

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

HABITAT & ECOSYSTEM COMMITTEE

**Town & Country Inn and Suites
Charleston, South Carolina**

September 18, 2024

Habitat and Ecosystem Committee

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Rick DeVictor
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Kristin Foss
Monica Smit-Brunello

Observers and Participants

Other observers and participants attached.

The Habitat & Ecosystem Committee of the South Atlantic Fishery Management Council convened at The Town & Country Inn and Suites, Charleston, South Carolina, on Wednesday, September 18, 2024, and was called to order by Chairman Trish Murphey.

MS. MURPHEY: All right. Good morning, everyone. I will go ahead and call to order the Habitat & Ecosystem Committee. I guess, first, we'll start with approval of the agenda, and does anybody have any comments, or changes, to the agenda they want to put forward? Seeing none, I will call the agenda approved by consensus.

Also, the approval of the June 2024 minutes, and is there any edits or comments on those? Seeing none, I will call those approved by consensus, and so we'll go ahead and move into our short agenda of one item, but a big, important item, and that is the Coral 10 submission. You guys had, in your briefing materials, two documents, and one is a document that just provides a history of the coral amendment, the FMP as well as all the amendments, and then the second document is the decision document that Kathleen is going to go through with you, but, today, what we need to do is to decide on the preferred method for Coral 10 resubmission, and so I'll go ahead and turn it over to Kathleen. Thanks.

MS. HOWINGTON: Thank you, Trish, and good morning, everyone. All right. Let's go ahead and get started on -- Now, during the June 2024 council meeting, I gave you a lot of this history, and so this is a little bit of a review, and I'm just going to start in December. In December, the council directed staff to work on the resubmission process. In April of 2024, the IPT met, and that is the interdisciplinary planning team, and reviewed the necessary analysis and writing responsibilities and then requested that the council revisit the rationale for how the proposed action in Coral Amendment 10 addresses the Coral FMP goals and objectives, which was an issue that was highlighted in the disapproval letter.

During that conversation in June of 2024, the council then requested that the IPT review four potential resubmission approaches for Coral Amendment 10 and provide pros and cons, as well as a recommendation, and these four approaches were as follows, to address the shortcomings listed in the disapproval letter and resubmit Coral 10 in its current form, add in an alternative to Coral Amendment 10 that would increase the buffer between known coral pinnacles and the western boundary of the proposed shrimp fishery access area, modify the CHAPC boundary for the Coral FMP framework amendment, and then develop a joint Shrimp/Coral FMP amendment to establish a shrimp fishery access area.

Now, before I move forward, the IPT did want to highlight a few things. The first off is that all of the timelines for these are relatively generic. That's on the final page of this document, and the reason being is because, for every single one of these approaches, we need access to the SERO Permits Office database, and so that is why I can't give you more specific timelines, and I apologize for that.

Additionally, in every single one of these approaches, there is a pro of we have received the Coral 10 record. We have received public comment on it, and we now have concerns that can be addressed and an outline for writing -- For potential issues that we can proceed, and there is also a con of we have received Coral 10 public comment, and, in that, there are some negative comments that will need to be addressed, and so that's a pro and a con for every single one of these, and then, finally, the IPT wanted to recognize that opening this area is important to some council members,

and they acknowledged the need to choose a path that not only addresses the resubmission needs, but is also going to get the highest chance of getting approved, and that's going to be relevant when I show you which one of these the IPT recommends.

Moving forward to Approach Number 1, Approach Number 1 is move forward with Coral 10 in its current form, addressing the concerns that were raised in the rejection letter and then resubmitting. Now, the pro is that the writing is mostly completed for this. We have done an NOA, and we've done a FONSI. We have the visual evidence from the scientific survey that the Southeast Fisheries Science Center did in May to June of 2022, and this is potentially the shortest timeline.

The cons are we still need to ensure that the rationale for the proposed action addresses the Coral FMP goals and objectives, which is what we requested the rationale for back in June. Significant updates need to be done in the BPA, the social and economic fishery, and in the affected EFH sections. The quantitative BPA cannot be conducted in the way that it has been conducted in the past, because we do not have -- The shrimp fishery is not required to report via the coastal logbook. However, we do have the NMFS observer program that may be able to provide some information, but it's not going to be a BPA that you guys have seen before.

