

**SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
LAW ENFORCEMENT COMMITTEE**

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

December 7, 2009

DRAFT MINUTES

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Robert Boyles
Ben Hartig

Mac Currin, Vice-Chair
Duane Harris
Lt. Charlie Gris

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Dr. Brian Chevront
Rita Merritt
Mark Robson

Dr. Wilson Laney
Dr. Roy Crabtree
Charlie Phillips
Tom Swatzel

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Roger Pugliese
Kim Iverson

Observers/Participants:

Monica Smit-Brunello
Rod Dalton
Tom McIlwain
Otha Easley

Jennifer Lee
Phil Steele
Dr. Jack McGovern
Anik Clemens

Additional Observers and Participants Attached

The Law Enforcement Committee of the South Atlantic Fishery Management Council convened in the Atlantic Beach Sheraton Oceanfront Hotel, Atlantic Beach, North Carolina, December 7, 2009, and was called to order at 2:04 o'clock p.m. by Chairman George Geiger.

MR. GEIGER: I'll go ahead and call to order the Law Enforcement Committee. Our first order of business is approval of the agenda. Any additions or deletions to the agenda? Seeing none, any objection to the agenda? Seeing none, the agenda is approved. We had a Law Enforcement Committee Meeting in September. We have minutes. Are there any additions or deletions to the minutes, any changes? Any objection to the minutes? Seeing none, the September Law Enforcement Committee Minutes are approved.

One of the items that was left over from that was the direction of staff to help us prepare for the discussion of criteria for the Law Enforcement Officer of the Year Award. Under Attachment 1 staff provided a pretty comprehensive list of prospective or existent extant law enforcement awards from various state and federal government activities. I would open the floor to discussion of those criteria and how we want to go about doing this. Is there anybody who would like to take a shot at the opening bell? Bob.

MR. MAHOOD: I think, if you look at it, one that we all around this table must be the most familiar with is the Award of Excellence to Law Enforcement from ASMFC. In actuality, Robert, I thought it was a much more sophisticated process, but basically in ASMFC there are nominations. There is a committee appointed by the executive committee that looks at the nominations and then the candidate is selected.

On the other hand, if you go and you look at the American Legion National Law Enforcement Officer of the Year, it's pretty detailed. They have actually eligibility criteria, judging criteria with points, application criteria and then even a nomination application sheet. Then in between that you'll see some of the other ones that have different kinds of programs.

There are a lot of different ways to do it. Our Law Enforcement Advisory Panel talked about this some at their last meeting. There was quite a range of ideas of whether you should have it broken down an Officer of the Quarter and then maybe at the end of the year you would have Officer of the Year.

There was quite a bit of discussion about that lessened the significance of the award if you did it on a quarterly basis. I don't think any conclusion was reached. I think our Law Enforcement Advisory Panel did ask that they be involved in the process and maybe the conduit for screening or putting together nominations or whatever that came to the council and with or without a recommendation from the AP. That's kind of where we are right now, Mr. Chairman.

MR. GEIGER: If I may, let me throw this out as an idea for the committee members and I discussed this with Otha. I think it's important that the Law Enforcement AP become involved in establishing criteria as to how we go about determining nominees and what the criteria is for a nomination for that particular award.

I think it falls on us to determine whether or not we want to have a quarterly award or a single annual award or what shape that award is going to take in terms of how frequently it's going to be awarded. Perhaps from 50,000 feet we can make a determination that we want to make it an annual award or we want to do it quarterly or however we want to proceed and then over to the AP the responsibility for developing the criteria for the nomination process.

Then they would provide the nominees based on their nomination process to us for final selection of the nominee. One of the things we need to debate is it would be an annual award of one time, the Annual Award for the Law Enforcement Officer of the Year. We would request that there be, if possible, more than one nominee so that we could make a choice from amongst the slate of nominees from the AP. I throw that out discussion. Mac.

MR. CURRIN: I agree with you totally; I think the annual award is the way to go from my perspective rather than quarterly awards and having to sort all that out at the end. I also agree with you on having the Law Enforcement AP heavily involved in establishing the criteria. There were a couple of good examples I think that were provided to us.

One of the things that I think is critical – and this is where I think the Law Enforcement AP can help us out – is designing a nomination form, basically, what criteria are important, but I think it's critical that we have an ability for someone outside of the law enforcement community or inside to nominate an individual for the award, fill out an application form stating their stellar performance of whatever it is that they've done during that year that warrants the distinction of perhaps an award. That would be my suggestion.

