

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

MACKEREL ADVISORY PANEL

**Crowne Plaza Hotel
North Charleston, SC**

April 7, 2011

SUMMARY MINUTES

Mackerel Advisory Panel

Robert Pelosi, Chair
Tim Adams
Jodie Gay
Tom Ogle

Ronnie Houck, Vice-Chair
Dick Brame
Edward Holder
Bill Wickers

Council Members

Ben Hartig
Duane Harris

George Geiger
Robert Boyles

Council Staff:

Mike Collins
Kim Iverson

Andrea Grabman

Observers/Participants:

Dr. Mike Denson
Dr. Carolyn Belcher

Dr. Tanya Darden
Dr. Marcel Reichert

Other Participants Attached

The Mackerel Advisory Panel of the South Atlantic Fishery Management Council convened in the Crowne Plaza Hotel, Charleston, South Carolina, Wednesday afternoon, April 7, 2011, and was called to order at 1:00 o'clock p.m. by Chairman Robert Pelosi.

MR. PELOSI: Okay, we'll bring the Mackerel Advisory meeting to order, and the first thing we'll do is we'll go around the room and have the members introduce themselves.

MR. GAY: Jodie Gay from North Carolina, ex-commercial fisherman, ex-council member. I refer to myself as a recovering commercial fisherman. We now manufacture fishing tackle.

MR. HARTIG: Ben Hartig, council member, Florida, and also mackerel fisherman.

MR. ADAMS: Tim Adams, commercial fisherman from Florida.

MR. PELOSI: Bob Pelosi, chairman, recreational and commercial.

MR. WAUGH: Gregg Waugh, council staff, and I'm our staff person that tracks the mackerel committee.

MR. BRAME: Dick Brame with the Coastal Conservation Association.

MR. WICKERS: Bill Wickers, Key West, Florida, charter fisherman.

MR. HOLDER: I'm Ed Holder from South Carolina and I'm an AP member.

MR. OGLE: Tom Ogle, and I'm from Beaufort, South Carolina. I'm a recreational fisherman.

MR. PELOSI: Thank you; we're going to go into our first presentation, which will be on cobia, and I'm going to let Gregg do the introduction.

MR. WAUGH: We have two individuals from the South Carolina DNR here, Dr. Michael Denson, and Dr. Tanya Darden, and they're going to go through and give the cobia presentation. This is a similar presentation to what was given at a meeting with a group of fishing clubs in southern South Carolina a couple weeks ago, but this information will feed right into the SEDAR assessment that's done next year. We've got a SEDAR assessment that's scheduled to begin next year for the coastal migratory pelagics and it will cover king, Spanish and cobia.

They've got information that will feed right into that, and I think Mike is going to lead off. What we'll do is, if you can, hold your questions until the end and then they'll be here and they are going to split the presentation. I don't know if you want to handle questions at the end of one session; whether you want to deal with questions at the end of one or both give your presentation and then go into questions.

DR. DENSON: Gregg, thank you, Mr. Chairman. Again, my name is Mike Denson, I am a scientist with the South Carolina Department of Natural Resources. I wear several hats currently with South Carolina DNR. I work at the Marine Institute and I'm responsible for inshore fish

populations, a lot of our fisheries-independent monitoring efforts, as well as stock enhancement research and aquaculture research.

That will make a little bit more sense as I go through this presentation. I'd first like to acknowledge it takes a whole team of researchers to collect information on a species like cobia. It's a species that's quite difficult to monitor. It requires a great deal of effort and a great deal of cooperation from the angling public and charterboat captains as well.

These are just some of the folks that work on our research team, mostly in the genetics laboratory as well as collecting samples up and down the coast. As most of you know, cobia is a pelagic migratory species. It's of commercial and recreational importance in South Carolina and other locations. Harvests have been somewhat declining since 1996. Perhaps its recreational pressure increasing could be a focus on inshore aggregations.

I'll talk a little bit more about identification of specific spawning aggregations that are susceptible to overfishing; certainly there is the potential. They're currently managed as a single stock and originally managed as an incidental catch species, mostly as bycatch rather than sort of a focused fishery.

As things evolved over time, very aware local fishermen in southern parts of South Carolina as well as other estuaries along the coast of South Carolina have noticed aggregations of fish coming inshore into coastal rivers and bays, and that's sort of where our study and our research began. We find that we in South Carolina had very little information on cobia; certainly not as much data as we would like.

That led us into evaluation of a number of different questions. We know that the cobia occur seasonally in South Carolina waters; primarily focused towards April, May, June, and then it sort of tapers off in the nearshore waters in July, August, and even caught year round in small numbers. But you can see the large numbers of landings are really central in May, June and mostly in the southern estuaries of South Carolina, the Port Royal Sound and St. Helena Sound.

Originally the research that we began involved aquaculture. We received some federal funding to look at cobia as a potential aquaculture species mostly because it has really fantastic flesh, as you all know. It's really a wonderfully fast-growing animal, one of the fastest-growing species. There have been reports from other countries in which they've reached 10 to 15 pounds within a year, pretty impressive. It's an excellent aquaculture candidate, and that's what we were funded to do research on.

Whenever we do aquaculture research in South Carolina, we look at the possibility of using this technology of producing an animal to applying it to stock enhancement. We'd like to have as many management tools in the box as possible if some sort of problem occurred with cobia, and which we had then the technology to replenish populations, that would be a wonderful and unique tool to use.

In addition to the aquaculture and stocking research, we began collecting information on general life history parameters. Anytime you have an animal in the laboratory and you're working with

it in large tanks, you find out a lot about it that you wouldn't have found out otherwise, especially in a species that is as wide ranging as cobia.

Some of the questions that we wanted to ask and answer to collect information that would be useful for yourselves and for other management agencies would be to find out basic life history questions. Do they occur in large spawning aggregations? Would they be then susceptible to overfishing or overharvest? When do they reach sexual maturity? How does sexual maturity – is it affected by the current management lengths?

Is their age-growth overfishing implications? Are they an estuarine-dependent species; for part of their life is that required or are they mostly a pelagic species that occurs occasionally in estuaries? We'd like to find out information on movement and migration. Then finally are they genetically unique? Do you have one population of fish or different segments of a population of fish?

Ultimately the work that I'm going to talk about was supported by and in cooperation with the Hilton Head Island Fishing Club, Beaufort Fishing Club in South Carolina, the South Carolina CCA, a whole host of charterboat captains – they're our most valuable allies in collecting data and information about this species – also a number of volunteers, tournament directors and participants who were always solicited for us to be able to attend tournaments and collect valuable information, Friends of the Waddell Mariculture Center, which is sort of a support group that assists in production of important species in South Carolina. We couldn't really have collected the information that I'm going to talk to you about today.

When we go to tournaments, or when we work with charterboat captains, we're collecting sort of basic fisheries' information. The samples are collected from – usually in southern South Carolina there are eight to ten tournaments a year; usually focused towards the last part of April, and mostly May and early June, of which almost every weekend there'll be one, two or three, depending on how productive things are going down that part of the coast.

We show up, the team of folks that I work with show up, about four or five of us, to all the tournaments, and we collect information on the total length of the fish, fork length, weight, we look at removing the gonads of the fish. We preserve sections of those gonads for a histological examination.

We remove otoliths so we can do basic age evaluation. We preserve a fin clip for genetic analysis subsequently during the rest of the year. We even remove stomachs and look at contents and preserve those to be identified later. Again, you'll see later on that a good number of the samples we get are from tournaments. We think it's important to access as many fish numbers as possible.

We solicit not only fish that are entered in tournaments, but we ask all the participants if they happen to have caught a second or third or what have you fish on the boat, can we look at those, can we take information. We get as much information as we can and try to make it as unbiased as possible. For fish that are collected by charterboat captains, we have coolers on a number of docks that are populated by charterboat captains.

They participate by putting those racks in the coolers and then we can evaluate them later. Even without flesh on the racks, we're able to determine an approximate weight of the fish based on length at least for males. For females it's more challenging, and I'll show you some pictures later. Ovaries can make up a substantial component of the overall fish, so we're sort of less accurate.

This next research – actually I'm kind of giving you three presentations from a thesis from one of my students, some work done by one specific individual in my lab, and then Dr. Darden is going to give you some information on the genetics. This is from Lyndsey Lefebvre's graduate student thesis work. She graduated in 2008 with a call to Charleston.

What her question was why are cobia coming into southern South Carolina estuaries? Are they spawning? How do we determine that they're spawning? Some of the basic work she did involved examining the histological sections of gonads of female fish. She also looked at males, but basic conclusion with males is that males are always ready and always running all the time.

For females it was more important to understand the fish that were in the estuary; what kind of condition were they in? Most of the anglers that we talked to said, "Well, of course, they're in their spawning, they are swollen with eggs and what have you", but we needed to scientifically evaluate that idea.

What she did was evaluate these 148 fish and she looked for specific stages within the eggs to evaluate whether they were immature, early developing, late developing, gravid meaning ready to spawn within 24 hours, post spawning within 24 hours up to 48 spent and resting. So we know, okay, with all these greenback herring and other species of fish moving into the estuary, are the fish in there feeding, getting ready to spawn, or are they in there to spawn?

What she found was that by looking at these different structures, and the bottom one, the 0-24, some of these structures, these are called postovulatory follicles. They are very indicative of fish that has completed spawning and they're resorbed pretty quickly within 48 hours. If we see those structures, we know that the fish had spawned pretty quickly and we can then categorize the fish.

She did some experimentation to evaluate that, and here is a general summary of the collections of samples that she had from 2007. What it shows is that the majority of fish are in their late developing stages, getting ready to spawn. A few of them were actually – they had hydrated eggs and were spawning. Only a few were recently spawned and a few determined as being a prior spawning. So what that tells us is the fish are moving in the estuary and they are ready to spawn. The smoking gun would be to find larval fish or eggs within plankton samples, so the next component of her work would be to evaluate that. Just a little summary on that; what does it mean?

Males are in spawning condition throughout the recreational harvest season. All but one female were in spawning condition. Two gravid females caught, and you might ask the question, well, if they're in their spawning, why are you not collecting gravid females? Well, what we know from tank studies is that the fish do not feed when they're ready to spawn.

From doing work in tanks and aquaculture, we know that fish that are ready to spawn do not feed, so it makes some sense that it's the fish just prior to spawning that are feeding or just after spawning. The work that she did involved also looking at, again to get the smoking gun, samples from 2008-2010 collected in April, May and June.

She selected specific areas in the estuary. She set nets two times a week, I think six different sites throughout the entire estuary, and she indeed found eggs and larvae in her samples. Basic conclusion is that the animals are coming into the estuary and spawning. This is the first time that this has ever been determined.

What we find is that the implications of this are that there is a large recreational fishery in South Carolina estuaries, but the current regulations allow fish over 84 centimeters to be caught, but the females mature at about 80 centimeters. Many may not make it to their first spawn in the estuary before they're harvested.

Secondly, the first spawns, from what we find in an aquaculture situation, are not always the most productive spawns. Usually the first spawn are usually poorly fertilized in small productions and then it's subsequent year spawns that produce the most eggs. If spawning is occurring in the estuaries, perhaps the current management might need some adjustment.

Perhaps options are to increase minimum size limits, implement slot limit and then I'm sure you have talked about various other issues, maybe even including designating spawning areas as essential fish habitat. The second part of what I'm going to talk about is to look at a catch curve analysis to determine the annual mortality rates of cobia in South Carolina.

The objectives were to examine life history, primarily the age structure of cobia, use age and catch data, produce catch curve regression, provide estimates for annual mortality and survival so that fisheries managers can better manage populations. You know that often you hear all about all of the data that we don't have. In this case for a fairly difficult species, we want to have information that will be useful, especially when the SEDAR comes up for cobia.

One of the questions that we ask ourselves is can these data that are collected through these tournaments, charterboat captains, et cetera, be used sort of as a proxy for fisheries-independent data in the sense that there is no real easy way for us as scientists to go out there in terms of manpower and cost of effectiveness to collect a consistent set of information on a cobia population.

So we wanted to test whether they were biased samples and were the sample sizes high enough? Otolith aging is fairly standard practice, I'm sure most of you are familiar with it. This is an otoliths down on the bottom side from a cobia, up on the right is a sectioned otolith; that has been bedded in an epoxy resin. We at the lab were able to validate that each one of those black lines indicates one annuli or one year.

We did this through laboratory studies as well as tag wild fish and recapture them to validate, again, age. We used two independent readers and are very confident in our results. As you can

see on the left table is a summary of years that we have been aging fish, collecting information and the sample sizes.

In 2005 we were working with a graduate student, in 2006 as well. When my team took over in 2007 collecting fisheries' information, we were able to expand our efforts to increase sample sizes. These are from fish that are collected within the estuary as well in the nearshore reefs, artificial reefs and natural reefs off of South Carolina.

We find that when you age the fish that some things stand out. You don't have a consistent contribution of year classes year after year. In fact, in this case the 2004 year class was so strong that it contributed the majority of fish for the next four years and as much as 50 percent of the catch overall.

What we did find were that male and female sex ratios were similar, 50 percent males, 50 percent females, a statistically 50 percent. The maximum age of a cobia that we collected in any of our samples was 13 years. It ended up being the fish that was the South Carolina state record. Survival past, let's see, again the fish are able to contribute to the spawning population for multiple years.

In 2004 those fish made a huge contribution. In 2005, 2006, 2007 – I should say 2004. They then matured and were collected in the 2007 catches, 2008 catches, 2009 catches, and 2010 catches. Basic estimation of mortality and survival, based on catch curve accounts is something that we do when we have very little information; I should say short-term information on a population.

What we did was look at only the age classes that are fully recruited into the sampling gear. In this case recreational fishermen keep fish once they get to be legal size, which is between two and three years. Fully recruited means that by three years all the fish are of that size. We calculated using basic statistics what the mortality and survival – annual rate of mortality, annual rate of survival were.

It was important to then to compare males versus females. Statistically there is no difference in males and females in terms of size at age. You can see from here that you get a large size female, it will be about as old as a large size male. This is important in that we want to understand that the fishermen are not selecting all large females or all large males. In this case it's 50/50.

Annual survival of females and males for the entire period is between 56 and 58 percent. Dr. Darden will tell you a little bit more about the importance of understanding inshore and offshore populations of fish or population segments of fish. In this case it was important for us to understand if they were in fact genetically different groups, could we then lump all the data together and say, okay, well, here's a population of fish or a segment of the population of fish that's being harvested differently than an inshore group of fish. We evaluated fish age and size at age from inshore locations versus offshore locations. We found no significant differences again in the age structure of the population inshore versus offshore.

The table or the figure down on the bottom left shows the inshore, offshore and other fish that we couldn't identify where they were harvested from. Initially in 2007 most of the fish were collected in inshore locations and then by 2010, which was a vastly different harvest year as far recreational fishermen were concerned, most of the fish were collected offshore.

MR. OGLE: Offshore, are you saying offshore throughout the state or in other states, or straight off of Port Royal Sound?

DR. DENSON: This is off South Carolina only.

MR. OGLE: Would it be sort of straight off of South Carolina, Port Royal Sound, or north of the state?

DR. DENSON: Port Royal Sound, a little south and a little north.

MR. OGLE: Okay, so you feel like they are different fish than the ones that are coming out of the Sound?

DR. DENSON: Yes; and Dr. Darden will cover a little bit more detail how we evaluated that. When we look at the overall catch rates of 2010 and then tabulate for years 2005-2010, if you look at the annual survival rate, it ranges roughly from 61 to 69 percent; which is close to the initial assessment done in 1983 of 66 percent using a Robson-Chapman Model.

Now what is interesting to consider about this is that at first blush you would think, well, it doesn't look like the population is in trouble in any way or that survival seems to be relatively consistent. The only concern that we have as fishery scientists is this concept called hyper-stability, which is something that can occur with a fish that has an inherent schooling behavior; and then it's sort of like fish in a barrel.

The fishermen that we are getting samples from go to specific locations. These are locations in South Carolina called the Turtle, the Bridge, the Paris Island Rip, the Christmas Tree, these are all known locations where fishermen go to collect fish. They know they can catch them year in and year out.

So if the population for some reason is utilizing this location and that is prime location that a large population could see a decline when fish continue to aggregate or school in that location. From an angler's perspective, they may believe that the population seems to be in good shape because catch-per-unit effort remains stable, but we're unsure at this point without suitable fisheries-independent sampling as to whether this is truly occurring or not.

In summary of these two components that I'm talking about is that fish recruit to the fishery prior to first spawning. There are infrequent strong year classes that drive inshore catches. You have a strong year class in 2004, that's going to drive the catches for the next several years. Hopefully soon we get another strong year class.

So far since we've been sampling 2004 has driven catches and we haven't seen a new one recruit yet. Cobia are primarily caught during and post-spawning seasons. In many cases they haven't had the opportunity to spawn before they are removed from the population. Again, there is no easy way without fisheries-independent sampling to determine whether hyper-stability is occurring, and it is something that gives us pause and makes us think that perhaps we should be very cautious. The next component Dr. Darden will talk about cobia fish genetics.

DR. DARDEN: I'm Tanya Darden. I manage the population genetics lab with South Carolina DNR. For the cobia research our main question here from the genetic component was trying to identify what are the appropriate management units for cobia. In that sense when we're talking about genetics, we're really talking about how do alleles move around or how much reproduction or intermingling of reproduction occurs throughout the South Atlantic and the Gulf of Mexico.

We wanted to address that by looking at the genetic composition. We're doing that by looking at what kind of population structure is there, do we see unique genetic groups within different areas of the South Atlantic? Then if we do see that kind of a structure, can we detect it with movement patterns that we see within the fish and is there any kind of hint of estuarine fidelity, which kind of ties into you would expect to see that if you see some kind of unique genetic group.

Secondly, as Mike has suggested several times, is we really were curious about what was the role of the seasonal inshore aggregation. When we started this research, there were several hypotheses about what the purpose of that was and we were hoping maybe the genetics might help us lend a little insight into that.

As Mike has kind of already mentioned is that cobia presented several challenges for us from a research prospective. The first one is that really there isn't a whole lot known about its life history when we started this work. What we did know really gave us conflicting expectations, because on the one hand, based on their nearly global distribution and the fact that they are pelagic oceanic fish, it would kind of suggest that they have the potential for a lot of long distance movement and therefore a potential for a lot of long distance gene flow, a lot of mixing together of populations, which we would not expect to see much population structure if that's the case.

Then the other hand we have these reports of these inshore annual aggregations going on, which certainly there would be some kind of function going on; and if there is a spawning reproduction function to those, those may indeed lead to some kind of genetic structuring as you'll see these pieces of work actually play together and we end up seeing.

Our research has actually allowed us to address these kinds of equations at two scales. One is at a local scale within the estuaries of southern South Carolina between Port Royal and St. Helena Sound, but then also at a larger South Atlantic scale all along the Atlantic Coast you see I have on the map there listed as Virginia, North Carolina, South Carolina and then the west coast of Florida. Our samples are being collected from all along those areas to be included in the analysis.

To get at these questions, the genetics tools we are using are two of them. One of them is a suite of genetic markers. There are ten markers, and if you are interested in the characteristics they are on that table, I'm not going to go through the details, though. The second tool that we use to get at these is the production of cultured fish that we use for experimental releases to try to help answer some of those questions.

We've been conducting both size and season release experiments with five different year classes, which are shown on the left on that table, from 2004 down to 2009. I'm not going to go through a lot of the details of those releases except to point out that if you look at the very right-hand column of that table, that's the number of fish that we released in those years.

The 2007 is kind of your largest main box there in the middle. It is in the middle, and as you can see there is upward of about 50,000 fish that were released that year in the Port Royal Sound area. That is where all of those fish are released over all those years. That will come back as we get into some of the results in a minute.

In terms of these tools – in terms of molecular markers we have checked them to make sure that they are being inherited in the right kind of fashion so we are not seeing any kind of weird interactions with our markers. We want to make sure that they are not under any kind of selective pressures, these are neutral, and they shouldn't have anything to do with environmental factors or anything else that is going on in the different habitats that cobia might be experiencing.

We want to make sure that our markers aren't linked so that each one of those is an independent measure of what is going on in the population. Then in addition to actually trying to look at gene flow patterns with these microsatellite loci, we also use them as our genetic tags for all of our stocked fish. That's how we identify fish we put out in terms of what release they actually came from.

Those statistics down at the bottom right-hand corner there just indicate that we have a very high confidence in terms of not only being able to identify our cultured fish from wild fish but also in terms of being able to identify individual fish; whether they are wild fish or cultured fish using these genetic markers.

As Mike has mentioned, our sample collections come from a whole lot of work from cooperating anglers up and down on the Atlantic Coast as well as our own staff, and they are all collected between April and July. We genotype all the brood stock samples and our field-collected samples, and then the aging work that Mike talked to you about is actually a very critical piece of information that we need to be able to look at the contribution to a particular year class. That is brought into this part of the work as well.

Now the first year that we actually had a robust sampling design as well as a high enough sample size for a genetic collection was 2008. As you can see in this list here, I'll be using these designations in the rest of the graphs. When you see just South Carolina, those mean the South Carolina inshore samples, so those are from Port Royal Sound and St. Helena.

If you see South Carolina offshore, those mean outside of the Barrier Islands and usually that is going to be offshore of those estuaries. We have a couple that are offshore of Charleston, but primarily those are going to be from offshore off of the southern portion of the state. Virginia represents an inshore aggregation, and then we have Florida offshore samples from the Gulf of Mexico side and then North Carolina samples from offshore as well. In 2009 we continued our collection and in South Carolina we had much higher sample sizes. We had a better year that year.

However, the rest of our collaborators weren't quite as lucky and so we didn't end up with as much of a geographic coverage as we had in 2008 but still a higher sample size to address those patterns that we were looking at within those areas. What we wanted to do with that genetic data to address the population structure was use several different kind of metrics to kind of get a handle on what is going on with cobia.

The first thing we want to do is look at pair-wise comparisons. You can think of this as an exploratory test or a look at the data. We want to compare the genetic frequency distributions between each locality to look to see if we have genetic differences. Then we calculate that Rowe ST value that I have up there, and that is just an indication of how much gene flow do we actually have going on, how much movement of alleles do we see between those locations if any kind of structure is picked up.

Then we use an overall amoeba which basically is one big number to evaluate all of the data together and see if we detect structure. Then if we potentially aren't going to see structure with cobia because of their high movement capabilities, sometimes what we'll end up seeing with populations is what is known as like a stepping stone pattern where even if you can't pick up unique genetic differences between your groups, maybe the farther you go away from a location the more different they are.

That's what we refer to as an isolation by distance pattern, or an IBD. We also look to this data to make sure that we don't have a stepping stone kind of pattern going on with cobia either. So these are the ways we looked at the data. What we saw with the 2008 data is that we found a single homogenous offshore group.

Those Florida offshore samples, the South Carolina offshore samples and the North Carolina offshore samples were not significantly different, that represents one single genetic group. That is why those are all colored in green on the graph. However, what we found when we looked at the South Carolina inshore sample is that it was a distinct inshore aggregation. It was different from that homogenous offshore group, all the green populations, and it was different from the Virginia inshore aggregation.

The same thing applies with the Virginia inshore aggregation except that we didn't find any differences between the Virginia inshore and that North Carolina offshore. We kind of suspect this has something to do with the timing of the movement of cobia up along the coast and into those inshore areas and the time periods when they are being collected.

We haven't quite tweaked all that out yet. We're hoping the 2010 data is actually going to help us with that a little bit. The bottom line is that we see distinct inshore aggregations and a homogenous offshore group. This pattern was supported by the fact that we saw an overall significant amoebas, we lump all the data together we do see significant differences and that we don't see any kind of a stepping stone pattern in all of the genetic data.

The 2009 data actually fit in beautifully with the pattern that we saw in 2008 even though we didn't have as much geographic structure. Remember what we had was the South Carolina inshore population was again different from the offshore South Carolina and North Carolina groups. It fit in exactly with that over two different year periods.

Now the one thing that I haven't talked much about yet is this Rowe ST value. As you can see for each one of those you can look at – like if they are 0.03 and 0.025, 0.014, those are fairly low from a genetic standpoint and that ranges – a lot would be like 0.2 of structure. What that tells us is that we do have genetically distinct groups occurring within cobia, particularly with these inshore areas, but it is not perfectly clean.

You have a little bit of migration, you have a little bit of movement, you have a little bit of gene flow; not a lot, because otherwise they would completely mask the population structure, but it is a little bit fuzzy, so we in the genetic world consider that to be little. Now if we take that information and then we think, well, what other kind of information can we look at to see whether or not or how strong it is or what collaborates it?

We wanted to look at our movement data that we had from those cultured fish releases and to see if that showed any indication of estuarine fidelity. Just looking at our hatchery contributions from those first years of our collection, which was in 2007 and 2008 – that's when the fish were collected – we looked at the contribution of those first releases, the 2005 year classes.

We had pretty good sample size those years, nearly 100 fish from those year classes, and we saw a 1 percent contribution in each of those collection years. Even though that seems kind of low, we were pretty excited about that because those are the first years that there was a potential for those fish that we had stocked to actually recruit to the fishing year and show back up in our samples; and the potential that they could have moved anywhere throughout cobias distribution, and the fact that they were coming back to the Port Royal Sound area was pretty exciting to us.

In 2009 – remember that the 2007 year class was our largest stocking effort – we didn't get a whole lot of fish back from that year class. We only got 13 back, but of those 13 fish, six of them were ones that we had put out in that estuary two years before, representing a 46 percent contribution to that year class. We're actually very curious to see what they ended up doing in the 2010 collections.

As I kind of already hinted at, all of those fish that we recovered that had been stocked fish were all recaptured within their stocked estuaries, so all back within the Port Royal Sound System, suggesting, of course, that there is some degree of estuarine fidelity going on. That hint of estuarine fidelity is also backed up by the fact that we also recaptured wild fish within Port Royal Sound over multiple years.

We caught them in 2007 and then we saw the same fish back in that estuary in 2008. Remember that these are all – in a lot of cases these are the fin clips, these aren't obviously the ones that are taken in tournaments, right, because those fish are sacrificed and usually eaten. But with the cooperating anglers and the charter captains, that allows us to actually look at long-term movement on the same fish once we end up with their genotypes in our data base.

Then the last piece of evidence that also hints at this occurrence of estuarine fidelity is that in 2005 year class we actually released some year old fish which had external tags, which gives us another mechanism actually looking at movement and fidelity. We released 385 of those fish and over four years 56 of those fish have been recaptured. Of those 56, 54 were from the Port Royal Sound area with only two of them being from offshore.

The other two fish, one came from offshore Charleston and one came from the Florida area. All of those really suggest that there is something going on with them returning to those estuaries year after year. If we kind of take all of that information together, it is really pointing very strongly to the fact that these inshore aggregations do represent some kind of a spawning function where we have the genetic structure data indicating that we have unique genetic groups, which, of course, only occurs when you have reproduction occurring in unique genetic groups.

Then we have the estuarine fidelity based on the movement patterns of fish and the recapture of them. Then as Mike told you about, with Lyndsey's work we had the positive identification of egg and larvae within the Port Royal Sound area in 2008 and 2009. With all this information together, we really feel that we're starting to get a handle on the story with cobia in terms of what is going on.

To kind of get back to what our overall question was is that what really is the appropriate management unit for cobia then? I don't know that there is a real clear-cut answer because if we were to look at only offshore collections where we see a lot of movement, no unique genetic groups in the offshore patterns and even along the Atlantic and the Gulf of Mexico, perhaps single-population management might be the most appropriate way to go; because if you have overfishing in one area, it is going to impact the other and so putting them as an entire group might be the way to go.

But, then if we look at those inshore aggregations, we certainly have the suggestion of distinct population segments going on from a genetic standpoint. We have indication of estuarine fidelity of those segments. That might suggest that those sections may need to be managed separately as localized inshore fishing pressure is primarily going to impact that local population, and so maybe what we ought to be looking at or thinking about is maybe a two-tiered management approach for cobia.

It could be quite locally concerning if we end up seeing the bulk of the fishing pressure happening on one of those distinct population segments during the spawning period while they are on the spawning grounds; particularly if they are hitting them just as they are beginning to mature, as Mike had indicated earlier.

I don't have a clear-cut answer for you but that is kind of the direction and as we're building our story on cobia, that is what we are kind of looking at. Then to kind of summarize up all of our group's research; certainly South Carolina is continuing to monitor our cobia populations, not only the South Carolina ones, but actually up and down the Atlantic coast from a genetic perspective.

We continue to have very strong cooperation with charterboat captains and the recreational fish community. Like Mike mentioned, we wouldn't be able to do hardly any of this work without their contribution because cobias are such a hard beast to get a hand on. Then we will also continue our efforts to better understand the genetics of cobia populations in a global perspective, because one thing we are always worried about is we are looking at a very, very small part of the whole distribution.

Now that we're looking at the small picture, we are going to be looking at it in terms of the whole global picture and kind of putting that in a larger perspective. Our plans were to do that for 2010; however, some of the unfortunate events of the Gulf have hampered that a little bit, but we're trying to sacrifice what we can out of that data set.

Of course, we will provide all of this information available to the council for the SEDAR in 2012. I think with that Mike and I will be happy to handle any kind of questions that you might have about any of that research.

MR. WAUGH: If I could make a suggestion, I know you all have questions, but we've got Mike and Tanya here this afternoon. Cobia was sort of the last thing that went through in order, but I'd suggest we take advantage of them being here. I can put up the decisions we have to make on cobia, because there is a lot more decisions to make on cobia then there are on king and Spanish.

King and Spanish are a little more straightforward, and our SSC will have someone come in tomorrow morning and give us their report. Basically they are okay with what we are proposing for king and cobia and they are recommending some slightly higher catch levels for Spanish. I think what I'd like to do is run through everything this afternoon and answer all your questions, so that then we'll be ready in the morning when we get the input from the SSC to start making decisions. If we could start with cobia now and get some discussion and you all answer your questions, and then I think we'll be ready to go.

MR. PELOSI: I think that's probably agreeable with everybody.

MR. OGLE: I want to congratulate you both for a wonderful study. I think South Carolina is awful lucky to have a genetics group like you. I know you've glossed over some of the validation studies and some of the ways to go about finding markers that allow you to do this. It is incredible work and it is just mind boggling. I have to say that you mentioned that people hadn't known much about cobia activities before your study.

I remember early in the seventies, some 40 years ago, Don Hammond and I were discussing cobia in Port Royal Sound and even at that point he thought the cobia might move in and out of

the Sound in a southwest direction and spend the winters on the Gulf Stream rather than migrating north and south like some fish apparently did.

Then maybe ten years later he released a tagged fish and got a tag back from the west coast of Florida. Now we are thinking, well, you know, maybe that is not true; maybe there is not this lateral movement and maybe these Port Royal fish are a part of the east coast group and they are migrating south along with the rest.

But it turns out, if I remember correctly, Don told me that he released that fish from the docks at Fort Johnson, which would, with your data, suggest that that was really an offshore fish and not part of the cobia fish. It is really a Port Royal fish. To me it is really astounding that we have these various observations that seem to suggest this and that, and then your science just nails it. Both observations are correct, and we just didn't realize the subtleties that this population plays. So I thank you again and it is wonderful work. I think this is going to be a textbook case in where edge-breaking biological research is going to make for better management. Thank you.

MR. BRAME: I was struck with the genetic differences between the offshore and the inshore group. Do you think the data is suggesting that they are two separate groups or acting more like an anadromous group where they are all mixing out in the ocean and just distinct populations are going inshore or are they truly separate groups; and if so, where do the offshore ones spawn?

DR. DARDEN: That is actually a great question. One thing we have been trying for a couple of years now is to try and do some plankton sampling offshore with our group to try to figure out can we actually document that spawning is actually occurring offshore as well. That is like a needle in a haystack.

We have not successfully – I don't even think we processed all our samples yet, have we? We haven't processed our samples – we have not successfully been able to determine that, but again if we are out a couple of dozen times during that period, I'm not sure that we are sampling in the right place yet offshore.

We don't know enough about their offshore behaviors, if there is spawning going on, to document to say whether they are or are not spawning offshore or not. In terms of your question about are they completely separate; the fish within those inshore aggregations are moving offshore at the very least.

I guess the question is whether that's as far as they go or whether they move up and down the coast as it is presumed for offshore fish are doing. We simply don't know that. I'm not really sure how to get a good handle on that, to be honest with you. The last year from a genetic perspective we actually have recruited some fishermen from down in Key West, Florida, which are actually collecting some wintertime samples for us.

I don't know if you noticed or not but all those data is collected during that spawning season. We are not looking outside of the window where they are potentially all are mixing up, but we're looking at when are they actually exchanging alleles and when are they reproducing. That is really what we want to know in terms of what are unique genetic groups.

