

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

HIGHLY MIGRATORY SPECIES COMMITTEE

**Blockade Runner Beach Resort
Wrightsville Beach, North Carolina**

December 10, 2003

SUMMARY MINUTES

Committee Members:

Dr. John Dean, Chairman
Dr. Louis Daniel
Charles "Duane" Harris
Mark Robson

Benjamin "Mac" Currin
George Geiger
Pete Pearce

Council Members:

David Cupka
Dr. Roy Crabtree
Spud Woodward

Bill Cole
CMDR Scott Rogers
Robert Southerland

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Dr. Vishwanie Maharaj
Kerry O'Malley
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John Carmichael
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Observers/Participants:

Monica Smit-Brunello
Dr. John Merriner
Craig Whitfield
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Lt. Mark Gordon
Bill Mansfield
Bobby Cardin

Dr. Joe Kimmel
Ginny Fay
Jack McGovern
Ron Smith
Myron Fischer
Dr. Jim Nance

The Highly Migratory Species Committee of the South Atlantic Fishery Management Council convened in the Blockade Runner Beach Resort, Wrightsville Beach, North Carolina, December 10, 2003, and was called to order by Chairman John Dean.

Dr. Dean: I would call the Highly Migratory Species Committee together and the first item is the roll call. Let's start with Pete.

Mr. Pearce: Pete Pearce, committee member.

Mr. Harris: Duane Harris, committee member.

Dr. Daniel: Louis Daniel.

Dr. Dean: John Dean.

Dr. Kitner: Kathi Kitner, council staff.

Ms. Smit-Brunello: Monica Smit-Brunello, NOAA General Counsel.

Dr. Crabtree: Roy Crabtree, NOAA Fisheries.

Mr. Geiger: George Geiger.

Dr. Dean: Thank you very much. The first item of business is approval of the minutes. The minutes were distributed on the CD. Do I hear a motion for approval as distributed?

Mr. Harris: So moved.

Mr. Geiger: Second.

Dr. Dean: It's moved and seconded. Any objection? Hearing none, so ordered. The next item is approval of the agenda. Are there any changes to the agenda before we proceed?

Dr. Daniel: I move adoption.

Dr. Dean: I would like to add for the good of the order at the end of the agenda, but that's the only change. We will proceed.

The first item is a brief presentation about the ICCAT meeting, and for some of you this is a little different. HMS is not a committee on which we have a plan, but it's a very important fishery for the South Atlantic region.

I will tell you the process. We as a council have a seat on the U.S. Advisory Committee for ICCAT, and we also have a seat at the Highly Migratory Species Division's Advisory Panel on Billfish, Sharks, and Highly Migratory Species.

It's important to recognize the difference that the AP is a unit that responds to the HMS Division. The advisory committee, on the other hand, is a national body and it recommends actions to the

three U.S. commissioners; one of which is commercial, one is recreational and one represents NOAA and those commissioners are appointed by the President.

There's an AP meeting once or twice a year. The ICCAT Advisory Committee meets twice a year, and the critical meeting, as far as I can see relative to ICCAT, is the fall meeting for the advisory committee in which issues are discussed and they are advisory to the commissioners.

There are strong feelings presented, but we no longer take votes on ranking positions. It is to provide information for the commissioners. I would say that this fall's meeting was the best that I have ever attended in terms of developing information on the issues for the commissioners.

In that process, there's what is called the trilateral meeting, and the trilateral meeting is a separate meeting of the U.S. commissioners with the commissioners of Japan and Canada. They discuss the ICCAT issues and relative positions and determine which issues they can be together on and which ones they will not be together on.

It has been very productive because it is extremely important that the U.S. have an understanding of where those positions and so forth are going.

A new element has been added in the recent past and that is that we now have a quadrilateral meeting, which is a follow up to the trilateral, and it includes the European community, and that has not been very productive, as they would describe it.

I will tell you that the EC is the biggest obstruction to managing and implementation of recommendations. What has happened there is in the past the different nation states, Spain, France, Italy, Portugal, et cetera, were commissioned seats.

Under the European Community, that seat at the table is the EC seat and their positions are then developed with the nation representatives sitting behind them. They have meetings each evening, and that's a very large and very contentious meeting internally. But it's the EC that is at the table, and that's who our commissioners meet with prior to the meeting.

