are some problems here. I think the intent is good, we want to make sure it gets used, but this may not be the best way to do that. Charlie.

MR. PHILLIPS: I'm thinking maybe we should just not pick a preferred as we hash this out and take it on to public hearing and look at the options and clarify it and make sure we know where we are. That would be my preference.

DR. LANEY: Well, Mr. Chairman, just a question; to address Andy's point does it clarify or assist things administratively if we just eliminate the subalternatives because that would get rid of the transfer issue?

MR. STRELCHECK: Yes, certainly I think it would simplify the amendment. Another thing that Phil pointed out, which I agree with, is there is certainly an incentive for someone to transfer allocation if they're not going to use it because there is a monetary value associated with transferring or leasing out that allocation, and the threshold is very low as it's currently recommended.

There could be a variety of circumstances that maybe limit leasing of that allocation, but the incentive certainly is there to transfer it so that you would not lose it over time because you would be receiving some monetary value from it. So, yes, I think from a clarification standpoint to eliminate those alternatives would be helpful.

MS. SMIT-BRUNELLO: I was going to suggest that the IPT work up some examples. I think that if they could throw some examples in here of whatever you choose to go forward, if possible that would spur some comment from the public.

MR. CURRIN: Mr. Chairman, in view of all the discussion I withdraw my motion, but I'm still not comfortable with if we move forward that the simple act of transferring annual pounds, which is nothing more than a paper transaction, will allow someone to retain unused shares. We're just creating a system that can easily maintain latent shares forever.

It's very likely when we look at the aspects of this fishery as it exists today. Perhaps in the future it will straighten out as the fishery grows, but we've got a large ACL, roughly twice – somebody

correct me if I'm wrong – what is currently being landed, maybe even more than that, so there is a lot of room for growth of landed product here and there may be incentives for folks.

It's going to be a small group of people, large portions of that ACL, and there may be problems with people trying to land some given percentage. I don't know; this whole action we may need to think about for now and get rid of it, perhaps. I think the suggestion for the staff to work up some examples and bring to us and see what the public has to say will be the way to proceed.

MR. PHILLIPS: And to Mac's points, if we make sure that they are actually landing stuff it may keep us out of the wreckfish kind of wreck that we're in for later on this week. It may be a way for them to work in some new entrants. I think there is still work to be done, there is a lot of good work done, but I think there is work still to be done and I'm encouraged from what I see so far.

MR. CUPKA: Well, we'll move ahead that way then. Brian.

DR. CHEUVRONT: The one thing I'd like to clear from you all is Monica had requested that the IPT develop example scenarios that would work under these alternatives, but do you mean that under the recommended IPT language changes or the old version. If we can get some clarification as to whether you want us to work from the suggested language change versus what was originally there, that would be helpful.

MR. CUPKA: I think the intent is to use the suggested language changes because I think we've already decided that the earlier versions are not going to be workable in practice, unless there is any objection. Wilson.

DR. LANEY: Not an objection, Mr. Chairman, but a question. Given that Andy did indicate that it would be preferable to eliminate the subalternatives because my understanding is that NMFS wouldn't be able to track transfers, so is that direction that we want to give to staff that they should consider elimination of the subalternatives as they develop their examples?

MR. CUPKA: Yes, that makes sense, Wilson. Let's make a motion.

MR. CURRIN: I think Andy's point is valid and if they don't have the ability to track these transfers, then they're not of much value, so I would move that we remove the subalternatives under Action 6.

MR. CUPKA: Okay, we have a motion; second by Wilson. **Okay, the motion is to eliminate the subalternatives under Action 6 because of the inability to track utilization of transferred pounds.** Is there any further discussion on the motion? Charlie.

MR. PHILLIPS: Okay, so this would basically take away anything to do with leasing. I could see that would be pretty detrimental to the industry, especially people with small shares that wanted to grow, that wanted to lease as they grew instead of being forced to buy. Mac, Doug had whispered in my ear a while ago that it would pretty easy if you had an allocated share, all of your shares got charged to you first and then anything you leased got charged second, so they

should be able to keep track of that, and that would be a pretty simple way to do that. Right now I'm inclined to vote against this because – and I think industry has got something about it, too.

MR. HAYMANS: Mr. Chairman, I'm not your committee but I was just noticing that you've accepted the IPT language and if you look at the two alternatives under the IPT language, they're exactly the same, so really it's the previous language that has the 10 and 30 percent, so you need to go back and revisit the IPT language.

MR. CUPKA: Well, one is just landing and one is landing or transferring, right?

DR. LANEY: If you eliminate the subalternatives, I think you still have the 10 and 30.

MR. HAYMANS: Not here, not under the IPT.

MR. CURRIN: **I'm going to withdraw another motion, Mr. Chairman, and ask the staff to try to work this out.** Doug has made a great point and my intent certainly was not to eliminate the two alternatives of 10 and 30 percent. I guess perhaps another way out of this box, if that's way we want to go, although Charlie expressed some reservations as well, would be to not accept the IPT's language and eliminate the subalternatives. There seemed to be a lot of problems with this and maybe it's something we better leave for further thought and discussion in the document.

MR. CUPKA: I think you're right, Mac, I think we need to let the IPT – I think they know what some of the concerns are now and see how they can address this and bring it back to us. We'll leave it at that and see what we come up with.