We wanted to get some samples from Key West, Florida, because the thought is all the fish in the Gulf and Atlantic are potentially moving south, potentially mixing there during the wintertime. Some, of course, stay offshore because we know we can pick them up in the deeper areas year round, whether it is off the Gulf or the Atlantic. We are hoping maybe to evaluate that genetic component from last year's sample along with the stuff we are seeing during the spawning season. It may help elucidate that, but right now we don't have an answer to that question, unless you have a better perspective on it.

DR. DENSON: No, I think that that is always one of the key issues is that you are collecting the fish during the spawning season and in most cases that isn't usually what occurs. They have a very short spawning window, and then again they are mixing offshore. That is the key and that may be the reason that we see some overlap in terms of populations up and down the coast.

MR. BRAME: That would seem to be the key management issue if indeed they are sort of separate and there is not replacement, if you were, for these estuarine ones, then you could have localized depletion going on, on a tremendous scale. But if there is replacement going on, then you've got the separate problem; the shad problem of where you've got some runs that are good and some are bad, and they all mix offshore and they get hit with one pair trawler and you could hurt – it just has tremendous management implications. I had no idea that cobia were – this is almost like a mimic anadromous fish.

DR. DENSON: We didn't either; we were not expecting this necessarily.

MR. BRAME: I don't know of any other non-anadromous fish that acts like this.

DR. DARDEN: What Mike was saying was that I just wanted to reiterate kind of something that I thought I mentioned in the talk, but just to make sure it is very clear is that even though we saw low levels of gene flow, right, those Rowe ST values I showed you were very, very low, the fact that we are picking up genetic structure is still biologically significant because it only takes like one or two individuals per generation to move between those groups to basically obliterate us being able to detect that genetic uniqueness. The fact that there is some movement, when I say it's fuzzy, it's a very small number of individuals that are doing that in order for us to still be able to pick up that genetic signature between them. Just to make sure that is very clear.

MR. BRAME: I had to ask. If these things grow five to ten pounds in one year, what is the conversion rate; do you have any idea?

DR. DENSON: It is pretty incredible; I know that there are conversion rates from fish that have been held in captivity that are really just one to one. I mean they are right on there, incredible.

MR. OGLE: What would you say their degree of genetic isolation is between the Sound fish and the offshore fish? Is it for all practical purposes, they are genetically isolated?

DR. DARDEN: Yes, it is. I wasn't sure exactly what kind of terms you wanted me to use. There is a little bit of gene quibble. Like I said, it only takes one or two individuals per

generation in order to mess up that signature. The fact that signature is there suggests that there is a repeated and standing genetic uniqueness or isolation to those groups.

MR. OGLE: How long would you say this genetic isolation has continued?

DR. DARDEN: I couldn't answer that.

MR. OGLE: Do you have any markers that allow for the timing of gene mutations at how long they separated from each other?

DR. DARDEN: I have not looked at that yet. Yes, we could. I haven't looked at that yet, to be honest with you.

MR. OGLE: Probably the last ice age?

DR. DARDEN: I would suspect longer than that.

MR. OGLE: I guess my point is that I want to make a point later on that these fish are genetically isolated and deserve attention because they are in a small genetic pool and they are more at risk for overfishing than other local things. I just want to make sure that that is a fair statement.

DR. DARDEN: Absolutely; I would agree with that and support that. I think the data supports that.

MR. PELOSI: I have a question, too. Being from the east coast of Florida, we don't have cobia come up the rivers. I've only seen one or two in my life and they were little guys. Does this occur all the way up to Virginia the cobia go up the rivers?

DR. DENSON: Well, we have information from our charterboat captains and fishermen. When we were pointing out we know of St. Helena Sound, we know of Port Royal Sound, we know of Chesapeake Bay, and the charterboat captains said, well, I know about Calibogue Sound, I know about two other sounds in Georgia. Somebody else mentioned the St. Johns River. I think that it is certainly possible; it makes sense to us that there are other locations than just these three unique locations.

MR. PELOSI: Okay, these obviously are different, so you have an offshore group and they must spawn somewhere offshore. Then you have the river group. Wouldn't there be big differences in salinity, because salinity to my knowledge is very important in the development of eggs hatching and larvae and so forth.

DR. DARDEN: The one thing to point out maybe is that where we tend to see these larger inshore aggregations, those tend to be higher salinity estuaries, and so that may be playing into that role, where maybe they need the higher salinity estuary for effective larval and egg development.

MR. PELOSI: Of course, I don't know how far up the rivers these things go.

DR. DARDEN: Not that far.

DR. DENSON: Well, we should clarify. The Broad River and St. Helena are both very high salinity estuaries. In fact, the Broad River really has no freshwater input. I guess if you are a cobia and you're swimming up along the coast, you really can't tell the difference whether you are inshore or offshore in terms of real salinity patterns or differences.

DR. DARDEN: So they are definitely not moving into freshwater areas.

MR. PELOSI: Because that's what I think of in Florida.

DR. DARDEN: No, not into freshwater areas; those are both high salinity estuaries, both the Virginia inshore aggregation where we see that high concentration –

MR. PELOSI: You are talking over 20,000 parts per million, I would presume.

DR. DARDEN: Yes.

MR. HOLDER: We are proud of you, the state of South Carolina; you all do a great job. Do any other states in the South Atlantic participate with you or are other states looking at the issue of cobia, or are we on our own or are you sharing information? I think that is what we have to think about as a panel. We represent the South Atlantic, so what we have to do has to include all the states.

DR. DENSON: I think that we have collaborators in other states for components of this research. We are the only state that has taken a sort of broad approach to whether it is looking at aquaculture, stock enhancement, fisheries issues, and genetic issues. We're fairly unique in that our research institute is equipped with a genetics facility. We are collaborating with a geneticist in Florida, with fishery scientists in Virginia, and it is mostly charterboat fishermen in North Carolina.

DR. DARDEN: Outside of South Carolina, even though we work with the different state agencies and other institutes, they are more from a theoretical perspective in terms of their interest in managing cobia. The sample collection really happens through recreational fishermen. I think we have about 30 different recreational fishermen throughout that range who participate and help us take fin clips every year, simply because of, like I mentioned, how to catch cobia. I mean you can't go out trawling for them; you can't go electro-fishing for them. You can't really do underwater surveys like we do with some of our reef fish.

DR. DENSON: No longlining.

DR. DARDEN: No longlining, we've tried that as well, so really it's a hook and line, the only way to get samples. While we do some of that targeted through our tournaments and some of our collaborators, our northern state agencies, particularly in North Carolina and Virginia do try

to help us sample some tournaments when they happen, it really isn't logistically feasible for an agency to really target cobia for a sampling because they are such a hard beast to get hold of. So really, it is a huge cooperative effort with recreational fishermen, which have made this project and our future collaborations possible.

MR. WAUGH: To follow up on that I was going to ask Marcel – for a lot of the SEDAR assessments MARMAP ages a lot of fish from different areas. We have a TIP program that samples the commercial catches. I would think on occasion – and Ben may have a better idea about this – that they would pick up some commercial samples. Do you happen to know if MARMAP is aging cobia from other states?

DR. REICHERT: No, I don't believe that MARMAP is doing any cobia aging. We have collected very few samples from even our creel surveys as far as fish that are collected other than specifically in the southern part of the state during these months; maybe two or three from creel clerks and that is about it. That is the intercept.

MR. GAY: Would you define offshore as beyond the Barrier Islands; are any of those fish coming from the Gulf Stream area?

DR. DENSON: I don't think that any of the catches that we get are from that far offshore. It is mostly off the Barrier Islands, reefs, artificial reefs, wrecks, that type of –

DR. DARDEN: The oil rigs.

DR. DENSON: Basically what happens in South Carolina is the fish move into the estuary, the anglers and charterboat captains target them when they are available. If the conditions are such that they don't seem to be catching any of the fish, then they move in sort of concentric circles outward until they find the fish. They know if it is not up in the estuary, the Broad River Bridge, they move out to the Christmas Tree, which is at the mouth of the estuary. If they are not at the Christmas Tree, they move to some of the offshore wrecks. Once they are there, that is where they target them.

MR. GAY: The reason I ask, we have what is a growing and becoming fairly significantly important fishery in the charter industry in North Carolina, the southern part of the state, vertical jigging for cobia right now. I mean it basically starts – I've seen them as early as the middle of February and it will go through the end of April to the middle of May.

Then the fish magically show up at Pamlico Sound, you know, along the beaches there at Cape Lookout. I would think with a little bit of cooperation from these guys and our Division of Marine Fisheries we should be able to get you plenty of racks, if racks would help you from both of those areas, the Pamlico Sound areas as well that offshore fishery that is occurring now.

In fact, if we could get Rich or some of the guys there at the Wilmington office to work with some of the guys, I can probably have you some racks before I get home. If the weather works out like it looks like it will for Thursday, Friday, and Saturday, there will be a good many going after this. When I say a good many, it is 55 or 60 miles offshore, it's not that accessible to that

many boats for very many days, but it is good fishing. I'm curious, how are they targeting the fish in the rivers here? Are they sight fishing for them; are they meat fishing for them?

DR. DENSON: Primarily again they are fishing in very well-known areas, these rips, and sort of it depends on the year what the bait of choice is. As you probably well know, some years the cobia are very interested in – it used to be that a lot of the folks we talked to, you will have a great year in which eels just tear them up, you'll have another year in which they won't bite an eel for anything, they will be after catfish, or they'll be after something else. They primarily are just anchoring in known locations and they are working certain tides off a rip and that is about it.

MR. GAY: We have a big fishery that will start up next month probably, at the end of this month along the Cape Lookout beaches up along the Outer Banks where they actually see the fish on the surface and the cast to them. Tower boats are involved sometimes to improve visibility. They also will, like inside Pamlico Sound, around the Hook there at Camp Lookout, and they'll actually meat fish for them, also like you said by anchoring up. I was just curious how – it is kind of interesting how they fish for them in different areas and what their habits are.

MR. PELOSI: I also wanted to bring to the attention, like Jodie did there, with the increasing fisheries for cobia in his area, off the east coast of Florida in the last couple of years cobia fishing has just exploded. Well, I think when we first put the limits on them, the population increased. There was a big population out there and now people are aware of it.

The east coast of Florida, they're going up and down the beaches looking for stingrays, the big six or seven-foot stingrays, and they will have a cloud of cobia all around them, the number of boats, both commercial and recreational that are chasing them now, plus people are more aware of them, and they started in the last several years more chumming on the reefs and they come right up to the chum bag on the reefs. I see a lot more pressure on cobia than we had in the past, although the numbers have continued to be good.

DR. DENSON: We have noticed that – as you saw, some of the data we had in which you have years in which there seemed to be lots of collections, our efforts are consistent. In some years inshore the fish are just not there. They may come early, they may be just low catches, and the weather may be bad. I guess on any given year it's sort of a crapshoot as to whether cobia are even going to be in and that everybody is going to catch them or the cobia will not be available and it will be the next year that catches are increased.

MR. PELOSI: Okay, and on the studies on them, the gonads, is there any relation with the phase of the moon of how many are ripe for spawning; is there any correlation there?

DR. DENSON: I asked my student if she looked at moon phase and she said there was no significant relationship between moon phase and fish that were gravid. But again as you recall the number for gravid females was only two or three because it is unlikely that they are spawning – they are feeding while they are spawning. It's really difficult to get a handle on – you know, maybe they were waiting for the moon phase but they are not feeding and so people aren't catching them. Then afterwards, several days, again you wouldn't find any kind of significant relationship. We have looked at that.

MR. PELOSI: Are there anymore questions? Well, thank you for a great presentation.

MR. WAUGH: What I would suggest is now instead of me going through the whole document, let me jump right to the cobia questions, and, Mike and Tanya, if you have a few more minutes to stay around, it would be helpful, I think. The first action that deals with cobia is Action 3 where we are talking about setting up the management groups.

Just to back up for a second and talk about king and Spanish, you remember Spanish we have fixed at the Miami-Dade/Monroe County Line, which is just a little south of where this ends, but again the tagging work and the genetic work shows that there is mixing there. Within the coastal Migratory Pelagics FMP we still manage king and Spanish as one stock, but we have two management groups; a Gulf group and an Atlantic group; and each council manages them separately.

The boundary for king mackerel, recognizing there is a lot more movement with king mackerel flops around – April 1 it drops from the Flagler/Volusia line down through the Keys, I believe it is, the boundary of the councils. Again, recognizing a lot more movement there, so if you look at what we're proposing for cobia it is similar and it is still – the genetic work historically and this more recent work is showing that there is some mixing, but the councils are choosing to go forward and manage it as two migratory groups.

The issue of looking at, well, is this South Carolina inshore a subpopulation; we don't have any alternatives to address that right now, but there are options open when we get to the management measures section where you could propose more stringent management in one area versus another.

But right now here are the three alternatives, just keeping it as one group, separating at the Miami-Dade/Monroe/County line, and both councils, their preferreds now are to set it at the council boundary, which is out off of Key West down in this area. The numbers that we have in the amendment are broken out by both of these boundaries, but our OFL alternatives and so forth are based on this stock boundary at the council boundary.

We'd still be one stock, but we would do the management and when they do the assessment they will look at this, but right now we do do separate assessments for king, Atlantic king, Gulf king, Atlantic Spanish and Gulf Spanish. We would anticipate that same type of approach. I just wanted to see if you had any other questions for Mike and Tanya about the stock structure as you will formulate your recommendations about the stock structure alternatives for management alternatives.

MR. OGLE: Just to reiterate, it seemed like you (blank spot on recording) from the northern part of the Gulf, is that right, and it was seemed to be the same genetic makeup with the groups that you collected data from South Carolina and North Carolina all the way to Virginia? Was there anything intervening data south of that northern Florida area?

DR. DARDEN: No, we actually don't have samples. We tried to get some more. Last year we had some more fishermen lined up to try to do that, but again with the fishery closure in the Gulf

we didn't get those samples last year. We are hoping to get them this year. Certainly, we have not been able to get any samples from the east coast of Florida either simply because when we were looking at that a couple years ago, there simply weren't that many fishermen fishing for cobia over there. But if things have changed and there is more of a game for that, maybe we may try again to see if we can get some samples from the east coast of Florida this year as well, so we don't right now.

MR. OGLE: At least the data that you have show that they seem to be the same fish?

DR. DARDEN: Yes, right now we cannot tell the difference between those Florida offshore groups and the South Carolina offshore or the North Carolina offshore. There is no genetic difference between those samples.

MR. OGLE: So you wouldn't really expect anything further on south on the west coast of Florida and on around the tip?

DR. DARDEN: Unless there are any kind – the only reason I would say you might is if there are any kind of inshore aggregations going on, then those would be worth looking at. Other than that, I would not expect any. I would be surprised to see it.

DR. DENSON: One of the limitations of this data is that, again, there is a huge geographic space where we have no samples. We have no real solid funding to evaluate these questions. It is something supported by the state of South Carolina, but primarily this group works off soft money, so we have other things that we are required to do. We are trying to fit important questions like this in, but for our group to focus on collection of samples geographically up and down the coast is prohibitive for us.

MR. GAY: Yes, I was curious; has there never been any substantial tagging of these fish? I mean, we are talking about a range – I think we were looking up from Texas to New York or something like that, but there has never been any substantial tagging to show exactly how far they are migrating?

DR. DENSON: I think that there have been tagging studies, but again one of the ideas that is very difficult for us to address is when those fish are tagged at what time of year, and where they move from there. If it is not during the spawning season, you don't necessarily get a sense as to where that specific group is going and what kind of movement is involved.

DR. DARDEN: That is especially important with this group when a lot of the fishing pressure happens during that spawning season.

MR. GAY: I think so; I think it was basically no.

DR. DARDEN: I think what Mike was saying was that there had been some tagging studies done and they do show high movement; and I do believe, if I recall correctly, they had been from the Gulf into the Atlantic and back. Long distant movements have been documented but the

importance of that may need to be taken into account of when those are actually tagged and then when they are recaptured.

So if they are moving around during the non-fishing or non-spawning season, it really does not matter from a management perspective, it only matters where they are when they are being fished on. With cobia, since it seems to be these annual fishing pressures that are limited in duration, that really is more important than how much they actually move around during the rest of the year when they are not targeted by fishermen. Is that right?

DR. DENSON: Yes, that is right. One of the other issues with the tagging studies that have occurred – and with respect to Don Hammond we have learned a lot over the years from him and he has one of the first researches in South Carolina to do cobia work. The problem is always sample size. Usually these tagging studies involve a limited number of samples; and with a species like this it is very difficult if you get a dozen tags back, how much information does that really tell you about a population of fish?

MR. GAY: So basically the tagging has shown large or extensive migration of the fish but not necessarily of specific spawning groups, assuming there is definitely more than the one spawning in South Carolina.

DR. DENSON: That is correct.

MR. PELOSI: On the season that you fish for them in the estuaries, I gather it is just April, May and June and then they are not in the estuary after June; is that correct?

DR. DENSON: That is correct, yes sir.

MR. PELOSI: So you are really fishing the spawning aggregation from what you are saying?

DR. DARDEN: Absolutely.

MR. PELOSI: Okay, that is different than the rest of us fish, because we are fishing when they are in the area, which is a seasonal thing, which is probably migration.

DR. DENSON: We've been collecting samples whenever we can collect samples. We are not fishermen; we just benefit from their efforts.

MR. WICKERS: I was going to say in Key West we fish primarily on the Atlantic side, very seldom in the Gulf. We fish offshore, the reefs and the Gulf Stream. We get very few cobia,, and when we do get them, it is usually during the spring migration run of sailfish. They will be coming down and heading west just like the sailfish do. We'll occasionally pick up a cobia here and there.

In all the years I've been fishing, 40-some years, I've only seen probably one or two years where you had any kind of an exceptional number in the area; just one particular year and it was all

over in a few days. They are all heading west, I can tell you that. Where they are still going, I don't know, because once they pass us but they are all going to the west.

A lot of them, when they go by, they will be with turtles or with the manta rays or whatever. But very few – I mean, lots of time you could go for almost a whole year and hardly ever catch a cobia down there. We're primarily sail fishing and all, but unless you actually are targeting cobia, it makes it a little bit more – if we see them we try to catch them.

But even the guys that anchor up and fish on the reefs and all down there, they may pick up one here and there. Now in the Gulf it is the opposite. You get out on the Gulf Side where the sunken ships are and all way out on the Gulf, north of Key West, they get quite a few cobia in the Gulf, and they are aggregated over the wrecks.

We've got a lot of wrecks out there that got sunk during World War II, and those are in anywhere from 45 to 100 feet of water or 85 feet. But you just don't see the numbers like you do in the Gulf in the Atlantic side, do I don't know. That is just some information. I don't know what all that means other than they are not on the Atlantic side like they should be, I guess.

MR. BRAME: It would seem to me biologically at least in the EEZ where we are talking about that they are one group, so splitting them is a management convention; it makes it easier to manage. To go with what the council prefers, I don't think there is a reason to go Miami-Dade versus council line, one or the other. It's just whatever is the easiest convention.

MR. PELOSI: Well, my concern over the council line is that a boat could be fishing on the Atlantic side of the Keys and go over into the other side and fish some, or even the boat that docks on the other side with fish aboard that were caught on the Atlantic, it would be no problem if the rules were the same. But if the Gulf Council should have different rules, different bag limits, size limits, than the Atlantic, then it could be a problem. Therefore it would make more sense to do it at the Dade/Monroe Line, I think.

MR. WICKERS: I was going to say if I had a choice I would rather have the council split it at your line. I would rather be managed by the South Atlantic.

MR. PELOSI: Any other input on where you think the line should be; any more discussion on it?

MR. HARTIG: I'll just add two cents, the cobia question, I was on the MARFIN Panel for a number of years, and every time we've had a research proposal on cobia, either genetics or tagging, every time we get one we get a different answer. We have been provided answers that they are all one stock. We have been provided answers that they are separate stocks more than one time.

The latest information, the biological information to come out of the last study I saw was that they are separate stocks. This South Carolina stuff is intriguing to me, showing even more separation in the estuaries, which the council could manage those areas with separation. The

other thing I wanted to ask you guys is we catch a lot of small fish in the east coast of Florida that we have to release.

If South Carolina was to develop a tagging program, maybe a cooperative research proposal of some kind to do some tagging studies, I would be willing to help you distribute tags to a number of people down there and we could answer some more questions about at least some fish on the east coast, what those small fish are doing. We did see that tremendous 2004 year class.

We continue to see large numbers of small fish, more than I've seen in my entire 30-plus years before the last ten. Something is going with cobia as far as we're seeing a lot more smaller fish. The question I had – and I have always asked Jim Franks, I'm sure you know who Jim is – we've had extensive discussions about cobia when I was on that panel.

The juvenile question about where those fish are is an enigma with cobia, and I was just wondering if you guys had been able to figure out anything about what the juvenile – what is going on with juvenile cobia. Of course, they are not small very long. It is a pretty short window of when you would be looking at them. Have you guys been able to find out anything about juveniles?

DR. DENSON: We were hoping you would tell us. We really haven't seen much of them either. That is one of the big holes in our data. Even in terms of looking at Von Bertalanffy growth curves, not having zeros and ones in there, makes it really difficult. We only see them when they recruit to the gear, the size creel limit.

MR. WAUGH: My suggestion would be to talk about management measures because some of the other stuff, in terms of catch levels we recommend and so forth, our alternatives are somewhat limited and we'll get some guidance from the SSC. But the other place where we have a chance for flexibility is in the management measures and this is in the summary on Page S-41.

Going back to the December meeting when we first looked at cobia, some of the levels that we were looking at for the overfishing level and the annual catch limit would have required some reductions, and so the council put in some of these alternatives to reduce the recreational bag limit from two to one and even start looking at a boat limit. This caused a lot of consternation and we were out doing a round of scoping and public hearings in late January, early February and got a lot of comments.

What the council did at the March meeting was look at some alternative ways of calculating the allowable biological catch. It resulted in a higher number where the council is not required to reduce any of the management or change any of the management at this stage. So the council's current position out of our March meeting is the no action alternative.

What is in place now is applying both to recreational and commercial 33-inch fork length and two per person bag limit. Florida state regulations only allow one per person recreational, two per person commercial. There is a one-day possession limit. They have got to be landed with heads and fins intact. Charterboats and headboats require a permit.

The fishing year is January 1 through December 31. Some of the things we are going to be putting in place are these catch limits that we are looking at allocating. The recreational will have certain poundage that they are limited to as will the commercial and the commercial like our other fisheries will track them and close them. The commercial are used to that.

On the recreational side we are going to be tracking and closing; and as we have seen with black sea bass, this is a new experience for the recreational fishermen to have a fishery actually close, particularly based on the recreational statistics. I think it is worthwhile spending a little time stepping back a little bit and talking about management now.

Even if you are not required to change regulations, you may want to talk about the potential for reducing the bag limit to help lower some of these catches. Because what we are hearing is 2011 is turning out to be as good as 2010, and so if you get up to these – that the recreational sector exceeds its annual catch limit, then that overage comes off of your quota on the recreational side for 2012.

If you have a huge overage in 2011, you could have a much reduced quota available to you in 2012. Now, certainly that applies regionwide. Here – and again this is on Page S-41 – we have got a table that shows what the impacts are from reducing the bag limit from two to one. This is a recreational impact; we've got commercial elsewhere.

But you can see that the impacts are not that huge, 6 percent on Florida on average; higher in Georgia, 64 percent; South Carolina 16; North Carolina 13; Virginia 2, and the catches north of that are much lower. We've got a table at the very back of the amendment that has more detailed bag limit analysis.

To me as a biologist one of the things I have found very intriguing and a little bit alarming in terms of how you want to manage it is the work that is showing – and again this is just South Carolina, but while we've got Mike and Tanya here I wanted you all to have the opportunity to talk about it.

But as we are starting to see in other fisheries, what is going on with cobia now may just be the result of a fortuitous year class. For whatever environmental reasons, we had really a good survival rate and that is supporting, now several good years of fishing. We think perhaps that is what has happened with red snapper as well, because we had the same regulations in for a long period of time and no change, no change, and then you get several good year classes, so you start getting these fish showing up.

Is this something that is just a point of concern in South Carolina? If it is we can certainly look at having a differential bag limit off of South Carolina versus the rest of the Atlantic. We do that right now with king mackerel; there is a one fish bag limit off of Florida and – sorry, two off of Florida and three from Georgia through New York, so the precedent is there.

But I think if you have any questions about this, certainly as a biologist this gives me a little concern and you may want to be a little precautionary. But then as you will see when we get into

the catch limit discussion, you may also want to try to shave off some of the high catches so you don't bump up against that annual catch limit.

MR. GAY: Gregg, I think one think you are seeing as far as effort -- well, the commercial effort is doing nothing but going down and there never was that much anyway once it went to two fish for everybody. The red snapper closure in Florida is probably increasing effort down there. They are already at one fish, so I think the area where you are seeing the increased pressure, as far as the ocean fish, is probably already at one fish.

It doesn't sound like there is a lot of targeting here in South Carolina other than in the estuary area with any significant landings. I think as far as in federal waters the majority of fish are -- with Florida already at one, you may have it covered as far as where the increase in effort is occurring.

MR. PELOSI: As I mentioned before the effort for cobia has gone way up in the last few year in Florida. Now Florida has a law on the books for the recreational fishermen, one per angler, but the marine patrol is not enforcing that. The only way they can enforce it is if they see the angler put the fish in the boat in state waters. That doesn't happen.

They stop and check the boat coming into the dock; or at the dock where most of them are checked; there is no telling where that fish was. They have just backed off on it and everyone is taking their federal limit although most cobia are caught within a mile or two of the beach so don't count on that rule there to save fish.

MR. WAUGH: This is why you see a reduction in Florida's catch, because this is reflecting that it is legal if you fish in the EEZ to have two. If you look at the reduction here, it is lower than Georgia, South Carolina and North Carolina. That I think is reflecting what Bob is saying is there is some harvest going on in Florida, that it would be reduced by going from the two to the one.

MR. WICKERS: I was just looking at this table, though, but basically the way I read this table is the reason it is a hundred percent reduction in Georgia is because you can catch two; and now you are going to be cut in half, you can catch one. In Florida you can only catch one, so you only have got an 8 percent; so what basically I got out of this, only 8 percent of the people are bringing in more than one. Isn't that the way you would read that?

MR. PELOSI: Well, I'd say that less than 8 percent of the people will catch a cobia.

MR. WICKERS: Well, I've going by their statistics, not making it up myself. If you can go out and catch two and all of a sudden in Georgia they tell you -- if in 2009 you could have only caught one, there is a 100 percent reduction, right? Isn't that the way you read that? Okay, and if you go in Florida and go to one, which you are already at one, you are only going to go down 8 percent. Is that because we were already at one, right, so it is only 8 percent of the people that are cheating, is that what you are saying? I'm just trying to figure out your chart and not mine.

MR. WAUGH: I don't think it is right to say they are cheating because it is legal to harvest two in federal waters.

MR. WICKERS: All right, so 8 percent of them are caught in the federal waters.

MR. WAUGH: What that is showing is a much smaller percentage of the people in Florida are catching more than one.

MR. WICKERS: Right, only 8 percent.

MR. WAUGH: If you look at that detailed chart at the back of the amendment that you have on Page G-6, it shows for Georgia in 2009, based on the intercepts, there were 47 fish caught or the harvest or number of fish 47 – there were no trips where just one fish was caught off of Georgia. That is why you see some of those high numbers in some of those years. It is a way of looking at what impact that would have based on the intercept data that we have. That is always a very small coverage.

MR. WICKERS: Basically by reducing from two to one, which is a 50 percent reduction, you are not going to get a 50 percent reduction based on what you're showing here. You are actually going to get a much smaller reduction than what you think because the bulk of the fish are now caught in Florida already?

MR. WAUGH: No, people always think and fishermen think if you are cutting the bag limit from two to one, that is a 50 percent drop in the bag limit, and so you are cutting us 50 percent. You are not. You are cutting anybody who limited out is cut by 50 percent; but if you look at a catch distribution, and that is what is shown on Page G-6, is that not everybody is catching the bag limit. It just so happens that in 2009 in Georgia, the samples that we have, they were hitting the bag limit.

MR. WICKERS: But there was a smaller number of samples is what you are saying?

MR. WAUGH: Correct, so it is not always reflective of what is going on, but you have to look at what the distribution of fish per person is.

MR. WICKERS: So if you take a look at the one in South Carolina, it is 37 percent, how would you interpret that one then?

MR. WAUGH: Well, in South Carolina there were 2,523 fish caught that only had one per person. Then on the trips that were intercepted where people did catch the bag limit of two, they caught 1,453 fish.

MR. WICKERS: So based on that it would be a 37 percent savings?

MR. WAUGH: Correct.

MR. WICKERS: In Florida it would only make 8 percent because the vast majority of people are keeping one except for maybe 8 percent that are sneaking in.

MR. BRAME: Are we talking about doing this until we get an assessment that comes up with an OFL?

MR. WAUGH: Well, yes, we are going to be talking about OFLs, but these have to be viewed as interim and that's how we have presented it in here in terms of our ABC control rule that we're proposing. I'll just put this up so it is clear what we are talking about. Again, this is on you summary Page S-32.

The council's current preferred alternative is to use the Gulf Council's ABC Control Rule as an interim control rule until we get the stock assessment that will be started next year. We'll have the results in 2013, so by the time the council works on those and gets that in place that would come online for 2014. So realistically we're looking, what regulations we propose here, if any changes, would be in place for two years before we implement whatever comes out of the SEDAR stock assessment.

What we are proposing, that ABC is the mean plus 1.5 times the standard deviation of the last ten years' landings, so it is 1.57 million pounds. We'll go into this in more detail, but I think it helps get to the question Dick asked. Then you have that number, the allocation alternatives, whether you look at just the last three years of landings, 2006-2008, where the earlier years and the last, they come out 8 percent commercial and 92 percent recreational.

Then if the council sets its annual catch limit, which what they are proposing is to set that equal to the ABC, which is the 1.57 million pounds. Like I said, we'll go through this in more detail tomorrow or later today, but I just want to get to where what the catch target is for the commercial sector is their 8 percent. So their 8 percent is 125,712 pounds; and if you compare that to landings, that is not expected to be exceeded.

Now on the recreational side what we're doing is we're stepping that down based on the PSE, the measure of variability of the recreational catch data. The council is using the three-year average so that is 16 percent, so we're reducing the recreational ACT by 16 percent from their share of the annual catch limit. That comes out to be 1.2 million pounds.

The idea is you are aiming for 1.2 million pounds; and as your catches go up and down, when they go up they don't go above your portion of the annual catch limit. If you compare that target then to the recreational catches, that target was exceeded in six of the last ten years. The overages have been slight except 2003.

But again that is using more recent – not the 2010 and certainly not, obviously, the 2011 data. That is where you may want to consider – separate from this issue just in South Carolina, you may want to consider some reduction in the bag limit now so that you don't exceed this limit. You can exceed your target; but if you go above this portion of your ACL, then that is going to come off the next year.

MR. PELOSI: Gregg, will that close the season once that is reached?

MR. WAUGH: No, and let me just give you that number here, 1.446 million pounds. If your catches go over that, that is going to come off of your next year's quota. We don't have a provision for it to close for cobia. The accountability measure – and this is Action 20 -- will compare the 2011 landings to that figure. If there is an overage, then the next season is reduced in length in order to meet that – the next season will be reduced to ensure that you don't exceed your ACL. But your ACL for 2012 will be – any overage in 2011 will be deducted from that. Does that answer your question?

MR. GAY: Would you get credit on the years that you don't meet it?

MR. WAUGH: No, you get a gold star, and that is a contribution towards stock rebuilding. The council talked about that. In all seriousness we had alternatives where we looked at that, but what you run into is if there is an underage one year and then you add it to the next year, you could result in your harvest the next year exceeding your overfishing level. That is why across the board now we have removed any considerations of underages.

MR. WICKERS: I know recently they have started going to the – I'd guess you would call it pay back or whatever; but for a number of years when they first started to regulate the king fish, they closed both commercial and recreational when their quotas were filled. Now there was such a uproar, or whatever you call it, mainly because of all of the bad data at the time, that they decided not to close recreational catch; even though they had a total allowable catch, they didn't close it. There was a lot of discussion on that, so now the trend is that we're now going back to the – in other words, we're now going back to the original system that was changed many years ago?

MR. WAUGH: Yes, this is a requirement of the Reauthorize Act. We have to put in annual catch limits, and that is supposed to be – you can specify it either in a fishing mortality rate or pounds. The inclination is more to do it in pounds because it is more straightforward and people can understand that.

You set that catch limit that accounts for all sources of mortality, including discard mortality, and you divide – it is up to the councils whether you divide that recreationally and commercially or leave it together. We're leaving it together for spiny lobster but for most other fisheries, all other fisheries we're separating it.

Then you track each sector to make sure they don't go over their portion of that annual catch limit. This is a new requirement of the Reauthorized Magnuson Act. It has been put into effect for – the deadline was 2010 for our species that are undergoing overfishing, and that is why we had the black sea bass recreational closure because they exceeded their ACL.