That's another place where you find out who is going to be with you and against you. So with that in mind, what happens is our commissioners meet with the trilateral, quadrilateral, and then they meet with the advisory committee.

Those meetings are closed meetings. They meet because we have State Department representation and it's a U.S. position, and the public is not included and everything that is said is treated internally. Those discussions are extremely candid.

Then after the advisory committee meeting, there's a follow up at which it is the State Department, the U.S. commissioners, the NMFS AA, who happens to be the U.S. NOAA commissioner, Bill Hogarth, and the chairman of the advisory committee, which right now is John Graves, and that is the meeting at which the hard positions that the U.S. is going to pursue are finalized.

At the ICCAT meeting, any U.S. position has to be reviewed and any presentation has to be reviewed, and it goes back and is cleared through State and NOAA before it can go on the table. The U.S. delegation this year consisted of over forty people.

That is not what some of us think is a good strategy. It's very cumbersome and very difficult to manage. There are a lot of potential opportunities for disinformation to be circulated and so forth. But that's what happened. The outcome this year ---

Mr. Geiger: John, I'm sorry, who constitutes the group of forty?

Dr. Dean: The group of forty consists of the appropriate staff members from NOAA and NMFS, the U.S. commissioners. There are five members of the ICCAT advisory committee and there's a process by which they are selected.

There is one member that is always from the councils, and we have set up a rotation policy for that person to go because the council supports the travel for that individual, so no council has to take the hit on that two years in a row sort of thing. Then there are a certain number from the congressional staff.

Historically there will be one or two congressional key staff people go. This year Representative Gilchrest, who is the major player on Magnuson-Stevens, went. And then there are individuals that go and are observers; that is, they do not have status as members of the delegation, which means that they cannot go in the proceedings room, but they are there and present and are part of our discussions.

It's always a very difficult issue of who gets to go, and they pay their own way. At the meeting, there were no major species allocation issues and reviews this year. This was not a bluefin year, a swordfish year, et cetera. The most species specific was an item on bigeye and northern albacore, and I'll come to that in a minute.

The primary objective for us this year was the achievement of a comprehensive trade provision. I think this is an important one for us to be aware of because I think it has relevance to some of the issues that have come up with our other fisheries with which we have plans, snapper grouper, et cetera.

This comprehensive trade provision has been an objective for the U.S. for as long as I've been involved, which goes back I think to 1992 now. And if you think the council process is glacial, it becomes rapid movement relative to ICCAT.

It's the scale of the issue and it's the number of players, and it is the fact that you're dealing with these issues at an international level, so you're not negotiating with somebody from New Jersey. You're negotiating with somebody from Spain at a diplomatic level.

So, the comprehensive trade provision is our highest priority. There were agreements that were reached in an intercessional meeting in Madera this summer relative to logbooks, reporting, licensing. That's called a black and white list; that is, boats that fish that are illegal and we can document them and it will go on the black list, and those that follow the rules we put on the white list. That's something that we worked hard on the last several years -- and VMS on these boats.

Then the other issue that we had as a priority was to not be disadvantaged relative to the bigeye and northern albacore rebuilding programs. And here it's important -- and I will add yellowfin to this list -- bigeye, yellowfin, and northern albacore, we're minor league players. We are not big fisheries in those areas.

But they, of course, are very important fisheries for us, and it's another place where this business of having really good landings data, which we constantly harp on -- really good landings data is critical because we have to document that we've got an interest in those fisheries.

The fact that we regulate fisheries so severely compared with other countries is a very difficult issue for some of them to understand.

We have size limits on yellowfin that are not international limits. We have bag limits on yellowfin and so forth that nobody else has anything like that, and that limits our landings; whereas, for us it would be advantageous to maximize the landings to make sure we maintain our share. So that's a difficult issue and it's out there.

So the outcome is on the trade proposal, ICCAT has adopted a comprehensive trade measure, and it includes all markets, all species, all vessels, all fishing countries. We have had trade provisions that we developed first on bluefin, then on swordfish, and then on bigeye, and now we're making this a blank as the objective.

What this means is any violation of an ICCAT conservation measure can lead to ICCAT proposing the member nations a trade sanction. For example, ICCAT could recommend trade sanctions on a country for failure to comply with the white marlin or the billfish rules that ICCAT has, and then a country like Japan could restrict the imports of bigeye tuna.