To properly update the amendment, again, we need permit data. The administrative record is not clear on these boundaries, and this is in reference to the minutes that were lost for a previous Habitat AP meeting, and then, finally, this Coral 10 method of establishing the shrimp fishery access area is inconsistent with how we've established the shrimp fishery access area previously, and so we're going to need to -- For how we're moving forward with this. Are there any questions for Approach Number 1? All right.

Approach Number 2 is add an alternative to Coral 10 that increases the buffer between known coral pinnacles and the western boundary of the shrimp fishery access area. Your pros are adding in an additional alternative could potentially help with the argument of the rationale for Coral 10 and the Coral FMP goals and objectives. That additional buffer could potentially protect EFH. Again, we have our visual evidence from the scientific survey, and we can rename it Revised Coral 10, because we'll be adding in this additional alternative that will help with the public, with being confused of why Coral 10 keeps coming back up. The writing is mostly completed, and we will still need to complete analysis. This is potentially the second-shortest timeline.

Now, again, for our cons, and a lot of these are repetitive, because it's Coral 10 with an alternative, and we still need to ensure that rationale for the Coral FMP goals and objectives exists. Now, this may be easier with this alternative, because we will be increasing the distance between the coral pinnacles and the shrimp fishery access area, but that argument still needs to take place.

This is still inconsistent with how we've established shrimp fishery access areas before, and, again, significant updates to the BPA, social and economic and affected EFH, need to occur. The BPA analysis will not be like you've seen before. We need access to the permit data. Under this new alternative, the benefits to the shrimp fishery may be limited. If we are adding in an alternative that is decreasing the width of the shrimp fishery access area, that could potentially make it where there's not as much benefit to the shrimp fishery. At its skinniest, the shrimp fishery access area is 183 meters wide, and so that's not a lot of play room. Now, at its widest, it is 808 meters wide, and so, depending on what this alternative is, the economic analysis needs to occur.

We will need to gather research to support the chosen buffer zone, support the increased distance, to be able to show that any sediment plumes that are occurring from the shrimp fishery are not negatively impacting the EFH or coral, and we'll need to come up with -- Or we'll need to find those studies, and that research, which, again, increases time, and the shrimpers have noted that they have a self-imposed buffer, because of the closed area, and because of gear concerns, and this additional buffer, on top of shrinking the shrimp fishery access area, again may decrease the economic benefit to the fishery. All right. So that's Approach Number 2. Any questions?

MS. DUKES: Just for my benefit, to help me catch up a little bit, can you further explain why there is an inconsistency with this shrimp fishery access area from previous ones, so that I contextually can get there?

MS. HOWINGTON: So I can explain to a point, because I was not there during the initial Coral 10 creation, and the precedent for establishing a shrimp fishery access area was established during CE-BA 1, which is Comprehensive Ecosystem-Based Amendment. In that, they did a joint amendment between Shrimp and Coral.

For some reason, and I'm not 100 percent sure why, when we were establishing this shrimp fishery access area, we're only doing it underneath the Coral Fishery Management Plan, which means, when you're making the argument for how this is good, you're arguing for the Coral FMP goals and objectives, which I'm just going to read it. Optimize benefits generated from the coral research, minimize adverse human impacts, designate CHAPCs, increase public awareness, and provide coordinated management regimes for conservation of coral and coral reefs.

So establishing a shrimp fishery access area doesn't necessarily -- It isn't congruent with those Coral FMP goals and objectives, as far as I can tell, and it is difficult to argue that rationale, which is why I came to the June council meeting, which is why we're having this discussion, but I am unaware why it wasn't a decision to make a joint amendment in the first place.

MS. MURPHEY: Go ahead.

MS. HOWINGTON: All right. Now Approach Number 3, and, now, I'm about to call on either Monica or Shep on this one, and Approach Number 3 is modify the CHAPC boundary as a Coral FMP framework amendment, and this would end the Coral 10 resubmission process and develop a framework amendment to modify the CHAPC boundary itself, which is allowable underneath the Coral FMP. However, there is a debate, which is why I'm about to bring in Shep, of, if that is meant for only extending the CHAPC boundary or can we modify the CHAPC boundary and decrease it, and so to you, Monica.