That is why in the Gulf you had the same thing happen with greater amberjack. Now the deadline that we are dealing with is by the end of 2011 we have to have these measures in place for all our other species. Even if it is not overfishing and not overfished, we have to come up

with these overfishing level recommendations, the annual catch limit; and you can't exceed that limit. If you go over it, then that is why we are proposing these paybacks.

MR. WICKERS: The cobia, though, the actual change from two to a one bag limit, is that just under discussion now or is that going to be voted on in this package?

MR. WAUGH: That is under discussion. What we've got in here now are alternatives that the council is evaluating. This is on Page S-41. Their preferred alternative right now is to not change the bag limits or size limits in part because we are getting a SEDAR stock assessment next year and so we'll have numbers. But, they have asked us to evaluate these other alternatives and to get public comment because there are two issues here.

One is rather you have to reduce it to make sure you don't exceed these ACLs. The other is there is a high price to exceeding them and do you want to run the risk of exceeding them? That is optional right now and we are getting input from the AP and through the public hearings, and the council will make their final decisions in June.

We are having a joint committee meeting with the Gulf Committee. And then on the Friday of the Gulf Council Meeting, June 10th, I believe it is – it is on the last page of our public hearing document – yes, it is June 10th. The two councils are meeting together jointly and will finalize all recommendations there.

MR. WICKERS: Well, one of the things, cobia, like I said earlier, is not one of our big catches, but what worries me is that reducing a bag limit from two to one when it's not necessary – I know Florida has already done it and it doesn't really have a big affect – unless it is really necessary to do it and you have the facts to prove it, it is just another step, because in the charter fishing industry we are getting to the point that we have a lot of people that they don't want to just go out to catch sailfish, they like to go out and take some home to eat, too.

The more species that you keep closing and cutting bag limits, the less attractive our business is. I think not only are we fighting the economy, but we are fighting the public perception of, why should I spend a thousand bucks to go out on a full-day trip when I can't even keep my catch. I have reached the point where unless you've got the scientific evidence a fishery is on the verge of a collapse or something, if you keep pushing you might as well just lock up the boats, because we are getting to that point where like in the Keys right now we can't even bring in a grouper.

All the people that come down from the west coast and South Miami that would come down to the Keys in the winter, they want to go home with some nice fillets of grouper, they don't bother to come now because they can't catch them. They can't catch them until the end of April. It's just one fish right after another.

And one little closure doesn't hurt – that is just like taking a person and you cut him with the knife once, it doesn't hurt too bad, and then you cut him again and it doesn't hurt too bad and after he has been cut about six times, damn it, boy, all of a sudden he is starting to hurt like hell. That is about where we are at in this industry now.

I've always been an advocate of bag limits and all; I'm just saying you need to really take a deep breath and start looking at these things of what you are doing to the fishing communities; not only the commercial guys but the charter industry and now even of the recreational. It is getting to the point where it is just getting really crazy.

MR. PELOSI: I think, Bill, that we pretty much all agree with what you are saying.

MR. BRAME: I agree with Bill to an extent. I think if there were a sign that this stock were in any trouble and if there is such evidence, I would love to hear it. But absent that, given you are going to have a stock assessment in 2012 for action in 2013, I think it would behoove the council to go with their preferred alternative. There is no reason right now that I can see to make a cut.

What is even more worrisome to me, if this is a year-class-driven fishery, which it appears to be, strong year-class-driven fishery, and we are setting our ACLs even averaging based on at least a year-old information and sometimes two, we are going to bust the crap out of these things. Two years after a big year class, we are going to just blow right through them.

If you average that means for three years we are going to keep blowing over it. This is very worrisome. This is a poster child for why this – the ACL box you have put the recreational fishery in will not and cannot work. It is doomed to fail. That is a virtual certainty. The only way an ACL box is it's currently constructed will work in the recreational fishery is one that doesn't, is not very volatile, and there are not many fisheries like that.

MR. GAY: May I have the pleasure of saying I agree with Dick Brame wholeheartedly.

MR. WAUGH: The only clarification I would make is just to clarify who the "they" are, because it is not the councils putting in this box. This is something we are all dealing with. Bill's description of those cuts, I thought he was talking about public hearings, but –

MR. BRAME: It is important for people to realize where I am coming from. If the recreational fishery catches, say, a thousand fish in a year and the next year they catch 2,000, if the stock size doubled, that is no big deal, it is the same catch rate; but based on the ACL you would have blown right through this artificial barrier. You would not fish the next year. You would be done. But in terms of your effect on the stock, you had no effect.

MR. WAUGH: This is a very important point. It is one we have been struggling with how to get across. I think you guys are understanding, because there are two issues here. One is biological conservation and the other is this – and by calling it a numbers game we are playing, I don't mean to downgrade or denigrate the impacts because it is huge, but you have to recognize that there is this numbers game that legally we have to play and that is setting these ACLs.

That ACL; the ceiling comes from the SSC. Now the council proposed a different control rule that got that number up higher. I don't see how, within the legal constraints, it is going to go any higher, and you will hear from the SSC tomorrow morning. So that is the numbers that we are dealing with here.

What you all have to weigh and what we are going to tell them at public hearings starting Monday in North Carolina is that this will go in and be effective January 2012. In January 2012, at some point you will be given a quota for 2012 that will be calculated by looking at the catches in 2011.

We won't have complete data so NMFS is going to have to do some projections for the completion of 2011. Your quota on the recreational side and the same thing on the commercial for 2012 is going to be calculated comparing 2011's estimated catch to your ACL. If that is higher, then that overage will be deducted from the quota that you get starting January 1, 2012. If the bag limit stays at two, then you are going to have higher catches than if it was reduced to one, obviously. Your catches in 2012 are going to be higher. Then for 2013 you're betting that you are going to get a higher number from the SEDAR assessment or else your 2013 quota is going to be the average of your high catches in 2011 and 2012.

This the way it is structured; and Dick is right, it drives – if you go over it drives your future allocation down. You are going to go over again and you will drive it down. That is the risk that you have to weigh. There is no biological issue here. Although as a biologist I am concerned about this year-class-driven issue, but that may just be specific to South Carolina. It could be handled with just a bag limit change off of South Carolina, but then regionwide you have got this issue of how do you deal with the ACLs that you are going to have and how the overages are going to be calculated.

MR. HARTIG: Doesn't it make a lot more sense to set the ACLs on a two-year basis? It allows you to do a couple of things. It would allow you to have any underages applied for the next year in that you would be able to catch that number for the second year; it would allow you to do that. It would also allow – if you had an overage it would allow the council to see that before really large impacts had come down on the respective fishery, whether recreational or commercial, and the council would have some leeway to adjust a bag limit or whatever in that two-year period versus having to jump on it every one year.

I just can't – it is set up as a penalty system and it is ridiculous. We have sold this bill of goods that the science is the best thing and the best way to go. If we are going to use the science, use the numbers to be able to react in some way. Otherwise, every year we are just going to be – and I've been thinking about this a long time from a council perspective, and some way to get out of the box that you so eloquently put it, Dick, that we have been forced into; some way to set that to allow a little more flexibility to allow underages to go back to the fishery and then take care of overages before you are in such a heinous condition where you shut the fishery down for the entire next year. That is just a thought.

MR. BRAME: One of the problems you have, just thinking about this, is this is one of the few cases where a season really won't help you. You are catching all of these fish in two months. You could close ten months and have no effect on the season. The only time you are going to affect this harvest with a season – and I'm generally in favor of seasons for a lot of species that are threatened, because it does reduce effort and generally reduces catch. So we really are stuck with bag limits here unless you are going to close during the height of the spawning aggregate, which you might want to do.

MR. WICKERS: I would just like to say that I think what Ben just said makes a lot of sense. I don't understand why what I would call good common sense doesn't always seem to work in bureaucracies, but it doesn't seem to be able to work the way through. If they could take that and make it work, it would be wonderful.

I agree, I just see a massive – it kind of reminds me of in the early days there; every time they'd run over – and I remember they had a big run over one time and it was in a net fishery. It was because it was Martin Luther King's birthday and everybody had shut down shop to go on a vacation; and when they opened up and they had gone over by 200,000 pounds because they took advantage of the weekend, and then they wanted to come back and blame it all on the fishermen and wanted to take it out of the next year's catch. Well these guys are out fishing, they don't have a ticker in their head to know – but it made a big hoopla in Florida over it.

I remember getting up there and saying, well, because there is a lot of people wanting to do about it, and I said, well, you better watch out what you ask for because if you take it away from these guys when they actually followed the law and it was the people doing the regulating that weren't there to get the numbers, you better watch out what you ask for because the next year – that is when we used to have the recreational closures, and we always run over. They could all do the same and turn around, you set a precedent and they'll come back and do the same thing to you.

MR. PELOSI: We'll hear from the SSC Committee in the morning and what they have to say about these numbers and bag limits and so forth. Then we will vote on the cobia issues, but think about it overnight and let's be ready to go through it rather quickly tomorrow if you can have your thoughts really in line. I hope the questions have been answered that the panel members might have had. So let's take about a 15 minute break and then we will get on to some mackerel issues:

MR. PELOSI: Okay, let's all sit down and get the meeting back to order. Gregg is going to lead us through a couple of things here that we need to discuss because the agenda is kind of vague here.

MR. WAUGH: We've covered cobia, and what I thought we would do now is just come back and pick up with king and Spanish. The idea is to go through the decisions, and you were sent what the council had done and their position out of the March meeting. Now we have the public hearing summary and you have got the complete amendment.

Just to go through this afternoon, to go through what is being proposed, what the actions are; answer any questions you have, similar to what we did with cobia so you are comfortable with that and then tomorrow – you can think about it overnight, talk about it amongst yourself overnight.

Then tomorrow morning the first thing we'll lead off with the SSC's recommendations and then go right into the rest of the morning you all developing your – if you want to do motions action by action, that would be good. We can just go action by action. If we do that, we will start on Page S-5; you can look at it on the screen or follow along on your summary. The first three items are joint actions.

Remember, this is joint plans, so the first three actions both councils have to agree on. After that there is a group of actions that the Gulf has taken care of and our actions applying to Atlantic king, Atlantic Spanish and Atlantic cobia. That is the one I e-mailed you, and what that shows is the same actions and shows the council's position.

What I've done now is put that into this – yes the one that says summary on the front. If you turn to the first action is on Page S-6, and this deals with species in the management unit. What we are proposing is – bluefish are still in there; bluefish and dolphin are still in the fishery management unit only in the Gulf. Bluefish is managed on the Atlantic Coast through AFSMC and the Mid-Atlantic council. Dolphin, we have a Dolphin Wahoo plan.

Little tunny we considered putting management regulations together and ACLs for that, but that has been deferred to a future amendment. Cero is a minor species. So both councils are proposing to remove those four species from the FMP because there are low landings, they are not targeted and there are some state regulations. If we leave them in, then we have to calculate all these ACLs and AMs for those as well. The current preferred is Alternative 3; it is to remove all of those species from the fishery management plan.

MR. WICKERS: I just want to say I make a move that the Advisory Panel adopt the preferred that the council recommends.

MR. PELOSI: Okay, I'm not ready to take motions on this.

MR. WICKERS: I thought he said he wanted us to go one by one?

MR. PELOSI: Well, we'll just discuss them and then tomorrow we are going to go through them. Okay, does anybody else have anything to say or disagreement. We're pretty much in agreement on that.

MR. OGLE: Just a question' can cero be folded into Spanish mackerel and the two be treated as one?

MR. WAUGH: They are such a minor concern –

MR. OGLE: Well, I know, that is the point.

MR. WICKERS: They are rolled in already.

MR. PELOSI: They are really just in the range of the Keys.

MR. WICKERS: I think they are already rolled in; they buy them as Spanish mackerel.

MR. OGLE: I withdraw.

MR. PELOSI: Commercially those that are caught are called Spanish, wouldn't you say?

MR. WICKERS: When they don't have a zero on a ticket; they just throw it in with Spanish as far as I remember. Florida trip tickets I don't think has a separate listing. I may be wrong, but I'm pretty sure they don't. I know on the logbooks there are no listings for them.

MR. BRAME: You have got to remember if it is in the management unit and it is caught in any kind of numbers, you are going to have to set an annual catch limit with an accountability measure.

MR. PELOSI: It is not caught in any numbers.

MR. BRAME: Any number that is more than just a few and it has to be in. You can't make it an ecosystem species and not set an ACL. You would have to set an ACL; and then what happens when you go over it, you have to pay it back.

MR. GAY: Well, we only catch a few groupers and sea bass and stuff, too; can we take them out?

MR. PELOSI: I don't think we can get away with that. Okay, we'll hold off on that. What is the next one, Gregg?

MR. WAUGH: Action 2 deals with the framework. This is more procedural, if you will, in terms of how we make changes to the regulations. Right now we have a framework but it doesn't address SEDAR, it doesn't address ACLs, ACTs and AMs. This is on Page S-8. The council is looking at several different alternatives.

Their preferred option is to adopt the base framework procedure, which is in between something that is very broad and very narrow. That will allow us to make faster changes, respond more quickly to changes in the fishery, and outlines how the councils and NMFS/NOAA work cooperatively to manage mackerel.

MR. WICKERS: You don't want motions on these, you say?

MR. WAUGH: No, what we thought –

MR. PELOSI: Not at this time, let's just talk about them but be ready to quickly vote on them tomorrow. I am having a little bit of a problem understanding this as you said it there, Gregg.

MR. WAUGH: Alternative 1 is not to modify the framework, and right now we have a framework in place.

MR. PELOSI: It takes three years.

MR. WAUGH: No, we can actually make changes within a year, but the problem is it doesn't talk about SEDAR assessments; it doesn't talk about ACLs, ACTs and AMs, so it has got to be updated to bring it up to current terminology and requirements. That is what Preferred Option 1 under Alternative 3, it adopts the base framework.

That is described in detail in Appendix B in the thick document that you have; so tonight if you want to look at that; Appendix B, yes. In the amendment document we have got all the details about – the existing framework is in Appendix A; the base framework is in Appendix B; and the more road one is laid out in C and the more narrow one in D.

MR. WICKERS: Is the broader one is the one that takes the longest time and gets the most data?

MR. WAUGH: These really don't address collecting data; they address more what steps the council goes through when they want to make a change.

MR. WICKERS: Does it allow more input?

MR. WAUGH: Hold on one second and I will get that answer for you. Alternative 1 doesn't allow it. Alternative 2 and 3 would generally – and I'm reading off of Page S-9. Alternative 2 and 3 provide, consisting in language – Preferred Alternative 3, Option 1, will most likely result in positive benefits that gives clear and flexible procedures. Option 2 and 3; Option 2 forfeits public participation and Advisory Panel input for a shorter timeline. So Alternative 2, the broad framework shortens the timeline, less participation of AP and public input. Alternative 3 has more participation but a longer timeline.

MR. WICKERS: That's the preferred?

MR. WAUGH: No, Option 3 would be the more narrow – you get more participation but it takes a longer time period.

MR. WICKERS: I'm all for more time.

MR. WAUGH: If you are for more time, then it would be Option 3.

MALE VOICE: But the preferred option is Option 1.

MR. WAUGH: Is Option 1. Again, what the council does is pick preferreds to go out to public hearings so the public knows what their current choice is. But they want to hear from the Advisory Panel, they want to hear from the public and they can come back and make changes to any of these preferreds.

MALE VOICE: To any of them?

MR. WAUGH: Any of them.

MR. HARTIG: Just like Bill said, if you have an option other than what the council said, just make sure that you tell us why you wanted that option; that would help.

MR. GAY: Well, I think what we heard on that was it would basically involve more public participation and a little bit longer timeframe to make it happen; is that correct?

MR. WAUGH: Yes, that is correct; Option 3 would have more input and take longer.

MR. PELOSI: Any more questions on that? Okay, so sort of the preferred option of the Advisory Panel probably would be the Alternative 3; am I reading what you have been sort of saying?

MR. WICKERS: I personally would think that sometimes we get it and if we make changes too fast, because if we would have had more input and a little more time to think it through and have a little bit more data, that we may have not – the thing that comes to mind the fastest is what happened in the Keys with the grouper closure. I think that was a little bit rushed for us.

I think that if we had of had a little bit more input maybe it wouldn't have happened, but I don't know. I just think at the rate that regulations and rules are going into place, the more time it takes and more thought it takes and the more input you get, the better off everybody is going to be. I guess that is the best I would say.

MR. WAUGH: Okay, moving on to Action 3, which is the last of the joint actions – and we already talked about this – is to separate Atlantic and Gulf. Again, the current council position, both the South Atlantic and the Gulf, is to split it at the council boundary. Regardless of which one of these they pick, then from there on the Gulf just deals with the Gulf migratory group for all of their species.

We've got a placeholder in here showing the Gulf addressing Actions 4 through 12. They are going to be finalizing this at their council meeting next week. Then they will be going out to separate public hearings in the Gulf and probably South Florida, the Keys probably; dealing with their specific recommendations for Gulf cobia, Gulf king and Gulf Spanish.

What we are going out for hearings for are the three joint actions that we just covered and then now picking up on recommendations for Atlantic migratory group king, Spanish and cobia. The first item on Page S-13 deals with looking at MSY. The council isn't looking at alternatives for these because these are scientific determinations that come out of the stock assessment.

Out of SEDAR 16, which was done in 2008 using data through 2006, we have an MSY of 8.964 million pounds. The SSC requested some additional projections and those projections show that the MSY is in the range of 9.357 to 12.836 million pounds. That will become the new MSY. It is currently a point estimate of 10.4.

For the minimum stock size threshold, MSST, that is being specified out of the SEDAR 16 stock assessment as 1.8 billion hydrated eggs. For the MFMT, that specifies the FMSY or the proxy, and from SEDAR 16 that is the fishing mortality rate that produces 30 percent SPR and that is 0.256. Those are sort of the given parameters, and the ones that we are operating with are the OFL and that overfishing level comes from the scientists, the SSC.

They provided their recommendation at the April 2010 meeting. The OFL for king mackerel is 12.8359 million pounds, which corresponds to the yield at 30 percent SPR – fishing at 30

percent. That is the accepted MSY proxy from the last stock assessment. Again, there are no alternatives there because that is a scientific determination and we just implement it.

MALE VOICE: What does MFMT stand for?

MR. WAUGH: Maximum fishing mortality threshold. That is the fishing mortality rate limit. So then the ABC control rule; the council has adopted the SSC recommended control rule and that establishes the ABC as 10.46 million pounds. That is sort of our ceiling that the council has to work with.

If you go to the next action, this is Action 13.4 on Page S-15, we've got our annual catch limit or ACL, and this is sort of the first decision point for the council. The council has to adopt the ABC control rule and specify that, but that is recommended by the SSC. The ACL, the council right now Preferred Alternative 2, the council is choosing to set the ACL, which will be our optimum yield, equal to the ABC, 10.46 million pounds.

We can't go over that. That is the average ABC value for the years 2011 through 2013. We use the existing recreational commercial allocations; we are not changing those for king or Spanish. You take that total ACL and divide it into the recreational and commercial. We looked at setting commercial ACTs, annual catch targets, but we did not because we feel that the commercial quota monitoring system is expected to ensure that commercial ACL is not exceeded.

MR. WICKERS: Have we ever reached the total allowable catch on the Atlantic side?

MR. WAUGH: On Page S-17 you can see that.

MR. WICKERS: This is the yearly –

MR. WAUGH: Yes, so TAC has been 10 and you slide over to the right – are you talking about the commercial or the total catch?

MR. WICKERS: No, the total.

MR. WAUGH: So the total; if you look at the TAC – and basically the new term for TAC is ACL, that is your annual catch limit. So it has been ten million pounds since 1999-2000 fishing year.

MR. WICKERS: And never been reached.

MR. WAUGH: So if you look at that, we haven't exceeded that. The highest landings were about 7.4.

MR. WICKERS: 8.747.

MR. WAUGH: Yes, 8.74 in 2007/2008. You can go back in time and see how the TAC has changed and in 1997/1998 the TAC was 6.8 million pounds and the total landings were 8.16, so

we went over there. In 1988/1989 the TAC was 7 million pounds and we landed 7.972, so we went over there. Those are the times that the TAC was exceeded.

MR. PELOSI: It worked out pretty well.

MR. WAUGH: Yes. What we have now is – and on the recreational side, again, just like for cobia, we are taking the recreational ACL, annual catch limit, and stepping it down by the measure of variability of the recreational catch. The council is using the five-year average which is 6.1, so we are lowering that by 6.1 percent.

Your ACT on the recreational side becomes 6.18 million pounds. You look back in time and the commercial is 3.88 million pounds. If you look back at the commercial catches, that 3.88 has not been exceeded. It doesn't look like we will reach a closure on the commercial side based on past catches. How fishermen change their behavior in relation to other closures and so forth we'll just have to see.

MR. WICKERS: Also, based on that information this target that you were talking about earlier that you had to put on – you are going to have to do for cobia; the target is different than what I call total allowable catch?

MR. WAUGH: Yes.

MR. WICKERS: The question I have is, say, for instance, last year the recreational catch was 3.885; how is that in relationship to the target that you were talking about?

MR. WAUGH: The target is 6.18 million pounds.

MR. WICKERS: 6.18, so we were actually more than 50 percent off the target. Kingfish should be, knock on some wood, safe for a while.

MR. WAUGH: This comparison of the commercial ACL and the recreational ACT to recent landings show that there is no further commercial or recreational regulations needed at this time. That is when at the hearing we put -- well, let me cover the accountability measures, because these are the same.

Here is one place you can provide some clarification because the council has two – well, there are multiple preferreds, but Preferred Alternative 2 has on the commercial side – and we are doing this across the board – is prohibiting harvest and possession once the quota is met or projected to be met.

On the recreational sector, if the recreational sector ACL is exceeded, the regional administrator shall publish a notice to reduce the length of the following fishing year. We are saying in the body of this that we are reducing the fishing year and then we have got two subalternatives, one of which reduces the fishing year and one which reduces the bag limit.

We picked the Preferred Subalternative B which reduces the bag limit. We'll have to come back and clarify with the council which one we go forward with, but this is another place that you all can offer your input. Would you rather have the season shortened or the bag limit lowered? Then for payback any overage, regardless of stock status, both recreational and commercial will be paid back. It's not an issue now given the catches that we have on king. Again, in terms of management measures, the councils are not proposing any changes to existing management measures for Atlantic king.

MR. GAY: Gregg, on like kingfish where you have got a recreational and a commercial allocation; in the event of overages, can one borrow from the other?

MR. WAUGH: No, there is nothing set up to do that. Years ago in Spanish the commercial was bumping up against their allocation. We had an allocation formula percentage and we went to 50/50 and then there was an adjustment made to transfer a little more to the commercial side, so we were at 55 percent commercial, 45 percent recreational, but, no, those are set.

MR. GAY: Let me rephrase that. Okay, you have got a separate ACL for recreational and commercial, correct? If commercial doesn't come anywhere near their ACL for example, and recreational exceeds their ACL, can the lack of fish that were caught from one sector be counted toward the other to keep the fishery itself combined as having exceeded the ACL?

MR. WAUGH: Not how it has been set up and not how it has been talked about. You raise an excellent point. That is certainly something that if all of you are in agreement on, make that recommendation, because it would apply to both sectors because you calculate what your overage is when you set the quotas next year.

You are more concerned with not exceeding the total ACL. That is what results in overfishing. I don't remember us ever talking about that. I think the problem thus far is we've always been dealing with our overfishing species and sort of looking in one direction. I can't think of anything sort of biologically or anything in the law that would prevent us from doing that.

MR. GAY: Would that just be a policy thing with NMFS or would it be an action that the council would need to take to clarify that?

MR. WAUGH: I would think that would be a measure that the council would approve and put in here as direction; modify the accountability measure to add that provision that when overages are calculated, that it would be the council's intent to look not just sector by sector but also look and see whether the total ACL was exceeded and only apply the reduction if the total ACL was exceeded.

MR. GAY: If you or Ben would write that in the form of a motion for me, I would be glad to make it tomorrow when we get to that point.

MR. OGLE: (recording starts here) in other words, their ACL would go to the group that could catch the most fish?

MR. WAUGH: No, because my understanding of what you are talking about is just if there is an overage on either the commercial or the recreational sector, but that when you add the two numbers together it didn't exceed the total ACL, then there would be no overage deducted the following year. Each sector would get their original number.

Now if there is an overage, then the question comes down to do you need to specify – to make it simple, if the recreational sector went over by 50,000 pounds, when you added it up to the commercial you were only over by 10,000 pounds, then the next year the recreational allocation, in this case only because they went over, would be reduced by the amount of the overage to 10,000 pounds. If it was reversed, the commercial went over their ACL and you add the two of them together and they are over the total ACL, then any overage over the total ACL would come off of the offending sector, if you will.

MR. OGLE: I understand that, but then if say the commercial got 10,000 pounds from the recreational one year and then they might say, well, we need that 10,000 pounds and recreational didn't get it so we want that included in our updated ACL.

MR. WAUGH: People can make that argument now, but this procedure would have to be specified as to what happens when you calculate it and make clear that this only affects how you calculate the overage and then any overage above the total ACL comes off of that group's quota for the next year.

MR. WICKERS: If you are that flexible that you could do something like you are all discussing, I cannot understand with the recreational bag limit sales, like on the charterboats it has always been a contention. Why couldn't you do like they did years ago in the Gulf and take a piece of the recreational catch to cover whatever your estimate of and move that to the commercial side and that way you can't say that they were double-counted and that they are causing all of this problem.

That would eliminate all this confusing that we have had and argued with now since 1986; because if you are that flexible to do what you are talking about now, you definitely could be flexible to say, well, charterboats sell three or four hundred thousand pounds or whatever it is – I mean, we have never even approached catching our limit, so why couldn't you have a system that does that?

I mean they did that in the Gulf, because it became a contention and not the bag limit sales, per se, but they called it after quota sale was when we use to have the closures. They took 200 and some thousand pounds in the Gulf stock and transferred it from the recreational to the Gulf – I mean the commercial, to cover that overage.

They could tell you precisely how many fish were sold after the commercial quota was closed. They just took that chunk, moved it over and said okay. That solved that problem. It seems like that is a lot simpler system than this paper that you sent me and I've been trying to make hide nor hair, and I've read it and it seems so contradictory on the bag limit sales. It is very confusing. It just seems like a percentage movement, and say that will cover these people that sell them – because you have to have a commercial license to sell it, anyway.

MR. WAUGH: You have gone now from talking about how you are handling overage to two hot issues, allocations and sale of recreational –

MR. WICKERS: Well, you know me, I'm going to get that in there one way or another.

MR. WAUGH: That's good, I like how you did that, but I mean –

MR. WICKERS: Well, I'm just saying we are talking trying to do sensible things, right?

MR. WAUGH: But obviously they are very different things.

MR. WICKERS: It is all in your perspective.

MR. WAUGH: I agree with you, and you all – remember, the AP can make any recommendation you want to. If you want to talk about changes to the recreational/commercial allocation, you can make those recommendations. It is not likely to be addressed in this amendment.

MR. WICKERS: No, it won't be in this one.

MR. WAUGH: If you want to address sale, we are going to get into the issue of sale in Amendment 19.

MR. GAY: I wanted to respond to Tom and I'll touch on Bill's too. Bill, I believe when that allocation was set up originally, there was some allowance from the recreational to the commercial to cover that percentage of fish that had been being sold; if my memory serves me correct.

Tom, to help clarify for you what I was talking about would; one sector could help the other so that species doesn't exceed its ACL, but neither could punish the other for having exceeded it, I think is the best way of describing that. One could help the other one but neither could punish the other one.

MR. WAUGH: That's it for kings, so then we have got the same issues for Spanish; the same decision points? What is very different is that is that SEDAR 17 for Spanish; it was done in 2008 with data through 2007. When that was reviewed by the review panel at SEDAR and our SSC, the fishing mortality parameters, the fishing mortality rates were accepted; however, the biomass parameters were not accepted.

The issues of updating MSY, anything having to do with biomass were not accepted. Ben can probably give you the best explanation of why this has happened, but hopefully it will be addressed in SEDAR coming up next year. SEDAR 33 begins next year and is scheduled to be completed in 2013 as we talked about before.

When we look at our MSY values, we would have updated it had the value been accepted and the number in SEDAR 17 was 11.461, but that was rejected so we are staying with our MSY

estimate of 10.4. The same applies for the minimum stock size threshold and the maximum fishing mortality threshold.

We are staying with those values that are in place now. For the overfishing level we don't have – well, the lack of an acceptable assessment triggered the SSC to use their control rule for unassessed species. What they did was they looked at the fishing mortality rates that were given in the stock assessment. The stock assessment concluded that overfishing was not taking place. The issue of overfished was unknown.

So what the SSC did in terms of the overfishing level in April is bypass that and they went right to their ABC recommendation. Then during March they set OFL as unknown. At our March meeting we were told that if the SSC isn't providing it, then the council has to specify an OFL. What the council is recommending now as an interim OFL is the mean of ten years' landings plus two standard deviations. That is the control rule used by the Gulf council.

That gets it 6.14 million pounds, so we will get a recommendation from the SSC tomorrow. The SSC control rule set the ABC as 5.29 million pounds. That is what the council has as a preferred alternative. Now they have looked at their recommendation and the number they provide tomorrow is going to be higher than this; maybe by approximately 400 to 500 thousand pounds. We will see what they come up with tomorrow.

Again, for Spanish we are not proposing any change from our allocations now. We are not proposing any reduction on the commercial side from the annual catch limit. On the recreational side we are specifying it the same way using the three-year average, which is an 8 percent reduction to address the measure of variability for the MRFSS numbers.

The commercial ACL is 2.91 million pounds. That has not been exceeded in the last three years based on data in Table 216-41, but if you go back prior to that, it has been exceeded. It has been exceeded every year from the '1996/1997 through 2006/2007; every year except 1999/2000. Obviously that has the potential for triggering a quota closure. On the recreational side the annual catch target is 2.19 million pounds. That hasn't been exceeded since 2000/2001. Commercially we have got our measures in place, we track them and close.

We are not proposing to change that recreationally; we are evaluating a modification to the bag limit to help keep landings below this annual catch target. Similar to king, here is the Spanish table. The accountability measures are the same. We are looking at reducing the length of the following fishing year or reducing the bag limit, paybacks on both sectors.

When you look at management measures, what the council is proposing now is to reduce the individual bag limit from 15 per person from Florida through New York to 10 per person. Similar to what we talked about with cobia, here is anticipated reductions going from 15 to 10. On average over 2005-2009, 13 percent off of Florida; 11 percent off of Georgia; 3 percent South Carolina; 17 percent North Carolina; and 7 percent Virginia.

MR. WICKERS: The total allowable catch was 7.04 and the actual catch was 4.741, so you are a little over two and a half million pounds under, but you still want to reduce the bag limit?

MR. WAUGH: Well, remember, this TAC that is in place is from previous stock assessments. We have a new requirement now that the SSC develop an ABC control rule with the council and specify an ABC and an overfishing level. Then the councils are limited by the upper end of that and then the council sets their ACL, so the ACL that the council is recommending is 5.29 million pounds. The TAC, if you will, is being reduced from 7.04 to 5.29. That is based on the new requirements in Magnuson and the SSC's methodology. Like I said, they are going to come in with their recommendation tomorrow morning that will have a different number.

MR. WICKERS: So they will come in and explain their methodology, how they came up with that?

MR. WAUGH: Yes.

MR. WICKERS: Because if you go by last year, it wouldn't make a lot of sense, that's why.

MR. WAUGH: But, again, I've done the same thing you have comparing to what is in place now, but what you have got are new rules. The stock assessment was not accepted in terms of generating biomass values and so it falls to the SSC's methodology. Previously it was looking at the catches in years that were not undergoing overfishing.

Now they have a slightly different methodology and they will be explaining that tomorrow. It has to do with using the median plus some percentage above the median or picking the average of two to three of the highest years. My understanding from the discussions yesterday is they are going to come in 400 to 500 thousand pounds higher than the current; so you would be looking at instead of 5.29 maybe 5.69, 5.79; still a significant reduction.

MR. WICKERS: No, the reason that I was asking was – I don't really catch Spanish mackerel to speak of, but people that actually go out and target them, that would be a substantial reduction in the bag limit for people that were going to – for instance, to charter a boat to go out thinking they are going to catch 15 a person and all of a sudden they can only catch 10, that would be a big drop. I would just think that you would have to have a pretty good reason to do it. Looking at these numbers, I didn't see the reason and that is why I am questioning it, but you say they are going to explain it to us tomorrow?

MR. WAUGH: The big difference in what is going to be explained tomorrow and not the rationale for doing this. The rationale for doing this is congress reauthorized the Magnuson Act with much stricter guidelines and requirements.

MR. WICKERS: So there is more involved.

