

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

GOLDEN CRAB COMMITTEE MEETING

Ocean Plaza Beach Resort, Tybee Island, Georgia

March 6, 2000

SUMMARY OF MINUTES

Golden Crab Committee

David Cupka, Chairman
Dr. Bill Hogarth
John Dean

Fulton Love
Susan Shipman

Council Members:

Pete Moffitt
Dr. Louis Daniel
Belinda Flanigan
Dr. Russ Nelson

Bill Cole
Jack Dunnigan
Ebbie LeMaster

Council Staff:

Robert Mahood
Roger Pugliese
Dr. Kathi Kitner
Kim Iverson

Gregg Waugh
Dr. Vishwanie Maharaj
Kerry O'Malley
Cindy Chaya

Observers/Participants:

Monica Smit-Brunello
Dr. Jim Weaver
Myron Fisher
Glenn Durden
Andy Cooper

Dr. John Merriner
Richard Nielsen, Jr.
Ronald Smith
Spud Woodward
John Fortuna

A meeting of the Golden Crab Committee of the South Atlantic Fishery Management Council convened in the Conference Center, Ocean Plaza Beach Resort, Tybee Island, Georgia, Monday afternoon, March 6, 2000, and was called to order at 1:40 o'clock p.m. by Chairman David Cupka.

Mr. Cupka: I'd like to call the Golden Crab Committee meeting to order, and I've asked Richard Nielsen to join us up here at the table, who is chairman of our Golden Crab AP.

I want to just apologize for getting here a little late. I ran into some unanticipated road construction that seemed to slow things down. But anyway, I think we can get through this without any problem.

The first order of business is adoption of the agenda. If you'd turn behind Tab 1 in your briefing book, you'll find the agenda for today's meeting. Any changes to the agenda?

Mr. Waugh: Just one where we get to Item 5, that 5,000 pound landing requirement. We've got the additional pink sheet that was included. The overview has been expanded to include the summary of the public hearing comments and has options in it.

We'll just go through that, starting with Action 1 for the Committee's actions, rather than using the options listed on the agenda. Those have been incorporated into that new pink sheet. That should have been on the top of the additional material that you were handed. Cindy handed everyone that package of material.

If anyone doesn't have it, raise your hand, and we'll make sure you get a copy.

Mr. Cupka: Okay. **Do I hear a motion then to approve the agenda?** There's a motion by Mr. Love, seconded by Susan Shipman. Any objection? Without objection, the agenda's approved.

The next order of business will be approval of the December 1st, 1999 Committee meetings. This is behind Attachment 1, Tab 1. Are there any corrections or additions to the minutes?

Ms. Shipman: Just a couple. On Page 23, middle paragraph, where Tim Daniels is speaking, it says "votes," and I think that's "boats." And then on Page 50, first line on comments by me, it says "expiration," I think that's supposed to be "exploration." Those are the only corrections I have.

Mr. Cupka: Okay. In addition to those, on Page 4, the third paragraph from the bottom, first sentence, we need to strike the word "habitat." And on Page 11, third paragraph from the bottom, third line, it should be Betty "Wenner," W-e-n-n-e-r, not "Winter," W-i-n-t-e-r.

I'll entertain a motion, then, **to approve the minutes.**

Ms. Shipman: **Move approval.**

Mr. Cupka: Motion by Ms. Shipman. Seconded by Mr. Love. Any objection? Then, without objection, the minutes are approved with those changes.

The next item on the agenda is update on Law Enforcement actions. This is a perennial one here.

Dr. Hogarth: I thought Gene was going to be here. We've had three meetings last week to discuss the Council meeting and who was going to be here and so forth. I know there is one Law Enforcement action. If he is not here by the full Council meeting, I will have -- okay. We do have part of it.

Ms. Smit-Brunello: Just partial rescue. Karen Raine in our office issued -- you know, Law Enforcement made a case against Royal Seas Fisheries, Inc. and Gunner Eldon Gudjohnsson, I believe is his name, and he was the captain. G-u-d-j-o-h-n-s-s-o-n. And a civil penalty was issued in the amount of \$22,000 with a 60-day permit sanction.

And I just had a voice mail message from Karen that she has settled with Royal Seas Fisheries for \$11,000 to be payable over seven months. They forfeited their interest in the catch, whatever was seized. If I read down a little bit, I'll be able to tell you what was seized.

And the permit sanction, there was a 60-day permit sanction issued. That's in suspense pending if they pay the 11,000 over the seven-month period and don't have any additional violations during that time, then they won't get the permit sanction.

There's still \$11,000 out there, because there was 22,000 assessed, and she has not settled with Mr. Gudjohnsson. So that's all I have to report, and I can get more information. I think there's going to be a press release issued, and so I can get more information for the Council.

Mr. Cupka: All right. Thank you. Maybe we'll get that dealer report at this meeting, too, for snapper grouper.

All right. The next agenda item, then, is review of public hearings, and I think, as Gregg has indicated, we have a new handout here, the pink sheets that you have, and my understanding is we'll have Kathi go through this, and she will bring us up to date on the comments they got during the public meetings, and then we will come back and, where necessary, we will take Committee actions on the various options that require action.

So, with that, I'd like to turn it over to Kathi.

DR. KITNER: We met twice, once in Homestead and once in Charleston. In Charleston, there were no attendees at the meeting, so I won't make any comments about that. The first action that was discussed at the public hearing was Action 1, and it was extend the use of wire cables for mainlines through December 31, 2002.

And the second one was the escape panel doors must measure at least 11 7/8ths by 11 7/8ths. And those two issues were unanimously approved by all in attendance, or that spoke. No one objected to any of them.

