SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

PROTECTED RESOURCES COMMITTEE

Sawgrass Marriott
Ponte Vedra Beach, Florida

June 9, 2014

SUMMARY MINUTES

Protected Resources Committee:

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Leann Bosarge
Phil Steele
Sam Rauch
Col. Bruce Buckson
Tracy Dunn
Ken Brennan
Russ Dunn
Ann Marie Lauritsen

Additional Observers Attached

The Protected Resources Committee of the South Atlantic Fishery Management Council convened in the Sawgrass Marriott, Ponte Vedra Beach, Florida, June 9, 2014, and was called to order at 5:15 o'clock p.m. by Chairman David Cupka.

MR. CUPKA: If I can get your attention, please, I would like to go ahead and convene the meeting of the Protected Resources Committee. The first order of business is approval of the agenda. Are there any additions to the agenda? Seeing none; then the agenda is approved. Next is the approval of our March 2014 Protected Resources Committee Meeting Minutes. Are there any corrections or additions to the committee meeting minutes? Seeing none; then those stand approved.

Next is the update for ongoing consultation by the Southeast Regional Office Protected Resources Division staff. You will recall in the last couple of meetings we had we got updates on two ongoing consultations; but since our March meeting NOAA Fisheries has issued a biological opinion on the southeastern shrimp fishery. Jennifer will be reporting on that. The only ongoing consultation now is the coastal migratory pelagics, I believe.

MS. LEE: Yes; that is our only ongoing consultation. I really don't have much to report on it. We haven't made a lot of progress since your last meeting due to some priorities. If you recall the main trigger was listing Atlantic sturgeon. I guess the main thing has been working on how the Atlantic sturgeon DPSs mix and trying to figure out the specifics of what ones your fishery interacts with. That has been one challenge we're working on. Really, that is about all I have to report.

MR. CUPKA: Are there any questions for Jennifer? Seeing none; then we'll move down to our next item, which is a report on the final biological opinion for the southeastern shrimp fishery.

MS. LEE: I'm here to present to you the 2014 Shrimp Opinion. This slide lists the components of a biological opinion. I'm going to walk through most of these components highlighting only the information you as council members need to know. We won't talk about the environmental baseline or the cumulative effects section; not that they are important, but just trying to keep this streamlined and short.

The consultation history; this is the first section of the biological opinion. There are really only two things that you need to know. One is our consultation history is long. We've had a long history of analyzing the adverse effects of shrimp fishing on listed species or at least sea turtles, anyway. The second thing you need to know is we reinitiated consultation because the analyses and conclusions to the 2012 opinion were based on us finalizing a proposal to require TEDs and skimmer trawls, pusher head trawls and wing nets.

On November 21, 2012, we withdrew the proposal because our observer data indicated that the sea turtles caught in TEDs were so small they would pass through the bars of legal TEDs and still be caught. As a result of that decision, we had to prepare the new biological opinion. The next section of a biological opinion is a proposed action section. This is where we describe all the components of the action that we are analyzing for its effects.

The proposed action that was subject to analysis this time was the continued implementation of the sea turtle conservation regulations, so those are our TED regulations under the Endangered

Species Act in state and federal waters of the Gulf and South Atlantic. Then we also analyzed the continued authorization of Southeast U.S. Shrimp Fisheries in Gulf and South Atlantic federal waters under the Magnuson-Stevens Act.

Please note the biological opinion does update the entire 2012 analysis; it doesn't just look at the skimmer trawl fishery. It also is looking at all of the southeast shrimp fisheries and not just ones under your jurisdiction. There is one more part of the proposed action section that I wanted to point out; that is Section 2.2.1, which is managing the effectiveness of TEDs via estimating and monitoring TED compliance and sea turtle capture rates in otter trawls.

Hopefully, you all have some familiarity with the old 2012 opinion. If you don't know what I mean by sea turtle capture rates or how it relates to TED compliance; I will review that later in the presentation. This biological opinion is part of the proposed action we're maintaining, monitoring, and ensuring compliance with TED regulations at a level that would keep overall average sea turtle capture rates and shrimp otter trawl fleet at or below 12 per cent.