DR. CHEUVRONT: I just want to put a note in there for us that the council did not accept the IPT language change; but if you look above here, I do say direction to IPT to develop example scenarios that would work under alternatives. Does that capture it closely enough to see what we can work out?

MR. CURRIN: Personally, Brian, I'm okay with the suggested language changes. It's just when I tried to eliminate what I saw as a problem because of the changes, I was also eliminating the two effective alternatives so I don't want to do that. I think from my perspective the language changes are okay. We just need some further clarification of what these are actually going to do and try to get at this whole issue of people transferring shares to retain shares, but the shares will have gone through nothing other than a transfer process. I don't think that gets us anywhere other than just creating latent shares for perpetuity.

DR. CHEUVRONT: So the council's intent is to make sure, though, that in any scenarios that are developed it requires that any shares that are transferred are required to be used upon transfer; is that correct?

MR. CURRIN: Yes, I think that's the point Charlie initially raised and I certainly agree with it.

DR. LANEY: Mr. Chairman, to elaborate on what Mac said, I think the problem with the language is that if you eliminate the subalternatives, as Doug pointed out, you eliminate the 10 percent and 30 percent so the IPT just needs to figure out how to basically retain the 2A and 3A language within Alternatives 2 and 3 but get rid of the transfer language if that is what is problematic.

MR. CUPKA: And here again I think the IPT has got some indication of what the concerns are and let's give them an opportunity to come back and see what they can work out. Obviously, if it's transferred it has to be fished and some of these other concerns that we have expressed. Again, we want to maintain the 10 and 30 aspect. I think they know what our concerns are so let's see what they can come back with. Brian.

DR. CHEUVRONT: That's fine; I was just trying to make sure that I captured in the notes here enough of what the council's intent was so that when we get back to the IPT and work on this we're not trying to figure out later on what did you all really mean. I think I've captured enough of it here that we could move on if you're ready to do so.

MR. CUPKA: Okay, let's move on to Action 7, a cost recovery plan. There was a comment made earlier about the maximum 3 percent. I'm not sure we need to include that because that's the law, anyway, you can't go over a 3 percent cost recovery, so I'm not sure we need to have that in there.

DR. CHEUVRONT: I think you're right and maybe that's something Monica can answer, but Magnuson does stipulate 3 percent is the maximum cost recovery; is that correct?

MS. SMIT-BRUNELLO: It sounds about right but I'll double check.

DR. CHEUVRONT: Okay, at this point the IPT has recommended some minor wording changes to Alternatives 3 and 4. They'd like to change the wording in Alternative 3 to fee collection and submission shall be the responsibility of the – and then the subalternative remain the same. It's mainly designed to make this more readable.

Under Alternative 4 they would say fees will be submitted to NMFS – and then the frequency. It was just to make it more linguistically correct were the only changes. The council has preferred subalternatives already. Under Alternative 2 there is that cost recovery fees will be based on standard on X-vessel value of landings as calculated by NMFS.

Alternative 4, the preferred subalternative is that the dealer would be responsible for fee collection and submission. Alternative 4 is that the fees will be submitted to NMFS quarterly. Those are already currently your preferreds. The minor wording changes may be about all that you might want to consider; but if you want to change any of these actions, do so now. If you're following along in the regular document, we're talking about PDF Page 81 or Document Page 4-21.

MR. CUPKA: Okay, are there any objections, first of all, to the wording changes from the IPT? Seeing none, then we'll use the wording changes. Now, in regards to preferred, is there any desire on the part of the committee right now to change any of the preferreds? Mac.

MR. CURRIN: Not at this point, David, but a question I guess for the regional office regarding how NMFS would calculate the standard X-vessel values; is this something you guys do routinely within season? Is this the best way to go or should we use the actual value as determined from the sales at the dealer and can you guys verify that?

MR. CUPKA: I think they had indicated in the past that this was the best way, but I'll let them speak to that. It seems to me we had some information provided before on ways it's done in other IFQs, particularly in the Gulf. Phil, do you want to address that?

MR. STEELE: Yes, sir; how we typically do the IFQ cost recovery fees in the Gulf of Mexico are based on X-vessel value. The problem with X-vessel value that hopefully we've solved has been that what is X-vessel to you may not be the same as X-vessel value to me. We've seen a lot of times when the X-vessel value dealers have come in and subtracted a lot of add-ons like if they're paying the guy for ice and fuel and so forth and so on, then the X-vessel value that the dealer is paying is significantly lower than what you'd normally expect from a product.

That has been the problem so we have since fixed that and defined what X-vessel value is. X-vessel value can be done immediately upon sale of the fish. Standardized pricing is not something we've done in our IFQ Programs, but it is something that is done in the Alaska Region, and this is really kind of a fleet price.

What we would have to do – and I would get some input from our Alaska friends on exactly how they do that, but we would have to get kind of an average price across the board for some time period, say, for that quarter and charge everybody the same. So if Mac is selling – versus X-vessel if Mac is selling at one price and you're selling in the other, we wouldn't collect on that.

We would collect on the average on what the fleet is paying over that time period. That's the difference between the two. It's a little bit more cumbersome, but I think it eliminates some of the problems with the disparities in X-vessel price that are charged among dealers. If that's the way you want to go, we can certainly accommodate, but it wouldn't be immediately paid at the time of purchase. It would be done after we've calculated the standardized price for the fleet.

MR. CUPKA: Are you okay with that, Mac? Monica.

