SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

JOINT ECOSYSTEM-BASED MANAGEMENT AND HABITAT & ENVIRONMENTAL PROTECTION COMMITTEES

Charleston Marriott Hotel
Charleston, SC

September 17-18, 2009

SUMMARY MINUTES

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Dr. Roy Crabtree
Mac Currin
Ben Hartig
Rita Merritt
Mark Robson
Susan Shipman, Vice Chair
David Cupka
George Geiger
Dr. Wilson Laney
Charlie Phillips

Habitat & Environmental Protection Committee

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Observers/Participants:

Monica Smit-Brunello
Karen Antrim Raine
Dr. John Reed
Dr. Bonnie Ponwith
Dr. Erik Williams
Mel Bell
Nik Mehta
Hal Robbins
Dr. Jack McGovern
Bob Gill
Dr. Jim Waters
Phil Steele
Dick Brame
Dr. Nick Farmer
Otha Easley
Red Munden

Other observers attached to the end of the document.

Joint Ecosystem-Based Management and Habitat Committees of the South Atlantic Fishery Management Council convened in the Charleston Marriott Hotel, Charleston, South Carolina, September 17, 2009, and called to order by Chairman Brian Cheuvront.

DR. CHEUVRONT: I would like to call to order the committee meeting of the Joint Ecosystem-Based Management and Habitat Committees. We do have an agenda, and there are a couple of changes to the agenda. We are not going to be doing two of the presentations that are on there. One is the SECOORA Presentation and the other was Kim Iverson was going to be doing an update for us, but I think we're going to delay both of those until the December meeting when we have a little bit more time. Wilson.

DR. LANEY: Mr. Chairman, I had requested I think by e-mail to have some issues discussed but we've deferred those to the December meeting, I understand. I did want to just brief the committee on one very sort item, and it won't take but a minute or two.

DR. CHEUVRONT: Okay, if you can remind me of that, Wilson, when we reconvene the committee under other business. Is there any objection to the agenda as modified? Seeing none, the agenda is approved. We also had minutes from the June 2009 Ecosystem-Based Committee. Does anybody have any changes, additions, deletions, whatever to those minutes? Seeing none, the minutes stand approved.

Okay, what I would like to do at this point, simply because of our changes in time, I would like to go ahead and introduce John Reed, who is a member of the Coral AP. He is a researcher with the Harbor Branch Oceanographic Institute at Florida Atlantic University. He is going to do a presentation today on the recent research cruise off Cape Canaveral in deep sea coral.

DR. REED: I want to thank the members of the council and the panels and Roger and Myra for inviting me to talk about these deep water reefs again. I believe I presented to the council a number of times about these incredible deep water reefs. In fact, in 2004 Dr. Steve Ross and myself gave our first presentation to the Coral Advisory Panel, and the report was the status of knowledge of the deep-water reefs off the Southeastern United States.

Since then I've provided more data and additional reports every year since 2004 when we first submitted the proposal for the Deep Coral HAPC, so that has been going on almost six years now. I'm very hopeful that the council will have time and is able to vote for this proposal. I think it's very important.

I know the Coral Advisory Panel I believe voted unanimously to go ahead with the proposal for the Deep Coral HAPC. Anyway, this report here is just a short slide show and then a video from submersible dives that we made within this proposed HAPC on a cruise a month ago. We were very fortunate to get submersible and ship time to work out there in these deep-water reefs from North Carolina to South Florida. This is our latest one a month ago. We had two weeks out there.

Steve Ross was the chief scientist. He finalized a written report that went to NOAA and I believe to the council just kind of summarizing what we did out there during these two weeks.

The ship was the Seward Johnson from Harbor Branch Oceanographic Institute, and, of course, we used the Johnson-Sea-Link Submersible, which dives to 3,000 feet.

Most of the research cruises are sponsored by NOAA, and in this case it was the NOAA Deep Sea Coral Research Program and the also the new NOAA Cooperative Institute for Ocean Exploration and also the USGS. We had about 20 scientists and collaborators on the cruise, scientists from all over the world, looking at different aspects of these deep-water reefs; people from the Scottish Association of Marine Science, NOAA Fisheries, Harbor Branch; MCBI; USGS; UNCW; and the North Carolina Museum of Natural History.

Our objectives, like most of our cruises to these deep-water reefs, are basically to just get some basic information, an understanding about these reefs, what lives there. Compared to our knowledge of shallow water reefs, our knowledge of deep water reefs is about a hundred years in the past, so right now we're just mapping the bottom, trying to map and characterize these different habitats and understand the fauna that is associated with this deep water coral habitat.

Part of the objectives is looking at the genetic studies of the coral and the fauna. We know very little about the reproduction of these deep-water corals, the connectivity of the Lophelia Coral from the Gulf of Mexico to the Southeastern United States over to the Eastern Atlantic. We were able to deploy a new microlander with camera and audio and data collection on the bottom.

A lot of the sampling that we did with the submersible was to collect coral and the fauna that lives with the coral as well as the microbial community. It's really basic research just to get an understanding of this very relatively unknown deep-sea coral ecosystem. A large component of this expedition was education and outreach, and the South Atlantic Fishery Group, Kim Iverson in particular, were a big part of this cruise in setting up the media and outreach, setting up websites, education and so forth.

We had a media day where various media came out and visited the ship for a day. We had an interview from NBC Nightly News and various newspapers. I certainly want to thank Kim for all of her work on this. She was going to give a presentation, but she is available. She has photos and the packets that were handed out to the media during this event.

As you may or may know, there are basically three corals to make deep-sea reefs in the Western Atlantic, *Oculina*, *Lophelia*, and *Enallopsammia*, and *Enallopsammia* and *Lophelia* kind of grow together. As you know, the *Oculina HAPC* occurs shallower the shelf edge off Florida. This is the proposed Deep Coral HAPC from North Carolina to South Florida based on my research and other people's research going back thirty years.

This particular area off of Florida is called the East Florida Lophelia Reef Sites. What was incredible is that these sites ranging from high-relief features, two to three hundred feet tall reefs, to low-relief, almost flat-bottom structures, not really structures but flat bottom where you have more coral rubble, not the high relief that then just kind of grades up to the high-relief features that are covered with the large coral thickets.

These sites that we have studied during this cruise were basically from Cape Canaveral to Fort Pierce, a depth about a half a mile deep, 1,400 feet to 2,600 feet. On the right side are the sites we dove with the submersible, 12 different sites that I had presented to the council previously from my data. Some of these sites were new that we never dove on before, but I suspected there was coral habitat.

In addition to the submersible dives, we did CPD casts and deep-water net tows and plankton tows. Some of the equipment that we put on the submersible is this lander. This consisted of a time-lapse video camera, an audio recorder to record fish sounds, TTD to record the bottom, temperature, salinity and so forth.

We were able to place this right on the reef and right in front of living coral to try to capture the fish there, what fish are making the sounds, can we record the sounds, as well as getting close to the bottom physical data, which we don't have or we have very little of, such as temperature, salinity, current close to the bottom where the coral and the fish live.

This is another gizmo that our engineers from Harbor Branch developed. This is a sampler that goes over a living coral head and has these fingers that are hydraulically driven and a net so you can pick up the whole head or coral colony and collect everything on and within it. It is incredible how much habitat a little coral head provides for all these other animals like shrimps and crabs and worms.

On the *Oculina* a little head like this I found 2,000 animals living in the head the size of a soccer ball. This was a study we looked at to look at the microbial community living within the coral. This went on the front of the sub where we collected small pieces of coral and then analyzed them for bacteria, fungi and possible coral disease.

Also on the front of the sub we had these various collection buckets where we used the manipulator to collect samples, very close coral samples or invertebrates or fish. This is of the new reefs that I just discovered last year using an automated underwater vehicle with a multibeam. This was in an area that all of the available charts showed a flat bottom. The best available NOAA charts showed flat bottom here.

I did a multibeam and found these incredible reefs; and when we dove on them, these were some of the most pristine deep-water reefs I've seen. The individual from Scotland, who has done a lot of work in the Eastern Atlantic off Scotland and Norway, said that these were the most incredible reefs that he had ever seen. Some of these coral colonies were ten feet tall and fifteen feet wide; absolutely incredible.

But even in addition to the living coral, you have the dead coral, the standing dead coral, the coral rubble which provides incredible habitat for other organisms, sponges, gorgonians, sea fan, soft corals, and all of this provides habitat within this proposed HAPC. Each day we did two dives collecting samples, and each of the scientists had their own thing. One person studied coral genetics and one crab genetics and one coral reproduction and so forth.