The third action, Action 3, is remove the 5,000 pound harvest requirement for renewing the biannual permit, and most of the people at the meeting expressed concern that if this

requirement was held to at this point, there would be four or five boats that would not be eligible to fish in the future, because they have withheld their fishing activities due to fears about gear damage and conflict.

And so they haven't been fishing and wouldn't meet that requirement. So they requested consideration by the Council to have that removed, either by emergency rule or some other measure.

Due you want me to go through the options or not?

Action 4 is allow up to a 20 percent increase in vessel size from the vessel size on the original permit. There was one gentleman there that expressed concern that that wouldn't help him out anyhow. He wanted to go up to, I think he said, a 55-foot vessel, but he couldn't if that was the limit put on. But there were no other objections expressed, so that stands as it is.

Action 5 was the more contentious issue, and that was to create a subzone in the area using the area and conditions agreed to by the affected fishermen during the September 27th, 1999 meeting.

There's some clarifications there, which I think you all have in front of you, mostly in the language. One of the more important clarifications is Number 3, and they would like to see, not a three-year limit on the subzone, but a three-year time period, and then it would be reviewed by the Council to see how that subzone is -- whether it's working out or not working out. So it wouldn't be a limit, per se, that has to come up for renewal, but rather just to review it and see how things are going.

In the original public hearing document, it said two to three years' review, but they decided to say three years. That was the concern they had.

Action Number 6 is adding vessels in the Northern Zone. Everyone still agreed that was a good idea, that the Northern Zone needs to be explored more. And so the boats that are over 65 feet that would be restricted from fishing then in the subzone in the Southern Zone are now going to be able to go back and forth to the Northern Zone and the Southern Zone for a three-year period until they decide which zone they want to fish in. So that would be a restriction on them.

And then furthermore, we would add two vessels by lottery or some other method to also fish in the Northern Zone.

Action Number 7 was to specify MSY, OY and status determination criteria. Everyone agreed that there's not enough data to set MSY, but since it needs to be set, they had some options to choose between, and they preferred Number 2 that was listed in the public hearing document.

And that's it, unless there's question or comments, since I went through that quite quickly.

Mr. Cupka: Thank you, Kathi. It seems like every time we talk about it there's been further changes, a little twist and all.

But I would like to ask Richard at this point, as chairman of the AP, if he had anything he'd like to add to this. I know you were at the meeting down at Homestead.

Mr. Nielsen: I'd like to talk a little bit about 5 and 6, but we can wait till we get there, if you want, whatever you'd like.

Mr. Cupka: That would be fine. We are going to go back and go through these. I wasn't sure if you had any burning issues you wanted to get on the table before that.

Okay. I'd ask Gregg, then, to go back, and we'll go through this options paper and see what actions we want to take. Again, I'd remind everyone that we're shooting to try and finalize this amendment at our next meeting, which will be down in Islamorada. So we're hoping to stay on schedule with that if we can.

Mr. Waugh: Thank you, David. This is a new scheduling process that we're trying that will allow us to do a number of things. As David indicated, we are scheduled to meet with the AP and finalize this amendment at our June meeting. We will also be holding one final opportunity for public comment at that June meeting like we normally do.

We're holding this Committee meeting to present the results of the public hearings to see if there's any points that need clarifying from the Committee, any additional items that might surface from the public hearings that have already been held that we would want to clarify before we finalize it.

This gives us enough time to do this between now and our next Council meeting, and we will be holding a public hearing at our next Council meeting.

This also lets us tie in with the NEPA and the EIS and supplemental environmental impact statement time frames. We've run into problems -- and we'll be discussing this under snapper grouper -- where the Council took final action on the amendment before the comment period on the supplemental EIS had ended. So we took our action contingent upon there being no significant comments received.

This new time frame where we hold the hearings and come back to a Council meeting to get clarification and then follow up at the final meeting will give us time so that we don't run into that problem any more. Bob attended a NEPA workshop down in the Region, and this will help keep us on line there.

So what we're looking at as we go through is just for any points that surface that we feel we need clarification on, that we would then put some material together and get more input at the

final public hearing at the June meeting so that then we will finalize this amendment at the June meeting.

Dealing with Actions 1 and 2, there were no comments that we felt needed any clarification. So as far as we're concerned, we don't feel that there needs to be any committee action addressing Items 1 and 2.

Item 3 is the issue where on our agenda we indicated that we would be considering emergency action. We had our run-through with the Regional Office with our staff and their staff, and they expressed some concern, and I'll let them go into that, Monica also, go into the reasons. But they're expressing concerns about approaching this via an emergency rule.

And an alternative that was suggested was that we could be building the rationale here at this meeting for why we need to repeal this 5,000 pound requirement. We're doing that in the amendment, but the problem is, before this amendment takes place, the qualifying time period will come due in October of 2000.

And the small boat fishermen that have asked the Council to create this subzone, they have to demonstrate 5,000 pounds landings by October of 2000. They have not been active in the fishery because of the gear damage they have suffered, and have indicated that they will not gear up and go out and fish until this zone is created, because they'll be subject to that same gear loss.

And since the Council's already indicated their intent to repeal that 5,000 pound requirement because the number of vessels has been reduced, we've got it down to a number that appears that it would be sustainable, if we lose all that participation, then we're going to have to come back with another amendment to add more vessels into that Southern Zone.

So the options we have here -- Option 1 is to request the zoning measure in Amendment 3 be implemented through emergency rule. That would allow them to get out and fish, but that's a lot to try to get implemented. And again, the Region has expressed concern about it being an emergency.