MS. SMIT-BRUNELLO: Just for the record, the Magnuson Act at Section 304(d)(2) does say that the fee shall not exceed 3 percent of the X-vessel value, so we were correct earlier. I would encourage the IPT to put into the document, since Phil has just said they've come up with a determination of what X-vessel means and we can put that in the document and explain it to the public.

MR. CUPKA: Monica, that is what you intended, some sort of definition of standard X-vessel value be included to explain what exactly we're talking about?

MS. SMIT-BRUNELLO: I think that's a great idea.

MR. CUPKA: Okay, and Phil can provide that to the IPT?

DR. CHEUVRONT: And I'm going to put that in there, Phil.

MR. STEELE: One other thing, with the standardized pricing you have to understand that some dealers may be happy with this and some dealers may not because there is a high and a low and this is going to be the middle. That's kind of a concern that you need to think about.

Where X-vessel is what you were paying and we've got pretty much what the standard X-vessel pricing so there are some good sides to that one, but standardized pricing is going to fleet wide and Dealer A may pay lower than this dealer over here, so some dealers may not be too happy with that, so it's something to consider, whether you want to go for X-vessel or standardized pricing. I would recommend that we get some more input maybe from our dealers on how they felt about it.

MR. CUPKA: Well, hopefully that will be accomplished during the public hearing process.

DR. CHEUVRONT: Okay, let's move on to Action 8, which is PDF Page 84; Document Page 4-24. Action 8 is to establish boat length limit rule. The IPT has some recommended language changes. What was actually stated in Alternative 1, no action, the old language was not true. There actually is a boat length limit rule that exists now.

That language was included in the recommended language change. They also wanted to clarify under Alternative 2, eliminate vessel length restrictions for obtaining a permit for the middle and southern zones via transfer. The AP this morning reported saying that they actually preferred Alternative 1, no action. What the council needs to do is to decide what you want to do about the recommended language changes and then determine whether or not you wish to choose a preferred at this time.

MR. CUPKA: Okay, let's deal with the language change. Is there any objection to accepting the recommendations from the IPT? Monica.

MS. SMIT-BRUNELLO: I'm not objecting but I am suggesting that there is another sentence that ought to be included in that. In the current regulations the IPT is absolutely right; the no action before is incorrect. You have a sentence before you to obtain a permit from the middle or southern zone via transfer, the documented length overall of the replacement vessel may not exceed the documented length overall or aggregate documented lengths overall of the replaced vessels by more than 20 percent.

The regulations also state, though, that the owner of a vessel permitted for the middle or southern zone who has requested that NMFS transfer that permit to a smaller vessel; i.e., downsized, may subsequently request NMFS transfer that permit to a vessel of a length calculated from the length of the permitted vessel immediately prior to downsizing. I'm just suggesting there is a little bit more language that ought to go in the no action in addition to the IPT's recommendation.

MR. CUPKA: Okay, and Brian can get that language, but the intent is if you go to a smaller vessel you'll always have the option if you sell that permit to go back to the original length; is that correct?

MS. SMIT-BRUNELLO: I believe so.

MR. CUPKA: All right, any other suggestions or objections to the wording change, including that? If not, then we'll accept that. Is there any desire on the part of the committee to select a preferred at this time to go to public hearing? Seeing none, then we will move on to the next action.

DR. CHEUVRONT: The next action is Action 9, to address quota share allocation among golden crab fishing zones. Again, this is another scenario where the no action does not adequately describe what the current state of the regulations are. The additional language suggested by the IPT, which I am showing now, includes that language in there.

To be a little clearer, we talk about vessels with permits as opposed to participants in the fisheries in the other actions. The AP had also suggested that we take Alternative 3 and put that in a separate action with perhaps only two alternatives; one no action and one with Alternative 3 as the alternative action.

There are a couple of things that you can consider here; accepting the language change at least for Alternatives 1 and 2 or 3 if you should choose to keep Alternative 3 in this action. You could choose a preferred alternative. The AP does prefer Alternative 2 for this action. Then you need to make a decision about whether or not you would like to remove Alternative 3 and put it into a separate action, leave it there, remove it, however you would like to deal with it.

MR. CUPKA: Let's deal with the separate action issue first. Is there any desire on the part of the committee to take Alternative 3 and make it a separate action? Mac.

MR. CURRIN: Yes, David, I think that makes sense as suggested by the AP folks that we have talked to in that fishery. I think it provides some clarity to the document and that action would be simply to eliminate the box or retain the box would be my suggestion. I don't think there are any other reasonable alternatives for consideration under that and hopefully that would suffice for NEPA purposes.

MR. CUPKA: It should. Do we have a second; Charlie seconds. **Okay, the motion is to make Alternative 3 of Action 9 part of a separate action with two alternatives; no action and then what is currently in Alternative 3. Is there any discussion on the motion? Is there any objection? Seeing none, then that motion is approved.** All right, let's go back to the suggested wording changes by the IPT. Is there any objection to making those wording changes?

DR. CHEUVRONT: I would like to clarify then that what we're talking about here is the wording changes for Alternatives 1 and 2 only that remain.

MS. SMIT-BRUNELLO: I'd like clarification from Brian on the IPT recommended Alternative 2. You state a vessel with a permit to fish golden crab can use annual pounds in any of the three golden crab fishing zones; do you mean fish in any of the three zones? It states "can use annual pounds", and I'm assuming you mean fish?

