

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
JOINT EXECUTIVE FINANCE COMMITTEE OF THE WHOLE

Renaissance Orlando Airport Hotel
Orlando, Florida

June 10, 2010

SUMMARY MINUTES

Executive Committee:

Duane Harris, Chairman
Robert Boyles

George Geiger

Finance Committee:

David Cupka, Chairman
Dr. Brian Chevront

Mark Robson

Council Members:

Dr. Wilson Laney
Ben Hartig
Charlie Phillips
Lt. Brian Sullivan

Dr. Roy Crabtree
Rita Merritt
Doug Haymans
Tom Swatzel

Council Staff:

Bob Mahood
Kim Iverson
Kate Quigley
John Carmichael
Kari Fenske
Myra Brouwer

Gregg Waugh
Roger Pugliese
Rick DeVactor
Anna Martin
Dr. Julie Neer
Mike Collins

Observers/Participants:

Paul Raymond
Monica Smit-Brunello
Dr. Bonnie Ponwith
Karla Gore

Dr. Jack McGovern
Phil Steele
Bill Teehan

The Joint Executive Finance Committee of the Whole of the South Atlantic Fishery Management Council convened in the Ballroom of the Renaissance Orlando Airport Hotel, Orlando, Florida, June 10, 2010, and was called to order at 3:40 o'clock p.m. by Chairman Duane Harris.

MR. HARRIS: Okay, let's reconvene and take up the Executive/Finance Committee, which is Tab 6 I believe in your briefing book. The first item is the approval of the agenda. There is not a lot on the agenda, but does anybody wish to make any changes for add anything to the agenda?

MR. MAHOOD: Under other business, there is an Attachment 2 in your briefing book. We are going to go over our upcoming schedule for sometime out in the future, 2010 and 2011, and kind of get a feel from the council if we're on the right track. Now, a number of things have changed, and Gregg is going to go over those. That is one addition and I believe you had two additions, Mr. Chairman.

MR. HARRIS: Well, I think one of those two additions has been resolved, and that was the prioritization of the catch shares program with respect to golden crab. The other one is the question of the boundary issue between the Gulf and the South Atlantic Council. If there are no objections, that will constitute our agenda. Do I see any objection to the agenda? Seeing none, the agenda is approved.

The next item is the minutes of the March 2010 meeting. Are there any additions, corrections or deletions to those? Seeing none, is there any objection to approving the minutes of the March meeting? Seeing none, the meeting minutes are approved. The next item is a status report on the CY 2010 Council Budget. Bob.

MR. MAHOOD: It is behind Attachment 1 under the Executive/Finance Committee Tab. If you've had a chance to look at and have any questions, I'll certainly take those. We're in pretty good shape. We ended up having the total of about \$3.865 million this year for operations. I think Mike just told me we have all of our money in except one additional pot of money that I'll talk about in just minute. It took a while.

It kind of trickles in throughout the year, but I think we have it probably quicker than we did last year. With that, Mr. Chairman, unless some has got some specific questions, we're on track. If you look in the percentage spent category, you'll see that we're pretty much on track for this time of the year. We're in good shape.

MR. HARRIS: Questions for Bob regarding the budget? Seeing none, one more item.

MR. MAHOOD: One more item that doesn't show on here, we will be hosting the National SSC Meeting this year in October; and to do that, the National Marine Fisheries Service will give us \$100,000 to conduct that meeting. I think there is going to be a number things addressed by the eight SSCs around the country that have been pertinent to the discussion here today, trying to work on some of these issues, especially things like data-poor stocks and how do we deal with them, how do we develop the control rules.

What amazes me is you've actually got some of these councils that have all the data in the world that still feel like they have data-poor stocks. They just don't know what data-poor stocks are. Well, anyway, that will be an addition. Mike and John's staff are working on putting this together, and we're going to try to make it a very productive session this year. I think there has been a lot accomplished the previous two years, and we expect that to continue. That is it on the budget, Mr. Chairman.