Part of the work we did was also looking at the bioactivity of the organisms living on the bottom, primarily the sponges and gorgonians. Some of these sponges have proven to be incredibly active. This sponge right here, which was highlighted on that NBC News from the cruise is called *Aphrocallistes.* It's a deep-water sponge and it has very potent activity against pancreatic cancer that we're working on at Harbor Branch Institution that we discovered on these reefs just a few years ago.

Overall we had 108 stations. 22 submersible dives, 2 deployments of the micro-lander, 28 CPD casts – that's measuring temperature and current and salinity all the way down to the bottom – 24 net tows – these are deep-water net tows to different depths so you can collect what is in the water column trying to understand the trophic dynamics of what do these corals eat, how much do they rely on the upper surface water of the Gulf Stream?

There is so much we don't know about these reefs; it's incredible. Luckily we had 20 top scientists out there working on it on this cruise. This is just some data we collected with the micro-lander on the bottom. That top left chart shows actual diurnal tide occurring on the bottom out there at a depth of 2,500 feet. You could see this diurnal pattern of the tide; on the right where temperature changes.

The temperature is pretty cold out there; it is going from about 40 to 45 degrees, and the current on the ranges from near zero to over a knot. It's a very forbidding place, cold, dark and difficult to work on without a submersible. If we have time, I have an eight minute video, which are excerpts of the submersible dives. This is the HAPC where we know there are coral sites out there within the HAPC and also outside.

MR. ROBSON: Dr. Reed, can I answer a question? You mentioned the climate change issue. Given that location, are there any efforts underway to do any kind of long-term monitoring to see what sorts of changes might occur in that deep-water system as a result of climate change and the effect on current?

DR. REED: Absolutely; we just received a grant from NOAA between UNCW and Harbor Branch called the NOAA Cooperative Institute, and we hope part of that funding will allow us to study these deep-water reefs further, possibly putting longer-term landers on the bottom to measure bottom temperatures and salinities, PH and so forth.

We did submit a proposal to NSF to last year to go to these sites and look at the possibility of ocean acidification. We know that deep-water reefs will be one of the first canaries in the coal mine as oceans acidify – they won't acidify, but as PH drops within the oceans over the next 50 years with predicted global warming. The deep-coral reefs especially in the Arctic areas will be the first to see evidence of this, and so we want to measure that out here in the Straits of Florida also.

(Whereupon, a video was shown to the committees)

DR. REED: Hopefully, this just gives you a glimpse of what we saw out there in the last two weeks. What was especially surprising to us is that each of these sites that we dove were

different. One site was a hundred percent living coral; another site had all kinds of sponges on it whereas the other site did not. One site had a lot of different crustaceans. Even though these sites were relative close together throughout this whole area from North Carolina to South Florida, there is incredible diversity in both habitat as well as species. Thank you very much.

DR. CHEUVRONT: Thank you, John. It was fascinating to see all that stuff; I think it was interesting. I was in Bermuda last week – just to throw that out there – and I went by the Bermuda Institute for Oceanographic Science and talked with some of the coral people there and asked them particularly about deep-sea corals.

They said, "Yes, we have some here but we don't know anything about them." I also said, "Well, you also need to stop doing something. You say that Bermuda is the northern most coral reef in the world." I said, "That's not true anymore. We know that there are deep-sea corals off of North Carolina which is further south than Bermuda is."

They're so used to studying the shallow-water reefs there that they know next to nothing about their deep-water reefs. Anyway, I just want to say thank you very much. It was fascinating. Anybody have any questions for John? Okay, I'm not seeing any so thank you very much for coming and being flexible enough to change the time around a bit to give the presentation to us. Duane, we want to now call the Ecosystem Committee into recess?

DR. CHEUVRONT: Okay, so right now the Ecosystem Committee is going to recess until some other appointed hour.

(Whereupon, the meeting was recessed on September 17, 2009, and reconvened on September 18, 2009, as the Committee of the Whole.)

DR. CHEUVRONT: What we've got is we've got to consider CE-BA 1 and 2 and approve CE-BA 1 to the Secretary, so there are a few things needs to do. I think the other thing is Roger was supposed to do an update for us, which he said is short.

MR. HARRIS: Updates will be tomorrow. We just want to take care of these action items tonight.

DR. CHEUVRONT: That is fine with me if that's what we want to do. Okay, just to give a little recap here, we already did the approval of the agenda and the minutes and we had the presentation, so now we're up to Agenda Item Number 3, the Comprehensive Ecosystem-Based Amendment 1, and Item A under that is the summary of the DEIS comments from the Comprehensive Ecosystem-Based Amendment, which is Attached 1. Myra.

MS. BROUWER: What I'm going to do is just provide you with a quick summary of mainly what the comments were about. The CE-BA 1 Amendment was filed with the EPA on July 17th and published in the Federal Register on the 24th, so the comment period ended on September 8th. During the public comment period, NOAA Fisheries received over 12,000 comments in support of CE-BA 1; all of these from an outreach campaign led by Oceana.

There were also 38 postcards and 2 letters in support of the amendment. Six comments were received through regulations.gov, and among these were comments in support of the amendment from the Environmental Defense Fund, the Center for Biological Diversity and Greenpeace. By the way, all the letters are part of the PDF that's in Attachment 1.

One comment was received from the American Petroleum Institute. This is an agency represents over 400 companies involved in all aspects of the oil and gas industry. API is concerned that the South Atlantic Fishery Management Council appears to be exceeding their authority by attempting to regulate the oil and gas industry.

In addition, they maintain that the CE-BA 1 proposal is based on inadequate data. The document, according to them, implies that the entire area that is being proposed for HAPC designation is carpeted with corals. This is not the case and this can introduce misconceptions that are detrimental for the oil and gas industry. The EPA submitted a letter in full support of the action and rated the DEIS as lack of objection. The Department of Interior had no comment. That's summary I have on DE-BA 1 public comment.

MS. SHIPMAN: Just a question; Myra, did MMS comment?

MS. BROUWER: No, they did not.

DR. CHEUVRONT: Any other questions for Myra on the public comment?

MR. WAUGH: The EPA comment on Page 4, the second bullet, they make the comment, "Since the harvest of golden crab is currently not regulated," we should make sure that in our response to comments that we correct that.

DR. CHEUVRONT: Any other comments? Okay, the next thing we have is the summary of the Law Enforcement AP and the Coral AP recommendations. That is in Attachment 2 and 3, and again that's Myra.

MS. BROUWER: The Law Enforcement AP met this past August. They had a comment on the number of waypoints for the largest of the HAPCs, and we have already been over this. They received an update on the discussions that took place at the June meeting regarding possibly reducing the number of waypoints. They made a motion to take the regional office's proposal with the reduced number of waypoints, 19 or fewer, forward to the other advisory panels to consider when the council brings this back for consideration. That was the only thing that the Law Enforcement AP to comment on for CE-BA 1.

The Coral AP met early this month and they were given a similar update, but they no motion or formal recommendation on the options proposed by the regional office. They felt that it was not necessary at this point since this is going to be revisited in a later amendment, and so they decided to have that discussion at their next meeting.
They also wanted to have all the background information on the location of all the identified relief areas available to determine which, if any of those options should be considered. They felt that they just did not have enough information as to potential areas of coral distribution along the

boundaries of that HAPC to make a recommendation as to whether that boundary should be changed.

They did suggest that the council look into the possibility of either joint meetings or having representatives from the appropriate committees or panels present when the Coral AP discusses this item in the future. This is basically a summary of the recommendations, but there is a lot more detail on what the Coral AP recommended not just on CE-BA 1 but also on CE-BA 2. That concludes my report.

DR. CHEUVRONT: Does anybody have any questions for Myra on those comments from the APs? Roger, do we have comments from the Habitat AP?

MR. PUGLIESE: Just quickly, the Habitat AP was presented the concern of the Law Enforcement Advisory Panel and the consideration of revisiting the numbers of waypoints and the option to look at any reconfiguration of existing proposals, and there was no recommendation provided.

DR. CHEUVRONT: Thank you, Roger. Any questions? Yes, David.

MR. CUPKA: Mr. Chairman, not a question but also I wanted to get it on the record that I attended the AP meeting of the golden crab, and that they also took action relative to boundaries in CE-BA 1. They wanted to go with the original waypoints that is in the amendment now and not the amended waypoints. I just wanted to get that on the record that was another AP that did consider it.