This section outlines our process for reviewing TED compliance and sea turtle capture rates. These are just the listed species in the proposed action area. The species in red are the species that we determined were likely to be adversely affected. All the other species are discussed briefly in Section 3 and then nowhere else in the document.

The rest of the document we focus on the species that are likely to be adversely affected. Critical habitat; we have a bunch of critical habitat in the action area, but all designated critical habitat in the action area was determined not likely to be adversely affected. Again, the discussion of the Biological Opinion ends in Section 3.

Moving on to the effects assessment scope; this is in Section 5. I just wanted to point out again that this consultation considers the effects of NOAA Fisheries Services exemption of sea turtle takes via sea turtle conservation regulations; the existing sea turtle conservation regulations themselves and the effects they have on listed species and then federally authorized shrimp fisheries and what effects they have.

The point of this slide is just to highlight that we are not assuming responsibility for all state fishing, but we're looking really at our regulations as far as our TED regulations and what effects they have. For each listed species that is likely to be adversely affected, we generally first examine the types of interactions that occur when exposed to trawl gears.

We consider the factors affecting the likelihood of exposure and then evaluating quantified effects using the best available information. When quantifying our effects, we look at interactions, captures and mortalities. Interactions are whenever a sea turtle enters a net, whether it is released through the TED or whether it is caught is considered an interaction. Captures and mortalities are obviously quite self-explanatory. Now, getting into the Sea Turtle Analysis; again this biological opinion builds off of the 2012 opinion.

We first reviewed the effects analysis of the 2012 opinion. We then looked and summarized relevant new information since its completion and then considered how that new information might change the effects of the proposed action on listed sea turtles. New information since

completion of the 2012 opinion relevant to our otter trawl sea turtle bycatch analysis was limited to effort data and TED compliance data.

We didn't have any new CPUE data. New otter trawl analyses focused on our surrogates for sea turtle interactions and captures, which again is effort, days fished in the Gulf of Mexico, numbers of trips in the South Atlantic, otter trawl fleet sea turtle capture rates, and the relative impact of any documented changes to those parameters on the magnitude of effects.

As I said, I would mention if you are not familiar with what I'm talking about when I say sea turtle capture rates and shrimp trawls; when TEDs are constructed, installed and operate legally, only 3 percent of the sea turtles entering the nets do not escape and are captured. But when TEDs are not constructed, installed, or operated legally; sea turtle capture rates can be higher; and in severe cases completely compromised.

In estimating sea turtle capture rates, NOAA Fisheries evaluated the various types and degrees of severity of TED violations and their corresponding effects on both small and large sea turtles. Depending on whether it is something where the angle is very far off, an excessive TED angle or an excessive flap overlap; those might be cases where the violation has a major impact on the sea turtle capture rates. If it is just off a little, then it is really not that different. That is what is considered.

MR. HAYMANS: Just to make sure I understand; the rate is related to the manner of installation, whether it is properly or improperly installed; it has nothing to do with the incidence of sea turtles in the net itself. It does in that if it is properly installed, 3 percent of the turtles hang. If it is not; it is an increased value, but it doesn't have to do with the increase in the number of turtles going through the net, right?

MS. LEE: No; this is just looking at what happens when the sea turtle enters the net. It is focusing on; like I said, there is that 3 percent failure rate even if the TED is perfect. Then depending on the extent of the violations, that could go up from there. Yes; and I apologize if you all are not familiar with the background of the 2012 opinion, which you did have a presentation on; but I realize it has been some time; and that makes it a little confusing.

MR. PHILLIPS: Where are the 3 percent caught at if the TED is installed properly? I shrimped for years. Where would they catch those three out of a hundred turtles; where are they caught?

MS. LEE: I think sometimes they just don't make it through. Sometimes they get stuck before the net – I mean before the TEDs; sometimes they are right at the TED; but this is all just based on our TED testing that we do. Our Gear Management Team in the Southeast Fisheries Science Center test every year in Panama City. Actually they are testing I think next week. It is just based on those studies.

