

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **GOLDEN CRAB COMMITTEE**

**Savannah Hilton DeSoto Hotel  
Savannah, Georgia**

**MARCH 7, 2012**

### **SUMMARY MINUTES**

#### **Committee Members:**

David Cupka, Chair  
Dr. Wilson Laney  
Charlie Phillips

Mac Currin  
Jessica McCawley  
Tom Swatzel

#### **Council Members:**

Ben Hartig  
Tom Burgess  
Dr. Michelle Duval  
Duane Harris

Robert Boyles  
Dr. Roy Crabtree  
Lt. Robert Foos  
Doug Haymans

#### **Council Staff:**

Bob Mahood  
Kim Iverson  
Roger Pugliese  
Anna Martin  
Dr. Kari MacLauchlin  
John Carmichael  
Julie O'Dell

Gregg Waugh  
Andrea Grabman  
Myra Brouwer  
Dr. Mike Errigo  
Dr. Brian Chevront  
Mike Collins

#### **Observers/Participants**

Phil Steele  
Red Munden  
Anna Beckwith  
Otha Easley  
Dr. Bonnie Ponwith  
Monica Smit-Brunello  
Dr. Marcel Reichart

Brad Whipple  
Martha Bademan  
Scott Sandorf  
Bob Gill  
Dr. Jack McGovern  
Andy Strelcheck

Other observers attached to the end of the document.

The Golden Crab Committee of the South Atlantic Fishery Management Council convened in the Madison Ballroom of the Savannah Hilton DeSoto Hotel, March 7, 2012, and was called to order at 10:40 o'clock a.m. by Chairman David Cupka.

MR. CUPKA: We're going to convene and take up the Golden Crab Committee. The first order of business will be approval of the agenda. Are there any changes to the agenda? Seeing none, then the agenda is approved. The next order of business is approval of the December committee meeting minutes. Are there any changes, corrections or additions to the minutes? Is there any objection to approving that? Seeing none, then our committee meeting minutes are approved.

That brings us down to Draft Golden Crab Amendment 6, and I'm going to turn it over to Brian. Let me just say that we had sort of wanted to try and take final action on this amendment at this meeting, but I don't think we're going to be able to. Right now we plan on trying to finish it up in June, but there are still a number of decisions to be made and some additional work to be done on the document. I'm going to turn it over to Brian and I guess the first order of business is the advisory panel meeting report.

DR. CHEUVRONT: As you all are aware, there are a number of things that need to happen still with this amendment. It has been out to public comment. We had an AP meeting at the end of January as well. Right now the council has 15 actions in this amendment, 8 of which that do not have a council preferred alternative.

That has made it rather difficult for staff to be able to fully complete this document as well as to produce meaningful codified text. What we would really like to try to accomplish at the meeting today is to get as much of these issues resolved as possible and then probably bring the document back to you in June for you to have a final review and comment period, and then probably at the June meeting decide to vote on whether you want to send this off to the secretary for review.

The AP met in January and the AP went over all of the actions that are in the amendment. The one that still provided some particular difficulty for the AP was again the new entrant's action. There has still been continued work on that after the AP meeting. The AP was involved and they continued work. We had some discussions that went on by e-mail and there have been further discussions still.

Now, what we did is we took all of the AP comments and we put them into the decision document. What I really would like to do is instead of going through each of the AP comments up front is to tell the committee what the AP decided and what their thoughts were on each of the actions as they occur and before the council takes up their discussion. I think it would keep it a little relevant and in time. Mr. Chairman, if you would grant me that privilege to be able to bring up those at that time, as we discuss each action, I think it will make it relevant then we won't have to remember what the AP said.

MR. CUPKA: I think that's a good way to proceed, and also Brian has included comments in there from the IPT as well as some issues that he has discussed with the regional office. I think the best way to proceed would be to go through that document and take those issues one at a time.

DR. CHEUVRONT: I do want to make some comments before we get into the actual document itself. Several of the AP members showed at different public venues. They basically came to express support for the decisions that had been made by the AP just previously. However, there were some public hearing comments that were made by those who were not members of the AP, and I'd like to give you very quickly a summary of those comments.

On Action 5 in the document, which is regarding owner share caps, there was one comment on limiting the percent of catch share to 35 percent, which is Alternative 4, because he felt that 49 percent ownership by a single entity was considered too much. In Action 9 there was a comment that – Action 9 is restrictions on where vessels can fish.

One commenter said that he would like to see an expansion of the northern zone. Actually, I had some offline comment with this person later on and explained that as long as you stayed out of closed areas he could fish anywhere he wanted to in the northern zone, all the way up to the North Carolina/Virginia Line.

In further consultation with this person and sending him maps and explaining where he could and could not fish, it appeared that what he really would like to see is an expansion of the golden crab fishing zone within the Coral HAPC that's in the northern zone. I don't have the map to show you right here, but I believe in Snapper Grouper Amendment 14 that set up those MPAs there were carved out golden crab fishing zones that were allowable areas within the Coral HAPC.

In the northern zone there is a north/south line that basically runs and then it stops and runs east/west. This person would like to see an expansion of the allowable fishing area, but that is not an issue that was being taken up in this amendment. Action 13 is the new entrant's criteria and we'll have a lot to talk about once we get there.

There was one commenter who said he would like to see the council increase the overall number of golden crab permits. Currently there are eleven. The argument that he used was that the ACL is more than double what has ever been caught in this fishery, and so he felt that there must be room for more participants. Those were the main comments that we got from the public hearings that were not made by AP members in support of the decisions that were made by the AP.

First off, one of the things I would like to do before we get into each of the actions is to have a discussion about the purpose and need section for this document. We've got projected right now a version of the purpose and need that the council had discussed previously but did not make its way into the document.

We'd like to make sure that it is reviewed once again by the council and then have the committee reaffirm whether they think this is fine or whether they would like to modify it at this time. The purpose is Amendment 6 to the fishery management plan for the golden crab fishery of the South Atlantic Region, Golden Crab FMP, consists of regulatory actions that would result in the development of a catch share program for the golden crab fishery.

The purpose and need of developing a golden crab catch share program is to develop a proactive approach to management and prevent derby fishing from developing; protect sensitive benthic habitat by ensuring fishery participants have a high level of knowledge of the fishery and its operation; modify management of the fishery to allow for flexibility due to vessel breakdowns and medical issues; reduce the potential for gear conflicts in the golden crab fishery and to ensure safety at sea; provide economic incentives for the fishery to operate more efficiently; promote optimal utilization of the resource and professionalize the fishery; maintain participation of fishermen with high-level knowledge and experience to protect sensitive deepwater coral habitats; and the development of the catch share program further addresses the objectives of the Golden Crab FMP as described in Section 1.2.

MR. CURRIN: Looking at those, David, it appears to me that there is not a heck of a lot of difference, if any, between the second one and the seventh one, protect sensitive benthic habitat and ensure a high level of knowledge of the participants; and then the seventh, maintain participants with a high level of knowledge to protect sensitive deepwater coral habitats; aren't they about the same?

MR. CUPKA: Yes, they look it to me.

MR. CURRIN: I've got no preference which we use, but I don't think we need to include both of them.

DR. CHEUVRONT: Okay, we're really like to get some direction from the council on how you would like to deal with that, then.

MR. CURRIN: Well, if I had to pick I'd suggest we keep number two, the second one, and eliminate the seventh one.

MR. CUPKA: Is that a motion, Mac?

MR. CURRIN: Yes, I'd make that as a motion, David.

MR. CUPKA: Okay, we have a motion; is there a second. Wilson seconds. Discussion on the motion? Is there any objection? Seeing none, that motion is approved. **The motion is to delete Item Number 7 of the purpose and need.** The reason for that, of course, is because it's redundant. Is there any objection to that? Seeing none, **then that motion is approved.**

DR. CHEUVRONT: Is there any other discussion or do you think we have captured adequately the purpose and need for this document? I know that at one point Roy and Monica had some concerns and I wanted to make sure that we addressed the issues that you had before we go on.

DR. CRABTREE: I think there is enough stuff there to write a purpose and need. Part of the problem I see, though, is then as you go through the actions in the document it doesn't really connect them. If a purpose is to maintain a high level of expertise in the fishery, why is the catch share program going to do that more effectively than the status quo; and how do the preferred alternatives we have selected, why are they the best to accomplish that?

When I've looked through the document, I don't see much that draws a connection of the program or the choices that are being made with the purpose and need. That's really to me at least part of the weakness here is explaining why this program is needed to accomplish the purpose and need.

MR. CUPKA: Brian, will you be able to work on that before it comes back to the June meeting?

DR. CHEUVRONT: Exactly, I think that's what we'll have to do is make sure that in the discussion of each of the actions show how each of the actions apply to the purpose and need. That's what I was writing down to make sure that we made that happen.

MS. SMIT-BRUNELLO: And I agree with that.

DR. LANEY: Brian, I was trying to find these in the document. They don't seem to match up with what is on Page 36 under purpose and need.

DR. CHEUVRONT: That is correct; when I first mentioned this, Wilson, I was saying that this was something that had inadvertently been left out. What we would like to do now is to start with each of the actions and go through the actions one by one. Some of the actions, like I said before, you already have a preferred, and we'd maybe like to have some discussion on that.

There isn't much needed discussion, but there are some areas where there may need to be some administrative enhancement to what we have in the action to help actually make this work. We've got Andy Strelcheck here who is going to help us to explain some of these administrative things that need to occur largely on the part of SERO to implement this program.

Action 1 is to establish criteria for a golden crab catch share program. Your current preferred is to restrict eligibility to valid commercial golden crab permit holders. Eligibility for participation in this catch share program is defined as having a valid commercial golden crab permit as of the effective date of the final rule.

Now, this basically says that the eleven permits that are currently in the fishery would stay in the fishery. That's what your current preferred is. The Golden Crab AP agrees with the council's preferred alternative at this point. However, since the last time you've seen this document, one of the things that was added to it was a section on administrative requirements that would have to go into establishing this.

Andy, would you like to take a moment and talk about some of that? If you would like to look in the document we're going to follow, if you want to look in the actual document that we're referring to, you were sent one on Friday that has the document put into new format that we're using for FMPs. It starts on PDF Page 109 or Document Page 94. This is under Chapter 4 in Action 1.

MR. CURRIN: I want to find the document first. Can you tell me which attachment or what the title is, Brian?

DR. CHEUVRONT: This was e-mailed to you last Friday by Mike Collins, and it's attached to revised GC Amend Catch Shares and it was dated 2012/03/02.

MR. CURRIN: Is that different than the Attach 2 Revised GC Amendment 6, whatever, catch shares with the date modified – it was modified the 2<sup>nd</sup> of March; is that correct?

DR. CHEUVRONT: That is correct, when it was modified the 2<sup>nd</sup> of March, and scroll down to the paragraph that starts Action 1.

MR. STRELCHECK: As Brian discussed, there are a lot of administrative details that pertain to catch share programs. You were sent a proposed rule that is on the order of about 30 pages double-spaced. A lot of that proposed rule pertains to the administration of the program, but it isn't necessarily specific to actions and alternatives that you've selected in this document.

We wanted you to be aware of the information that we are inputting into the rule as well as the general text and information that is being added to the document itself. The devil is always in the details and we don't want you to come back and say, well, we never discussed this or never voted upon it.

Ultimately it's NMFS' responsibility to implement the program, but there are some key considerations that are important. In terms of the amendment you have no actions pertaining to dealers. There is already a golden crab dealer permit. However, we require with an IFQ program or catch share program that the dealer set up a dealer account with our system to log landing transactions.

They also have to obtain a dealer endorsement that is free to them through that program. Those are the dealer requirements that we focus on with a catch share program, but they're administratively written into this amendment. There is no action and alternative pertaining to that. I wanted to draw your attention to that.

One of the discussions that we've had with some of the golden crabbers this week is about landing and offloading times. In the Gulf of Mexico, with the IFQ programs, we allow landing to occur 24 hours a day, so there is no restriction. However, offloading is restricted from 6:00 p.m. to 6:00 a.m., so you can only offload essentially during daylight hours. You can only offload between 6:00 a.m. and 6:00 p.m.

In talking with some of the golden crab fishermen, this window might not work well for them. At least one mentioned to me that oftentimes an offload begins at three or four o'clock in the afternoon and extends until eight or nine o'clock at night. That's something that probably needs to be discussed in more depth from an administrative standpoint and getting input from the fishermen as well as law enforcement as to what might be a viable option for offloading times.

With catch share programs, everything is done electronically in our system. We're looking to build the system analogous to our Gulf programs to work for the South Atlantic, so the dealer or the fishermen are going to have to have access to computers. They're going to have to set up

accounts with our system that are password protected. All of the administrative functions of the system will be done administratively through that electronic system.

In doing that, we are imposing some requirements in the event that they might not use computers often or may not have a computer. That is going another requirement that will be added in terms of participating in the program. Everything then gets tracked through that system. Other than that, I think when we walk through the actions and alternatives I can point out other administrative functions that we might need you to provide input on, but I wanted to just initially give you a brief overview of how the system is going to work from our standpoint.

MR. CURRIN: Andy, are you indicating that we need actions in the document to address the dealer licensing and the like or is that just an administrative function that you guys will take care of and you just want to make us aware of it?

MR. STRELCHECK: Yes, we want to make you aware of it. I think the key will be when you have a detailed proposed rule with all your preferred alternatives in it to take a very careful look at that and make sure that what we've done in terms of the text in the document and expanding on the administrative details is consistent with what you would recommend and as well as what industry is going to want to provide input on in terms of how this program functions.