DR. CHEUVRONT: Thanks, David. It was valuable that you were there and help remember all these things. Okay, we're now on Item D, Overview of Proposed Changes to CE-BA 1, Attachments 4 and 5.

MS. BROUWER: The document that is in your briefing book is the document that was filed. There have been no changes made to that document; however, Roger provided to you an appendix that will contain maps for all the EFH and HAPC designations. Those are included in the appendix.

Another change will be edit and clarify some of the description of the Golden Crab Fishery. The golden crab fishermen came forward saying that they had reviewed that description, and they wanted to make some edits to it. They have agreed to provide language to me by next Friday. These are the only changes that will be taking place prior to FEIS. Some of the figures within the document will also be replaced.

MS. SMIT-BRUNELLO: But those figures that are going to be replaced, you have those. I think it's in the additional material folder. They're going to be slightly revised just a little bit. I gave some edits to Roger, some of the text; just very minor edits in the legend box and then to make sure that the text is reflective of which map it is and all that, but they're very minor edits. I think the maps look good and the figures, too.

DR. CHEUVRONT: Okay, I think we're at the point where this is your last opportunity to make any revisions to CE-BA 1. This has been such a long process I can't imagine that at this point anybody wants to do anything. David.

MR. CUPKA: I was just going to make a motion, Mr. Chairman, that we submit CE-BA 1 to the Secretary of Commerce.

DR. CHEUVRONT: Seconded by Mark Robson. I'm opening it up for discussion and I'm going to make the first point. I think we think we need to include something in here says that we can give Myra the ability to make the edits that she just described. Is that okay with the motion maker and the seconder.

MR. CUPKA: Yes, that was part of my motion to give discretion to the staff to make minor editorial comment.

MS. SMIT-BRUNELLO: At this time do – I guess I'll ask Bob – do you want to also deem the proposed regulations or do you want to do that separately?

MR. MAHOOD: I think the direction we have been getting at the TCC is it should be done separately.

DR. CHEUVRONT: Okay, is there anymore discussion on the motion? Duane.

MR. HARRIS: Call the question.

DR. CHEUVRONT: The question has been called. This is a roll call.

MR. MAHOOD: Mr. Boyles.

MR. BOYLES: Yes.

MR. MAHOOD: Dr. Crabtree.

DR. CRABTREE: Yes.

MR. MAHOOD: Mr. Currin.

MR. CURRIN: Yes.

MR. MAHOOD: Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: Yes.

MR. MAHOOD: Ms. Merritt:

MS. MERRITT: Yes.

MR. MAHOOD: Mr. Philips.

MR. PHILIPS: Yes.

MR. MAHOOD: Mr. Robson.

MR. ROBSON: Yes.

MR. MAHOOD: Ms. Shipman.

MS. SHIPMAN: Yes.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: Yes.

MR. MAHOOD: Vice-Chairman Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Chairman Harris.

MR. HARRIS: Yes with extreme pleasure.

MR. MAHOOD: Chairman Cheuvront.

DR. CHEUVRONT: Yes.

MR. MAHOOD: Mr. Chairman, it passes unanimously.

DR. LANEY: Mr. Chairman, if we were voting as a committee instead of as the Committee of the Whole, I would have voted in favor of the motion. Thank you.

DR. CHEUVRONT: Yes, sorry about that, Wilson; I didn't want to take away your ability to weigh in on that. That's great; this is really wonderful day I think for this council that we have finally gotten this far with this amendment. What we're going to do is we're going to have the overview of the proposed rule by Myra.

MS. BROUWER: This is going to be very brief. I'm basically just going to outline the edits that were done to the rule since you saw it in June. There were some corrections that Perry made to

the boilerplate language. Also, seven of the geographical coordinates were corrected. These are minor corrections.

The term "rock shrimp access areas" have been corrected to read "shrimp access areas" since they are assessable also to the Royal Red Shrimp Fishery. The phrase "trawl (including pelagic trawl)" was changed to "trawl (mid-water or bottom)". It was also pointed out that the proposed restriction that is applicable to the Coral HAPCs regarding fishing for coral or possession of coral in or from an HAPC on board a fishing vessel is actually redundant, but I guess the drafters felt that it was such an integral part of the Coral HAPC Proposal that it deserved to be juxtaposed with the other applicable restrictions, and so it stayed within the rule. That's it.

DR. CHEUVRONT: Thank you, Myra. Monica.

MS. SMIT-BRUNELLO: I would just remind you all that you're voting on the codified text and not on the preamble language because that will change as it needs to change when the Fishery Service puts all its bells and whistles on it, so it's the codified text.

DR. CHEUVRONT: Thank you for that clarification. Chairman Harris.

MR. HARRIS: Mr. Chairman, I would move that we deem the proposed rule necessary and appropriate.

DR. CHEUVRONT: Second by Mr. Robson. Is there any discussion? Monica.

MS. SMIT-BRUNELLO: Just in case there is an edit to something in the rule that really wouldn't be substantive, in the past we've included in these motions that you voted to allow the chairman to deem any changes to the proposed regulations also as necessary and appropriate. I don't know that will be the case here. I don't expect it to be, but I think it would be good if you would also allow him to make those.

DR. CHEUVRONT: I think in that case we do need to have somebody else make the motion.

MS. SHIPMAN: I'll move to deem the proposed rule as necessary and appropriate and grant the staff editorial license and allow the chairman to review and deem changes as necessary and appropriate.

DR. CHEUVRONT: Okay, and it has been seconded. Is there any other discussion? Seeing as there's no more discussion, and this is by voice, right?

MR. MAHOOD: I didn't hear our attorney say anything; do we have to do a roll call or is this just a hand vote or what?

MS. SMIT-BRUNELLO: I don't know.

MR. MAHOOD: Let's do a roll call and get it right. Mr. Boyles.

MR. BOYLES: Yes.

MR. MAHOOD: Dr. Crabtree.

DR. CRABTREE: Yes.

MR. MAHOOD: Mr. Currin.

MR. CURRIN: Yes.

MR. MAHOOD: Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: Yes.

MR. MAHOOD: Ms. Merritt.

MS. MERRITT: Yes.

MR. MAHOOD: Mr. Philips.

MR. PHILIPS: Yes.

MR. MAHOOD: Mr. Robson.

MR. ROBSON: Yes.

MR. MAHOOD: Ms. Shipman.

MS. SHIPMAN: Yes.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: Yes.

MR. MAHOOD: Vice-Chairman Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Chairman Harris.

MR. HARRIS: Yes.

MR. MAHOOD: Committee Chairman Cheuvront.

DR. CHEUVRONT: Yes.

MR. MAHOOD: The deeming of the rule has been done – the rule is deemed; how is that, unanimously.

DR. CHEUVRONT: Mr. Chairman, this might be a good celebratory place to stop for the evening, because there is no reason we have to go into CE-BA 2 at this point. Maybe we can just pick that up in the morning.

MR. HARRIS: Yes, I would ask that we recess your committee until 8:00 o'clock in the morning. At this time I'm going to call on Ben Hartig for final action of the day, perhaps.

(COMMITTEE OF THE WHOLE RECONVENED ON SEPTEMBER 18, 2009.)

MR. HARRIS: We'll go ahead and reconvene the Committee of the Whole and go into the Joint Ecosystem and Habitat Committee.

DR. CHEUVRONT: We're reviving the Joint Ecosystem and Habitat Committee for the third time in two days. We've gotten most of the way through our agenda. We've got to get back to work on CE-BA 2 now. I was just informed by Roger that he is not doing a short presentation. It is going to be a brief presentation Okay, Comprehensive Ecosystem-Based Amendment 2, Myra is first to give us an overview of the options, which is Attachment 7.

MS. BROUWER: This options paper has changed substantially since you saw it in June based on your guidance and the recommendations from the Coral AP, who met early this month. I wanted to I guess mainly give you a very short summary of the things have ended up in the document. There are actions to establish MSY, OY, ABC, OFL, ACLs and AMs for octocorals.

There is an action to consider modifying the existing live rock aquaculture permit to include harvest of octocorals if the council decides to prohibit harvest in federal waters. There is an option to include two other species that are currently not being harvested, and this was one of the things that the Coral AP asked for. There is an action to allow harvest of an exotic species. Besides that, there are EFH and EFH-HAPC actions to establish new HAPCs and EFH for two FMPs. So far that's everything that is included in the options paper in CE-BA 2.

DR. CHEUVRONT: Thank you, Myra. Does anybody have any questions for Myra at this point? Okay, seeing none, let's move on. We have the summary of the Law Enforcement and Coral AP recommendations in Attachments 2 and 3.