Based on the 2010 through 2012 effort data, otter trawl effort in the southeast over the past three years has generally remained below 2009 effort levels. There has been some fluctuation effort from year to year, some years less some years more, but overall we believe that we have remained below that 2009 effort level, which was our baseline. In terms of sea turtle capture rates; monitoring of otter trawl TED compliance and periodically conducting sea turtle capture

rate analyses per the terms and conditions of the opinion's ITS indicate average sea turtle capture rates in the entire southeast.

I give details here on the slide of six-month periods, because that is how we are analyzing them; but when you look at the entire dataset, we were just 1 percent higher than anticipated. Anticipating future effort to remain at or below 2009 effort levels in the long term and that the 12 percent sea turtle capture rate represents realistic estimate of a rate we can maintain; we use the same otter trawl capture and mortality methodology and calculations as we did in the May 2012 opinion.

That also means that the sea turtle capture and mortality estimates are subject to the same assumptions and sources of error as those we presented in the May 2012 opinion. Ultimately in that opinion we found there was too much uncertainty to accurately predict a specific number of each sea turtle species.

Moving on to our skimmer trawl analysis; all the new data that we had for our skimmer trawl analysis stems from Gulf of Mexico observer data. For our North Carolina analysis, we really didn't have any new data, so the 2014 opinion really is just reverting or parroting back to the status quo assessment that we had in our 2012 opinion before we looked at how TEDs would change that.

For sawfish we maintained our 2012 opinion's reliance on bycatch adjustments based on extrapolation of observer data from our Southeast Fisheries Science Center. We did update our otter trawl capture estimates to reflect a 2009 effort baseline to match the fact that we're using 2009 as our effort baseline. The 2012 opinion used an average of the two years, so here we are just making it more consistent.

We also updated our estimated mortality rate based on three more captures, but it didn't really change too much. We maintained that the TED requirements would certainly not increase the likelihood of capture or the magnitude of impacts resulting from capture. Atlantic sturgeon we really didn't make any changes to or very little changes to the 2012 opinion.

It is the same where we estimate otter trawl and tri-net captures in federal waters based on observed CPUEs extrapolated to the fleet based on federal effort. Estimated otter trawl interactions based on data demonstrating TEDs result in an 87 percent reduction of Atlantic sturgeon bycatch by number of individuals.

Gulf sturgeon; we still only have our one observed take documented in Southeast Fisheries Science Center Observer Program. We don't extrapolate that; it is just too small of a sample; but TEDs and shrimp trawl fisheries likely do benefit Gulf sturgeon by providing a route of escape when interaction events do occur. That brings us to skipping to Section 7, our jeopardy analysis.

Here we evaluate the effects of the proposed action on the likelihood of survival and recovery, but looking first at whether there is a reduction in the reproduction numbers and distribution of any species. We concluded there would be a reduction in numbers from lethal captures and associated reproduction losses for all adversely effected listed species.

We then evaluated whether any such reduction would cause an appreciable reduction and likelihood of survival and recovery. Those are just some definitions of key terms that we consider. We concluded that the proposed action is not expected to cause an appreciable reduction in the likelihood of both the survival and recovery of any listed species, so it is not likely to jeopardize.

That brings us to the ITS. Our take proxies for sea turtles; as I mentioned, this biological opinion is different in that we use a take surrogate instead of just specifying the specific numbers of interactions, captures and mortalities we anticipate. Take of sea turtles will be considered exceeded and the effects on sea turtles will be considered greater than analyzed if 2009 and/or 2010 effort levels are exceeded, which are listed on the slide; and then compliance levels are expected to result in TEDs in the fleet having a greater than 12 percent sea turtle capture rate average. Those are our triggers also for reinitiation.

Interactions, captures and mortality specified for Atlantic sturgeon and smalltooth sawfish you can see are listed there. Gulf sturgeon is a little different; take is not exempt. We don't have what is called a Section 4D Rule. Gulf sturgeons are a threatened species so take is not exempted automatically; so they are not included in the ITS.

Reasonable and prudent measures – and I apologize for all the reading off the slide, but I know we're short on time. I'm trying to keep this quick for you, so bear with me a little bit more. For sea turtles, NOAA Fisheries must monitor effort in state and federal fisheries and continue to work to better determine their effects on sea turtles.

