

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

JOINT LAW ENFORCEMENT COMMITTEE & ADVISORY PANEL

**Sheraton Atlantic Beach Oceanfront Hotel
Atlantic Beach, NC**

December 6, 2006

SUMMARY MINUTES

Committee Members:

Frank Gibson, III, Chair
George Geiger
Rita Merritt

Lt. Chad Brick
Charles "Duane" Harris
John Wallace

AP Members:

Major Bruce Buckson, Chair
Lt. Chisolm Frampton
Michael Kennedy
Karen Antrim Raine

Tracy Dunn, Vice-Chair
Lt. Eric Johnson
Capt. Rex Lanier
Craig Whitfield

Council Members:

Robert H. Boyles, Jr.
David Cupka
Anthony Iarocci
Spud Woodward (liaison for Susan Shipman)

Dr. Roy Crabtree
Benjamin "Mac" Currin
Bill Teehan (liaison for Mark Robson)

Council Staff:

Bob Mahood
Mike Collins
Kerry O'Malley
Kim Iverson
Julie O'Dell

Gregg Waugh
Rick DeVactor
Roger Pugliese
Rachael Lindsay

Observers/Participants:

Dr. Jack McGovern
Eileen Dougherty
Jim Kelley
Margot Stiles
Capt. Rob Bateman

Elizabeth Featherston
Sara Fangman
Gary Morgan
Charles Beaton

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The Joint Law Enforcement Committee and Advisory Panel of the South Atlantic Fishery Management Council convened in the Grand Ballroom of the Sheraton Atlantic Beach Oceanfront Hotel, Atlantic Beach, North Carolina, Wednesday afternoon, December 6, 2006, and was called to order at 1:30 o'clock p.m. by Chairman Frank Gibson.

Mr. Gibson: Good afternoon and welcome. My name is Frank Gibson and I'm a council member from South Carolina. I would like to call to order the Joint Law Enforcement Advisory Panel and Committee for the South Atlantic. I would like to thank everyone for their attendance and participation and I look forward to a very informative discussion on the issues at hand.

Before we start, I would like to point out a couple of things. We have a new vice chair, John Wallace. I'm the new chair of the Law Enforcement. We also have a new AP vice chair, Tracy Dunn of NOAA Fisheries, and we have two new members, one an old friend, but Michael Kennedy from Jupiter, Florida. This is his first meeting and we're glad to have you.

Maybe not an old friend, but a friend, Craig Whitfield. I believe Craig chaired this at one time and now he's retired from DNR in South Carolina and we're glad to have you, sir. Before I turn this over to the AP chair, Major Bruce Buckson, I would like a roll call for everybody. We'll start at this end down here and we'll come around.

Mr. Bateman: Captain Rob Bateman with FWC.

Mr. Teehan: Bill Teehan, council member, just sitting in.

Lt. Johnson: Lieutenant Eric Johnson from the Southeast Regional Fisheries Training Center in Charleston.

Ms. Raine: Karen Raine, NOAA General Counsel for Enforcement and Litigation.

Mr. Whitfield: Craig Whitfield, South Carolina.

Lt. Frampton: Lieutenant Chisolm Frampton, South Carolina DNR Law Enforcement.

Capt. Lanier: Captain Rex Lanier, North Carolina Marine Patrol.

Mr. Kennedy: Michael Kennedy, Jupiter, Florida.

Mr. Geiger: George Geiger, council member, Florida.

Mr. Dunn: Tracy Dunn, NOAA/National Marine Fisheries Office for Law Enforcement.

Major Buckson: Bruce Buckson, Florida Fish and Wildlife Conservation Commission.

Ms. O'Malley: Kerry O'Malley, council staff.

Mr. Gibson: Frank Gibson, South Carolina, council member.

Mr. Waugh: Gregg Waugh, council staff.

Mr. Wallace: John Wallace, council member, Georgia.

Mr. Harris: Duane Harris, council member, Georgia.

Ms. Merritt: Rita Merritt, council member, North Carolina.

Mr. Woodward: Spud Woodward, council member, Georgia.

Dr. Crabtree: Roy Crabtree, National Marine Fisheries Service.

Dr. McGovern: Jack McGovern, National Marine Fisheries Service.

Mr. Gibson: If there are no other housekeeping issues, I would turn it over to the Major.

Mr. Geiger: I hate to start off with a -- I would like to take just moment and certainly when you do this, it might reflect that our organizations aren't doing anything and we know that the law enforcement community is very, very active.

I had the privilege of attending the Atlantic States Marine Fisheries Commission meeting in October and they handed out one of their Awards of Excellence, which is an annual award, and it was presented to the Florida Fish and Wildlife Conservation Commission Law Enforcement Activity for an operation that they conducted in Florida called Operation Back Door, I believe, Rob?

Mr. Bateman: Actually, it's No More Back Door.

Mr. Geiger: Anyway, they conducted a fantastic operation and they gave a great presentation up there and I understand that they wowed the other law enforcement activities, who took away a lot of lessons learned from that report, and they favored the commission with the report that they would be seeing some like activities in their other states.

I would like to just officially recognize Florida for their activities and certainly recognize the rest of the law enforcement community from all four states for everything they do in support of law enforcement activities and protecting our resources and thank you.

Mr. Buckson: Thank you, George. Just very quickly, the focus of that operation was the sale of fish to restaurants or wholesale dealers from recreational or non-licensed people

and that was pretty much the focus of that detail and it actually continues today. A quick question and I don't know who we would ask, but we did not announce what panel or committee we were on and you're still okay with what we got? You're okay? Okay. I just want to make sure. I think we're missing one member of the LEAP is the only reason I ask.

I guess the first order of business is we would like to take a look at the agenda and we would like to have a motion to approve the agenda. Actually, before we do that, there is a section for Other Business and I know that there's a couple of things that I want to bring up and I'm not going to list those at this point, but anyone does have other business that they need to conduct, we have a section for that. I would like to accept the agenda without any objection. Is there any objection? Okay, the agenda is accepted.

Mr. Gibson: Do we accept the agenda? All accepted.

Mr. Buckson: We'll look for approval of the minutes. Hopefully everybody had a chance to go through those and I imagine there may be a comment or two.

Ms. Raine: I would just note that there are some maybe scribner's errors, like rock shrimp rather than rock fish, that type of thing, but nothing major.

Mr. Buckson: Are there others from the LEAP, any other comments on the minutes? I would like to approve those, without objection.

Mr. Gibson: Would the council approve the minutes without objection? So ordered.

Mr. Buckson: Now, Kerry, I think it's up to you.

Ms. O'Malley: I also wanted to note on the agenda that you all had under your briefing book, not the major agenda, but your individual agenda, notes that Grant Gilmore was going to be here to give a presentation on the use of acoustic monitoring within the MPAs, but he had a last minute meeting that he had to attend that was -- His funding is contingent upon going to that meeting and so obviously that had quite high priority.

It sounds like he is doing wonderful things with this acoustic monitoring and is really excited to share it with this body and so next time we bring you all together, we are going to try to get him here again and we'll coordinate that quite early this time so he can block it out, but he won't be with us today and we'll get that to you.

Moving on, we're going to go ahead and jump right into Snapper Grouper Amendment 14. As far as status, currently the interagency planning team has been working together on getting the amendment ready for DEIS filing. Since we've seen you, we've gone out to public hearing and received comments. We've had nine public hearings in the states and we've met with the Snapper Grouper Advisory Panel, who has also given us

comments, and right now the DEIS is in D.C. It hopefully will be filed on Friday and published the following Friday, which means there will be another comment period.

During that time, we'll take into account comments we receive on the DEIS, comments we've received from the Snapper Grouper Advisory Panel. Also, comments that we get here from you today would be taken into account.

Hopefully, if the timing goes as planned, the council will approve Amendment 14 in March and make some final revisions in the ensuing timeframe, from March to June, and then approve it once and for all for submission in June. We're finally moving along on what's been a long process, but you all will have another opportunity to comment here today to see what's changed in the document and I'm going to go through that in a minute.

What I wanted you to know is I'll just remind you at your last meeting you all had provided us with a very useful report on the enforceability of the MPAs. I know there was a draft that went out without some of that information in there and that was of some concern to some of the members.

I just wanted to clarify that the original intent of us looking for that sort of information was so that we could present it to the council and the council could take that information into account when making decisions on preferred alternatives, which was indeed done.

I know that Bruce had talked to Myra in my absence and raised that concern and in going back, I agreed that there was really useful information that could be included in the plan and so I went back and I took some of the information from the law enforcement feasibility report and included it in the Section 4 of the document, if you would like to flip and see how that was included under the administrative effects, and talked about a lot of the caveats and things you all had recommended to us. It is now in the document.

Again, as a review, this body has recommended to the council that the distance from shore and the Type II regulations still remain obstacles to enforceability and that we still have on the record as your recommendations from this panel and, of course, you can discuss them again today or change them.

I'm going to get ready to go through the actions that are in Amendment 14 as we speak. It's important to note that since you have met the VMS option has been removed from the document. The reasoning behind that is that -- It's not a reflection of the council's belief in sort of the viability of VMS as an enforcement option, but it's about sort of where we are in the process and dealing with the snapper grouper fishery.

In the foreseeable future, it's very likely and realistic that the council will be further limiting entry into the snapper grouper fishery and there was some discussion about whether or not it was really idealistic to make a bunch of boats go out and buy a really expensive piece of equipment where they may not be in the fishery for very long.

Also, there are a lot of boats that don't fish anywhere near the MPAs and so we don't have a good way of fleshing out really getting the units on the boats that were going to be most likely in that area and so at this time, VMS isn't on the table, but I know that the council still is considering it for other amendments and again, the council, I think -- It's not a reflection of the council's view on VMS or the importance of enforcement of these areas.

I'm going to go ahead and show you guys -- The slide in front of you is the Snowy Wreck MPA and I just wanted to point out that the council has chosen Alternative 1, which is the more inshore alternative, as the preferred alternative.

The second MPA site we're looking at is the Northern South Carolina MPA and the council has chosen Alternative 2 as the preferred alternative and I will note that this does reflect you all's recommendation that your preferred alternatives were the ones that were perpendicular to the coast instead of parallel.

The Edisto MPA, the council has also chosen Alternative 1, which is the orientation I know that you all prefer. The Georgia Tilefish MPA, the council has chosen Alternative 1. The parallelogram that's parallel to the coast is the preferred alternative.

The North Florida MPA, the alternative is on another slide. There were six alternatives and none of these being it. The highlighted yellow box, Alternative 4, is currently the council's preferred alternative.

St. Lucie Hump MPA, down off of Hobe Sound, Florida, there was only one MPA alternative and the council has chosen to adopt it as an MPA as their preferred alternative and the same with the East Hump MPA off of the Keys. Adopting that is currently the council's preferred alternative.

The Charleston Deep Reef MPA, as you recall, this is an area where we don't believe there's any natural hard bottom. A box would be created with regulations within it, in hopes that someday we would be able to find a way to get some material out there and build an artificial reef MPA and finally, this is an action I don't believe was in the plan the last time you saw it. The council is asking National Marine Fisheries Service HMS Division to prohibit the use of shark bottom longlines within the proposed MPAs and this is important.

What I'm hoping to get some discussion from this body on -- The Snapper Grouper Advisory Panel met on Monday. Some of the members are also familiar with this fishery and they said that there are times they fish in the vicinity. It looks like the impacts are minimal to the actual fishing operations. They don't intersect with the MPAs very often, but they fish adjacent to them and the possibility that some gear may get lost and float into the MPAs, they are concerned about how they would be able to get the gear out.

That's a concern of ours as well. We're creating these MPAs to leave the habitat -- We want to leave the habitat alone and so we don't want the gear ghost fishing in there either and hopefully you all could give us some guidance as to how maybe that's handled in other places. Surely this isn't the only time it comes up and so maybe you could give us some guidance on that.

Another very important thing to note that came out of the Snapper Grouper Advisory Panel that we'll be looking for some discussion from you all today is the advisory panel has asked if it's possible there's a way that they would be able to transit through these MPAs with snapper grouper species onboard, but not fish.

The way we currently have it worded in Amendment 14 is that possession and retention of snapper grouper species within the MPAs would be prohibited. They're worried about how it would disrupt their fishing operations and how the cost of fuel and other safety issues -- The cost of having to go around the areas.

Roy, luckily had some wording from the Gulf, where apparently this had come up before, and they have very specific gear stowage regulations as far as for each type of gear what needs to be done to it in order to make it inoperable so that it's quite clear that when you're transiting through an area that you can't be fishing that gear.

That's definitely a high priority that we need some guidance from you all here today. Anything else that you would like to comment to the council on as far as Amendment 14 is also welcome and that's what I have and I'm happy to answer any questions.

Major Buckson: My guess is there's going to be a few of us that may have some comments in general about the process and so I would like to open that up to the LEAP members, without specifics to the two different questions, but just generally if there's any comments from the LEAP regarding the MPAs. Now is the time to make some additions.

Mr. Dunn: I just wanted to correct one thing. She had mentioned that we would like the boundaries perpendicular to the coast, but it was more along latitude and longitude lines is what we were looking for and I was glad to see some changes in that area. I think she threw us a bone.

Major Buckson: I had already communicated with Kerry via email, but I appreciated the fact that -- I don't know if everybody had a chance to look at the most recent document, but I appreciated the fact that it included some of the historical documents and historical information that we had gathered about what preferred options were as far as MPAs are concerned and also the most recent one, which I think was last January, where at least the states were able to identify the lack of resources, in most cases, to be able to patrol in those areas.

I think it's important, just one more time, to make sure that the -- I ask for the rest of the LEAP members to comment if necessary, but I think it's important one more time to

stress the fact that most of the states, because of the locations of the MPAs, currently don't have assets to be able to do significant patrols in those areas.

If I remember correctly, there was one in Florida where we thought it probably had the ability to -- It was what we classified as moderate, which meant that we could probably do some patrols of the area with the resources we have now. Otherwise, it would take some funding sources to increase the resources to be able to get there.

The other states, I think we were pretty much in the same position. Georgia is not here today, but North Carolina and South Carolina are still in the same situation. None of that has changed. To get patrols in those areas is going to require funding at the state level and so I think that's important, just to reiterate, and I know that you all have heard it over and over again, but it's important to us.