MR. WAUGH: Yes, and the SSC is coming up with the methodology that best meets their charge to come up with a overfishing level recommendation and an ABC control rule, given that the stock assessment was rejected. The biomass parameters were rejected, so they don't have that to use. The recommendation from the Southeast Fisheries Science Center is to use landings. When we don't have an accepted stock assessment, the recommendation is to use landings' data.

MR. HARTIG: Yes Bill, you are right on in your questions. One of the problems we have with Spanish – and I went to the assessment – is that since we don't have a biomass estimate and we don't have a biomass estimate because in my opinion the assessment scientists chose to use numbers that were very uncertain as far as the historical recreational catch and changed the whole history of the Spanish mackerel fishery when they did so.

In the end the review workshop agreed with my problems that I had. There were repeated questions that I pointed to in the data workshop and the assessment workshop that I said you can't use this data, there is too much uncertainty. The additional was the shrimp trawl bycatch which had never been used in the assessment before because of the number of open cells in that data. It wasn't deemed appropriate for use in previous assessments.

This time they did use it. So what happens is we don't have a biomass estimate. We have the most one of the most assessed species that we have in the South Atlantic; Spanish mackerel and king mackerel. Those are two species that have the most assessments ever done in the South Atlantic. Now because scientists made a poor judgment in using numbers, we are going to be penalized because of their use of those values.

That is inexcusable to even think about that in this day and age on a species which is on auto-pilot as far as rebuilding. I fish this species hard every year; about 40 percent of my income comes from Spanish since the net ban. It is an incredible success story, the number of large fish, more large fish than have been there probably in 60 or 70 years.

I mean the egg production is out of sight. There is just no excuse that I can see for reducing the level of harvest from what it has been for the last ten years. It just doesn't, and I'll make that point at the next council meeting. I am to the point now where I can't take it anymore because of scientific problems.

MR. WICKERS: That's what I was saying. By looking at these numbers, it doesn't make any sense to me. Anecdotally, guys in the Keys that fish in the Gulf side, they say they see more Spanish mackerel out there than they have ever seen in their life. They just can't catch them.

MR. GAY: I thank Bill for that explanation because I was really confused. Because in all the years I have followed the council at whatever level of participation, I have always found the SSC to be somewhat a rubber stamp for the assessment to a certain extent. I think that is the first time I've ever heard that they actually rejected an assessment.

MR. HARTIG: Well, to that point, really, the assessment was rejected by the review workshop in the assessment process. The reviewers said that we couldn't have the biomass estimate, so the SSC reviewed that and then they agreed also that they couldn't use them because of those problems. So you are right, you were right in your first – the SSC didn't rubber stamp the numbers that came out of the assessment; they agreed with the review panel and the biomass estimates.

MR. HOLDER: Thank you, Mr. Chairman. Just for your information, Tom and I were just chatting and we don't have the Spanish mackerel fishery we used to have in South Carolina. In

the seventies and eighties when I was offshore fishing we used to see acres of Spanish. Now we never see them. We see them occasionally on the beach late in the summer but not the big pods that we used to see. They are just not there. We don't even go fishing for them like we use to. Just for information.

MR. PELOSI: Well back in the seventies we were having mackerel shortages down in the east coast of Florida at that time, but there were other reasons for it. We always heard that you had a big fishery up here and I'm surprised to hear that you are not seeing those fish now. Is there any other discussion on that? Gregg, is there anything else?

MR. WAUGH: Let me just mention the other thing we will address tomorrow that you might want to take a look at tonight is that Amendment 19 discussion paper. This gets at something Bill raised. This looks at the issue of modifying the sale provision for socio-economic, data quality and enforcement reasons. Look that over, we lay out these options. The council is going to be looking at this in more detail at the June meeting, and the very back Page 6 has the issues for the council to consider.

You can see we have added the South Atlantic Council's March 2011 input. They are looking to make some adjustments, and this will happen in Amendment 19 in the future, but look at this issue and they are considering prohibiting bag limit sales. We want your input on this tomorrow as well.

MR. OGLE: You're speaking, Gregg, of S-32, beginning on Page S-32?

MR. WAUGH: No, actually this is a separate document. It was included in your original materials. I didn't print out any – we may have a couple of extra hard copies, but it was sent to you. It is Amendment 19 discussion paper at the top.

MR. OGLE: I read it, but it is still on the computer.

MR. WICKERS: I got mine on the internet.

MR. PELOSI: Jodie, there is also a requirement on Magnuson that the council has to abide by the council's decision on overfishing. If they say this is the line in the sand, that is the line in the sand. The council has no discretion; they have to take that advice.

MR. WAUGH: We have got some hard copies. The last page has what the issues are that we are addressing right now and certainly any recommendations you want to offer would be appreciated.

MR. WICKERS: This is the next amendment that's coming; we're talking down the road awhile, hopefully?

MR. WAUGH: The council is going to be looking at this in June and fleshing this out some more in June. Right now the big scramble is to complete all our documents to meet this 2011 deadline, which means us finishing them in June. If we don't finish everything at the June

meeting and it goes to September, then we will be focusing on those. I would expect a lot more guidance from the committee and council at the June meeting and then we will be talking about what sort of specific timeline.

MR. WICKERS: But this is a separate amendment; it has got to go through the whole amendment process, correct?

MR. WAUGH: Correct.

MR. WICKERS: Public hearings.

MR. WAUGH: We've already scoped this so the next step would be for the council to work on this and for us to do some analyses and then the council will approve it for public hearing. I would anticipate if the council is interested in moving forward with this, public hearings late this year, early next year.

MR. PELOSI: Well, this bag limit thing has been something that has been around for years, and I have been thinking and looking at how the information is collected. Now, we know that in certain areas, your area down in the Keys a lot of the fish from the charterboats are sold. I know up in the Panama City area they also are sold, but then I know those people up there come down here to carry home their winter supply of food.

Obviously, not all the fish up there are sold. I saw a reference that all fish that are not reported on the log sheets but are reported sold through the fish houses, the difference is considered fish sold by the bag limit, which I can't believe is true. It could only be true if everyone who – talking about king fish only, that fills out their logbook every day religiously.

If they don't fill out the logbook and send that in and those numbers are compared with the Florida fish tickets from the Fish and Wildlife, there may be a difference there that doesn't really exist because the fish were sold but they just weren't reported on the federal logbooks. Anybody, do you understand what I am trying to say?

MR. HARTIG: Yes, we get dealer reports and that is how the quotas are monitored. The dealers give us the numbers. There are numbers that come from the logbooks also; there are numbers that come from the trip tickets, so there is a number of different ways you can verify.

MR. PELOSI: But I saw where they were blaming or assigning the difference to fish sold to the bag limit and I can't believe that it is that many fish because it was a substantial number of fish.

MR. HARTIG: Yes, well, Gregg can fill you in on what snapper grouper was. I don't know how they arrived at that figure. It was 17.9 percent or something percent of the total snapper grouper catch was recreationally harvested and sold. That was a significant amount of snapper grouper. I don't know how they arrived at that number.

MR. WAUGH: One of the issues is it is more accurate to talk about it as bag limit sales, because what happened with snapper grouper is you had commercial fishermen who did not have the

federal snapper grouper permit but were permitted in their state and they met the requirements for selling fish commercially in their state.

Federally we allowed them to – at that time we allowed them to sell the bag limit, so that is one part of it. I think for snapper grouper that was a significant portion of those landings. They were by full-time commercial fishermen who just were not holders of the federal snapper grouper permit.

Now when you come to coastal migratory pelagics, we'll have to look at that and tease out the data because I think Florida has – on their trip ticket I think there is a place for them to indicate whether these were caught under charterboat/headboat.

MR. WICKERS: I was going to wait and get into this tomorrow, but since we started, Florida does have a – you can check whether you are under charter or not. They also can tell you right down to the pound if there were any fish sold after the commercial. The way it has been going in the Keys lately is the commercial guys haven't been filling their quotas like they used to early.

They almost go right up to the end of the thing, so there is no after quota sales to speak of. But the thing is where there is confusion right now, I have always for our boats, because we do have commercial; we have a Florida license with an SPL. I have a federal kingfish South Atlantic license which – or not a South Atlantic or a kingfish license.

On our boats we are under the logbook program because I have that – and I have been receiving the logbooks to fill out for the feds. I was told last year that because, you know, if I go out and say, for instance, I fill out a logbook, I say, okay, we sold 80 pounds of kingfish; obviously I am not a commercial fisherman.

You are allowed to catch a lot more than that, but we went out and caught 80 pounds and I fill out a logbook. I wrote on there – you know, I usually would write on there these were caught on charter. Well, after all these years I actually got a call back from a guy from the logbook program. He says, "Well, you know, you are not supposed to be reporting these fish."

I said, "What do you mean I'm not supposed to be reporting the fish?" He said, "Well, if you caught them under charter, even though you sold them, you are not supposed to report them." And I said, "Well, that is news to me, I've been doing it now ever since there has been a program." I stopped sending them in.

Now I'm not sure whether this – I never know who I talk to knows so I tried to check out what he said with somebody else and that guy that I talked to, to check him out, didn't know from a hole in the ground. So then I called another person in the state to have them check and he couldn't tell me. I had to assume that the person in the logbook program that told me this, who also I asked to talk to his boss, was correct. So I have not been filling out the logbooks because our fish are caught under the bag limit on charter.

I just send in at the end of the month, no activity. Now I'll probably end up losing my permit by the time—but God knows. I'm just saying up until a year and a half ago religiously we would

send in those logbooks. Now I'm told not to. I don't know how they are double-counted, that is what I am saying. The other thing is in Florida you have to have the restricted species; you have to – if we sell our fish, we tell them we are under charter. They check off the little box.

They know what the fish come from. I just have never been able to figure out what is all this confusion that we have to keep – and I still to this day don't think that it is a big amount of money. I know how many fish we sell. It used to be a tremendous percent, a much larger percentage than it is now.

But it still especially in this economy, I mean if you clear 40 grand in a year, \$45,000 and you made eight or ten or twelve thousand dollars off of fish, that is a pretty good chunk of your income; not of your gross, but of your income, you know what I'm saying? That would come right out of like your profit and it helps.

I mean to tell you, every little bit helps now, so the more you keep taking away the harder it is to stay in business. I've been dealing with this sale issue since I think 1986 or whatever when I was told in a year and a half I'd never be able to sell another fish by Russ Nelson. I have been a long time and we are still playing with it, and I still hope we can come to some kind of agreement.

I thought what I came up with earlier was a great idea. I'm just saying here there are a lot of things in place that could tell you what it is percentage-wise, cost-wise, and there is a simple way to work it out if you get out of the emotional part. Most of our people in Key West, they fly in. I don't know how in the heck they would want to take their kingfish and stick them in their bags to take them with them with them to go home. We can't eat that many kingfish that they leave with us. If you release them, a big percentage of them are going to die, anyway, so. Anyway, don't get me started; we'll be here until midnight. I'll pick up on this tomorrow.

MR. WAUGH: Just to answer the questions about the logbook, the logbook is a commercial logbook program. They are right, you should be filling out those logbooks when you operate as a commercial vessel. Where the double-counting comes in is less so on charter vessels, and in Florida there is a way on the trip ticket, if you take those fish and sell them, that you can indicate that they were caught under charter.

But in other areas that is not the case and if they are intercepted, the recreational angler is intercepted by MRFSS, there is a chance that they will indicate what they caught and that will be counted under the MRFSS Program. Then if it is subsequently sold, then there is a trip ticket for it, and it is counted on the commercial. That is the source of the double counting. All of this data will be put together in evaluating this amendment.

MR. WICKERS: One last thing that I missed, too. I heard you say that part of the problem with the sale of the bag limit fish was if a commercial fisherman – I mean this really blows my mind – a commercial fisherman; a bona fide commercial fisherman goes out there and makes his living every day from commercial fishing. if he sells his fish but he doesn't have the federal license, is that what I heard you say, that upsets this council? I mean, if he is out fishing and he has got a state license and maybe he doesn't – you know what I'm saying?

I don't know why – if you are a commercial fisherman and you have commercial licenses and you catch a couple of fish under a bag limit, why would that in any way hurt anything? I'm trying to – and why would that be double counting, because it is commercial already, right, he is commercial.

MR. WAUGH: The issue the council addressed for snapper grouper was with all of these low quotas. It is a federal management plan and the commercial sector paid huge prices in the reductions in those regulations. The feeling was that if you allow bag limit sales – and you made a good argument about this – if you allow bag limit sales, then you have an incentive to maximize your retention.

So if the bag limit is ten and you can sell them, then you have an incentive to go out to fill your bag limit. If you are just our recreational fishing, then you are out there for the experience, you will catch fish, release fish, obviously some of them die. You will take a few fish home to eat, but you don't have that incentive to maximize your retention to pay for your experience. That's the council's argument.

MR. WICKERS: But what about the ones you just said about the commercial guy that is not a charterboat guy, he's just a commercial fisherman and he's causing a problem because he is selling his bag limit.

MR. WAUGH: Because, when there is a low quota, any fish that is sold counts towards that quota. The federal permit holders are the ones that have operated under strict regulations and they are operating under a low quota, and the council didn't feel it was fair for fish that are caught under the recreational bag limit, whether they were caught by a recreational fisherman or a commercial fisherman, to then be sold and count against the quota that the federal snapper grouper permit holders were issued.

MR. WICKERS: Would this person, though, that is a commercial fisherman that doesn't have the license; would he just be fishing in the state's jurisdiction, I assume?

MR. WAUGH: In some states yes, in some not.

MR. WICKERS: If he was in the EEZ, he would be in violation, correct?

MR. WAUGH: Yes. Wait, wait, no; if he is fishing in the EEZ under the bag limit, he wouldn't be in violation.

MR. WICKERS: He wouldn't be?

MR. WAUGH: No, and the argument is if you want to participate – the regulations are if you want to participate in the federal snapper grouper fishery, commercial fishery, then you buy a permit, buy two permits and retire one. We need to reduce the level of effort in that fishery.

MR. WICKERS: I gotcha, okay; I'm starting to get the drift now. So if it is a commercial guy that has a federal commercial kingfish license but he couldn't afford to buy a snapper grouper

license, but he actually catches a couple of grouper and he keeps them under the bag limit, he is basically in violation. He is not on violation of the recreational bag limit.

MR. WAUGH: He's not in violation, but when he sells them then that –

MR. WICKERS: But how can he sell them if he doesn't have the licenses?

MR. WAUGH: He has the state requirements; he meets the state requirements.

MR. WICKERS: So he can sell them as long as the state says so?

MR. WAUGH: Yes, and at that time we allowed that.

MR. PELOSI: Gregg, let me ask you this; was there ever in the snapper grouper rules that if you had a commercial license on your boat, you could not have a snapper grouper on your boat. Do you ever remember anything like that?

MR. WAUGH: You mean if you didn't have the federal commercial permit?

MR. PELOSI: Permit for snapper grouper.

MR. WAUGH: Yes, and then we made an allowance for a commercial fisherman to have up to the bag limit.

MR. PELOSI: Okay, so that rule was in place at one time.

MR. WAUGH: Yes.

MR. PELOSI: Okay, because I couldn't have one on my boat for years and now we've had a change in the management of the marine patrol down there and it is a little easier, and now we are.

MR. WAUGH: It is important to understand what was being done was not illegal. It was just the council didn't feel it was fair for the limited quotas that exist for federal snapper grouper permit holders, for a good portion of that to be filled by non-federal snapper grouper permit holders selling bag limit caught fish.

MR. GAY: Have we officially started – I mean is it the proper time for us to kick this mule on the recreational sale issue or are we waiting for tomorrow on that? I'm unclear.

MR. WAUGH: It is up to you all. I don't think the SSC is going to address this; it is too early in the process.

MR. PELOSI: Yes, we could go ahead and try to get that out of the way. Any more discussion?

MR. GAY: So we are officially opening that book?

MR. PELOSI: Yes, let's go ahead and do that.

MR. GAY: I have never for as long as I've been – when I was on the council I felt the same way I do about this today. The sale of especially recreational caught king mackerel allows a few more people to be able to afford to do it because they can offset their expenses by doing it by selling their catch, their five or six kings, whatever they happen to catch that day for the boat.

I personally see absolutely nothing wrong with it as long as it doesn't count against the commercial quota and cause closures. It is very easy, very easy, and Florida has finally, it sounds like, done it. On our trip ticket system in North Carolina, all it would have to do is ask for a permit number, a federal permit number, or have a box to check that says it was caught under the bag limit.

If it is checked that it was caught under the bag limit, it doesn't count against the commercial quota, and it doesn't create any double counting. I mean, it is a recreational fish. I personally don't see it as a big issue; never have seen it as a big issue, but I do think that it is important to a lot of people and not so much to the charter guys my way as the private recreational boat guys and to the fish houses and to the people there to get access to the fish.

MR. WICKERS: I appreciate those comments. To be honest with you I have read this paper at least six times. It is very confusing to me the way it is worded. I mean the opening paragraph to me contradicts itself, so I have been really having a hard time. The way I read it is if you have a – as long as you have the federal commercial license and under the bag limit, as long as you have that license, you can sell fish; is that correct or not?

MR. WAUGH: We allow sale consistent with state law.

MR. WICKERS: If Florida allows this, right.

MR. WAUGH: If you meet the state of Florida requirements and don't have a federal king or Spanish mackerel permit, you can sell king or Spanish mackerel consistent with state law.

MR. WICKERS: What about grouper?

MR. WAUGH: Not anymore, the council prohibited bag limit sales of all snapper grouper species in 15-B.

MR. WICKERS: Even if you have a federal license?

MR. WAUGH: If you have a federal snapper grouper permit, commercial permit, you can sell snapper grouper species.

MR. WICKERS: Even if they are caught under a bag limit?

MALE VOICE: No.

MR. WAUGH: When you are operating as a for-hire, you are under for-hire and then you have to have the federal for-hire permit, snapper grouper permit and you can't sell the fish.

MR. WICKERS: If I have a federal for-hire permit, snapper grouper and also pelagic, and dolphin and whatever, I've got all kinds of permits, and also have a state license and saltwater products license and all that, and the restricted species endorsement, that is the biggie; am I allowed, if I go out and a customer of mine catches a black grouper and it is not January through the end of April; and he says "Gosh, I'm flying home tomorrow and I don't really want him, would you like to have him," and I say, "Sure," can I sell that fish?

MR. WAUGH: Not if that fish was caught in federal waters, no.

MR. WICKERS: But when you get to the fish house, because see the state waters in Florida, in Key West extend out three miles past the reef, so we are out like ten miles and it goes out nine miles from the Keys on the Gulf.

MR. WAUGH: We are talking Atlantic side, so it is just three.

MR. WICKERS: Yes, Atlantic, okay, but I'm just saying, so as long as I catch it in the state's jurisdiction, we're still covered?

MR. WAUGH: The only caveat to that is whether Florida has adopted consistent regulations. I don't know that they have adopted consistent regulations for dealing with the prohibition of sale. I will check on that.

MR. WICKERS: Yes, because right now what we have is a lot of confusion. We have a lot of marine patrol people that are confused. Some say yes and some say no. The dealers get so upset, they don't know what to do so they just say no, I'm not going to buy them from you because I don't know whether I can or not. That is kind of where we are at. I was just wondering.

What I am getting out of this paper here is – because it started off the way it said, I thought that it originally said, well, if you had it, and then it changed. But, anyway, in the paper what you are trying to do is then take the kingfish and the Spanish mackerel permit and all the species that don't have permits and make them mirror the snapper grouper permit; is that what I am getting out of this paper?

MR. WAUGH: Yes, it would apply to Atlantic king, Atlantic Spanish and Atlantic cobia because we are removing the other species from the fishery management unit. It is up to the Gulf Council whether they want to go along with this amendment and do the same thing in the Gulf.

MR. WICKERS: Well, what about dolphin and wahoo?

MR. WAUGH: Wahoo, we prohibit all recreational sales now. It has been in the original FMP.

MR. WICKERS: What about the dolphin?

MR. WAUGH: For dolphin the original FMP allowed sale from for-hire vessels, prohibited recreational sales. The council's preferred alternative going forward in the Comprehensive ACL Amendment for dolphin is to prohibit sales.

MR. WICKERS: Even the recreational bag limit sale, even if you have the –

MR. WAUGH: It is already prohibited to sell bag limit caught dolphin except for the for-hire sector has been allowed to sell them. The council's current position is to prohibit sales by the for-hire sector, so that would make it across the board no sale of dolphin under the bag limit.

MR. WICKERS: And yet 93 percent of the dolphin catch is caught on recreational boats and charterboats and 7 percent is caught commercially. What do you think that is going to do to the restaurants?

MR. WAUGH: My understanding is the restaurants are mostly selling imported dolphin, anyway, but the restaurants should not be purchasing –

MR. WICKERS: Well, I should have said fish houses, I guess.

MR. WAUGH: – mammals from recreational fishermen, only from for-hire vessels.

MR. WICKERS: What I meant locally in the Keys they sell the fish to the fish houses and then they sell to the restaurants. I just said it one step – I'm just trying to get this all clear because when I read this, I have been trying to understand how you were going to go. All the species that are not covered like right now you only have the snapper grouper, you have got Spanish and you have got king, and we have got dolphin. All the other species that are not covered; is there going to be a special permit for those, too?

MR. WAUGH: You are referring to the species in the mackerel management unit now that were removed?

MR. WICKERS: Yes, that you mentioned in this –

MR. WAUGH: Right, there are four of them, cero, little tunny –

MR. WICKERS: Yes, there is a whole bunch of fish that –

MR. WAUGH: Four species. No, we won't have any federal regulations on those species.

MR. WICKERS: So you could still sell those?

MR. WAUGH: You can do whatever you want with them consistent with whatever state you are off of.

MR. WICKERS: The state regulations.

MR. WAUGH: Once this goes into place, if the council maintains their current position there won't be any federal regulations applying to those four species. But remember now dolphin is under the – in the Atlantic it is under the dolphin and wahoo plan; bluefish in the Atlantic are already regulated, so those two in the Gulf would not have any regulations, and the other is cero that would have no regulations.

MR. WICKERS: I'm just trying to get it all clear because I see where this is – are you going to just come up with one blanket permit or you don't know what they are going to do yet?

MR. WAUGH: You are back on Amendment 19 now, right?

MR. WICKERS: Yes, I never left.

MR. WAUGH: You can see on the back what we are looking at is the recommendations out of our March meeting is to create a cobia permit and tie it to the existing permits. We don't want to allow new entrants, so that ties it to the existing king mackerel and Spanish mackerel permits, and remember those that used to be separated by Atlantic and Gulf but NMFS combined them.

Now all we have is a king mackerel permit, a Spanish mackerel permit, and so now we are talking about developing a cobia permit and tying that to one or the other such that you would either have to have – and the council has to work out these details – either one of those – if you had a Spanish mackerel commercial permit, then you could get a cobia permit or a king.

MR. WICKERS: Where does like amberjack fall in in this mess?

MR. WAUGH: Amberjack is in snapper grouper.

MR. WICKERS: It is under snapper grouper, okay.

MR. WAUGH: You can't sell them.

MR. PELOSI: Okay you've got to remember now there is a moratorium on the kingfish permits.

MR. WICKERS: Yes, well, those permits are closed.

MR. PELOSI: Most of the cobia that I see coming in and out of the fish house are really caught by people that fish mostly Spanish mackerel. I'm not even sure that they have Spanish mackerel permits because it is not really required in state waters. Most of the mackerel fishermen – the Spanish mackerel fishermen don't have federal permits in our area.

So what I'm saying is we need to put the cobia in with the Spanish mackerel, either have it with both species Spanish and the kingfish permits. The other thing I wanted to mention; I've been surveyed many times and when I come in, about the second or third question they ask is are you going to sell those fish, and if you say, yes, they say thank you.

If you say, no, then they will want to check your fish and measure them and all. Like I said, I just think it is more of a perceived problem over these recreational-caught fish than it really is. I don't see where we are getting double counted in Florida by the MARFIN, the state people that check the fish.

MR. WAUGH: Let me mention, too, there is also in addition to the issue of creating the incentive to maximize your bag limit, there is also the philosophical viewpoint that if you are out recreational fishing, then you should be out recreational fishing and not selling your catch. Jodie made a valid point about particularly in North Carolina because years ago we talked about this in mackerel, and that is the first time we had all the boat manufacturers come out and give input on what impact this would have on vessel sales up there for the recreational sector.

But if you step back a little and look at the non-fish world, I can't afford to go moose hunting up in Maine; but if I could shoot two and sell one, then I could offset the trip and I could go, but we don't do that there. I am just saying that there is a part of this argument that is philosophical, that if you are going to be a recreational fisherman, then you are a recreational fisherman. If you are going to be a commercial fisherman, then you are a commercial fisherman.

MR. PELOSI: There is also the psychological thing of, man, I've got my limit today and people get out there fishing until they get their limit. Now they could release some of those fish, but that's often the case, if the limit is ten you are going to try to put ten in the boat.

MR. WICKERS: I've run a charterboat for 42 years. I always have to laugh when people would say that we go out 200 and some days a year on the ocean and that somehow we are doing that for fun. It's not like we are supposedly doing this day after day after day – in the early days it starts out as being fun and then it just gets to be just work.

Then after several years it gets to be hard, hard work. When you get as old as me, it gets damn hard work. So, for someone to – the problem I have always had is that the regulators of the fishery, they have always loved to take and put everybody in a little box. Charterboats just don't fit in the box.

Yes, we take out people that sit in a chair and we cater to them all day, but, boy, we still have a business and we have to make it work and we have to make sure we have the money at the end of the day and at the end of the month to pay the mortgage and pay the fuel and pay all the stuff. I can tell you that little bit of extra money that we make off of those sales of those fish means a lot to us.

It may not fit into this little box and it may ideologically not fit into somebody's head, but it has been something that has been traditional and has been going on for years. I really don't think it has harmed anybody. It is not as big of a problem as it was in the earlier days because there are so many restrictions on fish there is not a whole lot left that you can bring in any quantities of.

But everybody, especially in the Keys, you don't survive down there if you're put in a box. If you told a shrimper the only thing he could ever do is sell shrimp and he can't do anything else, or a lobster guy down there that all he can do is go out and catch lobster, but he can't stone crab

and he can't kingfish and he can't do this and he can't do that, nobody down there would survive.

You have to be able to do a lot of different things when things slow down. I can remember my Dad when we had the Cuban missile crisis, my God, he had to fish for six months – commercial fish constantly because you couldn't get a tourist down there because he would trip over a missile on the beach.

The problem that you have got is that you are trying to regulate a fishery and fishery communities and people that have made their living off of this fishery for years. In the early days when people like me got involved in this process, the center or the core of what was trying to be accomplished at the time, when they first went out and they extended it out to 200 miles to get the Japanese, so they could regulate the fisheries and protect America, was to protect American businesses – commercial fishermen, charterboat fishermen, save the products, build it up, but not destroy the very communities.

All we've got going now is that we've gotten chipped away to the point where the initial thing that was supposed to be why these councils were established was the protection of fishing communities up and down the coast of this country has totally been lost and the only thing now is we are going to save the fish and to hell with the fishermen.

At some point we are going to have loads and loads of fish probably out there; you're not going to have any businesses left to catch them. I don't know whose ideology this is, but it all looks like we are moving in the direction where you want to get everybody in these little boxes so that you can manipulate them or whatever you want to do with them so they can control them.

You are going to have a few big corporations like they did in the Gulf, take a fishery that is Gulf-wide and divide it up for a couple hundred people. Somewhere along the line, somewhere, I don't know where, common sense has got to get back into this process. If you can't figure out how to come up with some kind of a formula where people that are working day in and day out to make a living – no, let me just finish this.

MR. PELOSI: I think maybe the best thing to do is to make a motion and somehow word it to allow the bag limit sales of fish but not to count against the commercial quota and think about that for a minute. Go ahead Jodie.

MR. GAY: I was just going to touch on – I think I know the answer to this. I assume tournament sales would be out as well since they are bag limit caught fish.

MR. PELOSI: Yes, that is true. We participated in that Fish Smart thing a couple years ago and the tournament people were there. They are very adamant about selling their fish even if the money goes to charity.

MR. GAY: That is one thing I was going to say. I know North Carolina, the tournaments – to get the one-day permit or one weekend permit, whatever the case may be, they have to name

what charity they are going to donate the money from the proceeds of the sale to. That is my understanding.

MR. PELOSI: But the fish are sold?

MR. GAY: Yes, they are sold. They do go into commercial commerce even though they are bag limit caught fish. The tournament buys a one weekend or one-week permit or whatever in order to do that. Most of that money, I mean a lot of it goes to different charities, Toys for Tots, a lot of Christmas cheer things, that type of thing.

One thing I think that should be considered is a lot of it goes to artificial reef programs and stuff that creates this money that actually goes to create more habitats for fish to live in. I think there is a lot more involved in this than meets the eye. I mean there is actually some good that comes from the tournament sales.

I was in Biloxi – I fish the SKA Trail – two years ago in Biloxi we had the pleasure of being national champs that year, but the Gulf had cut their – I think their commercial quota was closed at that time so no sales was allowed. They were not able to do anything with the fish to enter them into commerce, so the fish were hitting the dock and there was nothing to do with the fish.

They called the local food banks and whatever, but, anyway, the Vietnamese community showed up and it was the damndest sight you have ever seen. They were filling baby strollers up with kingfish, dragging them across the parking lot, throwing them in the trunk of the car, coming back with the baby stroller and getting more.

I wish I could have videoed it; it was quite a scene. So there is a lot to this. Another thing I'll mention is the recreational sale in North Carolina, at least, the majority of those bag limit sales are at a time when the commercial fishermen really are not commercial king fishing. These are the only kingfish on the market at that time unless Florida or one of the other states – and it would have to be Florida, since Georgia and South Carolina pretty much have no commercial mackerel fishing or kingfish fishery.

It is important to more than just the boat itself, it truly is. I mean it increases – it puts money into the economy, to the fish houses, to the restaurants, to whoever is utilizing these fish. If you prohibit the bag limit sale of cobia, you have pretty much taken them completely out of the commercial market; because the commercial people are limited to two a day, anyway. They are staying out ten to fourteen days at a time and coming back with four guys on the boat, but they can only have eight fish.

So a lot of the cobia – a good percentage of the cobia that are on the market are bag limit caught fish, caught by recreational fishermen that are sold, so you are going to pretty much eliminate a huge percentage of the cobia sales if you do it with that. I just don't get it; I don't see where this is such a big deal that we need to prohibit it.

I understand it is the popular thing to do and that they are scrolling through one – you know, every management plan as it comes up for renewal with another amendment, this is being added

to it. Be that as it may, I truly feel like this is one where it needs to be thought through, especially the tournament sales part of it; especially all of it, all of the sales are important to the customer economy. Some of them are very important not only to the fisheries with these reef programs, but also to these charities.

MR. PELOSI: Bill, what do you think of that proposed motion?

MR. WICKERS: I move that we allow bag limit sales of king mackerel, Spanish mackerel and cobia and do not count the sales against the commercial quota.

MR. PELOSI: Second?

MALE VOICE: Do we have a number on how many recreational are selling fish on a bag limit? What I'm thinking about is with as many boats in kingfish and Spanish mackerel fishery, the prices are knocked down very fast. If you have a lot of recreational fishermen selling their bag limit, would it have a big impact on our prices of fish; because we are certainly having problems with our derby fishery and our king fishery and Spanish mackerel fishery. As soon as we fish for two days the price is down to nothing. How much of an impact does the recreation bag limit have on the commercial sector? Does anybody have that answer?

MR. WAUGH: We don't have that data yet. That will be compiled and either presented to the council in June or in September. We just haven't had the time to devote to this given all the other amendments we are working on right now. But certainly this is in the early stages and all of that data will be compiled in the analyses done.

MR. WICKERS: One question I have before we vote on this; the wording that was placed in the dolphin, did you say that they are not going to change it? What was the original wording for that; do you remember? The only way you can do this is you have to have a license, right? I mean every state requires you have to have a license, so I don't know whether we need to add that in there or what.

MR. PELOSI: Bill, I think on that dolphin and wahoo thing you have to have a permit, a federal permit, which is open access at this time.

MR. WICKERS: Well, I know when we did the one on the dolphin, I know that they allowed us to have two permits; one was commercial and one was for recreational. I remember that was a long –

MR. WAUGH: My recollection is that it was allowed consistent with state regulations.

MR. WICKERS: State regulations.

MR. WAUGH: I don't think it got any more specific than that. Sale of recreationally caught dolphin in or from the Atlantic EEZ is prohibited. For-hire vessels possessing the necessary state and federal commercial permits can sell dolphin harvested under the bag limit in or from the Atlantic EEZ.

So it did tie it – it was just for-hire and you had to have the necessary state and federal commercial permits. For-hire that would, yes, it would be commercial permits, so you had to have a commercial dolphin and wahoo permit and whatever the state required.