NOAA Fisheries must monitor TED regulatory compliance to ensure that compliance is at anticipated levels; continue outreach programs to train fishermen and net shop personnel in the proper installation and use of TEDs; and continue to work with the industry on TED development and to conduct research to better understand the nature of sea turtle interactions, particularly small juvenile sea turtle interactions with shrimp trawls in inshore and nearshore waters.

Smalltooth sawfish, again conducting research to better understand the nature of the interactions and conducting outreach. The same for Atlantic sturgeon; conducting research to better understand the nature of Atlantic sturgeon interactions. Terms and conditions; the biological opinion I believe has 32 terms and conditions.

I am definitely not going to read those all to you. I encourage you to look at the biological opinion itself and skip to the back and read the incidental take statement and all the different terms and conditions. At least I think 24 of them probably relate to sea turtles. I'm going to just present the ones that focus on fishing effort and TED compliance as they are most relevant to you.

NOAA Fisheries Service must coordinate with the states to monitor shrimp fishing effort and major gear types and must use this information to determine trends in shrimp fisheries and possible effects of these trends on sea turtles. NOAA Fisheries must collect logbook data in the South Atlantic comparable to logbook data collected in the Gulf. I work with the states to collect these data.

If you are wondering where that came from; just in working on the biological opinion in the South Atlantic, the fact that we're relying on trip data and a lot more assumptions are needed to look at days fished and get a better understanding of the effort. That is really all that is about is trying to work to get a little more comparable effort.

NOAA Fisheries must increase the amount of empirical and other data it has on trawl sea turtle capture probabilities associated with TED violations that are documented by observers, gear monitoring team, and Office of law Enforcement capture probabilities. This gets at, as I mentioned, different violations we believe have different effects on the sea turtle capture rates.

Some of the data that we base those estimates on is empirical and some is expert opinion, so our gear monitoring team will be continuing to do research to try to get more empirical data and help to refine the violation capture rate matrix that we use. NOAA Fisheries must continue to monitor compliance with TED regulations using one or more of the four following elements.

That is the Southeast Fisheries Science Center Gear Monitoring Team, NMFS Office of Law Enforcement observer data and other partner agencies. Right now we are basing our sea turtle capture rates on the Office of Law Enforcement data and the Gear Monitoring Team data, but we hope down the road to try to incorporate more information.

NOAA Fisheries must use data on TED compliance to target outreach enforcement efforts and emergency rules as warranted, ranging from possible TED modification to closures of areas to shrimp fishing. This next one; NOAA Fisheries must develop a policy specifying data requirements or minimum data standards for taking various actions to address noncompliance.

What this term and conditions gets at is we're going to work on a policy to look at what specific data we would need to take any regulatory action. Our goal is to use observer data for compliance analyses. As I mentioned, right now we're using Office of Law Enforcement and Gear Monitoring Team data.

We would prefer to use our observer data, because it is based on representative sample and would avoid potential biases from using the enforcement data. Right now we are still using OLE and GMT data. But as far as this policy, we want to outline methods and standards for determining if documented lack of compliance is throughout the entire Gulf or Atlantic area, for example, or concentrated in certain portions of an area.

We've given ourselves a year to work on this policy. Conservation recommendations are just that; they are just things that we recommend we do to improve our data. For additional information, this is our website. We are really close to having our new website designed and up. We are trying to make it more user friendly; so anyone that is interested in how we're doing with our compliance data and where you can find videos on how to comply with the regulations, linking with the Southeast Fisheries Science Center's information; we want to include lists of upcoming training and outreach; all that will be on our website, and we should have that up soon. That is all I have.

DR. LANEY: Well, mostly comments. Jenny on the shortnose; I don't have any problem with the conclusions that you all reached in the BO; I just wanted to let you know if you didn't know already that the aforementioned Chip Collier has been tagging some shortnose with acoustic tags.

Chip indicated to me that at least one of those fish did move from the Cape Fear where it was originally tagged through the ocean to I think Winyah Bay.