As I said in the past, five years from now, when a lot of these members aren't around, and the question is there any enforcement in these areas or why isn't there enforcement, different faces may be here and to have a record of this I think is important for us, because it does up, in these cases, to be a funding issue primarily, to be able to do the enforcement. Once again with the LEAP, are there any other comments? I assume, Kerry, we'll come back to those two particular issues, to cover those?

Mr. Dunn: We've discussed this over and over again, but I agree with Bruce and there was one other point brought up at the last council meeting that I think will significantly dictate how we look at this down the road as far as what enforcement was able to do to enhance those closed areas and that is the baseline and what is really there right now? Without that, it's going to be very, very difficult. Even if we were able to get an asset out there and park it, it's going to be difficult to really measure what kind of influence that had.

Mr. Gibson: Council members?

Mr. Iarocci: I'm not a member of this committee, but I would like to throw a scenario at the Law Enforcement Advisory Panel. There was a lot of discussion about the bottom shark, the longline fishery, and drifting and weather-related -- Having that gear drift into the marine protected area.

In the Florida Keys National Marine Sanctuary, as you know, we have all different types of protected areas and after storm-related incidents, we've had areas that the traps have washed into and the Sanctuary has gone in there and called the fishermen and given them a timeline to get in there and get the gear out of there.

I'm just curious, because there was significant discussion. If a similar situation, say a bottom shark longline fisherman had set and it was the full moon tide and part of his gear had drifted in there and if a VMS or something came on, would that scenario -- I know you can't really say for sure, but I'm just wondering, could we look at that similar to how

the Sanctuary relates to that incident and call the guy and give him time to get his gear out of there and we know it was an accident and how would that play out in your mind?

Major Buckson: Tony, I appreciate the question, but before we try to address the specifics of that, I was -- That's one of the two things that I think the LEAP -- We'll take each of those as a single bite, that and the transit with the fish onboard, and that's really where we need to go next, is kind of have a little bit of discussion about that.

I don't know if Karen is in a position to answer that, but I just wonder if there's any rule or rule language that specifically addresses that type of thing and if there's not, then we can kind of deal with the scenario that you laid out and let you know what's kind of happened in the past and what may happen. Karen, I'm sorry if I put you on the spot with that.

Ms. Raine: That's all right. To a large degree, it depends on how the regulations are written and if a regulation is written so that you're not supposed to be in an area, you're not supposed to be in an area regardless of the reason, because the Magnuson Act is a strict liability statute.

If the regulation is written in such a way that the Regional Administrator, for example, might have the option -- I'm thinking about the TED situation where after hurricanes or storms or that type of thing, in consultation with the states, the Regional Administrator can modify the rules. It's not sort of everybody gets to go out and fish without TEDs. There are tow time restrictions and that type of thing.

Just as a general matter, let's just say there can be a lot of excuses for why somebody is in a closed area and so if it's closed, it's closed, unless there's some exception in the regulations to it, as far as I think my office is concerned anyway.

Major Buckson: Any other LEAP members have comment towards that? I would be happy to offer a perspective from the state and I don't think it varies much from what Karen said. That doesn't mean that you don't have the option to try to deal with it in different ways as you go along.

If it's a violation, it's a violation. At the state level, we have several different ways to deal with violations. We can issue a verbal warning or we can issue a written warning or we can write a citation, a state citation, or if it's a federal violation, we can move it to a federal citation. Generally speaking, I don't think that any of us sitting here, unless there's a way to write a rule and I don't know of a way, if you've got a closure, you've got a closure.

We can't speak to every scenario and say here's how we would handle that and that's from Florida's perspective and I don't know if any other states wanted to add anything from the LEAP point of view.

Mr. Wallace: Is there a mechanism or would it have to be into the plan a mechanism to ask special permission to retrieve your gear? At least that way you can -- If you see a repeated request to go in there, you would at least say that somewhere this has got to stop, but is that a mechanism that would have to be put in place by the amendment or how would that work?

Ms. Raine: If the council wanted to go down that road, certainly that could be explored. I would just caution you to be very, very careful if that's the road you think you want to go down.

Major Buckson: Karen, let me ask kind of a follow-up question and if you don't have the answer, that's fine. This fishery, I would just ask Kerry, is a VMS fishery, correct?

Ms. O'Malley: Yes.

Major Buckson: I think I know the answer to this, but if there's a request to go in and get the gear, if they find that their gear is there and they make a request, the regulations don't allow for that at this point, I think is what I'm hearing you say.

Ms. Raine: Right. I would just caution again that this area is fraught with interesting issues.

Major Buckson: I agree that it does become very confusing. We deal with the same thing with nets in Florida. We've got one mile offshore you're allowed to use a -- You have to be at least one mile offshore to use a certain type of seine gear and that seine gear can float into state waters and we've gone through state court and some of the higher level state courts and basically, if the gear is in the water, it's fishing and that's illegal. Again, it boils down to how we end up as an agency dealing with it and it's not one of those things that I think you can have a simple answer for. It would be difficult to write the regulation.

Ms. Raine: I don't want my comments to be misunderstood that we want the gear to stay in there, but that wouldn't alleviate somebody from the responsibility of having violated the regulations.

Major Buckson: Karen, that's a very good point. It's a violation and how that violation is actually disposed of could be that you're required to get your gear out of there, but anyway -- From our part, I think that's it, Frank.

Mr. Gibson: Would you like to see if your committee would adopt the preferred on the MPAs and then we'll go to council and then we'll talk about transit and then we'll talk about shark?

Major Buckson: From the LEAP members, what we need to do now to continue to move forward is just to let the council know whether or not we have any other

recommendations as far as the physical location of the sites or if we're comfortable with where the sites are.

I think probably the easiest way to do that is if we could do it as a whole. I got a little frown over there and so let's do each one. We'll go through each one. The Snowy Wreck is the first one. Is there any objection from the LEAP members on that location as it's shown?

Ms. Raine: I just have a question. Comments have been made about the concerns about being able to go out there and is the question do we object to this going forward or are we -- I'm not sure what I'm trying to say.

Mr. Dunn: I understand her not confusion, but it certainly seems like we've already provided the enforcement comments on this. The farther offshore it is, the more difficult it will be. The exact location I think is up to the council on what that area is going to best serve and if that's a good area to put it, but we've just got to say as an enforcement body that there will be problems with being able to provide any kind of enforcement presence. I guess that's kind of the overall consensus.

Ms. O'Malley: I understand and that's why I made sure at the beginning of this to reiterate what your objections were last time. I guess what I would be looking for, as a staff member, from you all at this point is to -- I've showed you what the council's preferred alternatives are. It's not set in stone, because the council hasn't taken final action.

Here's one more opportunity if say you see one alternative that looks better to you than another. It's more chance for you all to get your opinion on the record. If you feel like you've given all the input you can give at this point, it's certainly within your scope to say you've made your voices heard and you don't have anything else to say. We just wanted to give you another opportunity to look at the alternatives and give your input. Anything you've said to this point is still noted.

Major Buckson: Karen and Tracy, I know I agree with your comments. Since there was some other physical sites that we hadn't seen before -- Wasn't there at least one? There was in Florida that I don't remember seeing before, but it's not the preferred alternative.

Ms. O'Malley: No, I think you would have seen them all.

Major Buckson: There was an Alternative 6 that was listed there that I didn't recall seeing before, but either way. I think at this point we're kind of taking a little chunk of this whole process and looking at giving each of our states an opportunity, or each of the members of the LEAP, to look at the sites and see if there's anything in particular that we do not like about them. We're not necessarily agreeing with the entire process or how it's going to be enforced, but just simply looking at the physical locations.

Capt. Lanier: It's just to remind the council that North Carolina doesn't have the joint law enforcement agreement and so as far as that one area there off the coast, we wouldn't be involved in any enforcement.

Mr. Dunn: Can we move it into state waters then?

Major Buckson: Unless there's other objection from the LEAP, then we can just go through them and if there's an objection to each particular site or any significant comments that we want to make about the particular sites, then we could make those comments now. Starting with the Snowy Wreck MPA, it looks like the Alternative 1 is the preferred alternative. Are there any comments about that? There's no comments about that.

The second one is the Northern South Carolina MPA and Alternative 2 is the preferred alternative. No comments there? The next is the Edisto MPA. Alternative 1 is the preferred alternative and we have no comments there.

Next is the Georgia Tilefish MPA. The council has chosen their preferred alternative as Alternative 1 and Steve is not here. No comment on that? Next is North Florida. There's no comment there. St. Lucie Hump, Alternative 1 is the preferred and no comment there and the East Hump, the same, no comment there. Alternative 1 is the preferred alternative.

Understand the LEAP includes the U.S. Coast Guard and so I'm looking at you every time that we -- I want to make sure that we're not just looking at the states and everybody understands that we're including the U.S. Coast Guard as well. Does that answer the question you were looking for, Kerry?

Ms. O'Malley: Yes, it does.

Mr. Gibson: I believe the council has seen this a few times. Are there any further comments or objections? So moved and so I'll turn it back over to the Major and we'll talk about transits.

Major Buckson: Back to Kerry real quick, did we answer the question about the longline gear as far as what you needed?

Ms. O'Malley: We can take it in either order. The two remaining issues for Amendment 14 are the shark bottom longline issue and I'm not sure -- I hear what you're saying, but I'm not sure exactly how I take that forward as an answer, but I guess if that's the best we can say right now, then I guess -- There is no cut and dry way to ensure they can go in and get their gear legally, is sort of what I'm hearing.

I guess what would be helpful for me is a recommendation from you all as far as whether or not we find some way to make that within the regulations, write that within the

regulations -- I see the look on your face, but I sort of need to -- It would be easier for me if it came forward as a recommendation from you all and then we let them discuss it.

Ms. Raine: My recommendation is that there are no exceptions, just from an enforcement viewpoint, but that's just the opinion of me.

Major Buckson: Any other comments from the LEAP? Again, remember that we're only talking about the shark longline gear at this point.

Mr. Dunn: I agree with Karen. We've always handled those things on a case-by-case, depending on the circumstances. I'm not saying that we're not going to look at it unfavorably if it happens, because I do believe if you know your gear and you know the waters and if you set too close to a closed boundary that you're taking your chances. It's like running too far over that speed limit and hoping that you'll get a ten-mile variance.

Lt. Frampton: I agree with Tracy and my only thing is if you start to give exceptions to let them go in there, where do we stop it? If we set a precedent and we let people start to go in there to retrieve gear, when do we stop it and say that no, you can't go in there and get your gear?

Major Buckson: Do we want to offer a recommendation as the LEAP to the council as far as that goes, I guess in the form of a motion? As a member, let me make a comment as well. I don't know of any regulation where there's been that kind of an exception to a regulation that's been written in with regard to those types of things, with one caveat.

In Florida, dealing with our speed zones, there is a federal and state exception to complying with those speed zones that's related to a safety issue. It's due to bad weather or inclement weather.

There's pretty much a blanket exception to complying with those idle speed zones or slow speed zones if you're trying to get out of bad weather or a hurricane is coming and you're moving a boat around or whatever the case may be. That's the only place that I've ever seen an exception to the regulations with regard to kind of a closed area or regulated area.

Ms. Raine: To sort of go along with the previous comment, if you want to accept these fishermen, where does it stop? Are there exceptions to the Oculina area that you want to make? I would imagine that if an exception like this was granted, that other fishermen would come in and would like to be exempted under certain circumstances as well. As Tracy indicated, obviously when you're looking at putting together a case, you're looking at all the circumstances to see whether or not you can prove a violation as well.

Mr. Kennedy: I was just going to say that I think from my standpoint, and I'm not in the enforcement business, but from the legal standpoint, it just seems easier for the prohibition to be in place and certainly when the case is laid out, mitigation could be

considered, I suppose. Why not have an easy black and white rule as opposed to shades of gray, which will just cause the enforcement folks difficulty.

Ms. Merritt: I'm assured by what Tracy had said, about looking at these as individual cases and having a judgment call there. It seems like if you want to come up with some kind of a blanket legal wording, without making an exception, but just something generalized like in the case of the manatee example you gave, Major, to have something related to emergency or safety issues that the violation would be up to the enforcement agency responding, just as something that covers that there can be exceptions without saying so.

Major Buckson: Back to the LEAP, we still need to offer a recommendation as a group back to the council as far as whether -- I think it's probably at this point whether there is language to offer or if we're in agreement that it's best just to leave it as is and deal with them the way we've dealt with other issues.

Lt. Johnson: Unless I misunderstood you, you're saying just leave it alone or put something in there saying there's language for an exception. I think we need to definitely tell them whether we think there should be an exception or not. Did I misunderstand what you said? If we forward it without making any recommendation whether there's an exception or not, the council might go ahead and toy around with the idea of putting an exception in there. I've sent plenty of cases to Karen that she hasn't prosecuted.

Ms. Raine: Don't say that. That's not so.

Lt. Johnson: I think it's pretty well understood that it's a discretionary call on the part of General Counsel as to whether a case is prosecuted or not. I don't think we need to -- I know I'm on the record, but I was just messing with Karen.

Mr. Dunn: Just for the record, she did prosecute mine.

Major Buckson: To answer your question -- I forget what your question was now.

Lt. Johnson: Just that we should definitely make a positive statement one way or the other from the AP out to committee and council, because not everyone from the council is in the room and they might not be privy to our conversation here. Even if it's on the record, they might not go through and read it, which I'm sure that they do read everything that's on the record, but there's always an exception, a slip up.

Unidentified: I agree with you that we do need to make an affirmative recommendation to the council and that's --

Lt. Brick: Can't we just put in the wording that it's like common knowledge to contact local authority and not change the wording in the regulation, but contact local authority if you have issues with it and stop it there?

Lt. Johnson: That was my point earlier and we can speak offline about it. The general public knows that this is not a mandatory prosecution, I don't believe, in any case -- Maybe I'm making a mistake now, but I think prosecutors have some discretion. **I guess I'll go ahead and make a motion then, if that's okay, that we recommend that no exception be provided for the retrieval of any type of fishing gear from an MPA.**

Major Buckson: Is there a question, a question about the motion?

Ms. Raine: I have a question. Do you mean that there shouldn't be an exception to the prohibition?

Lt. Johnson: Yes, that no exception be provided for the prohibition to retrieve fishing gear from an MPA. In other words, there would be no ambiguity in the prohibition and I think it's implied that there's prosecutorial discretion as to whether -- On a case-by-case basis, as Tracy and Karen have alluded to, that things can be looked at individually and we can say go in and get it or whatever, to prevent harm to the environment.