MS. SMIT-BRUNELLO: Thank you. I think it's to change the boundary, but, in my mind, if I could talk a little bit more, you have the same issues you do as with the Approach 1, because, whether you're amending your Coral FMP via framework or plan amendment, you still have to address all the items that you mentioned in the Approach 1, and so I don't know that I see this as much of a benefit, and, when I looked back at the framework, and I think it was Coral Amendment 4, that established the framework, it said that, to do this kind of modification, the council would have to decide that it's necessary to meet the goals and objectives of the habitat plan, and so you're

back into the coral issues that you've mentioned, the Coral FMP issues that you've mentioned, before.

MS. HOWINGTON: Okay.

MS. MURPHEY: So does that mean that's basically not an option now, or is it still?

MS. HOWINGTON: I think Monica is saying this is a viable option, but it still is going to encounter the same cons of Approach Number 1. We're still going to need to argue the rationale, and we're still going to need to -- And argue the rationale for the habitat plan as well as for the Coral FMP now.

MS. SMIT-BRUNELLO: That's what the document said, which is Coral Amendment 4 that talked about the habitat plan.

MS. MURPHEY: Thanks, Monica.

MS. HOWINGTON: All right. Well, we weren't sure if this was going to be viable or not, but the IPT went ahead and moved forward with some pros and cons. As you can see, it's a little bit shorter. Essentially, we would be no longer establishing a shrimp fishery access area, and we would just be modifying the boundary. The arguing still needs to exist, and we still need the rationale, but it might become a little bit less complicated, because we're not involving shrimpers at all, and it's just we're adjusting the boundary, because we do not believe the coral is here, and so that might be an easier argument.

However, your cons are this could be negatively perceived by the public, as we're trying to work the system, because we're no longer establishing a shrimp fishery access area, and we're now just modifying that boundary. We would still need access to the permit data, and we still would have the Coral 10 record that needs to be addressed, and so we still need to add all that writing and rationale into this framework amendment, and so those are the pros and cons for Approach Number 3. Any questions?

All right. Now for Approach Number 4. This is to form a joint Shrimp/Coral FMP amendment to establish a shrimp fishery access area, and, as you can see, this is the IPT's recommended approach. I will go over the pros and cons and then explain why.

Again, for pros, much of the information from Coral 10 can be used. Through the joint amendment process, the council can weigh-in on the economic benefits to the Shrimp Fishery Management Plan as well as still trying to minimize impacts to the coral EFH for the Coral Fishery Management Plan. The alternatives can be no action, the established shrimp fishery access area, as well as an alternative, like in Approach 2, that would be a compromise between the two. We can use CE-BA 1 as precedent of we've done this before as a joint amendment. We've established a shrimp fishery access area that way, and we can use the Coral 10 public comments as an outline for potential concerns that are coming up.

Cons are this is the longest timeline. To properly update this amendment, we still need permit data after 2020, and the shrimp portion of this amendment will need to be completely written, and we will still need to address the Coral 10 record.

The reason why the IPT recommends this approach is because they believe that this is the approach that has the most chance of being approved, or the highest chance of being approved, while still meeting the goal that we established in Coral 10 of establishing this historical shrimp fishery access area, and so, like I said, this is the IPT recommended. If this is the approach that the council decides to move forward with, council staff have drafted a draft purpose and need that we can review, and that I would appreciate you reviewing.

Additionally, on the final page, if you're just curious, and, like I said, these are very generic timelines, we have drafted the potential timeline for all of these approaches, and this varies from six months to a year-and-a-half after the final council and AP input, but, like I said, these are very generic timelines, depending on when we can have access to the 2020 permits information, as well as what analysis needs to occur, how quickly can we get the IPT to reconvene, et cetera, and so, with that, I give it back to you, Trish.

MS. MURPHEY: All right. Thank you, Kathleen. Tim.