I may be incorrect on that; but we always thought maybe they were moving through the Atlantic Intercoastal Waterway, but that one I guess was documented using passive acoustic receivers as having moved through the ocean. They do move through the ocean sometimes, but I agree with you that it is a rare event.

The other thing I want to let you know is on Page 128 of the BO; you do reference our Cooperative Winter Tagging Cruise, and I can update those numbers for you. You had the numbers I think up through 2006; and if you add everything we've caught after that, we're up to about 260 some Atlantic sturgeon captured now as opposed to the 146 that we included in that first published paper on that work.

Our numbers have gone up; but again those are winter numbers so they are not being caught in shrimp trawls. In our case they are being caught in a fishery-independent program; but I am aware that there have been some fairly significant catches of Atlantic sturgeon in I guess flounder trawls would be going on at that time of year. I think; summer flounder maybe, Michelle? I'm not sure who else is out there trawling. I think it is probably the summer flounder fleet during the wintertime. There have been some significant catches of Atlantic sturgeon out there.

MR. CUPKA: Other questions or comments? Seeing none; then we'll move to our next agenda item, which is a report on the final determination for coral listings. You may recall that in late 2012 the National Marine Fisheries Service issued a proposal to list 82 species of coral species as either threatened or endangered.

Seven of those species are found in our area of jurisdiction. They also were proposing to relist two acropora species from threatened to endangered; and ten they gave a six-month extension in 2013 to try and get some additional data to assist in looking at that. The date it was due; they were due to issue the final determination was this past Saturday, June 7 of this year.

My understanding is that it is going to be a while yet before the report comes out. I guess depending on how it does come out, it could result in having to have a reinitiation of a formal consultation for the spiny lobster fishery. Also if the acropora listings change, we may have to have a formal consultation on our coastal migratory pelagics fishery; but all of that is dependent on the outcome of the final report. Roy I think has some comments on this.

DR. CRABTREE: Yes; and obviously we are a little bit later than we had expected on this. I do think that the rule will be out later than this summer; and I expect it will be out prior to our September meeting. We would be able to go over that finding with you at that time, and we can talk about the implications of it at our next meeting, I think.

MR. CUPKA: Thank you for that, Roy. Are there any questions or comments? You will be seeing the results of that opinion at your next meeting. That brings us down to our next item, which is proposed critical habitat for loggerhead sea turtles. This is a presentation by Fish and Wildlife Service staff. Wilson, I would like ask you to introduce our presenter on this particular item.

DR. LANEY: I would like to introduce Ann Marie Lauritsen to the council and to staff. Ann Marie is the Sea Turtle Coordinator for the Southeast Region; and she works out of St. Petersburg. She is attached to our North Florida Ecological Services Office here in Jacksonville. We are happy to welcome Ann Marie to the meeting today.

MS. LAURITSEN: Good afternoon; thanks for having me. I am going to specifically talk about terrestrial critical habitat for the loggerhead and the proposed rule that came out in March of 2013 and go through that process with you of how that was selected. The history of the loggerhead; loggerheads as a global species was listed in July of 1978. It was listed as threatened worldwide.

As you know, both Fish and Wildlife Service and NOAA Fisheries, we share jurisdiction for the loggerhead. During our Endangered Species Five-Year Review in 2007, it was recommended that we do a full status review to determine if the worldwide population should be divided into distinct population segments.

In August of 2009 a joint biological review team with both NOAA Fisheries and Fish and Wildlife Service members completed this and identified nine distinct population segments. In 2011 the Fish and Wildlife Service and NOAA Fisheries published a joint final rule changing the loggerhead listing from that single global threatened to the nine distinct population segments and listing them as either endangered or threatened.

Here is a map showing the endangered and threatened scenario. I would specifically like to point your attention to the Northwest Atlantic Ocean, which is where my talk is going to focus on, which was listed as threatened. As you know, critical habitat is specifically just listed and designated in the United States; so when we looked at our review, we looked at those distinct population segments within the U.S. and territories.

Looking at sea turtles and loggerheads specifically, we looked at the different life stages. I am going to talk about the loggerhead hatchlings, their nest and the nesting process on the beach. There is also a rule for in-water critical habitat for the loggerhead, which was done by NOAA Fisheries and went through the similar process; and right now we're both at a similar stage.