Our goal is to set up this program as consistent administratively as possible with the other existing programs because it helps to streamline our work at the regional office in monitoring and administering the programs.

MR. CURRIN: Regarding the offloading times, is that again an administrative function or is that something we need to have some input obviously from the AP to figure out how we can make that work, but is that something we need in the document as well or is that something you guys will handle? I have got one more question regarding offloading times.

MR. STRELCHECK: We reference in the text of the document a 6:00 a.m. to 6:00 p.m. offloading window, but certainly input is beneficial from industry and from the council as to whether or not you would want to change that offloading window for golden crab fishermen. A new action would not need to be required.

MR. CURRIN: And regarding an offloading window defined in some way, the purpose of that is to allow for law enforcement or NMFS personnel to be available. Are they in fact always available or present when the offloading occurs or is it just to provide them an opportunity to select a time when they can be there and double-check some things?

MR. STRELCHECK: Certainly, law enforcement and NMFS personnel are going to more likely be available during daylight hours, but they do enforce the programs 24 hours a day. Not every offload or landing is monitored, but it gives them the opportunity to be present if need be.

MR. CURRIN: Regarding that and the comments from some of the golden crab folks, if they began an offload at three o'clock in the afternoon, within that window, and notified you that offload was going to occur, is it a real problem that it continues on beyond that six o'clock

timeframe or are the rules that stringent such that offloading must occur and be complete by six o'clock in the afternoon?

MR. STRELCHECK: The way the regulations work in the Gulf is that it must be complete prior to 6:00 p.m. Otherwise, the offload must stop at that point. Now, enforcement could certainly weigh in and provide some input on whether there could be some flexibility in changing that for golden crab.

MR. CUPKA: Okay, other comments? All these as I understand it are administrative details that could be worked out with input from the fishermen and they don't need to be in this document.

MS. SMIT-BRUNELLO: I want to clarify the record and just clarify in my mind, I guess, so we just had a discussion from Andy about the administrative details that are in the document, but that's different than having the council meeting to take action on certain things. You just said those were administrative details to be worked out that didn't need to be in the document. I just kind of want to know where –

MR. CUPKA: Well, what I meant to say is they need to be in the document and they need to be amended to where they need to be, but the committee and the council does not need to take action. It's not an action item. My understanding is that NMFS can do those without the council taking action and it's part of the administrative details. If I misspoke, I apologize.

MS. SMIT-BRUNELLO: No, that's fine because that's what I understand, too; but I think to the extent that the council wants to have input, it should go in the discussion and you should talk about it here so that we have a record as to why it's in the document. I agree; you don't necessarily need to take action on it unless you absolutely wanted to.

DR. CHEUVRONT: And, Monica, it will all be in the codified text as well and the council does have to deem that text once it's ready.

MS. SMIT-BRUNELLO: Right.

DR. CHEUVRONT: And we're a long ways from that right now.

MR. WAUGH: And some of these obviously have significant impacts on the fishery. When they were done in the Gulf, are those impacts analyzed in the proposed rule? Because if it's not an action in the amendment, then there is no analysis of those impacts on the fishermen; and so if it's all administrative and handled, does that mean you don't have to consider any of those impacts or are they analyzed in the proposed rule and presented there?

MR. STRELCHECK: For the Gulf and I think similar here, because you're approving a catch share program, they are ultimately part of the administrative effects' discussion of the developing that catch share program. To the extent that you're going encompass these administrative details, they would be part of the text in approving the program.



MS. SMIT-BRUNELLO: But I don't think that they're analyzed along with the alternatives in the proposed rule. Now, I kind of see where you're going, I think, so we should definitely have the fishermen, the golden crabbers – we'll talk about the AP in a minute, but they should discuss what works better for them and economically maybe why and we could build that into the document.

MR. WAUGH: And certainly in the future I think it would be helpful to have this level of detail in the public hearing document so that everybody can understand and know what the impacts are. I don't want to carry it to an absurd point, and I know NMFS wouldn't, but it's like because you're getting a catch share, then you have to deal with whatever we as the agency set as the rules regardless of the impacts and we're not even analyzing the impacts.

It seems to me at some point that should be presented so people know what they're buying and not just in the final rule or the proposed rule when it's just, as Andy said, here is the devil. We need to let them know what the devil is earlier in the process in the future. But now for this, if there is not going to be any analysis, then we just need, between now and the June meeting, to make everybody aware of all the details.

DR. CHEUVRONT: Okay, let's move on to Action2. This is the initial apportionment of catch shares. The council currently has a preferred subalternative. And just to clarify things in going through the previous motions and things, the council chose Preferred Subalternative 5B but never actually officially chose Alternative 5 as their preferred.

The council's current preferred, these two actions, Action 1 and Action 2, work together to figure out who is in the catch share program and then how much allocation do they get. The council's current preferreds allows in all eleven of the permits. However, the current preferred in Subalternative 5B only assigns allocation to ten of the eleven permits.

The council may want to consider revising its subalternative to make sure all of the permits get at least some allocation. One of the things I want to state at this point is that the decisions that you make here could actually have an impact on later actions in the document, particularly Action 13 that looks at new entrants – and we're going to talk about that when we get there – that if all of the permits get some allocation assigned to them up front, it will make it much easier for us to deal with new entrants later on into the fishery.

I don't know that you had that analysis before that showed that under your current preferreds all eleven permits stay in the fishery but only ten of the eleven permits would get an allocation. Now, one of the things that the council could do is if you chose Subalternative 5A, which simply changes the amount of landings that the permit has to have on it from 1997-2010 to 25,000 pounds from the 50,000 pounds, all eleven permits will get an initial allocation.

I just stand corrected here. We just need to choose Alternative 5 without either of the subalternatives and then everybody will have it. If the council chose its preferred simply just to Alternative 5 with no subalternative, that would get everybody an initial allocation.

DR. LANEY: Mr. Chairman, **I would move that we change our preferred alternative there to Alternative 5 as opposed to Preferred Subalternative 5B**, if I understood Brian correctly.

MR. CUPKA: Yes, and I think part of that would be to eliminate the two subalternatives, also.

DR. CHEUVRONT: Right. What this would do, if I remember correctly – and, Andy, correct me if I'm wrong – is that each permit would get at least 2.2727 percent of the overall ACL. Remember, the ACL for this fishery is now at 2 million pounds. In the past I believe the most that has ever been landed in a single year is 814,000 pounds.

So translating 2.2727 percent, it roughly comes out to about 44,000 pounds minimum that each fisherman or each permit would be assigned. That's out of 2 million pounds over. This would probably allow for, talking decent trips, about three trips. Of course, anybody who is in the fishery and has a permit and has allocation would then be eligible to purchase more allocation or more shares if they so desired.

MR. CUPKA: Okay, we have a motion but we never did get a second, I don't believe. Let's get a second before we –

MR. CURRIN: That's what I was going to do, David. I was going to second for discussion purposes. Is it as big a problem as we perceive it to be perhaps that there is somebody with a permit with no shares? I understand that in the Gulf with the red snapper ITQ that there were a lot of people – maybe no people with permits that didn't have some share, but the shares were so low, a pound or two or whatever, so low at a point where they were essentially useless.

They still had a permit or a license to participate in the ITQ and were eligible to purchase shares from other people within the fishery, I presume. You said something that I didn't quite understand, Brian. I believe it was regarding that, that it had some implications about new entrants into the fishery, and I'm not real clear what those implications are.

DR. CHEUVRONT: Well, the alternatives that you see in Action 13, when we get to it, what the AP and the IPT and all have discussed, they looked pretty different from what is there; so I think when we get to Action 13, we would consider asking the council to consider removing this action from this amendment.

The easiest way that folks have come with being able to allow for new entrants is to require a minimum percentage of allocation stay with every permit because that gets everybody in at a basic minimum level into the fishery. If the council chooses to change their preferred to Alternative 5 now at this point it will make it very easy to deal with alternatives in Action 13 because every permit will now have a small amount of shares attached to it, and that will make it easier to do that later.

MR. CURRIN: I understand what all the current permits would have, but to me a new entrant means adding an additional permit, which if they're all distributed to the existing permits now, unless there is additional ACL or quota or poundage available, then there would be no new permits with associated quota or shares.

DR. CHEUVRONT: We have treating this as new entrants as opposed to new permits in Action 13, so this would involve the transfer of a permit to somebody who is not currently participating in the fishery and keeping the permit number at eleven. If the council would like to increase the number of permits, we do not have an action in this amendment that allows for that to occur.

MR. CURRIN: All right, that clears it up then for me. Thank you.

MR. STRELCHECK: And then to get back to your motion up here, Alternative 5 essentially addresses two permits that would not get shares under Alternative 5B. Now, one of those two permits is held by an entity that has multiple permits, so they're going to get shares with other permits that they have, so it's not necessarily a loss to them.

The other is a permit that was purchased within the last year and a half that just didn't have a landings history, but that person is now operating and participating in the fishery, so this would accommodate at least that individual from not receiving shares under Alternative 5B. The bottom line is what happens with shifting from 5B to 5 is that there are five permits that increase their share holdings by 2.27 percent and six permits that decrease their share holdings by 1.9 percent, something like that.

**MR. CUPKA: Other comments or questions? We have a motion before us which is to change the preferred alternative in Action 2 to Alternative 5 and to eliminate the two subalternatives. Is there further discussion on the motion? Is there any objection? Seeing none, then that motion is approved. Brian.**

DR. CHEUVRONT: Okay, moving on to Action 3, establish criteria and structure of an appeals process, the council currently has a Preferred Subalternative 2A, which Alternative 2 was not selected and probably at some point if you want to stay within this range probably does need to be selected as a preferred.

Now, you've selected 3 percent of the golden crab shares will be set aside for appeals. The Golden Crab AP passed a motion at their meeting to set the preferred from Subalternative 2A to 2D, and they would like to set it at 2 percent. Now, the IPT has also suggested that some language get added to the Alternative 2 that would say something to the effect if the amount set aside for the appeals is exceeded, then shares and annual pounds of all IFQ shareholders would be proportionately adjusted.

That would be in case, for example, whether you chose 3 percent as your preferred and for some reason it turned out that was not enough to satisfy all of the appeals, that somehow you would then have to adjust the initial allocation proportionately to account for that.

MS. SMIT-BRUNELLO: Brian, since the percentage set aside for appeals is only for a finite period of time, 90 days or whatever, what was the rationale of the AP to ask a change in the percentage?

DR. CHEUVRONT: Their rationale was that they would like to have as much distributed initially as possible for a couple of reasons. One is there are so few permit holders they didn't think that there were going to be that many appeals, but then there is going to be several fishermen who are going to get relatively small number of shares. So, if they're only going to get enough to allow them to do three trips, they could potentially do that within the first 90 days of the program.

MR. CUPKA: Other questions? What is the will of the committee? Is it to stay with our current preferred or to switch preferreds to Subalternative 2D? Regardless if we choose any of those subalternatives, we also should choose Alternative 2 as the preferred and then whichever subalternative you wish to go with.

DR. CHEUVRONT: And also whether you'd like to add that one sentence that would allow for an adjustment in case that the amount of set-aside was not enough.

MR. CUPKA: Mac.

MR. CURRIN: We definitely need to add the sentence to account for a possibility. Personally looking at it I don't see a heck of a lot of difference in 2 and 3 percent. In practicality I guess it could have an impact. As long as we've got a provision to distribute the shares that are needed in the case of a successful appeal, which I assume we would if we had that verbiage Brian just suggested. I'm fine if the AP wants to do 2 percent. It doesn't really matter to me. I don't think it makes a heck of a lot of difference.

MS. SMIT-BRUNELLO: Just thinking about this from a calendar year, if the idea is to get this implemented at the start of the calendar year of January 1, when do the fishermen – do they fish during that time period?

DR. CHEUVRONT: Yes, they are fishing then.

MR. CURRIN: David, **I'll offer the motion to change the preferred to select Alternative 2, Subalternative 2D as the preferred, 2 percent to be set aside for appeals.**

MR. CUPKA: And add the verbiage to adjust it?

MR. CURRIN: Yes, if you need that as part of the motion, I'll add that as well.

MR. CUPKA: Yes, it needs to be in there I believe, Mac.

DR. CHEUVRONT: Gregg is typing all that up now and I've just given him the wording; so before you vote and get your second and all that, maybe we need to get that language up there.

MR. CURRIN: Then I'll read it.

MR. CUPKA: Okay, Wilson seconds.

**MR. CURRIN: The motion is to select Alternatives 2 and 2D under Action 3 as preferreds and add “If the amount of set-aside for appeals is exceeded, then shares and annual pounds of all IFQ shareholders would be proportionately adjusted.**

MR. CUPKA: Okay, we have a motion before us. Is there any further discussion on the motion? Is there any objection? **Seeing none, that motion is approved.** Brian.

DR. CHEUVRONT: Okay, moving on to Action 4, Action 4 is to establish criteria for transferability. Currently the council has no preferred alternative. Alternative 1 is no action, do not establish criteria for transferability. That’s really not something you can do in a catch share program so you have to probably choose Alternative 2 or 3.

Alternative 2 is shares or annual pounds can only be transferred to golden crab permit holders. Alternative 3 is shares or annual pounds can only be transferred to golden crab permit holders during the first five years of the catch share program and all U.S. citizens and permanent resident aliens thereafter.

Now, the IPT does recommend adding the word “valid” before “golden crab permit” where it occurs in Alternatives 2 and 3. The Golden Crab AP made a motion requesting the council to make Alternative 2 their preferred. The AP members were concerned that someone from outside the fishery could try to hold shares for speculation or other purposes, and the goal for this catch share program, which does fit one of the purpose and need objectives, was that the goal is to have as many shares possibly actually being fished. That was their reasoning behind recommending that the council choose Alternative 2 as their preferred.