Option 2 would be to request the 5,000 pound requirement be waived through emergency rule, and we thought that would be the best approach. But now, given that there's concerns about the emergency rule approach, we would have to develop another measure that we would get more public comment on at the June meeting, where we would be essentially either grandfathering those individuals in who will not meet that 5,000 pound requirement as of October 2000, or some mechanism to accomplish that.

Mr. Cupka: Gregg, in regard to taking action on an emergency rule, I know when we first talked about this, we were leaning towards Option 2 because that was the way that the amendment was probably heading anyway. But what you're telling me is that Option 1, which

again would be done through an emergency rule, is also giving the Regional Office some problems.

It's not just germane to Option 2, but it pertains to both of them, is that correct?

Mr. Waugh: That's correct, and I think Bill wants to put their rationale on the record.

Mr. Cupka: Okay. But before we do that, can I ask one other question? Was there any indication that if somehow that zoning measure were to be implemented, would those boats be able to go out and fish? Did they have any comments on that at the public hearings or in discussions with them?

Dr. Kitner: To be perfectly honest, that wasn't, I believe, considered. The only thing that was considered was repealing the 5,000 pound ruling.

Mr. Waugh: I know in the past, they have indicated that they would need some lead time to construct traps and gear up, so I think it depends on when that zone would be created, and then if they would have sufficient time to gear up prior to October.

We did explore one other option with NOAA general counsel was if there was some way that the fishermen could go out on another vessel and essentially participate in a trip and then have the landings from that trip divided across all the fishermen that were on that trip. But the way the plan is structured, those landings have to be attributed to the vessel. So we don't see another way around this.

Mr. Cupka: We certainly don't want to put those vessels out of the fishery, because many of them have been -- but Bill, let me ask you and Monica if you have --

Dr. Hogarth: I'll start it off, and then Monica can add to it. You know, there are conditions that you have to meet in order to request emergency action. Emergency actions are becoming, I think, much more difficult to get through the Department than they have been in the past, because seems like we're sort of concerned that we are managing by emergency, which doesn't give all the public input and NEPA requirements really that you need to meet.

You have four vessels that have met the 5,000 pounds, and I guess there's six vessels that haven't. So, you know, basically you've got to meet three conditions in order to do an emergency. The situation must result for recent unforeseen events or recently discovered circumstances. That's the first one. And we don't think we meet that. You'd have to realize immediate benefits that -- that way the value of public comment, and all such.

Number 2. It has to present a serious management problem. And since the fishermen have now March through October to meet the 5,000 pounds -- they could fish and meet it through the time frame they have left -- it's sort of hard to say there's a serious management problem, because you've left them -- they still have the time frame to do it.

And Number 3, you have to realize immediate benefit from the emergency rule. That way the value of prior notice, opportunity for comment and delivery consideration expected under the normal rule-making process.

So, you know, these fishermen are not fishing, and it appears you could grandfather them under the rule you're doing now in Amendment 3, and, you know, that would not be really something of any benefit because they're not going to fish until Amendment 3 is in place, it appears.

So we feel like that there's not, you know, any justification to do the emergency rule. If the Council feels like it has justification, we'd like to hear it, but we don't, in reviewing the amendment, reviewing the situation and being involved in it, we don't see that we meet the three conditions necessary for emergency action.

Ms. Smit-Brunello: I think it's going to be difficult to have that go through as an emergency, mostly because this regulation has been on the books for a while, and there's nothing really new about it.

But what I was thinking, in talking to Gregg about it, was that since these fishermen don't want to fish until -- I think it's Action 5 where we create a subzone or discuss that, and they're not fishing now, if you can look at the objectives of the Golden Crab Plan -- and one of them is promote orderly utilization of the resource, and there's some other ones, too; it's on Page 2 of the public hearing draft -- then perhaps you would want to discuss ways in which you might be able to allow these fishermen who met the initial 5,000 pound requirement back in '98, October of '98, you may want to allow them to remain in the fishery or to come back in, or however we structure that.

I think that'd be the better way to do it. And they're not really being adversely affected right now, because they say they're not going to fish until the subzones are created.

Mr. Waugh: Monica, so then what we could do in structuring Action 5, which creates the subzone -- we have four items under that now that set up the area. What we could do is add another that would indicate that the fishermen within that Southern Zone that met the October '98 requirement would be allowed to continue fishing within that subzone.

Ms. Smit-Brunello: Yes, I would think something along those lines, and then you have to have records support to justify that action. And there's one other thing. Remember, there are a couple -- I can't remember how many individuals -- but there are a couple of fishermen, golden crab fishermen, who met the initial 5,000 pound requirement back in October of '98, but they have never renewed their permit, so they're not currently fishing right now.

And I would assume you would have to maybe include them in there, because there wouldn't be a good reason perhaps that they shouldn't be included in there. But again, they have the option

right now to renew their permit, because there's no time limitation, as we've discussed earlier on that. So don't forget about those individuals either.

Mr. Cupka: And to structure that, then, we would have to come back and get some additional public input, I guess, at the June meeting? We could have a public hearing in conjunction with the June meeting?

Ms. Smit-Brunello: It seems like we could do that, sure, and that would probably be a great place to do it, because that's down in their area.

Ms. Shipman: This is probably a question for Richard. Are the only people affected, my understanding, are the ones that are in the Southern Zone? So the guys in your zone, you all are okay, and in the Northern Zone, we haven't had anybody fishing anyway.

Mr. Nielsen: You're only talking about the fishermen in the Southern Zone, and the fishermen don't care how you do it. Emergency action was just a vehicle that we know about that could be used. To grandfather them in or anything else would be fine.

I would caution you, don't put these fishermen in a position where they have to go out and catch crabs by October, because they're not going to do it, to lose \$40,000 worth of gear. And Tim Daniels in specific has said since Day 1 that he will not put traps back in the water until he is protected, and losing \$40,000 worth of gear, I guess you all can understand that.