What is critical habitat? It is a term where a specific area within a geographic region occupied by the species at the time it was listed which are found to have physical or biological features essential to the conservation of the species and it may require special management considerations.

It also allows for designation outside that geographic area; but in this case the entire designation for the terrestrial and in water was in areas where loggerheads did exist. This is the geographic area for the Northwest Atlantic Ocean distinct population segment. As you know, their listing goes from Virginia south all the way to Texas; and we looked at that entire listing area and the nesting when we looked at critical habitat.

Essential to the conservation of this species as the ESA lists; in the ESA this is not particularly defined but it does reflect the habitat needed for the species. In the case of the terrestrial, the beaches that have always been important for loggerheads since they were listed; and I'll go through that and what changes and what doesn't because of the critical habitat designation.

Special management considerations are something that we considered as well. Without special management considerations, what can be done for the beach so that it is more suitable?

In this case it is creating a darker beach for nesting and hatching turtles. The physical and biological features that we listed in the proposed rule were as follows: a nearshore access from the ocean to the beach without obstructions or barriers; sand that allows for suitable nest construction. A lot of the terms and conditions, for instance, in a biological opinion address this issue prior to this where we looked at grain size and color, et cetera.

Sand that allows for successful embryo development, also something we considered previously for the listed species; and sufficient darkness to ensure nesting and hatchling turtles orient to the sea. When we looked at the entire geographic area and how critical habitat should be selected; we decided to look at a framework for conservation recovery by Schaeffer and Stein, which looked at representation, redundancy, and resilience.

This was for the conservation and recovery framework that we were trying to achieve as listed in the Endangered Species Act. For nesting we looked at good spatial distribution. For redundancy we looked at high-density beaches over a period of time, a recent five-year period, and then resilience. If those nesting beaches were lost, that there were adjacent beaches where those turtles can expand to or use.

Of course, the nesting beach was the main selection, so extra tidal or dry sandy beaches capable of supporting that high-density nesting, serving as an expansion area for those deemed high-density nesting and well distributed throughout the region. Previously in our recovery plan for the loggerhead; the loggerhead was divided into recovery units.

Those recovery units were what we used to look at the distribution and throughout the nesting range. The first was the northern recovery unit, which included North Carolina, South Carolina, and Georgia, to ensure spatial distribution; we looked at each state and the high-density beaches within those states.

The second recovery unit was the Peninsula of Florida Recovery Unit there on the bottom of the screen to the south. Then the Northern Gulf of Mexico Recovery Unit includes the Florida Panhandle, Alabama, and Mississippi. You can tell by these numbers; for the northern recovery unit we are looking at some comparatively lower nesting; but to ensure good spatial distribution, we looked at the high-density nesting beaches within these states.

In North Carolina, areas that supported more than 2.38 nests per kilometer were selected. In South Carolina it is more than 13.97; in Georgia it was more than 11.34. Those are the nesting beaches that were selected from Log TNC1 to 8 for North Carolina, 22 for South Carolina and 8 for Georgia.

For the Peninsula of Florida Recovery Unit, we broke those up based on the latest genetics for Florida, so that we had good representation for those high-density nesting beaches. These were the five genetic units within the Peninsula of Florida Recovery Unit. Again, compared to the northern recovery unit, you could see how much higher some of those nesting densities are; for instance, the Central Eastern Florida, which is Brevard County; more than 137.32 nests per kilometer.

We did include beaches on two Florida Keys to ensure the conservation of this unique nesting habitat in that area. The Gulf of Mexico Recovery Unit, which included the Florida Panhandle, Alabama and Mississippi; again, looking at the comparatively high-density nesting beaches within that state.

For the Dry Tortugas, because this recovery unit was so small comparatively and the number of nesting females was smaller; we looked at all the Dry Tortugas Keys within that area. There was Bush Key, East Key, Garden Key; and you could see the whole list in that slide. All in all we proposed 1,190 kilometers, or 739 miles and 90 units.