MR. HARRIS: All right, the next item is the report on the CCC meeting or is the Regional Operations Agreement; what would you like to –

MR. MAHOOD: The CCC meeting.

MR. HARRIS: Okay, we'll talk about the CCC meeting that just concluded in Anchorage. I thought it was a good meeting. It kind of followed the meeting in Washington several months previous, and I don't think we really learned a whole lot more at this meeting than we heard in Washington.

Eric Schwaab did attend the meeting and was there the entire time. I would say that the North Pacific Council did an excellent job hosting it. I'll ask David if he has anything to add and then Bob and then Phil.

MR. CUPKA: Mr. Chairman, just two things very quickly. First is that our council will host the CCC meeting next year in Charleston probably sometime in early May or late April or whenever. We're still working on hotel arrangements, but we will be hosting that meeting next year. One of the few things that showed any progress that came out of this meeting was – as some of you are aware when the Magnuson Act was reauthorized, it formally recognized the CCC in the Act. At the meeting this year we finished up some draft terms of reference for the Council Coordination Committee.

This deals with things like membership and organization and rules of orders, meetings, agendas, executive sessions, minutes and public participation. It spells out in a much more formal way how the CCC is going to operate, so that was good to try and get those finalized. That is all I would add, Mr. Chairman.

MR. MAHOOD: I think it was a pretty good meeting. The councils had a lot of good interchange. The way these meetings are conducted, the first day the councils are separate from the NMFS Leadership Group. We then come together in joint session and conduct the rest of the meeting that way.

I would like to say we missed Bonnie and Roy. Phil was there and he did a job of being there, but the one place we really missed Roy and the one thing I was most disappointed about is – there were a number of items. We thought there would be a lot final guidance in several areas. One dealt with the SSCs. Nothing new has been done sine January. One dealt with the ACLs; nothing has happened.

There was really nobody there like Roy to lead that conversation from the NMFS side of it. Even though the councils had a lot of questions and we had a good session amongst ourselves, there just wasn't that component on the NMFS side to really give us some guidance that we really could have used at this point in time. We're hoping that will move forward.

The reason Roy and Bonnie weren't there is because of the oil spill activities, and that was a shame. Other than that, I think it was a good meeting. It is always good when the NMFS staff and council staffs get together and have these types of discussions. The other thing that makes these meetings much more pleasant now is everybody seems to have plenty of money.

Back when there wasn't enough money to go around, they weren't quite as simpatico as they are these days. Hopefully, the one coming up in Charleston, we'll put on a good meeting and some of these things will come to fruition on these final rules and this type of thing prior to that time. That's all I have, Mr. Chairman.

MR. HARRIS: Phil, did you have anything you wanted to add?

MR. STEELE: Not much, but just to remind you of the magic number that you got from the Pacific being 22 stock assessments per year.

MR. HARRIS: Yes, the magic number that we got from the Pacific was 22 stock assessments per year.

DR. CHEUVRONT: How many people do they have to do it?

MR. HARRIS: I have no idea, but they get 22.

MR. MAHOOD: The one thing you've got to remember – and Duane hit on this a little earlier – you come to the east side of the country and you've got one science center that covers the New England Council and the Mid-Atlantic Council. You've got one science center that covers the Caribbean, Gulf and South Atlantic. That is five councils, two science centers. They've got six science centers. Out on the west coast you've got three councils and four science centers. Now figure that one out.

MR. TEEHAN: Mr. Chairman, of those 22 stock assessments, aren't 15 of those rockfish?

MR. HARRIS: Different species of rockfish, yes. I talked about this the other day. One of the most impressive presentations we heard was from the Pacific Council on how they were under the impression that one of the species of rockfish was severely overfished and ended up working with the fishing community who argued that and got some really sophisticated acoustic equipment, put it on fishing boats and went out there and determined that those rockfish stocks were in much, much better shape than anybody ever imagined.

That was very impressive and you see what you can do when you've got the right mix of people and equipment and the cooperation of the fishing community, and they obviously had that in this

project. Bob, anything else about that? How about the Regional Operations Agreement; did you want to talk about that?