So any vehicle that you all choose is fine. I don't see any problem with any of the fishermen, just so that it gets done.

Dr. Hogarth: Just to that point. We only would point out that through emergency, you know, they'd still have the opportunity, but it is reviewed by attorneys. We're not trying to keep them out. We realize they might not want to fish there. But to do an emergency, you really have to meet these guidelines.

And as it went through the process, I can tell you it'll come flying back, regardless how much argued, because of these type things. So it's easier to grandfather them or do it the other way, you know, go that way. So we're not trying to keep them out or trying to make them fish now either.

Mr. Cupka: Let me ask Gregg, then. Gregg, do you think you have enough to further develop that and work with Monica and come back at our June meeting and present that as a final action?

Mr. Waugh: Yes, I believe so, because the intent is just to allow those individuals that would be put out of the fishery with that 5,000 pound requirement, to allow them to continue to fish. And we'll build in an option that does that.

Monica mentioned the issue of people who have not renewed their permit as yet, and we did take an option out to public hearing -- it's on Page 46 of the amendment, for those of you that have it here. It says alternative renewal dates. And this is something that we were going to raise at the June meeting, because right now, those people who have not renewed, they could come back 20 years from now and renew. So those permits are hanging around.

And we've got in here some alternative renewal dates, and this is one of the things we would ask the Committee and Council to consider at the June meeting is putting some time limit on when those permits have to be renewed, just so they don't stay on the books permanently, we know whether or not they're going to be renewed and continued.

We don't want to make it so short that it would put a burden on the fishermen, but just some way so that those permits are renewed. And the options that we had were permits are to be renewed prior to the start of the next fishing year, or on or before six months into the next fishing year, or by the end of the next fishing year. And then the other option gets into tying in this 5,000 pounds.

So it's just some way to ensure that these permits are going to be renewed, and if they're not then they fall by the wayside so that you know what number of active permits you're going to have in the future.

Ms. Smit-Brunello: We may want to discuss some of these, or run them by Ed Burgess who's head of the Permits Branch back in St. Pete, because he deals with so many variations on the theme and nuances that we could never dream up in these situations. So he might have an additional suggestion.

Mr. Cupka: Thank you, Monica.

Ms. Shipman: So before we leave that, I just want to try to get straight in my mind what we're proposing as an additional option for this amendment, and that would be that we would waive the 5,000 pound production criteria requirement for permit renewal October 1 of 2000 for those individuals who had initially qualified October 1 of 1998. Is that what we're saying?

Mr. Waugh: Yes.

Ms. Shipman: Okay. I just want to make sure I'm straight in my mind what we're doing.

Mr. Cupka: And also to come back with an option to have a time certain at which they will renew once we get into the next fishing year, right?

Ms. Shipman: Excuse me, David. And is it just for the Southern Zone permit holders? Are we going to limit it to that, since it sounds like everybody else is covered?

Mr. Waugh: There's two parts to it. What we just talked about, waiving that 5,000 pound requirement would just apply to the Southern Zone. The issue that David just mentioned about permit renewal applies to all permits.

Mr. Cupka: Okay, Gregg, you want to continue on then?

Mr. Waugh: Then Action 4 is to allow up to a 20 percent increase in vessel size from the vessel size on the original permit. There's one individual, as Kathi mentioned, that wanted to have a larger allowance. The options would be to -- that individual would have the option to go out and purchase additional an permit or permits to increase up to the 55 feet that that individual wants, or we could just leave it the way it is now.

In the amendment, we propose allowing up to a 20 percent increase. If you all want to build in something to address this one individual's concerns, we just need some direction on what to do about that.

MR. LOVE: Is 55 foot the magic number? I mean, is that as big as you think they'd want, 20 or 55 or 20 percent or up to 60 foot?

Mr. Nielsen: Well, 20 percent was -- some people didn't think that the ten percent was large enough. There was a motion made, if you all recall, to do away with that ten percent and leave it open. And that got me half out of my chair. So 20 percent would just allow for a larger increase, and everyone on the AP was in favor of that 20 percent increase.

I don't know -- 55 foot, I don't know. That's not a magic number of anything. I think that's just what this individual was talking about.

Mr. Love: Didn't we say we didn't want any real big boats except in the Northern Zone? And I guess what I was trying to say is, if they do have a boat size at the maximum size they want, maybe that'd be a way to put in to protect themselves, in the Middle and Southern Zone, if they put 20 percent or whatever the number is that they feel like would be too big a boat for them to have to be in competition around.

Mr. Cupka: Well, like Richard said, I think, you know, everyone on the AP, which is essentially pretty much everyone in the fishery, agreed to the 20 percent increase. And I don't think there is anything magical. I think this individual is looking at a boat that's 55 feet. I don't consider that a large vessel. I don't think the fishery does, either.

But the question is -- and there are other options. They could buy an additional permit to increase at that size. It's just if we want to accommodate this one individual who wants to buy a larger boat and would be allowed under this action.

Mr. Dean: I think my question's not unlike where Fulton's going. Is this in fact an attempt to regulate total capacity in the fishery? Isn't that what we're after on this?

Mr. Waugh: It was more, I think, part of that, but also just to prevent competition and conflict from extremely large vessels getting into this fishery particularly in the Middle and Southern Zone.

And I think, as David has pointed out here, the concern here is that the Advisory Panel, which does represent the active participants in the fishery, feels that raising the 10 percent to 20 percent addresses the problems. And we've got an individual that has a permit but, as I understand, has not been active in the fishery, wants to go to a larger boat. So it's just balancing those concerns.