Major Buckson: You're basically saying let's leave the regulations the way they are?

Lt. Johnson: Yes, but my contention is that we should send that out to council to make sure they know our position instead of letting them try to read our minds or read what's on the record and figure out what we wanted.

Major Buckson: Does what Kerry have there reflect what the --

Ms. Raine: Could we see the exact language of what the regulation is? Can you put it up there?

Ms. O'Malley: We have no regulations right now. Currently, the wording in the amendment, the only wording we're -- Well, we have the prohibition currently right now for possession and retention of snapper grouper species. Then the action for the shark bottom longline gear, which prompted this discussion, is that we prohibit the use of shark bottom longline -- That's the wording of the action. We don't have the draft regulations yet and so I'm not sure how that --

Ms. Raine: Then, Eric, basically it's without exception.

Major Buckson: Is it where you wanted it, Eric?

Lt. Johnson: Karen is speaking to me offline here and that's what I -- We need to word it -- I'm adlibbing here and so forgive me. I'm not good at that. I'm not smart enough to think on my feet, but we want to word it so that there's no ambiguity on the part of

committee and council that the AP thinks there should be exceptions provided in the regulation for possessing or retrieving or anything like that of fishing gear. We need to have something in writing, I think, to let them know that's where we stand.

Ms. O'Malley: I think that your intent has been made very clear. The committee is here and I totally understand that you want to get something in writing, but I think that if we get somewhere close, your intent is very clear and the committee also hears it. Tell me how that speaks to your intent and --

Lt. Johnson: Karen, can you read it real quick and tell me if it looks -- Let's, if I may, edit the motion that no exception be provided for the use of prohibited fishing gear from an MPA.

Major Buckson: Eric, is it stated --

Lt. Johnson: It would be within an MPA, that no exception be provided for the use of prohibited fishing gear within an MPA.

Unidentified: This is a question on the motion. My question was are we acting on Alternative 1, which is to prohibit the use of shark bottom longlines within the MPA? Is that what the intent here is? Can't we just take that and add on to the end that there should be no exceptions? State the positive statement, that shark bottom longlines are prohibited within the MPA, there shall be no exception and wouldn't that be clearer?

Lt. Johnson: Yes, that's what I wanted. I didn't see it in front of me. I don't have it in front of me and I think it was up there for a minute, but -- There will be no exceptions to the use of the shark bottom longline gear.

Major Buckson: Eric, are you still working with Kerry here to get the motion?

Lt. Johnson: Yes, I would like to advance it for the AP, just as a starting point. If we can fine tune it or whatever, but, as has been already stated, my intent is perfectly clear, I think.

Major Buckson: Eric, is that what you expected it?

Lt. Johnson: Kerry, I'm sorry, but just after the comma, put "without exception" and I think it would be fine and then a period and erase the rest.

Major Buckson: We've got the motion and now is there a second? Karen offered the second. Is there any discussion at this point?

Capt. Lanier: Is this going to lock you down? It says without exception and is that going to lock you into issuing a citation for every incident?

Major Buckson: I think we're addressing the council's alternative or the recommendation to prohibit the longline gear in the MPA.

Ms. O'Malley: Basically, this just came about as some questions that came out from our Snapper Grouper AP and so there's nothing in place. The council's preferred alternative is to prohibit the use of shark bottom longlining gear. Some Snapper Grouper AP fishermen asked what would happen if their gear went in and is there a way that they could go out and get it. We were just looking for your advice on if there was a way to tell them they could go in and get it. This doesn't necessarily hold regulatory -- The rest is worked out in the regulation.

Ms. Raine: I don't think that the council can limit either enforcement or prosecutorial discretion or circumscribe it in some way and so my thought was that it was just trying to make clear that we weren't in favor of exceptions to the prohibition and not what any result from a patrol might be.

Major Buckson: Is there other discussion? With no other discussion, I'll read the motion. **The motion is to prohibit the use of shark bottom longlines within the proposed MPAs, without exception.** Everyone understands what the motion is? **Is there any opposition to the motion? Without opposition, the motion carries.**

Once again, I think the discussion is probably worth more than the motion might be, because I don't think that anybody wants to prohibit ways of making sure that the gear gets out of an MPA. We want to figure out ways to help get the gear out of there. The regulation is probably not the appropriate place to try to do that.

Mr. Gibson: Council members, this changes slightly from our preferred. Is there any additions or deletions or comments or would someone like to make a motion to adopt their new guidelines?

Mr. Wallace: I have a comment. I was listening to the fisherman that was in there and what he was saying was that before he risked taking a fine and losing his permit, he's going to leave the gear in there and it's better to remove this gear than to let it ghost fish, because this gear is going to last for a long time.

That's what I was looking for there and I understand you all's position is -- It's a much cleaner case if you say there are no exceptions, but no exceptions doesn't always mean the best intent for the fish.

Mr. Gibson: Other comments?

Mr. Dunn: I was just going to offer that it's always good to get a hold of either the Coast Guard or us or somebody if you have a problem, instead of just leaving it and going about your business. That's just general advice.

Mr. Wallace: To follow up, I understand his position in it too is that -- Even if he does call and say I've got to go in there and get my gear or I've got to leave it, it does not mean that you're not going to give him a citation and it does not mean that he cannot be prosecuted in court. It's a catch-22 and I understand that, but like I said, what's always good for the law is not good for the fish.

Major Buckson: I think, though I kind of skimmed over it as Tracy was saying it, I think the comparison to the speed limits and how far can you go is an important comment to understand and I think when you're dealing with gear that is not stationary, like a bottom trap might be, but I think the fishermen need to understand that there's the potential for it to end up and they take whatever precautions they might be able to take prior to it ending up in a closed area and whether it's setting it a little further away from the line or what it might be.

Again, I refer back to some of the experiences I've had with our net issues and our seines in the state of Florida. That's the advice that we've given folks and it does ultimately change the way they have to do business, but the MPA in general changes the way they have to do business.

They're being moved out of that area completely and so your points are well taken. Again, I reiterate that I don't think there's any enforcement agency that wants to see the gear in there fishing without somebody tending it in a closed area. I think the discretion is going to be at the agencies at this point.

Mr. Gibson: Any other discussion? **Would the council like to adopt their motion without objection? So moved.** Roy, could you give us a little background on storing equipment as they done in the Gulf, just a minute or two?

Dr. Crabtree: I can't tell you the language. Someone will have to get the regulations and look them up. I don't have it in front of me, but there is a transit provision that's in the regulations for the Madison-Swanson Steamboat Lumps area. It's a very similar provision and in that case, if you possess reef fish, you have to have your gear stowed and all those types of things and you're not allowed to stop and it's in the regulations.

We had fishermen express a lot of concerns about transit provisions and so the council was interested in putting basically similar regulations in place to allow transit of vessels with snapper grouper onboard, in a similar fashion to what's done in the Gulf of Mexico.

Mr. Geiger: Tracy, do you have any experience and knowledge from talking with your counterpart in the Gulf as to how that transit provision is actually working or if they've encountered problems?

Mr. Dunn: No, Karen would be a better source for that, really.

Ms. Raine: I'm not going to talk about specifics. We certainly do have transiting with proper stowage regulations out there. I think from a purely enforcement viewpoint that's not the preference and again, proof issues and patrols being out there to determine -- When you don't have VMS, you can't tell if somebody is continually transiting or those types of issues, but we certainly do have them out there. It just becomes a matter of whether or not you have enough proof in a particular case to be able to prove whether or not there was a violation.

Major Buckson: Thank you, Karen. Are there other LEAP members with comments? I would just -- I have kind of a comment and a question. Madison-Swanson is a much larger MPA than what we're dealing with here?

Dr. Crabtree: I think, Bruce, it's ten-by-ten miles and so it's a little larger.

Major Buckson: What's the distance from shore? Does anybody know off the top of their head? I guess my point would be if we're dealing with some relatively small MPAs in this case, it may be a different scenario as far as being able to go through those MPAs with the fish onboard. The location and the distance from shore would also be a consideration and so there's some other things to consider as well, I think.

Mr. Gibson: Help me, but I think there are three ten-by-ten and one ten-by-fifteen. That's four out of the really seven active that are pretty large.

Ms. O'Malley: With the exception of the St. Lucie Hump MPA, they're all about at least -- There's two five-by-tens, two ten-by-ten, and one ten-by-fifteen. They're all good sized except for the St. Lucie Hump.

Mr. Whitfield: Gear storage, are we talking about the complete gear or just part of the hooks or line or -- How long does it take to store this gear?

Major Buckson: I'm not exactly sure what the Gulf regulations say, but I would expect that if -- It would be my suggestion or my recommendation that if we are willing to have an exception that it be worded the same way as what the Gulf regulations are, instead of coming up with something completely different. I'm not sure what they say and I don't know if anybody has that at hand right now, Craig.

One of the other considerations that I'll throw out -- I know that at this point in time, VMS has been pulled from the MPA package and I guess one of the things that would make it easier for enforcement is once they got to the point of the VMS being implemented that this carriage of prohibited species across the MPA would be more acceptable, in my mind, because you would be able to have a little bit different track on the vessel and know when the vessel is actually going through there, as opposed to potentially the vessel fishing in the area. That's just a thought to throw out for discussion purposes for the LEAP. Would we want to consider tying the possession to transit the MPA and tying it to when VMS gets implemented?

Ms. Raine: Do you want to hear the language from the Gulf? Okay. This is under 622.34 and it's dealing with possession of Gulf reef fish is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified in Paragraph K-4 of this section and that says for the purpose of Paragraph K of this section, transit means non-stop progression through the area.

Fishing gear appropriately stowed means: (1) A longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however, buoys may remain on deck. (2) A trawl net may remain on deck, but trawl doors must be disconnected from the trawl gear and must be secured. (3) A gillnet must be left on the drum. Any additional gillnets not attached to the drum must be stowed below deck. (4) A rod and reel must be removed from the rod holder and stowed securely on or below deck. Terminal gear (i.e., hook, leader, sinker, flasher, or bait) must be disconnected and stowed separately from the rod and reel. Sinkers must be disconnected from the down rigger and stowed separately.

Major Buckson: Can you go back to very beginning of that, the first part of that and read it again?

Ms. Raine: Do you mean about the longlines?

Major Buckson: No.

Ms. Raine: Before that?

Major Buckson: Yes.

Ms. Raine: For the purpose of Paragraph K of this section, transit means non-stop progression through the area. Fishing gear appropriately stowed means -- Then it goes through that and the provision before that that I read was possession of Gulf reef fish is prohibited, except for such possession aboard a vessel in transit with fishing gear stowed as specified.

Major Buckson: That was the part that I wanted to hear again. This would just be basically the same way? After hearing that language, LEAP members, are there any other comments? Is there any opposition to supporting the use of that language with regard to the South Atlantic regulations? Okay, Kerry, now I need some advice. There was no opposition to using that particular language.

Ms. O'Malley: I think that's clear enough. I think we've gotten your recommendation and heard -- Again, it's the intent that matters, that will be carried forward to when full council has this discussion, based on what they get out of the Snapper Grouper Committee. That's very helpful, in my mind.

Mr. Gibson: Any comments from council? Any questions? Okay.

Major Buckson: Being from Florida and dealing with both councils, it would be very nice to have a South Atlantic regulation and a Gulf of Mexico regulation be the same. Kerry, do you want to go through the Draft MPA Framework?

Ms. O'Malley: In your briefing materials, under Tab 8, Attachment 2, you all received a copy of the draft framework for developing a national system of MPAs. This framework is a result of the executive order issued under President Clinton in the year 2000. Basically, the report does two things. It sets up a framework to do two things.

One is to build and support existing MPAs throughout the nation and the second would be to identify gaps and future priorities in MPAs. An important thing to note is that it establishes absolutely no new legal authority and so basically it sets up a mechanism to go throughout the country and find different things, since we all use different terminologies for MPAs and research reserves and things, and to put those in a database and identify that they're there and then look anywhere in the future where maybe some MPAs should be created.

There is no new legal authority. Of note to you guys also would be some that Snapper Grouper Advisory Panel members, again who met before you, suggested that in the council's comments on this draft framework that the council strongly supports an increase in law enforcement as a priority. I thought you all might like to know that and hopefully you've had some time to read it and see if there's anything in there that you feel strongly about.

We basically would just be looking for you all to make any comments you saw specific to the framework and anything you really felt the council should write in support of or not in support of.

Major Buckson: Comments from the LEAP?

Lt. Johnson: Kerry, could you say the last -- You mentioned something about the comments from the Snapper Grouper AP about more law enforcement presence and were they talking about law enforcement presence or what specifically with law enforcement or just more -- Are they talking about trying to get commitments on patrol intentions and things like that or what?

Ms. O'Malley: My understanding of their intent was just in the hope that the council would, in their comment, talk about how important law enforcement is in MPAs. I think it's that general, that we just really support an increase in enforcement funding and things like that and not trying to stretch anyone any further than they're already stretched.

Major Buckson: I don't think there's a whole lot we can offer, other than thanks for the support, because it's critical -- I believe that we've said this over and over again. It's critical and we want to play a part in making these work and be a success and that that's probably going to require some funding, based on locations and the regulations.

Mr. Gibson: Council, any comments or questions or suggestions? Okay, we can move on.

Ms. O'Malley: Next we have Rick DeVactor is going to talk to you about some actions in Amendment 15 that we need your input on.

Mr. DeVactor: Last time the LEAP reviewed Amendment 15 was in January of 2006 and at that time, I read the minutes, you concentrated on the wording of the recreational sale alternatives and we'll go through those again. There are thirty-two actions to Amendment 15 and I won't go through all of them.

There's three actions which I've identified that you probably want to comment on. I'll certainly go through any other actions if you wish that, but, again, there's three that I definitely see that I think the council would want your comments and so I don't know if you have the document in front of you or if you have the CD, but it's page 58 of the hard copy or the CD.

The council has added an action since the last time you've seen the document that would require sea turtle bycatch release equipment onboard snapper grouper commercial and for-hire boats. The purpose of this would be to reduce the harm that's caused when these sea turtles and smalltooth sawfish are hooked.