MR. GAY: Bill, I don't think we need to – it is our recommendation to the council; they can iron out the official language. I would like to be clear before we vote on it that this would include the tournament sales and it be consistent with state regulations as far as having to hold the state licenses to be able to sell those fish. I don't know that it has to be worded that way, but just verbally that would be the intent of the motion.

MALE VOICE: Does this mean that the bag limits caught would go against the commercial quota or the recreational quota?

MR. PELOSI: Probably against the recreational quota where it goes now, anyway.

MR. WAUGH: If it is sold, it would go against – well, yes, the intent here is the data systems would have to be modified similar to Florida, such that if they are selling it they either put in their federal commercial permit or the fact that it was under the bag limit and then it would count against the recreational.

MR. WICKERS: Once that number is known you could even tweak it to the point where possibly if there is some still going against it, the commercial; it could be like they did in the earlier days and actually shift a portion of the stock over, correct, possibly?

MR. WAUGH: That is something the council could do. Once they look at this and get all the analyses and see what levels it is, they could adjust the allocations if they chose to.

MR. WICKERS: It has always been my contention that if some people put their mind to it and really tried to work this out, that it could be reasonably found a way to do it.

MR. HOUCK: I'm a commercial fisherman, I have the permit; say I go fishing and I catch a bag limit, could I just put those under the bag limit and it not go under the commercial and go under the recreational if I sell them? Is that what they are saying?

MALE VOICE: That is certainly what it sounds like. You are leaving it up to an individual be recreational or mainly a commercial fisherman to tell which side he is going to count against. He is going to count against commercial or is he going to count against recreational? I don't see where that is getting us anywhere. You have got to have a place where you divide that.

MR. WICKERS: If you have unlimited access to a fishery, why would you go out and fish under a bag limit?

MR. HOUCK: Let's say I didn't catch my limit; say I caught under my limit, so I only caught my bag limit that day. If I come in here with – say I have got two people and I come in with four fish, weigh them under the –

MR. WICKERS: Well, you are allowed under the law now to do that.

MR. HOUCK: It wouldn't make any difference?

MALE VOICE: Cobia you can only catch them under the bag limit.

MALE VOICE: Well you just checked that they were caught recreational.

MR. WAUGH: Remember to say your name when you are talking please because it will be easier when we do the minutes.

MR. PELOSI: Well, I know in my case some days when I have got a party, I will come in and they are doing the fish survey, well, they can do it. I'll come in on another day and I'm out there myself or with someone else that fishes with me and we are not under charter and they come down the dock and we will tell them, nope, these piggies are going to market today and they don't check them. Then I will take them in and sell them.

I don't think what you are saying is going to be much of a problem, really. I really think that this motion will probably solve a lot of things. Is there any more discussion? If not, let us go ahead and vote on it. All those in favor, and please signify by raising your hand in favor of the motion. Can I vote?

MR. WAUGH: Yes.

MR. PELOSI: **Yes, okay, 5: and those against, 2, and the motion carries 5-2.** Well, that is out of the way. Is there anything else, Gregg?

MR. WAUGH: No, we've gone over king, Spanish and cobia and I guess we are starting at 8:30 in the morning, and then the first thing will be the SSC.

MR. PELOSI: Think about some of those things that we've discussed today and then we will get the input from the SSC, and then hopefully we can get through the agenda of items we have to make decisions on in pretty good time. We will see you tomorrow morning unless there are any more announcements.

The Mackerel Advisory Panel of the South Atlantic Fishery Management Council reconvened in the Crowne Plaza Hotel, Charleston, South Carolina, Thursday morning, April 7, 2011, and was called to order at 8:30 o'clock a.m. by Chairman Robert Pelosi.

MR. PELOSI: We might as well get started here. We will open up the second day of the Mackerel Advisory Panel meeting, and I will turn it over to Gregg who is going to do the introduction here so we can get some numbers on what to expect for mackerel this year.

MR. WAUGH: Two people we have got in the back, Kari MacLauchlin, who is a new staff person in our shop; she is our social scientist so you will probably be hearing from her. Maybe if you have time here she will chat with you some here. That is a way we get a measure of our

social impact. You will be meeting and talking with her and hearing from her. Second, Carolyn Belcher is here, she chairs our SSC. She works down in Georgia DNR and she is going to present the recommendations on Mackerel Amendment 18.

DR. BELCHER: We revisited quite a few species yesterday. Not that you all are interested in snapper grouper species as well, but we had 18 species there that we were looking at our ABCs for that species. On that list of other species we looked at, we looked at cobia and Spanish mackerel as well.

The cobia recommendations, basically the SSC looked at what the council suggested based on that median or the mean plus 1.5 standard deviations. With a newly developed approach we were looking at with these species, where we are just basing our recommendations on landings, the approach that we were looking at basically came up with a very similar answer to what has already been proposed for the cobia.

We felt that the current advice that the council was using for the 1,571,399 pounds was consistent with our approach because we are also looking at an assessment for this species in 2012. We felt that that was at least a little less restrictive than the original going with the midline value that we had approached from back in last April.

OFL is still unknown for us. We don't have any estimate of biomass; the assessment obviously had been rejected a couple years back. Without that we really cannot tell you what the overfishing limit is. For Spanish mackerel, similar situation with the overfishing limit. Sorry, cobia we don't have an assessment, I've got the species confused here.

Spanish mackerel, we had had the assessment and it had obviously not passed muster a couple years back. Without any kind of biological reference points to get at biomass, again we are in that situation where we really can't tell you what the overfishing level is. The approach that we have looked at for setting an ABC; in the past we were using a middle value, looking at an average or the midpoint of the range of values that were there.

As the group discussed it earlier this week, when you think about it, and you have all seen what your landings trends look like, they are pretty much points that jump up and down, they oscillate up and down. If we were using and suggesting the midpoint, we were basically capping you. All of that variation that would be above that line, we were not giving you a chance to expand it.

It was pretty much chopping off 50 percent of what you have had for observed landings over time. We were trying to figure out what was the best way to allow for you to have some of that variation. Instead of constantly bouncing and hitting that ceiling, and basically dropping your catches to levels that would be harder to work with, we felt the best thing to do was incorporate some of that variation so we can bring that ceiling up a little higher.

The approach that we were using was actually looking at the third highest point or basically looking at what is considered the 80 percentile of the range, so 80 percent of your values would be below that mark. For the ABC, we basically brought that level up to 5.69 million pounds for Spanish. We did look at the possibility of using the highest value yesterday. It didn't receive a

lot of support just because again not knowing what the overfishing limit is. If you try to keep getting too high to that level, there is no reason for us to think that there would not be enough pressure that you would be getting towards an overfishing limit.

We would have no way to know that for a fact, so we felt that the 80 percent would at least give us a little bit more conservative approach to that. It would also allow you to have more landings than what the median was giving you. That was what I had to present to you this morning.

(Questions are being asked off the record and answered on the record.)

DR. BELCHER: Oh, it was 5.69 million pounds. There are a few more numbers to that; John can give you the full number. Yes, that is the 80 percent, so there is actually three points; it is right at the third highest point in the series. Then again that is a good function of the fact that there is a stock assessment that is pending for this species as well in 2012.

Cobia, we are looking at, like I said this third highest approach, but what the group did was cobia was early enough in the day, we hadn't really gotten into discussing the methodology, so we looked at consistency with what we were starting to propose. We basically recommended using the means plus one and a half standard deviations as the council already has down.

The reason for that we were looking at a range of like 25 to 50 percent above the median landings originally. When we did the math on it, it came out to that value was like 25.6 percent above the mean. We felt it was acceptable and consistent with where we were going. We just left that recommendation on the table.

MR. WAUGH: Carolyn, you didn't get into discussions about king mackerel because you have looked at that in the past and that assessment was accepted, and so we are consistent with all the SSC recommendations on that.

MR. OGLE: I'm looking at the MSY for king mackerel, currently 10.4 million pounds; is that what the proposal is or is this entirely different? I'm on Page S-13.

MR. WAUGH: Yes, this is on S-13. The current MSY is 10.4 million pounds but the MSY that came out of SEDAR 16 with the updated projections, it is a range of 9.357 to 12.836 million pounds. That will be the new MSY estimate.

MR. OGLE: So the 10.4 would be the new MSY?

MR. WAUGH: No, the range – if you look up on the screen here, right now that is what MSY is, but the SEDAR assessment came up with a point value of 8.964. When the SSC reviewed it, they asked for – I think it was the review panel asked for some updated projections. The results of those updated projections gave this range for the MSY, so that is the new MSY that will be included in Amendment 18. The new MSY will be 9.357 to 12.836 million pounds.

MR. OGLE: I didn't know that MSY was a range; I thought it was a number?

MR. WAUGH: No, any of these numbers, there is uncertainty around any of these estimates. The better way of looking at it is if you get a range, that is more indicative of the uncertainty around those estimates.

MR. OGLE: What is the uncertainty associated with that, that the 12.8 would be an 80 percent chance of overfishing, or whatever, and the 9 would be a 20 percent chance of overfishing?

MR. WAUGH: I can't recall, I'd have to go back to the stock assessment, but we are not calculating overfishing off of the MSY. The MSY is an estimate of the maximum sustainable yield; and certainly if you go above that you would be overfishing. But the way we are defining overfishing now is this overfishing level, and this number 12.8359 is the top end of the MSY range.

MR. OGLE: So we would have a greater chance of overfishing at that level?

MR. WAUGH: Yes, and that is why when you look at formulating your ABC control rule, the preferred alternative gets that down to the ABC of 10.46.

MR. OGLE: Right, okay, so that brings back my question about having a range, and I thought what was the preferred alternative was to have a – well, if it is an MSY or an ABC of 10.5 million pounds; is that what we are going to discuss and vote on?

MR. WAUGH: We are going to discuss it, but again the MSY is a value that comes out of the assessment. The overfishing level is a value that comes out of the assessment. That is why you see the statement in here there are no alternatives under consideration. That is a straight scientific determination.

Where the SSC gets involved is reviewing those two parameters, but when they come straight out of an assessment, as long as the assessment is reviewed by the review panel and the SSC, then we use those values. Then we get into the ABC control rule and that is where the SSC then recommends what the allowable biological catch is.

So that is where the council has some flexibility but only in working with the SSC to come up with the ABC control rule, because the SSC recommends the allowable biological catch to the council. That was another change in the Magnuson Act. They didn't feel the councils were doing a good enough job in specifying these values, so they took that flexibility away from the councils and gave it to the scientists on the SSC.

This forms the top end of what value the council can set. Let me just go one more item. The council sets the ACL, the annual catch limit. In essence for mackerel we are used to dealing with a TAC, so the council sets the ACL.

They have set the ACL equal to the ABC, 10.46, which if you look at the guidelines for implementing these new changes, they say that it really should be stepped down from ABC; it should be a rare situation that you set your ACL equal to the ABC, because the ACL – the allowable biological catch is determined by looking at your confidence intervals and the

variability around your estimate of the overfishing level. Your ACL should look at your implementation uncertainty. The council has chosen to set it at 10.46 million pounds. This is really the first place that the council really has some flexibility.

DR. BELCHER: Gregg, correct me if I'm wrong, too. I think part of what happened with king mackerel was we were given three potential models that were the outcome and the SSC did not choose a preferred out of that list, and that was where that range came from. That is why there are different values of MSY because there were three different potential realities.

They all had about equal weight, so in order to be able to choose one model over another was very difficult with the information at hand. I think, if I remember correctly, that was what that range was based on; so it is not necessarily that it is a value plus or minus some amount. It was three possibilities with no real indication of which one had a stronger reality.

MR. WAUGH: That is correct, and that range was the estimated yield at MSY for those different models.

MR. WICKERS: Yes, what I recall under the old – I guess it not old, but the previous way that it was done was that within the range the council had the flexibility to pick any number, correct?

MR. WAUGH: That is correct.

MR. WICKERS: It could go as high as to the upper limit.

MR. WAUGH: And we still do have the flexibility to select within the range. The issue here is the ABC is being presented as a point value so that forms the top end of the range. The council can go down below that as far as they feel is warranted. In the past we have been given an ABC range but now we have got a point estimate. That basically forms the limit that the council can't go above.

MR. WICKERS: Okay, so they don't have the option to go up to the twelve point?

MR. WAUGH: No.

DR. BELCHER: A lot of that definition now, too, is that as we set the overfishing limit it is related to the MSY value. We are actually using the catch relative to F at MSY, so that is where you start at that level. If we had been able to capture all of the variation in the model and the uncertainty, including things like environment variation and that kind of stuff, you can actually have your ABC set to that overfishing level. But the more uncertain we are about what is happening with the stock, again not incorporating all the variation that is out there natural and otherwise; we have to buffer away from that value, so that is where that ABC slides off of your top of your range.

MR. WICKERS: Yes, because I remember in the past – I used to be on the Gulf Advisory Panel, but they always used to select the highest upper limit just about consistently. This council usually did the mid range. Basically that flexibility is not there anymore.

MR. BRAME: To a large degree that is why we are where we are today, setting it at the upper bound and not ending overfishing.

MR. GAY: As Bill says the Gulf has always set it at the higher range of that. As I recall they were working on F-20 when I was on the council as well while we were working on the MSY at F-30. Are they still working on 20 or have they stepped it up?

MR. WAUGH: They are going to be under this same system. We will know next week. They are working on specifying these values for Gulf king, Spanish and cobia. We will know what they do after that. But they can't – they have a stock assessment for Gulf king and they should be using the parameters that have come out of that stock assessment just like we are.

MR. PELOSI: Okay, Gregg, do we need to pick one of these?

MR. WAUGH: Well, no, what we need to do is finish with the SSC input if there are any other questions. One question I had – have you all completed looking at the rest of Amendment 18 in terms of the allocations for cobia and those other factors or have you only focused on the ABC and OFL value?

DR. BELCHER: There wasn't any additional comment from the group on 18.

MR. WAUGH: So then once we finish questions about the SSC, then we will move through the document and get your recommendations.

MR. GAY: Gregg, I apologize, but I am still unclear on why the proposed measures; why it is being preferred to lower the catch on Spanish.

MR. WAUGH: The stock assessment that was done – and Ben went into some of these details yesterday – some of the decisions that were made introduced more uncertainty into the results from the stock assessment. When the review panel looked at it, they rejected the biomass parameters, and the SSC looked at it and agreed with that assessment.

So in terms of how we set these limits, we don't have acceptable results from the stock assessment. Then the recommendation we have from the Southeast Fisheries Science Center when you don't have an assessment is to use landings' data. Then what the SSC has done – and Carolyn said this – is before they were looking at some midpoint median.

They have changed that now and it is using the third highest point. It is using ten years of landings and picking, in this case, the third highest point, which gets you up to about the 80th percentile. There are some years obviously with catches higher than that, two years with catches higher than that, but that is the – if you want to term it, the best available recommendation from the Southeast Fisheries Science Center to our SSC is to use landings' data in the absence of an accepted stock assessment.

MR. HARTIG: Carolyn, on Spanish in particular, when you have a fishery – and I know you are not going to solve this today and I don't expect you to – but when you have a fishery where the

landings are not informative about the stock and we have that problem; Spanish mackerel is one of the most assessed species we have and to treat it like an unassessed stock at this point in time is pretty tough for us to swallow. Somehow in the future we have got to figure out; if we run into a problem like this again, maybe not use the biomass estimate from the stock, but at least look at the trajectory of the biomass – of which way it was heading.

In all the assessments, look at them all in reading a book – I know the SEDAR has come out and now we are going to take a fresh look and don't worry about past assessments. But in Spanish mackerel it was one that was chaching, chaching, chaching, right on. Every time they had an increase in the quota, the fishermen had experienced that on the water. Now we are at a point where we have got a stock that is reaching equilibrium with so many large fish in a population.

Because they are not taken out by the gear that was prohibited in '95, we are seeing a different kind of stock. There are so many large fish we see more constant recruitment and we don't see these big swings in recruitment. The fishery is changing. Somehow if we run into this problem again it would be nice to maybe, not use the estimate, but look at the trajectory of the assessments that have been done through time to get some kind of more informed judgment about how we could treat this stock as a special case.

DR. BELCHER: I think the one problem that you did run into with Spanish is that there was no confidence with the biomass. If you are going to base it on that, you would need to know that at least that portion of it is usable. I am trying to remember now, fishing probably would have given them – you know to get better ideas of F; probably folks would feel better with where that was going than the biomass.

Because if it is pinioned down on that stock-recruitment curve and the curve is faulty, then that is where again your biomass becomes very unstable and you don't really know where you are at with that. That is more or less where that came from in the sense that we really did not feel comfortable with the biomass estimates. That is why we have no OFL; we can't even tell you what OFL is because we did not have that confidence in the biomass estimates.

MR. HARTIG: I would like to add I appreciate the extra effort you all have gone on Spanish to try and look at it a number of times and try and – we have been able to get the value up some degree every time you have looked at it and I appreciate that.

DR. BELCHER: Well, just for clarification, a lot of that is understanding – I know the group probably isn't as mathematically apt as a lot of us tend to be and we kind of forget where our heads are, but going for the central tendency of things, most people go for the average because it is a good place; it is not too high it is not too low.

But in acknowledging the fact that ABC now, we are not allowed to have that variation around it, this is where our conversation came in. We are basically giving you a ceiling now. Where you had 50 percent of the time, you would be above that value, 50 percent would be below, but the idea is you could get that flux.

By taking the midpoint, we cut off that 50 percent that was above. Now we are basically forcing your level down to a mean that is going to be lowered trying not to get that variation to exceed that ceiling. That was where the group really got their head wrapped around that idea that at this point your ACT should be that ceiling and those points above that need to have a little bit more room for that expansion to account for that variation that is there.

That was how we came up with this approach with the 80 percent, using that third highest point to get you more so that you could capture of that that is above that 50 percent range. You get 30 percent more variation in there.

MR. PELOSI: Thank you very much for all your input there. Why don't we get into our deliberations, if you want to lead us through it.

MR. WAUGH: My suggestion would be that let us walk through using the public hearing summary. I'll project this and review each action and then we will do – you all seem to prefer doing motions and that certainly makes it clear, but if people disagree with the motion as we are discussing it, let's just state your reasons for and against.

So the first action, and this is on Page S-6, deals with – the first three are joint actions. The first one deals with modifications to the fishery management unit. The preferred alternative now is Alternative 3, to remove all of those species from the fishery management unit, cero, little tunny, dolphin in the Gulf and bluefish in the Gulf.

MR. PELOSI: Okay, we discussed that at great length yesterday and I think we had gotten to a consensus. Any discussion or does anybody want to make a motion?

MR. GAY: If you want to do it in the form of a motion, I'll make it that we recommend the preferred.

MR. PELOSI: Yes, please let us do it that way, I think it is clear to the council.

MR. Gay: I'll move that we recommend the preferred.

MR. PELOSI: Okay, the motion was made by Jodie Gay and it was seconded by Richen Brame. All those in favor of the motion raise your hand, 8, it is really unanimous.

MR. WAUGH: The next item is Action 2.

MR. PELOSI: I believe that is on Page S-8, modify the framework procedure alternatives.

MR. WAUGH: Again, our discussion yesterday focused on the amount of time; and again Preferred Option 2 allows for timeliness by requiring discussion at only one council meeting. Option 3 requires three council meetings. You were all talking more about preferring Option 3 because it allowed for more public input.

MR. WICKERS: I would like to move that we adopt Option 3 or recommend Option 3 because the reasoning is that the more time that things get discussed, the better. Sometimes you can rush into things too fast and then find out that you have made a mistake, but by the time you have, you have caused a big economic problem. I would rather have the process have more public input and more time for discussion. One council meeting is not a lot to get that thing thoroughly worked out. I would move for Option 3.

MR. ADAMS: I'll second that motion.

MR. PELOSI: Motion seconded by Tim Adams. Questions, discussion? Gregg, there are four council meetings a year, correct?

MR. WAUGH: Yes.

MR. PELOSI: So it could be done within a year, but there would be three meetings to discuss it and go over it.

MR. WAUGH: That is correct.

MR. OGLE: Does this mean every issue has to be discussed three times or if it seems obvious that it is not necessary will it just wait in the wings until the three times is up?

MR. WAUGH: Yes, this will specify that to use the framework and make changes through the framework, the council would have to take input at three council meetings.

MR. OGLE: Do you feel that is a useful –

MR. WAUGH: The suggestion was to explain the framework. The idea for a framework is to respond more quickly to the need for management changes. If we get a new stock assessment, then how soon can you implement changes? The idea is you analyze some of these actions ahead of time and have an idea of what the likely impact is going to be.

That is how we have made the changes to mackerel bag limits and size limits and trip limits over the years. We had done that by getting the mackerel stock assessment report at a council meeting and getting the SSC to look at it. The council holds a public hearing at that council meeting, changed the bag limits, size limits and then sent a letter to NMFS and those changes were implemented shortly thereafter.

To do a whole plan amendment takes roughly about a year; if we have to do an environmental impact statement a little longer. By virtue of picking this framework procedure that requires three council meetings, it is almost negating the utility of the framework. Yes, it gets you more input, yes, if your objective is to slow it down and get more input, this does it, but it removes the utility of the framework.

MR. PELOSI: Let me ask a question first. Gregg, the council still has a right to do an emergency action, right?

MR. WAUGH: Yes, but the guidelines as to when you can use emergency action are pretty tight. You could not use an emergency action to implement a bag limit change from a stock assessment.

MR. BRAME: I have to comment. This is the first time I have heard the words rushed too fast and council in the same sentence. While I agree with Bill that public input is good – and I’m a big proponent of public input – the purpose of a framework is to allow the council to move in a more expeditious fashion. If you do adopt this option, you are taking away the framework action. It becomes a regulatory action. I don’t think it is a good idea.

MR. GAY: Bill, I am kind of like Dick on this one, when I see it up front I like the idea of the public participation. Having been involved in the process though I have seen times when we really did need to move faster. I foresee that possibly being the situation with Spanish mackerel. If we can get something good and solid on Spanish mackerel that would allow them to raise the bag limit or to raise the quota on the commercial side, it is going to take a year basically to change it if they do accept Option 3 as their preferred. I have some reservations. On the surface I like it but when I look into it harder it could come back and bite you, too.

MR. WICKERS: Yes, I understand those concerns. My problem with just having one meeting with public input is problematic for me. People that cannot make that one meeting, at least they could make the second one and get their opinions heard. It seems like we have quite a number of things going on.

I guess where I am coming from mostly is like I personally thought the snapper grouper four-month closure was rushed. If there had been more time taken on that and more public input, I don’t think we would have ended up with that four-month closure, especially what it has done down in the Keys and South Florida.

MR. WAUGH: Bill, I have got to correct you on that. That was not rushed. In fact, that was the start of us getting behind in meeting our SFA requirements because we did one round of public hearings. The council met in Orlando to finalize that and submit it to the Secretary of Commerce and they reviewed the public comments, reviewed the comments particularly out of the Keys, and agreed to and directed us to go back out and hold more public hearings.

We had one round of public hearings, we had comment at that Orlando council meeting, we went back out and did another round of public hearings and came back, had another public hearing at that next council meeting and then submitted that. Just to get the record straight, that certainly was not rushed through and the council did two rounds of public hearings on that.

MR. WICKERS: I thought it was done originally with an emergency action though or something; that wasn’t?

MR. WAUGH: I think that is red snapper and not the grouper closure.

MR. WICKERS: It wasn’t the grouper.

MR. PELOSI: Okay, I guess there is no option that would allow two meetings.

MR. WAUGH: I am looking at the base framework to see, but I have been reading the base framework and I can't see where it talks about – well, the base framework is the bottom of Page B-2 back in the appendix of the amendment. It says will include the development of documentation and public discussion during at least one council meeting.

So that is sort of how we have operated mackerel over the years. Certainly as Bill pointed out, if someone can't make that particular meeting, that is an issue, but you can always send in your comments and the council reviews written comments. The base would allow one meeting and then Alternative 2, the more broad, allows one also, and then Option 3 is the longer one, three council meetings.

MR. PELOSI: Okay, let's go ahead and vote on the motion on the floor. **All those in favor please raise your hand. Okay we have 1 vote in favor; those opposed, 6 opposed, and are you abstaining, one abstention.**

MR. GAY: Could I move that we recommend the Preferred Option 1?

MR. PELOSI: Jodie has proposed the preferred option.

MR. ADAMS: I'll go ahead and second that.

MR. PELOSI: Tim Adams will second it. Any discussion? Well, I'll call the question, all those in favor, 7, it passes by 7 and 1 opposed.

MR. WAUGH: The next item is Action 3 on Page S-10. This deals with setting the management boundaries for cobia. Alternative 1 is no action, maintain one group. Alternative 2 is to use a Miami-Dade/Monroe County Line. Alternative 3 is to separate into two groups at the council boundary and that is the preferred alternative.

MR. PELOSI: Okay we discussed that yesterday.

MR. WICKERS: I would like to move Preferred Alternative 3.

MR. PELOSI: Okay we have a motion, is there a second? Jodie has seconded the motion. Any discussion? I personally think there could be some enforcement issues if we use different regulations with the two councils with those going back and forth in the Keys from the Gulf waters to the Atlantic waters. All it takes is going through one of the bridges. I think that perhaps the county line, the Miami-Dade/Monroe County Line might be a better separation point for cobia.

MR. WICKERS: The thing is like in our business we fish probably 95 percent of the time on the Atlantic side. We very seldom fish in the Gulf; under certain circumstances, weather conditions or whatever. To me there is a distinct difference between the types of fisheries on both sides.

The South Atlantic Council seems to be – you know in other words the types of fish that we traditionally catch and all falls more in line with the South Atlantic Council.

MR. PELOSI: That is true on your large charterboat industry, which I think you would classify yourself in.

MR. WICKERS: Right.

MR. PELOSI: Then you have the small boat charter fishery and then the private boat charter fisheries that could be fishing part of the day on one side and part of the day in the other side, is what I'm thinking of. They probably target cobia more than your type of boat.

MR. WICKERS: Well, the thing is though, too, you have to understand that the way the Keys are situated state waters in the Gulf are nine miles from the Keys. In other words, actually from Key West, the next Key out is like three or four miles and then you have got nine miles from that.

You are talking about state waters covers like almost 14 miles of the Gulf on one side and from the reef edge out its state waters goes out as far as ten miles on the Atlantic side. Most of the time the majority of the time we are fishing in the state's jurisdiction. If I was on the council, I would not want to give up my jurisdictions to another council. I would think it would be smart for this council to maintain their jurisdictions where they belong now. That is my opinion.

MR. HARTIG: Just to add to that, currently the regulations are the same for cobia.

MR. PELOSI: I know that is so. And it could be moved at a later time if it becomes a problem, after the framework action with a couple meetings, I guess.

MR. WAUGH: I think the issue is setting the boundary for cobia and that probably would require a plan amendment, large changes like setting management boundaries, but I will check the framework and see.

MR. PELOSI: Well, why don't we go ahead and vote on what has been proposed unless Bill has something more to say and then we will see.

MR. WICKERS: I missed the last advisory meeting, I was sick and I couldn't come, so I am trying to make up some time of what I missed. I assume that the proposal that was in the works to try to split the stocks died between the two councils?

MR. WAUGH: This was the divorce. There are a number of us that regret that action stopping from moving forward, but the collective wisdom was that it did not appear that the councils needed to separate the management plan, and separating the management plan raises some issues, permitting being a major one because instead of maintaining the separate Atlantic and Gulf permit system, NMFS just has one now.

The collective decision was to not pursue separate management plans. For the most part the actions – now there are a few actions that both councils need to agree to. That is why you see these first three actions that set the management boundary for cobia, that deal with removing species from the FMP and setting the framework changes. Those have to be approved by each council but then after that each council is managing those fish.

MR. WICKERS: Because I remember under that discussion there was a proposal that you were going to like cut the Keys off at the Dade and I was – in our area we were very opposed to that mainly because if you look at the stocks, the Atlantic stock has never ever even filled their quota. – I don't believe it is not overfished or anything – whereas the Gulf stock bounces in and out sometimes. At least historically it did.

MR. PELOSI: Well, you're talking about mackerel there.

MR. WICKERS: Yes, king mackerel. That is why I was saying that, but I was just saying that I am just trying to be consistent. So consistently now it is still basically none of that has changed in that we are still under the –

MR. PELOSI: Okay, well let's go ahead and call the question there on the motion. **All those in favor of the motion, which is the Preferred Alternative 3, separate the two migratory groups at the South Atlantic/Gulf of Mexico boundary, all in favor raise your hand, 8, unanimous.**

MR. WAUGH: The question was about whether we could change the management boundary through the framework, and we can't. That would require a plan amendment, but again those can be done within a year for a relatively straightforward item. Then the next item we get right into the Atlantic issues. This is on Page S-13.

MR. OGLE: Mr. Chairman, are we leaving cobia?

MR. PELOSI: I believe so.

MR. WAUGH: No, that is the only item that is joint is to create a separate management group and then we are going through now each Atlantic group. The first will be king, then Spanish and then we will pick up on cobia and set all those limits for cobia. If however you want to talk about the possibility of creating a separate – recognizing a separate group or substock, this would be the time to address that issue.

MR. OGLE: This would be the time now; may I do that then, Chairman? I have a motion copied that I'll give to you so that you can see it while I read it.

MR. OGLE: The first motion is to recognize the Port Royal/St. Helena cobia group as a distinct population segment.

This is a recognizable grouping recognized by NOAA for species that have special circumstances. Distinctness is one and the rationale for this group is that it is genetically isolated

and therefore does not mix and cannot breed with the offshore cobia that the geneticists were telling us about yesterday. As such, they fit the discreteness criteria for a DPS or a distinct population segment designation. The second motion is to restrict –

MR. PELOSI: Tom, hold the second one until we get to the cobia section. Gregg says that is where that should be, but this one should be discussed now. Is there a second? There is a second and that is by Ed Holder. Discussion?

MR. OGLE: May I give the rationale for this? It is a small group and it lives in a small environmental area, that is the Port Royal Sound and St. Helena Sound, this group does not mix with the other cobia and therefore its ability to be overfished is quite high. It is very sensitive to overfishing and also very sensitive to water degradation and other environmental changes that take place within this local area. I think they would benefit from tailor-made management procedures that would help make them sustainable.

MR. PELOSI: Thank you for that and also for providing the rationale behind it. I wonder if just limiting it to the Port Royal/St. Helena area because the scientist yesterday said they think the same situation may occur in a couple rivers in Georgia and perhaps a few more. It is only these two estuaries that have been studied.

MR. OGLE: True, I can't speak to that.

MR. PELOSI: I don't know if you could put something in the motion that would say that it would include other districts where scientifically it has been studied that they are either in this same situation.

MR. OGLE: As we get to know more and more about these small groups, then they could be added as we find them.

MR. BRAME: Well, I agree I think this is a better way to manage, I just worry about jurisdiction. I think what you are talking about is in state waters; is that correct?

MR. OGLE: Yes.

MR. BRAME: And this is more of an AFSMC action, I think. I'm not sure how the council would set – I need to have the question answered are you taking it out of the council's jurisdiction by doing this? Is it in state waters?

MR. WAUGH: I think the analogy would be to some of our habitat designations. We talked about essential fish habitat- habitat areas of particular concern. Those can be in state waters and we designate them. Tom raised this yesterday. I have to research how this designation is used by ASMFC.

But as I told him yesterday, I don't see anything to preclude the council from recognizing that as a distinct population. Certainly the genetic work that has been presented supports that. The

question then becomes, okay, what do you do – and I think this is where Dick is headed to; and when we get to cobia, there is going to be a motion raised.

I think where we would run into problems is if we tried to develop a specific regulation that only applied to Port Royal and St. Helena Sound that are in state waters. We don't have the authority to do that. We could recommend it to the states or the ASMFC could come in and do that. There are other ways to handling the regulatory side.

MR. OGLE: One aspect I was thinking of in terms of regulation was that the fish do move offshore and it is a lateral movement, so they no doubt winter in federal waters and probably near the stream. As that is a continuous track in and out, I think that would also make a rationale for being it a federally regulated species.

South Carolina has a law that follows federal law. It is an automatic thing that when a federal regulation comes on board, South Carolina follows. It could be regulated in terms of Beaufort County. A boat coming to Beaufort County or leaving from Beaufort County could be assumed to have caught these protected fish. The two Sounds are already in Beaufort County and to fish those two Sounds you basically have to leave a boat ramp or return to a boat ramp after fishing.

MR. GAY: I think Tom just touched on it. I assume as far as separate regulations it would be only when they are in these areas and not once they do swim offshore, because it is going to be very difficult to tell one from the other at the enforcement level then or at the fishing level. I assume there could only be – any extra measures to protect these fish would only be when they are in these Sounds, correct, is that the intent?

MR. OGLE: Well, that is the main intent and we can look at it further and see, but particularly during the spawning times, which is April, May, June and July, when these fish are mostly in the Sounds, but some are taken on the wrecks 18 miles off; say the Betsy Ross, they are probably of this same group.