Mr. Dean: Let me ask then, from a management and enforcement perspective, if we put a size limit, let's say, up to, then you don't have to worry about calculating 20 percent on various numbers of boats and making sure that the paperwork is filed appropriately? Is that correct? We just say "You can go up to that."

Mr. Cupka: Except the number that you pick may well be below the size of some of the boats that are in the fishery now, and they have the option of going 20 percent above what they are. So if you make it too small, you're going to take away their option of increasing their size.

Mr. Nielsen: One thing also that goes along with this, this man with this smaller vessel can go ahead and acquire another permit and get a larger vessel. And the reasoning in the beginning of this plan for that was that if you're going to put a larger vessel in the fishery, you're going to take two smaller permits to do that. Thus, instead of having two boats on the ocean, you're going to have one. It was just a way to keep everything in check.

Mr. Cupka: I was just checking with Gregg about whether we need any motions on this. I think we can operate from consensus, and it sounds like in this case that the Committee's pretty much satisfied with leaving it according to the AP recommendation.

Ms. Shipman: Richard, what is the largest boat in the Southern Zone, do you know? Is Mr. Whipple fishing down there?

Mr. Nielsen: Mr. Whipple's 72 or -3. The Stephanie Vaughan, I believe, is 90 or 92 feet. That's the largest vessel there now.

Mr. Cupka: Again, unless I see a desire on the part of the Committee to change that, we'll stay with the current option. And Gregg will go ahead then.

Mr. Waugh: This brings us to Action 5, which creates the subzone, using the area and conditions agreed to by the affected fishermen. And within the amendment, this is shown on Page 49, and we've got four items under that.

The first sets up the area. The second defines the small vessels as being less than or equal to 65 feet, agree to fish for golden crabs only within this. And the fishermen have asked to indicate that it's always called a subzone, which is more an editorial correction that we will make.

The third item is at the end of two to three years, the Council will review these measures to determine if the exclusive fishing zone should be repealed. And this is what we were getting to in Item 3 on the pink sheets for the three-year -- it's not a limit, but it's a time period for review.

So that third bullet under Action 5 would read, "At the end of three years, the Council will review these measures to determine if the exclusive fishing subzone should be repealed."

And then the additional action or clarification that they would like to see from the public hearings is that the vessels that can make this switch are from the Southern Zone to the Northern Zone, not allowing vessels in the Middle Zone to switch, and that at the end of three - - that those vessels be allowed to move back and forth over this three-year period.

At the end of the three-year period, they would then elect whether or not they were going to stay in the Northern Zone or return to the Southern Zone. And this is a way of just fixing where we're going to have the vessels so we know how many vessels we have by zone.

So those are the changes that are being suggested.

Mr. Love: Gregg, I'm a little bit confused. I thought we said that boats that were in -- the new boats we put in the Northern Zone would have to stay there, they couldn't move, but the boats in other zones could move back into -- was I wrong?

Mr. Waugh: That the new boats --

Mr. Love: Right, the two new boats or whatever.

Mr. Waugh: That's correct. This was not addressing those two new individuals. This was just applying to the vessels that are in that -- the way it went out to public hearing, in the Middle and Southern Zones.

There's one additional point, Item 4 on the top of Page 3, that we'll deal with separately, because I think with that we're going to need some clarification from NOAA general counsel.

But these others, I think, as long as that's the consensus of the Committee, will indicate these changes. And again, just to recap, it would be that the vessels that could switch to the Northern Zone would only be from the Southern Zone, and that at the end of three years they would have to choose which zone they would fish in. We'll indicate that any time we talk about this zone, it's a subzone. And at the end of three years, the Council will review this zone.

Mr. Cupka: Gregg, actually the issue of Middle Zone vessels comes up in the action that adds vessels to the Northern Zone, right? And it really does not have anything to do with this particular option. This is simply to create the subzone and to specify the conditions under which vessels can fish in there and can move to the Northern Zone, but it doesn't address the Middle Zone.

Mr. Waugh: You're correct.

Mr. Cupka: Any questions or any problems with this? I certainly think that these are fairly minor and can certainly be accommodated by staff just by revising the options as written. Anyone have a problem with any of these?

Ms. Shipman: I don't have a problem with them. It was just my intent when I made the motion of what went in here, that we would do at least an annual review just to see what's happening. And so I hope that's clear to them. And the Council's going to look at this every year. We're not going to make a decision whether to repeal it or not until after three.

Mr. Waugh: And that's more reflected in the next item, 4 on the top of Page 3, Yes. That's still intended to be included.

Mr. Cupka: All right. Why don't we go on to Item 4, then, under this action?

Mr. Waugh: This addresses a concern that the fishermen didn't want to see this subzone created and no production come out of that subzone. So the clarification would be that if the subzone is not working well before the end of three years, that the Council should be able to modify or abandon this regulation in a timely fashion.

One suggestion was that it be made a part of the framework. And I looked at the framework, and that wording in Item D is directly out of the framework. We can modify or implement TAC, quotas, including zero quotas, trip limits, minimum size limits, gear regulations and/or restrictions, permit requirements, and also season or area closures, including spawning closures.

So the question is, can we include this new subzone within that, or would we have to specifically modify the framework to allow modifications, such as changing the size, the time frame, repealing, modifying the eligibility requirements? Would we have to add that to the framework, or could it be interpreted that that's included under this idea of season/area closures?

Ms. Smit-Brunello: I'm not sure. I was looking at that earlier, and let me look at it some more and think about it. I mean, certainly it would be easy enough, I think, to include a couple of phrases in here and some wording to make it even more clear. And maybe that's what we ought to do, because it does say now season/area closures, and I guess this is a closure of a type, but yet it still allows fishing to go on.