DR. CHEUVRONT: Yes, that's the intention is to fish.

MS. SMIT-BRUNELLO: I'd suggest then you would maybe change that language to fish and then it more mirrors the no action alternative, which is you can only fish in certain zones and this would then say you can fish in any of the zones.

MR. CUPKA: Any objection to that further suggestion? Seeing none, then we will do that. Is there any desire on the part of the committee at this time to pick a preferred among Alternative 1 and 2 with the wording changes for public hearing? Brad.

MR. WHIPPLE: I believe the revised Alternative 2 would want to retain the language allowing fishing in any of the zones for which the vessel is permitted.

MS. SMIT-BRUNELLO: That might be another alternative because that's a little different than what is suggested. To me in Alternative 2, Alternative 2 is if you've got a vessel permit and quota shares you can fish in any of the three zones you want to fish in, and what you're proposing is a little different than that.

MR. CUPKA: Yes, I agree, if it's going to go in there it probably ought to be a separate alternative. Is there any desire on the part of the committee to do that then? Charlie, do you want to make that motion?

MR. PHILLIPS: I so move, Mr. Chairman.

MR. CUPKA: We have a motion; second by Wilson.

DR. CHEUVRONT: Just to make sure that I understand this correctly, what you're saying is to take the old Alternative 2 from the old language, which was participants can use quota in any zone for which they possess a permit, and make that as a separate Alternative 3 under the newly revised Action 9 so we have Alternatives 1 and 2 as proposed by the IPT, and then you want to pull in Alternative 2 from the unrevised and add that as a new alternative under this revision?

MR. CUPKA: Yes, I think that would do it. I wasn't sure what the wording was under old Alternative 2, but as long as you understand that. Mac.

MR. CURRIN: I think as Monica suggested, Brian, perhaps modify the old Alternative 2 that participants can fish in any zone for which they possess a permit.

MR. CUPKA: The motion is put old Alternative 2 for fishermen to fish in any zone for which they possess a permit as separate Alternative 3 under the revised alternatives for

Action 9. Is there any discussion on the motion as amended? Is there any objection? Seeing none, then that motion is approved. Mac.

MR. CURRIN: David, I would move that we select Alternative 3 as the preferred under this action.

MR. CUPKA: Okay, a motion to select Alternative 3 as the preferred; second by Wilson. Is there any discussion on the motion? Wilson.

DR. LANEY: No discussion, Mr. Chairman, but, Brian, I was the seconder of the previous motion by Charlie so you can get rid of the question mark.

MR. CUPKA: All right, is there any objection to the motion? Seeing none, then that motion is approved. Monica.

MS. SMIT-BRUNELLO: I think before full council we ought to think a little bit, Brian, about on Action 9, the no action alternative and the alternatives that we have or that the committee just decided on, because when you look at the no action alternative and you take out the second and third sentences, which is what the subzone is all about, if you take those out, what the no action alternative talks about is that – well, it specifies a vessel with a permit to fish for golden crab in the northern zone or the middle zone may only fish in that zone.

Then it discusses how you can get a transfer from one zone to the other zone, so let's just make sure that we've got that captured in these alternatives in the sense that I don't know whether the committee would still want – well, I guess it would depend on which alternative you ultimately chose, but I don't know whether you would want to retain the ability to get a permitted vessel to change their zone, if you want any restrictions on that or don't want restrictions.

I think it's kind of a lot to think about now so maybe we can try to have that thought out a little bit further to see if there is any other alternative that needs to be added to capture any other part of that that you might want to keep or that the IPT might want to keep as well. If you don't choose no action, some of that goes away.

DR. CHEUVRONT: Action Number 10 is to establish criteria for permit stacking. The IPT has one minor language change recommendation. It's just basically do not allow stacking of golden crab permits just to be clear as to which permits you're talking about, that you're not referring to any other permits that the vessel may have.

Currently the Alternative 2 is allow for stacking of up three permits. You heard the AP say this morning say that they would like to remove that number of – no limit on the number of permits that could be stacked. You may want to address this issue. The IPT felt that this might be redundant with Action 9, but it would be redundant depending on which alternative was chosen as the preferred under Action 9.

Council staff, in talking about this later, thought that perhaps we need to leave this in here in case it is actually needed later on, depending on what is finally selected under Action 9. There are a

couple of things here. The first is the minor language change. The second is do you want to change the language in Alternative 2 as was preferred by the AP and whether you want to select a preferred alternative or whether you would like to follow the IPT's recommendation just to remove this action altogether.

MR. CUPKA: Okay, there was some discussion at least at our committee meeting before, and I don't know if the IPT had some after, but this term "permit stacking" is a little misleading because it's not what we normally think of as permit stacking. I guess as long as people understand what we're trying to do, it's not that critical what we call it, but it is a little misleading.

All right, let's look at the recommended language change first. Is there any desire on the part of the committee or any objection to accepting the recommended language change? Seeing none, then we will accept that change. Is there any desire on the part of the committee to add another alternative? You've heard the desire of the AP earlier and their concerns. Monica.

MS. SMIT-BRUNELLO: I just have a question for clarification. Alternative 2 discusses stacking of up to three permits on one vessel so that any zones for which the vessel has a permit can be fished on one trip. For clarification that means a vessel could have a northern zone, a southern zone and a middle zone permit but not that a vessel could have three middle zone permits; correct?