MR. GRINER: Thank you, Madam Chair, and thank you, Kathleen. That was a great presentation, and it kind of spun me around a little bit though. You know, for the life of me, I can't understand why we would want to start this whole new joint amendment, when, in my mind, the simplest route forward is just to simply address the issues that came back in the letter, and move forward with that, and, I mean, I guess there's a disconnect, in my mind, of what else is there that we're trying to address, other than what was not approved in that letter, what we needed to do to move forward, and so I just need a little help explaining that to me.

MS. MURPHEY: Jessica.

MS. MCCAWLEY: I guess I'll go back to kind of what we discussed at the last meeting, that I think that maybe the council took the wrong vehicle when we moved this amendment before. I think it should have been a joint amendment, and we should have edited, modified, the Shrimp FMP the first time, and so I don't think that the council took the right path, and it just -- My opinion is the greatest chance of success is not to modify the previous document, but to go in and amend the Shrimp FMP, as well as the Coral FMP, and I think that should have been done the first time.

MS. MURPHEY: Thanks, Jessica. I've got Charlie and then Judy.

MR. PHILLIPS: Thanks, Madam Chair, and I'm probably the only other person that was here, other than Jessica, when this was done the first time, and so I remember it. I remember very well the shrimpers coming in with their tracks, and everybody putting all of the waypoints on the maps, and there was a lot.

There was an awful lot that went into it, and so, yes, this is a shrimp access amendment, and habitat, and it needs to be under both, and it's a very, very small area, but it's an important area, and I saw some of the comments say, well, landings were here and there. Well, landings are never the same, especially for shrimp. I mean, they move around a lot, and where you can catch them, and what year you catch them, changes a lot, but I don't think there was ever any coral there. They had a lot of dragging in this bottom, and there are times when shrimp get in a certain place, and you would love for them to be a mile away, but they're just not, and so you have to go where they are.

Of course, they are not going to -- They don't want to get anywhere around coral. They've been good stewards, and, as soon as this amendment was passed the first time, and we realized the mistake, we said we'll fix it, and we've been trying to fix it for probably ten years now, I guess, and so let's go ahead and put it in the shrimp -- Make it a joint amendment with shrimp, so everybody knows it is what it is, and this is why it is, and let's fix it and go and deal with some other stuff.

MS. MURPHEY: Thank you, Charlie. I've got Judy, and then I will get Jessica.

MS. HELMEY: Well, I kind of agree with Charlie too, because we've been -- This has been going on forever, but I do think the only way that this is going to go through is to go with the fourth action. We've got to get it right this time, because I don't think we're going to get another chance. If this doesn't go through, we're not going to get another chance, and so, if this is our best chance, then I suggest that move.

MS. MURPHEY: Thank you, Judy. Jessica.

MS. MCCAWLEY: Just back to Tim's question, and I think Kathleen hit on this earlier too, and it's just not going to meet, by itself, the objectives of the Coral FMP. It more closely meets the objectives of the Shrimp FMP, and so I think, to me, you know, Option 4 is the best one. Once again, I think we should have done that the first time, and I will just correct something that Charlie said. He said that we realized the mistake after the amendment was passed, and technically we realized the mistake before the amendment was finalized, but promised the fishermen that we would come back and immediately start another amendment to fix the problem, and we're still here.

MS. MURPHEY: Tim, to that?

MR. GRINER: Thank you. That helps me a lot. One thing I was curious though is was the original amendment in the coral?

MS. MARHEFKA: Yes.

MR. GRINER: So, originally it was in the coral? Okay. Maybe that's why -- That's what I thought, and so that's where I was getting confused, and I thought we were just trying to fix what we had done in an earlier coral amendment, but it makes sense to me, and I just hate that we're starting all over, and, you know, one year, two years, three years, that's really what we're looking at.

MS. MURPHEY: Kathleen, and then I've got Andy.

MS. HOWINGTON: So, to clarify for everyone, the original amendment was Coral Amendment 8, and that was what established the original CHAPC. It did not have anything to do with the shrimp fishery access area. What happened is, in September, Coral Amendment 8 was submitted, and it was establishing the boundaries that had been decided upon by the Law Enforcement, the Habitat, and the Shrimp APs. They all had a huge joint meeting, and they all decided that the seventy to hundred-meter contour line was good.