You could have a violation of one species, but you could restrict trade in another species for the offending country, and there is even a process for a follow on sanction that if it didn't implement the ICCAT-approved measure; that is, Japan didn't implement the approved trade measure, then other countries could take action, and you can do this unilaterally because it's already an ICCAT international agreement.

So it's not a one on one and we don't have to go back to ICCAT to take that action. It gives us legal and administrative cover. I think Monica has made mention of that. There was also a provision that allowed a member country to close markets to all imports for those once a quota is reached, but that one is not fully developed yet.

I think this is a very important issue for conservation measures for these highly migratory species. Another issue that has got a lot of attention in the international community is that in the Mediterranean there has been an explosion of -- some people call them farms. They are fattening pens for bluefin tuna.

What they do is the purse seiners will capture bluefin, put them in these pens, and then they feed the bluefin and they then can select the size and fat content and market time to capture the bluefin, and they capture them individually.

The say, okay, I want a 130 kilo fish, and they go in and capture that fish and send it to market and they get really good prices. It has changed the dynamics of the market significantly.

Well, this has exploded, people would say. So they now have a set of recommendations, which is a regulation in ICCAT terms, that these farms are also considered on the white and black lists; so that you can't have a farm buying fish from an illegal purse seiner.

Then the other thing that constantly comes up at ICCAT is the quality of data collection, and that was the importance of the intercessional meeting. In that process an item was tabled, which means they sent it out for everybody to consider.

It would have put severe disadvantage on U.S. recreational fishing, and that was defeated. It did not get acted upon. It's very contentious, and I will tell you there's a lot of information circulating on e-mail on that issue that is not accurate. So if you see that, be very, very careful about it and don't cite it because it really is simply not accurate.

We did hold the ground on northern albacore and bigeye. The other thing that we've been working on is what we call compliance. There are two committees. There's a compliance committee, which deals with actions by the member states, and the permanent working group, which deals with actions of non-member states.

So, in compliance, we've always had this issue of if a country exceeds a quota, but nothing happens to them; whereas, for countries that are not members, if they exceed quota or sell fish, why they get a letter saying you're doing this and it's wrong.

Then the next year they get a letter. If they haven't changed their behavior, they get a letter and it says, okay, now we're really telling you that this is wrong. Then the third year they get a letter and it says, okay, you're listed and product can be refused by a receiving country.

So, for example, what that means is that since 98 percent of the bluefin that is exported goes to Japan, that Japan can turn those fish down at their port. It is not managed by the Japanese Fisheries Agency. It's handled by customs; and if they get a list, why those fish don't come in.

We took very severe action on Bolivia. Bolivia has become a major fishery country with no coastline, of course. These are flags of convenience countries, and they simply do not follow the regulations, but they are coming down hard on them.

So we listed countries and took a couple of countries off. But also the compliance committee is now recognizing that the member states have to pay the price as well.

One of the things that I would finish with is that ICCAT is going to be in New Orleans next year, which is going to make it even more difficult for us as a delegation to control the delegation, I think.

But also, one of the objectives -- and Bill Hogarth talked with us about this at the meeting in D.C. and at the advisory committee meeting -- we want to show these other nations how important the recreational fishing industry is in the United States when they're in New Orleans.

Many of you may not realize that in these other countries of ICCAT, recreational fishing, one, they don't even document the landings. Two, it's treated as irrelevant. Yet if you explore it, you will find that there is a huge recreational fishery for bluefin in the Mediterranean by France and Italy, and they don't include those landings in their landings and reporting to ICCAT.

They will disadvantage that community in a heartbeat, and it is one of the reasons we have difficulty getting those countries to recognize how important a component it is of our economy. So that's one of the big objectives next year in New Orleans.

And with that, I would like to just stop on ICCAT and answer some questions, if there are any, from the committee. Hearing none, let's proceed.

The next point on this is bluefin, and the bluefin fishery that we do have, which is both commercial and recreational, and is very important to us in the Southeast United States, and I've asked Louis to give us a report on the North Carolina fishery.

Dr. Daniel: I just want to preface all my comments by saying that if I do slip up and say NMFS, I'm speaking of the Highly Migratory Species Section and not the Southeast Region. You talk about a maddening crowd to deal with.