It is broken up by state here. These are the percentages; 19 percent are in federal ownership; 21 percent in state ownership, et cetera. The next process in this proposed rule for Fish and Wildlife Service was to publish a Draft Economic Analysis. After the proposed rule and the selection process, we then had to take into consideration the economic impact, the impact on national security, and any other relevant impacts; impacts such as if there was a management plan where the exclusion would outweigh the benefit of that specific area and part of the critical habitat.

The Draft Economic Analysis was prepared and published. Then we also had a second comment period for the Draft Economic Analysis. In the Draft Economic Analysis it estimated an incremental administrative cost since consultation for this species was ongoing and since the species was already listed.

What critical habitat does not do; it does not create a wildlife refuge, a reserve or park. It does not affect private landowners who are not using federal money or do not require federal permits. Those processes that are already undergoing a Section 7 Consultation, which would result in a biological opinion, would be the process where critical habitat would weigh in.

It does not create a new independent review process, so the potential impacts to critical habitat are reviewed at the same time as that original consultation for the listed species. What is the regulatory impact? Federal agencies are required and have been required to consult on the species since the original listing and since the DPS was listed in 2011.

The first step in this analysis is to determine if the species is jeopardized by the action. In this case for critical habitat, within that consultation there would be a determination on whether that project would adversely modify critical habitat; and looking at those physical and biological features that I mentioned earlier.

A lot of the projects; the beach projects, the beach nourishment projects where there has been a biological opinion; the terms and conditions for the listed species that are already in place also affect or minimize the impacts to the nesting beach since for loggerheads and for sea turtles in general that nesting process is so dependent on the function of that nesting beach.

Our timeline; we published the proposed rule in March. July 18, 2013, we opened up to publish the Draft Economic Analysis for a second public comment period. That public comment period was closed on September 16. NOAA Fisheries, as I mentioned, also published a draft proposed rule for the in-water critical habitat on July 18 as well. We expect that both NOAA Fisheries and Fish and Wildlife Service will publish the final rule concurrently hopefully by next month. Right now our draft final rule is in headquarters.

What is the outcome that we've seen so far from this proposed rule? The advantages are that it has allowed Fish and Wildlife Service to partner with others and focus on recovery actions and where those are really needed. It has created a lot of education for loggerheads and their dependence on the nesting beach and the function of a nesting beach; as well as federal agencies have been aware and create more awareness of the need to consult on existing projects and provides us an avenue to date some of our protection requirements because the species is listed.

Some of the disadvantages have been the misinformation about critical habitat and what it can do; the worries about the extended timeframe for regulatory projects. Then it also negates the importance of nesting beaches that are outside the critical habitat areas. We worked very closely with our state partners in the selection process and the methodology throughout the selection process on the team. Thank you.

MR. CUPKA: Thank you, Ann Marie, for that presentation. Are there any questions for Ann Marie or any comments? That was very informative. Anna.

MS. BECKWITH: Can you go back over for me what the potential is for beach renourishment? I didn't quite understand what the impacts are. I get that they will probably have things that they need to abide by, but what has been time-wise and impact-wise previous impacts?

MS. LAURITSEN: Previous impacts have been for beach nourishment project; it is a consultation with the Corps usually or FEMA. It has been 135 days for the listed species. That will not change because of critical habitat; because the process for determination is within that initial consultation for the species.

What changes or does not change in this case is because loggerheads have been listed, and the terms and conditions that we have for a beach nourishment project have already been in place because the species is listed. In this case, because we've looked at grain size, compaction testing, escarpments that have already focused on the nesting beach, which it relies on as critical habitat would; those terms and conditions, if they need to be updated over time, they will be because the species is listed. But not necessarily because it is within a critical habitat area. Does that answer your question?

MR. CUPKA: Other questions or comments? John.

MR. JOLLEY: I'm trying to understand this a little bit better. We've got a lot of beach renourishment going on all down the coast of Florida; and, of course, they are nesting in this stuff at different degrees. A lot of these turtles don't like this new sand that is coming in now. In some areas on the east coast of Florida, we're running out of the right kind of sand.

What do you do in these critical areas? If something comes up and they say we need to renourish this area; what do you do then? Do you deny it or do you go out and you find that the substrate is suitable and you can pump it up? What actually happens to these designated critical sites?