However, the next December, within three months, and so before Coral Amendment 8 had ever been approved, the shrimpers came back and said we just got more VMS data, and we got one more year of it, and we need to move the boundary just a little bit, just this like little tiny bit, because we actually use this area, and that then goes back to what they were referring to of we promised that we would fix it. Since Coral Amendment 8 had already been submitted, the council decided to just move forward with a fixed amendment, thinking it would be a quick fix, and then there were a lot of delays, and a lot of issues, and that's why it has kind of drug on for so long.

MS. MURPHEY: Thanks, Kathleen. Andy.

MR. STRELCHECK: I just wanted to express my support for the IPT recommendation. Like everyone else has said, I think this is a good opportunity to combine the Coral FMP with the Shrimp FMP. Then, going back to the denial letter that I shared with the council, I think this is the best avenue to address essentially our first recommendation, which is how the council can demonstrate that the proposed action minimizes, to the extent practicable, adverse effects on EFH and is consistent with the goals and objectives of the Coral FMP, right, and so, balancing, obviously, the goals of shrimping, and allowing access, with, obviously, protecting EFH is key, and having that joint amendment is critical.

MS. MURPHEY: Thank you, Andy. Kerry, did you want to say something?

MS. MARHEFKA: Yes, and I'm also supportive of Approach 4. I think what I'm having some heartburn about is this title of "shrimp fishery access area", because, really, it's a modification to the HAPC. No? Okay.

MS. HOWINGTON: So modifying the CHAPC boundary would take -- Basically you have your mapper, and you have your boundary, and it would just move it, and everyone would have access to that area. This is just allowing access to the shrimpers, and so we're not going to be longlining, and we're not going to be throwing out traps. It's just the shrimpers.

MS. MURPHEY: All right. Thank you. Any other comments? Carolyn.

DR. BELCHER: So I just -- I have a question, and it's probably to Clay, and so Kathleen was talking about needing to look at the BPA differently, which would require possibly looking at the observers. Are observers actively going out on federal trawlers in the South Atlantic right now, and how would we address the bycatch, or the BPA component of it?

DR. PORCH: I don't know how many observers we're putting on those vessels right now. I can look into that, but we certainly have the authority to put observers on the vessels, and we could require that, and then just look and see what's coming up in the trawls, in terms of any coral or anything.

MS. MURPHEY: Thanks, Clay, and so -- Chip.

DR. COLLIER: We have talked with the folks with the observer program, in order to get some of the rock shrimp data, and so we have potential data going back to 2008. It's pretty sparse for the rock shrimp fishery. A lot of the effort in the observer program occurs in the Gulf of Mexico,

where a lot more trips occur in federal waters, and so that's where a lot of the observer data is, but we're mining that data now, and hopefully we're going to have some information for you. We're not going to be able to expand it up to total effort, but what we could potentially do is describe species that occur inside and outside of the area, but you're not going to be able to get, you know, this amount of bycatch occurs inside and this amount would occur outside.

MS. MURPHEY: Thank you, Chip. Are there any more questions, or discussions? Jessica.

MS. MCCAWLEY: I just wanted to ask Kathleen a little bit more about the timeline, and so, on Approach 4, it looks like the timeline was completed within a year-and-a-half, and do we feel pretty confident about that? Just can you talk about that a little bit more? I think that things are held up because of the permit data, but could you talk about the timeline a little bit more?

MS. HOWINGTON: Yes, and so, if the council approves Approach Number 4, then, this Friday, we would need to add it to the workplan, because then it becomes a bit more of a lift than what we currently have in there. Afterwards, then the IPT would need to meet at least once before Christmas, hopefully, and start incorporating additional members with appropriate shrimp expertise. Right now, the Coral 10 IPT covers the coral side of things, but we would need to incorporate some shrimp people into that.

Once the permit data is available, the IPT will need to meet, as needed, to develop the amendment as usual, and so that's the reason why this is as generic as I can, and I'm so sorry that I can't get more specific. We'll meet one more time before Christmas, and then, after that, we'll hopefully start, you know, writing, as best we can. Once we have the SERO Permits Office data, and once we're able to go to the APs, and then bring a draft to you, after that it will be a year-and-a-half, but that's -- It's not a year-and-a-half from today, by any stretch of the imagination.