If you look on page 58 -- There's a table on page 60 that lists all the equipment that would be required onboard. This includes long-handled line clippers, dipnets, long-handled dehookers, a tire or a cushion device. A life preserver, for example would be all right, is what we heard. Bolt cutters and such.

There's three different alternatives. Alternative 3 is currently what is, I think, in the final rule stage for the Gulf of Mexico and Reef Fish Amendment 18 and that would have less equipment on boats that have less than four feet freeboard. The council brought that forward and said they want their smaller boats to possibly not have as much equipment onboard.

What we heard from the AP two days ago was that they have most of this equipment onboard already and it wouldn't be so much of a problem. They were concerned about the tire, of course, but we had that clarified that you could use a life preserver. Maybe some comments would be the enforcement of having this equipment onboard, much of it, which we heard, is already on there.

Mr. Gibson: What about the net?

Mr. DeVactor: Frank, you're referring to the dipnet?

Mr. Gibson: Yes.

Mr. DeVactor: Yes, that would be required under all the alternatives.

Mr. Gibson: Remind them what size this is.

Mr. DeVactor: It says handle six feet or 150 percent of freeboard, whichever is greater. They brought in that dipnet and it's pretty large.

Major Buckson: If it's to the LEAP at this point, are there any LEAP comments?

Mr. Dunn: It looks like it's all going to hinge on this freeboard issue and the definition thereof and the ability to measure that. I have to defer to the Coast Guard on how they view that, because it really is going to be the Coast Guard that's going to handle most of these issues. I didn't read it, but is this required while underway or is it required -- Most of our regulations have a use requirement or if rigged. Does this have some provision like that?

Major Buckson: Do we have the language available?

Ms. Raine: I think the proposed language basically says require all vessels with commercial and for-hire snapper vessel permits to have the various items onboard and so it's connected to the permits, I think.

Mr. Dunn: It could be handled dockside?

Ms. Raine: If they have a permit, it seems -- That's what I'm reading here very quickly. I'm not looking at it carefully, but that's what it appears.

Mr. Gibson: I asked that question and they said for-hire, a six-pack that it could be required. That's what I was told at the Snapper Grouper.

Ms. Raine: It says with commercial and for-hire permits and so it would seem to me to apply to people who have commercial and charter/headboat permits.

Mr. Gibson: In other words, a Contender would fall under these regulations too, which are not real large. That's not a console, I mean.

Mr. Wallace: Kind of to what Tracy was saying, how are you going to measure freeboard at sea with things jumping all over the place? I've got shrimp boats and on my documentation papers, there's nothing -- I've got depth and draft and length, but I don't have freeboard on any of my written documentation.

Major Buckson: I guess from the enforcement perspective, I can say that it would be much easier if you had the specifications of the gear without any reference to percentage of length or freeboard or whatever. That would be much easier and I'm not sure how you measure the freeboard, being on the water.

Unidentified: In the North Pacific, they have regulations with that that pertain to like ladders for the boarding team to get aboard a trawler or whatever and freeboard is specified in there, I believe. It's not -- You don't take a tape measure and measure it while you're getting on, but it's kind of a swag, I guess.

Mr. DeVictor: We researched this and it's specified from the height of the gunnel to surface of the water. We did have a question from several people and I haven't heard a response, but where on the boat do you measure that height? That's one question.

Unidentified: I know, speaking from the North Pacific, it's usually pretty -- They usually have it marked on the boat anyway, but it usually doesn't vary that much, even with a lot of catch onboard. I guess for a smaller boat, I guess it could move around a little more and it might not be demarked on a smaller boat, like the bigger processors out west.

Mr. Whitfield: Is there a major difference between the freeboard where there's less than four feet or more than four feet? Why the distinction of four feet? There's not but about two pieces of gear that distinguish between the two of them. Why not all the same and that cuts that out.

Major Buckson: I'm not sure exactly what kind of recommendation -- It seems to me that if it's clearly spelled out in the regulation where everybody can calculate it, it shouldn't be a big deal. In enforcement, it's kind of like counting the number of fish onboard. You have a dipnet and is it the right length and you have the -- As long as it's clearly identified and I would say unless there's objection to it, I think enforcement is pretty much fine with it.

Ms. Raine: I found a definition in another region for freeboard if you want to hear it.

Major Buckson: Sure.

Ms. Raine: This is for the fisheries off the west coast states and in the Western Pacific. It's 50 CFR Part 660.12 and that's where their definitions are. Freeboard means the straight line vertical distance between a vessel's working deck and the sea surface. If the vessel does not have gunnels, door, or stern door that exposes the working deck, freeboard means the straight line vertical distance between the top of a vessel's railing and the sea surface. My question would be, under certain sea conditions, how do you prove what it is? Again, proof issues, I would think, under certain circumstances.

Mr. Dunn: Looking at it from the inspection side, I probably -- If it were close at all, I wouldn't do it. I would just wait until they get back to the dock. If it's based on that permit, then they're going to have this gear aboard if they have the permit, with using common sense, of course.

Major Buckson: I would say that since the freeboard issue is used in another area, there shouldn't be any reason that it couldn't be used in this area as well and the rest of the gear seems to be pretty straightforward, in my opinion.

Lt. Johnson: I'm not concerned about the freeboard issue, because I know it's used other places, but I think one question that seemed to come up was why the four foot of freeboard. What makes a four-foot freeboard vessel so less capable of carrying two other pieces of equipment? It seems to me it's a relatively -- Space-wise, it would be a minor issue and I don't know about cost-wise. Is that the concern, that most vessels with four foot of freeboard have less operating capital and can't afford to buy the gear, the extra two pieces?

Major Buckson: Let me ask a quick question. What was the preferred alternative? It's related to what he was asking.

Mr. DeVictor: The council does not have a preferred at this time, but the Snapper Grouper Committee yesterday said that their preferred is Alternative 2 and so that would go before full council.

Major Buckson: Alternative 2 doesn't have the four foot in it and so I think we're on the same page there, at that point.

Ms. Raine: As far as the different gear and all, I guess my preferred alternative would be what the agency, who has been dealing with these types of regulations in other fisheries, is looking for. I just don't know those details and that's all.

Mr. DeVictor: Alternative 2, that came from the HMS pelagic longlines and then Alternative 3 is what the Gulf of Mexico is going with.

Major Buckson: Unless you need anything further from us, I think we're fine where you are on that one.

Mr. Gibson: Any discussion? Okay.

Mr. DeVictor: The next action is the sale of recreational caught fish. I know you all have discussed this in the past. This may be your third meeting where it has come up. Kerry is going to put that up there, the current alternatives. Alternative 1 would be to maintain the status quo and so that would -- Sale of snapper grouper species caught under the bag limit would be allowed. Sale would be allowed if the seller meets the proper state requirements and sells to a federally permitted dealer.

Then there's Alternative 2 and the intent there is to only allow sale by those with commercial permits and I'll go through that added wording in one second and then Alternative 3 would be the commercial sale as normal, but the intent would be to allow fish caught under the bag limit on for-hire to be sold by the holder of the permit. That's the council's intent under those three alternatives. Just a little background on that blue wording that Kerry has up there. I know you all discussed it in January when you last met, about what if someone has two permits and how do you know when they're on a charter trip or a commercial trip.

The Snapper Grouper Committee talked about this and directed staff to add wording in there that references 622.2 that explains what a charter trip is. We added that in there last night and I want to see if you have comments with that language in there. Hopefully, I explained what the council's intent is with those two alternatives. We just want to make sure that we have the wording correct and it's worded so that it increases the enforceability of these.

Ms. Raine: The wording for the preferred that is not in blue, just the black writing, except for some references to some regulations, that was exactly the same as the Gulf Council regulations, which I would follow the language of the Gulf regulations and that will work.

Major Buckson: I have a question for you, Karen. Does the blue language change that at all?

Ms. Raine: I'm trying to look it up real quick and I haven't gotten there yet.

Mr. DeVactor: Just to clarify, that black language, she's right, is straight from the Gulf and we added that blue language. That blue language isn't in the regulations right now. That's just something I came up with last night to maybe clarify this.

Major Buckson: LEAP, any comments on that one? I think Karen is --

Ms. Raine: I know that the Gulf regulations reference -- I'm not sure if they reference 622.2 or something else, but whatever, they do have some references within the body of the regulation and that's why I say except for the lack of the regulatory references and your black language, it was the same as the Gulf language and that gets to the intent that you're trying to get to, but I need to find the provision.

Major Buckson: Simply stated, what this does is prohibit the sale of recreationally harvested snapper grouper, correct?

Mr. DeVactor: Yes, that's right. On the second alternative, the council's intent is when someone goes out on a trip and if they have those two permits -- If they're on a charter trip, they're not able to come back and sell that fish, just to clarify.

Major Buckson: Thank you. That does clarify it.

Ms. Raine: Under 622.45(c), Gulf reef fish harvested onboard a vessel that has a valid commercial permit for Gulf reef fish -- That's the wrong one. That was the dealer permit. That does raise a question and it's not in here, but you still intend, don't you, for licensed or permitted vessels to sell only to permitted dealers? Okay.

Major Buckson: While Karen is looking for that language, is there any other comments?

Ms. Raine: A Gulf reef fish harvested in the EEZ onboard a vessel that does not have a valid commercial permit for Gulf reef fish, as required as under 622.4(a)(2)(5), or a Gulf reef fish possessed under the bag limit specified in 622.39(b) may not be sold or purchased.

Major Buckson: Again looking at the LEAP, any comments? Are we understanding basically what that does? I really did kind of cut it down and summarize it. It prohibits the sale of the bag limit caught and recreationally caught fish.

Ms. Raine: I was just going to say if the concern is a reference to 622.2, that's contained within the regulations where the definitions are. When we're looking at any particular term within the regulations, we would go back to the definitions anyway.

Mr. Whitfield: If they hold both permits, the charter one is defined as the amount of people onboard, whether it's commercial or charter fishing.

Major Buckson: There's the definition. I think for the most part, you were correct, Craig, but it also includes the for-hire issue, which I think you probably understood.

Mr. Geiger: Correct me if I'm wrong, Karen, but if we addressed it via bag limit, the federal permit allows a vessel or allows the holder to exceed the bag limit. I believe that technically it just exceeds, whoever holds that permit to exceed the bag limit.

Ms. Raine: If you're talking about a commercial permit, right?

Mr. Geiger: Yes.

Ms. Raine: Right, it allows you to exceed the bag limit, a commercial permit does.

Mr. Geiger: Instead of defining it as a charter vessel, if you addressed it in terms of a bag limit. Any vessel fishing under the restrictions of a bag limit, which a charter vessel would be doing, would not be allowed to sell their catch.

Ms. Raine: Right. That's how it's addressed in the Gulf, where they talk about it in terms of bag limits, that if you're a vessel that's possessing the bag limit, which would be a charter or headboat, then you can't sell.

Mr. Geiger: To me, that just seems much clearer, if you address it as exceeding the bag limit and fishing under a bag limit. It defines clearly what they're doing.

Major Buckson: Any other comments from the LEAP folks? I think -- Again, I'm going to speak selfishly. If there's a way that we can accomplish what this council wants to do using the similar language that's already been used in the Gulf that's working at this point -- I don't think it's any different, from what I just heard, then where we're headed, then that would certainly be the preferred, to have the same language to address it.

Mr. Harris: Karen, have there been any cases made in the Gulf for violating this provision that you know of?

Ms. Raine: Yes, I think there have, but I don't handle those particular cases, but I do believe that there have been.

Mr. Harris: It just seems that the language in 622.4 is a little bit problematic, to me. Being a charter captain, I don't understand why it's three or more persons, including the captain and crew. I may have a charter that's got one person onboard or I may have one that's got six and me onboard and so I don't understand it.

Ms. Raine: Under that definition, you can have just one person onboard, if it's somebody who is paying a fee, or when there are more than three.

Mr. Harris: I guess if they're paying a fee, whether it's one or six people, it's under charter. That's why I don't understand the second part of the provision, where it's "or three or more."

Ms. Raine: I don't know.

Mr. Dunn: My understanding is that covers the commercial aspect of somebody who is going out and saying it's a charter vessel, if I'm thinking this through correctly.

Mr. Harris: I think it's got to be -- Somebody had to have been thinking in some terms similar to that, but I still don't understand it. It seems to me that the proof is in whether they're paying a fee or not and not how many people are onboard.

Ms. Raine: It can go to either one and I do think it's to make a distinction between a commercial operation and one that's not, but those are the way the regulations are written and so that's what we're doing within our office.

Mr. Mahood: I believe we did that on a motion by Duane Harris in 1989. I think it was the council's attempt to, as Tracy said, separate a charter trip from a commercial trip and I don't know that there's -- I think it was based on generally how the fishermen that are commercial fishing fish relative to those that are charter fishing. I know there was a lot of conjecture about it at the time, but that was the intent, was to separate out the two. Whether it does or not, based on your more recent experience --

Mr. Geiger: The question arises of what if a charter operator takes clients for free, under the proviso that the fish they catch are theirs, belongs to the vessel or the permit holder? Do those people still fish under a bag limit? I believe they do and I think they shouldn't be able to sell that catch.

Ms. Raine: Although I really don't like to deal in hypothetical, I would say generally if that's a condition of going on that trip, that's a barter, which is defined as a sale.

Mr. Gibson: The same as donations for a full-day charter trip for a DNR function, maybe?

Ms. Raine: I guess I'm not sure what you mean.

Mr. Gibson: The owner of the boat gives a free charter away, a full-day charter, and no money is passed. The money went to a DNR fund.

Unidentified: Where does the catch go?

Ms. Raine: Is it going into commerce?

Mr. Gibson: If you give them the catch and they don't sell it, it's okay.

Ms. Raine: I would have to look at that a little more closely. As I said, I don't like dealing with hypothetical right here. It sounds like you're asking sort of a question that may come up and I would like to take a little bit more time to think about that.

Major Buckson: I'm not sure we -- I'm getting the sense that maybe we don't really want to go there right now, but it's a good question.

Mr. Gibson: Is it hypothetical that you give a full day charter of blue water and they catch a limit of dolphin and wahoo and the money goes to the DNR Harry Hampton Fund and --

Ms. Raine: When we're talking about tournaments -- I know this is different, but you're talking about donating the fish to charity and that's considered a sale, basically, particularly when it's a condition of the tournament. It sounds like what you're talking about is awfully close to that and that's defined as a sale.