We can assume that they are within that group during the spawning season. Even though that is federal waters, they could be afforded protection as a special population segment. That is my proposal and that can be refined. This is something I don't know all the ins and outs of and you guys are going to have to help me with it.

The basic idea is to protect this small group of fish who inhabit a very small sensitive area, and angler pressure is huge; probably focused more right in those two Sounds than anywhere else in the state, and yet they are the smallest populations and have the least ability to maintain themselves because their populations are so small and unique.

MR. WAUGH: Just how we deal with this; to me there are two separate issues. One is recognizing the scientific information that supports that as a distinct population. By recommending this motion, that doesn't tie you to then having to take management action; so I think that is why we are saying here let's discuss the merits of recognizing this as a distinct population.

Then when we get to cobia management actions, we will deal with whether or not you change the regulations. If you as an AP agree to this, it doesn't then require you to take management action. It is two separate actions. Because when we get there, there are concerns about how specific we can be in terms of federal regulations. All this will do is recommend to the council that they acknowledge and designate this as a distinct subpopulation and certainly the information seems to support that.

MR. HOLDER: You are exactly right, Gregg. We are trying to get a designation to begin with, number one; and number two, the Department of Natural Resources has asked for a – I'll offer a motion on the bag limit addressing this situation that might work out. We would really like to have the designation first.

MR. HARTIG: Yes, Gregg, if the AP approves this and then it comes to the council and the council approved it, would it then go to the SSC to be reviewed for scientific merit or to another level other than what we saw? There are geneticists and things that may have things that we don't know about to say about this work.

MR. WAUGH: Right, and this is a new issue. As you all recognize, we are under a tight timeline to complete this amendment. It may be that what the council does is look at this and say, yes, the information certainly supports this but it hasn't been reviewed by the SSC. We have got a stock assessment coming up next year.

All of this information will be presented at that stock assessment. They may defer dealing with this designation until after the SEDAR assessment. Honestly, I think that is the likely issue because we are on this track trying to get the Gulf to agree and to finalize all actions in June. It won't be an opportunity other than sending it to the SSC by mail, which is not a real good way to review this type of scientific information.

My expectation would be – and this should not deter you all from recommending this, but my expectation would be that council would say, "Well, we will let this go through the SEDAR review and then we will see how we deal with it." It also does not preclude from you recommending and the council taking some management action now to be more restrictive to try to address this. They don't have to wait on doing that.

MR. BRAME: I agree with this, and I am going to vote for it, but I do worry about the term "distinct population segment." That is a very specific designation under the Endangered Species Act. I don't know if it has – it is like people commonly using the term overfishing for catching too many fish. Well overfishing has a very legal definition; it is not just catching too many fish. I want to put that on the record that the council may want to look at. You might want to call it something else.

MR. OGLE: I chose it because it was very descriptive of our situation; being a very distinct population segment. I was not sure how closely wedded it was to the ESA, the Endangered Species Act. I know that was one criteria for ESA designation, but I think it could be pulled away from that and not have the connotation of having to do with endangered species. If so, than I think this is appropriate. Do you know?

MR. BRAME: I do not; I just worry.

MR. OGLE: I recognize that it is used usually in conjunction with that.

MR. GAY: Tom, I am going to support this because the science was obvious, the presentation that Mike and them did. I think Dick raises an interesting point and it might be better worded as a genetically distinct population or something, something that gets it away from that DPS, but the council can handle that.

MR. PELOSI: My concern was that you are just limiting it to that population in those two estuaries and perhaps there are others that haven't been looked at yet. Maybe you should have a weasel word in there to include other estuarine spawning populations.

MR. OGLE: Sure we could, it is just that this is the first time the genetic data had been so black and white. These fish are genetically isolated to all of the Atlantic fish all around them. It makes this case very strong. Whatever comes up later comes up later. There is no reason why it couldn't ride on the back of this once it happens. I don't think we need to water it down by all the other verbiage.

MR. PELOSI: Okay, do you still want to leave the word "distinct" in there?

MR. OGLE: Well, what do you all think; you have more experience with this kind of thing. A distinct population segment is a term that NOAA recognizes and that ASFMC recognizes, and it means something. If we say genetic distinct, that is our own word cobble that does not really hold any weight, particularly. I guess it would be Gregg's decision.

MR. WAUGH: Well, to me I think your intent is clear. You have put on the record that it is not to tie this to the Endangered Species Act. It is to recognize it as a distinct population. I don't think you all need to worry about the wording. I think your intent is clear. Like I say, the council will then look at this. We will research this and when it is presented to the council, we will explain what this designation means and then they will deal with it.

MR. PELOSI: Okay, I think that is a good approach. Did you have anything else to say? Otherwise we will just go right to the questions.

MR. HOLDER: Well, you could always add distinct genetic population segment. Then it would take it out of the DPS and you all know what we are doing here. We are trying to get something started where we can protect this fishery.

MR. PELOSI: **I think most of us support it, but it is just really another word. Let's go ahead and call the question, all those in favor, 8, unanimous.** Now we will do king mackerel, Gregg.

MR. WAUGH: This is on Page S-13 and again the MSY value is being revised. The overfishing level is being specified as 12.8359 million pounds and the first place we have alternatives is

Action 13-3, the ABC control rule and the ABC. The council's preferred alternative is Alternative 2, to adopt the South Atlantic Council SSC recommended ABC control rule and establish ABC as 10.46 million pounds.

MR. PELOSI: Okay, any quick discussion? If not, we will just go right to a motion. This is what the current TAC has been, correct, Gregg?

MR. WAUGH: The regulatory history is shown on Page S-17, and for kings the TAC has been 10 million pounds all the way back to 1999/2000 year. The ABC range, the ABC has been specified as a range, 8.9 to 13.3 since 1999. This would be specifying a point estimate for the ABC of 10.46, which is roughly – it is within the ABC range and near the midpoint of the old ABC range.

MR. PELOSI: It is slightly above the old TAC.

MR. WAUGH: Yes.

MR. ADAMS: Bob, I will make a motion to go with preferred option or Alternative 2.

MR. GAY: I'll second it.

MR. PELOSI: Okay, motion was made by Tim Adams and seconded by Jodie Gay, any discussion? All those in favor, 8, unanimous.

MR. WAUGH: The next item is on Page S-15. The top of that page is specifying the OY and the ACL. The current preferred alternative is to set the ACL and the OY equal to the ABC of 10.46 million pounds, which is the average of the ABC values for 2011-2013 as recommended by the SSC.

MR. GAY: I so move.

MR. WICKERS: Second.

MR. PELOSI: Okay, the motion to accept the recommended preferred option by Jodie Gay and seconded by Bill Wickers. Any discussion? All those in favor, raise your hand, 8, unanimous again.

MR. WAUGH: The next item is on Page S-16 and this deals with setting the ACT, the annual catch target. Again this is an opportunity to recognize some management uncertainty, implementation uncertainty. The council has chosen – we will first deal with the commercial and then the recreational.

On the commercial sector the preferred alternative is Alternative 1; do not specify commercial ACT for Atlantic migratory group king mackerel. The council feels that the commercial quota monitoring is expected to ensure that the commercial ACL is not exceeded.

MALE VOICE: I will make the motion to accept the preferred Alternative 1 for commercial.

MR. HOUCK: I'll second it.

MR. PELOSI: Okay, second by Ronnie Houck, any discussion? All those in favor, raise your hand, 7, Tom, are you voting?

MR. OGLE: I'm confused, ACT means?

MR. WAUGH: That is annual catch target and so that is what you would use to base your management measures on.

MR. OGLE: So they have no target?

MR. WAUGH: Yes, it is; we are just not specifying an ACT for the commercial sector, so their ACL is what would be tracked, and that is 3.88 million pounds.

MR. PELOSI: Okay, that makes it unanimous then, all of those in favor of the preferred option –

MR. BRAME: I just think it is important to note that I was a very good question, and I'm not sure everybody understands the distinction. The ACT recognizes how well you think you can manage the catch. What we are saying is commercially we can manage it to the pound, not literally, but we manage it right there. Where you will see recreationally we can manage it to an area. The ACT is just recognizing how well you can manage this group of fishermen.

MR. WAUGH: So now we get to the recreational and this is Action 13.5B. We have got alternatives from not specifying an ACT to – and again you start with the recreational ACL and then work down in specifying your ACT. Alternative 2 would set it equal to 85 percent of the recreational sector ACL.

Alternative 3 would set it equal to 75 percent. Preferred Alternative 4 uses this measure of the variability coming from the MRFSS or MRIP program. That is shown in the table right below the list of alternatives. What this is saying is MRFSS does a pretty good job of tracking the recreational catch.

The variability ranged over 2003-2009, so it is plus or minus 5.6 to 6.3 percent. The council is using the average for the five years which is 6.1 percent. In essence, what you are doing is just stepping down from your recreational ACL by 6 percent. Your recreational ACL that is being specified, the alternative specifies the formula, that value is 6.18 million pounds.

That is what we would look – we would look at that ACT, compare that ACT to the catches over time; and when we do that, looking at table 212.41, it has only been exceeded in '2002/2003, since 1986/1987 fishing year. The council has concluded that in order to achieve that target, it looks like our existing recreational regulations are sufficient. When we get to the management

measures, you will see we are not proposing any change. The council's preferred is Alternative 4.

MR. BRAME: **I make a motion that we adopt the preferred**, but I want to make sure we understand we are not doing this because it gives us the most fish. We are doing this because by adopting this particular method it makes the most sense. It takes into account the variability and the recreational data.

If we were doing this for snowy grouper, it would be plus or minus a hundred percent, and I would still recommend it because I think the ACT is supposed to take into account the management uncertainty is by setting it with the PSE – I wish they would use standard errors and not PSEs because they are so hard to explain. I do think this makes a lot more sense. It is the better way to go. It might not always get you the most fish, I want to make sure everybody understands that, but it is the best way to go.

MR. WAUGH: And just to add to Dick's explanation again is this is not what the recreational sector is limited to. This is your target. We use that to see what your bag limits need to be because we recognize that your estimates of the recreational catch are going to go up and down around that target. You want to step it down some because if you go above the ACL, as you will see in a minute, then you have to pay back that overage. So you have a lower bag limit to keep that catch as it varies up and down below your ACL.

MR. WICKERS: What happens if, for instance, we went over this?

MR. WAUGH: Nothing happens if you go over your ACT, which is 6.18 million pounds. Where you get in trouble is if you go over your ACL.

MR. WICKERS: So you can go over your target, but not your –

MR. WAUGH: That is correct, and again the target is that is what you use to determine your management measures.

MR. WICKERS: And the other is the annual catch limit.

MR. WAUGH: Correct.

MR. PELOSI: Okay, any more discussion? **The motion has been made and seconded, all those in favor of the preferred option, raise your hand, 8, unanimous.**

MR. WAUGH: The next item is on Page S-19 and this deals with accountability measures. Alternative 1 is no action; that would just keep the accountability measures on the commercial side. That does not meet the new requirements of the Magnuson Act. Preferred Alternative 2 keeps the commercial accountability measure, which is we track it, close it, prohibit any harvest or retention once the quota is met or projected to be met.

Now within the body of this preferred alternative, we say on the recreational sector we are going to reduce the length of the following fishing year. Then we have got two subalternatives. Subalternative A would reduce the following fishing year is the preferred. Subalternative B is just the bag limit.

We are looking for you to give us clear guidance on which you prefer. Now how we do this we are going to compare the recreational ACL with the landings over a range of years, so for next year we would look at the catches for 2011-2012 fishing year. That is what would be used to determine if the recreational sector went over or not.

Remember, we had been under consistently for quite a number of years. For the second year, for 2012-2013 we would use the average of the landings in 2011-2012 and 2012-2013. Then for 2013-2014 onwards we will use the most recent three-year running average. So we will look back, average the last three years of the recreational catch, compare that to the recreational ACL and see if you are over or not. If you are over, then the payback is shown below that, then that comes off of your quota for the following year.

Let me mention, too, that we looked at this for black sea bass. I think you all should provide some guidance on whether you think this is a good way of doing it, of averaging this overage, or whether we should just use one year. What happens is if you go over one year by quite a bit, then you pay back in one year.

Then the next year you are averaging that year's catch with the last year that you went over. I have got – let me pull up an example of this; I think I can find it pretty quickly. Why don't you all go ahead and start some discussion about this and I will pull up this example of black sea bass that deals with this issue of whether you average years or not.

MR. WICKERS: Since the quota has never been filled, and I don't believe – I mean, we are way under I guess the allowed catch. I don't see why this other stuff is even necessary. I don't see why Alternative 1 wouldn't be the preferred alternative, really.

MR. PELOSI: I think we have to come up with these numbers, though. It is required, right, Gregg?

MR. WAUGH: Yes, Alternative 1 does not meet the new requirements of the Magnuson Act. Explain the new requirement? Yes, what it is, is when congress was reauthorizing the Magnuson Act, they looked back at historically how the councils had performed in terms of specifying overfishing and keeping harvest below the overfishing level.

The consensus was that the councils had not done that good of a job so they took the flexibility of specifying the overfishing level and these critical limits away from the council and gave it to the SSC. Congress felt the scientists would do a better job of specifying the correct limits. Then in terms of how you ensure that those limits are not exceeded, what congress said is that you have to have these accountability measures.

What that does is set up a requirement that you have to lay out how you are going to track and ensure that those annual catch limits are not exceeded. You have to look at what you do both in the season, during the fishing year and then after. If they do go over, what do you do? What we are saying here is that we are going to use MRFSS – MRIP now – to track the recreational harvest.

For the three species in here we are not proposing any in-season closures because they are not undergoing overfishing, they are not overfished, but what we are going to do is look at their landings. If they have exceeded that annual catch limit, then the following year we will reduce their quota, and we will reduce either the length of the season or the bag limit to ensure that they don't continue to exceed the annual catch limit. If we go with Alternative 1, we would have that for the commercial side but not the recreational side.

MR. PELOSI: There could be a year of just a big year class, and the fishing was really good, and say the recreational caught more because they were there, and went over, then you would get penalized in the following year even though there is a large year class out there; is that correct?

MR. WAUGH: Yes and here is the example. I have got it projected up here. This is looking at an example, and these are the actual numbers here for – well, let me start from the left. The first column is the fishing year, and what we specified for black sea bass in the amendment was we said 2010.

Well, black sea bass is under a different fishing year and the intent was that referred to the fishing year that began in 2010, so that is what is shown in column B. So for black sea bass the fishing year begins June 1 through May 30, so for the first year we look at the catches in the June 1, 2010, through May 30, 2011, fishing year.

Then the following year we would compare – when we say the average of 2010 and 2011 that would average those two fishing years, 2010-2011, 2011-2012, and then we use the three years. It is the same here for our species. King and Spanish are not on a calendar year so we would specify their calendar year. For cobia it would be the calendar year.

These are the actual recreational ACLs for black sea bass, so right now it is 509,000 pounds. What we are going to do – what the National Marine Fisheries Service will do is prior to the start of the fishing year on June 1, 2011, they will calculate what the black sea bass catch was starting from June 1, 2010, through May 30.

It closed, I think, early February, February 13th or something like that. They will calculate what the catch was. If it exceeded this ACL, the recreational ACL, then there would be an overage. We don't know what that is, and this example – I'm sorry, let me back up one step. Here is the recreational ACL, 409,000 pounds and that is in place until it is changed.

The commercial I think is 309. So, if when NMFS does its final calculations, let's say the number they come up with just to make the math easy is 509,000 pounds; so for setting the quota to start June 1, they compare the landings of 509 to the ACL of 409. What that shows is that they went over by 100,000 pounds. You would subtract that 100,000 pounds from your

recreational ACL of 409. The recreational quota for the start of the June 1, 2011, fishing year would now be 309,000 pounds.

Let us fast forward and when we get to the end of this fishing year, June 1, 2011, we look at what the catches were, and let's say the catches were 459,000 pounds. You look at what your overage is and you – well, I'm sorry, as we said we average the two years, so you average these two numbers. That gives you the number 484,000 – that was your average catch over those two years – you compare this to your ACL and that is what your overage is.

Then that 75,000 would be deducted from your quota of 409,000 to give you a quota for the start of that next fishing year. Then let's look back at the overage. In the first year your overage was 100,000 and you paid that back, speaking in terms for the recreational sector. In the second year if you look at what your actual catch was, it was 459,000, so you were over by 50,000 pounds in the second year.

But by this requirement to average, in the second year you are paying back 75,000 pounds, so you paid back 25,000 pounds more than you were over. The idea of using this averaging was an attempt to moderate some of the variability in the recreational catches. The problem is when we get to looking at the actual specifics of it, it can penalize the recreational sector if you have these spikes and you go over.

Coming back to your accountability measure here, I think you all should provide your recommendations on, one, what we do if there is an overage; do you want the length of the following year reduced, or do you want the bag limit reduced? Then, two, how do we deal with this averaging.

Let me just go back and say if you have a big overage later, by averaging it you may have to pay back less in the future. If you have instead of being over, you were under for a couple of years and then had a big one that went over, and then you average it back in time, that may help you in the future. For the example of black sea bass, it is likely going to penalize the recreational sector.

Now for king mackerel where we are not close it may not. When you look at the catch numbers now, since the catches are under your ACL and your ACT, then you may go several years with underages; and then down the line if there is a big year where you go over, and then you average it with two years that you have been under, it may work in your favor. It is a little bit of a crapshoot in terms of weighting the risk of what is going to happen.

MR. WICKERS: If you look at Alternative 3 and 4, Subalternative 3B and Subalternative 4B under 4; how does that work out compared to what you just explained to us?

MR. WAUGH: Well, that is the next step, what do you do if there is an overage? In addition to reducing the length of the following season or reducing the bag limit, the question becomes – that will help limit next year's catch. Alternatives 3 and 4 deal with, okay, what do you do about that overage? The alternatives lay out; well, you pay back that overage under both preferred Alternative 3A regardless of stock status.

That is more biologically conservative. Subalternative B would only pay it back if it's overfished. It is recognizing, okay, if the stock is in trouble and it is overfished, then it is more critical that we not overharvest our annual catch limit because that does push us into – if you go above that annual catch limit, and that is equal to your OFL, then you get into overfishing issues. MR. WICKERS: And Subalternative 3B and Subalternative 4B were not preferred by the council because of what reason?

MR. WAUGH: Because they wanted to be more biologically conservative and make sure that we don't push these stocks – in the future if we do have high overages that we push them to where you start approaching overfishing.

MR. GAY: Gregg, it seems to me that this would be the right time for what I discussed yesterday of allowing – if the commercial did not meet the TAC, for example – this could work in either direction – if the commercial or the recreational sector didn't reach their TAC and the other side did or exceeded it, that you could borrow from one to the other so that the total fishery is in balance.

I think as far as the way to accomplish that, I think you would want to give the council as much leniency as possible not to shorten the season or to reduce the bag limit, but to have the option of doing both, a combination of both or one or the other, to not tie anybody's hands. **Now exactly how you put that into a motion, I don't know, but I will make it.**

MR. WAUGH: I will draft some wording.

MR. PELOSI: You will draft something.

MR. HOUCK: I'll second that motion.

MR. BRAME: Yes, what Jodie is saying is essentially if you are not over the total TAC, there is no reason to pay back. I agree with that. Using the black sea bass as an example is not representative. We are at a situation right now where there are stocks undergoing overfishing and we are trying to recover them in a by a date certain, do it now or you are dead kind of thing.

Hopefully in the future the way we manage won't put us there. So we have got really two time periods we have got to deal with. One is the immediate paying in the future, and really the black sea bass paying is because some maniac sitting back here adopted a rebuilding plan that was impossible to meet for the black sea bass.

They set a constant catch strategy, George – I'm just picking on George, but they set a constant catch strategy knowing that it was going to rebuild and the recreational fishery is going to respond to that rebuilding and they are going to blow right past it, which is exactly what they have done.

By setting these paybacks – and this sort of answers your question – hopefully we will set targets where we won't be going over so this won't really be an issue in the future. What we have to

keep in mind is really what we are dealing with; the pain we are dealing with is all the past sins that we are trying now to fix in a couple of years.

Now whether you agree with that or not is irrelevant because that is what we have got to do. The reason you don't want to allow these overages to continue to occur and not pay back is you are digging a hole, and this is to prevent you from digging that hole is the best way to put it.

MR. PELOSI: Okay, that was a good explanation. Jodie.

MR. GAY: I'm assuming all of this recreational landings numbers are based on MRFSS, which a lot of people have a lot of problems with those numbers, me being one of them. I don't know a better way. I know that is the only system there is, but anything that can be done to improve it would be I think of a great benefit to everybody.

MR. BRAME: They have just come out with the registry, you have heard about that, so they now have a sampling framework. They are doing a lot to make it better. It is not going to be some brand new Winnie Diddle Gadget where you punch a button and an answer comes out. It is still going to be estimation, like a poll.

But they do have a new estimation procedure, and the best part to me that people haven't talked about is under the new system it will continually be revised and updated. The old system was supposed to be consistent across all years. What they do now, they have regular I think three or five year reviews of how they estimate the data.

If there is new science that says how to do it better, they will incorporate it. I think you will still have PSEs that are 5 to 30 percent in the commonly caught species, but you will have much less bias. They are going to be sampling at night, private docks. They are going to get rid of all the known biases. I think it will certainly be better, more precise – well, more accurate information.

But it is still going to be – the fundamental problem is that we are comparing a poll to a vote. The recreational fishermen are electing their candidate through a poll and the commercial fishermen are electing their candidate through a direct vote, and we are comparing them directly. Now, think about it, the polls usually come in within 2 or 3 percent of what actually happens.

MR. GAY: Most of the polls generally are talking with just fishermen.

MR. WICKERS: I'm still trying to understand why the preferred alternative is supposedly better than the Subalternative 3B and 4B; because if you don't have to pay back unless the fishery is overfished, it is the same thing basically I think that you were coming up with, you know, if one segment goes over the other, there should be no peg as long as you are under that total allowable catch. That is why I think that those would be the two that we should go with, would be Alternative 3B and 4B.

MR. WAUGH: There are two different issues and that is why they are treated differently. The Preferred Alternative 2 deals with what do you do to adjust future management so that they do

not go over the next year. Alternatives 3 and 4 deal with what do you do about the overage if they did go over. It's two separate issues.

MR. WICKERS: So why are they under the same thing?

MR. WAUGH: Because they are all accountability measures and that is why the council has a preferred alternative for Alternative 2, 3 and 4. Let me explain – here is the wording that I put together – and see if this meets your intent and then I will explain it with numbers to I think address people's concern.

It would be to recommend the council modify the accountability measures to only adjust bag limits or season length and deduct overages only if the total ACL is exceeded. You can look at this on Page S-17, because it will be a little small up here, but this is looking at king mackerel. Right now the TAC is 10 million pounds.

The recreational allocation is 6.3 million; the commercial is 3.71. We are coming up with new numbers for those, but under this scenario, if the commercial harvest was to be 3.81 so they went over by 100,000 pounds, then under the councils current preferred is we would deduct their quota for the next year by that 100,000 pounds.

So next year you come back to their same quota, 3.71, so the following year it would be 3.61 would be their quota. Now, what this proposal is suggesting is that if the commercial went over by 100,000 but your total harvest was below your TAC, then there would not be any deduction. The same thing on the recreational side, if the recreational went over their catch, their target under this is 6.3; their catch was 3.85, well, what if they really caught 7.3 million?

Under the current preferred, that is over by a million pounds, right, 7.3, so then for the next year you deduct that million pounds from the 6.3 so they would be at 5.3. However, if the total wasn't over under your motion, then there would be no deduction. So this really addresses the concern. The real concern is not to exceed the ACL.

Now what you have to be comfortable with in between the recreational and commercial sector is that everybody has to feel comfortable that one group is not paying a penalty for the other. I don't see where you are because the actual commercial quota and the recreational quota would not change. Those numbers are fixed.

You only would have a reduction in the quota for the following year if there was an overage, but that overage would be calculated off of the 3.71. Now let's deal with the issue of, okay, let's say there is an overage and the recreational sector is responsible for 80 percent – or let's say the recreational sector was over their ACL and that amount was sufficient to go over the total ACL.

Well, then I assume that since that one sector, in this case the recreational went over, they would pay the price of the overage but not over their portion of the ACL, but the overage of the total ACL. That overage would come off of the recreational sector. The same thing if the commercial was over, then they would pay that. The issue comes in what do you do if both are over? Then you are over the total ACL, so then you would just subtract the overage off of each sector's ACL. You wouldn't need to apportion the total overage because each sector would be over.

MR. GAY: That would be the intent, Gregg, or my intent that I hope the council would adopt would be to say even with borrowing some from one sector to the other, you still exceed ACL, then you would use that portion that you have – in other words, if the commercial did not quite meet the quota and recreational went over, the portion of the commercial is not enough to still get it down below the ACL, you use that portion and the recreational sector is still over this amount and then they would only pay that overage back.

MR. PELOSI: Okay, that motion is on the floor and that was made by Jodie.

MR. WAUGH: Let me ask Jodie a question here. I started to put “borrow” up there; I think that is going to cause you trouble because people are going to misinterpret that and think you are adjusting the ACL. To me this gets at your intent and avoids the confusion that you are adjusting anybody’s sector ACL.

MR. PELOSI: Okay, everybody can see that, and Ronnie you seconded that, I believe.

MR. HOUCK: Yes.

MR. PELOSI: Anymore discussion? All those in favor raise their hand, 8, unanimous. Now, do we still have to go through these other ones or does that handle all of it?

MR. BRAME: I want to get back to this averaging, and I don’t think I explained it well enough. Averaging is problematical, and as you said it is a risk/cost benefit. But I think the way we have to look at it is, in the short term, since we are likely to be, -- it’s not with king mackerel, but say there are other stocks overfishing and having to fix it; it is going to be painful.

But over the long term where we are managing these stocks under an ACT and we are under the ACL, we are not overfishing, and you are just rocking along and all of a sudden you have a good year class and it spikes, that is where it helps you. That is the more likely scenario down the road. Where it hurts you, and this is important for us to understand is when you are currently overfishing and you are getting back to not overfishing.

The pain goes further out because you are averaging. While you are in fact not overfishing because you are averaging, the way we are managing you still are. But when you are going on normally and hit a couple of spikes, it helps you. That is why I think the averaging will be better in the long run for the recreational fishery than the short term. It will be painful in the short term in most of these stocks. Do you agree with that?

MR. WAUGH: That is exactly right, and that is why if you are overfished – and black sea bass is a good example – you are paying more of a price up front, which is probably a good thing biologically. But the more likely scenario for all the other species is you are not going to be over in general and then should you get a good year class, that averaging will help moderate that. In terms of the accountability measures – and let’s come back to that; that is on Page S-19.

MR. GAY: Gregg, I think that motion pretty much took both into consideration, did it not? I was trying to cover both.

MR. WAUGH: It does except two parts that you need to clarify is if there is an overage on the recreational side, do you want the length of the following season adjusted or do you want bag limit adjusted?

MR. GAY: My intent would be and/or to give the council as much flexibility as possible.

MR. WAUGH: But we can't give the regional administrator that amount of flexibility. We need to tell him whether it is going to be – and this is a legal requirement; it can't be up to him. That is why the council has said down here with Preferred Subalternative 2B, that they want to reduce the bag limit. That is what he will do.

So you have described when you are going to adjust the bag limit or season length and when you are going to do overages, but you need to then say, okay, if there is an overage do you want the length of the season changed or the bag limit changed. Then if there is a payback, do you only want that done when it is overfished or do you want that done regardless? Those are the two other issues you need to clarify under the AMs.

MR. GAY: I'm not confused.

MR. WAUGH: I'm sorry, what your motion did, Jodie was this one; it lays out how you calculate the overages. There is only an overage if you go over the total ACL; so if there is an overage on the recreational side, then what do we do about it in terms of modifying the regulations for the next year and what do we do about it in terms of deducting it from the quota for the following year. Do you only deduct it if it is overfished or do you deduct it regardless?

MR. BRAME: And the council is really making a value judgment by saying we would rather them take the bag limit first than take days off the season. But what that does, which concerns me, is oftentimes if you have a bag limit of 15 and you need a 30 percent reduction, people think you go to 10. No, you go to two or three because of the average catch per trip. Bag limits are much less precise than seasons, but people don't want to give up seasons, so that is the conundrum.

MR. WICKERS: I don't see where this motion though covers what he was saying about supposedly if the commercial guys go over.

MR. WAUGH: It does.

MR. PELOSI: Only if the total.

MR. WICKERS: So that automatically covers that, so you don't have to specify it, okay.

MR. PELOSI: Okay, well why don't we go right to the issue there.

MR. WICKERS: I would like to move then that we – we still have to pick three or four, is that correct?

MR. PELOSI: We have to decide whether we want to reduce the bag limit or the season.

MR. WICKERS: I would move that we probably would do the season, because it may be only a month or something, you never know.

MR. PELOSI: You are making the motion that we adjust the season.

MR. WICKERS: Right, not the bag limit.

MR. PELOSI: Is there a second?

MR. WAUGH: So on Page S-19 that would be Subalternative 2A.

MR. PELOSI: Okay, that is correct, 2A. Okay, so far there is no second; is there another motion?

MR. OGLE: I would rather see the bag limit altered.

MR. PELOSI: Are you putting that in a motion, Tom?

MR. OGLE: I move that the bag limit be adjusted.

MR. PELOSI: Is there a second? Okay, so far that fails to be a motion.

MR. WICKERS: The reason that I have a problem with – I don't like either one, but I'm just saying if you do one of them, a bag limit that say in Florida it is two per person and your following year is, okay, it is one per person, that to me is a 50 percent reduction.

MR. WAUGH: It is not.

MR. WICKERS: Well, I know because of your –

MR. PELOSI: Not everybody agrees with you.

MR. WICKERS: In my mind if you go from two to one, that is 50 percent of what you are allowed to catch on a trip and that is year round.

MR. WAUGH: It is a 50 percent reduction in what you can expect to catch. I think if you are coming at it from a charterboat for-hire sector and what you are selling is the expectation of what they can catch. You are right, if you couch it in those terms, that their expected catch has been cut by 50 percent.

But what we are trying to achieve is a reduction in the fish caught and you need to look at the catch distribution, how many people are hitting that bag limit. If everybody was hitting the bag limit at two and you reduced it to one, it would be a 50 percent reduction, but more people are hitting one than two and so that is why it isn't 50 percent.

MR. WICKERS: But to the person that goes out, to that individual person, and goes out and wants to catch two fish, it is a 50 percent reduction in what he is allowed to catch, so you are looking at it from a different perspective. I am looking at it from the fisherman that is on a boat and is paying for the fuel and paying for the charter, or whatever. He is getting a 50 percent cut in what he is allowed to catch on that trip. You are looking at it from this big whatever.

MR. WAUGH: No, I am looking at it from – and I just said this, and it is an important point to understand. You are talking about what they can expect to catch, and that is true, I agree with you, but biologically when we are talking about achieving a reduction it is incorrect to say that going from a two to one is a 50 percent reduction in the catches; that is all.

MR. WICKERS: But from a business standpoint.

MR. WAUGH: I agree.

MR. WICKERS: Okay, somebody walks up to my boat and wants to go fishing on my boat, and one year he can go out and catch two fish per person, he's got a family of five or six on the boat, he could catch 10 or 12 fish. The following year he says, well, I'm sorry, you know, you can only catch five, or whatever; that is where I am coming from. That is the reality of it and not the biological whatever.

MR. PILLAR: Just a comment, I don't know the relevance of that. We are talking about either shutting down the season, period, and nobody will walk up to your boat, or maybe keeping the season open so that one person on the boat can catch a fish. That keeps people fishing. It also keeps tournaments open and a lot of tournaments are only going to weigh in one fish, anyway, and that is all they are going to bring it.

MR. PELOSI: And tournaments are set years in advance sometimes.

MR. PILLAR: Years in advance.

MR. PELOSI: We probably need to take a break here. Why don't we all think about it and let's take about a 15-minute break. Let's be prepared to go ahead and decide because we only have two choices.

MR. PELOSI: Let's move on ahead. We still have this accountability issue and we were discussing whether the payback should be through cutting the season or the bag limits. How do we feel about that?

MR. PILLAR: I would move that we go for bag limits rather than ending the season.

MR. PELOSI: Okay, that has been proposed; is there a second? No second to that motion?

MR. WICKERS: I would move that we would go with the bag limits and I would like to give you the reasons.

MR. PELOSI: Well, he just said to go with the bag limit; that was the motion he made. You wanted a season closure.

MR. WICKERS: Did his motion fail?

MR. PELOSI: It didn't get a second.

MR. WICKERS: Okay, I would like to move then that we would go with a closed season.

MR. PELOSI: Okay, do we have a second on that? Well, we have a slight problem here.

MR. WAUGH: We don't always need motions, and what I am hearing here is that you all are concerned about the impacts of adjustments both by seasons or by bag limits. That is what I will carry forward.