MS. BROUWER: The Coral AP did a really good job coming up with recommendations for CE-BA 2 and that is summarized in your document, which is sort of lengthy so I'm just going to provide you a brief summary of that. First of all, the Law Enforcement AP received an update on the options that are included in CE-BA 2, but they had no comments and no recommendations at this time.

The Coral AP, as I said, reviewed the options paper and discussed and recommended the following. As far as octocorals and live rock, there was a lot of discussion as to the amount of data that is available to make any recommendations as far as MSY, OFL, et cetera. The data are very limited and they're scattered. On population status and dynamics there is not a whole lot.

There are some data in regards to harvest levels from federal waters and from state waters, but that's about all we have. The AP took a conservative approach and based their parameter recommendations on existing levels of take. They had information on harvest from the years 2000-2008 from FWRI, and that's the information that they used to come up with recommendations.

The reason they did that is because considering the timing of everything and how busy the SSC is going to be making recommendations for other FMPs, we decided we should go to the Coral AP and request that they have a shot at recommending ABC and OFL, and we just kept on going. It was kind of a grueling process considering the data were not there to make very educated recommendations, but they did the best they could.

They also requested additional fishery-dependent information in addition to what is already included in the trip tickets. As you heard yesterday from one of the octocoral harvesters, there are a lot of issues with the way the data has been gathered until now with the trip tickets. They had a lot of recommendations on how to change that, and they wanted the council to recommend to the state that they make changes to that program.

They also chose to develop a list of priorities for scientific information needs to assist in having a good idea of the status of that fishery, and that is included in Item B in your list of recommendations. They discussed what would happen if the council decided to set an ACL of zero for octocorals in federal waters and if the current live rock permit system was modified to allow take of octocorals.

This is not something that is very popular with the harvesters for a number of reasons, but they did offer some recommendations and some things that the council should consider. One of them is I think the most salient one, is that there would need to be wild harvest in order to seed these sights, because there is no natural recruitment. That's something that they said, "Well, how are we going to be allowed to harvest from the wild stock to then seed the live rock sites for future harvest?"

As far as the two species of encrusting gorgonians, they did not have any compelling evidence to continue to exclude them from harvest. They went into a lot of discussion as to the various morphotypes of these two species and how easy they are to pry off the substrate and to harvest them. They did offer some stipulations for harvest. That was to require that the morphotype that is encrusting on rock be collected without the substrate as much as possible and that the pieces of it are six inches in diameter or less. They were very specific about that.

On orange cup coral, this is a stony coral species that is popular in the aquarium trade. There are uncertainties regarding its origin. I guess nobody has very good ideas of the implications of this

introduced species to the system. The Coral AP felt that this should be assessed before the species is considered for harvest.

They strongly recommended to the council that they develop a policy regarding invasive species to inform advisory panels when these things come up. They were at a loss as to how to set up sustainability parameters for a species that is exotic and that you actually want to eradicate. That was a little tricky. They proposed that maybe a cross advisory panel subcommittee could draft an invasive species policy and then go from there.

As far as EFH and HAPCs the AP supports the designation of EFH-HAPCs for coral as any hard bottom habitat from the shore to the eastern boundary of the EEZ south of Cape Hatteras. Now that is a very broad and very extensive designation. They realized this and, of course, they said, "Well, we don't know exactly where all the hard bottom is and so we're going to have to come up with a way to come up with candidate sites."

At their meeting they want to have some sort of a protocol to follow in order to recommend EFH-HAPCs for coral. They did, however, recommend that the CHAPCs that are going to be implemented under CE-BA 1 be considered also as EFH-HAPCs. The reason for this is because the Habitat Conservation Division, when they have to submit EFH conservation recommendations for non-fishing activities, has a bit of a hard time explaining the difference between CHAPCs and EFH-HAPCs, and they run into a lot of problems when it comes to that. It was their recommendation that – Jocelyn Karazsia, who is on the Coral AP, explained how difficult this can be with some of the agencies that she works with, and she said, "Well, can a Coral HAPC also be an EFH-HAPC and can it be formally called that?" That was something that they wanted the council to consider.

Also, they wanted to reiterate that they think the deep-water MPAs should also be designed as EFH-HAPCs. They supported the Broward Staghorn Coral Stand to be listed as an EFH-HAPC for the Coral and Snapper Grouper FMPs, but that was the only one that they felt confident recommending out of the list that was originally included in the options paper. Those are the recommendations from the Coral AP.

MR. MAHOOD: Myra, earlier Otha pointed out that you indicated there were no comments on CE-BA 2, and remember law enforcement made comments relative to going back and readdressing the lines in Amendment 1 and having a number of the APs get together to look at it and see if something could be worked out.

MS. BROUWER: I guess I didn't quite understand whether they wanted that to be included in CE-BA 2 or in just a subsequent amendment.

MR. MAHOOD: I think they were looking at CE-BA 2.

MS. BROUWER: Right now I guess what I wanted to discuss a little bit and get some guidance from the committee is on the recommendations that the Coral AP brought forth on ABC, OFL, ACL and all that stuff. They had a bit of a hard time understanding, first of all, the concept of all these things, but they did a good job coming up with numbers.

The way they chose to do it is to approach the alternatives as a bundle, so they settled on three or four – I forget how many – MSY scenarios and then went down from there. Under each MSY scenario there is a corresponding ABC, OFL, ACL and that's it. Those are included in the options paper, and they are presented as these bundled alternatives in the list of recommendations that came out of the Coral AP.

This was a good exercise because then they could sort of weed out the options that would not work with each other. They actually put together a spreadsheet and did a matrix to figure out which combinations of these various parameters were going to actually work and could be analyzed. There is a rather lengthy list on the AP recommendations' document. I guess I'd like to maybe walk through those and see if there is any guidance on which of these should remain in the options paper for analysis for the next time we meet.

DR. CHEUVRONT: I'm just trying to figure if it would be better to hear from Roger first before we go through this for the Habitat AP and then we'll go through all the options.

MR. PUGLIESE: Actually, Brian, I'm going to be fairly short with regard to this. The Habitat Advisory Panel addressed the issue of the front of this document relative to the coral actions that were proposed and did come up with one motion that they supported measures to eliminate or reduce impacts on the coral resources. Since most of the fishery occurred in state waters, they were not sure if the council needed to address the issue.

Right from the beginning, there were discussions on the uncertainty of really what was being proposed relative to ACLs to expanded harvest of other species beyond the existing octocoral species. The biggest emphasis was basically not looking at any kind of significant expansion of things that would be considered essential fish habitat or additional coral recourses.

Some of this issue came from the original discussion on the council's consideration of octocorals as EFH and the possibility of shifting that harvest effort over the aquaculture. One point on that is that in the discussion saying that there needed to be specific action items, essentially right now given the structure of the aquaculture permit system the individual is able to harvest octocoral, so it really is no additional permit and no additional modification if that was the direction the council went.

With the regard to the essential fish habitat areas, we had a very extensive presentation from our partners at the Habitat Conservation Southeast Regional Office, and we have been working closely on reviewing the present proposals relative to the existing habitat, both essential fish habitat as well as the essential fish habitat-areas of particular concern, evaluating which ones may be duplication with the intent of refining and eliminating and expanding.

The biggest challenge now is really connecting these specific designations that are there to the descriptions in the fishery ecosystem plan and building that into the next version of this document so that it validates and verifies. In addition, the challenge of also where spatial layers are going to exist for these different area, picking up on either parts of existing designations or identifying where they can be identified; and if not able to be identified, then that may be

something that removes them from consideration. They need to, under Magnuson, have some spatial footprint polygonal designation. Those were the main discussions and considerations by the Habitat Advisory Panel.

DR. CHEUVRONT: Thank you, Roger; anybody have any questions for Roger? Okay, Myra, do you want to walk us through some of the option issues.

MS. BROUWER: On the screen we have the table that is in the options paper with the information the Coral AP used to come up with recommendations. These are landings – this information was provided by FWRI – of octocorals split in federal and state waters just for the South Atlantic.

As you know, there is a combined quota for octocoral, so it is a joint between the Gulf and the South Atlantic, and the quota is 50,000 colonies. The way it works is the state does not have a quota and harvest is unlimited until the federal quota is met, at which point then the state water is closed to harvest. Well, this has not happened since this whole thing started.

As you can see, the levels of harvest have been mostly in state waters, and they not gotten anywhere close to the 50,000 colony quota in federal waters. There is an issue with if the harvest is mostly in state waters how are we going to go about setting ACLs for a fishery that takes place mostly in state waters. This is one the things the Coral AP struggled with.