DR. LANEY: Mr. Chairman, **I would move that we add the word “valid” before the term “golden crab permit” in Alternatives 2 and 3 and that we designate Alternative 2 as the council’s preferred. That’s for Action 4.**

MR. CUPKA: We have motion; is there a second? Mac seconds. Okay, the motion is to add the word “valid” before “golden crab permit” in Alternatives 2 and 3 and designate Alternative 2 as our preferred for Action 4. Is there any discussion on the motion? Is there any objection? Andy.

MR. STRELCHECK: I can’t vote on this but I wanted to I guess make a couple of comments. Based on what was just said about trying to keep the shares and allocation within the industry and prevent speculation, I think some text probably needs to be added to these alternatives. What it is says is that pounds can only be transferred to golden crab permit holders, but what can happen after the initial development of the program is that if you had a golden crab permit to start the program, you can transfer that permit away, but it allows you to maintain those shares and allocation.

It sounds like that’s not the intent of the AP that you can only possess shares and allocation if you have a permit. We had this situation in the Gulf and so functionally it operates very different. This just pertains to the transfer, but I think you really want to discuss whether or not you also want it to pertain to someone continuing to possess shares and allocation.

And then I'll add this is probably more for the new entrant's discussion in Action 13, but with the transferability if a new entrant option is added that requires a certain percentage of shares to go with that particular permit when it's transferred to someone else, then at a minimum we need to have discussion and possibly text in one of these actions that says that no person can transfer – or a minimum amount cannot be transferred so that it prevents people from transferring that away before they transfer their permit. Hopefully, that makes sense.

MR. CUPKA: Wilson, do you want to amend your motion or, Andy, do you have some suggested wording in there?

DR. LANEY: Well, Mr. Chairman, I'll amend it. If Andy will give me some suggested wording for it, I think that would be good.

**MR. CUPKA: Yes, that's going to need a little work, so what Andy is suggesting is that we come back to this one at full council and give them time to work up some verbiage. If that's okay, we'll I guess table this motion until full council. Okay, we'll postpone it then and we won't need a motion to untable. Brian.**

DR. CHEUVRONT: Action 5 is to define quota share ownership caps. The council's current preferred alternative is Alternative 5, no person including a corporation or other entity may individually or collectively hold share in excess of 49 percent of the total shares. As we've had discussions prior, if you're basing your initial allocation – if there was not a cap on there, there would actually be a participant in the fishery that would have more than 49 percent. There had been discussion about whether the council felt that was appropriate or not. At the last meeting the council chose 49 percent as their preferred.

MR. CUPKA: There is also a note by the IPT I guess to change "IFQ" to the phrase "catch shares" in Alternative 2, which is kind of a housekeeping thing, I guess. Does anyone wish to change our current preferred? Seeing none, then do you want a motion for the housekeeping thing or do you just want to change it?

DR. CHEUVRONT: No, I don't think we need a motion for that as long as everybody is – that was in Alternative 2 the term "IFQ" appears in there and we change that word to "catch shares". Okay, I don't think there is a motion that's needed for that.

MR. CUPKA: Yes, I don't see a motion to change the preferred either, so, Brian, let's go ahead.

DR. CHEUVRONT: Okay, Action 6 is the use-it or lose-it policy. Currently the council does not have a preferred alternative. The council has three alternatives, some with subalternatives. Alternative 1 is no action; do not specify a minimum landings requirement for retaining shares. Alternative 2 is shares that remain inactive for three consecutive years would 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 2A says that you would use

only landed crabs to calculate that value. Subalternative 2B is that you could use the actual landed crabs and/or transfer of annual pounds.

Alternative 3 is exactly the same as Alternative 2 except that you would have to utilize 30 percent of the aggregate utilization. The council does not have a preferred. The Golden Crab AP passed a motion requesting the council to make Subalternative 2A their preferred. The AP thought it would be too difficult to account for share usage by tracking transfers in this, and they wanted to make sure that the shares are actually fished.

Subalternative 2A they thought would help reach that goal. The AP also thought that selecting 10 percent makes it easier for permits to continue to qualify in case of problems such as temporary health or vessel issues. They also felt that keeping shares active could prevent issues later on if there is no stock assessment and the SSC has to make ABC decisions based on landings alone.

I think they were kind of concerned about what they had seen what happened with wreckfish where the ABC was set based on landings alone and there was a huge reduction in that ACL as a result of that, so there was some concern there. However, we need some clarification from the council as to what exactly gets revoked should somebody find themselves in this position?

I think some folks have been working from the assumption that it is the difference between their average landings and what they're required to land. Say, for example, over a three-year period they only landed 7 percent of their allocation. The assumption would be then they would lose 3 percent of their allocation that would go back into the pool and be redistributed to the other participants; or, does the council mean something else other than that. We need some clarification because that language actually is not currently in the amendment.

MR. CUPKA: Any discussion on the issue of what would actually be revoked; if it would be the difference or whether it would be the entire amount? Mac.

MR. CURRIN: Well, I'd like to have some clear guidance and input from the AP and the golden crab fishermen about it. We just got a letter handed to us around the table, and these people indicated that they'd like to see a use-it or lose-it provision but with almost no detail on it. I think it's a great idea. In looking at the alternatives, I think they're pretty lenient.

Somebody is going to have to almost have to try to lose either their quota shares or permits or either have a real, real hard over three years of not being able to fish. To me use it or lose it is you don't use it you lose it. You don't lose part of it, what you don't use. You lose all of it. We want active participants in the fishery. That may be a harsh approach, and again I'd probably like to get our AP's recommendations and other golden crab fishermen's recommendations on this before I bring that big heavy hammer down.

MR. CUPKA: Have there been any discussions that you're aware of, Brian, on this issue by the AP?

DR. CHEUVRONT: I have talked with a couple of fishermen about this issue, but with the AP this specific aspect of this action was not discussed at our AP meeting in January. Since then I have had an opportunity to talk to a couple of the participants in the fishery who are also AP members, but it has not been brought up before the entire AP.

They understood it to mean that they would lose that difference between what was caught and whatever percent you all chose, and they would see this as a penalty like a violation sort of a thing for not doing what they're supposed to do at the minimum level that would get revoked back; and eventually if somebody just stopped fishing even under this program, they would lose all of their shares eventually.

MR. PHILLIPS: I agree this, had we had something like this in wreckfish, we would probably have never ended up where we did. We would have had people working. Ten percent to me is on the lenient side. I agree it needs to be landed crabs only. Otherwise, you transfer stuff back and to and it's a meaningless exercise.

I'm inclined to want to add an Alternative 4 and use the same wording and use the 20 percent. If we're going to give them these – do a catch share and give them the ability to catch this fish and this product and nobody else, I'd like to see this product get to the people. I'd like to see the public get this resource.

I think if we bumped it up to 20 percent, it may encourage them to either fish it or sell it to somebody that can fish it, and it would kind of split the difference between being lenient and 30 percent being a heavy hammer. I think I would make that motion.

MR. CUPKA: Okay, do you want to give Gregg your motion?

**MR. PHILLIPS: It will be the same as Alternative 2 or 3 except we'd just use 20 percent as the aggregate, and I'd make that to be the preferred and a subalternative – I guess it would be 4A, landed crabs only.**

DR. LANEY: Mr. Chairman, while Gregg is getting that up there, relative to the health and vessel issues that could arise, Andy, is there any provision in the catch shares guidance for any sort of a hardship provision that would kick in if a situation like that arises. It's certainly germane to why a particular fisherman might not have been able to use their shares within a given year.

MR. STRELCHECK: I'm not aware of any guidance or information in the catch share policy pertaining to this. In the Gulf of Mexico they wrestled with use it or lose it for some time and ultimately found it I think difficult to ultimately implement and track. There are a lot of complexities to this in terms of people buying and selling allocation and utilizing that.

There is obviously the ebb and flow of fisheries and you might have a good year and you might have a bad year, so there are going to be things that prevent you from harvesting that maybe are outside your control. The Gulf Oil Spill, for instance, is a good example. I guess also from an economic standpoint it doesn't make a whole lot of sense for someone to sit on shares and



allocation if there is value to them and there is a willing participant that wants to buy that from them.

So, yes, from the standpoint of landing the crab the use-it or lose-it policy would be good because it keeps those shares and allocation in the hands of fishermen that are going to actually utilize them; but from the standpoint of those that have shares and allocation in the Gulf, we don't see a lot of people just letting them – do nothing with them. We see them transferring them to other entities so they can be used in some form or fashion.

MR. CUPKA: Okay, we have a motion; Mac seconds. Further discussion? Mac.

MR. CURRIN: I may have asked this question before and if I have forgive me, but I'm still having a very, very hard time wrapping my head around exactly what an aggregate annual average utilization is. Can somebody explain to me what that means?

MR. CUPKA: Well, as I understand it, Mac, they want it to be based on the actual harvest and not the ACL level. If you had an ACL, say, of 2 million pounds but you only harvested a half million pounds, that percentage would apply to the half million and not the 2 million pounds. If for some reason the harvest fell off drastically, you would still be able to meet that requirement. At least that's the way I understand it. Monica.

MS. SMIT-BRUNELLO: Well, I had some similar questions that Mac did. I vaguely remember discussing this before but it's not laid out in the document to me as to tell a fisherman what an aggregate annual average utilization means. I think we need to give proper notice to people as to what it means because in the document it seems more of a discussion on the 10 or 30 percent and maybe now 20 with Charlie as to that portion of a person's overall catch share allocation.

That's one thing. I think we need to make that clearer, and I'm wondering whether you need aggregate annual average utilization, but maybe you do. The other part is when is that going to be figured out? If this is a three-year running average or moving average, when will people know what the previous year's total was so that it can be factored in? Do you see what I mean? It just seems to be a little complicated. Maybe it's necessary but I think we need to get into some of those details a little bit more at least in the document to explain them.

MR. CUPKA: Well, it is complicated and I don't know if we could use an example to show specifically what is meant. Also, if you read down a little further where it talks about impacts under socio-economic, there is a portion there that says that it would force them to fish annually, which is my understanding that's not the case.

You could miss a year or maybe even two depending on what level and still qualify if you caught enough to meet that three-year average figure. It does need some more work on it without a doubt. I talked to Brian earlier about that and it is hard to tell exactly what is meant there and how you're going to calculate and implement it. If there was a simple way to do it, it would be a lot better because this is kind of confusing. Brian.

DR. CHEUVRONT: Yes, that's noted, Monica, and we'll make sure that we give a better discussion of what those things mean.

MS. SMIT-BRUNELLO: Also, maybe you could discuss somewhere in here as to why three years was chosen; you know, why not four, why not five, why not two? I don't know but there should be – and I don't recall what the record was or is for why the council chose that period. Maybe that came from the AP, I'm not sure, but there should be some discussion as to maybe we need three, it can't be two or one because of whatever reason, so we should – and if you know it I'd be glad to hear it right now. If you have to look in the minutes, then that's fine, too. You have a hand up behind you maybe to that point, I don't know.

MR. CUPKA: Brad, do you want to address that issue?

MR. WHIPPLE: Brad Whipple, golden crab fisherman. Mr. Chairman, I'd like to try to address both of those issues. With the use-it or lose-it provision, the wording the "aggregate annual average utilization" is unfortunate language. The intention of this action is to say if a fisherman has allocation of 100,000 pounds, and depending on which alternative was picked, let's say the 20 percent alternative was picked, he would have three years in which to land the 20,000 pounds. You could land them all in one year and not fish –

DR. CHEUVRONT: 60,000 pounds.

MR. WHIPPLE: 60,000?

DR. CHEUVRONT: Right.

MR. WHIPPLE: Oh, because it's each year, yes, right, I'm sorry, so it's 60,000. You can catch all 60,000 in one year and not fish the other two years or you can catch 20 each year or however it added up. You've got a three-year window to catch the 60,000 pounds. The reason for the three years is because we thought that was – in the case of maybe a major vessel breakdown or modifications that might need to be done or the case of maybe a serious illness or other personal considerations, the feeling was that three years was a respectable window to be able to accomplish – given the percentage and the amount of time, it was a good window to accomplish that.

MS. SMIT-BRUNELLO: Thank you, so that kind of gets into Wilson's hardship question as to if that would build in enough time presumably to allow those kinds of vessel breakdowns, those kinds of things to be taken care of. So if it's as you described, why do we need aggregate annual average utilization language in there? I won't ask you, Brad, but I'm curious. If the staff doesn't know, that's okay, we can figure that out because there was probably a good reason. I just don't know what it is.

DR. CHEUVRONT: That language predates me on this amendment. What the staff could do is come back in June with alternative suggested language that might simplify what was really meant in that usage.

MR. CUPKA: Again, I think when it was originally discussed they wanted to get away from the idea that they wanted that amount to be based on the ACL, but rather they wanted it to be based on what the actual harvest level was. Now, it is bad wording. The way Brad explained it, it was a lot simpler. You could follow that as opposed to this, so I think what staff needs to do is to simplify the wording on this, but that was the intent.

MS. SMIT-BRUNELLO: But I think that's an important point because if your ACL is 2 million pounds, if you're talking about harvesting 20 percent of whatever amount you're given versus what the average landings have been – I mean, that's not quite right, but that's quite different.

MR. CUPKA: It is and when Brad used the example, he didn't say where that 100,000 pounds came from, whether it was based on the ACL or on their portion of the ACL, and that is an important distinction. It could make a tremendous difference.