So maybe I can come up with some verbiage that we could just put in here, since we have the amendment going already. Probably not a bad idea to clarify it.

Mr. Cupka: Let me, if I could, ask -- maybe Kathi would be the one to ask this. This came up at the hearing down in Homestead. Was this something that a lot of people were in favor of? Because, you know, I remember the comments we got before about depending on when this went in place, it was going to take people time to gear up, and also they may be involved in other fisheries, and it may well be that again, depending on the time, that they wouldn't even get into it until the second year or more.

So I was just curious if there was a lot of support for a change in this, or whether it was one or two people, if you can recall?

Dr. Kitner: You're talking about changing, being able to change the --

Mr. Cupka: Well, take an action before the end of three years, particularly the initial three years, because some of these people that aren't in the fishery now had indicated it was going to take a while possibly for them to get back in the fishery. And I would think they would be a lot more amenable to something like this if it was maybe after the initial three years.

But I had the impression that some of them might like to have the full three years, and it may well be into the second year before they're even geared up for the thing and started fishing.

Dr. Kitner: I think what they really wanted was to leave it open so that it could be reviewed at any time, so that there's not a restriction on them. So if it's not working that well, let's say, even after a year some unforeseeable event occurs, that it could be reviewed quickly, but to have that three years stretching out there, even if they can't gear up right away. But some of them can.

They want to be able to make their own decisions on that and to have as much flexibility as they can, and to also have the Council be flexible in reviewing it. That was my understanding.

Mr. Nielsen: David, let me tell you where that came from. As you recall, at the AP meeting last time, we had a lot of argument about one year, three year, this or that, the large vessels saying, "If you don't use that area, I want to be allowed in there, knowing it's going to take a couple of years to get it done."

The larger vessels agreed that if we could include the framework procedure in here, they would back off on the one year as opposed to three years if they knew that it could be changed at a quicker time than a full plan amendment. That's where that framework procedure came. That made it more palatable for the larger vessels to accept that subzone.

Mr. Cupka: And that's what I would have expected, because they were the ones that were really saying, you know, "If you don't use it, we want to get in there." I was just curious how the other side felt about it, those small vessels that were setting up that subzone. Were they as agreeable to try and set up something in the framework to adjust that if the Council felt it was necessary?

Mr. Nielsen: Yes, they were. They agreed to it. Tim came forward and said, "If I'm not using it, I'll be the first one to say, 'Hey, go ahead and change it.'" And all the smaller vessel men were at the meeting, not just Tim Daniels, but the other three men who fish that area were there, and they all agreed to this.

Mr. Cupka: Thank you, Richard.

Gregg, you can get with Monica maybe and get some wording and make sure that we do have the ability to do that under the framework. And it sounds like it's something the industry supports.

All right. Do you want to move ahead then, Gregg? And that brings us down to Action 6, which is adding vessels to the Northern Zone.

Mr. Waugh: Right. And Option 1 would be no action, leave it the way it is. Option 2 would be to modify Action 6 to only allow vessels larger than 65 feet from the Southern Zone to fish both the Southern and Northern Zones. We would delete the reference to the Middle Zone. And they suggested this should be moved up into -- this provision of switching should be moved up with Action 5, because it's tied in with that time frame as well.

And in addition, this is a clarification at the end of those three years, those vessels that do switch would have to elect which zone they want to remain in at the end of that three-year period. So if that's the consensus with the Committee, we'll move that portion of this up with Action 5, such that then Action 6 would just deal with adding those two new vessels in the Northern Zone.

Ms. Shipman: How does frameworking -- if we were to framework Action 5, how does that affect this particular action? Are there complications there tying them more closely together?

Mr. Waugh: In terms of adding those two new vessels?

Ms. Shipman: Well, the two new vessels are totally separate from that Southern Zone issue. Having to declare at the end of the three years those, I presume, that went to the Northern Zone, I'm just wondering how frameworking affects this?

Mr. Waugh: Such that if we were to come in and modify this before the end of three years --

Ms. Shipman: Procedurally, I'm not sure you want them connected, but you may. But it seems it might be premature for those Northern vessels, and we know how difficult it's going to be to produce in that Northern Area the current and all, just the boats that have been up there.

And I'm not sure that lack of production in that Southern Zone in a year or two, and we might sunset that Southern Subzone, will have given those Northern boats enough time to have produced and to know whether they want to stay up there or not.

Mr. Waugh: Then what you're suggesting to address that concern would be to give those vessels up to three years, period, and that would not be subject to alteration of the framework.

Ms. Shipman: That would be my suggestion, but I'm totally open to what the AP suggests.

Mr. Nielsen: I think you've got a misunderstanding here. We're saying allow the large vessels -- see the way this ties in. We wanted them to agree to three years for the smaller vessels, so that gave the larger vessels three years.

The way it ties in with Action 5, in my mind, was not with the framework, was with -- and I don't have the paperwork in front of me -- with the public hearing draft. We wanted the wording in there like C and D, I believe it was. We wanted that wording in there, only, you know, change it to apply to Action 6.

But in my mind, I don't recall that the framework was a part of Action 6. It was three years. Those guys need three years. They might go up there a certain time of year, there's no crabs, they leave. They might want to come back another time of the year. It might be a bad year. They really need the full three years.

I don't see any reason to have to change that by framework or any other thing.

Mr. Waugh: And the wording you're talking about, it's Item C that says, "At the end of" and the way it reads now is "two to three years," but we're going to say "three years," "the Council will review these measures to determine if the exclusive fishing subzone should be repealed."

That would also -- at the end of that three year, those vessels that did switch would have to elect a permanent choice.