MS. LAURITSEN: For the critical habitat sites, it would be that second determination. Because a species is already listed, there is already that consultation process for beach nourishment. In Florida we have the state-wide programmatic biological opinion, which we are working with the

Corps to update so that we don't have a huge lag time, hopefully none at all, by the time critical habitat is designated.

But the listing of the species provides the terms and conditions for that biological opinion and the terms and conditions within that biological opinion. A critical habitat designation would be that second determination looking at the habitat to determine if it will not adversely modify. What we've said in the proposed rule as well is that the terms and conditions that we require in our biological opinion also ensure that it does not adversely modify critical habitat.

Within that biological opinion, the terms and conditions already in place; we do look at grain size and similarity to the native beach. If a project came in that didn't have those conditions; that is something that wouldn't fall under the state-wide programmatic and would require an individual consultation.

But we would look at that project and determine one, whether it would jeopardize the existence of the species, which is something we would have had to do because of the species is listed, and then look at the adverse modification to critical habitat. Does that answer your question?

MR. JOLLEY: Somewhat.

MR. CUPKA: Are there any other questions? If not; then that brings us down to other business. Is there any other business to come before this committee? Seeing none; then we are adjourned.

(Whereupon, the meeting was adjourned at 6:05 o'clock p.m. June 9, 2014.)

Certified By: _____ Date: _____

Transcribed By:
Graham Transcriptions, Inc.
July 11, 2014

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2013 - 2014 Council Membership

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PLEASE SIGN IN

In order to have a record of your attendance at each meeting and your name included in the minutes, we ask that you sign this sheet for the meeting shown below.

South Atlantic Fishery Management Council Meeting

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Monday, June 9, 2014

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Tue June 10, 2014

74	Stewart, David	dstewa11@uwyo.edu	263 min
73	colby, barrett	bcolby3@cfl.rr.com	195 min
72	denes, james	jamesd156@yahoo.com	181 min
70	Farmer, Nick	nick.farmer@noaa.gov	1 min
69	daniel, louis	louis.daniel@ncdenr.gov	24 min
66	Mehta, Nikhil	nikhil.mehta@noaa.gov	365 min
54	Harrison, Robert	tunaprowler1@embarqmail.c...	133 min
53	Lee, Jennifer	jennifer.lee@noaa.gov	496 min
53	Lamberte, Tony	tony.lamberte@noaa.gov	305 min
49	raine, karen	karen.raine@noaa.gov	271 min
49	Records, David	david.records@noaa.gov	323 min
43	Hudson, Rusty	dsf2009@aol.com	316 min
42	Bademan, Martha	martha.bademan@myfwc.com	354 min
41	holiman, stephen	stephen.holiman@noaa.gov	268 min
40	DeVictor, Rick	rick.devictor@noaa.gov	361 min
39	blough, heather	heather.blough@noaa.gov	376 min
37	Sedberry, George	george.sedberry@noaa.gov	388 min
36	McCoy, Sherri	sherrim@wildoceanmarket.c...	273 min
34	Young, Erik	eyoung77@uw.edu	90 min
31	sandorf, scott	scott.sandorf@noaa.gov	424 min
29	michie, kate	kate.michie@noaa.gov	289 min
29	Bresnen, Anthony	anthony.bresnen@myfwc.com...	368 min
29	vara, mary	mary.vara@noaa.gov	325 min
29	Neer, Julie	julie.neer@safmc.net	183 min
29	Byrd, Julia	julia.byrd@safmc.net	441 min
27	Eich, Anne	annemarie.eich@noaa.gov	208 min
27	Knowlton, Kathy	kathy.knowlton@gadnr.org	180 min
26	Baker, Scott	bakers@uncw.edu	115 min

26	Herndon, Andy	andrew.herndon@noaa.gov	274 min
26	Clemens, Anik	anik.clemens@noaa.gov	210 min
25	Gore, Karla	karla.gore@noaa.gov	228 min
20	Pugliese, Roger	roger.pugliese@safmc.net	0 min
-499750	Takade-Heumacher, ...	htakade@edf.org	-24835241 min