What they did is, for example, under Option 1, they chose to set MSY at 50,000 colonies, which is the combined quota, and then go down from there. Then they recommended an overfishing level of 50,000; an ABC at the same level; and an ACL at half of that. These are the various combinations. There were only two coral harvesters on the AP, and so it was difficult to get enough information directly from the industry. They were mostly concerned about, of course, the annual catch level.

The other option was to set MSY at 11,000 colonies, and that is just above the mode for the maximum annual harvest for that time period, 2000-2008. Under that MSY there are only two options. That one, of course, was not very popular. Then the other MSY option was to split the quota based on percentage of catch.

Since most of the harvest occurs in the South Atlantic, as you can see it was pretty much the same thing as keeping the MSY at 50,000. Using the percentage, then the MSY would be at 49,170 colonies in the South Atlantic. These are the options under that scenario.

MR. HARRIS: Myra, would you just remind us where the 50,000 colony number came from originally. Nobody knows? Susan.

MS. SHIPMAN: I think we did it when we did the plan.

MR. HARRIS: Yes, but do you remember how it was calculated?

MS. SHIPMAN: It was just kind of number that we came up with.

DR. CHEUVRONT: Yes, I was under the impression it was kind of pulled out of the hat because they had never reached that and they knew that they weren't in trouble.

MS. SHIPMAN: Yes.

DR. CHEUVRONT: I think that's probably still the case. There is no indication that there is any problem with the coral harvest. The harvesters were actually perfectly fine with the 50,000. They thought, you know, they have no chance of hitting it, and then there is the problem between the states and federal. The system that they seem to have right now works okay, and there is no indication that there is any problem.

MR. CURRIN: First, I want to admit that I know very little about coral biology, but just from a fish perspective it would seem to me that looking at the average landings from federal waters might be a reasonable – over whatever that series of years is, eight or ten years, nine years, I think – the average landings over that period would seem to be a reasonable alternative for setting an ACL.

There is no indication that there has been any problem, but if you look at it most of the harvest has been in state waters. State waters don't close until federal waters close. If most of the harvest continues to occur in state waters, it's conceivable that at some high level it would never close. I don't know whether it has ever been a problem that the state of Florida has identified in state waters. I would suggest that we include an option that would be not the mode but the average harvest over that time series that we have as at least one option as an ACL.

DR. CHEUVRONT: Another option that we might want to consider would be the maximum harvest over the time period since that seems to be sustainable as well. Mark.

MR. ROBSON: I think that's fine and get a good range of options on level of harvest for octocoral, but just give everybody some sense of the fishery itself. We have recently, in the state of Florida, undergone some significant changes in the marine life rule that we have. We've been working very closely with the Marine Life Working Group.

This is a pretty small industry that really watches their own shop, if you will. In fact, we have implemented kind of a limited entry endorsement program for marine life harvest. The number of participants has been reduced significantly as a result of that program. We have also just recently implemented some new revisions to the rule regarding prohibited marine life species. There is an actual list of things that are not allowed to be taken.

There are some bag limits and other kinds of limits that are being put in place. It has been a regulated fishery for some time in the state of Florida. It has recently gotten even more regulated. We are continuing to work closely with the industry, and usually they bring forward regulations or suggestions on how to make sure they don't overharvest any of these species. I don't anticipate any problems with continuing to manage that way.

MS. BROUWER: Mark, just a question; those species that you mentioned that are not allowed, are any of those octocorals?

MR. ROBSON: I don't know; it's a long list and we just added some, but I don't know the answer to that. I can find out real quick even before the end of the day.

DR. CHEUVRONT: Okay, does anybody else have any other suggestions? Roger.

MR. PUGLIESE: Yes, just a quick question – one of the issues that is kind of a residual from the separation of the plans is the fact that this is a quota that was established for the Gulf and the South Atlantic, and we did separate the plans. This is a question I ask from Monica; are there any residual issues of monitoring the quota for a total that is essentially under two separate fishery management plans at this time?

MS. SMIT-BRUNELLO: Well, just in terms of the physical act of monitoring I'm not sure. I'd have to ask the Service how they do that, but I think your question is going to something else. Could you elaborate a little bit more?

MR. PUGLIESE: Basically going to the fact that we have a quota that is spread across two regions, and you could have more shift to one side or the other in terms of the area. I mean, is that a consideration that is an issue or is it something just as –

MS. SMIT-BRUNELLO: Assuming you don't want to have another joint plan, I guess that's something, Roger, to look at, definitely we should look at it. I'll work with Myra and we'll take a look at it and see how that would have an effect on establishing these requirements, definitely.

DR. CHEUVRONT: Yes, it's kind of a weird situation that it covers two councils and 95-98 percent of the landings occur in the South Atlantic, but the majority of those occur in state waters. It is sort of a convoluted sort of thing, and we probably should get that straightened out or at least clarified.

DR. LANEY: This goes back to the question Mac asked earlier about the biology of this organism and the fact that the 50,000 was a number that we pulled out largely as a comfort level for the fishery. Is there any merit at all to us trying to look at the actual production levels of the critters themselves and consider that in terms of establishing some sort of sustainable harvest level? The 50,000 doesn't seem to have been problematic in terms of people going out there and overharvesting, but it would be nice if we could put something that was biologically based in the document.

DR. CHEUVRONT: Yes, I understand what you're saying. I remember at the AP meeting some of the folks there were saying that these corals, basically they're pretty fast growing as far as corals go; and within four years, places that they've harvested they can go back to and harvest again.

The gentleman that was here that spoke last night was saying that he has basically fished in a one square mile area for many, many years. I'm sure it has something to do with the fact that they

regenerate so quickly. I would that understanding the biology of how quickly they can replace themselves certainly would be helpful for us in establishing an MSY.

MS. BROUWER: Another thing that I wanted to bring up and maybe get some input from Monica at some point is the fact that the Coral FMP includes a large number of species. There is actually not a scientific consensus on how many species are included in the sub-class octocorallia. That is what the FMP specifically allows for harvest.

Under the ACL rule do we need to have more information as far as which species are being harvested? The Coral AP had this question, and what they did was come up with a list of the top ten species that are being taken. Of course, there is never going to be a lot of information on each one of these species. The fishery has always managed as a whole. That is just something that they wanted some clarification on.

DR. CHEUVRONT: Monica, do you want to weigh in on managing it as a whole or figuring out the individual species?

MS. SMIT-BRUNELLO: I was having a discussion about the National Standard 1 Guideline; would you ask me that question again, Myra/

MS. BROUWER: Yes, the Coral AP was confused at to whether the ACL rule applied – the way the language is written, it is confusing and it is not very clear whether you need to set these parameters for each individual species. The Coral FMP has so many species under it, there is not a comprehensive list of everything that is included. What the Coral AP did was come up with a list of the top ten harvested species to at least get an idea of largely what is being taken.

DR. CRABTREE: Well, the guidelines do allow for multispecies ACLs; so if you have a complex of species that are harvested, you could easily set up a single ACL to cover that complex.

DR. CHEUVRONT: Any other questions at this point? Does anybody have any suggestions on numbers that should be considered to help Myra develop some of these alternatives or suggested alternatives to bring back to us later?

MS. BROUWER: One question is does the council want to consider an ACL of zero?

DR. CHEUVRONT: Meaning no harvest.

MR. CURRIN: Yes, I think that certainly should be in the document from my perspective. I mean it's not unreasonable. I can see people arguing that – in fact, I've made the argument myself that habitat should not be harvested.

MS. BROUWER: So if an AFL of zero was established for federal waters, that's where my confusion comes in, how would the state harvest be affected?

DR. CHEUVRONT: I think the way the rules are written in Florida that if the federal waters are closed the state is closed, right?

MR. ROBSON: No, not in this case. I say that; I mean, I'll double-check that as well, but I don't believe we have an automatic consistent –

DR. CHEUVRONT: Well, I thought if the federal take level has been reached as quota, then the state would close down. Well, if it is set a zero that means it has been taken because there is no take allowed; therefore, the state shouldn't be allowed to harvest.

DR. CRABTREE: That's up to the state. If we have a federal water ACL of zero, then federal waters are closed. The state of Florida or any other state will then make a decision as to what they choose to do.

DR. CHEUVRONT: So if we have an analysis of ACL equals zero, that applies then only to federal waters.