Mr. Nielsen: Yes.

Mr. Waugh: Okay. We can make that change.

Mr. Nielsen: Exactly.

Mr. Cupka: We could add that. I don't remember a lot of discussion on that, them making a decision at the end of three years whether they were going to stay in the Northern or switch back to the Southern, but that's --

Mr. Waugh: That's something that surfaced at the public hearing. And it's not in the amendment the way it's structured now. But that's something that the fishermen discussed and they came up with and suggested at the public hearing.

Mr. Cupka: And Richard, you've one of those vessels that operate in the Middle Zone. You don't have a problem with deleting reference to the Middle Zone?

Mr. Nielsen: No. The reason for that, vessels larger than 65 feet, there are no vessels larger than 65 feet. The three fishermen who fish the Middle Zone were at that meeting. And you've all got to keep in mind that Yes, we had the public hearing, but we had a four-hour meeting before the public hearing so that we could go to the public hearing on the same page as opposed to going in different directions.

With the process of this amendment moving along, we all felt we needed to get it together, you know, or this wasn't going to fly at the June meeting. So a lot of this stuff that's coming in here was done at the meeting prior to the public hearing.

Mr. Cupka: And another question, I guess, for Kathi, whether we got any input or whether they really cared about how those two additional boats would be selected, whether it be a lottery or just going down the list. Did we get any input at all on that?

Dr. Kitner: From what I remember, it seemed to be a lottery. There was some concern that we didn't add too many boats to the Northern Zone because of capacity questions. But it was -- two boats could be drawn by a lottery from that or picked from the original list.

So there wasn't a lot of discussion about that, as long as there weren't too many boats that would be allowed to get into that Northern Zone, it wouldn't overflow from large boats from the Southern Zone.

Mr. Cupka: And I guess I'd like to ask Monica if she had any further discussions with Mike about lottery versus some other method of selection.

Ms. Smit-Brunello: No, I did not, but I will. I kind of forgot about that part of it. But I know that he, when we talked before, he didn't favor them. I don't have anything new to add than I added before. But I think his feelings are that you should have identifiable criteria as to why you're going to allow some people in and other people not. So I'll speak with him before the Council gets together and looks at this.

Mr. Cupka: Yes. And here again, I think if you were just having a lottery based on anybody that was interested, it would be one thing, but this is from a group of people who did meet certain criteria originally. And so it seems to me that that would be a fair way to do it.

Like I say, if they hadn't met those original criteria, it would be one thing, but since they did, he may look on that a little differently.

Mr. Waugh: I have gone back in our administrative record, and I did find the list that we used at that meeting in North Carolina to pick our cutoff. And I'm not quite sure how much action is necessary on the Council's part when we finalize this amendment. Should that list then become a part of the amendment, such that we would have the list of -- and this may be something that we can work on with NOAA general counsel between now and the June meeting to see how we handle that. Because the Council has to choose.

The way we've set it up, it's either a lottery from that original list of vessels that did not get in the fishery, or the next two on the original list that want to. So we'll have that list, and we'll just work out the details on how much action is necessary on the Council's part to finalize that provision.

Dr. Hogarth: I just have a suggestion. I was going to say the highest bidder, the money goes to the Region.

Mr. Nielsen: Are there any problems from NMFS on allowing the larger vessels to go, just permit them for both zones? Is there any problem with that? Because that's important.

Dr. Hogarth: I don't expect any. I was going to say I think we need to do some justification of why 65 foot and not 60, this type of thing. You need to have some rationale as to why you choose your size. But other than that, what's magical about 65 versus 55 or 70? We just need some discussion on that, and I think there is some. But we need to look at that very carefully as to why you choose the size you choose.

Mr. Cupka: To that point -- and maybe Richard can help us out here -- I think originally the LOA was 60 feet, wasn't it, Richard? And then the AP suggested changing it to 65? Was there any reason given for that that we might be able to get into the record? What was the consideration there, do you recall?

Mr. Nielsen: Well, Tim originally came up with the 60 foot till he went back and looked at his documentation papers. But however, I will say that fishing in the Northern Zone will require a larger vessel. Sixty-five feet is around the breaking point if you're going to haul larger traps. You're going to have larger hydraulics. You might have to have a boom on the boat for handling the traps. You'd be hard pressed to do that with a boat under 65 feet.

See, we've used that 65 feet twice, too, to tie that in. No vessel larger than 65 feet in the subzone, and any vessel that wants to go to the Northern Zone from the Southern Zone would

be 65 feet or greater. So we use that breaking point twice. And we use it once to delineate smaller vessels and then the larger vessels.

Mr. Cupka: Okay. And again, the intent was not to preclude any of those, quote, "smaller" vessels from operating in those subzones that have historically operated in that subzone. So the fact that there may have been one operating there that was 61 or 62 feet, again, there's nothing wrong with setting that a littler higher, because they were originally part of that group fishing that area anyway, as I understand it.

Mr. Nielsen: That number came from the fishermen fishing that area, so they won't have any problem with that.

Mr. Cupka: Okay. Thanks.

Gregg, are we going to be able to specify anything on MSY or OY?

Mr. Waugh: Well, the fishermen like that range of 707,000 to 60 million. We don't have any clear indication, and the information just is not there to develop an MSY, and we dealt with this issue when we were developing the FMP. After that, the SFA came on line, and we now have the bureaucratic requirement of having an MSY for every species and every FMP.

And lacking any sound information to generate an MSY, my suggestion would be to pick one that -- for golden crab, we've got the biological measures in place to protect the biological integrity of the fishery. We've got an effort cap in here. This fishery is being managed very carefully. The likelihood of overfishing is remote.