MR. MAHOOD: That would be next. If you'll turn to Attachment 2 under the Executive/Finance, PDF Page 62, one thing I would like to say is we send the Regional Operating Agreement out to all the council members, but a lot goes into that back and forth between our staff and the regional office staff.

We all sit down and we agree on what we're going to try to do and the timelines on doing it. I know Gregg and Phil and Jack and a number of the folks get together back and forth. The different teams have to be involved in it, all the players on the different teams, looking at their times. As you can see, it has developed into a fairly good little manual there.

It gives us some direction and I hope it gives the councils a good idea of what their folks are about both at the regional level and the staff level. What Gregg would like to go over is this is kind of what we lay out as our timing. As I was going through it earlier in this meeting and looking at it, I see that we're already – we're doing pretty good on a couple of things, but we're falling behind on others. In the interim I think we've had some additional things added at this meeting, so Gregg will go through that and try to get your input on the track he wants to be on and maybe what some of the priorities are and some of the timelines that may need to change.

MR. WAUGH: The first grouping are items that have a statutory deadline of 2010. We've finished 17B. That was submitted on March 30th. 17A, we gave final approval here, and our intention was to submit that by the end of the month. However, you all have added a new alternative that is going to require new economic analyses.

That is going to require a bit of rewriting to the document and editing. We figure it is a high probability this document may go into a lawsuit, and so it will get extra scrutiny before it gets submitted. I would imagine it will be August before that document gets completed and submitted.

So now instead of after this meeting be able to focus the team and staff efforts on the other items, other actions, other documents, we're going to have to devote a month or so or more of time to revising 17A, so that is going to negatively impact our other actions. Those are the two items with a 2010 statutory deadline, and I would assume that 17A is our number one priority from you all.

MR. HARRIS: That is a pretty safe assumption.

MR. WAUGH: Okay. Then we go to 2011 deadlines. I'll run through them first with some changes and then we'll come back and get your sort of guidance on how we proceed with this. Snapper Grouper Amendment 18 went out to one round of public hearings back in November of 2009. We anticipate approving this for another round of public hearings in September of this year.

Whether we can get that completed and done prior to the December, Red Munden indicated they would like to have a public hearing in conjunction with their December meeting in Virginia, which is the week after ours, so perhaps that would slide then to continuing public input and getting final approval at our March 2011 meeting and then looking at the complete document either in March or June of 2011 and submitting the document April or July of 2011.

The second item with a 2011 deadline is the Comprehensive Ecosystem-Based Amendment 2, which we will be talking about later today. Right now the intent is to approve that for public hearings in December, do public hearings January/February, review actions in March, final approval for formal review in June.

Then we come to two joint amendments with the Gulf Council. Our Mackerel Committee met jointly with the Gulf on Tuesday. The schedule for this item is slightly different in terms of when the council reviews and approves for public hearing. We will still do it at our September meeting. There is quite a bit of work to be done on that document to get it ready for approval in September.

Then the Gulf would anticipate they would approve at their October 25-28 meeting in Baton Rouge. We would do public hearings in the November and December time period; and then review public hearing input at our December meeting and the Gulf's February 2011 meeting; final approval at our March 2011 meeting and the Gulf's April 2011 meeting and sending that in April.

The other joint amendment with the Gulf has a SEDAR update ongoing now. We had our Spiny Lobster Joint APs in on Monday and the committee. We're looking to review the document and approve for public hearings, us in December 2010 and the Gulf in February 2011; doing the public hearings in April 2011 after the fishing season ends; review public comments at both councils in June; and then final review and approval for submittal in August for Gulf and September for us; and submitting in September 2011.

You can see we're starting to get near the end of 2011. Then the biggest item to meet this 2011 deadline is the Comprehensive ACL Amendment, which obviously has a lot in it. It isn't just asking the economists to do analyses for snapper grouper, which is a large item, but it is snapper grouper plus all of our other FMPs. This is going to require a lot of work.