MR. GEIGER: And, of course, the first thing that might come to mind is, well, we could draw this process out to where it might take until next year that we do it. We could probably do that in an expeditious manner between council meetings by just sending out a letter to the AP members and have them to begin to work on it. Bob did a great job pulling together all these examples. We just send those examples out; the AP can look at them; draft their own criteria and their process and basically have an e-mail vote, and I think we could probably be ready to institute it by the next meeting. David.

MR. CUPKA: Mr. Chairman, I'm not a committee member, but I appreciate the opportunity to comment. I agree, also, that it would probably be a lot more meaningful if it was an annual award. It would be nice if we could maybe do that at our September meeting, which is kind of our annual meeting in terms of elections and recognizing people, so maybe we could shoot for that if it's possible.

MR. GEIGER: Yes, thank you, David, and that was my idea, trying to get it instituted by this September, which means we should get the AP on it now between meetings and not wait for a formal meeting for them to do it. They've got other important things that they do at their committee meetings, not that this isn't, but I think that this is something that could be done via e-mail communications between the group. Bob.

MR. MAHOOD: We could get it started. If we ever find out about our budget, we do have two Law Enforcement Advisory Panel meetings scheduled in the budget. It is quite possible that they could meet in March.

MR. GEIGER: Again, if we did that and we waited until they met to make a formal thing, get them prepared so they come and we don't thrash through the very rudimentary details at that meeting and they're ready to vote. Is there any opposition to doing it that way? I see heads shading no; so without exception we'll give direction to staff to begin the process. Otha, did you want to weigh in?

MR. EASLEY: All I have is positive. The annual sounds good; nothing negative. The LEAP at the very least would need a – we could use a conference call to come up with some criteria, but a meeting to firm that up would be great, also. A new one, too, that Mac just brought up, is a process where the LEAP could receive some outside of law enforcement nominees is a dangd good idea I think, so I'm all for it.

MR. GEIGER: Bob, do you need anymore direction? We don't need a motion to do that, I don't think, so I think we're good to go there. Mac.

MR. CURRIN: I was just talking to Brian about it, and I know Bob is aware of it from his time in North Carolina, but the North Carolina Wildlife Federation typically gives out an award to either the marine patrol in our state or a game warden for the Wildlife Resources Commission. I just looked at the website and from just a quick scan there may or may not be a whole lot there, but it may be something else that you guys can look at. I don't know whether it will be any help or not.

MR. GEIGER: Okay, he's written that down, Mac, thank you, and we will get that and include it in the packet. All right, any other discussion on the Law Enforcement of the Year? We have our Coast Guard representative at the table; do you have anything?

LT GRIS: No, sir, it sounds good to me.

MR. GEIGER: Thank you. Okay, the next order of business on the agenda is the Report on the Surveillance and Enforcement of Remote Maritime Areas Workshop. Myra.

MS. BROUWER: I just wanted to give the Law Enforcement Committee an update of a workshop that I attended titled "Surveillance and Enforcement of Remote Maritime Areas". This is a workshop that took place in Washington, D.C., at the beginning of November. It was convened by the Marine Conservation Biology Institute in partnership with NOAA and the United Nations Environment Program.

Basically, the purpose of the workshop was to guide the production of a technical options' paper on surveillance technologies that could be utilized for remote marine protected areas and then advise on the application of products from this process and basically finish up the document and see if it was going in the right direction.

The first thing was, okay, what constitutes “remote”, and the definition they threw out is if it’s further than you can run a patrol boat in one day, then that constitutes “remote”. This workshop was international in nature, and so there were representatives of agencies from other countries that have to deal with much more pressing issues as far as enforcing large areas of the ocean. This was mainly geared towards that. There was not a whole lot of talk about enforcement, per se, so the workshop mainly dealt with surveillance technologies and the enforcement part of it is going to be addressed at a different workshop.

These are some of the main ideas that came out of the discussions. They strongly recommended that information on enforceability of closed areas or protected areas needs to happen before the development process begins. There was great emphasis on that. Also, the fact that information that is obtained from surveillance can also be used to understand movements of animals and how people shift accordingly.

Commercial fishing activities, of course, were the focus of the discussions because that is perceived as the biggest threat to some of these areas. We discussed some science-based enforcement concepts; for example, using information such as timing of spawning to coordinate enforcement activities.

There was general agreement that there needs to be much more interaction between law enforcement and scientists as well as law enforcement and managers overall. We did talk a little bit about – yes, George.

MR. GEIGER: Go back one slide. That first bullet, most discussions focused on monitoring commercial fishing activities; did anybody talk about why?