MS. SMIT-BRUNELLO: In looking through the comments and responses to the guidelines, there is a question about state and federally managed fisheries, but the response is pretty much couched in terms of if the species is undergoing overfishing, which I don't believe is the occurring here.

In that case they talk about doing one large ACL, having a sector for the federal and a sector for the state, but then recognizing that the accountability measures can only be applied in the federal fishery. In this case you're not having overfishing so I think you probably have more latitude. I would agree that we can only affect federal waters.

MR. CURRIN: And don't get me wrong; I'm not advocating this in any way whatsoever. The fishery as it exists seems to be very stable and it has been over time, but I just think it should be included as a reasonable alternative at least at this point in the development of the document.

DR. CHEUVRONT: And certainly for completeness of thought and analysis, and that is not to say that on the AP there are probably members of the AP that think that there shouldn't be any harvest as well. I don't have a real problem with that. Wilson.

DR. LANEY: And I think for the sake of consistency given our administrative record on sargassum and other EFH species that are also habitat, that we definitely need to include the zero value in there.

DR. CHEUVRONT: I think that is some direction for Myra. Myra, do you have something else now?

MS. BROUWER: Well, I've put on the screen the options as they appear in the options paper, so perhaps we could get a little bit more guidance on which one of these should be analyzed further. For ABC we have the no action, of course; the ABC equal to OFL; the ABC equal to the

maximum annual harvest for that time period; and the ABC equal to twice the maximum annual harvest for that time period. Those are the four options.

MR. PHILIPS: Just a technical question; are they harvesting the same thing out of the federal waters as the state waters or did the federal waters have anything in particular that may be harder to find in the state or is there any difference in the fishery?

MS. BROUWER: Charlie, that's a good question. Actually, most of the species that there is most demand for come from state waters. Looking at that list top ten species that the Coral AP brought forward, there is only one species that is on that list that comes from federal waters. Everything else comes from the state waters.

DR. CHEUVRONT: Looking at these ABCs, are we happy with the options that we have there; do we want to modify them?

MR. CURRIN: I don't know the answer to your question, Brian, but at some point our SSC is going to have to look at these, and they're required by Magnuson to give an ABC recommendation. Now, they may not be able to. They may know less about coral or have enough data to do anything that satisfies them scientifically, in which case they're going to toss the ball in our lap. Then we're going to have to develop some options based on the best information and guidance that we can get. But, at some point I think the SSC is going to have to look and these and at least have an opportunity to provide with some guidance.

DR. CHEUVRONT: Yes, when we were trying to get the AP to go through this process, it was really – in my mind I thought they were really focusing on setting an ACL. They wanted to know how much can they take? Even when we were trying to talk about the ABCs, OFL, MSY, they were always really – in their mind they were think about the ACLs. It was very difficult to get them to do this.

At one point, when we first introduced this, they kind of were almost refusing to go down this path because they felt they didn't have enough data. Well, we stepped in and said, "Well, you don't understand, there are no coral experts on the council. We have some staff but not on the council itself. If you guys don't make these recommendations, the council is going to have to do it."

That got of got them started down the road because I think they realized this is their livelihood, their interests, their area of expertise, and they started moving down it, but they struggled the whole way. I think the only part that they could really grasp was the ACL and did that. Mac, I think you're right; what we have to do is even with the SSC, while they may not have a lot of coral expertise they do have a lot more in understanding these biological reference points and things. I'm sure that's probably the way that they're going to have to look at it in reference to whatever evidence that the council or the AP can give them in terms of numbers.

DR. CRABTREE: It seems to me we ought to take a look and see if we can apply the ABC Control Rules they've come up with to this. I mean, it's different in that it's corals, but basically

you're removing animals, you're looking at MSY based on some past catch history, so I would think you probably could go through and apply that process, and we ought to do that.

DR. CHEUVRONT: I think that's an excellent idea, Roy. Any other ideas at this point? Myra, do you have enough to kind of get started with here? Okay, she is shaking her head yes.

MR. HARRIS: Do you need any motions on any of these items, Myra, of is this clear right now?

MS. BROUWER: I've been taking good notes so I think I have what I need for now; thank you.

DR. CHEUVRONT: And we'll be able to see something at the December meeting from this? Okay. Myra, do we need anything else on CE-BA 2 at this point?

MR. HARTIG: Brian, it seems like we have a potential problem. It seems to me with the state harvesters and the federal harvest, couldn't we just add if the 50,000 colonies are collected in state waters; federal waters would close also? I mean, that's pretty simple. Couldn't we add that to the –

DR. CHEUVRONT: Yes, that's probably a good option. I don't think any of us sort of thought about it, looking from state back to federal, but that is a good idea. Any other great ideas from that end of the table? Susan.

MS. SHIPMAN: I don't know if this is a great one. This some more overarching question in hearing that so much of the harvest is in state waters and all of that, this would appear to me to be one we ought to consider deferring management to the states. I just throw that out as a topic of discussion.

MR. HARRIS: Bob and I were just talking about that as well. Since most of the harvest is in state waters of corals and most of it is in the South Atlantic and Florida already has a comprehensive plan to manage this, it's certainly an option we should consider. Whether we go down that road or not remains to be seen, but I think it ought to be an option.

DR. CHEUVRONT: I think even in the Gulf the landings occur mostly in state waters. What I'm saying is that all the harvest seems to be happening in Florida waters.

DR. RADER: Doug Rader, Chair of the Habitat AP. Obviously, that makes sense as an alternative. I just would caution you on two things. Number one is the prospect for harvest for animals in this complex in the deep waters associated with reefs and other things. Number two is the potential loss of leverage on federal essential fish habitat provisions should you go all the way in the route towards decommissioning of the plan.

It was a concern on red drum when that shifted to the ASMFC given that they don't have the equivalent authority nor leverage in terms of elevation on the EFH processes. It is just something to keep in mind as you go forward. Thank you, Mr. Chairman.

DR. CHEUVRONT: I think while we're considering options at this time, I think those are points that we need to take into consideration when we are looking at that option, but I think this option does need to be moved forward as an alternative because people are going to ask this question later on, and we need to have it analyzed.

DR. LANEY: I was going to bring up what Doug brought up with regard to EFH, but one other question would be if there is a single species, which it sounds like there is, that comes predominantly from federal waters versus state waters, then how does the transfer or delegation to the state enable those folks who are harvesting that one species from federal waters to continue? Is that something that is doable?

DR. CRABTREE: All the delegation means is that the state, in this case Florida, can apply their regulations to any vessel fishing in the EEZ as well.

MR. CURRIN: If you look at that table on the state versus federal water harvest from 2000-2008, you know, there are years when over 50 percent of the harvest occurs in federal waters and on average it is about a third. I mean, it's not a unreasonable option, I guess, but in looking at it that's approaching significant harvest in the federal waters to me.

MS. SHIPMAN: And I merely bring it up as just an option that I think would merit looking at given the amount of emphasis that the state of Florida puts on this and given the limited amount of resources the council has, I appreciate what everybody has said about the federal waters' harvest. Also, I think the Magnuson standards would be applicable through delegation so I don't know that you'd be giving up anything on EFH, but nonetheless I think it's worth a discussion.

DR. CHEUVRONT: And, also, I'd like to maybe request that as we're looking at this for the future and this option in particular, if perhaps in our next briefing book or something, we can see a copy of what Florida does to manage. Frankly, I'm kind of clueless. I would think that would be a part of any decision-making that would go into whether we would want to turn this over to Florida. Mark.

MR. ROBSON: And we would be happy to do that however you would like to receive even if it involved a presentation by our staff experts on the program and how it operates.

DR. CHEUVRONT: I'll leave that up to council staff to decide whether they think that would be helpful or will it fit in the next meeting or whatever, but I think at a minimum it would be nice to get a copy of the document that you all use to manage these critters. Roy.

DR. CRABTREE: One way to think about this is I expect if you apply the ABC Control Rule to it, you're going to say, okay, average landings have been this, but because of all the uncertainties we need to reduce by X percent, and I'm guessing it is going to be at least 25-30 percent. Well, the federal portion of the overall landings appears to be pretty much that percent; and so if that was the case, one way to come at it would be to close federal waters which form essentially a big MPA and would leave the whole fishery in state waters. The downside of that is you're pushing all the harvesting activity into a smaller area, so it may not be something you want to do.

But if you follow through and if we adopt the control rule; then for these fisheries that we don't have any information, you're going to be looking at reductions below what the catches have been in the past. We have I guess a quota on these species, but to my knowledge it has never been reached and we've never closed the fishery down, so it's really not having any constraining affect on the fishery at this point.