MS. SMIT-BRUNELLO: Sure, and one would be a lot more flexible for the fishermen.

MR. STRELCHECK: Let me see if I can offer some clarification on the language. Inactive is defined as less than 20 percent of a shareholder's average annual pounds over a three-year moving average, period, or maybe 20 percent of a shareholder's annual pounds over a three-year moving average, period. That gets rid of the language "aggregate average utilization".

DR. CHEUVRONT: But then that gets rid of – that would work if they were catching the full 2 million pound ACL. I think what they're getting at here is whatever the percentage of the actual overall annual landings are, so that's part of the – so, like, for example, the most they've ever landed in one year is 814,000 pounds, then they would have to catch their percentage that would be equal to their proportion of that 814,000 pounds. It gets very complicated.

DR. LANEY: I think the one word that's throwing me off is the word "aggregate". To what does "aggregate" refer; is that referring to what's being aggregated; is it the catch of each of the eleven permit holders that is being aggregated?

DR. CHEUVRONT: It's the aggregated landings of the individual fisherman across the three years.

MR. CURRIN: I thought I understood what Brad said and it was very appealing to me because it was simple. If I misunderstood and the way Brian and David just described it is in fact the way it's going, then that looks like a moving target to me. It's changing every year dependent upon what the rest of the fleet does.

I could envision scenarios where it would be impossible for somebody to catch X percentage, whatever we pick, because they didn't have enough of the overall allocation of 2 million pounds to allow them to do that. If the rest of the harvest was down on the rest of the fleet, somebody could be working their butt off and catch everything that they were allotted; but if it's not 20 percent of what the fleet caught, then they're losing shares over it. We don't want to get into that if I understood it, but the way Brad described it, it is pretty simple. It's 20 percent of whatever your amount of shares are, the way Andy was describing it. That's very appealing to me.

DR. CHEUVRONT: Let us sort of wordsmith this a bit and bring it back to you.

DR. DUVAL: That's all I was going to say. I'm not on your committee, Mr. Chairman, but I was going to say I didn't think the way – basically what Mac said, the way Brad described it made sense to me and it sounded to me like it was the 20 percent of an individual's share and not of an overall quota.

MR. PHILLIPS: Mr. Chairman, I think it might be helpful to, one, have some examples; and, two, should shares get transferred or sold, some examples of how that would figure in to the math equation, too, because it's going to get complicated if we do aggregate shares. Like Mac says, it may be simpler to just do whatever they're allocated, but we need to look at the numbers and see if it looks like they're going to be able to get there or not. The analysis would be very helpful to see.

MR. CUPKA: Well, I guess we can have staff – if you want to wordsmith this, can you bring it back to us?

DR. CHEUVRONT: Yes, and we'll bring some examples back to you.

MR. CUPKA: Well, we'll postpone the motion until full council. Brian.

DR. CHEUVRONT: On Action 7 is the cost recovery plan. Currently the council has chosen Preferred Subalternative 2B. Alternative 2 is cost recovery fees would be calculated at time of sale at a registered dealer. Preferred Subalternative 2B is cost recovery fees would be based on standard X-vessel value of landings as calculated by NMFS.

Alternative 3, fee and submission shall be the responsibility of – and the preferred is Preferred Subalternative 3B, and that's the dealer. Alternative 4 is that fees would be submitted to NMFS and the preferred subalternative is 4A, quarterly. There has been a suggestion that perhaps this could be dealt with administratively by the regional office.

Currently – and Andy will correct me if I'm wrong – the cost recovery values in other programs like this are based on actual X-vessel values of landings, and they are submitted by the dealer, but currently they're only submitted annually and not quarterly.

MR. CUPKA: Let me ask Andy is this something that can be dealt with administratively or could we possibly take this action out of here?

MR. STRELCHECK: I think that's a question for Monica more than me.

MS. SMIT-BRUNELLO: So is your question whether Action 7 can be taken out as an action and just put in the document?

MR. CUPKA: Yes, do we need to leave this in here as an action or can it be handled administratively as part of setting up the program by NMFS?

MS. SMIT-BRUNELLO: I think I would prefer that you keep it in as an action. It's obviously mandated under the Magnuson Act as something that has to be done. At this point leave it in and let think about that a little bit further. By the time we get to council maybe I'll figure out that we can eliminate it, but at this point I think I would prefer you kept it in as an action and discussed. I think we did that in the red snapper IFQ plan but we may not have in the other plans, the Gulf plans.

MR. CUPKA: Well, we can defer action on this I guess to Full Council. It will be another thing we've deferred, but if we're going to leave it in there I guess we need to make sure those preferreds are right and that's the way it operates, Andy?

MR. STRELCHECK: I believe I spoke to you either in December or September and I think led you down the path of standard X-vessel pricing, but you had some questions about how it works. Like any good council motions, sometimes we change our minds and at this point I'm recommending that you change your mind on this, so my apologies.

In the Gulf of Mexico, like Brian said, we do collect actual X-vessel prices. These are reported at the time of the dealer landing transaction with the fishermen. They're collected quarterly and essentially they're paid by the shareholder, but they're collected by the dealer. Standard X-vessel prices are done in other regions of the country.

It is calculated by NMFS, but there is a lot of additional administrative procedures that go along with this that we're thinking with such a small fishery probably aren't worth our time and effort. Primarily, we've have to a Federal Register Notice with the price data. We'd have to send cost recovery calculation forms to each of the shareholders.

The shareholders would have to respond as to whether they agree or disagree with those numbers and ultimately reach final agreement in terms of what the cost recovery would be paid. With all that said, the IPT or at least me personally overseeing the program would recommend that you change your preferred alternatives to actual X-vessel value. It would still be collected by the dealer. With Preferred Alternative 4, we do it quarterly in the Gulf but annually would also work for the golden crab fishery, so either one of those. Annually would just reduce the number of times that we have to interact with the dealers in terms of collecting the cost recover.

**DR. LANEY: Mr. Chairman, based on what Andy just recommended, I would move that for Action 7 we change the preferred under the first subalternative from 2B to 2A.**

MR. CURRIN: Second.

MR. WAUGH: Don't we also have to select Alternative 2?

MR. CUPKA: We have to select 2, 3, and 4, also, as preferreds. The question under 4 is whether to leave it quarterly or as Andy has suggested maybe changing it to an annual submission rather than a quarterly submission. We do need to select 2, 3 and 4 as our preferreds, also.

**DR. LANEY:** Okay, I'll add that to the motion to select Alternatives 2, 3 and 4 as preferred, and I think I heard Andy say it didn't make any difference whether it was quarterly or annually for the golden crab fishery so just leave that one the way it is.

**MR. CUPKA:** Well, he said it wouldn't make any difference. I guess what he meant was either one would work, but it might be less of a burden if we went with the annual; is that a fair interpretation?

**MR. STRELCHECK:** Yes, the advantage of doing annual is that we don't have to go three more times a year and collect that money. The disadvantage is the dealer accumulates all that cost recovery and has a payment that is typically four times larger.

It might be worth getting some input from any dealers in the audience to see if they have a preference. Because we're dealing with a much smaller universe of dealers in the golden crab fleet, I'm not concerned one way or another what you select in this instance.

**MR. PHILLIPS:** Andy, what happens when you have a dealer that goes out of business in the fall and he is sitting there with this pot of money that he has collected, which is kind of why I'm inclined to not let this money pile up.

**MR. CUPKA:** That's a good point. Andy, have you had situations like that in some of the other fisheries in the Gulf?

**MR. STRELCHECK:** We have never had a situation where we haven't received payment. We have had a couple of instances where payment extended well beyond 90 days after the payment was due, and there are administrative procedures that we can get the Treasury Department involved for collection of fees that are owed regardless of whether they're in business or not. It's certainly a hassle on our end, but there are procedures in place for us to follow.

**MR. CUPKA:** Wilson, is that your motion up there or did you want to change the last part of it?

**DR. LANEY:** Well, since I think the AP's preference was for quarterly, I'll just leave it as is. If somebody else wants to amend it to change it, that's fine.

**MR. CUPKA:** Okay, we have a motion, then, for Action 7, change the preferred from 2B to 2A and select 2, 3 and 4 as preferreds. I think we had a second on that, so is there further discussion? Is there any objection? Seeing none, that motion is approved. It's a little bit after twelve and we've still got quite a few actions to go through. I would suggest maybe we break for lunch for an hour and a half and come back at 1:30 and we'll resume our Golden Crab Committee then. We'll recess until 1:30.

(Whereupon, the meeting was recessed at 12:05 o'clock p.m., March 7, 2012.)

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WEDNESDAY AFTERNOON SESSION

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The Golden Crab Committee of the South Atlantic Fishery Management Council reconvened in the Madison Ballroom of the Savannah Hilton DeSoto Hotel, March 7, 2012, and was called to order at 1:30 o'clock p.m. by Chairman David Cupka.

CHAIRMAN CUPKA: We'd like to reconvene the Golden Crab Committee Meeting. Before we go forward with this document, Brian and Andy were good enough to get together over lunch and work out some wording for our consideration on a couple of these earlier things. I think we'll start with them and then pick back up where we were.

DR. CHEUVRONT: Gregg, can I get you to back up to Action 4, please? As Chairman Cupka said, Andy and I spent lunchtime working out some of the things that you all had been sort of perplexed over and asked us to do prior to full council, but we thought it might be just a little bit easier if we could bring it up in the committee meeting and try to address the issues here; and then when we get to full council, we don't have to slow down and figure this out.

In Action 4 you had requested some clarification as to exactly who could possess allocation and felt that it wasn't clear enough in the alternatives that were there that would say that somebody could not own shares or annual pounds without a permit, which seems to be the intent. What we did is we just created an extra sentence that could be – I think currently you're leaning towards Alternative 2 as your preferred.

We would like to suggest that you also want to add this additional sentence to Alternative 2, which would say, "Participants cannot possess shares or allocation without a valid golden crab permit." That would be under all situations.

MR. CUPKA: Do you need to add it to 3, also?

DR. CHEUVRONT: Yes, that could be also added to 3 as well.

MR. WAUGH: Can you read it one more time?

DR. CHEUVRONT: Sure, "Participants cannot possess shares or allocation without a valid golden crab permit." We thought this might capture what your concern was about that possession problem.

MR. CUPKA: And, Gregg, I guess we need to add that to Alternative 3, also.

DR. CHEUVRONT: That certainly could be added there; it would make sense there as well.

MR. WAUGH: I'm sure Joe is going to point this out but you've got a motion here that we were postponing so you're going to have back to this motion and then we can add that sentence to that motion or deal with this motion and then add that sentence to them.

MR. CURRIN: David, I'd offer a motion that we add the suggested language to Alternatives 2 and 3.

MR. CUPKA: Don't we still have to take the other motion off, though? Without objection, we'll withdraw that and start over. Do you want to give us your motion, Mac. It would be the original motion plus add the sentence in.

**MR. CURRIN: My motion is to add "valid" before "golden crab permit" in Alternatives 2 and 3 and add the following to Alternatives 2 and 3, "Participants cannot possess shares or allocation without a valid golden crab permit" and designate Alternative 2 as the preferred for Action 4.**

MR. CUPKA: That I think covers it. Okay, Wilson seconds it. Is there any discussion on the motion? Is there any objection? Seeing none, **then that motion is approved.** Brian.

DR. CHEUVRONT: Thank you, I think this is going to make things a little simpler. Action 6, however, the discussion was a little more complicated than it was in Action 4. Andy and I spent most of our time working out this. We came up with a couple of examples as well and some suggested language change that could be added to Alternatives 2, 3 and then the new Alternative 4 that was suggested, and I think you were leaning towards that as your preferred alternative, which was 20 percent being in between the 10 and 30 percent.

Here is what we suggest the wording of all three of these alternatives be with the only difference being the percentage, so Alternative 2 is 10 percent, Alternative 3 is 30 percent, and Alternative 4 is 20 percent. I'm just going to give you the wording for Alternative 2 right now, and this is our suggested change; "Shares that remain inactive for three consecutive years will be revoked and redistributed proportionately among the remaining share holders", and the next sentence that begins "inactive" would be removed from the first part of the alternative.

Now, Subalternative 2A would now read "Inactive is defined as landings less than 10 percent of a shareholder's annual pounds allocated over a three-year running average." While Gregg is getting that in, let me give you some of the examples that we had talked about how this could work.

Let's say, for example, someone had received 5 percent of the total ACL as an allocation. That would give that fisherman 100,000 pounds. In Year 1 that fisherman could fish 20,000 pounds; Year 2, 20,000 pounds; Year 3, 20,000 pounds and they come up with the 60,000 pounds that they would need to have to meet it; or, the fisherman could in Year 1 not fish at all; Year 2, 40,000 pounds; and in Year 3, 20,000 pounds and still come up with the 20,000 pounds average; or, Year 1, zero pounds; Year 2, 60,000 pounds; Year 3, zero pounds. In each of those scenarios they always come up with the total of 60,000 pounds that they need.

We thought about this a little further. What happens if their allocation changes during one of those years? Let's say this same fisherman in the first year had that 5 percent, but in the second



year bought an additional 2 percent of the allocation, so now their overall allocation is 140,000 pounds.

So in the first year that fisherman would have had to have averaged 20,000 pounds and in Year 2 28,000 pounds and in Year 3 28,000 pounds. That fisherman now has to have 76,000 pounds over three years to meet the requirement, and that's using the 20,000 pound example that you're leaning towards as your preferred right now. It was just an example of how we could take care of any changes in allocations that might occur adding or subtracting.