DR. CHEUVRONT: I think what the AP is asking for is whether a vessel could actually have multiple permits for a single zone. I believe the way it works now is if the vessel has permits for multiple zones they have to fish in whatever zone for the permit they have on the vessel at that time, they have to bring the vessel in and unload, call in, switch permits on the vessel and then go back out and fish the other zone for which they want to fish.

What they're trying to do is become a little more efficient in terms of trip costs. If they've got a permit on board the vessel for any zone, they should be allowed to fish that without having to come in and unload before they could go back out again. The idea of allowing unlimited permits on there, that is a new concept to me, and I think we might need to get somebody to clarify what they mean by allowing the unlimited number of permits.

MR. CUPKA: I think what they were getting at here was the permit is issued to the boat and they want to have some catch history associated with that, so can they carry more than one permit on their boat and fish it in a zone so that they can get catch history that would qualify or be applicable to both permits is my understanding. Monica.

MS. SMIT-BRUNELLO: So currently I am not aware of any fishery in the southeast region that allows more than one vessel permit on a vessel for an individual fishery. In other words, they wouldn't allow two middle zone permits on a single vessel; but if that is the council's choice to allow that, then I think there are at least two additional alternatives we could put in here.

If you want to allow stacking up to three permits, then you could have one alternative that specifies that could be only a northern zone and a middle zone and a southern zone, and then you

could have another alternative which would allow what you just described where a vessel could have two or more I guess multiple zone – the single zone permits on the same vessel; for example two middle zone permits or whatever you’re discussing. There are some more reasonable alternatives that could go in there if that’s what you choose.

MR. CUPKA: Well, part of their concern I think is if they buy – say, for example, they already have permit for the middle zone and they buy another permit for that middle zone, the understanding is right now that second permit would have to be somehow attached to a different boat and it may not even be their boat. What they want to do is to be able to use their own boat to get some catch history for both of those permits in that zone. I agree with you, I don’t think it’s set up like that in any other fishery but I don’t know any reason why you couldn’t as long as we make a conscious decision to do that.

MS. SMIT-BRUNELLO: And I think that’s true although I haven’t thought this completely through, and I’m sure our permits people back in the region are spinning around thinking, oh, boy, how are we going to do this? That’s fine but I think that you ought to be as specific as you can in these alternatives and maybe you want to allow – if that’s what the committee and council wants to do, that you just put some more alternatives in here and be very specific as to what you mean by stacking.

MR. CUPKA: Well, again, I think that gets back to the point I think that’s a bad term to use in this situation because normally when we think about permit stacking, you can have more than one permit which allows you to catch more, and this is obviously under an allocation system so it’s not the right use of the term, I don’t think, and it can be misleading. Wilson.

DR. LANEY: Well, to that point, Mr. Chairman, would the word “use” instead of “stacking” resolve that concern? I don’t know; I’ll throw that out there for you to think about. My understanding from Brad’s discussion earlier this morning was I think the reason that they had specified more than three was because that would address the circumstance where a vessel had permits for Zones 1, 2, 3 and then acquired a permit for another zone, so that would mean that you would need to have at least four in that case to maintain your second permit for whatever zone it was having catch history. Like Monica said, I think there may be some additional alternatives, and I agree with her that you need to be specific about the zone issue because that complicates things here so you need to be very specific about that.

MR. CUPKA: Do you wish to add any alternatives or do you want to ask staff to –

DR. LANEY: Yes, I don’t know which ones would be appropriate for adding. Maybe Brad has some thoughts on that.

MR. CUPKA: Well, obviously, one that they’ve already mentioned was allowing an unlimited number.

MR. WHIPPLE: I just wanted to say that the action isn’t relative to zones. I would suggest an alternative that reads any number of golden crab permits may be placed on a single vessel.

MR. CUPKA: Monica, do you have any thoughts on that?

MS. SMIT-BRUNELLO: Well, it's a new concept so I just have to think about it a little further and obviously if we're talking about permit history and all that and landed catch, I guess it – I don't know; it's kind of intriguing and different so we just have to think about it a little further, but it's up to you all whether that's what you would like to go out to public hearing.

You certainly don't have a choose a preferred alternative at this point, but if you want some additional alternatives in here now is the time to do it or you could give the IPT license to come up with a couple. I don't know if Brian likes that suggestion because I think for staff purposes it's really nice to have specific direction from the council. This would be a new approach to how we deal with permits on a vessel so you just need to think about whether you would like to explore that further.

MR. PHILLIPS: I'm still trying to follow this a little bit. So we're talking about different permits for the middle zone, with different owners of the permits being used all on one boat, so it's more like – instead of permit stacking it's more boat stacking. You're moving the boat around between the permits more so than the permits between the boat, if I understand this. I definitely think the public needs this explained in the document.

DR. LANEY: Well, just for purposes of discussion, Mr. Chairman, I'll move that we add an Alternative 3 which would allow for – whatever verb we want to employ there, use or whatever is appropriate, since we don't seem to like stacking – multiple permits, I guess more than three – unlimited, to use Brad's word, unlimited permits on one vessel.

MR. HAYMANS: Zone permits, right?

DR. LANEY: Well, Brad just indicated that this wasn't tied to zones, but I thought that permits were tied to zones. Are they not tied to the zone right now?

MR. CUPKA: Yes, permits are tied to zones; they're zone-specific.