And I think we just need to be careful in specifying an MSY to meet the bureaucratic requirement that we don't inadvertently put limits on the fishery. So I'm sure we'll get some comments from the Center on which of these options they favor at the June meeting. My arguments and suggestions would be to go with the one that has the greatest range, unless we come up with some sound biological rationale for picking something else.

Mr. Cupka: I seem to recall we thought this was probably a Level 7 fishery in terms of controls, because we have virtually no information on it. But I also recall Bill mentioned something about maybe we could build a case for this being sort of an experimental fishery, and I wondered if he had any further thoughts on that?

Dr. Hogarth: We are still, to be honest with you, working on this one. I talked to Joe Powers at length and Nancy, too. By June, we hope to have something more specific for you, but in the process. But it is one that's very difficult. You've got a lot built into it. So I don't know what options, but we're trying to work it out between us and then through headquarters or something that I can get through the process.

So hope that we will have something for you by June so that you won't get led down a road that comes to a dead end. We'll try to answer that in June when we go forward.

Mr. Cupka: Okay. Well, we appreciate that. We realize, Bill, that's probably the best we can do. But hopefully we will have something by June that will stand review, and we'll be able to move ahead with this.

That brings us, I guess, down to other business. Any other business? If not, then I'll entertain a **motion to adjourn.**

Mr. Love: **So move.**

MS. SHIPMAN; Second.

Mr. Cupka: Any objection? Then we stand adjourned. Thank you.

I want to make one other comment, and that was to thank Gregg and Kathi for the work that they've done and recognize the work that the AP has done on trying to resolve a lot of these issues before we ever get to the hearing process. So again, I appreciate all their efforts.

Mr. LeMaster: Just so I can understand a little bit about it, are there any indications that golden crab have been overfished? That's not a loaded question. I just wondered why we -- are we going through this because the fishermen wanted some help, or did we have some scientific data that showed that these critters were being taken out of the ocean too fast?

Mr. Cupka: Well, a lot of what we're working on, particularly in this amendment, was trying to resolve some conflicts, some gear conflicts that had been in the fishery in the past, and also make sure that it's developed in an orderly fashion, and that the resource is protected, because it is a new fishery. There are not a lot of people in it.

We're purposely trying to gear up slow. There is indication that this is a resource that probably cannot stand a lot of fishing pressure, and so we're trying to develop it in such a way that we don't get into a resource problem. But there are other problems, particularly some social problems, that we've tried to address through this amendment.

Mr. LeMaster: So it's not unlike the dolphin fishery. We're trying to get in there ahead of it to keep from having trouble.

Mr. Cupka: Yes. We certainly don't have a stock assessment on golden crab, and don't even have enough information to begin looking at it. But we're trying to be very conservative in our approach to managing this species.

Mr. LeMaster: My other question is, can golden crabs be caught any way other than a trap? Can they be netted? For example, can the royal red -- the people that fish for these royal reds, do they catch golden crabs?

Mr. Waugh: The only gear that's allowed are traps.

Mr. LeMaster: That wasn't my question. My question is do they, in the royal red fishery, where those are big boats?

Mr. Waugh: Not that I know of.

Mr. LeMaster: What is the Northern Zone and what is the Southern Zone?

Mr. Cupka: Well, we've divided it up into three zones. the Northern Zone is north at 28 degrees latitude. The Middle Zone is 25 to 28 degrees. And the Southern Zone is everything south of 25 degrees. And there are a different number of boats that operate in these zones.

And there's some indication that there's different levels of resource, although we don't really know a lot about the Northern Zone. We're trying to encourage some boats to fish up there. It does take larger boats to operate up there because of operating conditions and whatnot. But that's the way that the fishery has been split up into zones.

Mr. LeMaster: I see. All right. Thanks very much. I just wanted to get educated there a little bit.

Mr. Waugh: If I could just add, in answer to your question about why the plan was created in the first place, the fishermen came to the Council with a list of measures that they wanted to see implemented, escape panels on the traps, no retention of females. They wanted to see this fishery developed on a sustainable basis.

So in my mind, this is the best example we have of truly cooperative management. And I think that's why you see so much work done ahead of time before hearings within this fishery.

Right now, it is a small number of participants, but those individuals that are in the fishery came to the Council with a whole management program laid out. The part that was more difficult to develop was the controlled access parts and how you limit the number of vessels by area.

So it's a case where the fishermen came to the Council with a management program already in mind.

Mr. Cupka: And there was also a lot of concern -- about the time this fishery was developing, there were some problems in the crab fishery up in Alaska, and there were a number of fisheries being closed down or restricted in the New England area. And we were getting a fair -

- I say "we," the Council staff was getting a fair number of calls on a daily basis of people that were interested in maybe moving into this area to fish golden crab that had traditionally fished other crabs.

And these are large vessels, and there was a lot of concern that it was very rapidly going to overtake the resource. So that's why we tried to implement a limited access situation.

All right. Any further items? If not, then, we stand adjourned. Thank you.

TAPE OF PROCEEDINGS ON FILE (4)

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SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

GOLDEN CRAB COMMITTEE MEETING

Ocean Plaza Beach Resort, Tybee Island, Georgia

March 6, 2000

SUMMARY OF MOTIONS

Golden Crab Committee

1. Action 1 & 2: No Change.
2. Action 3: Consensus #1: Waive 5,000 pound production requirement October 1, 2000 for those qualified by October 1, 1998 In The Southern Zone.
3. Action 4: No Change.
4. Action 5: Consensus #2: instruct staff to incorporate changes suggested.
5. Action 6: Consensus #3: Modify Action 6 as suggested; add that at the end of 3 years, vessels choose the Northern Zone or Southern Zone.