The anticipated schedule is to approve for public hearings in December 2010; do public hearings in January and February of 2011; review comments in March; review the complete document and approve for formal review in June and send to the secretary in June. Given the complexity of this document, I would fully anticipate that sliding a month, such that we're giving you final approval in September.

Now, I'll stop there because these others have no statutory deadline. However, there is a new amendment. We got the letter on red grouper at this meeting, so we have an Amendment 23 dealing with red grouper and you added black grouper to that. We have, under the new Magnuson Act, two years to implement an amendment to end overfishing.

That clock started when we got the letter at this meeting, so June 2010 we have 18 months for us to finish it and sent it to NMFS so that they have six months to implement it. That means we have to take final action in December of 2011. In this schedule I just outlined to you we have to squeeze another amendment in there that establishes the rebuilding plan for red grouper.

I'll stop there, and this doesn't get into any of these other items nor does it get into the new framework that you talked about. I don't know if we need to prioritize any of these because all of them have a December 2011 deadline. Now, whether that can be achieved or not is pretty questionable. There is a lot of analyses, a lot of work, a lot of hearings there.

As you heard, too, it is perhaps unfortunate timing, but we've got to hold a National SSC Meeting and the Council Chairmen's Meeting. Again, I don't know if you want to discuss any of this now because, honestly, my recommendation at this stage is that we focus our staff and NMFS resources in meeting all of these 2011 statutory deadlines before we devote much staff time to any of these other items.

MR. HARRIS: Comments or questions for Gregg? Bill.

MR. TEEHAN: Mr. Chairman, I guess this question would be for Roy. It sounds like you all have a fairly ambitious schedule for December 2011 and I imagine the Gulf Council will be the same. I also imagine, knowing human nature, that most of the other councils in the nation will be turning their stuff in late or at the last minute. Roy, do you anticipate any sort of backlog on all these ACLs and so forth being due by the end of the fishing year and we're assuming 2011? What is going to be that status or situation; do you know?

DR. CRABTREE: I expect you to get them done on time.

MR. TEEHAN: Okay, you got that one; now what is the reality of the situation?

DR. CRABTREE: We'll do the best we can to get them done, Bill, but obviously it is a lot of work and it is a challenge.

MR. HARRIS: Other comments or questions? Well, my suggestion is we do have to focus on the statutory deadline items that are on our plate. If that means sliding some of these other items, they're going to have to slide. I don't see any way we can squeeze both the council staff and the NOAA Fisheries staff that work on these things any more than they're already being squeezed.

I would just say we have to be practical with respect to all this and maybe as we make some decisions with respect to moving some things out of the FMPs and giving perhaps some items to the state of Florida to deal with, maybe that will lessen some of the workload, but it is certainly not going to lessen the bulk of it. It might give us a 5 percent break, but that is probably all it would give us. Unless I hear anything different, I think we've got to move forward with the statutory deadline stuff. Brian.

DR. CHEUVRONT: I agree with that, Duane, but some of the stuff, for example, like meeting planning and all that that we've got coming up next year, you can't wait until you've got the

statutory stuff done. You're going to have to have some time to spend on that. We have a couple of things under the non-statutory deadline that perhaps there is some work that can be done, and I was sort of thinking along the lines of the Golden Crab Amendment and Snapper Grouper Amendment 21.

That is the Comprehensive Catch Shares Trip Limits Amendments. Among the non-statutory things, in my mind those are probably two of the most important things that we need to get moving on. Assuming that there may be time to do some other non-statutorily driven stuff, I think it probably wouldn't hurt to give council some indication of what our preferences are for some of these non-statutory things, understanding that they take a back seat to meeting our statutory requirements.

MR. WAUGH: And we do have some assistance. Mark was here this week, and he has been tasked to work with us out of HQ. We do have some assistance to work on catch shares. The golden crab one would not be as involved as something like the one for comprehensive catch shares. That is something that we can work on.