DR. LANEY: Right, that's what I thought so then whatever the appropriate language would be, adding a third alternative to allow for stacking or use or however you want to say it of an unlimited number of permits on one vessel so that any zones for which the vessel has a permit can be fished in one trip. That's a question as to whether we have worded right, but the intent here is just to add that alternative for further evaluation and discussion.

MS. SMIT-BRUNELLO: I have a question for Brad. Brad, is this getting to where you would be leasing a permit; because if you would buy a permit, then I guess that would be a whole separate thing and why wouldn't you want to combine that permit history into just one permit? I don't know; there are a variety of things so are you thinking about the leasing situation? Right now the Fisheries Service, under the regulations as they exist now you don't lease a permit. You lease a vessel that has a permit and then you use that vessel with the permit.

MR. WHIPPLE: Yes, I'm thinking about not wanting to lease a vessel. I'm thinking about wanting to purchase a vessel; and if I'm in a position to first purchase a permit, I need a place to put that permit until I acquire the vessel.

If I have a permit for the southern, middle and northern zones on one vessel and I have a plan to acquire a new vessel and I'm in a position to acquire the permit first, I need a place to put that permit. It has to be attached to a vessel. I want to be able to put it on my own boat and not have to lease someone else's boat to put it on.

MR. CUPKA: And if you don't do that, you won't be able to keep it active or you may not be able to. Okay, we have a motion; is there a second?

DR. CHEUVRONT: Let's make sure that Wilson agrees with the motion first. Wilson, do you agree with this motion? I kind of typed it up there. You were looking this way and I didn't know if this was exactly what you meant or not.

DR. LANEY: Well, I think that captures the desire of the AP. That is my intent is to put something up there that captures their desire and I'll look to them to see if that is what they're looking for. I'm seeing heads nodding, so, yes, Brian, that does capture the intent. Again, pursuant to our prior discussions here, I think we're in agreement that we need some more work on this particular action just to make sure we're all squared away legally here.

MR. CUPKA: Okay, we have a motion; is there a second?

MR. CURRIN: I'll second.

MR. CUPKA: Second by Mac. Discussion. Monica.

MS. SMIT-BRUNELLO: I believe the highly migratory species regulations have an allowance in there or allow an individual to have a permit and renew that permit without placing it on a vessel, to cover the situation that Brad is talking about where he has the opportunity to buy a permit and he buys that permit – and they even allow that permit to be renewed.

Of course, at some point if you want to use that permit, then you have to get a vessel to use that permit. That covers part of Brad's situation but it wouldn't cover the other part in here I think in which you would have to use – you have use-or-lose provision and if you went with the use-or-lose provision, then I guess you would need to put that permit on some vessel and use – I don't know; we do have a separation between permit and IFQ shares, too, so it's something more to consider. Maybe by full council we can think a little bit more about this and I'll get with Brian and see if we can come up with something else.

MR. CUPKA: Yes, and I don't think the concern is just keeping the permit but maybe establishing some catch history associated with that permit as well. If it's not on a boat, then that's hard to do. I think this would cover it. Is there any further discussion on the motion?

MR. CURRIN: I think you're exactly right, David, it does allow the individual to create some catch history on that. It does create value for that permit, which then may be either placed on another vessel that the individual would buy or sold with the accrued value that the individual has placed upon that permit.

Charlie said something that scared me a little bit; and I don't know, I think if I understood you correctly, Charlie, your question was about whether a permit owned by another individual might be – and it was back to your comment of boat stacking. Certainly, I don't think the intent is for a boat owner/operator with existing permits for all three would garner another permit from another individual to develop catch history for that. We need to be clear that the vessel owner must be the owner of the permits that are allowed on that vessel if this is the way we go. It's a little sticky.

DR. CRABTREE: You talk about the catch history on the permit and the value of catch history, it's not clear to me what value catch history has. Once you go into the IFQ Program, all the shares are allocated and I don't know the point of catch history. The only other thing I'd point out to you is –

MR. CURRIN: Yes, you're right, Roy.

DR. CRABTREE: – our catch share budget has been cut significantly, and this is getting to be a very complicated program in a lot of respects. We need to think about how many bells and whistles we put in this because at the end of the day we're going to be able to implement the program and management. I'm concerned that we have so many complications that are being caused by things like having these zones and it's not clear to me why we even need the zones to begin with. I would just urge you, as you go through this, to think about simplifying this down some.

MR. CUPKA: So noted. Is there any further discussion on this particular motion? **The motion is to add Alternative 3 to Action 10 to allow an unlimited number of golden crab permits on a single vessel so that any zones for which the vessel has a permit can be fished in one trip. Is there further discussion on the motion? Is there any objection? Seeing none, then that motion is approved.** Brian.

DR. CHEUVRONT: The next action is Action 11, PDF Page 88, Document Page 4-28. This is an action to deal with monitoring and enforcement. I do know that the AP has some issues with the VMS considerations here because VMS doesn't always track the actual location of the gear. It tracks the location of the vessel and sometime because they're so close to some of those protected areas, the vessel could actually be in the protected area but the gear is not there.

The IPT has made a couple of recommendations. The Alternative 1, no action, remains the same but Alternative 2 changes slightly. Basically what it does is it combines Alternatives 2 and 3 together into some subalternatives. There was some discussion from some of the IPT that wanted to actually add another subalternative that reflects some information that the IPT received recently from Otha regarding the purchase of VMS equipment and what perhaps NMFS could help pay for.