MR. WICKERS: What I wanted to say is that to me it ought to be and/or or none, but since their hands are tied and you have to go with one or the other, the reasoning that I have is that if you go with the season rather than the bag limit; for instance, historically the fishery has never been overfished, but if the case was to happen and it was just, say, a slight overage, even a hundred thousand pounds or less, the council would have no flexibility because he says they have to either be one or the other.

Under that, for a small amount of fish, they would have to reduce the bag limit from two to one; that is the only place to go, or three to two maybe up in Carolinas; whereas if you have the flexibility of a closure, they may only have to close it for a few weeks or even a month to make up the shortage.

I mean, it could be a very small shortage, but the way that this is worded they would have nowhere to go but to reduce it for an entire year. In my mind that is still a 50 percent reduction based on per person; and without the flexibility, I think that the closed season is the best way to do it.

MR. PELOSI: I think you are absolutely right on that, the more I think about it, because once they change the bag limit, that is for all of next year and it is hard to get bag limits back up, so the season closure probably does make more sense.

MR. GAY: I think like Gregg said – and he and I discussed it out in the hall – neither of these is a good option, but Bill makes a strong argument and he is right. I think the season probably is the best way to go. Tom's argument on the tournaments being extended all year is very important I think. I would encourage the council to just get more public input on this as the process rolls along and find out what people do – hear everybody out on it and encourage more public participation at the hearings on this specific issue.

MR. OGLE: Just real quick; I don't think that the reduced bag limit has to be throughout the year, I think the reduced bag limit could come up to some threshold where it appears that the allowable catch is going to be exceeded in a proactive way the bag limit be decreased for whatever period or months are deemed necessary.

MR. PELOSI: That is an interesting new thought. Okay, well, Gregg, you will take these thoughts back to the council and let them know. Now the other thing is do we want what we just decided there with Gregg bringing this information back to the council to also apply to Spanish mackerel and cobia?

MR. WAUGH: The question is we are now talking about king mackerel and your motion number 11 up here with how you look at the overages, only exceeding the total ACL. Was it your intent that that only applies to king mackerel, or was it king, Spanish and cobia?

MR. GAY: I think if we can cover it all at once, so that should apply to all three.

MR. PELOSI: Okay, do we need a motion on that? Okay, it will apply to all three species units.

MR. GAY: In fact, I would love to see it through snapper grouper and such, too, but I don't think it is going to be an issue there because everybody is going to exceed it.

MR. PELOSI: Perhaps the snapper grouper panels will take up on it. Okay, payback now has to be decided upon. Gregg, do you want to say a couple of words first?

MR. WAUGH: Yes, Preferred Alternatives 3 and 4 deal with commercial and recreational payback, and you all have described a way that you are going to calculate if there is an overage, but if there is one, then Alternatives 3A and 4A require that be deducted regardless of stock status; 3B and 4B only if they are overfished.

MR. PELOSI: I think our intent probably was only overfished.

MR. WICKERS: I was going to say if the first motion didn't cover it I would move Subalternative 3B and 4B.

MR. PELOSI: Okay, is there a second on that?

MR. ADAMS: I'll second that.

MR. PELOSI: Tim Adams seconds it. I don't think we need any discussion. **All those in favor, it is unanimous again.** Okay, I guess on Action 15, the management measures, they say the council does not think that any adjustments are necessary. What is this over here on the side here, 27 inches on minimum size limit, Gregg?

MR. WAUGH: That is just stating what is in place now.

MR. PELOSI: I thought it was 24 inches.

MR. WAUGH: For kings.

MR. PELOSI: I think it may be a misprint, because I had just – that's why I brought the South Atlantic rules; it is 24.

MR. WAUGH: Yes, 24.

MR. PELOSI: I just wanted to make sure something hadn't been slipped in. Okay, so we don't have to deal with that.

MR. WAUGH: That was at Ben's direction I put that in.

MR. PELOSI: I heard him arguing against it at one time.

MR. WAUGH: No, that is just a bad finger typing the other night. All right, so we are on to Action 16 on S-22. That is it for kings, so we are finished Atlantic kings, and now we are doing the same exact thing we did going through each item for Atlantic Spanish. Again, just going down to where we have the – the SSC has said that the OFL is unknown.

The council right now recommended an interim OFL of 6.14 million pounds. Now, NOAA GC has said that if the SSC cannot come up with an OFL it is okay, and we will see whether they tell us we have to specify it. If we do, then we will go with this number that is here, that is above your ABC, so it shouldn't impact your catches.

So if we go down to Action 16-3, the ABC control rule and ABC for Spanish, the council's Preferred Alternative 2 is to adopt the South Atlantic Council SSC recommended ABC control rule and establish ABC as 5.29 million pounds. However, you heard that the SSC now has modified their methodology and that number would now be 5.69 million pounds. So if it is your intent to adopt this, I think what we should do is just use that same wording in Preferred Alternative 2, but specify the ABC as 5.69 million pounds. Is that clear or did I confuse everybody?

MR. GAY: No, I understand it fine, but I think we all share Ben's concern with how this was done and with a healthy fishery it is a sad state.

MR. HARTIG: Gregg, how long is this 5.69; will this be in effect until the assessment is done in 2013?

MR. WAUGH: That is correct; so looking at the schedule, the SEDAR 33 starts in 2012 and finishes in 2013, so the council taking final action would probably be for the 2014-2015 fishing year when those new recommendations would change. Although depending on when in 2013 we got them, we could do this through the framework so that could change sooner. I am just not sure; they have not laid out the specific timing details for that assessment yet.

MR.GAY: Under the circumstances is there a way to speed that assessment up, to bump it up in line, perhaps?

MR. WAUGH: You can make that recommendation, but as Ben will tell you there is a logjam with SEDAR and in all likelihood not, but you are free to recommend that.

MR.GAY: I think certainly we all would do that and it seems like anytime one of these issues come up, it is hard to speed up if it works in the fishermen's favor throughout history. It's just hard to move things up if they are important to the fishermen rather than I guess the fish. Maybe that is the right way it should be done.

MR. WAUGH: Well, Jodie, I would only offer that we look back to red snapper. We went back and did a whole other benchmark on red snapper because there was so much outcry over the results and that – I'm not saying it is positive or negative, but that disrupted the whole SEDAR schedule. These things, when they are laid out, the states and the federal researchers start aging samples, reading otoliths and getting data together, so it is a hard thing to keep adjusting. It is not a simple thing when you change the priorities.

MR. GEIGER: And, Jodie, I understand perception may be reality in the minds of some people, but if you go back and look at the last four council meetings and you look at the amount of time that the council has spent adjudicating the schedule for SEDARs and when they occur, it has always been predicated upon the needs to update the information for the benefit of the fishery, always. As a matter of fact at every council meeting now, every council meeting we have a SEDAR committee meeting, when it used to only occur maybe once a year, but we have one now at every single meeting to consider the SEDAR schedule.

The problem for those of you who may not be familiar, but SEDARs just don't start up like next week for one in June. There is a six- to eight-month lead-in time where the scientists begin to develop and gather the information to even put the beginning of a SEDAR together, and then it is a protracted process that occurs over time, and there is a lot of effort being put into that process now via the steering committee in an effort to refine the SEDAR process to see if there is any way we can speed it up and actually get more SEDARs during the course of a year than we currently have on the schedule.

So there is a lot of work that is being done in that arena, and I assure you that it is all being done for the benefit of the fishery, and I leave it to Ben or Duane to contradict that statement, but that is my belief entirely.

MR. GAY: That is refreshing to hear, George, it really is, and I'm glad this council is doing that now because in the past that really – until the last few years it hasn't been the case and if that has changed, I certainly appreciate it.

MR. BRAME: The problems we have are the resources. We should be having many more stock assessments and we are just not getting the resources from congress to do it.

MR. HARTIG: And just to add one more thing to that, they are trying to assess all the coastal migratory pelagics now as group, so you do cobia, Spanish and king at the same time, although I am hearing some subtle changes to that at this meeting from Julie. Their timing – they said they probably can't do them all at once, but they will do them at least all in the same year, so we will see.

MR. WICKERS: I just wondered, I assume that the breakdown in the process or whatever occurred in this situation that we are discussing here about the Spanish mackerel that caused this problem, what was it they said, they did not approve the biomass or something?

MR. HARTIG: Actually, I should have mentioned this before. Both Duane and George were also at that assessment and their observations don't actually mirror mine for the stock, because there are some differences in Georgia. You also heard from the South Carolina representation that there are some changes in Spanish mackerel abundance. They haven't seen the increases in the stock that we see in Florida.

Something has changed with the stock regionwide, but, yes, you were right, the biomass – and the reasons for that primarily was the driver of using that very uncertain recreational historical landing stream which actually showed that the recreational fishery caused the decline of Spanish mackerel in that fishery. That is in a nutshell what using that data showed. It was recreational fishing caused the stock to go into severe decline.

MR. WICKERS: I don't know, it is really nothing as a group here – I mean, would it help if the AP went on record that we disagreed with the process that came to this conclusion or we all can just do that on our own?

MR. HARTIG: If you want to come to the next assessment/ it would help. Come to the data workshop; that is all you need to do is come to the data workshop and put your two cents in at the data workshop, and that is where we can affect the changes in that assessment, and hopefully we will.

MR. PELOSI: On the Spanish mackerel, I don't know whether I am confused or not understanding things correctly, but we keep saying they are not overfished, not overfished but yet I get a sheet in the mail here a couple weeks ago – I presume you all got the yellow sheet – it says the amendment contains a proposal to reduce the recreational bag limit from 15 to 10 fish and the commercial quota would be reduced from 3.87 million to 2.91 million.

When I look at it, well, it is a 33 percent cut in the bag limit, which we know does not quite equal a 33 percent in the recreational catches. It only applies to the people who limit out. But the reduction in the commercial, that is a hard number that is tracked, and I just don't see where that is justified. Is there some rationale behind that, Gregg? What is going on here?

MR. WAUGH: Yes, we have been talking about it since yesterday. It is the new requirements in the Magnuson Act that require us to specify this overfishing level and the ABC and the ACL. What the council has proposed is an ACL of 5.29 million pounds and that equates to a reduction because right now the TAC is 7.04. It is not due to stock status.

MR. PELOSI: It is not?

MR. WAUGH: It's not. We talked about this yesterday, and it is perhaps not the best analogy. There are two issues, if you are dealing with overfishing and overfished it is biological, but we do not have in this case for Spanish an accepted biomass stock assessment, so we are reverting to just using landings' data.

There you heard Carolyn say this morning before their recommendation was at the mean or median and now they have raised that. Their new recommendation, given that they only have landings' data to use is 5.69 million pounds. That is below the 7.04, so under the new requirements that is going to lower both the recreational and commercial quotas.

MR. PELOSI: So we can't really do anything about that; that is the number.

MR. WAUGH: That is the ceiling that we have been given, and the council recommended that we adopt that ABC control rule and the ABC of 5.29. Now, I am sure they will go with the new number of 5.69. They certainly weren't pleased about it. What you are hearing Ben say here is exactly what was said. That is in part why they set the ACL equal to the ABC.

MR. PELOSI: Well, that clarifies it for me.

MR. WICKERS: Yes, I would just say maybe from the AP just to show that we are not happy or satisfied with it, **I would make a motion that we go with Alternative 1.** That would at least send a message that we feel that this is totally out of line, so I move Action 1; Alternative 1, no action.

MR. ADAMS: I will second that for discussion..

MR. PELOSI: Okay, we have a second, so any other discussion?

MR. ADAMS: Just to reiterate what Bill and what Ben have both said over the last several days, that for a stock of fish to be in the kind of condition that they are in and probably in the best condition they have been in historically for many, many years, it is somewhat ridiculous that we have to take these kinds of cuts and endure the severity of a new amendment here that may cripple the fishery as far as the market and everything else concerned with it.

MR. PELOSI: Any other discussion? Okay, well let's go ahead and vote on it. **All those in favor, 6 in favor of no action; those against, 1 against and 1 abstention.**

MR. WAUGH: Okay, the next item is the OY and the ACL and this is on Page S-24, and the council's current preferred is to set the ACL equal to OY equal to ABC, which is 5.29 million pounds. Remember now the new recommendation from the SSC would be 5.69.

MR. WICKERS: I will move for the same reasons as the last one, Alternative 1, no action.

MR. PELOSI: Is there a second?

MR. ADAMS: I'll second it.

MR. PELOSI: Okay, it has been seconded by Tim Adams. Any discussion?

MR. GAY: I guess we are doing this basically to express our discontent and not that we are spiteful to do this.

MR. PELOSI: Did you note that, Gregg? Do we need any discussion?

MR. BRAME: I think it is one thing to express your discontent with setting it; but when the council wants some recommendation, they are going to have to set it. I think it is a little disingenuous to just say no action. This is something they have to do and they need our advice, so I would oppose this motion.

MR. GAY: I'll agree with Dick and vote with Bill.

MR. PELOSI: Well, I see by saying no action we are more or less saying that 7.04 million pounds, right?

MR. BRAME: Yes, you would be rejecting the SSC recommendation.

MR. PELOSI: Okay, any other discussion? I see it has been properly motioned and seconded. All those in favor. Ben, you wanted to say something?

MR. HARTIG: Let me just add one thing. I think what you are doing is probably a very good thing from my perspective because I am going to make a case at the next council meeting that Spanish mackerel is a special case. I said some of this before, that it is one of the most assessed species along with king mackerel that we have. My motion probably at the council will be somewhere in the line that if we have a stock that has been assessed for X number of times down the line; and then we get to a point where we don't have a biomass estimate, I will make the motion that we go with the biomass estimate from the previous stock assessment. That is where I am coming from on this, is to try and find a way to get around this on Spanish mackerel. I don't know what is going to happen, I can't tell you, but this actually helps me.

MR. WICKERS: My intent of this is to give basically Ben as much ammunition as possible. I mean, if he is going to try to attempt to do something about this, the more support that he has the better. We are here to advise the council. If we agree that this is basically not a good thing, the more information we can push forward, the better his chances of maybe actually getting something done or at least speeding up the change, anyway. I will stick with the motion that I made and let's go.

MR. PELOSI: **The motion is Alternative 1 no action and would equal 7.04 million. All those in favor, 6 in favor; and 2 against.** Now we have to do catch target, is that correct?

MR. WAUGH: Yes, the top of Page S-25, and the first item is whether we set a commercial ACT. The council's preferred alternative is not to.

MR. PELOSI: Then we have the same for Spanish mackerel.

MR. WAUGH: Well, we are dealing with Spanish and then we do the same for recreational.

MR. PELOSI: Commercial and recreational, okay, any motions?

MR. GAY: What was the council's rationale on this; I don't recall?.

MR. WAUGH: That on the commercial we can track and close the quota without having it exceed the commercial ACL, but on the recreational we are not as precise, so we are setting – just like we did for king mackerel, we are setting an ACT on the recreational side but not on the commercial side.

MR. ADAMS: Bob, I make a motion for Preferred Alternative Number 1.

MR. PELOSI: Okay, is there a second?

MR. GAY: Second.

MR. PELOSI: Second by Jodie, the motion was put forward by Tim Adams? Anymore discussion. All those in favor, 8, unanimous. Now we get to the recreational; the council seems to have a preferred alternative.

MR. WAUGH: Yes, we had one for the commercial as well, not to specify it; and just like kings, we are specifying Preferred Alternative 4, that the recreational sector ACT is adjusted by that formula that incorporates the PSE, the variability from the recreational. We are using the three-year average, which is eight.

In essence you are reducing the recreational ACT down by 8 percent to look at how you adjust your bag limit. Again, your motion from before, you would only have an overage if it went above the total ACL, but the council's preferred is Alternative 4.

MR. WICKERS: I'd like to move for Alternative 1, no action.

MR. PELOSI: Is there a second?

MR. WICKERS: Same reasoning as the commercial.

MR. PELOSI: Okay, it sort of dies presently.

MR. BRAME: There does need to be an ACT; there is variability in the recreational harvest. This is the best method to do that. To account for that variability in management that you can't account for scientifically. **I would make a motion for Preferred Alternative 4.**

MR. GAY: I second it.

MR. WICKERS: Discussion.

MR. PELOSI: **Preferred Alternative 4 is the motion and it has been seconded by Jodie.**

MR. WICKERS: I am not following the reasoning then that the action that we took earlier would not follow through to this, because it is all tied together based on the poundage, so if you don't support this, you shouldn't have been able to support the earlier vote.

MR. PELOSI: Well, I think the reason probably most of us had for it was the commercial is a set number that is pretty darned accurate and the recreational numbers are not.

MR. WICKERS: That is the difference? Yes, but the total, what we basically said we were satisfied with the stock assessment and under the assessment in the original, like he said, it allowed for a 15-fish bag limit and it allowed for that higher commercial TAC. So if you are saying that it doesn't allow for a higher bag limit, then it shouldn't allow then for a higher commercial, in my mind.

In other words, you can't have it both ways; either there is a problem with the process that they reached these two conclusions. One was to cut the commercial catch and reduce the bag limit, based on this that came from the scientific community or whatever that rejected the biomass. If you reject – in other words, if for the commercial, it can't be that the commercial is okay and not follow through on this.

In other words you are using the same information and it should lead to – well, if based on the facts that have been presented to us, those facts we disagree with and we went with the higher assessment of seven point something, which was no action, then there should be no change in the bag limit either. There is no rationale for the bag limit just like there is no rationale reduction, just like there is no rationale for the cut in the commercial quota. That is what I am trying to say.

MR. GAY: I don't think this speaks specific to the bag limit. It just speaks to the method of calculating –

MR. WICKERS: That's not what I am reading, Preferred Alternative 4, reduce the individual bag limit from 15 to 10.

MR. WAUGH: You are on the wrong page; we are on Page S-25.

MR. WICKERS: Oh, I am sorry.

MR. WAUGH: Action 16.5B.

MR. WICKERS: So I am arguing on the wrong motion; sorry about that.

MR. PELOSI: I'm going to ask Gregg a question. If we still had the bag limit of 15, would we exceed this number, because they are proposing the ten-fish limit, the reduction is 5.

MR. WAUGH: Based on the council's current number of 5.26, your ACT would be 2.19 and that has been exceeded every year since 1996-1997 through 2006-2007, except the 1999-2000 fishing year.

MR. WICKERS: I apologize; I thought we had already voted on this one.

MR. WAUGH: I can calculate what that new value would be with the new number.

MR. PELOSI: We are not given too many other choices and the –

MR. BRAME: All we are voting on now is the process of how we set the recreational ACT.

MR. PELOSI: Does Alternative 4 allow the most fish, or would that be under – I guess that would be under Alternative 2?

MR. WAUGH: Of the alternatives there, other than Alternative 1; Alternative 4 allows the most fish. Under the new number of 5.69, the recreational ACL would be 2.56 and the recreational ACT would be 2.36. So if you look at the landings table on S-26 and look at the recreational landings going back in time, that is this column here, and see when they exceeded 2.36.

MR. PELOSI: The way I read it, it just came close once in 2000-2001 for recreational; correct?

MR. WAUGH: Yes; and even under the 2.19 that came close.

MR. PELOSI: That came close a couple of times.

MR. WAUGH: Yes, but it hasn't been exceeded every year, that is incorrect.

MR. PELOSI: I just don't see where we need the bag limit reduction, but that is getting ahead.

MR. WAUGH: Yes, when we come there, we can deal with that.

MR. PELOSI: So we could probably – with what has gone on in the last 15 years or so, we could live with Alternative 4.

MR. BRAME: I want to make it clear my rationale for making this motion is not that it gives us the most fish. I mean, I am happy about that, but this is the most valid scientific way that uses the most data and it is the best way to set the recreational ACT. That is the reason I made the motion.

MR. PELOSI: There was a motion, was it seconded? Okay and your motion was Alternative 4. So after all this discussion, maybe we have made up our minds. **Let's try a question, all those**

in favor of this Preferred Alternative 4, which gives you 80 some percent, which would give a lot of us the most fish; Okay, all those in favor, 8; it is unanimous.

MR. WAUGH: We are now on Page S-28 talking about accountability measures, and remember we passed that one general motion that will deal with how we address an overage. For king you wanted me to express the issue about picking between shortening the season and the bag limit, but you didn't pass a motion there.

MR. GAY: I think this one may be easier to agree on than king was. I mean, as far as the first part goes, I think that the motion that I made of equalizing and borrowing from one to the other still would apply, and I think it would still be our intent with Spanish. I think we stated that all the way through with cobia as well.

I think in this one, though, it is not as important I don't think that the season go year round as with kingfish. I think on this one I would prefer the season rather than the bag limit reduction. I'd like to hear from the Florida folks; I think you may be on the tail end of the season.

MR. ADAMS: I don't know if it is going to affect us that much or not, Jodie, to tell you the truth. With the way the season is set up, on some years it might. I think I prefer with going with that option though, rather than trying it in any way as far as the amount of fish is concerned and maybe just the shortening of the season. I don't think in most years – I don't know, Ronnie, you may have a different perspective on it, but I don't see in most years where it may affect us.

MR. WAUGH: Let me just clarify what we are talking about is on the recreational side, reducing the recreational season or the bag limit.

MR. ADAMS: As far as commercial, I don't see where this would affect us at all.

MR. WAUGH: Right, the commercial side we just track the quota and close it when it is met or projected to be met.

MR. GAY: I make a motion to have one on the floor that the reductions come from the seasonal closure rather than a bag limit reduction on Spanish.

MR. ADAMS: I'll second that for discussion.

MR. GAY: Bob, have you got anything on this one?

MR. PELOSI: We are so limited on other fish and this is the one fish where a fisherman can go out and bring back a fair number of fish for himself or his friends and neighbors. In our area most days, not every day, it is pretty easy to get your limit. When you are down there fishing and you just see miles of Spanish mackerel, you just can't believe that there is a real problem with the stock and all.

I guess when you close a season it is just shut off for a certain number of days; where if you adjust the bag limit it could be for years and so forth. I think I would probably go with the

seasonal cutback now. If the recreational gets cut back and the commercial is still open, you are going to hear some howling. Then will I ever hear it. You have got to have it one way or another.

MR. HOLDER: As recreational, if we are allowed to fish and get ten fish, that makes everybody pretty happy. They are not going to – especially in South Carolina where we are not catching as many Spanish as we use to, but if you can go fishing through the season and still get ten, everybody is happy.

If you tell them you can't go fishing, everybody on the docks or the tackle stores, they are going to be a little put out because you can catch five fish, let's say, and everybody is pretty happy, at least myself. But if you close the season, then it just stops, it is over, you are not selling any bait and tackle to go Spanish mackerel fishing and nobody will target them.

MR. PELOSI: That is very true, and it won't affect you because your season is early in the season. It will just affect the tail end of our season. There are a number of recreational fishermen that say 15 is too many. I don't think cutting down is probably going to be that big a thing.

MR. GEIGER: Thank you, Mr. Chairman, if I just may interject here. Of course, one of the prime considerations was to keep the season open all year. Interruptions to the season are an anathema to the fishery. We have heard that in a lot of public testimony. In the same public testimony, we have also received input from the public concerning the bag limit.

I think unanimously – and correct me, Duane if I am wrong, but we have heard that ten fish are sufficient; and in fact the for-hire sector, especially in North Carolina has already put in a ten-fish bag limit on all of their boats, or a boat limit, anyway, that equals approximately ten fish. Those are voluntary measures, and we have heard an awful lot of public input already, which is why the council really went toward that ten fish bag limit, because that seemed to be the overwhelming sentiment of the public to reduce it from 15 to 10 and keep the season open all year.

MR. OGLE: I would like to follow up because that was an example I was going to use. We are not fishing for black sea bass and we haven't been for two months now and they are an awful lot of fun to catch; and when we do go out looking for something else, we end up catching sea bass and, of course, having to put them back, and I would just love the excuse to go out, even if it was five. I think it is pretty – I just don't think we will reach our goals by shutting people down so they can't go out and all and catch anything. I am in favor of a reduced bag limit.

MR. GEIGER: And to a point that was made earlier about and where you tried to talk about black sea bass and use them as a comparison, I agree that they are really inappropriate because they are a recovering stock. One of the things that the council has been moving toward and what Magnuson has forced the councils to do is manage.

Instead of reacting to fisheries that are in crisis or becoming crisis and then having to take these drastic actions, to look long term and put measures in place that ensure we have a management regime that provides long-term sustainability of the stock. And that is going to hurt because as

these stocks recover; and we are already seeing recoveries in black sea bass and pinkies for example have recovered, people are going to see more and more fish in the water, more than they have ever seen before, but the regime is to manage those stocks for long-term sustainability so that we don't get ourselves put in a box like we have been in with red snapper and we have stocks that result in overfished or overfishing conditions and we have to take these extreme measures.

There is going to be a whole mindset change because people are going to see an awful lot of fish in the water as these stocks recover that they are not going to be able to keep and take, but that is the sign of a healthy fishery, and it's a problem that I think it is a good one to have long term.

MR. GAY: I would be glad to withdraw the motion, I mean it sounds like there are more people in favor of the bag limit than of the season, and I am good with that. **I don't have a problem with it, I withdraw my motion.**

MR. ADAMS: I'll agree.

MR. PELOSI: Okay, Jodie withdraws the motion, and Tim Adams agrees and he withdraws his second. Is there another motion?

MR. WICKERS: I'm just trying to get in my mind – we don't catch Spanish mackerel, so it is not – we just don't catch them, and my groups don't, so I will go with your idea. What I was saying earlier was that if there is a problem with the – in other words, how we got to these numbers, if there is a problem with it that we had to basically go with no action on the commercial, it seems like that same reasoning would follow through to the recreational. That is basically what I was trying to say.

MR. PELOSI: Okay, thank you for that. Yes, go ahead Ed.

MR. HOLDER: I would like to make a motion to accept the Preferred Subalternative 2B for Action 17.

MR. PELOSI: Okay, is there a second to that?

MR. BRAME: I'll second it.

MR. PELOSI: Dick seconds the motion. I think we can probably just call the question on that; **All those in favor of the Subalternative 2B reducing the bag limit, 7 in favor; and 1 abstention.**

MR. WAUGH: The next item is on S-30, and this deals with the management measures. Again, when you compare either the old recreational ACL or the new one to recent landings, you are not projected to be over, but the idea was that the consequences of going over are high, and so what the council has proposed right now to ensure that we don't have the recreational hit up against the recreational ACL is to reduce the bag limit from 15 to 10. Something to keep in mind, past catches haven't, but you have got a lot of closures that could switch effort. Certainly, your

motion about how to calculate the overages moderate this some, but the council's preferred alternative is 4.

MR. GAY: Mr. Chairman, with the up number being 5.69 over what was proposed when these -- hat they were looking at when these management measures and alternatives were adopted, I would like offer a suggestion to the council that they go with the bag limit of 12 with a boat limit of 60.

MR. PELOSI: Is there a second to that?

MR. OGLE: Second.

MR. PELOSI: Any discussion?

MR. BRAME: And your rationale, Jodie, is to account for what Gregg was talking about, perhaps in the future more effort, more intensity, other things closing, and some way to sort of tamper the recreational harvest so it doesn't go over?

MR. GAY: Yes, exactly, but to allow as much harvest as possible without getting to that point. I think this is a fair compromise, really. It still keeps the charterboats limited to 60; and if two guys out, they can get 24.

MR. PELOSI: Up in the Carolinas or in other areas do party boats target Spanish mackerel ever?

MR. GAY: None that I'm aware of.

MR. PELOSI: They don't from up here in Florida, either.

MR. GAY: Nothing other than charterboats and private boats.

MR. WICKERS: Like I said earlier, we don't really target Spanish mackerel, so it is not a big fishery for us at all. It is a bycatch if anything. I am just kind of surprised that your constituents would not be upset by a reduction from 15 to 10 like has been the preferred or even 15 to 12 is not so bad, but, I am surprised at that conversation that we heard.

Spanish mackerel, my understanding has been supposedly the poster child of the recovery of the fishery, and it seems like when you tell the public that they have finally been able to go out and they can catch 15 fish per person and now we are going to reduce it and we are reducing it supposedly on information that we can't even agree is right; and anecdotally and everybody, it seems to me like you are doing something not correct.

MR. GAY: Bill, I tend to agree with you; however, we have heard over the years a lot of people that thought that 15 were too many. And a lot that have the mentality that you do, catch all that you can, that 15 is not too many. I think with the new guidelines that the council has to go by, I think this is a good compromise, I really do. It is a middle ground that I think everybody can live with.

MR. WICKERS: What I was going to say is the reason that I pushed the kingfish hard was because they only have one way to go. They could only go from two to one. At least we are talking about a 15 bag limit.

MR. PELOSI: Okay, we have a few other items we have to get through, and why don't we go ahead and call the question on it. We recommend that the bag limit be changed to 12 and a boat limit of 60 for Spanish mackerel. **All those in favor, 8, unanimous.** Okay, let's move on.

MR. WAUGH: Mr. Chairman, we need to come back to the accountability measures. We did not deal with the overages. If there is an overage, do we deduct it regardless of stock status or do we only deduct it if it is overfished. We addressed that for king mackerel and you approved Subalternatives 3B and 4B for king mackerel. This is on Page S-28 dealing with how you do a payback if there is an overage.

MR. PELOSI: Okay, Bill, you have a motion?

MR. WICKERS: I'll move Subalternative 3B and 4B, isn't that consistent with Jodie's earlier thing?

MR. PELOSI: Okay, is there a second? Jodie seconds it. Do we need discussion; I don't think so. All those in favor, 7 in favor and 1 opposed.

MR. HARTIG: Before you move on, Bob, there is one question that fishermen have posed to me about Spanish trip limits, Gregg. What is going to happen when the quota is caught and we still have this 500 pound allowance? I mean, is that adjusted so that we can still continue to catch that based on the current quota?

It says adjusted allocation in the verbiage in the trip limits. This fishery is probably going to close. This year we hit the 1,500 pound mark again so we had to step down. We are a lot closer than we have been. We are concerned if will we still be able to do this, to have the 500 pounds after the quota is caught?

MR. WAUGH: The intent here is not to change anything that is in place. I remember some discussion about – Steve Branstetter raised this and I can't recall what the gist of that discussion was, whether this is something that it hadn't been triggered in a while and has sort of been forgotten, but I will check on that before our council meeting and see. The intent here is to keep that in place, and all we are doing is changing the number at the top and so the recreational and commercial portions of the TAC or the ACL would change, but none of the commercial regulations would change. I will follow up on that.

MR. PELOSI: So what that means is the season would not close, it would just drop down to 500 until the remainder – you are still under the maximum.

MR. WAUGH: What was supposed to happen is a portion is supposed to come off of the top of the commercial ACL to account for this so that at the end you are not exceeding the commercial

ACL. I just need to check and see if that is still being done and certainly that the current management measures that are in place would specify that be done. We are not trying to change that. I just have to see – you triggered something and I'm not sure where we stand right now within how the quota is calculated.

MR. HARTIG: One of the other things that is concerning to most of us is the difference in the way the fish are harvested during the season. Initially it is a gill net fishery that pretty much ends – when the fish move back inshore there is a little bit of gill netting that happens throughout the season, but not much. If we see the balance of power changing substantially, could we do a framework to set these different gear levels at some certain level of the quota, have an X amount for the gill net fishery, X amount for the hook-and-line fishery. Is that something we could do under framework?

MR. WAUGH: No, the framework that we are adopting, the base framework doesn't allow allocations to be changed, and I'm pretty sure the existing framework doesn't, because when we changed that allocation before I thought we had to do it through a plan amendment, but I will take a quick look.

MR. PELOSI: So you were just asking if he would check on that to clarify it. Do you have an answer or not?

MR. WAUGH: Well, the previous one allowed us to reallocate a portion of Spanish mackerel because we set that up ahead of time where we could reallocate a portion of Spanish mackerel, reallocate a portion of the recreational, commercial split, not within gears. So that brings us now to cobia. We are on Page S-32.

The first item deals with the ABC – and this is one place where the Gulf council will be addressing this next week. Previously the South Atlantic Council's preferred was to set the ABC equal to 75 percent of the OFL. That has since changed and the Gulf will in all likelihood adopt our preferred of Alternative 5, which is to use the Gulf councils ABC control rule as an interim control rule; establish an ABC equal to the mean plus 1.5 standard deviations of the most recent ten years' landings and this would give an ABC value of 1,571,399 pounds.

The SSC has reviewed this. They say their agreed-upon methodology yields a value that is very close to this and so their guidance to the council is that it is okay to use this as an interim. We are going to have a stock assessment in the next two years and we will get a real value out of that.

MR. OGLE: Excuse me, a motion for what, for a bag limit?

MR. WAUGH: It is to adopt the ABC here on the bottom of Page S-32, the South Atlantic Council's Preferred Alternative 5. That is what the council's preferred is, is to specify an interim control rule and the ABC of 1,571,399 pounds.