Mr. Mahood: I think the best thing to do is we can all, depending on our recollection of what happened a while back, and mine is not that good, but we'll have the staff go back and look at this and see what our rationale was for coming up with this.

I do remember we talked about it for a long time and we probably -- This is what we ended up with and so if that's okay with the two chairmen up there, we'll go back and research that and see if we can find our justification for that definition, but it's been in there a while.

Major Buckson: Tracy may have some insight to that, but yes, I think that's probably a good idea.

Mr. Dunn: I think I remember now, because this has to do with dual-permitted vessels and if somebody has a large group of people aboard and they wanted to fish under their commercial and therefore, they weren't held to the bag limit.

I remember we looked at this a long time ago thinking if you have all these people aboard -- They're claiming nobody paid, but they have all these people aboard and they're saying we're commercial and so we don't have a bag limit. We're saying you have all these people aboard and so according to the definition, you're dual-permitted and you are a charter vessel. Does that sound --

Major Buckson: I don't think that clarifies exactly where three came from, but that does make sense to me. Three is a nice number.

Mr. Dunn: I didn't come up with the number. I just enforce the law.

Mr. Mahood: I think that came from we looked at traditionally how our commercial vessels fished and generally, they don't have more than a captain and one crew or maybe two. I think that came from our advisory panel, as I recollect. That's how we came up with the three.

Major Buckson: Anything else from the LEAP regarding this issue?

Mr. Gibson: Council, any questions or additions or deletions? If not, we've got one more issue, I believe, Rick.

Mr. DeVactor: The next action that I want to go through is on page 41 of the document and this is an action that the council believes important to reduce the bycatch of deepwater species. Currently, there's a concern that the current regulations, as they stand, force fishermen to throw back dead fish in that deep water. When you bring them up, most of them are dead. This gets a bit complicated, but by looking at the table, I think it may help. There's alternatives to group the species that come up with the deepwater species and that's basically under NEPA that you have to have some alternatives.

Then if you go down the side, there's three alternatives there. Alternative 2 would base that on the snowy quota. Right now, there's a snowy quota and a golden tilefish quota and again, I'm just talking commercial here.

Under Alternative 2, when that quota is met, the unit closes and then Alternative 3, there would be a snowy quota and an aggregate quota for the rest of the species in the unit. When either of those are met, the unit closes and then Alternative 4 would just have one aggregate quota. We want to get your thoughts on that.

Also, you can see that in the current wording of the alternatives we have an aggregate trip limit. The Snapper Grouper Committee talked and they're going to bring to the full council that that aggregate trip limit under Alternative 2, which is currently in the wording of the alternatives at 198 pounds, but that gets changed to twenty-five fish. We certainly would like your comments on the ability of having one poundage quota versus twenty-five fish. Again, that would be that subgroup there, which is seven species.

Also, you can see in the summary table legend up top that this action would take away the one fish per vessel trip limit for warsaw grouper and speckled hind and it would also take away the commercial and recreational twelve-inch size limit for queen and silk snapper and so taking regulations off the books and we certainly want your opinion on that. The Snapper Grouper's preferred is to take silk snapper out of this Alternative 2 unit and that will be going before the full council. That's all I have in that action.

Major Buckson: It sounds to me like there's three things within that one. Can you give them to us piece-by-piece?

Mr. DeVactor: I think the first thing that the committee would like to comment is how do you feel about taking the twelve-inch size limit of queen and silk snapper away and not have that anymore and the warsaw grouper and speckled hind one fish per vessel trip limit? That would be replaced by an aggregate trip limit for seven species or eight or nine, depending on the alternative.

Major Buckson: For the warsaw and speckled hind, there would be no bag limit and for the queen and silk snapper, there would be no size limit and did I read that correctly?

Mr. DeVactor: Yes, that's correct. Warsaw grouper and speckled hind would be included under a quota or a trip limit for a bunch of species. Yes, you're right that the one vessel would be taken away from warsaw grouper and speckled hind.

Major Buckson: The one fish per vessel?

Mr. DeVactor: Yes.

Major Buckson: We don't have to count the one anymore is what you're saying.

Mr. DeVactor: Yes.

Major Buckson: Are there LEAP comments? Do you understand the two issues there? I think everybody does.

Ms. Raine: Basically, you're talking about taking away a restriction on the size limit and so that means taking away something you have to enforce, right?

Major Buckson: Yes, that's what it sounds like to me. Anything else from the LEAP members? There is no opposition to the removal of those two regulations. Frank, did you want to jump off on that or do you want to do the whole package?

Mr. DeVactor: Again, the council will be talking at full council about a trip limit for the entire group, which would be 198 under the Preferred Alternative 2A or having a twenty-five fish for those seven species, a twenty-five fish trip limit. You may have comments on which is better from an enforceability standpoint.

Major Buckson: For the LEAP, let me just preface a little bit. I'm not sure that we are concerned about what the number is. I think the question is the trip limit per pound or trip limit per fish is the question. I think that's what he is looking for at this point. Comments from the LEAP?

Ms. Raine: I would say in general when you're talking about weight, it comes down to proof issues. With fish, you can count how many fish are onboard a vessel and with weight, there's a little bit more to it.

Major Buckson: Anybody else? How can I do this? I think fish is -- I understand Karen's concern with that and as long as it's not a huge number of fish, where we might lose count and have trouble counting that high, then I think twenty-five fish would be preferred, from a law enforcement perspective. It's very clear that you either have a violation or you don't. When you're dealing with pounds, it's a little more difficult, especially at sea.

Mr. DeVactor: Those were the only specific questions I had on that action and that's all I have for Amendment 15.

Mr. Gibson: Does the council have any additions, deletions, or questions? Thank you.

Major Buckson: Kerry, where were we?

Ms. O'Malley: I believe the next agenda item is a Review of the Oculina Evaluation Team Report. I will give you an overview on that. I think that there are a few of you that are intimately familiar with the report and the evaluation team, because you served on it.

A brief background, for those of you who are new to this, is the council has an area off of Florida called the Oculina Experimental Research Reserve, which has been established. There's no bottom fishing or bottom tending gear and no anchoring of any sort. Over the years that it's been in establishment, there have been questions about its effectiveness. I think we all are aware that there's been perceptions about the enforcement that does or does not occur there.

When the council in 2004 looked at the possibility of sunseting the provisions within the Oculina Research Reserve, they did in fact move forward with the regulations, but at the time made a commitment to come back at 2007 and then again in 2014. In 2007, the intent was to look at the size and configuration of the Oculina Research Reserve and in 2014, the council will come back and look at all the regulations within the research reserve.

As part of that, the council also established an Oculina Evaluation Team, made up of research and monitoring components, outreach components, and enforcement components. The Oculina Evaluation Team met in August of this year. Their purpose was to come forward to the council with a recommendation on whether or not the size and configuration should change in 2007 and that recommendation was made based on all the research that had been done in the past few years, the increased outreach and enforcement efforts as well.

The report was in your briefing book and if you look at the report on page 7, Section 3.0 of the report discusses the law enforcement group breakout report and all in all, it sounds like things have been very, very successful.

The enforcement has been increased, as well as outreach, and there's been some great monitoring and research efforts. The overall recommendation of the Oculina Evaluation Team was to maintain the size and configuration of the Oculina Experimental Closed Area.

What we would be looking for from this group at this point is a recommendation on whether or not you supported the Oculina Evaluation Team's recommendation that we keep the size and configuration the same. That will be forwarded on to the council's Snapper Grouper Committee and eventually to the council, where in March they will make the final decision on whether or not the regulations should remain the same in the area.

Major Buckson: Thank you, Kerry. I think that was a pretty good summary. I did have the opportunity to sit through the evaluation team exercise and that was actually very interesting. It was a good group of folks and it was clear that enforcement was one of the issues that everyone was concerned with and being a part, which is one of the things that we push for from the LEAP, just part of being the management scheme itself, that's one of the areas that I think it's being reflected very well.

Hopefully everyone has had a chance to look at that and I guess the question would be is there anyone that does not think that we should accept the recommendation of the Oculina Evaluation Team or comments about that?

Ms. Raine: I was really sorry that I wasn't able to be at the meeting, but I had a hearing in Brownsville that needed my attention. If it is at all possible, I know I would be very interested in having the configuration changed insomuch that the two satellite areas are possibly joined or there's a line -- If it's not possible to make it like one box, to at least join the two areas, just based on some of the things that I hear and see from people that I've charged. I don't know if that's possible, for a variety of reasons, but if it is possible to at least join those two satellite areas, the north and south, I think that would be a good thing.

Major Buckson: Kerry is going to look for map so that everyone can have an opportunity to look at those. If it wouldn't be out of order, would everyone agree to about a five-minute break, while Kerry is looking for the map? Then we'll come back and jump back into it.

(Whereupon, a brief recess was taken.)

Major Buckson: Kerry is going to explain a little bit more about what the task of the Oculina Evaluation Team was and then we can talk about those two areas that Karen mentioned as well.

Ms. O'Malley: I know Karen, before we left before for break, had started talking about the satellite Oculina areas and maybe some changes to those. Before we get into that, I just want to find out whether or not you all have a recommendation. There's a difference between the satellite Oculina areas and the Oculina Research Reserve, which is indicated on the map by the hash marks. Before we talk about the satellite areas, did you all want to give us any recommendation about the size and configuration of the experimental research reserve?

Major Buckson: That's what the evaluation team was tasked with looking at? Let's get that one out of the way and it can't hurt to talk about the two other areas as well. Any comments on the experimental area? Then I guess the LEAP would support the recommendation of the Oculina Evaluation Team.

Mr. Gibson: Council, any questions, additions, or deletions? Okay.

Major Buckson: If it's okay to take a minute to look at these and just bring this back up again, it can't hurt. If you can, just explain what the two different areas are that Karen was talking about and point to what those are.

Ms. O'Malley: I'll start up here on the map. I said I was going to grab my pointer and I didn't, but hopefully you all can see. If you note on the screen these two boxes outlined

in blue. As you can see, they're Satellite Oculina HAPC Number 1 and HAPC Number 2, HAPC standing for Habitat Area of Particular Concern, I believe are the two areas that Karen is talking about.

The regulations that are in place for those areas is that fishing with bottom longlines, traps, pots, dredges, or bottom trawls is prohibited. Possession of rock shrimp in or from the area encompassed by the expanded HAPC is also prohibited.

The difference between the regular HAPC and the experimental research reserve would be inside the research reserve you can't possess or harvest snapper grouper. The snapper grouper regulations do not apply to the rest of the HAPC and so hopefully that clarifies it, before Karen makes her recommendation.

Major Buckson: Kerry, the larger portion there that's outlined is the expanded Oculina and satellite HAPCs and coral FMP regulations and so it's not the same regulations as those two small ones?

Ms. O'Malley: It may help if I sort of go through -- I can briefly tell you, and hopefully I do it properly, the sequence of what happened. The area that is now the Oculina Experimental Research Reserve originally started as a habitat area of particular concern, I think back before the EFH even, before we were mandated to do so.

Within that, there were bottom tending gear prohibitions and anchoring prohibitions, if I'm not mistaken. Later, the council went in and added the snapper grouper prohibitions and then it became the experimental research reserve.

Similarly, later, the council went in and expanded all of the habitat area of particular concern regulations to the area outlined in blue and not counting the two satellite HAPCs and designated that entire large area an HAPC, which are all the regulations but snapper grouper. Then, in another step, they went back and added the two satellite HAPCs. There was a progression of how the regulations sort of went into place.

Major Buckson: Karen, now everyone can see what those two areas I think you were talking about and maybe you can explain what you had mentioned before.

Ms. Raine: What I would suggest, if it's all possible, is for the line from the northern satellite area on the western edge to just simply be drawn straight down to the southern area so that that whole area would be under the -- Right, rather than having an open space there. I think one thing -- The little satellite areas are little and I don't know that they're that large anyway and, of course, the LEAP has always said that larger and bigger is better and that type of thing.

I think in some ways it doesn't quite follow at least the LEAP's previous and continuing recommendations. I don't know that there is -- Without talking about specific cases or conversations, I don't know that there is a need for that area to be opened and it might be

clearer if it was closed and under the same restrictions that the rest of the clear blue area is under.

Major Buckson: I understood that. Any other LEAP comments about what Karen just mentioned?

Mr. Wallace: Maybe Kerry knows, how big are those satellites and how big would be the area that Karen was encompassing?

Ms. O'Malley: On the break, Kim, Karen, and I tried to measure it by the scale provided on the map and it looks like if you connected from the top of the Satellite 1 to Satellite 2, it would be approximately ten miles. That was our best guess, based on the scale we got on the map. We would need to tell you for sure and probably talk to Roger, who is our map creator.

Mr. Wallace: Each of those satellites is half a mile?

Ms. O'Malley: That looks about right to me, yes.

Mr. Wallace: I think that would be an enforcement nightmare. You would be in and out of that before it even registered on the VMS.

Major Buckson: I think that's part of what Karen is saying and not from actually being the one to enforce the regulation, but to have to prosecute the regulation. You've got to have all those facts to be able to make a case there as well. I don't know who to ask this question of, but we'll start with Kerry.

I know that's not part of what we're trying to cover at this point in time and we're looking at what the Oculina Evaluation Team did, but this is probably a good time to begin to lay some groundwork for those kinds of recommendations and I don't know what we do from this point on and if there is a method to offer that up.

Ms. O'Malley: I'll give it a shot and if I'm out of order, I think Gregg will probably tell me. I believe the best thing you could do would be to make a recommendation, if you all agreed on that. It would be forwarded to the committee, who then, if they agreed, would carry on the recommendation to the council and then it would then find its way into our planning schedule and whether or not it fit appropriately in the FEP, where we're already doing some things like this or in another amendment, it would get worked into the planning schedule that way, provided higher up everyone kept agreeing that this needed to get done.

Major Buckson: You didn't get trumped by Gregg and so I guess that was pretty accurate. Would the LEAP like to move forward with a recommendation to consider connecting those two at whatever point in the process as appropriate? I'll leave the question right there. It's probably preferred to do it by motion.

Lt. Johnson: I think if we're just going to make a motion to connect the two satellite areas, then yes, I think it would be great, because it's easier enforcement and easier to patrol. It's more areas to go look for people.

Major Buckson: Was that a motion, Eric, or no?

Lt. Johnson: That was a comment.