On July 15 the Highly Migratory Species Section was made aware that the overages from the angling fishery last year were alarmingly high. They then proceeded to increase the charter boat allowance to six fish per vessel and the headboat fishery to thirty-five fish per vessel and the general category to three fish per vessel.

Dr. Dean: You might explain what that means and what general category is and so forth.

Dr. Daniel: Right. The angling category is typically one fish per person and one fish per boat; and because the fishing was slow, they increased it to allow charter boats to retain six fish, up to six fish, and headboats up to thirty-five fish.

The general category typically operates on one fish per vessel; and if they request it, it could be up to two and maximum of three, they will. They had the general category operating on three fish per vessel, and those were the larger fish, over 73 inches, that could be sold.

As we progressed through the season, the fishery was really slow in New England this year. A lot of it was the cold water. I think they had hot water events up there or some such thing. But at any rate, the fisheries really shifted from this Bay of Maine fishery to a more Southern New England and later season fishery, so that the quota -- the major part of the quota for general category is during the summertime, but they really didn't catch anywhere near their quota this year for the first segment, which is June through August.

So they kept moving it to these extraordinarily high limits, and the fishery started to pick up; and in September and August, they had some pretty spectacular days, particularly in general category with the three-fish limit.

They were having some forty to fifty to sixty metric ton days in Southern New England, all the while aware that there was this big overage from the recreational fishery that was going to have to be paid back -- and right before they left for ICCAT in Ireland, the Highly Migratory Species Section transferred 150 metric tons of general category fish into the reserve to pay back this recreational overage from last year.

Well, the overage was 225 tons. The 150 tons transferred from the general category into the reserve and the 72.4 tons that had basically been promised to the South Atlantic fishery kind of went away.

So, we went from 224 metric tons to 70.7 metric tons for our December and, hopefully, January fishery. A lot of folks had planed to come down. We had folks from Florida, South Carolina, Massachusetts, New York, New Jersey, Virginia making their plans and getting dock space to come to North Carolina.

They had rented four-week or six-week dock space, booked hotels and taken all of the necessary measures to come down and take advantage of that 220 metric tons. The Division of Marine Fisheries had made it very simple for any out-of-state person who wanted to get a non-resident license, made that process very simple and streamlined at the urging of the AP last February. We had bent over backwards to make sure that was cool.

So we sort of went from sugar to salt real quick with this moving all this general category tonnage into the reserve and basically losing all of that poundage.

Then the fishery was slated to open December 1. We started hearing rumblings about three or four days prior to December 1 that they may delay the opening. Meanwhile, we've got a state full of people fixing to go bluefin tuna fishing on Monday morning, December 1.

Well, we couldn't get any commitment from them, and finally the time period passed that was the deadline for closing it on December 1, and so that's when we knew that we were going to open on December 1, after we had passed that 48-hour window they have to close it.

On Monday morning, with numerous buyers at the dock from Massachusetts and Canada and all these places, we found that during the November 15 through November 30 time period, when the restricted fishing days were in place and there was no fishing and HMS had time to count the fish, that they couldn't do that adequately and miscounted the fish and discovered a 22.5 metric ton error in the general category counting, and so we went from 220 metric tons to 70 metric tons to actually starting the season with 48 metric tons.

So, we have been operating on that 48.1 metric tons in the general category fishery since December 1. I urged them, as strongly as I knew how, to please close the fishery, issued the notice last Friday to close the fishery because I was afraid that we would go over the 48.1 metric tons.

One of our big issues has been trying to spread this available quota out over as long a period of time so that we can take advantage of what is purported to be our very high markets right before Christmas and at the first of the new year.

They didn't want to do that and now it looks like we've probably gone over by a significant amount. The fishery is still operating, and we've caught about 300 fish in the last three days.

So, if there is any quota available to transfer into general category so that we can have some fish right before Christmas or at the first of the new year, I'm afraid that a lot of the quota that may be available is going to have to be paid back in this quota that we've already used up.

So, one of our big issues and one of our big hopes is that we could show the value of that fishery to the AP in February to really provide some very strong information on the value of this fishery.