MR. PHILLIPS: Okay, that I understand, but we're doing this on an three-year running average. If we're back to the 100,000 pounds, he caught all 60,000, didn't catch any in the next year two or year three, then year four he better go back and catch 60,000 pounds again to stay in that three-year consecutive running. I just want to make sure we're clear on this.

DR. CHEUVRONT: You are exactly right. Yes, Gregg, that is the revised wording and what we have would be Alternative 2 and then only differences between Alternative 3 and Alternative 4 would be the percentage. Alternative 3 would be 30 percent in the subalternatives, and in Alternative 4 the subalternatives would be 20 percent.

MR. CURRIN: Just for some clarity in the verbiage that I'm going to suggest may not be the best verbiage, but I think just to make it perfectly clear – and I don't believe it is now – it ought to say something like “Inactive is defined as landings less than 10 percent of a shareholder's annual pounds allocated annually over a three-year running average.” Do you see what I'm getting at? It's not clear that you have to land 10 percent each year of the three years, so that needs to be very, very clear, and I'm not sure of the best way to go about it.

DR. CHEUVRONT: Well, you don't have to land in this case 10 percent each year. It just had to be over the three-year running average you would have to have –

MR. CURRIN: Well, you've got to land 30 percent, but that ain't real clear either from here. My intent is to make it clear that on average 10 percent annually has to be caught over the three-year period. Do you see what I'm getting at?

DR. CHEUVRONT: We mean the same thing. We've just got to get the words right.

MR. CURRIN: Yes, it's just a clarity thing and I just want anybody misunderstanding.

DR. CHEUVRONT: It seems a little bit redundant, but that doesn't bother me.

MR. CURRIN: And I'm willing to let you think about it but it's just a concern that I have for the clarity of it now and give you direction to figure out the best verbiage for it is fine with me.

MR. CUPKA: Yes, it says allocated annually and landing annually. Jessica.

MS. McCAWLEY: Just to clarify because I'm still a little bit confused; are we talking about 10 percent in any one year or 10 percent summed over the three years?

DR. CHEUVRONT: Yes, it comes out to being in this case 30 percent of 300 percent of what the allocation is, if it's the same. So, in other words, in the example I gave, if you 100,000 pounds allocated to you and it's 10 percent, you would have to land 30,000 pounds out of 300,000 pounds that you had been allocated over three years.

MR. PHILLIPS: And I don't want to get in the weeds too far, but back to the examples, we need to land 60,000 pounds in three years, didn't land anything the first year, building the boat; the second year you land 20,000 pounds; the third year you see your projected landings being another 20,000 pounds, so you sell X amount percentage so you don't lose it before the end of the third year, that's something that's going to fall in the realm of how this is all going to work?

MR. STRELCHECK: And we talked about this at lunch; that's certainly an added complexity to this is to what happens when there are shares being bought, shares being sold, the annual pounds are released at the beginning of the fishing year. So we're basing it on just what they have at the beginning of the fishing year; what happens if they transfer the annual pounds?

There are I think more administrative details that we have to work out, but this at least provided some more clarification as to what you're meaning by inactive. I don't have a good answer in terms of how we will make sure that this gets codified in the regulations, but what you're asking is essentially some of the details we still need to hammer out.

MS. SMIT-BRUNELLO: And to that point, Charlie, if council members have an idea of when they would like to see that determined, at the end of the year or at the beginning of the next year or what, I think that would be great to get on the record.

MR. PHILLIPS: And to that point, I'd like to maybe see some options from staff, working with Andy, on how it may have been done in some other fishery. Sometimes I'm good at seeing little options and problems, but I'm not really good at figuring out exactly what the answer is right off the bat. Maybe they could give us some options and things like that; whether we get it at this meeting or they just bring it back in June.

DR. CHEUVRONT: Yes, I think we're going to be inserting "annually" in both of those according to Mac's recommendation.

DR. LANEY: Relative to the timing of when it would have to be done, wouldn't it have to be at the end of the fishing year? As you complete each year, then you would redo your running average, so it seems to me you would have to have it based on a complete fishing year, so it would have to be the end of each fishing year when you would have to redo the calculations.

DR. CHEUVRONT: Where we just inserted "annually" for Mac, I think if we change "annually" and put in "summed" instead, "annual pounds allocated in sum over a three-year running average" or "summed".

DR. DUVAL: Is it possible to include in here one of those examples or a couple of those examples so that people reading this can read it plainly?

DR. CHEUVRONT: It would go into the discussion. What you might want to do now that we have gotten the issue covered that you had discussed, you had also postponed a motion on this action I believe as well. You may want to handle that at this point.

MR. WAUGH: My recollection is we just broke for lunch. We didn't table it or anything so it's still just active.

DR. CHEUVRONT: Actually we did get through Action 7, the cost recovery plan, so we got to this and we stopped and then went on to Action 7 because we did actually deal with Action 7 before lunch.

DR. LANEY: Mr. Chairman, I think Charlie made that one, but the only thing we need to do now, if I understand our previous conversation correctly, is we just need to change the language the same way we did for Alternative 2 for Alternatives 3 and 4. Does that mean Charlie has to do like we did on the last one, withdraw this one and then make a new one that incorporates the additional changes?

MR. CUPKA: Charlie, do you want to withdraw it?

MR. PHILLIPS: Mr. Chairman, **I'd like to withdraw my motion so we can remake it, Action 6, Alternatives 4 and 4A. Mr. Chairman, I'd like to make the motion that we have a new Alternative 4 wording according as Alternatives 2 and 3 are with the exception that it would be a 20 percent.**

DR. CHEUVRONT: Charlie, I think what is going to end up happening is you're going to need to totally reword the alternatives for this action, Alternatives 2, 3, and 4 is technically a new one and you haven't voted on that yet. You're wording Alternatives 2 and 3 and adding Alternative 4; and then I think if you all are ready to, you could also choose one as your preferred.

MR. PHILLIPS: **Well, Mr. Chairman, I would so move and choose Alternatives 4 and 4A as the preferred.**

DR. CHEUVRONT: Charlie, if you wouldn't mind changing your motion to say something like reword Alternatives 2 and 3 and add Alternative 4 as per staff recommendation and then choose alternatives, and then we don't have to read in all of the language that we just added.

MR. PHILLIPS: **Mr. Chairman, the motion would be to reword Alternatives 2 and 3 and add new Alternative 4 as per staff recommendations and choose Alternatives 4 and 4A as preferred.**

MR. CUPKA: Does anybody want to second that?

MR. CURRIN: Yes, I'll second it.

MS. McCAWLEY: This is on Action 6, right, because that's not up there. I just wanted to clarify that we're on Action 6.

DR. CHEUVRONT: This is Action 6.

MR. CUPKA: Any other questions or comments? Is there any objection to the motion? Seeing none, **then that motion is approved.** Go ahead.

DR. CHEUVRONT: On Action 7, I believe you had passed a motion selecting preferred alternatives. It was approved and the one thing that we had left hanging was deferring whether this action ought stay in this amendment, Monica, would like to address that. We had a brief discussion about that.

MS. SMIT-BRUNELLO: That is the cost recovery action, correct? Yes, it should stay in the amendment as an action by the council.

MR. CUPKA: Okay, that settles that.

DR. CHEUVRONT: Action 8 now; this is to establish boat length limit rule. Currently the council has no preferred alternative. The no action alternative basically says to obtain a permit for 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.

Alternative 2 is to eliminate the length restrictions for obtaining a permit for the middle and southern zones via transfer. The AP met and discussed this issue and they really would like to see the council add a new alternative that the wording would be similar to the no action alternative. However, it would be instead of 20 percent, which is status quo, they would like to change that to 35 percent.

The AP would like to have an Alternative 3 that reads: "To obtain a permit for 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 35 percent.

MR. CUPKA: A couple of things here; one is that we were to add that new alternative, where does that put us? I've talked with Monica about that and it seems to me like that would be an alternative that is within the range that we took out to hearing because we've got 20 percent versus doing away with it completely, so it could increase a thousand percent if you wanted to.

Monica may want to address that. The reason the industry I think wanted a larger percent was because going to these refrigerated saltwater systems for keeping the crabs it requires a larger vessel and they wanted to make sure they could get those larger vessels in. Monica.

MS. SMIT-BRUNELLO: Yes, I agree that it's within the range, but I don't think you have to be so tied what is within the range in this particular amendment because it's not an environmental assessment under NEPA – excuse me, it's not an environmental impact statement under NEPA; it's an environmental assessment, so you have much more flexibility on even choosing an alternative that is not within the range, so to speak, because you can get public comment here

and you can get public comment on it at the next council meeting. It will be published as an amendment and those sorts of things. Within the range really, it comes into my mind for NEPA concerns especially when you have an environmental impact statement, so you have a lot more latitude here.

MR. CUPKA: Thank you for that clarification. Brian, do you want to add anything?

DR. CHEUVRONT: And also the IPT recommended – the title of this action currently is “Establish Boat Length Limit Rule”. Well, there already is one established so what the IPT had suggested is renaming this action to “Revise Boat Length Limit Rule”.

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

MR. PHILLIPS: Mr. Chairman, I would so move according to the IPT’s suggestion.

MR. CUPKA: So your motion is to approve the IPT’s suggested wording change?

MR. PHILLIPS: Yes, Mr. Chairman.

MR. CUPKA: And nothing else at this point? Mac.

MR. CURRIN: David, I’d like to offer a friendly amendment, Charlie, to accept the IPT’s recommendations for a wording change as well as add the new alternative suggested by the AP and to select that new Alternative 3 as the preferred.

MR. CUPKA: Is there a second; seconded by Wilson. **The motion is approve the IPT recommendation which is to rename this action from “Establish Boat Length Limit Rule” to “Revise Boat Length Limit Rule”; add a new Alternative 3 from the AP and choose the new preferred Alternative 3 for Action 8 as our preferred.** Wilson.

DR. LANEY: And I think, Mr. Chairman, that also it needs to say “revise Alternative 1 language to read “Do not revise boat length limit rule” unless you think that’s captured once up there already because it just says rename the action. The IPT actually recommended two wording changes; one was that rename and the other one was within Alternative 1.

DR. CHEUVRONT: Yes, and that was really kind of an optional thing. It was just a way of shortening Alternative 1, Wilson, because there were some on the IPT who felt that the entire content of the regulation didn’t necessarily need to be in the alternative, but I guess that was kind of a moot thing.

MR. WAUGH: I think Monica is going to address this, too, but there has been an increased emphasis on accurately stating what the no action alternative is, so I would encourage you to leave it the way it is.

MR. CUPKA: Was that your point, Monica.

MS. SMIT-BRUNELLO: No, but I like it. My point was going to be that there is discussion in the document right now as to why eliminating the length restrictions would be a good idea, and I'm not sure why 35 percent was chosen by the AP, but I'm assuming that we'll get information from the AP and we can put that discussion into the document so the council and others can see why that would be a good choice.

MR. CUPKA: You mean why they wanted the 35 as opposed to the 20?

MS. SMIT-BRUNELLO: Yes.

MR. CUPKA: Well, my understanding is they want it to give them allowance to get a large enough vessel to accommodate these new saltwater systems to keep the crabs alive.

DR. CHEUVRONT: But why not larger than that?

MS. SMIT-BRUNELLO: Well, there is eliminating entirely the length restriction so –

DR. CHEUVRONT: Yes, that was part of the concern that existed about inordinately large vessels coming in from other areas and basically catching all the crabs very quickly.

MR. CUPKA: Further discussion on the motion? Tom.

MR. SWATZEL: I'm just going back to the overall purpose for the boat length limit to start with and that was basically to eliminate larger boats that they were I guess fearful of coming in catching up large numbers of crabs, but yet you're saying that there is a benefit by having larger boats. I'm not sure if the purpose of having the limit is really useful anymore to me.

MR. CURRIN: And if I don't do an adequate job, Brad had his hand up and he can explain, but what I recall these guys discussing is that with exceedingly large boats carrying lots and lots of gear, there was a fear and a real possibility that longer and longer trawls of traps being laid in and around and more importantly over the existing boat's gear could cause all kinds of problems; and that with some limit on the size of the boats, they minimize that. That was my understanding as to one of the main reasons that wanted some – not to do away with the length limit on the boats. If that's not correct, then you can correct me.

MR. CUPKA: Well, I think it is because it allows them to increase the size enough to meet their needs, but it doesn't open it wide open where these larger boats can come in and create gear conflicts. I know it's something they wanted to maintain. Gregg.

MR. WAUGH: There are also the habitat impacts. Remember, we created allowable golden crab fishing areas that are very close to delicate habitat, and the concern is that you get larger boats in there with more gear it's going to be more difficult for them to keep the gear out of the habitat. That was a consideration as well.

MR. CUPKA: Brad, did you want to add anything to that?

MR. WHIPPLE: Unless you're satisfied with the explanations, I can maybe go into it a little more detail, if you'd like. The vessel length limit rule originated at the beginning of this fishery because the fishermen who were going to be getting into this fishery had been banned from fish trapping. They had vessels that were built and designed for fish trapping.

Part of the concern was larger vessels being able to dominate the fishery and having a competitive advantage against the smaller vessels that these fishermen already possessed. Now that was a concern before we had an ACL; and now with an achievable ACL it's even a greater concern. The AP wants to keep this action as long as – you know, without catch shares in effect, without the other actions in effect, we feel that the boat length limit rule still serves as a safeguard against potentially one vessel dominating the fishery. If other actions are approved, then the boat length limit rule becomes superfluous I guess after that. That's the genesis of it.

MR. CUPKA: Further comments? All right, we have a motion on the board. Charlie.