MS. MURPHEY: All right, and so I seem to be hearing, around the table, that everyone here supports Approach 4, which is the joint Shrimp/Coral FMP amendment to establish the shrimp fishery access area. I'm seeing heads nodding. Do we need a motion or anything? Can I get a motion for support of Approach 4? I've got Jessica.

MS. MCCAWLEY: I move that we move forward with Approach Number 4 to modify the Shrimp and Coral FMP to establish a SFAA.

MS. MURPHEY: I've got Kerry as a second. Thank you. Is there discussion? All right. **Anybody against this vote?** Okay. **The motion is approved.**

MS. HOWINGTON: Thank you very much. Since the council has decided to move forward with Approach Number 4, like I said, council staff have already gone forward and tried to draft a purpose and need statement, and so the purpose of this amendment, which would be Coral Amendment 11/Shrimp Amendment 12, is to create a shrimp fishery access area along the eastern edge of the Northern Oculina CHAPC boundary in an area where the rock shrimp fishery operated historically, while minimizing impacts to deepwater coral. This action does not change the EFH specifications from previous amendments. It provides recent information and spatial presentation of EFH, as required by EFH Final Rule 67 FR 2348, blah, blah, blah. The need for this amendment is to allow the rock shrimp fishery to attain OY, while minimizing negative effects to deepwater coral in the council's jurisdiction. Please discuss.

MS. MURPHEY: Do I have any questions, or comments, on the purpose and need statements? Andy.

MR. STRELCHECK: Maybe, Kathleen, you can speak to the second sentence in the purpose, and I just find it kind of explanatory, rather than a purpose statement, and so I would recommend removing it, and maybe adding it as just kind of context for the action.

MS. HOWINGTON: So I initially drafted this by taking some language from CE-BA 1, which, again, is the precedent for establishing a shrimp fishery access area, and this was included in that. However, you are correct that it is more just informational. It's clarifying that this is not changing the CHAPC boundary or the EFH specification of this area. It is just updating the spatial map, and so removing it I don't think negatively impacts it. I would want to refer to Monica, or Shep, to double-check that they are cool with that, and that they don't think -- They think it's more informational, like you said, but then I don't have an issue with it.

MS. MURPHEY: Any thoughts on removing that second sentence from anybody? Okay. We'll just go ahead and, if everybody is good with it, we'll remove that sentence. Andy.

MR. STRELCHECK: Maybe more just for the IPT to think about, and so we talk about, obviously, in the denial letter, the need to look at the goals and objectives of not only the Shrimp FMP, but the Coral FMP, and so, obviously, with the statement about minimizing impacts to deepwater coral, it gets at, obviously, some of the goals within the Coral FMP, and it probably would be good just to look at all of the goals and objectives within both FMPs, to make sure that we're comprehensively addressing any concerns that are identified in the denial letter.

MS. MURPHEY: Is that all right with you, to look at all the goals and objectives? Okay. Is everybody good with that? It makes sense. I see heads nodding. Okay. So are we done? Any other -- Go ahead, Andy.

MR. STRELCHECK: I just wanted to end on a very positive note, and so, last night, my team shared with me some of the permit counts, and what work they've been doing to replicate the old system data with the new system data, and we have one-to-one matches with rock shrimp limited-access permit data, and so I think we are getting very close to having that data to move forward with this and other council actions.

MS. MURPHEY: All right. Thanks, Andy. That's great to hear, and so I guess, right now, we're looking at a year-and-a-half, but it may be a little longer, depending on the -- I'm not making promises. No promises, but we're looking at -- We're starting to maybe see a light at the end of this tunnel.

MS. HOWINGTON: Yes, we are looking at a year-and-a-half after AP input. Let's establish a coral and shrimp meeting and see how well that goes.

MS. MURPHEY: Is there any other business? All right. Seeing none, I will call the Habitat & Ecosystem Committee adjourned. Thank you.

(Whereupon, the meeting adjourned on September 18, 2024.)

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Attendee Details

Last Name

First Name

Adam

Bailey

Addis

Dustin

Appelman

Max

Barile

Peter

Barrows

Katline

Bianchi

Alan

Bissette

Jesse

Bradshaw

Christopher

Brewer

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Stephen	Jessica
Stephens	Haley
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