Fortunately, we have had some very high-quality fish sell this past week; and where the September/October fish were bringing and averaging \$8.00 a pound, according to the principal buyers, we are having some fish right now that are bringing \$15 to \$18.00 a pound, but those numbers could have been much higher in the pre-Christmas, first of January timeframe.

There is some talk --we can't get a commitment, but there is some talk that there may be some more fish available for the general category, particularly if NMFS meets the December 17 deadline, HMS meets the December 17 deadline to extend the season to January 31.

We still have not been given any assurance that deadline will be met; and if it doesn't, then the January 1 opening is unlikely. I still don't know whether or not there's going to be any tonnage left for a fishery in January, anyway.

So that's where we are right now. They have issued the notice to close it tonight, but I'm afraid that it's going to be significantly over the tonnage allowed, and it remains to be seen what is going to happen with the general category.

The most frustrating thing about the whole thing -- and that's not even the frustrating part -- the frustrating part is the fact that when they transferred the 150 metric tons from the general category into the reserve, they also shut our angling fishery down.

Our international agreement says that any overages in one year are paid back in the subsequent year, but to avoid the potential for going over this year, they shut our angling fishery down.

So the New England fishery and the Mid-Atlantic fishery was operating on six-fish per vessel and thirty-five fish on a head boat in the angling category the day before we were shut down completely and the notice said fishing for bluefin tuna was prohibited.

It boggles my mind how one region of the country could be treated the way that we've been treated in this fishery this year. I've got 250 charter boats that were booked solid from November through February to take people bluefin tuna fishing with the assurance that we would never have our angling fishery shut down completely.

I can't tell you the number of phone calls that I've gotten from Florida, South Carolina, Georgia asking can we come and go bluefin tuna fishing. We're not coming now and we've got dock space being returned. We've got people canceling charters. They did finally tell us that we could tag them.

We could participate in a tag and release program, but we can't fish for them, and I still haven't figured that one out because what I was told --- and this just shows how they don't understand our fishery.

They said, well, if you're out there fishing for bigeye and yellowfin and you catch a bluefin, that's okay, you can tag it and release it. I said but I'm a mile off the beach fishing 130's. You know, I'm not fishing for bigeye and yellowfin. They're not going to be there.

I'm fishing in the surf essentially, and what am I supposed to do? I've told our fishermen to tell them they're fishing for striped bass. They want a real high-quality product and they need to get it to the boat fast, so they're fishing these big heavy rigs so that they can get these 30-pound rocks to the boat real quick; and if they happen to catch bluefin while they're patrolling for striped bass, tag it.

But what they're telling us is that we just need to have a tagging stick on the boat with a NMFS-approved tag, and then we can fish for them, but we're not supposed to fish for them. Nobody has been able to explain that satisfactorily to me.

And it's hard to tell the fishermen, you know, what do I do when they call up and they say can I go fish for them, and I'm telling them that I can't tell you you can go fish for them. I'll tell you what I'm going to tell them when I go in my boat.

So, it's a maddening situation to have to deal with, and it's real disappointing knowing that those guys were operating on those six and thirty-five fish boat limits and we can't even retain one, not one fish to share amongst a headboat.

You know, Jimmy Harker does this in the wintertime and has a hell of a business taking ten or twelve head out bluefin tuna fishing. And those folks, you know, just the chance of catching a small one and being able to retain it is a real incentive to go and knowing that they may be able to split a 200-pound fish amongst six, eight, ten people.

But the HMS Section, in their wisdom, found it reasonable to allow thirty-five fish on a headboat. I don't know what you would do with thirty-five fish on a headboat. I mean, I can't imagine processing thirty-five fish or six fish on a headboat. I just can't imagine that, and then the day after to completely shut down the South Atlantic angling fishery. So it's troublesome, but we have sent letters. The council has sent letters. I don't think we've got any response, formal response from any of our letters from the South Atlantic.

We've received phone calls, but no formal response from our letters from the state, and so now, unfortunately, Pete Manual, who is the president of the Winter Bluefin Association and who has been very appreciative of the council's efforts and who has invited us to go tuna fishing on Saturday on his boat, the Delta Dawn, for council members who can go, it's entered the political arena, and he has made countless trips to D.C. in the last six months trying to deal with Chris Rogers and the HMS Division and trying to resolve this or at least get some idea of what they're going to do.