As we take more of our economist's time on that, that shifts more of the burden on the NMFS economists. They're fully loaded as well. All of this assumes that oil doesn't come around the corner in Florida. We will take that direction to work as we have time on the Golden Crab Amendment 5 and Snapper Grouper Amendment 21, which is the Comprehensive Catch Shares Amendment.

MR. HARRIS: Other comments and direction to staff with respect to this issue?

MR. MAHOOD: I think what we maybe need to do is – and this goes on. We have an interchange with the regional office. Maybe before the September meeting we can sit down with Phil and Roy and myself, maybe, and Gregg; and if not, at least at Phil and Gregg's level and sit down and really try to lay things out relative to what resources we have.

When Gregg says when the oil comes around the corner, I know that the staff down there – and certainly we lost Roy at the CCC meeting because of the oil spill in the Gulf. I don't know if that is going to get any better anytime soon, so there may be some other things that draw resources from the regional office and science centers.

Maybe we can get together and look at kind of where we are and what we've got to do and get it fleshed out. Also, we've got one vacant position that we'll be hiring for. As a matter of fact, I probably should announce it. Dale Theiling from our SEDAR staff is leaving the end of June; and Kari Fenske, who is one of our staff scientists under John, she is going to take Dale's position on the SEDAR staff. Kari's position will be open and we will looking at getting somebody in there.

Also, we still have a vacant – if you looked at the budget, I was surprised nobody asked me why we had about a hundred thousand that we didn't have obligated for anything. As you recall, we talked about kind of holding on to that money to see what happens with budgets in the next couple of years. We have that capability of bringing on another staff person.

The last direction we got I think from the council was that we may want to look at filling the cultural anthropologist's position, which could be a key position in helping develop some of these actions we're taking. I think you still just have one cultural anthropologist at the region or do you have two now? You have two now. That is something else when we talk to the regional office we can look at; and if that is not the appropriate level; we may need another economist or something like that, then that is something that we can also put on the table at look at doing.

MR. GEIGER: Well, we've got money; why don't they bring in Party's Are Us to plan the Triple C meeting and bring that to fruition?

MR. HARRIS: I think in all likelihood it could involve a meeting planner to assist with that, but I have to let them make the decision based on the amount of money that is available. Phil.

MR. STEELE: Just a couple of things. We are in the midst of hiring another anthropologist. We only have one, by the way, and we're going to get another one here sometime in the next three or four months as soon as Work Force Management clears the package. Also, probably later on this year, because we've assumed the duties of writing the regulations for the South Atlantic, I'll probably add a junior regulation writer to the system.

As you know, once the plan and amendments are all done, that really starts a lot of my staff's work again in addition to the IPTs. I don't know if Roy is going to brief you or how much on the oil spill. We've kind of got it down to a system with the emergency rule and the kind of a framework action that we've done where we examine the data that we get on a daily basis and one makes a decision on whether or not we move the lines that adjust the oil spill.

If and when it comes around the corner, then we'll probably do the same thing. It is a system; we've got it down, but it is 24/7, seven days a week. It is something we have to look at. The man is on staff and we'll just deal with it as we see fit. I do have some extra staff coming on board and it should help a little bit with these things. We'll get it done.

MR. WAUGH: I don't want to trigger a debate over the pros and cons of a cultural anthropologist on staff, but the realities are we have to do fishery impact statements and social impact assessments. Those are rigorous analyses. We are impacting the fishing sectors tremendously; and to do these cumulative impact analyses is no easy task.

I'm in the position of having to argue with Phil and Phil's staff to try and get them to cover all the social impact analyses and that is not fair. I mean, if there is concern of putting someone in a position long term, then at least let's hire someone on a contractual basis to work with us for a year or two to do these analyses. Quite frankly, those sections are not as strong as they could be and as they need to be.

MR. HARRIS: Well, I understand that and I think everybody on the council understands that, but the question is going to be where is the money going to come from, do we have the money, what do we give up if we do that? Whether we bring somebody on board on a permanent basis or on a contractual basis, let's look at that. Why don't you all just kind of analyze that and come

back to us in September with a recommendation. Would that work, Bob? Okay, anything else on this issue.