Major Buckson: I guess at this point, does anybody want to offer that motion to be able to look at that? I'm looking at the other states and it really doesn't matter to them what happens with the Oculina Banks and I understand that.

Lt. Johnson: I made my motion for today. I would be willing to second whoever else makes one, though.

Mr. Cupka: If it's appropriate or not out of order, I would just like to give you a little background on how those came about and why they're like that, just so you'll know. Maybe Duane remembers, but we're probably the only ones around. I can remember when those were set up and we had survey data for that area which showed heavy concentrations of Oculina in those two satellite areas, but not in the other area.

There was rock shrimping going on in that other area and we had already taken a large bottom area away from the rock shrimpers with the Oculina Area. They came to us and asked us not to close any more bottom than we absolutely had to do and that's how we ended up with those two little satellite areas.

In fact, Susan is the one, I think, that -- We called them Susan's satellite areas there. She's the one that made the motion to do that, but that's how they came into being and the reason why they were set up that way. We realized they were small, but because the rock shrimp fishermen wanted that area to remain open if there wasn't a need to close it, we set up those satellite areas. That's just the background and history on it.

Major Buckson: That is helpful.

Mr. Whitfield: Just to reiterate what David said, isn't that some of the discussion that went on down in Port Canaveral, the last Oculina meeting, concerning those two satellites, and the guy gave a talk about the -- I wish Roger was here, because I know we discussed it down there.

Major Buckson: Craig, I think you're right. I think we did have some discussion about those areas and maybe what to do with them, but it wasn't a big focus of it, but I know there was a little bit of discussion, or at least I think there was a little bit of discussion about that.

Mr. Whitfield: Maybe somehow we could go back and get the minutes from that or at least talk to Roger to refresh our minds.

Major Buckson: I guess at this point, from the panel's perspective, is it something we need to keep alive and continue to discuss? I think what we've heard from council is that it's going to be very difficult for us to present a case and my question is always when you have a regulation that is either difficult to enforce or difficult to prosecute, are you really doing anything with the regulation? There's another way to make that line straight and that's to drop those HAPCs and then the line is straight and you don't have those to deal with.

Ms. Raine: I have been led to believe, from comments made to me, that some fishermen don't know anything about these satellite areas and then when you have two small ones like that, it may add to some of their comments. I'm not saying -- I'm just saying that that's what I've been led to believe that's what the perception of some fishermen would be.

Major Buckson: Again, I think where I'm headed at this point is just trying to determine if we want to push it to a level of being able to at least discuss it with other folks and have some sort of consideration on whether or not they're enforceable and whether or not there's actually any significance to having those there and if there is, is there a better way to set them up?

Lt. Johnson: I think if the issue is one that people are focused on right now, then perhaps it would be worthwhile to try to gather some data and determine how much fishing is going on between the two satellite areas and whether we collect some VMS data or whatever or anecdotal information from fishermen and see if the area is being used.

If it's not being used, then I guess it comes into a -- It would seem to me it becomes an issue of if no one is using the area to fish, but there's still value in preserving the HAPC satellite areas for the bottom that's there, then we should go ahead and move to close the whole area off. If no one is using it, then we should still preserve the coral, I would think. I differ on the idea of eliminating the two satellite areas, because there's obviously some value to preserving the bottom in those areas.

Major Buckson: I think at this point in time, if we as a panel would like to have the council consider connecting those two HAPCs, the only way to get there is through a motion as a recommendation from this panel to push it to a level different. Then I think some of the review of VMS data and everything else would probably come after that point.

What I'm looking at is the mechanics and logistics of being able to get to the point where we can discuss it with others and not necessarily saying that it's the only way out, but at least be able to discuss it with the other groups that have the input on it.

Mr. Whitfield: By making a motion then, this just starts the process, but it does not mean it has to end with the motion?

Major Buckson: Absolutely correct, yes.

Mr. Whitfield: **In saying that then, I'll make the motion to proceed with connecting the two dots.**

Mr. Kennedy: Second.

Major Buckson: Second by Michael Kennedy.

Mr. Kennedy: I'm just curious. Do we know how many rock shrimp -- What the landings were on that area there?

Ms. O'Malley: No, but what I wanted to make sure -- Craig, it sounded like this was the question you were asking. The process of events that would sort of unfold from this would be that you all made this recommendation and it would get forwarded to the committee and the committee would then choose whether or not they wanted to continue to discuss this.

If that was the case, at that point -- When we move through the process, any pertinent APs would be brought in, including rock shrimp, including the habitat advisory panel. It would be a very long process of figuring out what the impacts were and, of course, as always, with everything the council does, looking at the costs and the benefits of making a regulation like this. This would just be the very, very beginning of what would be a long process.

Major Buckson: Thank you, Kerry. That was a good explanation as well. I'll read the motion. The motion is to ask the council to consider connecting the Oculina HAPCs. Is there any discussion?

Lt. Johnson: Yes, a discussion. What's the procedure for suggesting some wording for the motion for someone else? I think we need to put in -- It would be from the common westernmost longitudinal coordinates, because we want to draw the line straight down on the western side of the extension of the satellite areas, correct?

Mr. Whitfield: I think what Kerry said is that this is just one sentence that's going to start the process. It's going to take two or three years to end it and come back to the LEAP again. By that time, it could change tenfold.

Major Buckson: A whole new set of faces sitting here, probably.

Lt. Johnson: I guess it doesn't matter. Like you said, it's going to be a long process and so I guess it doesn't matter. I was just thinking when we wrote it.

Mr. Geiger: If I could recommend that you do it the way that you would like to see it, it would certainly help. It would take a lot of guesswork out of the council's hands. If you guys want it with the western boundary straight between the two dots, I would recommend that you say that and let us work from that position.

Lt. Johnson: It's my motion. That was just a suggestion and so if that's good with --

Mr. Whitfield: There again, I agree with George, the simpler the better, but through the discussion of the various committees and APs and everything, they might decide to just do away with both of them. I doubt that, but they might decide that.

Major Buckson: At this point, are you comfortable with the way the motion is worded up there now?

Mr. Whitfield: I am.

Major Buckson: To Michael, the seconder?

Mr. Kennedy: Yes.

Major Buckson: Let me reread it. **The motion is to ask the council to consider connecting the satellite Oculina HAPCs (from the common westernmost longitude).** I think that does a pretty good explanation generally of what we're trying to accomplish there. Any further discussion? **Any opposed? None opposed. The motion carries.** We'll forward that motion as approved and allow the council to begin the consideration.

Mr. Gibson: Council, any additions or deletions or just acknowledge their considerations?

Lt. Brick: This is towards Tracy Dunn. You work directly with like Richard Chesler and I remember at the Oculina Bank meeting he brought out a chart and it had all the GPS positions of the vessels that were out there right on the outside of those two satellite areas, but then there was one that went directly through both the satellites and I remember he was heading out there when he saw him go through the first satellite and didn't make it out there in time in order to catch the vessel and the second satellite that was up more north.

I know we were waiting to see whether or not he could successfully prosecute that case or not and this happened like a month and a half ago and do you know anything more on that case, whether or not we were able to prosecute it, just because we had all the proof that they were there and they were fishing in there, but we didn't catch them actually inside that satellite and I don't know if you heard anything on that.

Mr. Dunn: It could be in the system, but he didn't share that with me.

Ms. Raine: I know that the quarterly report -- Has that been handed out yet, the Oculina quarterly report? No? I think that it's ready for this council meeting. I don't know what case in particular you're talking about, Chad, but there were a couple of cases that are referenced in that report that had not been charged as of the end of that quarter, but they have since that time.

Remember, when we're talking about cases being charged, we're talking about alleged violations and so there have been NOVAs issued for an alleged violation on July 19th for being in the Oculina Bank area, a \$30,000 NOVA and a forty-day permit sanction for each the owner and operator and right now, they've requested a hearing in that case. There was another case of an alleged violation documented on September 5th and there was a seizure involved in that particular case and that has been charged the \$30,000 and a forty-five-day permit sanction for both the owner and operator, plus we're seeking forfeiture of the \$9,081 that was seized in proceeds from the shrimp. That has not been resolved yet.

Mr. Geiger: **I was going to make a motion that we adopt the motion of the Law Enforcement Advisory Panel.**

Mr. Gibson: Is there a second? Second by Rita. Is there discussion?

Mr. Wallace: I think Kerry kind of satisfied my mind a little bit. I do realize -- I'm not really in favor of doing any more closures on anything until we can see what the appropriate APs have got in mind. If this is a heavily concentrated fishing ground and no Oculina in that fishing ground, then there's going to a lot of concern, which is what Eric brought up. I would like to see the charts and I know the APs would like to see the charts. This needs to move slowly and let's get all the appropriate people involved.

Mr. Gibson: Any other discussion?

Mr. Geiger: I agree, John, that we've got to move slowly and it will wind its way through the process. Basically, I'm responding to a recommendation from legal counsel and my experience with the council is that the legal people have generally been pretty darned good in their advice to us and if we hear from legal that there's a recommendation to do something like this, I believe we should look at it and carry it through the process. It very well may be that we don't carry it through, but certainly based on the sketchy information that we've heard from council, we at least ought to consider it.

Mr. Gibson: Any other discussion? **All in favor of this motion raise your right hand; any opposed. The motion carries.** We have a letter submitted. It's mainly a North Carolina issue and I'm going to let Kerry --

Mr. Geiger: Mr. Chairman, I may have missed this, but if we go back to the Oculina report, there were some specific recommendations from the law enforcement side of the

house and that was done by the -- I believe, Bruce, this was done by the people who were at the law enforcement panel portion of that Oculina meeting. Would it be beneficial to have your AP adopt those recommendations and carry them forward or, Kerry, will the recommendations from the Oculina Evaluation Team stand on their own merit?

Ms. O'Malley: They will stand on their own merit, but it certainly never hurts to have more affirmation.

Mr. Geiger: I'm talking about specifically on page 1459, paragraph, 3.3, and there's recommendations regarding the current size and configurations of the Oculina area.

Ms. O'Malley: I'll go ahead and read them, if that would be helpful to you all. Though there are no changes recommended, the discussions included the following potential changes, should they be supported by research and monitoring: first, to decrease the size and change to Type I; second, to move the Oculina Experimental Closed Area north; and third, to make the eastern boundary a straight line. Again, that came out of the law enforcement breakout group of the Oculina Evaluation Team.

Major Buckson: I believe that those comments were generally the same things that the LEAP has recommended with regard to any MPA, the straightening out the one eastern line that's kind of a curved line and the other two were pretty self-explanatory. It's all based on whatever the recommendations of the research and monitoring was.

Ms. O'Malley: I feel compelled just to -- I've been around a while now and I don't know if everyone is familiar with the council's history, but the council did at one point, back in 1998 or 1999, look at making the Oculina -- It went out to public hearing, as a matter of a fact, and looked at the possibility of making this area a Type I.

Back then, we didn't call it a Type I and I'm not even sure if that's appropriate for what it would be called here, but I suspect that their intent was to mean no fishing at all. The council did take that out to public hearing under our habitat EFH plan and it was a very, very, very contentious issue and the council, I think, spent a lot of time discussing it and weighing all of the pros and cons and I believe that enforcement was one of the main issues that was being considered. The council did ultimately determine that the socioeconomic factors would just be too great, because it is a heavily trolled area. Many, many tournaments happen and in my time here, it was one of the most contentious and I've done MPAs and so I've been through some contentious things. It was one of the most contentious public hearings that I've ever been to. Just so you know, it is something the council has considered in the past and it's not the first time it's come up.

Major Buckson: My guess is that it's the pleasure of the panel. Does anyone -- Do we feel like we need to reaffirm those recommendations specifically as they're written in the report, from the LEAP perspective as well? Did that make any sense to anybody? Hopefully it did.

Lt. Johnson: How are those comments going to be -- How are they going to be forwarded up then? If we need to get addressed above us, then we need to do something, right? It was in just a report from this breakout group at the Oculina meeting, right?

Major Buckson: Kerry can probably explain the process there.

Ms. O'Malley: I wasn't there and so I do admit to being a little perplexed, because the first note is that no changes were recommended by the law enforcement breakout group, but under that, three changes are recommended. Right now, the way I read the entire document, the final conclusion was not to recommend any changes and that includes from the law enforcement folks. That's what's being forwarded to the council.

Mr. Geiger: That's true. I just wanted to make sure that the law enforcement people saw those recommendations and that they're not caught by surprise and at some point in the future, if they haven't had an opportunity to read it, see it and wonder what was done. Basically, there were no recommendations made, but those discussions did occur and there may be people on the Law Enforcement Advisory Panel that have some feelings about those and might want to express them and that's all I asked.

Major Buckson: Thank you, George, and that is a good point, to bring those out at this point. It may sound a little confusing, but the law enforcement folks were fine with leaving it the way it was, is the bottom line. The research and monitoring group was going to look at possibly what the needs were to move that experimental -- Make some changes there.

I think, from the law enforcement perspective, was that if it got into that, making those types of movements, then we needed to consider these other things at the same time, whether it could be changed to a Type I, which has consistently been the LEAP perspective that that's the best for enforcement purposes, a Type I.

If there's any change to it, then the opportunity to straighten out that other line would be a good thing as well, but not to move forward with trying to do any of those at this point, only if there was changes in the area in the future. That is a little confusing though, if you read it like that.

Lt. Johnson: I guess we'll need some corporate knowledge then, or at least I do. What was the rationale for curving the line? I suppose it has something to do with trying to trace the area that has the Oculina varicosa and is that why it's curved originally, the eastern line? I would certainly, without any background information, favor the idea of straightening it out. Straight lines are always good for people like me. I'm sure there's a reason that it was made curved and I know from -- It seems to me that there's fishing pressure along that line and so I would say that any effort to straighten it would have to be straighten it more towards the west and cut that extra eastern part out than to move it further east at the top.

Major Buckson: I don't think there's anybody here, listening to some comments, that has the knowledge to be able to tell you why it was curved at the time. It could have been based on depth and it could have been based on the habitat. It could have been a lot of different things.

Mr. Cupka: I was trying to look at the map there. My recollection is that it was based on depth contour and we were following a depth contour, if I remember correctly. I'm pretty sure we were following a depth contour and so people would know, relative to depth, whether they were inside or not.