But, we can't get that information, and I don't know what is going to happen. They've said it's likely that they may be able to find enough fish to reopen the angling category on January 15, but whether that's going to happen or not, we don't know.

Last year we ended up with 300 metric tons of tuna fish on the table. This year we've got about 300 tons that can be transferred, but they won't transfer them, and I am at my wits end.

I have a feeling that what is going to probably end up happening is that the state of North Carolina is going to probably end up pursuing legal action on this issue because we're so frustrated about it. We've tried to avoid it in all the ways we can.

They've gotten Senator Basinite and Senator Thomas and Senator Dole and Senator Edwards and Governor Easley all involved in this issue now -- Walter Jones -- and it's kind of left our hands on this whole thing.

But it really is ---I mean, I thought that dolphin and wahoo was a frustrating process, but this is the most maddening thing I've ever dealt with in my career.

It's probably more than you wanted, Mr. Chairman, but I felt like this council has been so supportive and the individual states of Georgia and South Carolina and Florida have been so supportive of this fishery.

It's such a valuable thing and if you could see the people in North Carolina right now, you know, the Massachusetts guys, the New Jersey guys, the Florida guys, the South Carolina guys, man, they are really doing well and enjoying this fishery, and they're all saying -- even the Massachusetts guys, even Rich Ruez and Peter Wise from the East Coast Tuna Association are saying why aren't you transferring some more fish over there, but we just can't get it done.

Dr. Dean: Thank you, Louis, and I can only second what Louis has said about frustration. We have tried to use the process and follow the process. We have been careful about that. Starting three years ago we were, rather than following the path that we had been of getting designation of quota and getting into the splits, why we had been promised that if we went through rulemaking, that we could get something.

And even at the ICCAT advisory meeting in November, Pete and I met with Chris and we said how is it progressing? "Yes, it's working well, and we are going to get this done." We have been misled every step of the way and I think that it is -- Louis is correct, it's out of our hands.

They missed the opportunity to handle it within process and instead it is going to be resolved on a very powerful political basis, which is what we've all been told, I think, that we want to avoid.

We want to handle these issues on merit, on what is technically and scientifically and administratively proper and correct. It's out of our hands. I have no interest on a personal basis, and I would yield to the committee if we want to correspond with these people on this issue or not anymore. The agency has dropped the ball big time. Any comments or questions?

Mr. Currin: It does seem almost criminal, I mean, the HMS's lack of action with the knowledge that they apparently had in July. Although I don't generally support legal action in fisheries issues, nor political involvement, in this case I think it would almost welcome a legal challenge by the state of North Carolina.

I'm sure if there is any basis for it that it will happen based on the folks that are involved in it to this point. But, it truly is a frustrating and just maddening thing to realize that they had the information to adjust those limits, or at least not act to raise them as early as July and continued to allow that or in fact enacted it throughout the fall, and we're paying the price for it, and it's literally criminal.

Mr. Geiger: I don't know if you intended this or not, but I think we should continue to support North Carolina with letters from the committee and not let that go by the wayside, even though we have not received an official response; because, as soon as you stop writing the letters, the first thing they're going to point to is, well, you didn't send us any mail. I think we should continue to support that effort.

Mr. Pearce: Louis, has there been any indication, even unofficially, as to why they didn't close down the New England fishery a little sooner and then move some of that allocation down to North Carolina?

Dr. Daniel: No, sir.

Dr. Dean: I will comment here that one of the things is there are dynamics going on here that we aren't party to. I think that we can take a lesson from this in that this is --- you remember tuna are managed under a secretarial plan, and it shows the difference between what happens in a management process that is a council plan and what happens in a secretarial plan, that it is truly a black box and you don't know what is happening.

When something happens in a council plan that somebody is not following the rule, why we hear about it, and it's very, very public. It's also necessary I think --- remember that what happens at ICCAT is that the U.S. gets a TAC, a total allowable catch.

The division of that TAC is then handled within the domestic plan, which is HMS managed, so just a technical point of that. Any other comments? George, are you moving that we send a letter of support with some pointing out of the deficiencies in what has happened?

Mr. Geiger: I would make that motion.

Mr. Pearce: Second.

Dr. Dean: Motion by George Geiger and seconded by Pete Pearce that we send a letter to HMS and to Dr. Hogarth indicating our concerns and displeasure. Any objection to the motion?