MR. PHILLIPS: And just a quick comment to Tom's point, even though we have a known universe of fishermen and we pretty much know what they've got to work with, like Brad said, conceivably somebody could go out there and buy a super-sized boat to fish his traps and could have gear problems or possibly even coral problems fishing a whole lot of gear. I would think going up 35 percent would be a reasonable thing compared to the other options. I would speak in favor of it.

MR. CUPKA: Further comments? Okay, you see the motion on the board and we've already read it into the record. Is there any objection to the motion? Seeing none, **then that motion is approved. Brian.**

DR. CHEUVRONT: Action 9 refers to restrictions on where permitted vessels can fish for golden crab. The council's current preferred is a vessel with a permit to fish golden crab can use annual pounds in any of the three golden crab fishing zones. This preferred alternative in essence would get rid of the zones altogether in the golden crab fishery.

However, the AP actually still prefers Alternative 2, participants can use quota in any zone for which they possess a permit. What they are saying is that – the state of it now is that several of the fishermen have permits for more than one zone. What they would like to be able to do is say if they have a southern and a middle zone permit, would like to be able to fish their quota for either of those zones on either of those permits.

For example, if a fisherman has 20,000 pounds on a southern permit and 20,000 pounds on his middle zone permit, he'd like to have the option of being able to fish 30,000 pounds in the middle zone permit and 10,000 in the southern zone or however else they wanted to work it out, but they want to keep the zones. That's the bottom line.

The Preferred Alternative 3 would get rid of the zones. The reason they want to keep the zones is because of gear conflicts and to prevent some degree of effort shifting or all the effort getting concentrated in just one area. That was the reasoning that they would really like to keep Alternative 2 as the preferred.

MR. CUPKA: Do you want to go through some of these comments while you're at it, Brian?

DR. CHEUVRONT: Yes, that the AP's comments. The fishermen are concerned that conflicts would increase if the zones go away. There already has been problems reported with gear conflicts, trawl lines crossing over each other, and that's very costly for the fishermen not to mention just in time but in gear.

The IPT has recommended changing the name of Action 9 to "Modify Regulations on Golden Crab Fishing Zones" because the one that is there now is not really descriptive of what they were trying to get at with this. The IPT had suggested a no action alternative to read, "Do not modify regulations on golden crab fishing zones."

However, in light of the fact that more is better in terms of being descriptive, then you might not want to take that IPT's recommendation. As the language is now that shows all of the regulation in Alternative 1, it includes a subsection of the regulation stuck in the middle that refers to just the subzone.

What is included now is from beginning to end the entire description that applies to this. There was a suggestion that we could pull out the language related to the subzone, but then that splits up the regulation. I wasn't quite sure whether Monica would weigh in on telling what would be recommended for that.

MS. SMIT-BRUNELLO: Well, getting back to Gregg's comment on the no action and having it read precisely, let's just look at that as the IPT and then we can think about whether we can just put an ellipse in there with the subzone language being taken out and whether it's still as descriptive as it needs to be. We can work on that no action.

DR. CHEUVRONT: Certainly, and this could come back to the council in June for them to make their final decision on this as we go through these actions.

MR. CUPKA: Okay, is there any desire on the part of the committee to change our preferred on this? You've heard the AP recommendation? Charlie.

MR. PHILLIPS: Mr. Chairman, **I'd like to move we make Alternative 2 the preferred, and then I've got some questions about that.**

MR. CUPKA: Okay, we have a motion; is there a second? Seconded by Mac. Charlie.

MR. PHILLIPS: Mr. Chairman, one of the questions I have is a fisherman that has a permit to fish in the southern zone only, and then you've got another fisherman that has got permits for the middle and southern zone or several of those fishermen; is there the possibility that these fishermen could move down there and fish the southern zone, possibly deplete the resource where the fishermen in the southern zone wouldn't have the opportunity to move north; is that going to be a problem?



DR. CHEUVRONT: I don't think that – I mean, that could happen, but I don't think it would largely because I don't think the fishermen who have the option of being able to fish in multiple zones, if it was heading towards depletion, they would continue fishing in that area where the crabs would be more plentiful in another zone. That doesn't make sense that they would hang around in an area that would be problematic, but Brad could answer that.

MR. WHIPPLE: I understand the concern and that could happen right now without any of the other actions. The reason we want to maintain the zones is because if you look at the eleven remaining permits, the designation of those permits effectively balances the effort across the allowable golden crab fishing areas. I think that is an adequate safeguard against the problem that you raised there.

**MR. CUPKA: Okay, the motion before us to make Alternative 2 our preferred alternative for Action 9. Is there any further discussion on the motion? Is there any objection? Seeing none, that motion is approved. Mac.**

MR. CURRIN: Brian, maybe you guys are clear on this, but there was a note there that the IPT wanted clarification on Alternative 3 and whether that in fact intended to do away with the zones. I think that was the intent. That is my understanding.

DR. CHEUVRONT: Yes, I think it was and I think because the council has now chosen Alternative 2 as their preferred that maybe it's not as urgent that we have a more beefed up rationale behind that and why they would choose that. I think as long as the council agrees that the reason that Alternative 3 was in there was to get rid of the zones altogether, that's probably enough explanation, and the reason Alternative 2 was chosen was because Alternative 3 would not achieve those goals.

**DR. LANEY: Mr. Chairman, I was going to make a motion that we concur with the IPT recommendation for changing the name of Action 9 to modify regulations on golden crab fishing zones.**

MR. CUPKA: Okay, we have a motion; is there a second; Mac. The motion is concur with the IPT recommendation changing the name of Action to "Modify Regulations on Golden Crab Fishing Zones". Any further discussion on the motion? Any objection? **Seeing none, that motion is approved.** Brian.

DR. CHEUVRONT: Moving on to Action 10, to modify the small vessel subzone restriction; currently the council has no preferred alternative. Alternative 1 is a no action, do not eliminate the small vessel subzone in the southern zone that was originally established to protect against very large vessels fishing in the subzone.

Alternative 2 is eliminate the small vessel subzone within the southern zone that was originally established to protect against very large vessels fishing in the subzone. In talking with the AP, they think that the small vessel subzone should be removed. Basically the vessels that was designed to protect early on are no longer in the fishery; and that basically folks seem to be ignoring it anyway. The Law Enforcement AP was in favor of also eliminating the subzone.

DR. LANEY: Mr. Chairman, I'll take a shot at it. It looks to me like we need have a motion to revise the no action alternative as recommended by the IPT and to designate Alternative 2, eliminate the small vessel subzone as our preferred alternative.

**MR. CUPKA: I think that will do it, Wilson. Second by Charlie. Okay, the motion is to revise the no action alternative as recommended by the IPT and designate Alternative 2 in Action 10 as our preferred. Is there any further discussion? Is there any objection? Seeing none, that motion is approved. Brian.**

DR. CHEUVRONT: Action 11 is now currently establish criteria for permit stacking. If you'll remember at the December meeting, the council asked the IPT to come up with some alternative language that would avoid using the term "permit stacking". The IPT has come up with this alternative language.

In Alternative 1, no action, do not modify the one vessel one permit policy for golden crab. I would like to back up a second because they also would like to rename the action first to "Modify the One Vessel One Permit Policy for Golden Crab", and that gets rid of the term "permit stacking" in the title. Alternative 1, no action, I read. Alternative 2 would be allow multiple permits to be issued to one vessel so that any zones for which the vessel has a permit can be fished in one trip.

Subalternative 2A would be two permits per vessel; Subalternative 2B would be three permits per vessel. There are currently three zones. There are no vessels I believe that have a permit for all three zones. There would be no advantage to a vessel having, say, two middle zone permits on the same vessel. That's not going to happen.

Alternative 3 is allow an unlimited amount 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. Now, in looking at this and setting this up, the IPT realizes that Alternative 3 is pretty redundant with Alternative 2, Subalternative 2B, because there are three zones at this point, and so both alternatives, Subalternative 2B and Alternative 3 achieve the same result.

MR. CUPKA: What is the pleasure of the committee on this one?

DR. CHEUVRONT: And just to give you the AP recommendations, they would like under the newly revised version that we set this out based on what they had recommended, they would prefer Alternative 2, Subalternative 2B as the preferred.

MR. PHILLIPS: Mr. Chairman, because I have this letter here from Robert Palma, would it be in order – and they seem to speak against permit stacking. Would it be proper to have them tell us why they feel like the AP's choices doesn't fit them so we can have a good discussion on where we want to go.

MR. CUPKA: Yes, we can do that briefly. I don't want to get to the point where we start going over all of these. If they're here and would like to address that for the committee –

MR. PHILLIPS: And I'm not even sure if they're back there.

MR. PALMA: My name is Robert Palma. On the stacking of the permits, one of the things that we see is that there is only five or six boats in the fishery and having boats come from – you know, being that the shares are allocated and whatnot and they come to different zones to fish areas – like someone here had a concern of overfishing that area; that's what we're pretty much concerned about is to be able to – you know, if you have a permit for the middle zone or the southern zone, you should be able to fish either/or and not just to be able to come back and forth.

MR. PHILLIPS: So basically you're worried about overexploitation in your zone when you can't leave it; is that what I'm hearing?

MR. PALMA: Yes, we're stuck on one and other boats that have two are able to have more choices on where to fish because of the permit system.

DR. CHEUVRONT: Yes, and actually right now shareholders – the participants in the fishery that have more than one permit, they can fish in, say, the middle zone, then they have to come back into port, transfer the permit to the vessel, and then go back out and fish the other permit. What they're asking for with this is to avoid having to come back in and do that transfer and going back out again. I'm not sure that this would achieve their goal that they've just asked about.

MR. PHILLIPS: And I just wanted to – because of the letter, I just wanted it clear so everybody knew. It was in the discussion. I'm inclined to agree, it's the inconvenience for that boat that has two permits to come in, but he can still work that zone, anyway. I just wanted to make sure everybody was clear on what the options were and were not.

MR. CUPKA: Well, what is the desire of the committee on this action? Wilson.

DR. LANEY: Well, I'll take a crack at it, Mr. Chairman. I would move that we adopt the IPT recommendations for renaming Action 11 as "Modify One Vessel One Permit Policy for Golden Crab" and then change the alternatives as recommended by the IPT.

MR. CUPKA: Did you want to select a preferred while you're at it?

DR. LANEY: I think I heard the AP's preferred was 2B; yes, I would recommend that we select Subalternative 2B as a preferred.

DR. CHEUVRONT: Wilson, one of the things that I had mentioned earlier is that Alternative 3 is now kind of redundant with the 2B so you not want to include Alternative 3 if you want to follow along with the IPT recommendation.

DR. LANEY: Okay, so should we just drop it or move it to the considered but rejected alternative appendix?

DR. CHEUVRONT: It was never considered, so you just –

**DR. LANEY:** Okay, then let's just drop Alternative 3 and include that in the motion. The motion is to adopt the IPT's recommended language changes, rename Action 11 as "Modify One Vessel One Permit Policy for Golden Crab" and change the alternatives as recommended by the IPT (delete Alternative 3) and choose Alternative 2, Subalternative 2B as the preferred.

MR. CUPKA: Okay, there is the motion before you. Is there any further discussion on the motion? Mac seconds it. Is there any objection? Seeing none, **that motion is approved.** Brian.

DR. CHEUVRONT: Action 12 is monitoring and enforcement. Right now the council has no preferred alternative or subalternatives. Alternative 1 is no action, do not require additional monitoring and enforcement. Alternative 2 has several different requirements that would install VMS on these vessels.

The Golden Crab AP talked about this at length at the AP meeting. Their concern about VMS was largely the fact of the nature of the fishery, which is that where they deploy their gear sometimes in the allowable golden crab areas within the Coral HAPCs, sometimes the vessels will drift out over the coral areas where they're not allowed to deploy gear, but the gear are not there. There was some concern about would they be vulnerable to a violation should that situation occur.

Since the AP meeting, there have been discussions with the Law Enforcement AP and NMFS OLE and some of the fishermen, and I think there has been some resolution that NMFS has said that they would not issue a violation in that kind of a scenario unless there was something clearly – that somebody was fishing in the wrong place. Maybe, Otha, if you'd like to comment to help clarify to make sure I didn't misrepresent anything that you have had in discussions.

MR. EASLEY: Your rendition is pretty much right on. We had the discussion with the industry yesterday as well as the LEAP discussed the issue. There are different processes that we have in enforcement to deal with the VMS that allow us to make better judgments of when this industry would be not in the open areas and when they would be almost regardless of where the boat would be positioned as far as where it is on the VMS screen. We had the discussion with industry and we have a process that we plan to take if this goes forward where we can help make sure that's not the case or help ensure that's not the case.

DR. CHEUVRONT: And also some of these recommendations that appear in the decision document really now for this action are really not relevant now that some of these issues have been resolved. The AP had recommended to avoid having VMS, having a hail-in and hail-out provision, perhaps putting pingers on traps and all that, but I believe this agreement with NMFS OLE is going to resolve those issues.

Now, currently I believe every catch share type program in the southeast region has VMS as a requirement in that catch share program. We have several subalternatives under Alternative 2 about who pays for the VMS. I believe Subalternative 2C is the one that seems to be the most logical and the most palatable to everybody at this point.

It's the purchase of VMS equipment will be reimbursed by National OLE VMS Reimbursement Account if funding is available. Installation, maintenance and communication costs will be paid for or arranged by the shareholder. I believe at the LEAP meeting the other day, Otha, you said there were several million dollars in that account right now.

MR. EASLEY: Correct, as of last week there is \$7 million in there, so we should be able to handle this pretty easily.

MR. CUPKA: And Subalternative 2C is the norm that all these programs are operating under and is the best way to go. Are there any questions for Otha? Mac.