Mr. Geiger: Eric, if you look there, you can see this straight purple line. If you look underneath it, down at the bottom, you can see bumps that came out and I think you're right, that there is a lot of fishing activity. We've seen a VMS presentation in the past that there was a lot of rock shrimping effort that takes place right up to the line.

We tried to encompass -- Again, when you go through this process, you try to accommodate as much of the fishing public as you can and protect the habitat as best you can as well and in this particular case, that line was the demarcation point.

Lt. Johnson: Then I would think that leaving the line alone is just fine.

Major Buckson: I think that what I'm hearing is there's -- It's duly noted what the comments from the law enforcement folks were at the Oculina Evaluation Team and everybody here has had an opportunity to look at them and there's no need to go any further as far as a motion or a recommendation from this LEAP.

Mr. Gibson: Council, any additions or deletions to reviewing this previous discussion? I believe we have one other issue, which is a letter. It mainly dealt with illegal black sea bass pots, a North Carolina issue, so to speak, and will you take care of this issue?

Ms. O'Malley: Staff received a letter in the office from a fisherman in North Carolina, as you see in your Attachment 5, that states that he believes that about 95 percent of the black sea bass traps that are being used in North Carolina are not in compliance with regulations, because they lack escape panels and are oversized or don't have tags.

Basically, the information is being presented to you all on an informational basis. I'll let you all have any discussion about it that you need to have. Certainly if you feel that for some reason this warrants some council action, you may make any recommendations, but when we receive items like this, we like to pass it along to you folks. Whether or not you have anything to bring back to us is based on your discussions here.

Major Buckson: It looks like, from the document, that it had originally gone to Roy Crabtree and I'm assuming that it went from there. Normally, at least in our agency, when we deal with issues like this, we don't wait until any kind of council meeting. We just forward it on to the appropriate enforcement folks to let them look at it and so I'm

assuming that that's what has happened already and I don't see Roy in the room and so I'm not sure if he's got any comments on where it went.

I guess I would ask, since it's specifically directed toward federal use, use of black sea bass traps in federal waters, or it appears to be, and it's off the coast of North Carolina, then I guess I would have to ask whether Coast Guard or National Marine Fisheries OLE is aware of it and just simply let them be aware of it at this point and handle it the way they normally handle these things. I don't know if either Tracy or Eric want to comment.

Mr. Dunn: I'll say something real quick. We've heard this complaint before and I would always ask, how do you know? People can make allegations all the time and the first thing I ask them is based on what and the fact that the regulations don't apply to traps on the hill, they have to be in the EEZ, they can be in any configuration.

If they're oversized, per se, then you have some indication, but they don't have to have the escape hole closed up and they don't have to have tags on them and so there are a whole host of issues that go beyond just the complaint and it's pretty generic and I would like to know if somebody went around counting those things. It seems, although it may be anecdotal, the basis is kind of weak. That doesn't mean that we don't need to be checking them.

Lt. Johnson: This gentleman has emailed me quite a few times. When I first took over my position, he emailed me quite a few times with reports of all sorts of indiscretions and illegalities among his peers. They were just one-shot deals with some report about something that was going on, anything from safety violations to people dumping oil in the water to all kinds of stuff and that would be the end of it and then you wouldn't hear from him again. I was kind of interested that this letter came from him. Can someone tell me if this is someone who has contacted the council quite a few times in the past or is he escalating from reporting to me to reporting to the council now?

Major Buckson: If I might, I think at this point the council has pushed it on to the law enforcement folks that would look into it and deal with it and Mr. Crabtree is aware of it and so I think we're probably at the point of being able to handle it like we would any other complaint. That's my opinion at this point.

The only thing that I think that -- If there is something within the regulation at this point that the council can address, then we can push that back to the council. Otherwise, I think you guys are the folks that deal with this particular type of violation and are aware of what the situation is and I'm sure that we can handle it whatever way is appropriate.

Mr. Geiger: In a never-ending quest to fill an empty head, Tracy, you mentioned that in looking at traps they can be in any configuration on the hill and if they're not deployed, I guess you can't cite somebody for having an illegal configuration. Don't they check shrimp boats at the dock? Isn't there an ability to check shrimp boats for TEDs and --

Mr. Dunn: The regulations are written so that you can check them. It states that if it's rigged to fish that gear must be legal, whereas the sea bass pot regulations say possess in the EEZ.

Ms. Raine: Even more than that, under the Endangered Species Act, which is the statute under which the TED regulations are promulgated, the United States government has authority in state and what would be considered federal waters. Under the Magnuson Act, basically these regulations are applying only in the EEZ and not in state waters.

Mr. Wallace: To that also, maybe I don't know the regulation well enough, but I've never had an officer come to the dock and do anything but confirm that we've got it right or wrong. I think the way it is written is that you have to be trawling and he has to catch you trawling with that device.

Major Buckson: Just so everybody is clear, we just jumped from black sea bass traps to shrimp trawls and dealing with TEDs.

Ms. Raine: No, you don't have to be caught fishing and you don't have to be fishing and you don't have to have shrimp onboard. The regulations basically are written so that if you have a net rigged for fishing that's capable of catching shrimp or if you have 1 percent or more of fish onboard that shrimp comprises your catch, but all it has to be is a net capable of catching shrimp. You don't even have to have actually trawled, but you have to be in compliance with the TED regulations.

Lt. Johnson: I would be curious. When you had those inspections, were they voluntary - We do that right before shrimp season starts in South Carolina and Georgia. We go out and do it and mostly in South Carolina, with SC DNR. We do a voluntary -- It's a TED op and we go out and just do dockside voluntary compliance and we'll just tell you right there if it's right or wrong and we won't issue anything. We just say before you start fishing you might want to fix this up and so maybe that's what was happening there.

Mr. Wallace: To that, like I said, we're going from sea bass to shrimping and so I don't know if it's the proper place, but most of those have been voluntary compliance, safety inspection type issues, but I've never had an officer come to the dock to check for violations either. All the violations have been made at sea.

Mr. Dunn: I was just going to add that we started that a long time ago just so that when we did get them at sea there weren't any excuses. It was kind of an outreach thing and we started that up a long time ago. It seemed to work best, but we could.

Major Buckson: Let me just wrap up the black sea bass real quick. I think, from what I've gathered from the comments, there's no recommendations for any kinds of changes or to address the black sea bass regulations to the council.

Lt. Johnson: No, but I'll review that letter and I'll try to pass it along. I was usually pretty good about passing his emails up to people, especially the fishing vessel safety complaints that he would forward to me, but I stopped getting them via email and so -- I'll try and work with the letter a little bit.

Mr. Gibson: Do any of the council members want to comment on this letter on the black sea bass pot issue? Okay. That covers our agenda, but the Major has one or two other items, I believe.

Major Buckson: I have just a couple of things under Other Business. It started with discussion, I think, and I'll take the easiest one first. Through some counterparts in the Gulf, we were given some information about a requirement to carry a passport. It's a homeland security rule and it's ultimately -- I think the proposed rule addressed the requirement to carry a passport on sea as well as air and the way I understand it at this point, the proposed rule has been changed and it no longer covers sea issues. It does cover air issues.

The concern for the LEAP and probably the LAC is that potentially it could be a requirement and I'm not sure what the distance from shore was, but it could have an impact on commercial fishermen as well and a requirement for them ultimately to carry passports when they're going fishing.

It was something that the Gulf States put on the radar screen just to keep an eye on and watch and at this point, it does not impact at sea things, but there was some confusion in the beginning, because the proposed rule did talk a little bit about that, and there was a big concern that after January 1st that commercial fishermen were going to have to have a passport if they went offshore and then returned back to the country.

The best I can tell, from reading it, that's gone. It's not an issue at this point, but it may come up later though. That's more informational than anything else and I would be willing to answer questions, but I don't know a whole lot.

Mr. Wallace: This is if you go outside of 200 miles and then back in 200 miles or -- You're saying at sea.

Major Buckson: That's the part that I don't have the details on. Somebody that I was talking to a little earlier about it said that it was related to sixty miles or --

Lt. Brick: I got the email chain and it was related to either forty or sixty miles and I looked it up and I had Lieutenant Commander Rogers look it up, if we could find anything, but all we could find is recommendations and nothing in the actual written regulations on it.

Major Buckson: It was pretty clear in the last documentation that I read and the last media releases that I read that the at sea issues were dropped from the rule and that it was

only in the proposed beginning, but it's a good thing to keep an eye out for at this point, because it may be something that ultimately happens. I personally would have had trouble picturing a lot of our commercial folks and going and asking them for a passport, but that's interesting.

Mr. Wallace: Out of curiosity, if you fly from Miami to North Carolina, you're going to probably be forty to sixty miles offshore in the air and what's going on there? That just -- Who comes up with this?

Major Buckson: It was not a council regulation, I don't think. I'll leave it at that. The final thing, and I believe this is an issue that I'll at least present to the LEAP and we'll see if we want to begin to make some sort of request to the council to deal with some of the issues.

Through email discussions with some of the other South Atlantic states, there's been a few of us that have had to deal with the fishing tournaments, saltwater fishing tournaments, and the disposition of the fish that were caught in the tournaments. What I mean by that is many of the tournaments end up with a huge amount of fish. Kingfish is one of the tournaments and there's always the desire to be able to do something, either donate to charity or sell the fish and donate the money to charity or some way to dispose of the fish.

These are not catch and release tournaments, which is ultimately one way to deal with it, but as long as they're catch and keep tournaments, there is a considerable amount of fish that has to be disposed of in some manner. In our state, we require simply the licensing requirements. If the tournament gets a wholesale dealer license, and we've gotten some legal direction on how to handle it, but that's generally -- If they become a wholesale dealer and then donate it to another dealer, then they're able to -- It's able to enter commerce.

There are some federal issues if the fish is caught in federal waters and there is at least one state, in North Carolina, I think I talked a little bit to Rex, where they have a tournament permit that they issue in North Carolina to deal with some of these issues and then there's other states that have absolutely nothing to deal with them.

It is probably -- It is something that I would like to get at least some beginning discussion, on whether or not it's something that all of the councils ought to address, to be able to come up with some sort of tournament permit or some sort of direction to be able to deal with tournament-caught fish. That's kind of my lead-in for that one and I would like for the LEAP folks, if they've got any comments to offer up about that or maybe some examples of what we're dealing with and whether or not we've got a great system at this point or not.

Mr. Lanier: In North Carolina, you have to purchase a permit to have a tournament and it costs \$100. You have to buy it from one of our license agencies and those fish are --

Once the fish are weighed in, they become the property of the tournament. There's a trip ticket done and it's turned over to a dealer and that money has to be turned over to some type of a charity fund and a report has to be back within our department within thirty days telling you type of money, how much fish, and which charity fund got it.

Major Buckson: Chisolm, in South Carolina, if I remember right, you all don't have a permit like that?

Mr. Frampton: No, currently in South Carolina we do not have any type of permit like that and the way our wholesale dealer law is set up, it doesn't look like most tournaments would be eligible to acquire the license. What do we do with king mackerel, for example, when they catch them and bring them all back? The fish are ultimately entering commerce, no matter what they do with them, other than destroy them. That's where we're coming from.

Capt. Adams: What we do right now is we require somebody formerly affiliated with the tournament to possess a Georgia commercial fishing license, just to validate the transfer of the fish from the donors to a licensed wholesale dealer. Other than that, I certainly sympathize with the problem and I think we need the big fix and not a bunch of little fixes on it.

Major Buckson: I like that comment and I tend to agree with it.

Mr. Wallace: I have a question and I'm sure I've heard this in the past, but refresh my memory. Does North Carolina's and Georgia's go against the commercial or the recreational quotas?

Mr. Lanier: According to my Lieutenant Kelly, it goes towards commercial.

Capt. Adams: It would be the same thing in Georgia, because it would be purchased by a dealer, who would then report that quantity back.

Major Buckson: So far, I think the discussion is kind of centered around the assumption that the fish were harvested from state waters. It becomes a little different if you know that the fish were harvested from federal waters and you try to enter them into commerce at that point. Karen, do you have any comments on that?

Ms. Raine: It depends really on what species of fish you're talking about as to what the rules are and I'm not going to talk about HMS right now. I'll talk about it in a moment, but when you're talking about fish under council plans, you have to look at the regulations, because we don't have any that directly deal with tournaments. I'll just read a few things.

What we have to do is look at the general definitions and then we need to look at the regulations for each species to determine what rules might apply and I know the

questions that have been raised in the past for us include whether tournament fish may be sold, particularly with the proceeds going to charity.

For the purposes of my little discussion here, I'm going to assume that the tournament fish are EEZ fish and the way we go through the analysis in my office is look first at the definitions and sale or sell means the act or activity of transferring property for money or credit, trading or bartering, or attempting to transfer, trade, or barter. Purchase means the act or activity or buying, trading, or bartering or the attempt of such.

Commercial fishing means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter, or trade. Recreational fishing means fishing for sport or pleasure and dealer means the person who first receives fish by way of purchase, barter, or trade.

That's the definition found at 50 CFR 600.10. In addition to that general definition, under 50 CFR 622.2, dealer also means the person who first receives rock shrimp, but that doesn't really apply here, or dolphin or wahoo harvested from the Atlantic EEZ upon transfer ashore.

If a condition of the tournament is to relinquish the dolphin or wahoo, for example to the tournament, there is a barter, because the barter is to participate in the tournament, and so that would be a sale. Therefore, both the fishermen and the tournament would need the required permits for the sale to be lawful.

I don't know that you really want me to read through all of the dolphin and wahoo regulations that apply, and I can if you would like, but essentially you have to have the appropriate permits. Even if, under dolphin/wahoo, even if relinquishing the fish to the tournament is an option and not a condition of the tournament, there's still an issue, due to the definition of dealer, the person who first receives the dolphin or wahoo harvested from the Atlantic EEZ upon transfer ashore, and dolphin and wahoo may be purchased only by a dealer who has the required permit and only from a vessel with the required permit. There's still the permit issue.

For mackerel, it's a little bit different. The sale of recreationally harvested Spanish and king mackerel doesn't seem to be prohibited unless there is a closure. Further, dealer permits apparently are not required to purchase the fish. Then again, there are the closure requirements and for snapper grouper, currently a commercial vessel permit is not required, but, for a dealer to receive South Atlantic snapper grouper, a dealer permit for South Atlantic snapper grouper must be issued to the dealer.