Mr. Currin: John, just one comment that I think there should be some language included questioning the rationale or seeking an explanation for why they acted in the manner that they did as far as raising the size limits up there when they knew they had this payback. I mean, I would like to hear an explanation of that at some point. I don't think it's unreasonable to at least ask for one if not demand it.

Dr. Dean: Okay. Louis and I will draft a letter and we'll make it in such a way that they have to answer questions. We expect that. Thank you, Mac.

Dr. Daniel: And Bob, you received our letter? The council received our letter. I drafted a letter for Pres's signature, and actually got our North Carolina Marine Fisheries Commission Chairman, Jimmy Johnson, to sign that letter as well, with some very specific questions in that letter on just what you mentioned, Mac, as well as getting them to define "fishing for" and various other questions that we couldn't resolve from the Federal Register Notice.

So there may be some reasonable questions in that letter that the council letter can ask as well, and maybe one of the two of us will get a response.

Dr. Dean: Louis, one possibility, since we have this nice history of non-responsiveness, we can send a new letter and attach our previous letters as attachments and include their responses.

Dr. Daniel: I think that would be an outstanding thing to do. I just want to make it clear again that I'm uncomfortable making these statements at this level and in this forum, and especially having our partners from NMFS sitting at the table.

But I want to make it absolutely clear that the Southeast Regional Office and every other branch of National Marine Fisheries Service that I deal with is very responsive. I get call back immediately.

I don't ever have a problem getting information that I need from National Marine Fisheries Service, with the exception of this Highly Migratory Species Group.

So please don't take my comments to be NMFS bashing, which they get enough of that, but it is frustrating when you've spent as many hours and time traveling and dealing with this issue -- and John is right, we've been dealing with this for three years and we're still being treated like the bastard stepchild, and it's purely dealing with HMS.

It's not dealing with NMFS Beaufort Lab, it's not dealing with NMFS Southeast Region, it's not dealing with the Miami Lab. They've all been very, very responsive, as has Bill Hogarth. I can get Bill Hogarth to call me back quicker than I get HMS staff to call me back.

Dr. Dean: Any further discussion? I would second Louis's comments that this is an issue that really resides in one unit that needs to be addressed.

Mr. Cupka: I just want to mention I think if the recommendation or the motion, as I understand it is for the council to respond, then we probably need to have a motion up on the projection.

Dr. Dean: The motion is that we send a letter to Dr. Hogarth indicating our concerns and dissatisfaction with the lack of responsiveness to the issue of the South Atlantic Bluefin Fishery. Any objection to the motion? Hearing none, we'll report this committee action to the full council.

(Tape change) -- method of collection of landings data on highly migratory species. It has been a point that has been raised time and again at the ICCAT advisory committee in the species working groups in the spring.

It's been a point of contention with our reporting to ICCAT. Over the last three years, there has been a movement and assurance that what was going to happen is that HMS was going to integrate with the ACCSP data collection system that would then enable us to have these kinds of landings data, particularly on yellowfin.

The bluefin are pretty ---you know it's essentially a census on bluefin. We've been assured that this would happen and it hasn't happened. I cannot tell you how many times we have been assured by HMS and by NMFS that this would happen, and it hasn't happened.

Now, there are two parts to this, then. One is that it limits us when we negotiate, and it is a play at ICCAT because we are required in the national report to report landings. We think there has been significant underreporting of yellowfin, and ICCAT decisions are based on percentage of catch, historical catch. They use that information; so if we end up with a quota allocation on yellowfin, we would be disadvantaged.

The other thing that I've thought about now is I couldn't help, when we were in D.C. for the Managing the Nation's Fisheries Meeting, sitting there and listening to all this talk about this discussion of ecosystem-based fisheries management and thinking about, well, who is going to integrate the highly migratory species management plan on an ecosystem basis.

It sent chills down my spine because if you think we're data poor on some of these fisheries that we're dealing with, you have no idea how data poor we are on landings data and fundamental biology of highly migratory species. I just give that as a piece of information as a point of concern for us.

Mr. Cupka: One of the other hats that I wear is chairman of the ACCSP Coordinating Council, which is the policy body for the ACCSP program, and I can tell you I personally gave our director of the program, Maury Osborn, on her evaluation last year, one of the aims that I gave her, one of the tasks to accomplish was to work with HMS to try and incorporate them into the ACCSP system.