Okay, the last item is the one other business item that we haven't talked about yet and that is the boundary line issue between the Gulf Council and the South Atlantic Council. I know Mark had some things to talk about with respect to that, but, Roy, did you want to open that discussion or would you like congress to open that discussion?

DR. CRABTREE: Well, I'll open it. We certainly have a problem down in the Keys, and I never thought it was fair to the folks down there. It is the largest fishing area in Florida and one of the largest in the country. I've just never been happy with the jurisdictional situation. Some time back I asked the attorneys if we could change that. I guess it is unclear to me still whether we can change or not. Bob says no, but I wouldn't mind exploring it a little more. I have never really gone anywhere with it because I wouldn't even attempt it unless both councils were supportive of doing it.

MS. SMIT-BRUNELLO: We had an intern look into it, and she produced a document that I believe Mike McLemore reviewed. I think I saw it, too. It has been a couple of years. My recollection is that the decision was it probably couldn't be done, but I would be glad to look at that again and look at seeing whether we could do it if that is what you want.

Right now the Magnuson Act states that you have authority over fisheries in the Atlantic Ocean seaward of the states of North Carolina, South Carolina, Georgia and Florida. My thinking is the Atlantic Ocean off of the east coast of Florida is your boundary that is seaward. The Gulf is the same except it is in the Gulf of Mexico seaward of those Gulf states. I would be glad to look at it if you would like me to a little further and get a more definitive statement.

MR. TEEHAN: Mr. Chairman, we've broached this with the Gulf Council at our last meeting and there seemed to be some interest amongst the council members. Of course, this is a Florida issue so they tend to defer to the Florida constituent. On the council levels and on the state level, we have the same problem with Monroe County.

Grouper is an excellent example of Gulf federal regulations and South Atlantic federal regulations. They're all governed by which side of the bridge you're on, and it is very difficult for enforcement and anglers to understand that. I think we would support some sort of a change, be it toward Monroe County/Collier Line, which would be the Gulf side, or Monroe/Dade or whatever works out I think is something that we certainly are willing discuss.

I will defer to Mark because I know he has got comments. However, I don't think we've really adequately run this up a flag pole to the people who live in Monroe Country, and I think that would be a very important group of constituents to get some comment back. For example, somebody correct me if I'm wrong, but I don't believe MRFSS even takes data in Monroe County because of the confusion of where those fish were caught. Something should be done.

MR. ROBSON: Bill hit a number of key points. Number one, this is important to Florida because it has been a historical point of confusion for fishermen, for our enforcement officers,

for data collectors and data analysts for years and years. I don't know whether recreational data – how exactly it is reported, but quite honestly it is a mess down in the Keys and in Monroe County because of this split jurisdictional issue.

Bill is also correct that this is not something that we have discussed much at all with the fishermen and the community down there, and that is certainly something that our agency would want to do. I also don't have a strong feeling as to whether or not it would be better for Monroe County to be considered Atlantic waters for federal management purposes or Gulf waters.

My understanding of the process is that if the state of Florida – and I think Monica may be able to – I don't know if is somewhere in the Magnuson Act, but I believe the process is for a request for a change in a council boundary can come from a state; is that correct?

MS. SMIT-BRUNELLO: I have no idea, but I will find out. The changes in council boundaries, I don't really think it is addressed in the Magnuson Act, but maybe it is. Bob might be correcting me.

MR. ROBSON: I think it is.

MR. TEEHAN: I think it is the governor of the state request that the Secretary of Commerce make the change; does that sound familiar?

DR. CRABTREE: I agree with Monica; I don't think there is anything in the Act about that. Monica is right on what the statute says, and in the regulations we spell it out. The question is really where is the demarcation between the Gulf of Mexico and the Atlantic Ocean? Well, does that necessarily have to be U.S. 1 running through the Keys or could it be redefined as somewhere else? That is the question. I have argued that, yes, it could be redefined somewhere else. There is nothing magical about U.S. 1, that that has to be it. I don't know if I'll prevail on that.