DR. CHEUVRONT: Yes, I think that all ought to come out in the analysis of these options. Does anybody else have anything at this point?

MR. CURRIN: Just a point to make I think for the record is Roger informed me that there are octocorals north of Cape Canaveral where the line is drawn and the harvest is prohibited north of that area. All of this allowable harvest occurs on just a portion of Florida's coastline or at least octocorals – I don't know about the same species – occur in abundance north of there.

DR. CHEUVRONT: Okay, Myra, do you have enough to go on? Are we ready to move on? Next on the agenda is a brief presentation by Roger on some ecosystem things that are happening out there right now.

MR. PUGLIESE: I'll quickly touch on some of the activities that are ongoing to again keep the council position to move toward ecosystem-based management in the future and highlight some of the activities that occurred at the recent Habitat Advisory Panel. The last advisory panel meeting was structured such that we had deliberations on ecosystem coordination, regional research coordination, highlighting ecosystem information and then working into EFH and the Ecosystem Amendment.

In the ecosystem coordination there were some very important things that occurred with materials that were presented and individuals that were involved in the efforts. There were briefings on the Southeast Regional Association, the Coastal and Ocean Regional Association Ocean Observing Activities, SECOORA, and movement on our deliberations with SECOORA in combination with the Integrated Ocean Observing System, IOOS.

With that legislation, there have been directives to move these regional associations – they're called RISES under the legislation – to prepare strategic operations plans. In the most recent deliberations which had occurred this week with a board meeting Monday and Tuesday and a board session and really a working retreat was to move toward that development of the Strategic Operations Plan.

For the council's benefit, fisheries has become one of the predominant moving factors on the front end of this operations plan; the opportunity to look at highlighting how information can be developed with a lot of those;, the capabilities and modeling efforts and information systems that are already in place to provide things such as models and indices for recruitment and different things that could be incorporated into future stock assessments, either individual stock assessments or future ecosystem modeling efforts; a lot of effort to try to collaborate to provide these types of finally bring the oceanographers together with the biologic side of this and investigating all the different parameters that potentially could be provided in refining these types of assessments in the future.

In addition, the potential for connecting these systems to fishery-independent data, providing the fishery-independent data systems providing a lot of the collected information back up into SECOORA; and then being tuning or modifying even the existing modeling capabilities there.

On the other side, the Ocean Observing side providing possibly new tools, acoustic capabilities, some of the things – that lander capability; efforts to expand that are more biologic and fisheries-based type of collection systems in the southeast. That was a major effort. The person that provided the IOOS presentation was the deputy for the entire system in the country, and she identified that this is really a call to these groups to find out what they need in the region.

There is potentially an opportunity of $5 million per regional association starting in 2011. This plan will go from 2011 to 2013, so it could come fairly rapidly to provide a lot of tools that will provide, you know, a lot of information and needs and assessment capabilities, enhance fisheries information systems in the southeast in a fairly rapid turnaround.

I'm hoping that we see this actually come to fruition. I think that we are most likely going to see a lot more effort on it. We had an excellent meeting here at this beginning of this week to move this forward. Some of the key members, the state directors and other participants in the southeast region will be tapped then to provide additional input to refine what is needed for the states, what is needed for fishing operations, for assessments in the future.

There is going to be a concerted effort to take the steps beyond here to refine the effort to rebuild that. That is the Ocean Observing. One of the points there, too, was to also connect them with ongoing activities of the navy. The Navy Fleet Command provided a very extensive presentation and provided to some people a fairly shocking, open attitude toward what we were be going in the future is going to be providing it directly to fisheries organizations, to the assessment and resource agencies.

One of the things that they identified was that as part of their efforts were going to be map an area that is about – I'd say about eight to ten times as large as the North Florida MPA. They're going to multi-map, characterize surface to bottom, grab samples, video surveys; and if I'm not mistaken by February of next year. It's going to be a rapid turnaround.

They're also building a fairly extensive array in the southeast that hopefully the portions of that fixed array, which will be the first one in the Atlantic, would potentially also provide input information into the Ocean Observing System. There is a real opportunity for collaboration and getting a lot of information from the system.

That was, again, an opportunity to highlight the importance, and they were really emphasizing the need to coordinate with the National Marine Fisheries Service Habitat Conservation, the council and moving forward in the future on other activities that the navy may be involved in, so that was an important effort.

One of the other areas we identified; I did the presentation on the South Atlantic Governor's Alliance; and since that date, as I indicated before, the Alliance has been formalized. There

actually will be a formal announcement of the Alliance at the upcoming coastal states' organization meeting on October 19th.

So the process now has been is formalized to take and operationalize the Alliance and many of the members sitting at the table have been directly involved, Robert and Susan and others, in making this move forward, so it is moving and has a lot of connections to other activities in the region.

In addition to that, the subsection of the meeting also dealt with our regional coordination on research; tool development for and information development is going to be also critical to this continued move toward ecosystem-based management. One of the first areas that we highlighted was our ongoing activities under fishery-independent data collection systems and MARMAP and SEAMAP and connection to other systems.

I think one of the key points is that in the council it is very closely connected into some of our tools building with our Internet Map Observer and more recently our ArcServer capabilities. What ultimately is going to happen with these is the opportunity that types of systems are going to developed where researchers will have access across, say, MARMAP information, SEAMAP and fishery-independent data for the state and to be able to go two-way communication type of capabilities, access that; a lot of other information to be able to link maybe into the SEDAR process and into other research capabilities.

So that is ongoing and expanding, and SEAMAP and MARMAP are essentially almost joined at the hip in terms of operational characteristics. In the last round of SEAMAP probably over one million-plus dollars is being identified specifically to supplement and expand snapper grouper type of surveys inshore, supplementing the offshore egress capabilities and building this combination system where a lot of the data will be combined.

There is a lot of effort and opportunity that's going to provide a convergence that I'm not sure anywhere else that I know of has anything developing in that format. Some of the other things that we wanted to also get in context in that was the continued development of the Cooperative Institute for Ocean Research Exploration Technology; a presentation on its evolution.

We're seeing with John Reed's presentation how some of that is being operationalized immediately with using some of the new technologies and the opportunity that it's not just focusing on deep-water areas but on new technologies, on shelf-edge actions, and hoping that we may get even more specifics on the continued evolution with – Shirley Pomponi I think may be able to participate in our December council meeting.

I talked to her very specifically about highlighting where things are going and how this is going to continue to evolve. Their connection with a lot of the players I've mentioned earlier is real useful. In addition, highlighting the activities of the Sanctuary, Gray's Reef continues to still provide some of the most detailed habitat characterization and use of technology that hopefully we can apply in other areas and pick up on, say, the Cooperative Institute, on other activities because they're using things such as acoustic capabilities that are not being used in other areas.

Again, that mapping capability can be potentially a template for expanding our understanding of areas throughout the region. That leads to one of the most important things I think that came out of the meeting is the reestablishment of our very close ties with the Beaufort Lab. The Beaufort Lab now has an ecosystem branch and Alita Hone has designated Todd Kelliston as the head of that division.

Todd provided a presentation on activities. There is a lot of information that they have that we haven't even touched on; a lot of detail, habitat characterization. They're directly involved in early life history, invasives, a lot of things that we'll be able to benefit from the spatial information but also in realigning and reconnecting with the group that was really the foundation for some of our early deliberations on our habitat plan.

So, some of the Ocean Service and National Marine Fisheries Service, the kind of bouncing we had at that level has been resolved by really focusing down to that, and I think we're going to have a real opportunity. One of the more recent things is the possibility of collaborating maybe on some future ecosystem modeling efforts that that group would really bring a lot to the table for.

Wilson, at this meeting, also provided the alignment of the Fish and Wildlife Strategic Habitat Conservation; the opportunity to again this convergence of intent and operational capabilities to meet multiple user needs in the councils as well as the states and fish and wildlife, so I think that's going to provide an opportunity to go further into, again, modeling, habitat characterization and, again, setting the stage for broader ecosystem information.

With that, to just highlight a couple of other activities that happened, and NOAA and Carolinas recently had a collaboration meeting to set the stage for a future workshop that is going to focus on impacts of climate change and fisheries is the predominant frond-end identifier for what some of the implications may be in the long term relative to the parameters such as temperature, whatever inundation, looking at the loss of habitats over time and begin to gauge some of these issues in the future of what the implications may be for fisheries.