I know for a fact that she personally made contact with them on a couple of occasions trying to bring them into the fold, and it's the same thing that we've run into before. They are just not responsive. They don't react to anyone.

They operate in a vacuum, and so we were running into the same thing from a statistics standpoint that Louis and them are running into in just trying to get answers from them.

I don't know what the answer is, but there's obviously a real difference there in the way that group operates as compared to the rest of the National Marine Fisheries Service. It's frustrating and, like you say, we're going to pay a price because we need that data and we need to improve that data collection. We've reached out to them and tried to work with them and, again, we get no response. It continues to be frustrating.

Dr. Dean: I want to follow up, David. David, I know that you have been doing that, and I have seen some of those conversations. I have also seen the same action of being assured by Jack Dunnigan that this is going to happen and yet it hasn't happened. I don't know where to go.

Dr. Daniel: Well, I can just tell you if we think bluefin tuna is a big deal in the South Atlantic, it ain't nothing compared to yellowfin tuna. If we don't have accurate counts and we've got to start fighting with New York and New Jersey on yellowfin tunas, we are going to be in a damned battle. That is a huge industry.

So, the fact that they're not responsive in setting up the ACCSP does not surprise me one little bit, but it does concern me greatly. I will make one comment. You know, there are some folks in the HMS Section that do their very best to try to help us out.

You know, it's the leadership in the HMS Section that's the problem, I think, in terms of responsiveness and in terms of user friendliness, because I know that they've gotten some new folks in there, particularly from the ASMFC, that have really tried hard. There's just something about it; I don't know what it is.

I mean, if we operated that way in North Carolina, we would be run out on a rail, but somehow they get away with it. I don't think any region and I don't think anybody could do that.

Dr. Dean: That's enough.

Mr. Cupka: I just wanted to echo some of what Louis said. It's not everyone within that group. There certainly are some people in there who are trying hard. The problems I have run into with my association with them through the HMS AP or on this bluefin tuna issue or ACCSP has always been at the top.

It's not a lot of the staff people, and I didn't mean to give the impression of painting it with that broad of a brush because it's not everyone within that HMS thing that's creating the problem.

Dr. Dean: Well, do we need another letter, a separate letter, as we have in the past, on the data collection concerns and keep documenting that, viz-a-vie George Geiger's comment?

Motion for a letter referring to that from Pearce and seconded by Daniel. Any discussion? Any objection to the motion? Hearing none, so ordered. We'll take it to full council.

Mr. Mahood: I don't know how many letters we've drafted and how many letters we've sent, and most of the time we don't even get an answer. It seems like what we might want to do is invite the head of HMS and Bill Hogarth to come down here and talk to the council and tell them why we're not getting any attention in the Southeast. Letters haven't done it.

Dr. Dean: Well, can we consider that and discuss when we might be able to make that happen?

Mr. Geiger: Well, if we invite them, I hope we do it in some other means than a letter.

Mr. Pearce: I move that we extend the invitation at the earliest possible date and by whatever means we think can get their attention.

Dr. Dean: All right, so is that a motion or would we just take that as advice? We'll take it as a motion. **Move that we invite Dr. Hogarth to meet with the council and discuss the highly migratory species issues, and we'll lay out a topic for him, point by point, that we need addressed.** Any objections to the motion? Do we have a second on that?

(Whereupon, the motion was seconded.)

Dr. Dean: Okay. We have a second. Any objection to the motion? Discussion?

Mr. Geiger: So we're going to remove the first motion, then, to send another letter and just try to handle this via a personal invitation to have them come down and talk or are we going to send a letter, too?

Dr. Dean: It's three separate items. Any objection to the motion? Hearing none, so ordered.

Any other business before the committee, items for the future? We have plenty to deal with. I think this is the priority. This is the priority and we need to move on this and focus on that. That is what I would like to see this committee do.

Dr. Daniel: Does anybody know the status ---did they re-file the white marlin petition?

Dr. Dean: There is a notice to file which most everyone cannot understand any rationale for, but we'll let you know when we hear anything on it. Any further items? We stand adjourned.

(Whereupon, the meeting was adjourned at 10:02 o'clock a.m. December 10, 2003.)

Tape of Proceedings on File (2)

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