MS. SMIT-BRUNELLO: We need to look at what established that boundary, too. It is not established, I don't believe, by the Magnuson Act. I don't know how the demarcation between what is Gulf and what is South Atlantic in terms of the actual water part. I don't know how that got established, but we'll find out.

MR. HARRIS: I think David knows the answer to that and he is next up.

MR. CUPKA: Yes, I'm really telling my age now, but I remember when this issue came up when the councils were first formed and I was going to South Atlantic Council meetings. The Act does say that we have responsibility for stocks in the Atlantic. The real question is where does the Atlantic stop and the Gulf start?

MS. SMIT-BRUNELLO: That is what I meant.

MR. CUPKA: And it is not spelled out in law, I don't think, of the Magnuson Act, but they did go to a federal law that spells out where the Atlantic stops and the Gulf starts, and it seems to me,

as I recall, it was based on some federal law that was used for purposes of oil and gas development. That's how it ended up where it is now, but the real question is – you know, we clearly have responsibility for the Atlantic, but the question is where does the Atlantic start and stop. It has nothing to do with the U.S. 1, I don't believe, but that's the way it came about. It seems to me that –

DR. CRABTREE: I think right now the boundary traces the line where it shifts between three miles and nine mile state waters on Florida. There was a big argument over this, and I think there were threatened lawsuits and things, which tells me there were different opinions about it, and there was some discretion involved. I think we just need to find out whether this is something that is set in stone or is it something that could be changed through rulemaking. I have asked that, but I haven't gotten a definitive answer.

MR. CUPKA: The way it was settled I think – at least the story I always heard was that it was very contentious. I don't know that there was ever actually a lawsuit. There was talk about having lawsuits. At the time we had a member of the South Atlantic Council, Jay Roy Duggan, who was good friends with the Attorney General of the United States, and they were playing golf one day and Jay Roy suggested to him that they use that law to separate the Atlantic and Gulf, and that's how it came about. I don't think there was ever actually any kind of lawsuit, but there were threats of lawsuits, but it got settled before it got to that point.

MR. SMIT-BRUNELLO: I think there was a general counsel opinion written on it, too, that I've seen. It's probably on parchment with the quill and stuff, but we will dust it off and see if we can find it.

DR. CHEUVRONT: Most of the points I wanted to make were made by Bill and I think David at some point on what they were saying, but the only thing I am going to leave with here is that any decision to change this is bigger than just the councils. It is going to affect data collections, it is going to affect all kinds of stuff; and so I think before we would consider doing that, I think we would probably need to assess how some of those things would need to change as well to accommodate such a change.

MR. HARRIS: Well, you're right, Brian, it also would change some of our fishery management plans; like golden crab where we've been working with the fishermen for a long, long time, and I don't know that they're catching any golden crab in the Gulf; and if all of a sudden we shifted the boundary over to the east coast somewhere, to put the Florida Keys in the Gulf of Mexico Boundary, they would be responsible for a lot of that golden crab fishery. They certainly don't have the tradition. There are just a lot of questions. Mark.

MR. ROBSON: Well, what would happen to get this thing started? If the state of Florida sent a letter to both councils requesting that this be examined for possible consideration, that means some work would have to get done to evaluate this based on all those things you were just talking about, but would that be sufficient and could that get a good, detailed analysis completed based on a letter like that?

DR. CRABTREE: Yes, I think if you sent a letter to Chairman Harris and Chairman Shipp and myself expressing the state of Florida's interest in this, that might help get this going.

MR. ROBSON: And I guess that letter, of course, would be – we would want to be transparent with the public and so the implication would be that a review and consideration of this issue with both councils and NOAA Fisheries would also involve some level of public involvement and participation in the discussion.

DR. CRABTREE: Well, under any circumstances, if this change were to be made, it would have to go through a proposed rulemaking and there would be public comments on it and all those types of things. I would guess that the councils could hold hearings on it.

MR. HARRIS: Now that I've let everybody have their way, I'm going to let Bob tell you what we need to do.