Of course, in order to get the dealer permit, the applicant must have a valid state wholesaler's license in the state where the dealer operates, if required by such state, and it must have a physical facility at a fixed location in such state. I don't know if that would be an issue for the tournament operators or not.

A person may sell South Atlantic snapper grouper harvested in the EEZ only to a dealer who has a valid permit for South Atlantic snapper grouper and a person may purchase South Atlantic snapper grouper harvested in the EEZ only from a vessel that has a valid commercial permit for South Atlantic snapper grouper or from a person who has a valid commercial license to sell fish in the state where the purchase occurs and then, except for the sale or purchase of South Atlantic snapper grouper harvested by a vessel that has a valid commercial permit for South Atlantic snapper grouper. The sale or purchase of such fish is limited to the bag limits.

In reading the provisions together, a recreational fisherman would need either a commercial permit or a valid commercial license to sell fish in the state where the purchase occurs. Under our HMS regulations and, of course, that's not under a council plan, there are provisions for an HMS angling permit that someone can have.

If you're catching, retaining, possessing, or landing HMS with an angling permit, you cannot sell or transfer the fish to any person for a commercial purpose. Again, sale gets into the barter and you still have those issues.

Then you can have Atlantic tunas general permit and you can use that to fish in a recreational HMS fishing tournament if the vessel has registered for or paid an entry fee to and is fishing under the rules of a tournament that notified NMFS as required.

Although there's not a tournament permit as such, there is a requirement for the tournaments to notify NMFS of the purpose, dates, and location of the tournament conducted from a port in an Atlantic coastal state, including the U.S. Virgin Islands and Puerto Rico, at least four weeks prior to the commencement of the tournament and then NMFS will notify the tournament operator whether or not they've been selected for reporting. That's kind of the state of it on the federal side.

Mr. Gibson: Can I make a suggestion that maybe we pass this information on to the King Mackerel or Spanish Mackerel Committee to look at, since you'll have representatives of all the states there? The main issue seems to be with the tournaments, which are mainly king mackerel tournaments. Maybe we can pass this information on to them and let them look at it.

Major Buckson: Frank, I think that's a real good start, because that's probably the highest volume tournament, but we're beginning to see in Florida a lot of other tournaments as well, the dolphin, and I'm not sure that we see snapper grouper at this point, but some of those are beginning to grow as well. I agree with you that the king mackerel is probably one of the ones that's most significantly and it's actually a circuit with the king mackerel and so it is probably one that would be addressed.

Mr. Lanier: North Carolina is in the process of making a change so they can determine the difference between tournament fish and commercial.

Mr. Whitfield: I was just talking to Chisolm and is it in all the tournament rules that the fish become property of the tournaments, the tournament leader or tournament holder or whatever it is? In our state it is and in North Carolina it is. It seems like if you could reword that out of the tournament rules, that could solve a major problem. It wouldn't solve them all.

Major Buckson: I think we probably -- It would be good to have a regulation to deal with tournament caught fish so we can deal with it. If the tournaments end up doing something different, then that's fine. They would need to abide by whatever the tournaments regulations are, but -- I guess now that we've brought it to this level, is this something that -- I'm asking Kerry, I guess, again. Is this something that we need to have a motion to try to move it forward or how do we make that happen and kind of sticking with where Frank was headed as well?

Ms. O'Malley: I think it's a bigger issue than -- It sounds to me, if I'm hearing the LEAP -- This has come up before. It's a bigger issue than just king mackerel and it is an enforcement issue and not necessarily on a species level issue. I wonder if you all wouldn't make a recommendation in the form of a motion that the council consider maybe exploring ways to deal with the sale of tournament caught fish and then sort of the same process that we go through with other things. The council would then figure out the best place that may fit, whether it be the ecosystem plan or a general amendment or -- That's really up for the council to decide, but you can identify the problem and ask that it get floated up the ranks and I think that would be helpful. Does that help?

Major Buckson: Yes, that helps a lot. Might we have a motion to address something like that?

Ms. O'Malley: Gregg always gets me on the things that I forget with the ecosystem plan, because we're doing a lot of great things in there, and one of them is the Ecosystem Committee, he reminded me, is looking at dealing with the sale of tournament caught fish within the ecosystem plan currently. I don't think it would hurt if you all just want to reaffirm that that's an issue and you want to keep it.

Mr. Whitfield: Do you want it made now or do you just want me to reaffirm what she just said?

Major Buckson: I don't see any harm in doing a motion and just letting people know where we are with the concern there and not necessarily changing the path of anything, but at least moving forward.

Mr. Whitfield: **I'll make that motion then, to pass on to the council to discuss it through the appropriate committees and I understand that you've already said that it's being discussed in the ecosystem, to deal with the tournament caught fish, no matter what the species are.**

Major Buckson: Craig, do you want to read your motion so we can see if we have a second?

Mr. Whitfield: **I'll make a motion for the council to continue to address the issue of the sale of tournament caught fish.**

Major Buckson: Is there a second? Chisolm had a second from South Carolina. Any discussion from the LEAP? **Any opposed to the motion? Seeing none, the motion is approved.**

Mr. Gibson: Council, any additions or deletions or questions or would you all like to move forward and accept their motion?

Mr. Geiger: **I'll make a motion that we accept the motion of the Law Enforcement Advisory Panel.**

Mr. Gibson: Is there a second? Second by Duane. Any discussion? **All in favor say aye. The motion carried.** Is that it?

Major Buckson: That's it from us.

Mr. Gibson: I think we've just about come to the end of the agenda. I would like to welcome Chisolm and Craig. Welcome and thanks for your participation and a special thanks to Kerry for doing such a great job and keeping us straight on the joint effort here, especially on first time at the wheel. This session is adjourned.

(Whereupon, the meeting adjourned at 4:35 o'clock p.m., December 6, 2006.)

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February 8, 2007

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

**JOINT LAW ENFORCEMENT COMMITTEE
& ADVISORY PANEL**

**Sheraton Atlantic Beach Oceanfront Hotel
Atlantic Beach, NC**

December 6, 2006

TABLE OF MOTIONS

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PAGE 40: Motion to ask the council to consider connecting the satellite Oculina HAPCs (from the common westernmost longitude). The motion carried by the AP on page 36. The motion carried by the committee on page 41.

PAGE 54: Motion that the council to continue to address the issue of the sale of tournament caught fish. The motion carried by the AP on page 48. The motion carried by the committee on page 54.

Staff Meeting Attendance

Meeting Location: Atlantic Beach, NC

Date: December 6, 2006

Meeting: St. Law Enforcement AP & Cont.

Staff:

Mahood

✓

Waugh

✓

Brouwer

Buscher

Carmichael

Chaya

⓪

Collins

✓

DeVictor

✓

Iverson

✓

Lindsay

✓

O'Dell

✓

O'Malley

✓

Quigley

Pugliese

✓

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~~JOINT LAW ENFORCEMENT + AP~~
Joint Executive/Finance Committees Meeting
Atlantic Beach, NC
Wednesday, December 6, 2006

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ORGANIZATION

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& PHONE NO.

P.O. BOX/STREET
CITY, STATE, ZIP

Eileen Dougherty

919-601-8818

Folly Beach, SC

Sarah Fangman, NIAA/NMSP

912-598-2428

10 ocean Sci. Cir. Savannah GA 31411

Jim Kelley, N. MARINE POLICE

1-800-682-2632

Wilmington NC

Gary Morgan

1-321-784-4915

7001 N. Atlantic Ave Cape Canaveral FL 32920

Margot Stiles, Oceana

202 467 1901

Washington DC

Libby Fetherston

TDC-FL

St. Pete, FL

South Atlantic Fishery Management Council Law Enforcement Advisory Panel

✓ Major Bruce C. Buckson, Chairman
FL Fish & Wildlife Conservation
Commission
Division of Law Enforcement
620 South Meridian St.
Tallahassee, FL 32399-1600 ✓
850/410-0656 (Ext. 17-151) (ph)
850/921-6453 (f)
bruce.buckson@myfwc.com
3/90, 8/96, 3/00*
(Designee for Colonel Julie Jones,
Director)

✓ Tracy Dunn, Vice-Chair
NOAA Fisheries
Office for Law Enforcement ✓
263 13th Avenue South, Suite 113
St. Petersburg, FL 33701
727/551-5765 (ph); 727/824-5355 (f)
tracy.dunn@noaa.gov
8/96, 3/00, 1/04*

Capt. Stephen Adams
GA Department of Natural Resources
Law Enforcement, Coastal Region
One Conservation Way, Suite 201
Brunswick, GA 31520
912/264-7237 (ph); 912/262-3166 (f)
Stephen_Adams@dnr.state.ga.us
(Designee for Lt. Commander Robert
J. Sires, Supervisor)
9/05*

Kim Diana Connolly
Asst. Professor - USC School of Law
Main & Green Streets
Columbia, SC 29208
803/777-6880 (ph); 803/777-3401 (f)
connolly@law.law.sc.edu
3/03, 3/06*

✓ Lt. Eric Johnson
USCG - SE Region Fisheries Training
Center
1050 Register Street
Charleston, SC 29405
843/308-0160 (ph); 843/308-0162 (f)
EDJohnson@srftccharleston.uscg.mil
6/04*

✓ Michael Kennedy
902 Turner Quay
Jupiter, FL 33458
561/744-8937 (ph) ✓
seahawkmj@comcast.net
3/06*

✓ Capt. Rex Lanier
Marine Patrol ✓
N.C. Division of Marine Fisheries
127 Cardinal Drive Extension
Wilmington, NC 28405
910/796-7215 (ph); 910/790-0228 (f)
rex.lanier@ncmail.net
2/02, 4/03*

✓ Karen Antrim Raine
NOAA General Counsel - SERO
263 13th Avenue South ✓
St. Petersburg, FL 33701
727/824-5360 (ph)
Karen.raine@noaa.gov
11/97*

✓ Lt. Chisolm Frampton
Law Enforcement Division ✓
S.C. Dept. of Natural Resources
P.O. Box 12559
Charleston, SC 29422-2559
843/953-9307 (ph); 843/953-9321 (f)
Operation Game Thief
1-800/922-5431
Framptonc@dnr.sc.gov
6/05*
(Designee for Major Alvin Taylor)

✓ Craig Whitfield ✓
167 Clark Ave.
Charleston, SC 29412
843/795-8488 (ph)
(At-Large)
9/06*

* Denotes year of appointment

South Atlantic Fishery Management Council
2006 - 2007 Council Membership

COUNCIL CHAIRMAN:

✓ **George J. Geiger**

566 Ponoka Street
Sebastian, FL 32958
772/388-3183 (ph)
chancesarecharters@juno.com

COUNCIL VICE-CHAIRMAN

✓ **Charles Duane Harris**

105 Demere Retreat Lane
St. Simons Island, GA 31522
912/638-9430 (ph)
seageorg@bellsouth.net

Deirdre Warner-Kramer

Office of Marine Conservation
OES/OMC
2201 C Street, N.W.
Department of State, Room 5806
Washington, DC 20520
202/647-3228 (ph); 202/736-7350 (f)
Warner-KramerDM@state.gov

✓ **Robert H. Boyles, Jr.**

S.C. Dept. of Natural Resources
Marine Resources Division
P.O. Box 12559
(217 Ft. Johnson Road)
Charleston, SC 29422-2559
843/953-9304 (ph)
843/953-9159 (fax)
boylesr@dnr.sc.gov

Columbus H. Brown

U.S. Fish & Wildlife Service
1875 Century Boulevard, Suite 205
Atlanta, GA 30345
404/679-4143 (ph); 404/679-7194 (f)
columbus_brown@fws.gov

✓ **Dr. Roy Crabtree**

Regional Administrator
NOAA Fisheries, Southeast Region
263 13th Avenue South
St. Petersburg, FL 33701
727/824-5301 (ph); 727/824-5320 (f)
roy.crabtree@noaa.gov

✓ **David M. Cupka**

P.O. Box 12753
Charleston, SC 29422
843/795-8591 (hm)
843/870-5495 (cell)
dkcupka@bellsouth.net

✓ **Benjamin M. "Mac" Currin**

801 Westwood Drive
Raleigh, NC 27607
919/881-0049 (ph)
mcurrin1@bellsouth.net

Dr. Louis Daniel

Assistant to the Director
N.C. Division of Marine Fisheries
P.O. Box 769 (3441 Arendell St.)
Morehead City, NC 28557
252/726-7021 (ext. 105)
252/726-0254 (f)
louis.daniel@ncmail.net

✓ **Frank E. Gibson, III**

P.O. Box 789
Beaufort, SC 29901
843/522-2020 (office)
843/521-7340 (cell)
fgibson@islc.net

✓ **Anthony L. Iarocci**

236 Guava Avenue
Grassy Key, FL 33050
305/743-7162 (ph); 305/743-2697 (f)

✓ **Rita G. Merritt**

38 Pelican Drive
Wrightsville Beach, NC 28480
910/256-3197 (ph); 910/256-3689 (f)
miridon@ec.rr.com

John V. O'Shea

Executive Director
Atlantic States Marine Fisheries
Commission
1444 Eye Street, N.W., 6th Floor
Washington, D.C. 20005
202/289-6400 (ph); 202/289-6051 (f)
voshea@asmfc.org

✓ **Lt. Chad R. Brick**

U.S. Coast Guard
Brickell Plaza Federal Building
909 S.E. First Avenue
Room 876/ DRE
Miami, FL 33131-3050
305/415-6781 (ph)
305/415-6791 (f)
Chad.R.Brick@uscg.mil

✓ **Mark Robson**

B:11 Teehe
Director, Division of Marine Fisheries
Florida Fish and Wildlife
Conservation Commission
620 S. Meridian Street
Tallahassee, FL 32399
850/487-0554 (ph); 850/487-4847 (f)
mark.robson@myfwc.com

✓ **Susan Shipman**

Spudal woodard
Director, Coastal Resources Division
GA Dept. of Natural Resources
One Conservation Way, Suite 300
Brunswick, GA 31520-8687
912/264-7218 (ph); 912/262-2318 (f)
sshipman@dnr.state.ga.us

✓ **John A. Wallace**

5 Buddy Beckham Road
P.O. Box 88
Meridian, GA 31319
912/437-6797 (ph); 912/437-3635 (f)
gwallace@darientel.net

J. m Kelly

Jack McGowan

Charles Beaton