MS. BROUWER: Well, like I said, this was international in nature so some of the largest areas of the ocean commercial activities are what posed the biggest threat, so a lot of areas in the southern oceans where a lot of piracy takes place and that sort of thing. Then the prosecution portion of this was not discussed at length, but certainly it was agreed that it was a very important point, that the data that these technologies can provide needs to be able to stand for prosecution; but, even if it’s not immediately applicable it is going to be useful to guide and future enforcement response.

The technologies that were discussed were some that are currently being used for surveillance and others are that are novel. Then we talked about cooperative versus non-cooperative systems and the advantages and disadvantages of the two, as well as cost of implementation and maintenance.

Most of these you’re already familiar with this so I’m not going to go into the details but just list them so that you see the scope of the discussion. There was a good bit of discussion about AIS, automatic identification systems, and how this hopefully can be applied to fishery surveillance. This link takes you to a website – and I don’t know if this is going to work so please bear with me – well, apparently it’s not going to work.

But it takes you to the website where you can see globally the tracks of various ships that are using this system of communication. It's a transponder that basically just operates over the VHF band. In the U.S. the Coast Guard published a proposal early this year to reduce the carriage requirements down from 300 gross tons to 65-foot vessels, and so that's going to be a big step towards making this more applicable to vessels that are involved in fishing activities.

Internationally all fishing vessels have typically been exempt from this requirement, but recently the European Union passed regulations that is going to require this within four years for fishing vessels that are 50 foot or greater. Another technology that was discussed was electronic intelligence. Now this is something that are either confidential data streams and non-confidential data streams that are available.

This is certainly something that can be tapped in the future but is another technology that potentially could be available. An example of how it's being used in the country is there is a six-month deployment that is being planned for the Dry Tortugas National Park. I don't know much about it, but it's just an example of using a novel technology for surveillance.

These are some of the conclusions that came out of the workshop. It's all pretty basic and things that we've known for some time. The purpose of this entity, I guess, is to investigate these various technologies and see where they can be applicable. This is going to sort of pave the way for what I'm going to talk to you about next; and if it's okay with our chairman, I'll just go into that.

MR. GEIGER: Any questions about that presentation? Mac.

MR. CURRIN: Thank you, Myra. Is there a report that's going to be produced from this workshop or conference now or in the future?

MS. BROUWER: There is a list of conclusions and recommendations that is being finalized right now. As I said, the technical options paper is in progress. We reviewed the first draft of that document, and based on the workshop recommendations there are going to be some substantial changes made to that document, but certainly that will be available for everybody.

MR. CURRIN: Okay, and am I safe to assume that the cost of the AIS System is basically just the cost of a chip installed in a VHF radio?

MS. BROUWER: That I'm not sure about.

MR. CURRIN: You didn't discuss the cost of –

MS. BROUWER: There was some discussion of cost, but I can't recall. It's all broken down for the various types of technologies by cost in the document.

MR. GEIGER: My question is, Lt. Gris, does the Coast Guard have a non-manned drone program?

LT. GRIS: Not that I can offer comment on at this time.

MR. EASLEY: Myra, you mentioned a follow-up workshop where these technologies will be more tied into actual enforcement; do you know when that will be?

MS. BROUWER: No, we didn't get into that discussion. Of course, it's all dependent on some funding, but the plan is for that workshop to take place in the near future, but I couldn't tell you exactly when.

MR. GEIGER: Okay, thank you, Myra, go ahead.

MS. BROUWER: Okay, this is relevant to our region because as part of the requests for proposals that goes out from the council for the Coral Reef Conservation Program Award, we received a proposal that was tied to law enforcement, and it is based on the SERMA work that I just presented to you.

It was submitted by MCBI, the Marine Conservation Biology Institute, and it proposes to basically build on the information that they have been able to compile for SERMA but make it applicable to the South Atlantic Region. Sandra Brooke and Jeff Ardron are the two PIs. Their objective with this proposal would be to increase the effectiveness of MPAs within the council's management boundaries through identification of improved monitoring and enforcement techniques.

The funding period, if this is approved through the Coral Reef Conservation Program, would be from October of 2010 through end of September of 2011. It's just a one-year period. They propose to look at the scale of the problem, determine where the problems are as far as surveillance and enforcement in our area, look at the current monitoring and enforcement technologies and evaluate their efficacy, see the potential for improvement of current methods and describe new and emerging technologies and alternative methods that could potentially be used in this area.

The document that I talked about that is being developed through SERMA and the extra work specific to our region would be the basis for a two-day workshop for enforcement and management personnel. That workshop would include educating enforcement personnel on the ecosystems under the protection of the council's FMPs associated with protected areas.