MR. MAHOOD: I researched this a little bit when it first came up. Basically, it is going to take congress to change it. You have to amend the Magnuson Act. You can't just reach an agreement where the boundary set by the congress was. I think we would have to go back – I've got a book that has the intent of the legislation going way back to 1976.

I would like to see the report that was done on that. It is interesting when you look at the definition of the Gulf of Mexico. It says the Gulf of Mexico is an arm of the Atlantic Ocean, so maybe we should be managing the Gulf, but we don't want it anymore; it is polluted. I think Roy is right about how they picked the lines.

It says it is an arm of the Atlantic Ocean in Southeast North America bordering on eastern Mexico; the southeast United States and Cuba. It connects with the Atlantic Ocean through the Straits of Florida and with the Caribbean Sea through the Yucatan Peninsula. I suspect what they did, Roy – and I'm not sure where the nine-limit line starts. Does it start on that side of Key West? I suspect you're right; they probably took that line and that was the demarcation line that they used to demarcate the Gulf of Mexico and the South Atlantic.

DR. CRABTREE: I think it is actually out in the Tortugas. Where are you reading that from, by the way?

MR. MAHOOD: Well, it is Answers.com, but it is very similar to what I've seen. I think I have an easier fix for Mark. Now, the problem Florida is having are regulations on one side of the bridge are different than regulations on the other side of the bridge. Why don't we form – in part of your letter for changing the boundary – form an ad hoc committee of the two councils to sit down and have compatible regulations in the Florida Keys.

To me that is a much easier fix than trying to change a boundary, because I don't think you're going to get our council to agree to that. I'm not going to let them as long as I'm here because we fought those battles. Early on there were actually lawyers hired and that is why there is language in the Magnuson Act telling the councils they will have to get permission from NOAA General Counsel to hire an attorney.

MR. TEEHAN: Bob, I have a solution for you. Why don't we give you the Gulf for now as a trial basis; and when you get it cleaned up, we'll take it back.

MR. MAHOOD: On several occasions, I think going as far back as when Ben was on the council, we talked about getting together and doing something as simple as having compatible regulations in that area. I don't know why we have not ever done that.

MR. ROBSON: Well, that is absolutely what I would love to see, but I think the reality is and given the rapid changes in regulations we have seen in the last two years and are likely to continue to see as we're constantly rebuilding and trying to adjust management regulations, that is going to be almost impossible. It has been very frustrating for the state of Florida.

It is very frustrating for the fishermen down there to have to try to figure out which set of federal regulations they've got to comply with, and they're not consistent. Shallow-water grouper this year and last year was a very good example of that, and it has a direct bearing on the people fishing down there in Monroe County. I think it would be great if we could make sure it always happens, that that group is always working toward consistency, but it doesn't seem to be that feasible to me.

MR. HARRIS: Any discussion on this issue? Mark, you can certainly write a letter, if you would like, and if that gets the ball rolling – I suspect the answer that we're going to receive from the attorneys is essentially what we've heard here today, but I can't predict what the attorneys would do.

Nonetheless, I think it is an important issue, and it certainly is not something that we would take lightly even making some request to change a boundary line. I think as Bob said it would be a lot easier if we could try to come up with compatible regulations in the Keys. But if we don't begin working on that soon; it is like a lot of other things, it will get moved to the back burner and never see the light of day. Maybe a letter, as Roy suggested, would be appropriate and you might want to put something in there about compatible regulations and some kind of ad hoc working group, I don't know, whatever you want to do.

DR. CRABTREE: And just as the last word, personally I think it would be easier to change the law than to get the Gulf and the South Atlantic to come to agreement on compatible regulations.

MR. HARRIS: That might have been true in the past, Roy, but we've got this blood brother relationship now with the Gulf. Okay, is there anything else to come before the Executive/Finance Committee? Okay, this committee is adjourned.

(Whereupon, the meeting was adjourned at 4:30 o'clock p.m., June 10, 2010.)

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Certified By: _____ & _____ Date: _____

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