There is an additional subalternative that could be added there, and that would be the purchase of VMS equipment will be reimbursed by the National OLE VMS Reimbursement Account if funding is available. Installation, maintenance and communications costs will be paid for or arranged for by the shareholder. We've got some changes and some things to consider here on this action.

MR. CUPKA: Well, maybe we could simplify it. I think based on some of the discussions that we've had before I don't why we couldn't move this to the considered but rejected and not worry about these changes. We've already had some input from law enforcement that it is hard to use this for enforcement because it really tells you where the boat is and not where the equipment is.

We certainly don't need VMS to tell law enforcement when somebody is in port or what port they're going into. I'm personally not sure whether we even need to consider this. Now, we never did look into the issue of pingers or some other way to give better information on where the traps are actually located. Maybe at a further point down the road based on what we find out, we may want to come back and add some monitoring requirements, but at this point my personal opinion would be to move this. I'll open it up for discussion and see what the other committee members think. Otha.

MR. EASLEY: Well, the previous discussion that dealt with VMS for the golden crab fishery was primarily for or solely for determining fishing in a closed area. That was a complicated decision and also our ability to monitor as far as our staff and their expertise to determine where these fishermen are and their gear, et cetera, in relation to the actual line that's on the screen of the enforcement technician.

But now that experience has been gained; we have full-time FTEs now, so they can better deal with that. But on the bigger scale here about IFQ or catch shares, knowing when the vessel are going and leaving so that we can be there when they land so we can do our thing as far as the reporting and monitoring that end, VMS is very vital. It is key there. I think it is my understanding, too, that from the earlier testimony or the discussion report from the AP, that they're in favor of VMS at least for that catch portion of enforcement's use.

MR. CUPKA: But later on we consider hail-in requirements which would accomplish the same thing. Ben.

MR. HARTIG: Yes, I think Otha is absolutely right. There is nothing that precludes a boat from stopping somewhere in a three-hour hail-in time before he gets to his point of origin to land, so certainly it aids enforcement to know the track of that vessel during that hail-in time. I think it's vital.

LT. FOOS: Mr. Chairman, I'm not on your committee but I do have a comment to make on this action as well. To kind of reinforce what Otha said, the Coast Guard supports increased employment of electronic monitoring technology, specifically VMS, as it increases our enforcement efficiency on the water. It also provides another tool for search and rescue in the event that something does happen while they're out there fishing.

MR. CUPKA: Well, it sounds like maybe we shouldn't move it. Wilson.

DR. LANEY: Well, my understanding, Mr. Chairman, was that the AP supports the concept of VMS on the vessels. They just didn't support it being used by enforcement as surrogate for determining where the gear was, and that issue is addressed in another action later on. I think my understanding is they're okay with using VMS.

MR. CUPKA: All right, what is the desire of the committee then? Do we have wording changes here, Brian?

DR. CHEUVRONT: You have in Alternative 4 of this action is implement a hail-in requirement when landing and with location and time or other information deemed necessary by enforcement, but it does not specifically say anything about using VMS to assist with that. If you are saying that you want to use VMS on vessels for this, then I think there is probably some need to reword some of the alternatives that are here to make that very clear, because I'm not sure that the way this action is worded currently now would capture that's how you meant to have this hailing done.

MR. CUPKA: Well, let's deal with the wording changes to Alternatives 1 and 2 and see if there is any objection.

DR. CHEUVRONT: Yes, it's really Alternative 2 that has the wording changes.

MR. CUPKA: Okay, is there any objection to making those wording changes? Seeing none, then we will incorporate those. Is there any desire on the part of the committee to make some changes to Alternative 4 as Brian had just alluded to? Otha.

MR. EASLEY: If I could enforce a preference, I would like to keep the VMS and call-in alternatives or options or enforcement tools or managing tools separate. Those are two tools that work well together and complement each other, but they serve different purposes and can work separately. I'd hate for one to fall if the other one was successful.

MR. CUPKA: Well, there is nothing to preclude us having two preferreds in this action, one which would be to hail in and the other would be the VMS requirement. All right, is there any desire on the part of the committee to indicate any preferred alternatives at this point? Brian.

DR. CHEUVRONT: There was also a subalternative that had been suggested by the IPT to add that incorporated some information that Otha provided about how VMS could be paid for because that was included in some of the previous actions. Since you've accepted the language change, this would go in as Subalternative 2C, and that wording would be "The purchase of VMS equipment will be reimbursed by National OLE VMS Reimbursement Account if funding is available. Installation, maintenance and communications costs will be paid for or arranged by the shareholder."

MR. CUPKA: Do we have a motion to add that a subalternative? Mac.

MR. CURRIN: So moved.

MR. CUPKA: We have a motion; second by Charlie. **Okay, the motion is to add a Subalternative 2C for the purchase of VMS equipment and will be reimbursed by the National OLE VMS Reimbursement Account if funding is available. Installation, maintenance and communications costs will be paid for or arranged by the shareholder.** Is there any discussion on the motion? Roy.

DR. CRABTREE: And your intent would be that if there is not any money remaining in the OLE VMS Reimbursement Fund, then the shareholder would pay the cost?

MR. CUPKA: Well, if there is no money there, there is no money there. If they have to get it, yes, that's how it would work. Mac.