MR. CURRIN: No, not a question, David, but I want to thank you, Otha, and everyone else who was involved with the discussions and negotiations with the golden crab fishermen on this. It's a very unique situation but we have similar fisheries well, so I'm glad to see the ability to put those instruments on the boats.

I think if we can spend some time analyzing some of the data as we did for a rock shrimp fishery in some of our earlier actions years ago, we may learn enough about the operation of that fishery that we can actually utilize the VMS in the future to predict or determine what these guys are actually doing out there.

I think they're more than happy to work with us and provide actual information on what they're doing when the VMS tracks show some particular pattern. If we've got resources to do that in the future, I think it will put us well down the road toward monitoring this fishery and perhaps other similar fisheries as well. I would move, David, that we select Alternative 2, Subalternative 2C as our preferred under this Action 12.

MR. CUPKA: Okay, we have a motion; is there a second; Charlie. **The motion is to select Alternative 2, Subalternative 2C as our preferred for Action 12. Is there any discussion on the motion? Ben.**

MR. HARTIG: I'm not on your committee, but I guess, Otha, there was still funding available, if I'm not mistaken?

MR. EASLEY: Yes, sure is.

MR. STRELCHECK: Just as way of background in terms of how this is administered, with VMS requirements there is a hail-out requirement where they have to report that they're going fishing for golden crab, the gear they're going to be using, and where they're going to be going fishing. Once they're at sea, the VMS unit pings the vessel once an hour for position coordinates.

It can get coordinates more often if they're near a protected area or in a closed area. When they return to shore, outside the VMS requirements there is a landing notification requirement. That landing notification is to indicate when and where they're landing, who they're selling to, and the amount of crab that they would be landing.

Currently this is administrative action that is discussed where they would have a three- to twelve-hour window prior to landing to submit that landing notification. I just wanted to make you were aware of that as well as the industry if they want to comment on that landing notification window.

MR. PHILLIPS: Andy, when a boat goes out and they call and declare where they're going to be fishing, obviously if a boat only has one zone he just says, "I'm going to that zone"; but if a boat has permits for two zones does he just declare both zones or one and then if he decides to fish in the other one then he calls back and tells you that he is going to the other one; kind of how does that work?

MR. STRELCHECK: The VMS is more generic than that because it applies to all the vessels that would have a VMS unit. Are you aware of the updates that are ongoing right now with VMS? It wouldn't necessarily be declaring the zone that you're fishing in; just the general area that you would be fishing in.

MR. EASLEY: I think it's more for declaring the fishery is the bigger issue; you know, whether you're fishing for that species or not. If they're not in the open area, then we would like to know that they had declared beforehand that they're not fishing for golden crab.

MR. PHILLIPS: And to that point, well, say they're going golden crabbing, would you use that information to know if they were in the proper zone or not or do you just know that they're crabbing? I'm a little confused.

MR. EASLEY: Well, the devil is in the details, I guess. If the committee or council wants to go forward with just doing away with the separate zones and just say that's not an issue, which seems like that is not the case, but if there is a restriction on which zone they can fish in on the trip, which might not be the case, then it's of less importance.

MR. STRELCHECK: If there is ever a question about someone using their quota share in a zone that they are not supposed to be in, that's a monitoring system data that could be utilized by enforcement to validate where they were fishing relative to the zone that they're permitted to fish in.

MR. CUPKA: Okay, other comments? If not, then you have the motion before you. Is there any objection to the motion? Seeing none, **then that motion is approved.** Brian.

DR. CHEUVRONT: Okay, the next action is Action 13, establish criteria for new entrants program. There has been an awful lot of work that has gone into this and it has changed around a lot. Given what you've now chosen already as your preferreds, we now have on other actions, particularly Action 2, we have an opportunity here to greatly simplify this action.

Right now Alternative 1 is no action. The council has no preferred action for this. Alternative 2 is to set aside some amount of annual pounds for new entrants when quota is; one, released as a part of a violation or; two, the quota is lost under the use-it or lose-it provision; or three when the

ACL exceeds 3 million pounds. That alternative has a lot of problems with it in terms of where it is.

Starting from “some amount of annual pounds”, we would need to be really specific there. There are actually parts of this that is redundant with an earlier action regarding lost quota, and whether it’s set aside for new entrants, but in the earlier use-it or lose-it provision we have it lost quota goes back into the pot for the existing participants. Alternative 2 has got problems.

Alternatives 3, 4 and 5 all require an auction to be held to distribute part of the golden crab ACL each year. To be honest, SERO would probably prefer not to have an auction when you’ve only got eleven permits, and at most you might have one or two permit transfers in a given year, if any at all.

In thinking about this and talking with the AP members, what you have now selected as your preferred alternative under Action 2 would require that each permit in the initial allocation would get roughly 2.2727 percent of the golden crab ACL at a minimum. What the IPT, thinking about this, would like to do is to have you just send this action back to us with direction to develop alternatives that would simply require that when a permit is transferred a certain percentage of the ACL is required to be transferred along with a permit, at a minimum would have to be kept with the permit.

For example, we could have when a permit is transferred there could be a – as one alternative would be a minimum of 1 percent of the total ACL must remain with the permit and be transferred with the permit; or, that initial allocation which is 2.2727 percent will remain with the permit at all times. We could come back with a couple of alternatives for you at June and a decision could be made then. We have discussed the idea of doing this with Monica; and if she will weigh in to verify that we’re correct, the council could take action on that.

It could be discussed and have a public hearing at the June meeting as part of the normal process, and this action could stay with this document if the council then, after the public hearing, decided to approve the document in June and send it forward. Is that correct, Monica?

MS. SMIT-BRUNELLO: Yes. I think it would be great if we could develop it maybe sooner rather than later potentially so that the affected fishery could know what is going on and have an opportunity to maybe comment on it.

MR. CUPKA: Most of them will be involved in the development of it, really, when you think about it.

DR. CHEUVRONT: Yes, they’ve been involved in the discussions all along. This is such a small fishery that a lot of the guys know what is going on as we’re developing this stuff. I mean not everybody knows; and you’re right, we need to get it out there as quickly as possible. We’ll see if maybe we can come up with some potential language by full council.

That’s something Andy and I did not work on at lunchtime today. What we would like to do is to get some direction, some go ahead from the council that you would like for us to develop something like this. This would greatly simplify this new entrants; and it’s just when you get a

permit, you're going to automatically have some allocation attached to that permit so you can fish.

MR. CURRIN: I think it's a great suggestion, Brian, and I particularly like the one that is associated with the 2.2 point, whatever that is percent, which is the minimum anybody is going to get from the very beginning. I guess the thing that concerns me a little bit about this is there are kind of two ways to think about new entrants.

I guess when you transfer an existing permit to someone who didn't have one before, you could call that a new entrant. But, when I think of new entrant, I think about getting new people into the fishery, expanding the fishery with the additions of permits. We haven't talked about that and we don't have to necessarily at this point, but somewhere down the road if things work out right and ACLs go up and all of that and people are still not able to catch the existing ACL, then at that point the council may want to look at adding permits and new people into the fishery – additional permits I should say.

DR. CHEUVRONT: Two points related to what you had said, Mac; one of the public hearing comments you might remember addressed that issue specifically with the idea that no more than 814,000 pounds in a given year have been landed in this fishery and yet the ACL is now 2 million pounds. He was wondering, well, maybe it's time to add some more permits.

That was a comment that had been received. However, you also have to remember that this is a demand-driven fishery because this is a very, very perishable product. These guys are only going to go out and catch what they know they can sell, and so they're not going to speculate on catching more crabs than they know they can sell.

The idea is that with this additional ACL, they're hoping that they're going to be able to open markets even more than what they have. If they're right, we ought to be within a few years seeing increased landings in this fishery. That's the hope.

MR. CUPKA: That is a good point, Mac, and there is nothing that would preclude us from coming back in the future, once we see how things are going to shake out, and change that if we need to. Charlie.

MR. PHILLIPS: And I agree with Mac, and I've heard all the concern about tangled gear and the narrow edges that they work on. I've talked with some of them and they believe there are crabs in other places they've never fished before; maybe on the east side of the Coral HAPCs. This is really deep water and there are places that they really haven't gone yet.

We're going to need to probably use some of that information from the VMS on where they work, how often they work there, work it in with their trip limits, their trip tickets, and I see all that information going into an assessment at some point in time and then maybe we can look at some other areas and let some new people in, and then we'll know a lot more about how this fishery really can be used. I'm like Mac, I eventually want to see more than eleven people in there and see just what the ranges are, where we can work or where they can work, rather, and get resource to the people.



MR. HARTIG: I agree with both what Mac and Charlie had said, but basically Action 13, establish criteria for new entrants in the program, you can't have any new entrants unless you have a permit, unless you add additional permits. Basically, we don't have anything to add permits, so you're not going to be able to add new people. I don't understand how this can even be in there with –

MR. CUPKA: It depends on how you define that. You can get new people in; you just aren't increasing the number of permits.

MR. HARTIG: By transfers, right.

MR. CURRIN: Yes, you're really changing people; you're swapping people. The other thing I guess that I'm sitting here wondering is whether we need this action at all because maybe somebody would buy a permit with no pounds, but you'd have hard time selling one to me without something, that if I intended to fish it, without an adequate number of pounds to make it to have some value to me. I don't know, are we really accomplishing that much by putting some minimum on a transfer requirement really is all we're doing. I'm not sure it's titled correctly. I'm just wondering.

MR. STRELCHECK: I guess I'll give you some context as to what a share costs for red snapper in the Gulf of Mexico. It's \$35 a pound. Now, will golden crab ever be \$35 a pound; I'm not sure. There are two things that could happen here. One is this is going to drive up the price of permits, and those that are serious about being golden crab fishermen are the ones that are going to buy a golden crab permit; or, two, you're going to give whoever buys a permit at least that initial buy-in to the fishery to participate as a seed to become a bigger participant, so they don't have to go out and spend a tremendous amount of money potentially up front to become a participant; but then if they want to build their business they're going to have to obviously buy more quota share in order to gain more of the overall annual catch limit.

But in this instance one of the big complaints we have with the Gulf program, especially for smaller-scale fishermen that wanted to get into the industry, is that the share prices are cost prohibitive. I think that's really the direction that this is coming from is that this gives people an opportunity to get something when they enter the fishery to help start their efforts.

MR. CURRIN: In view of that, then maybe we ought to suggest that we look at some percentages over and above the minimum 2.22, whatever that is, as well. I would maybe suggest up to 5 percent at least as an alternative to consider.

MR. CUPKA: Okay, you want staff to try and work on some verbiage and bring it back to full council and take another crack at this? Brian.

DR. CHEUVRONT: Yes, we can do that and come back. Probably it will be two actions, and the one action we'd probably have three subalternatives of 1 percent, 2.2727 percent and 5 percent. Okay, I'm sure we can do that for you. Action 14 is annual pounds overage. The council does not currently have a preferred.

Action 1 is do not allow fishermen to exceed their allotted annual pounds. Alternative 2 is a person on board a vessel with the shareholder's only remaining golden crab annual pounds may exceed by up to 10 percent of the shareholder's annual pounds remaining on the last fishing trip of the year. Shareholders who incur an overage will be required to pay back the annual pounds overage in the subsequent fishing year.

Alternative 3 is a person on board a vessel with the shareholder's only remaining golden crab annual pounds may exceed by up to 20 percent of the shareholder's annual pounds remaining on that last fishing trip of the year. Shareholders who incur an overage will be required to pay back the annual pounds overage in the subsequent fishing year.

The Golden Crab AP passed a motion requesting the council choose Alternative 3 as the preferred. Part of the reason why they wanted to have the larger amount is because some of the fishermen in the initial allocation will have a fairly small share and they could actually end up in the scenario where to try to fish their entire share they could still have another trawl even set out that haven't brought in when they hit their total allocation, and they would like to be able to bring all those extra crabs in or at least as many of them as they possibly can so that the resource is not wasted. This would apply only to the very last trip that they would take for that year, so they could not do this multiple times.

MR. CUPKA: Brian, is that a true statement under the current preferred alternatives for Actions 1 and 2 where there will be several permits that would receive less than 1 percent? I thought we now had a minimum.

DR. CHEUVRONT: That was under your old preferred for Action 2. You remember you had Action 2, Subalternative 5B was your preferred coming into this meeting, and we changed it to 5, so now everybody will be getting at least 2.2727 percent, according to your current preferred actions.

MR. CUPKA: Well, I understand that and I just wanted that out in terms of some of the rationale that we got from the AP.

DR. CHEUVRONT: Well, still even 2.2727 percent is only about 44,000 pounds. I think you guys can correct me, you can get 15,000 pounds easily in a trip? Yes, even having only 44 or 45,000 pounds allocated to you you're talking three trips, and they just want to be careful that if they accidentally go over on that last trip, that they would at least try to be able to bring in those last remaining crabs or as many of them as they could.

MR. CUPKA: Yes, and the other point to make sure everyone is perfectly clear, because I've heard it interpreted both ways, but the way I read this is that on that last trip they would get a percentage of the remaining part of their allocation that they could be over. It wouldn't be that percentage applied to their annual allocation for the whole year. I think some people may have thought it applied to the whole annual allocation, but it's not. It's just the remaining portion of that allocation.

DR. CHEUVRONT: Thank you for clarifying that and to make sure that is exactly what the council's intent is.

MR. CUPKA: What is the pleasure of the committee? Wilson.

DR. LANEY: **Mr. Chairman, I would move that we select Alternative 3 as the preferred alternative per the AP's recommendation.**

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

MR. PHILLIPS: Monica, are we going to run into a problem if everybody hits their allocation and everybody goes over a little bit, that we actually go over the TAC because of these last trips? It's highly unlikely but would we have a problem there?