This would include things like the newly proposed Coral HAPCs as well as the deepwater MPAs, et cetera; also discussing mechanisms for providing readily accessible briefing materials for new personnel, evaluating different surveillance and enforcement strategies from an operation's perspective; discussing potential for incorporation of new and emerging technologies into management plans and enforcement strategies.

They propose to provide a final report from this work that could be provided to law enforcement personnel. That would also include cost estimates for integrating remote surveillance technologies into enforcement strategies in this region. This one of two proposals that were submitted, like I said, in response to the Coral Conservation Program, and that is the one that was

selected to be included in the package that goes to the CRPP annually as a request for funding. I'll be happy to answer any questions you may have about that.

MR. GEIGER: Thank you, Myra. Any questions? Otha.

MR. EASLEY: Did they give an approximate request on how much they wanted you to grant to them as far as money to do that study, because I'm all for it

MS. BROUWER: Yes, their budget was \$46,000. It is going to be dovetailed with existing efforts and so a lot of the baseline work has already been done through MCBI, NOAA and funding from the United Nations.

MR. GEIGER: Any other questions? Thank you, Myra. The next order of business is to discuss the alternatives related to mackerel nets. If you recall, there was an issue brought up at the last meeting concerning Spanish mackerel netting primarily off of Cape Canaveral would have exceeded the trip limit in one net and were seeking relief in order to their dividing the nets in two and another boat that not yet set a net would then take the nets on board, and it would be in violation because he would then have two nets aboard; one with partial catch from another boat plus his own net. Bob.

MR. MAHOOD: I think you've covered it, Mr. Chairman; that was it. I think it was they asked the Law Enforcement Committee to discuss this with NOAA General Counsel and maybe NOAA LE what is the feel is towards this. Is there anything that can be done, Monica, without changing the regulations?

MR. GEIGER: Well, I have a question. My first question, Mark, is the net law a state law or is the net law a federal law that we only have one net aboard?

MR. ROBSON: Well, the state provision doesn't allow gill nets, and then it has no more than two and they can't be connected in state waters, but I'm not sure which one you're referring to for the federal issue.

MR. MAHOOD: Yes, I think it's our regulations because they can only use the gill nets in federal waters. They can't use them in state waters. I think there is a point in time – and, Ben, you're on the committee and maybe you can enlighten us a little bit.

MR. HARTIG: The gear regulations are federal regulations, about how many nets you can have. Didn't we come to some kind of a conclusion about this the last time we talked? You brought up an option that would have worked, I believe, and I can't remember it.

MR. EASLEY: I was hoping you would remember it.

MR. HARTIG: Yes, we did, but we brainstormed and we talked and we had it figured out and now it has slipped. Maybe we should bring it back to full council. We'll have the discussion again and we can bring it back up at full council. We did; we figured it out at one time and we'll need to refresh our memories on how we did that.

MR. MAHOOD: Isn't the problem that during that period of time when they cut their net, if they have it on one boat they're in violation; and before they get it to the other boat, if they get stopped, that's when they're in trouble, but they're transferring to another – well, I guess the other boat would have two nets, also, wouldn't they?

MR. HARTIG: Well, the problem they're allowed two nets of two different mesh sizes, but now we have a third part of a net that's going aboard. It's starting to come to back to me how we – I think what we talked about was just let them have three nets. That way you could take care of the third net on the vessel. They're working with a trip limit now.

You're not going to have any catch – the trip limits are actually enforced by the fish houses now, which are smaller than the regulatory limits. There is no longer an unlimited season. The fish houses will not buy anymore than between 3,500 and 5,000 pounds at a time now. That's per vessel, so there is not a trip limit problem. Adding another net to the vessel isn't going to increase harvest because the fish houses won't let them bring anymore in. I think that's what we decided; that you could have the three nets on the vessel and that would have taken care of the transfer of another net.

MR. SMIT-BRUNELLO: Ben, there might be a transfer-at-sea issue problem here as well. If the three of us could talk before full council, and then I can get with Karen Raine from enforcement, we can loop her in and get a more definitive answer back for full council.

MR. HARTIG: Great, and I apologize to the committee for not taking care of this before we came before you, and hopefully by full council we all can have something to come before you.

MR. GEIGER: Okay, we'll leave it at that, then; Otha, Monica and Ben will get together and resolve this issue and bring it to full council. Any other issues? Seeing none, we stand adjourned.

(Whereupon, the meeting was adjourned at 2:33 o'clock p.m., December 7, 2009.)

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January 17, 2010

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LAW ENFORCEMENT COMMITTEE Atlantic Beach, NC Monday, December 7, 2009

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