MR. CURRIN: I think there are probably a couple of good reasons to consider putting this equipment on these guys' boats now. One, there apparently is money still available and who knows how long that will last? Two, although there are problems currently with using VMS to determine whether there are infringements in some of these closed areas, having the VMS on the boats and operating them for some period of time may provide some analysis or opportunity for analysis that could then be used to determine whether these guys were setting gear, pulling gear, exactly what they were doing out there. It may be somewhere down the road that some useful information could come out of the analysis of VMS tracks that could be used for enforcement of some these restricted areas.

MR. CUPKA: Yes, and like all technology nowadays, changes are being made all the time and some of these VMS systems are getting to be extremely enhanced and able to do a number of things. Is there any further discussion on the motion? **Is there any objection to the motion? Seeing none, then that motion is approved.**

Is there any desire on the part of the committee to choose any preferreds to take out to public hearing? I think we can have more than one preferred in this action if we desire to do so. I think we've heard from enforcement that it would be good to combine VMS with the hail-in requirements. Does anyone wish to select a preferred at this time or do you want to wait until we come back from hearings? Okay, let's move ahead then, Brian.

DR. CHEUVRONT: Action 12 is to establish criteria for a new entrants program. It's PDF Page 94 and Document Page 4-34. This is one of the actions that are in here right now that probably still needs considerably more work. We're planning on meeting with the AP at the end of January to work on this specifically.

Perhaps maybe the best use of the council's time right now would be just perhaps just to endorse the continued work on this action and then have us bring it back to you at the March meeting on what we could come up with and then you can all decide how you want to handle at that point. I would suggest we just go ahead and leave the alternatives that we have in there now to take out to public hearing so that we have something for people to comment on.

If the AP comes up with something that is pretty close to their recommended alternatives for this, we wouldn't necessarily need to take it back out to public hearing again. There is a possibility we could leave this action in the document and go forward with it, but we really think it might not be in the best interest of this document to hold it up just for this one action if we haven't been able to resolve what the best way is to work out the criteria for bringing new entrants into the program.

This is a fairly complex subject because this is such a difficult fishery to participate in. It's not just how do they get the shares but it has to be how do we figure out who is eligible to get the shares. There are several issues that need to be worked through, and the AP is planning on working on that next month. You can mess with this as much as you want to at this point but knowing that we're probably planning on coming back to you in the March meeting with a lot more detail on how the AP has figured that they would like to make this work.

MR. CUPKA: And I think that's the best course of action; and unless I hear any objection, that is the approach we will use. Okay, let's go on to the next action then.

DR. CHEUVRONT: The next action is Action 13 dealing with annual pounds overage, PDF Page 96 or Document Page 4-36. The IPT has recommended again some minor wording clarifications, but the idea here is that on the last trip of the fishing season, that in Alternatives 2 or 3 that the fisherman would be allowed to exceed his current allocation by either up to 10 percent or 20 percent on that last trip of the season, which the overage would then be taken off their allocation for the subsequent season.

Currently the AP would prefer Alternative 3, but the council has not chosen a preferred at this point. What the council could do is decide to approve the recommended language changes and/or decide whether they want to have a preferred alternative at this point.

MR. CUPKA: All right, is there any objection to accepting the recommended wording changes? Seeing none, then we will incorporate those, Brian. Is there any desire on the part of the committee to select a preferred before we go out to public hearing? All right, seeing none, then we will take it out without a preferred. Brian.

DR. CHEUVRONT: And we finally made it to the last action, Action14, which is approved landing sites, PDF Page 97; Document Page 4-37. The IPT has made a very minor recommended language that has to do with Alternative 2. It previously said must land at one of these sites, and the recommended language changes that participants must land at an approved landing site; the idea being that they could change the preferred landing sites as the nature of the fishery changes over time.

That is the only recommended language change that the IPT came up with, and currently the council does not have a preferred. The AP prefers Subalternative 2A, that the sites be selected by the fishermen but approved by NMFS OLE, of course, with allowing them to have to ability to modify these sites in the future. I don't think there is anything in the language that would preclude that from happening, anyway. So, accept the language change and choose a preferred alternative I think are right now the issues that you might want to deal with.

MR. CUPKA: All right, is there any objection to accepting the language change recommendations? Seeing none, we will accept those. Is there any desire on the part of the committee to select a preferred at this time? Mac.

MR. CURRIN: As long as long as we're comfortable, Brian, that Subalternative 2A I believe would allow the future selection of sites that might be identified by shifts in the fishery here and there, I think we've got an adequate range, and that will cover the concerns of the folks on the AP.

DR. CHEUVRONT: Well, Otha might want to be able to speak to that. I don't think there is anything that precludes that but if you could help us out here, that would be helpful.

MR. OTHA: No, there is nothing that precludes that, and that is currently the way we're handling it in the Gulf. I believe those landing sites are updated quarterly when there is a need to.

MR. CURRIN: All right, that's fine, thank you.

MR. CUPKA: All right, that brings us down to the end of the actions and now we'll need a motion to recommend to the council that the document be taken out to public hearings. Charlie.

MR. PHILLIPS: I so move, Mr. Chairman.

MR. CUPKA: We have a motion; second by Wilson. **The motion is to recommend to the council that Amendment 6 be taken out to public hearing. Is there any objection to the motion? Seeing none, then that motion is approved.** Is there any other business to come before the committee? Seeing none, then we will adjourn.

(Whereupon, the meeting was adjourned at 11:20 o'clock a.m., December 7, 2011.)

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