MS. SMIT-BRUNELLO: It is conceivable that if everyone went over we could exceed the ACL. However, the ACL is – I guess you'll just have to monitor this in the next few years and see how much is landed, because you can see by the landings in the last so many years it doesn't get close to the ACL, that close to the ACL, so, sure, but it's conceivable.

MR. HARTIG: My same concerns – I mean, when dealing with the ACL Amendment, we couldn't do a two-year – we couldn't have overages. It seems to me like if this is a problem and it looks like it may be a problem – I mean, if we can do AMs for the commercial fishery, which it looks like we're probably going to have to do with the overages we're having, with no kind of provision to give back some of that quota at least for one year – it seems like NMFS could revisit their guidelines to allow those kinds of things to happen, to be able to do that. I think there has been enough – we see this happening here – are there any provisions in the Gulf? Did they ever do that with any of the Gulf provisions, Andy, with the grouper or tilefish or red snapper?

MR. STRELCHECK: Yes, we have very similar regulations in the Gulf. If there is an overage, it does get deducted off the allocation in the subsequent fishing year, so that fisherman ultimately gets less allocation at the start of the next fishing season, so they're paying it back up front. I guess to add to that, red snapper has been the longest-running IFQ in the Gulf, obviously a very different beast than golden crab, but we've had probably 20 or 25 fishermen each year that tap into their 10 percent overage. It amounts to a couple thousand pounds usually at the end of the year, so a very small amount. We get to 97, 98 percent of that quota each year, so there is a small amount that remains unused; so even with the overage, because there is unused quota, we don't go over the catch limit.

MR. CUPKA: Other questions of comments? Okay, we had a motion and a second. **The motion is to select Alternative 3 as our preferred for Action 14 as per the AP's recommendation. Is there any further discussion on the motion? Any objection? Seeing none, then that motion is approved.** Brian.

DR. CHEUVRONT: Okay, we finally made it to the last action, and this is approved sites. The council does have a preferred subalternative, which is approved landing sites will be selected by

the fishermen but must be approved by NMFS Office of Law Enforcement in consultation with the appropriate state law enforcement agency prior to use.

The IPT would like, if the council would like to continue this as their preferred subalternative, that they would go ahead and choose Alternative 2 as a preferred. The Law Enforcement AP supported Alternative 2 as a preferred and the Golden Crab AP supported the council's Preferred Subalternative 2A as well.

**DR. LANEY: Mr. Chairman, I would move that we select Alternative 2 as preferred with Preferred Subalternative 2A as already selected.**

MR. CUPKA: We have a motion; is there a second; Charlie. Discussion on the motion? Is there any objection? **Seeing none, then that motion is approved.** That gets us through the document. Is there anything else, Brian?

DR. CHEUVRONT: Yes, Andy would like to say something in regards to that administratively as to how that might work, and I believe Monica has something to say as well.

MR. STRELCHECK: I'll let Monica speak first.

MS. SMIT-BRUNELLO: Were you going to speak to that particular alternative? Okay, I had a couple of things. Of course, you knew I would. One of them has to do with Action 4. I believe we said "valid permit". It would be appropriate if we said "valid or renewable"; so that if someone was within the time period to renew, they would still have the option of being able to carry out whatever is listed in Action 4. I don't know if that's also true with Action 1. Why don't you take a look at that, Brian and Andy, and see; and if appropriate you can think about adding it in.

The one other thing that I was doing, I read the Magnuson Act, which is always a useful thing to do for me, and when I reread the section on limited access privilege programs I noticed that there was an item that the council needs to consider. It doesn't necessarily need to approve but should consider as an option. That is under 303A(d). It's entitled "Auction and Other Programs".

I'll read it first and then I'll tell you my solution I think and we can discuss it a little bit. "In establishing a limited access privilege program, the council shall consider and may provide, if appropriate, an auction system or other program to collect royalties for the initial or any subsequent distribution of allocations in the limited access privilege program if the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and, two, revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by Section 304H(5)(b) and available subject to annual appropriations."

When I spoke with Shepard Grimes about the IFQ amendments that he has dealt with in the Gulf, they did have this as an alternative so that the council could consider it in accordance with the Magnuson Act. My recommendation is go back to Action 2 and add as Alternative 7 – and Action 2 is the initial apportionment of catch shares – and as Alternative 7, "Distribute initial

IFQ shares through an auction system. All eligible entities as determined in Action 1 are allowed to place bids.”

And then I would work with the IPT to discuss a little bit in the discussion section of what that would be, and then that would be for you to consider now or especially in June when you get the document back. But I think if you add that alternative in, it will have met the intent of what you should consider under the Magnuson Act.

It does discuss also you should do this for subsequent distribution of allocations, but I don't believe that you have an action in this amendment to address subsequent distribution. They did in the Gulf for many reasons, including the fact that the ACL might change from year to year and that would affect the distribution.

I guess we could face subsequent distribution down the road when you face changing the ACL and distribution among shareholders. That is my recommendation is to add an Alternative 7 to Action 2 to take care of the idea of royalties, economic grant, I guess, and that's another word for it, but for royalties.

MR. CUPKA: Okay. And, Gregg, we did call them catch share and not IFQ. Does anyone wish to take an action on that? Charlie.

MR. PHILLIPS: Mr. Chairman, **I would so move that we add Alternative 7 to Action 2 per Monica's –**

MR. CUPKA: Well, read the language that's up there.

MR. PHILLIPS: Okay, **“Distribute initial apportionment of catch shares through an auction. All current permit holders would be able to participate.”**

MR. CUPKA: Okay, we have a motion; is there a second; Wilson. Monica, is that –

MS. SMIT-BRUNELLO: Yes, I had “eligible entities as determined in Action 1” just in case you choose a different way of going in your Action 1, but “current permit holders” adequately describes your preferred alternative now. Actually, if I look at Action 1, I'm not sure that you have anyone else to be chosen except for, so I think that's fine.

MR. CUPKA: All right any further discussion on the motion? Is there any objection to the motion? Go ahead.

DR. CHEUVRONT: Andy just pointed out that says “all current permit holders”. Wouldn't that be “valid permit holders at the time of implementation of the final rule”?

MS. SMIT-BRUNELLO: We could go back to “eligible entities” if you want “as determined in Action 1. I'm not quite sure; that might be a better descriptor.

DR. CHEUVRONT: That actually might be a better description and then we don't have to get into that language again and we make sure that it just references what is in Action 1.

MR. CUPKA: Okay, friendly amendment.” **Okay, the motion is to add a new Alternative 7 to Action 2 which would distribute the initial apportionment of catch shares through an auction. All eligible entities as determined in Action 1 would be able to participate.” Is there any further discussion on the motion? Any objection? Seeing none, then that motion is approved.** Brian, I think that completes all we have to do at this point until we come back –

DR. CHEUVRONT: Unless Monica has more.

MS. SMIT-BRUNELLO: I'm just throwing this out there for discussion. I was reading some other catch share kinds of ideas. I think you've probably got it covered, but just in case you haven't you've been talking a lot about reporting and how important reporting is to the entire system.

You should think about whether you are getting adequate reporting now or if there are any other kinds of reporting requirements you think would be valuable that you're not getting from the golden crab fishermen. You could add that in this document now. It's just fuel for thought I guess; and maybe at full council, by then you'll have time to think about it.

MR. CUPKA: Okay, thank you. Andy, you had something to add?

MR. STRELCHECK: Yes, I have three quick items and maybe one that you'll want to take a little more time with. We noted in going through the regulations that the permit renewal requirement for golden crab is six months and all of the other South Atlantic permits I believe now are one year renewal requirements.

I don't think this can be added as an administrative action, although I yield to Monica. She is shaking her head no, so this might be something you want to consider in a subsequent amendment if you feel the need to change that just to be consistent with other fisheries. A similar line, another action maybe for another day is in the Gulf of Mexico with the accountability measures for IFQ programs or catch share programs we designate the catch share program as the accountability measure.

The only way you can actually exceed the quota is if you have illegal harvest or unreported harvest, so in this instance because you have an IFQ program or a catch share program in place, you would designate it as the accountability measure. That maybe could be done when you revamp your annual catch limits with the new MRIP estimates; so something to keep in mind.

For purposes of the proposed rule, if you've looked at the proposed rule and what we bring back to you in June, we're requesting that we refer to the program as an IFQ program. Although the amendment is referring to it as a generic catch share program, this is an IFQ program. All of the components are the same as the other IFQ programs. The reason we're asking this is we have a lot of things that are standardized and generic in our office that we mail out to participants.

As part of the IFQ programs we have an IFQ customer service, so we refer to IFQ quite frequently, so we're just wanting to use that terminology to be consistent. Presumably you'll agree with that and appreciate that the government is trying to save time and money. And then the last item I think which is the most important for discussion, there was a lot of discussion today about where allocation could be used and concerns about allocation being used in one zone versus another.

I noted that for multiple permit holders that have a permit for each zone, there is nothing that is going to prevent them from potentially transferring all of their shares and allocation from one permit or one vessel to another vessel. I don't know if you guys want to talk about that, if that's a concern of yours, but there is potential for shifts to occur within a particular region because we're not limiting where the allocation can be used by subzone.

There is also a potential for someone to go out and buy allocation from another permit holder that may fish in another zone but then use it for the zone that they have a permit for. It's something to be aware of. If it's a concern, you might want to discuss it and how it could be addressed in the amendment.

MR. PHILLIPS: I think that's a very good thing to bring up. It kind of gets back to Robert's point of people having two permits and I guess maybe part of their middle zone permit was associated with X amount of quota shares at some point in time and then moving it all to the southern zone.

It may be a good idea to go ahead and when we give out these quota shares, the quota shares equal a zone and if you want to move from – if you've got two permits and you want to go catch some of your southern zone, then you just go ahead and go do it, but you pull it off of that southern zone quota or the middle zone quota, and that kind of will guarantee that, one, you're going to have fishermen spread out and they're not going to be all piled up in one place.

I think that's a very good idea and we may very well want to consider that the quota shares that they get go to certain zones and you have to catch it in those zones. If you've got multiple zones, then you can go back and to but you still have to – when you're doing your tickets, X amount of pounds came out of this southern zone and X amount out of the middle zone. I think that's probably a path we may want to go down.

MR. CUPKA: Gregg, was thinking along the same lines I am, that we're dealing with a situation here that we don't even know it's going to be a problem. We need to move this ahead and get it in place. We can always come back to it. I think to some degree it's going to be self-regulating. I don't know; we start adding actions in here and we're going to be sitting here next year trying to get this thing in place, but whatever the wish of the committee is. Gregg.

MR. WAUGH: And before we finish we'd just like a little guidance. I know that we're going to talk about workload and priorities when we get to full council, but we'd like some guidance that you've taken final actions here. A couple of years ago we tried to build into our schedule where you take final actions at a meeting, it comes up at the next meeting and you see the completed document with all the analyses.

As a staff we kind of hold our breath when we do that because we don't want you to then in June add more alternatives and make more changes and we just get in this do-loop and don't get rid of this amendment. I see Phil is shaking his head over there; he knows what we're talking about. At some point we just want guidance.

You have had your final shot at this, you gave staff some alternatives to bring up, we may get some clarification by full council, but for June what we're looking at is a final document and you all make sure everything is right, and then we're finished with it and done. If your intention is something else, then let us know it's something else.

MR. CUPKA: Well, we might be finished but I don't think we'll ever be done, but at least we might finish with this amendment. Mac.

MR. CURRIN: Gregg, I promise you I will not be offering any motions to add any alternatives to this document in June and would almost be willing to shed blood over that.

MS. SMIT-BRUNELLO: Don't throw anything at me but I was noticing in the Gulf IFQ for I guess it's grouper and tilefish, they had a cap on the amount of allocation that could be owned by a participant in the program each year. Their preferred alternative was setting that allocation equal to the corresponding share cap that they had previously identified.

We have an action in this amendment for excessive shares dealing with a cap on the amount of quota shares someone can have. It's worth considering I think whether you want an action to deal with the cap on the amount of allocation that an individual can have. Andy, do you want to speak anymore on that point?

MR. STRELCHECK: Phil and I were briefly discussing it and I guess we need to check to see if it's required, if that was a provision that was mandated as of the 2007 reauthorization. We do not have a cap in red snapper, but that was implemented prior to the reauthorization. For grouper/tilefish it's essentially the equivalent pounds resulting from whatever the share cap is set at summed across all the grouper/tilefish category.

For golden crab it would be 49 percent times the 2 million pounds, which 980,000 pounds would be the allocation cap if you chose to use that as the allocation cap. There is potential for a shareholder that's at the cap to go out and lease allocation and actually have more allocation than what they were initially allocated based on their quota share, and so that's why there is an allocation cap in place.

MR. CUPKA: Is there any way you could check that, Andy, before the full council?

MS. SMIT-BRUNELLO: And I will, too.

MR. CUPKA: Other items? Brian.



Golden Crab Committee  
Savannah, GA  
March 7, 2012

DR. CHEUVRONT: Thank you all very much. We got a lot done on this today and I think we can actually have a document for you in June that you will be ready to approve.

MR. CUPKA: Okay, thank you, Brian, and thank Andy and all the input we got. We're going to go ahead and break for about five minutes and then we're going to start our SEDAR Committee.

(Whereupon, the meeting was adjourned at 3:15 o'clock p.m., March 7, 2012.)

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Certified By: \_\_\_\_\_ Date: \_\_\_\_\_

Transcribed By:  
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