That is going to be a fairly important effort that is going to occur early next year. The Nature Conservancy connected into some of the deliberations of the South Atlantic Alliance, and NOAA and others are also sponsoring a marine spatial planning workshop that is going to happen in Charleston September 30th and 1st to begin to investigate the scope of what is going on in the region and also begin to look at what types of needs, issues and tools may be needed to move toward spatial planning.

That is something that, again, is connected to some degree to the Alliance but also to a lot of the other activities that are going on regionally. One last area to touch on is, again, this issue of bringing the oceanographers together with the biologists. There was a specific workshop in St. Petersburg to begin to look at the technical challenges of bringing those types of data sets.

It was opening the door to at least identify what the capabilities and what the needs are and then where we can begin to look at those types of tool developments and really open the eyes of the different sets of scientists on what the challenges are in fishery stock assessments, on

oceanographic model development and then where those two can begin to understand how there is collaboration.

But, with that, I think I extended my short presentation a little further, but those were all – to say in one line all the different key opportunities going on was going to add a lot. I do apologize for that, but I think it is going to set the council up for really an operational transition to a broader move toward ecosystem-based management.

DR. CHEUVRONT: Thank you, Roger. Yes, there is awful lot of stuff that is going on that could end up benefiting us as a council quite a bit in the long run, and we look forward to hearing how some of these things turn out. That was the last official thing that we had on our agenda. We pushed off two presentations.

MR. PHILIPS: I thought I heard you say there was some money coming down the pike in a couple of years to help do some of this eco-management research and would moving the fishermen getting moved from one fishery to another; would a study of that fit in to use some of that money?

MR. PUGLIESE: I think the dollars I had mentioned were with regard to the regional association and the ocean observing capabilities. There are probably opportunities for looking at technology connections with the fishing. That's why I said it's really important that they've raised fisheries to the front end of that because I think there are opportunities to look and if you'll be able to connect fishing operations with areas and how it connects to closure area monitoring, I think, yes, we could probably figure out a way to craft those that we do have that opportunity.

MR. CURRIN: Roger, a lot of exciting things going on, but I think one of the things that is most exciting to me is the cooperative stature that the navy has taken with respect to performing surveys. With the assets and the capabilities that they have, it's astounding and I'm real excited about that; and as well their agreement to utilize the arrays, if they develop them, off of Jacksonville to house or anchor other observing systems or any kind of monitoring devices that might be useful along that array. I mean, that's just a huge opportunity. I'm glad that hasn't fallen by the wayside.

MR. HARTIG: That was timely because Mac talked about the navy, but we've been catching some pretty wild stuff in the tilefish fishery offshore, some wild electronic stuff that could be acoustic arrays. I think that when somebody is putting things there they ought to consult with the council about some of their fisheries and what may interact with some of what they're putting in the ocean.

I mean this isn't a little bit of gear. This is miles of electrical type wire and wild-looking things on the bottom. I don't know if it was an array or not or somebody just got rid of a bunch of wild-looking electronical components. I mean if they are going to put those out there they should be aware of some of the fisheries that occur in those areas.

DR. CHEUVRONT: Okay, Roger, last point on this.

MR. PUGLIESE: Yes, last point just really specific to Mac's comment about the navy; actually, I was going to raise this at our Advisory Panel Selection Committee, but I talked the representative who is the habitat coordinator basically for that group from Fleet Command. They're committed enough to specifically request participation on the advisory panel, which to me I thought that was a real big potential opportunity. They're bringing a lot to the table.

DR. CHEUVRONT: Okay, one last short thing I think for this committee is Wilson asked to bring a quick issue before the council related to ecosystems.

DR. LANEY: Well, I did; it's more of a heads-up than an issue, but before I do that Mac gave me a perfect segue there as did Ben with regard to all this electronic equipment that is going on out there. I just wanted to let the council know that at the American Fisheries Society's Annual Meeting a number of us met to discuss the potential for Section 6 funding to be used to expand existing listening arrays along the east coast.

In particular Sea Grant provided some funding to Dr. Roger Ruleson at East Carolina University to put a 12-kilometer listening array of these VR-2 receivers – some of you are familiar with those. They're used to detect acoustic tags and fishes – southeast of Cape Hatteras. As a result of that array being out there for about the first four months of this year, they detected all sorts of different animals that are being tagged by different folks up and down the whole east coast.

In talking with NMFS Protected Resources, especially with regard to some of the existing ongoing Atlantic Sturgeon Tagging Programs, we decided it would be a good idea if we could try and link some of those existing listening arrays up. Dr. Ruleson is spearheading an effort to work with South Carolina DNR folks, the University of Georgia folks in Georgia to try and link some of these, and that proposal is in the works.

Roger noted that I had briefed the AP on the Service's Strategic Habitat Conservation Initiative and how that is progressing. I'm not going to go into detail about that except to say that my colleague, Pete Benjamin, who was at our social on Tuesday, and I talked to Dr. Ponwith about that and briefed her and provided some information on that program.

I hope that in the future we can bring back to you some of the habitat species modeling efforts that we're working on right now; the principal fish one being blueback herring. The issue I wanted to give you a heads-up on involves the Wilmington District Corps of Engineers. They're normally a very good Corps of Engineer District to work with as Corps of Engineer Districts go.

I have worked with the Wilmington District for 30 years; and in comparison to Norfolk and Jacksonville and some of the other ones, they are a relatively green district. However, they have made some commitments in the past which they have not fulfilled. Most recently, I guess in about 2000 they had committed to provide fish passage at Locken Dam Number One on the Cape Fear targeted towards shortnose sturgeon.

The National Marine Fisheries Service had written a biological opinion on the expansion – actually, the Wilmington Harbor Project – and as part of the measures for protecting shortnose they were supposed to provide fish passage at Lockin Dam Number One and they haven't done

it. There have been ongoing negotiations and discussions with regard to the exact type of fish passage to be provided, but the bottom line is they haven't managed to implement it.

They also haven't managed to implement mitigation that was agreed upon for the Mateo/Shiloh Bay Project. Historically, a number of years ago in North Carolina there was a commitment made to provide 125 acres of oyster reef as mitigation for shallow water habitat that was excavated to provide navigation channels from Oregon Inlet to the Wanchese Harbor expansion.

Lastly, on the Roanoke River there has been an ongoing oxygen issue there for years at one of their hydropower facilities which they haven't addressed. The Fish and Wildlife Service has been collaborating closely with the National Marine Fisheries Service on this. Roy has sent a letter to them advising them that they're out of compliance with Section 7 of the Endangered Species Act.

We are contemplating sending them a letter laying out their inability to follow through on commitments they have made with regard to habitat enhancement and improvements on these other projects. I just wanted to give you a heads-up on that. At some point in time I may come back to the council and work through the Habitat and Environmental Protection Committee and request the council to consider whether or not they might want to weigh on this issue as well.

DR. CHEUVRONT: Any questions for Wilson? Mac.

MR. CURRIN: Just to comment, Wilson; I mean it has been dragging on so long, who don't Fish and Wildlife just sue them? It's insane it has been so long.

DR. LANEY: I'll defer to legal counsel as to whether or not one federal agency can sue another. I don't think we can.

MS. SMIT-BRUNELLO: No, you cannot.

MR. HARRIS: Wilson, isn't there an opportunity to elevate this to EPA and doesn't EPA have some clout over other federal agencies with respect to these issues?

DR.LANEY: Yes, they do, Duane, and I'm not sure to what extent EPA has been involved in this. That's certainly a good avenue to pursue especially with regard to the oxygen issue on the Roanoke River. Also, I need to mention, too, for the benefit of those of you from Georgia that there is concern on the part of NMFS Habitat Conservation folks, Dr. Pace Wilbur, that this pattern of not following through on commitments they make in the Wilmington District sort of establishes an adverse precedent for other districts as well.

There is a lot of concern about the whole oxygen issue on the Savannah River associated with the Savannah Harbor deepening. This seems to be a consistent pattern emerging with regard to southeast ports which occur in estuaries where the summer temperatures get very high and we do have oxygen issues on the Savannah, on the Cape Fear and on the Roanoke. I'm not sure about other estuaries, but in a lot of cases it seems to be associated with Corps of Engineers navigation

projects that considerably deepen estuaries beyond the depth they naturally would have supported.

DR. CHEUVRONT: Okay, I think that's it for the joint meeting of the Habitat/Ecosystem Committees.

MR. HARRIS: Thank you, Brian, great job.

(Whereupon, the agenda for the Joint Meeting of the Ecosystem-Based Management and Habitat Committees was completed on September 18, 2009).

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Charleston, SC
Thursday, September 17th, 2009

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