(Off-the-record discussion and motion made off the record.)

MR. WAUGH: 8, it was unanimous, too.

MR. PELOSI: Motion 21 was approved unanimously.

MR. WAUGH: The next action deals with the allocations. This is Action 19.4 at the top of Page S-35. The council's preferred alternative is Alternative 3, which balances 50 percent of the allocation based on the average from 2000-2008 and half on 2006-2008. That allocation is 8 percent commercial and 92 percent recreational.

MR. WICKERS: I move for Preferred Alternative 3.

MR. PELOSI: Okay, there has been a motion made on Preferred Alternative 3, is there a second?

MR. HOLDER: Second.

MR. PELOSI: Second by Ed Holder. Any discussion?

MR. GAY: Yes, I am just unclear why the allocation issue is being discussed on this one. I mean you have the same regulations for both. The commercial is under a bag limit also and I don't know that it is important to do this. I don't know that I oppose it either.

MR. WAUGH: The reason we are doing it is you have to ensure that the total ACL is not exceeded. We have two different mechanisms for tracking landings. Commercial is under the quota and the recreational is done separately. The question is do you want to manage this under one ACL and let both commercial and recreational landings count towards the total ACL or do you want to divide it and track each one separately, and that is what the council has decided to do, just like we do for king and Spanish, is divide it and manage each one separately.

MR. PELOSI: Everyone understand that? Okay, let's go ahead and vote. All those in favor of the motion.

MALE VOICE: What is the motion?

MR. WAUGH: It is Preferred Alternative 3, which would set the allocation at 8 percent commercial and 92 percent recreational.

MR. PELOSI: Okay, we'll go ahead and vote on it. **All those in favor, we have 4 for it, 3 against.**

MALE VOICE: I was for it.

MR. PELOSI: We didn't count you, okay the motion passes. Could I just ask why you were against it; was it the low percentage of commercial landings?

MR. ADAMS: Yes, on the allocation issue and once you start setting allocations it is difficult to change them. Basically it is just the principle, the principle of the idea of the allocation issue that we may possibly need more later on in the future and 8 percent may be sufficient, but that is the only reason I voted against it.

MR. PELOSI: The way they came up with this was historical averages; is that correct?

MR. WAUGH: Yes, it was balanced; half of it was based on the historical from 2000-2008 and half of it on the recent years, which is 2006-2008.

MR. BRAME: I just want to mention that I think the way we set this allocation is inappropriate, and we should be looking at much different pieces of information to set allocations rather than just past catch history. In fact, we should be looking at what we want the fishery to look like in the future versus what it has been in the past. I just wanted to make that comment.

MR. GAY: I guess my opposition to it goes back to my council days when I lost a vote when we went to a bag limit for the commercial side. I think the commercial side was somewhat unfairly restrained on this. Otherwise, the allocation I think would look much differently than it does now. Instead of going with a trip limit for cobia on the commercial side, we went with the bag limit; and I don't know, it never has sat well with me, I guess.

MR. PELOSI: Well, I can understand that because in your area they go on multiday trips and down in our area I don't think it is quite as big a factor as it is for a multiday fisherman.

MR. GAY: We have got 14-day snapper boats with three people on board stay gone for two weeks and they can bring six cobia back.

MR. PELOSI: Well, the motion is passed. What do we want to next?

MR. WAUGH: Next is Action 19-5 on the top of Page S-36. This deals with the annual catch limit. The preferred alternative is to set the ACL equal to OY, equal to the ABC, and the current number is shown here of 1,571,399 pounds.

MR. PELOSI: Okay, do we have any motions or any discussions?

MR. HOUCK: I'd like to make a motion Preferred Alternative 2. I think that is a pretty good analysis of what the council has come up with.

MR. HOLDER: I second that.

MR. PELOSI: Second by Ed Holder. **All those in favor; it is unanimous.** Now we go to annual catch target.

MR. WAUGH: Correct, top of page S-37. Again we are not setting it on the commercial side because we will track the commercial quota. The commercial quota is 125,712 pounds.

MR. PELOSI: Okay, any motions there?

MR. ADAMS: I'll make a motion for Preferred Alternative N number 1 on Action 19-6 there.

MR. HOUCK: I'll second it.

MR. PELOSI: Second by Ronnie Houck. Any questions? **All those in favor, it is at the top of page S-37, Preferred Alternative 1.**

MR. BRAME: This is for the commercial sector.

MR. PELOSI: Yes, on the commercial sector only.

MR. BRAME: I'm fine with that.

MR. PELOSI: You're for it; okay, we are unanimous on that. It is passed.

MR. WAUGH: Next is 19-6B the recreational, and again the council's preferred alternative is shown there to use the PSE. We are using the three-year average, which is 16.3 and so the recreational ACT would be 1,199,920 pounds.

MR. BRAME: I'll make that motion.

MR. PELOSI: Preferred Alternative 4 is the motion made by Dick Brame. Is there a second?

MR. BRAME: That is consistent with how we set the king and the Spanish using the PSE?

MR. PELOSI: Yes. Okay, is there a second to that? Can I go ahead and second that?

MR. WAUGH: Yes.

MR. PELOSI: Okay, I will go ahead and second that. Is there any discussion? Okay, we will call the question.

MR. GAY: I was just wondering how the council came with this preferred. I don't think we had much discussion on that.

MR. WAUGH: Well, for all the species the council is using this formula because it uses the PSE, which is a measure of the variability from the recreational data. You can see these numbers are higher for cobia. What that reflects is MRFSS is not picking up cobia intercepts as much. It is a more rare catch, and so there is more variability around the catch estimate. Again, what we are doing is reducing the recreational target by this 16.3 percent. Again, you are going to set your management there, fluctuate around that so that you do not exceed the recreational ACL.

MR. PELOSI: The motion is Preferred Alternative 4. **All those in favor, unanimously it passes.** What do we got next, accountability.

MR. WAUGH: Next are accountability measures on Page S-39. You remember that you approved a motion on how to calculate that. That is carried over and we need your guidance on two things here, whether to adjust the season or the bag limit. Well, here the council has just said that they are going to adjust the season because the bag limit is so low. We need your opinion on that; and then if there is an overage, how do you calculate it? Again, previous actions, you have done 4B 5B.

MR. GAY: I'd move that we do Subalternative 4B and 5B.

MR WICKERS: I second.

MR. PELOSI: Okay, does that address the season?

MR. WAUGH: We need to deal with that separately.

MR. PELOSI: Okay, that was seconded; someone seconded that?

MR. WAUGH: Bill seconded.

MR. PELOSI: I don't think we really need to discuss that either unless someone has a question. **All those in favor; opposed. The motion carries with 7 in favor and 1 opposed.** Now we have to deal with the –

MR. WAUGH: What about Preferred Alternative 3 there, because what that says is that the council is going to adjust the season. For commercial we track it and close it, all purchase and sale is prohibited when the quota is met or projected to be met. On the recreational side if the ACL is exceeded, publish a notice to reduce the length of the following fishing season.

MR. BRAME: Gregg, explain again why they started with 2011, why we can't use a running average starting now, 2009, '10, '11 and then '10, '11, '12.

MR. WAUGH: I don't know. I think the expectation was we are looking – well, you are looking ahead to see what is going to happen. What you want to do is you want your best estimate of what fishermen are going to catch in the next fishing year, so what is your best estimate of that, and let's talk cobia.

The catches have been increasing and so what would be a best estimate of what they are going to catch in 2012; would it be 2011 or would it be the average of 2011, '10 and '09? I think for cobia the better estimate would be 2011 rather than averaging and going back and picking up those earlier years.

MR. BRAME: Then why in 2012 do we use '11 and '12?

MR. WAUGH: I'll have to go back and see how we lay out the rationale for this. I'm sorry, I just can't remember. What we have here is the same accountability measure we have been talking about, but the council is not looking at adjusting the bag limit. They are only looking at adjusting the season length, because the bag limit right now is two.

MR. PELOSI: While we are still on that, we have got to have a motion there.

MR. BRAME: For the sake of an argument, I'll make a motion for Preferred Alternative 3 for setting accountability measures.

MR. WAUGH: That closes it on the commercial like we have done for every other species and on the recreational we would adjust the length of the season.

MR. BRAME: The following year.

MR. WAUGH: Yes, the following year.

MR. GAY: I'll second.

MR. PELOSI: Okay, all those in favor. Jodie, you seconded it so I presume you are for it, Bill, are you for it? It is unanimous then and that is the way we will manage that.

MR. WAUGH: Okay, the final item on cobia deals with the management measures and this is on S-41. If you compare the recreational ACT of 1,199,920 pounds, that has been exceeded in six of the last ten years based on the data in Table 4.19.3.11. The overages have been slight since 2003. So the question becomes how do you want to handle the potential for exceeding that ACL? Do you want to adjust the bag limit or not. Right now it is close, so right now the council's preferred alternative is that we not change the regulations, so there would be a two-fish limit for everybody.

MR. PELOSI: Okay, but if they became overfished, the bag limit could be reduced. Question, Tom?

MR. OGLE: Well, I would like to move that the bag limit be reduced from two cobia to one.

MR. PELOSI: Is there a second on that?

MR. HOLDER: Second.

MR. PELOSI: Got a second by Ed Holder; any discussion?

MALE VOICE: That is recreational and commercial you are talking about, I believe. Is that just recreational or is that recreational and commercial limited to one.

MALE VOICE: It looks like it is both.

MALE VOICE: Recreational I would suggest one and commercial two. I don't think we need to change.

MR. PELOSI: That is not the motion right now.

MALE VOICE: Yes, you're right.

MR. OGLE: How do we distinguish commercial caught compared to recreational caught? Do they have a land and sell license for cobia? Is that part of the CMP license?

MR. WAUGH: There is not a permit requirement right now but for –

MR. OGLE: Cobia.

MR. WAUGH: Correct. We talked about that in the – is it Amendment 19 where we are looking at the sale issue, we are looking at requiring a permit? If someone is selling their fish they need to be consistent with state regulations.

MR. OGLE: With what?

MR. WAUGH: With state regulations for selling their catch.

MR. GAY: And I believe all the states do require a license to sell.

MR. OGLE: If they only require land and sell license, anybody can get one. What I am worried about is cobia are hit very hard in our Port Royal Sound and I am thinking of our genetically isolated small population. They are hammered at the time when they are spawning and this is – there are 15, 20, 50 boats out there on any given weekend in a small area and people do catch two apiece and more than that, and hopefully release them; and they do sell them.

So I am trying – where I am coming from is trying to prevent those folks from being able to do that. It is not very fair to extend that up and down the coast, I don't think, but I don't know any other way to do it unless we can identify the special group as a DPS.

MR. PELOSI: I thought we were going to try to do that. Dick has something to say here.

MR. BRAME: There is the Alternative 6, which would reduce the recreational bag from two to one during the spawning season. That would be coastwide; and if we did that, I would like to see it commercially and recreationally during the spawning season go from two to one if you felt that necessary because that gets you around just going from two to one year round for everybody. The problem certainly is the spawning aggregation; so that is just a comment if you would like to amend your motion or change it.

MR. OGLE: What were the dates you are thinking of?

MR. BRAME: April, May and June; that is the discussion at the council meeting.

MR. PELOSI: And that is what the scientists said seemed to be –

MR. OGLE: That would work for us. I move that we reduce the bag limit from two to one cobia during the spawning season April 1 through June 30th.

MR. PELOSI: Okay, and does that apply to both commercial and to recreational?

MR. OGLE: Yes.

MR. PELOSI: Is there a second to that?

MR. BRAME: I'll second it.

MR. PELOSI: Second by Dick. Any more discussion?

MR. HOLDER: South Carolina Department of Natural Resources, they support that from – and let's say I am just voicing an opinion from them. I am not filling in for any DNR people but South Carolina would be pleased with that.

MR. PELOSI: Would be pleased with that as they go along with the federal regulations.

MR. HOLDER: That is correct, we have discussed that and that would be good.

MR. GAY: I will oppose this on several levels, I guess. I have no problem; we have designated those South Carolina inshore fish. We've recognized them as a separate stock, and I think we have opened the door for management specific to those fish. I don't see extending it coastwide. I don't see it; I don't think it is fair; I don't think it is necessary.

Again, I would state my opposition and not have any allowance for multi-day boats, for multi-trip boats. I mean this would lower – for three months out of the year it would lower those commercial guys to three per boat for two weeks of fishing.

MR. ADAMS: My question would be on the allocation issue, going back to it to try to remedy this situation, Gregg, does it look like there might possibly be separate quotas for commercial and recreational on cobia in the future?

MR. WAUGH: This amendment as it is structured now would set up a recreational and commercial allocation. The commercial quota would be 125,712 pounds. If you compare that to the landings over the last ten years, it hasn't been exceeded.

MR. ADAMS: Okay, then what I would suggest is there any possibility that if there is the reduction from two fish to one on the recreational sector, that it would not affect what fish are landed on the commercial quota?

MR. WAUGH: I think your intent is then to have that apply just to the recreational fishermen and not commercial. You can certainly do that. The difficulty is going to come in is we have no way of separating the two right now. A recreational fisherman can get a land and sell license in a state. We don't have a permit requirement for cobia.

MR. ADAMS: I understand the conservation measure involved in it, and I agree with it a hundred percent. It probably is not best for us to take them as well as a spawning aggregate of fish, but looking at what we are looking at as far as the recreational limit being our landing limit as well with two fish, I think that some people would probably have concern with that, particularly knowing that we are going to get a separate quota. I would assume that there would be a push for maybe a few more fish than just the two per day per vessel with a commercial harvest. But if it comes to be April, May and June closure, so be it, and I can understand that as well.

MR. HOUCK: I'm looking at this April through June. That is the prime of our season for cobia. If we do go into a split 82/8; is that what the split would be, that is not giving the commercial a whole lot of leeway there. I could go along with this motion if it was recreational one fish, but I'm not in agreement with this motion of commercial and recreational one fish.

MR. WICKERS: The problem I am having is that the motion basically is trying to alleviate a state problem and impose something all the way from New York all the way around to Texas, basically – well, just the Atlantic side for this, I guess. The state of Florida has a one-fish bag limit already in their jurisdiction. I don't understand why Carolina can't do the same thing. Why do you need the feds to tell you what is good in your Sound?

MR. HOLDER: What South Carolina does is we follow the feds when that fish is under their jurisdiction, and we follow them.

MR. PELOSI: But couldn't they have an exception to that?

MR. HOLDER: We try not to because then it presents too many problems.

MR. PELOSI: But you have a special situation. I don't like the word problem; I think it is a situation.

MR. WICKERS: Well, whatever it is, I'm just saying it just seems like that this is something that the state should act on right away. Especially since the information has just come out, it seems like that would give the state –

MR. HOLDER: In the state of South Carolina any bill or any presentation like this has to go to the legislature through the Department of Marine Resources and it is just like moving a mountain, so we follow the federal guidelines for any fish that are controlled by the feds.

MR. PELOSI: Gregg, could the council have a special management area in these estuarine situations?

MR. WAUGH: I think it would be hard for the council to develop a separate bag limit that would apply in one state's waters or any state's waters; but what we could do and have done it for king mackerel is we could have a differential bag limit in South Carolina versus the other states.

We do that for king mackerel, there is a lower bag limit in Florida than there is for the rest of the area. That is another approach, but I think part of the rationale here is targeting the spawning season, and that is the peak of everybody's season because it is when they are spawning.

MR. OGLE: Let me say that commercial guys in our area and in Port Royal Sound that we have been talking about with these special fish, there are commercial guys in there catching just as heavily if not more heavily than what we would call recreational fishing. If we exclude commercial guys from selling their fish, it isn't going to help very much.

What I was wondering is would it be possible, Gregg, for me to make a motion to restrict the bag limit within Beaufort County and offshore Beaufort County and present that to the council; and if it doesn't fly, it doesn't fly, but at least it gets the foot in the door, and its rationale is backed up by what we propose as a distinct population segment. Maybe over time we can get some corrective measures.

MR. WAUGH: Again, I don't see where – you could make that motion and present it to the council, but I don't see where we would have the authority to do that. But again this applies to the whole region and you can get closer to what you want to do by having this apply in South Carolina. That is another way of achieving that. But, no, I don't see how we could put in a regulation that would limit what fish are landed in a county.

MR. OGLE: Well, what I am thinking is you wouldn't pass it, but perhaps you could designate – the council could recognize this group as a distinct population segment and then we could go back to our legislators and have this motion that comes from the council or this agreement from the council that these are really different fish and they are genetically isolated and there is some reason to tailor their regulation in a different way from offshore fish, I am thinking it would give us credibility that is what I am asking.

MR. PELOSI: Okay, we could do that, right?

MR. BRAME: The council set this up when they first did the cobia fishery, two for everybody, in terms of fairness. I think if you reduce one we ought to reduce the other. The reason I think the spawning season going for one for both people is the data that you have is only through 2008. I haven't looked at the commercial data but I would be surprised if it is not similar to the recreational data, simply because they have the same bag limit.

The highest landings in the time series is 2010 and it is twice what it is any other time, so cobia have thrown a year class, so we are in a situation where you probably have a tremendous abundance out there. But given this new law and the ACL we are going to go past our ACL bases on this information, which is based on past landings.

I think anything we can do to try to mitigate landings in the coming year or so will make the pain a lot less than if we leave it alone. That is why I would be for reducing both of them at least during the spawning season, which for all intent and purposes is for the fishery. I mean, that is when the fishery occurs is during that time. That is my concern. I really believe that the landings – you will be shocked at what the landings are and what they will likely be again this year. I am just trying – I think it is a conservation measure we need to address.

MALE VOICE: I agree with that, Dick, I think you hit it pretty much on the head. We don't want to take away from the commercial side the two fish; it is just that we need to protect these fish during a specific time and that is the spawning season where they are getting hammered. Then if that would appease the commercial side, I know we are going to have some people raising Cain about going to one fish, because they historically think they ought to take as many as they can, but we need to change that mindset. This is a good way to get that started without killing you guys because you get two and we could keep that other than the spawning period.

MR. WAUGH: This table is from the amendment, the thick document you all have. It is figure 4-21-11. This gets right at the point Dick is making. This is showing over time the bottom line is the commercial – and this is total Atlantic from New York through the Atlantic side of the Keys – this line here is the old ABC, this is the new ABC, which is our ACL. This is the overfishing limit and these are prior catches.

Again, that is commercial, that is the recreational, the squares. The triangles are the total, so we have 2010 recreational. 2010 recreational is up around 1.9 million above the overfishing level, above the ABC. Dick is exactly correct. This is 2010, so what is going to happen in 2011? Everybody is saying they are still seeing lots of cobia. If you don't do something to start curbing this harvest, we are going to, as Dick said, blow right past it. Then you have got your paybacks.

MR. PELOSI: Okay, Ronnie had something to say and then I want to say something.

MR. HOUCK: Well, I don't know how we can resolve this, but why not a line, say, Port Royal Sound, St. Helena Sound, a line, say anything north of that one fish? I don't know, I am just coming up with some ideas here. Maybe that is one way of getting through this here, I don't know.

MR. PELOSI: I really agree with the chart that is on the table and what Dick said and recreationally cobia fishing is really exploding in Florida. We are already over. We probably do need to cut it down and by cutting down the recreational catch from two to one, it would solve what you want to do and it would leave the commercial at two fish, which as you see has not made a big increase.

MR. WAUGH: We don't have the 2010 data for commercial yet.

MR. OGLE: But we don't know who the commercial fishermen are.

MR. WAUGH: And we don't have the commercial landings for 2010; this is just recreational. If you look back through time, the commercial has trended along relatively low. The question is where is 2010 going to be?

MR. OGLE: I can tell you our guides in Port Royal Sound are selling everything they catch, and so the one fish limit wouldn't help us a bit.

MR. GAY: I would expect the commercial outside of your area to have not changed.

MR. OGLE: I would agree with that.

MR. GAY: I would expect it to be pretty much where it has been. You can't really increase effort. If anything, it is going down outside of your area.

MR. OGLE: That is probably right.

MR. WICKERS: I have always been a big person when it comes to closures during spawning seasons, and as much as I would like to not see this do for the entire area, I like the idea of spawning closures; I always have, to protect them. So I probably, reluctantly, may support this. But the problem I am having with it is that it seems like we are trying to solve something that is in a tiny little area. That is where I am having the problem.

MR. PELOSI: Apparently there is a lot of conflict here and we can either do two things here. We can either vote for this or maybe we can ask Tom to withdraw it and then maybe we will try another motion that may tailor the needs to your situation.

MR. OGLE: That would be fine, whichever. Want me to withdraw it?

MR. PELOSI: Why don't you withdraw it for now, you can always come back with it.

MR. OGLE: **I withdraw it.**

MR. PELOSI: You'll withdraw it?

MR. OGLE: I'll withdraw it. The second amendment would be to restrict the bag limit of cobia from two fish to one fish per day within South Carolina.

MR. PELOSI: Let's think regionally.

MR. PELOSI: Why don't you try a motion? Okay, since the recreational fishery is just going wild and that needs to be restricted, why don't we try a motion of reducing the bag limit of recreational to one fish but we would leave the commercial limit at two fish presently; would that solve your problem there?

MR. OGLE: Who are the recreational fishermen – who are the commercial fishermen?

MR. PELOSI: Okay, I see there what you mean.

MR. OGLE: They are all in there with both feet in Port Royal Sound, aren't they Dr. Denson?

MR. GAY: I think at least to get my support that is why this needs a line somewhere drawn in it; because you have got a very specific situation that is just not happening outside of your area.

MR. OGLE: We have got one kingfish in the Florida waters, so maybe we can do this in South Carolina waters.

MR. PELOSI: But you also said that you thought if we just made a strong point to the council that these fish are different and need special protection and maybe the council would agree to that, you could get a state regulation through. That would be one way of doing it.

MR. WAUGH: We are talking two things here. One is we have evidence presented that there is a subpopulation in South Carolina in these two Sounds. The bulk of the harvest in that area is during the spawning season. A lot of the harvest in other areas is during the spawning season as well, so you have got an issue of do you want to do something; one, to protect this subpopulation; two, to protect these fish while they are spawning.

That is the biological issue; that is one issue. The second issue, which this chart shows is if you don't do something to limit your catches – the commercial is taken care of because once they hit that allocation or once that poundage of fish is sold, then there will be no more sale. But if you don't do something to curb the recreational harvest, you are going to have a huge overage and that is going to come off of your subsequent year's catch.

That is a regional issue. That is not just a southern South Carolina issue. So depending on how you deal with this other issue, you need to figure out what you want to do to this before that huge overage hits.

MR. OGLE: Well, isn't the Key identifying who a commercial fisherman is? If they have to have a CMP permit that includes cobia, then that would do it.

MR. WAUGH: You could recommend that, that we require a permit. That hasn't been included thus far. We are going out to public hearings starting Monday. I don't know what our legal guidance would be on whether we could add an alternative like that at this stage for this amendment. It is being considered for Amendment 19.

MR. PELOSI: Requiring a permit, now we had discussed yesterday, and it was just discussion that it should be under either the Spanish mackerel or the kingfish permit. The Spanish mackerel permit leaves it open access presently. You can go out and get one, so that wouldn't solve your problem. These people could just go out and get a Spanish mackerel permit. It still comes back to trying to make the council aware this is a special problem and they can perhaps lean on your –

MR. OGLE: I don't know if that would really solve the problem because –

MR. PELOSI: We do have to do something about the rest of this and I feel we do really need to reduce the recreational bag limit to one.

MR. WICKERS: Is there a motion on the floor now?

MR. PELOSI: No, he just withdrew that.

MR. WICKERS: I would like to make a motion that we go with the Preferred Alternative 1 and then because we are running out of time and go with the council's recommendation at this point and then come up with a second resolution maybe to try to solve that problem.

MR. ADAMS: I'll second Bill's motion.

MR. PELOSI: Okay, that would keep it at two fish per bag limit for both recreational and commercial and we will probably exceed that.

MR. BRAME: I am opposed to that.

MR. PELOSI: I am, too.

MR. GAY: I am going to support the motion just because I view it as a healthy fishery and I just can't see cutting it back. I realize there probably will be consequences from that.

MR. PELOSI: Tim Adams seconded that motion. Let's vote on that Preferred Alternative Number 1, which will allow two fish per day. **That is 4 for it and those opposed. Well, it is 4 to 4.**

MR. WICKERS: I guess we are not going home early.

MR. PELOSI: Gregg says I can make a motion. I'll make a motion that we reduce the recreational bag limit from two to one and keep the commercial bag limit at two fish per person.

MR. HOUCK: I'll second it.

MR. PELOSI: Second by Ronnie Houck. Let's see how that goes. All those in favor – essentially that would be keeping the regulation as it is and then I would expect to put in a special resolution addressing the other fish. we have 3 in favor.

MR. OGLE: Wait a minute, aren't we right back to ground zero; what makes a commercial fisherman in selling cobia?

MR. GAY: Outside of your state that license is not that easy to get, Tom. That is why, in North Carolina they are restricted. I know Florida they are.

MR. PELOSI: Yes, you have got to have restricted species to sell them in Florida. It is tougher to get.

MR. GAY: You still have got that special situation, man.

MR. OGLE: Well that won't help us.

MR. PELOSI: But it would help the rest of the recreational fishermen. I think it would prevent the overfishing.

MR. OGLE: Let's see where this goes. If we need another motion, I would like to my original one back up.

MR. PELOSI: Okay, that one didn't pass.

MR. WAUGH: We didn't vote on it.

MR. PELOSI: We didn't. Okay, reduce the limit two to one, keep the commercial two – **okay, let us call the question on that. All those in favor of that, 3 in favor; opposed, that fails.**

MR. OGLE: Do you have that there?

(Off-the-record discussion)

MR. PELOSI: That would cut down the recreational catch so it would do the same thing as lowering the bag limit through the part of the year when most of the catches are made, I think. I could live with that.

MR. OGLE: When most of the catches are made and also during the spawning season, but then it would revert back to two fish per day after that. And for commercial guys who are mostly way offshore catching them anyway, I don't think it would – would it impact you guys so much?

MALE VOICE: Possibly April, May and June, sure we – basically the cobia fishery that we have is an incidental catch. It occurs during the king mackerel fishery.

MR. PELOSI: Also it is not a spawning aggregation.

MR. OGLE: Right, you mean offshore, right, but the kings are still around all July and August and September as well.

MR. HOUCK: I still can't support this motion, 92/8, I don't see where the commercial has that big of a factor in this. I know we don't know who the commercial guys are, but we do in the state of Florida; and where Jodie is from there, we do. It sounds like you have got a problem identifying who your commercial and who your recreational in state waters is up there.

MR. OGLE: But you know as Gregg was saying, it is not just that though because the catch has been going up and up and up and that something is going to have to be done to control that some. That was the suggestion that he had made. Why don't we take a vote and see where we are. But it is still a three-month change instead of an annual change. Gregg knows these discussions and maybe you can relate them for the full council.

MR. WAUGH: I'd suggest you vote on this and see where you end up, and certainly you developed the record of what the concerns are and we are kind of running out of time. I don't think you are going to resolve this, depending on the outcome here, and this is the last piece of business we had for you.

MR. PELOSI: This is a recommendation—

MR. OGLE: Yes, it is a recommendation.

MR. PELOSI: Okay, let's go ahead and vote on that.

(Off-the-record discussion and resolution or motion made off the record.)

MR. WAUGH: Yes, I will.

MR. PELOSI: You can bring this to the attention of your DNR or whatever it is and hopefully you can get a state regulation that will leave us free to manage them in the federal zone.

MR. OGLE: I think we can go a long way if the main council does recognize this as a distinct population segment. That will give us some ammunition.

MR. PELOSI: Do we need to make a resolution there?

MR. WAUGH: We already did. As you all look at these documents some more, if you have more suggestions or comments, e-mail them. The comment period is on the back of the public hearing summary. For this one in particular we will make sure the council is aware of the issues and the problems that arise from now having a commercial permit for cobia.

MR. GEIGER: Mr. Chairman, I would like to take the opportunity on behalf of the council to thank everybody on this AP for their participation. I have been mackerel chairman for nine years and I have always been impressed with the depth of thought and the considerations that you guys give to each one of these issues.

As I depart here – and I am getting off the council; this is my last term and close to my last meeting – I just want to tell you that the council may not take every one of your recommendations and apply them, but they certainly give every one of your recommendations due consideration.

Sometimes we just can't do what the AP recommends, but it is always considered, always discussed and we place a lot of value in your recommendations, so thank you again for taking the time to participate in this process.

MR. PELOSI: I want to thank everybody for coming to the meetings and participating.

MR. HOUCK: Before we leave here, we on the southeast coast have a problem with our gill net fishery. We are allowed two gill nets on the boat and a lot of times when that 3,500 pound limit, some of the guys get over their limit and they have to give those fish away. You are not allowed to have but two strings of net on a boat.

So what do they do; they give them away but they are in violation. I'd like to make that recommendation to the council that we have a problem with the gill net fishery that we just have a serious problem. The guys can't give their fish away unless they are in violation. That is a recommendation to the council, Spanish mackerel.

You know when they run that gear over, at any time they could get five or six thousand. What do they do with the fish? I just want to make that recommendation. There are a couple of others, two-for-one permits, we have got a serious problem with our mackerel fishery down there. A lot of new boats are getting into the fishery.

I know this has been put on a floor, but we need to really get the council working on this because it is getting tough down there. I am a good fisherman. I never had to fish in 20 mile an hour winds and now I am having to fish in 20 mile an hour winds to get a price for my fish. In two days the markets are glutted and we are not getting the prices for our fish. It is just out of hand with boats. That is another recommendation.

MR. WAUGH: That is to put in some limits on participation in the Spanish mackerel?

MR. HOUCK: Two-for-one permits, and then a cap on it after it gets down so far, a certain number of permits and just put a cap on it where it doesn't dissolve. Another thing is a lot of the king fishermen down there asked me – I know that it affects the Gulf group king mackerel, the numbers aren't there, but they have asked me to ask the advisory panel to recommend to the council that changing the Atlantic stock from April 1st to March 1st would help a lot during lent and would help them financially. Closing us for a month and a half is quite a long time. But those are three recommendations the fishermen asked me to bring to you, to the advisory panel.

MR. WAUGH: That was changing the start of the Atlantic season to March 1 rather than April.

MR. HOUCK: Yes, March 1st.

MR. PELOSI: You will put those on.

MR. WAUGH: Yes.

MR. PELOSI: Maybe they will be on the agenda next time. Is there any other business? Okay, then I will go ahead and adjourn the meeting.

(Whereupon, the meeting was adjourned on April 7, 2011.)

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David M. Cupka, Chairman
Brian Chevront, Vice Chairman

Robert K. Mahood, Executive Director
Gregg T. Waugh, Deputy Executive Director

REVISED AGENDA

Mackerel Advisory Panel Meeting

Crowne Plaza Hotel
4831 Tanger Outlet Boulevard
North Charleston, SC

Wednesday, April 6, 2011 – 1:00 PM to 5:00 PM & Thursday, April 7 – 8:30 AM to NOON

1. Approval of Agenda – Robert Pelosi, Chair
2. Introductions – each person introduce themselves
3. Presentations
 - a. Cobia Research in SC & Beyond (**Attachment 1**) – Dr. Michael Denson, SCDNR
 - b. Overview of Amendment 18 (**Attachment 2**) – Gregg Waugh
4. Draft Mackerel Amendment 18 (ACLs & AMs)
 - a. Questions/Clarifications – Gregg Waugh
 - b. Advisory Panel Discussion & Recommendations – Robert Pelosi, Chair
5. Amendment 19 (Bag Limit Sales) Discussion Paper
 - a. Overview (**Attachment 3**) – Gregg Waugh
 - b. Advisory Panel Discussion & Recommendations – Robert Pelosi, Chair
6. Other Business – Robert Pelosi, Chair
7. Adjourn – Robert Pelosi, Chair

Attachments:

Attachment 1. Cobia Research in SC & Beyond

Attachment 2. Draft Amendment 18 (ACLs & AMs)

Attachment 3. Amendment 19 (Bag Limit Sales) Discussion Paper

DATE:	<u>3/25/2011</u>
FISHERY:	<u>Mackerel</u>
SUBJECT:	<u>Briefing Materials</u>
STAFF:	<u>Waugh</u>
SOURCE:	<u>SAFMC, GMFMC & NMFS</u>

PLEASE SIGN IN
So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

KING AND SPANISH MACKEREL AP MEETING
April 7, 2011
N. Charleston, SC 29418

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

AREA CODE &
PHONE NUMBER

NAME &
ORGANIZATION

Mike Denson SCDNR

843 532 3535

217 Edith Johnson Rd Charleston 29422

South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843-571-4366 or Toll Free 866/SAFMC-10

PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

DOLPHIN WAHOO AP MEETING
April 7, 2011
N. Charleston, SC 29418

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

AREA CODE &
PHONE NUMBER

NAME &
ORGANIZATION

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