

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

SNAPPER GROUPER COMMITTEE

**Charleston Marriott Hotel
Charleston, SC**

August 9, 2011

SUMMARY MINUTES

Snapper Grouper Committee

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Other Participants Attached

The Snapper Grouper Committee of the South Atlantic Fishery Council convened as a Committee of the Whole in the Charleston Marriott Hotel, North Charleston, South Carolina, August 9, 2011, and was called to order by Chairman Mac Currin.

MR. CURRIN: Okay, let's go ahead. We will continue with the Snapper Grouper Committee as a Committee of the Whole. Everyone should have the materials and the agenda before you. After reviewing the agenda, if you will allow me, as usual, slight modifications for timing and availability of staff – I don't think that will be an issue today, I hope not – we should proceed as per the agenda. Without objection, then the agenda will stand approved. I see no objection.

You also have before you minutes from the June 2011 meeting. Everyone has had an opportunity to read or listen to those. Any corrections, additions, or changes to the minutes? I see none and without objection, then the minutes will stand approved as well. We have as our third agenda item updates on the status of commercial and recreational fisheries. I think Dr. Crabtree said their recreational fisheries are not available at this point or do you have information for us?

DR. CRABTREE: We do not have landings yet for 2011. We expect to get those sometime in August, but we don't have them yet.

MR. WAUGH: The MRFSS just released Waves 1 and 2 and we've started looking at some of that for black sea bass. One of the issues is that we can't directly use the MRFSS numbers because the Southeast Fisheries Science Center has a different methodology that they use to generate the weight estimates.

We are just concerned people are going to start looking at the MRFSS data and start asking questions about where we are with respect to quotas, and I just don't know if there is any update on the specific timing for at least using the first two waves of MRFSS data that are now public and out on the website, whether there is any change in the timing. Also, what is the status of the headboat data for 2011; are those data being entered now or just where are we?

DR. CRABTREE: Andy can probably speak to that best. I do see that Gregg is right, they have apparently put out a couple of waves and that must have just happened very recently because I wasn't aware that they were out. I'll ask Andy if he wants to comment on where this stands.

MR. STRELCHECK: Regarding Gregg's question, we just made a request to Ken Brannon at the Science Center for black sea bass, golden tilefish and snowy grouper landings. The ACLs for snow grouper and tilefish were exceeded last year and black sea bass we closed due to a quota closure.

We are going to get in-season headboat landings for 2011 for those three species for ACL monitoring purposes. They are at data entry right now and we expect them by the end of the month. With MRFSS data, I was told we get Waves 1 through 3 by mid-August, so our expectation is to review those by late August and make final determinations regarding the accountability measures.

MR. WAUGH: We have some public hearings scheduled for later this month, August 22nd through the 25th, so we won't have any new information about recreational catches prior to those public hearings; is that correct?

DR. CRABTREE: I would hope we will have Wave 3 by then. I've been told we will get Wave 3 late this week or the beginning of next week.

MR. CURRIN: And headboat, any idea of when the headboat data will be available by that public hearing time?

MR. STRELCHECK: Headboat is not estimated in the season for all species. We do it essentially on a species-by-species basis, so expectation is we can get it for select species by the end of the month.

MR. CURRIN: By the end of August, then we might have black sea bass and golden tile and whatever else. I think that the point Gregg is getting at is there is likely to be a lot of interest, especially if black sea bass has closed or is nearly closed. It will be not unlike public hearings last year where we had certain issues that we wanted the public to comment on; however, the public was much more interested in venting about the sea bass closures, understandably so.

If we are going to be in that situation again, I suspect there are going to be a lot of – especially with the new estimations and re-estimations going on, there are going to be a lot of questions about that perhaps at the public hearings. It might be nice to have somebody from National Marine Fisheries Service there at the public hearings to address those if they come up, especially about the new MRIP and what the public can expect. I know that's not all settled yet either according to Gordon. We might need some help.

DR. CRABTREE: Right, so, Gregg, if you want to talk to Jack and Andy about who might can be there and what you need and we'll do the best we can to pull as much information together on this. It's hard for me right now to be sure what we're going to have by that time.

MR. HARTIG: Roy, how in the world do we move forward with this amendment not knowing the re-estimation procedures and how they are going to impact the numbers that we are going to receive through the new MRIP program?

DR. CRABTREE: We expect to get revised MRIP numbers. I think it will be sometime later this year. They are still working on those and we don't know what the final values are going to be. The expectation is that they will re-estimate catches back until 2004. I think when we get those numbers, we are going to have to refer those to the SSC and ask them to review those in the context of implications for the ABCs and what we have.

Then we are going to get new recommendations from the SSC, presumably, and we'll have to figure out how to implement those. The new numbers have a couple of implication. One, we have ABCs that are based on landings; and so to the extent those landings change, there will be differences there.

But because those new landings only go back to 2004, they may be implications for re-evaluating the timeline that the ABC is based on. The additional complication is we have allocations that are based on longer time series, I think going back into the eighties. They'll be less sensitive to the changes because they have more years and go back further.

We are going to have to look at what the implications are in terms of that as well, and we may want to go back in and revisit some of those allocation decisions. I don't know yet whether the Science Center or the SSC will be able to come up with some formula to allow us to adjust landings further back in the time series or not. That remains to be figured out.

I think the best we can do right now is move forward with what we have. For the time being we are going to use MRFSS to continue to monitor these catches. Once the MRIP numbers come out, we then go back to the SSC, we figure out how to make adjustments that need to be made to the ACLs and the other things, and then we'll figure out what that means in terms of the council. If we're just changing ACLs, we can do that through a framework; but if we're going to go back in and change allocations, that requires a plan amendment, and probably we'll need to start working on that, I'm guessing next year, and get that done.

Then the remaining thing that we have is for the assessed stocks. The only way to pull the new MRIP numbers into those stocks will be to redo the stock assessment and that's going to take a fair amount of time. In the interim, until the assessments can be redone, we're going to have to figure how to scale things or gauge things appropriately so that we're comparing apples and apples and not apples and oranges. I think we are going to have to work with the Center and the SSC to figure out how to do that.

MR. HARTIG: But as far as the legal problems if we have overages and things, how are we going to deal with those with those numbers? I mean basically we've set numbers based on MRFSS, and the new numbers are going to be MRIP; and if we happen to have numbers that are way higher, isn't that going to create significant problems in trying to manage these stocks?

DR. CRABTREE: Yes, and that is what we're going to need to talk to the SSC about. If we have MRIP numbers that are across the board much higher than the MRFSS numbers were, then obviously we are going to have to go in and make an adjustment to the ACL to reflect that, because what that is going to mean is our ACLs are likely too low.

We are not going to want to judge MRFSS' ACLs versus MRIP catches. There is going to have to be a calibration made, and that you can imagine is going to result in a lot of angst, because it may go higher, it may go lower, but there is going to have to be some adjustments made to that so that we don't penalize fishermen by closing them down sooner than they should be or that we don't allow fisheries to fish much harder than they should and cause overfishing to take place.

That's why I think we are going to have to go back to the SSC and ask them to look at the new MRIP numbers in the context of all the ABC recommendations they've given us and figure out what kind of adjustments might be appropriate and then present all that to the council so we can go through all of that and figure out how to handle it.

MR. HARTIG: Meanwhile as we have payback for these fisheries and closures of these fisheries, they are going to be based on these numbers we have today, correct? So out of the gate we could have from MRIP new numbers, we could have closures that we have no idea that were going to happen prior to this.

DR. CRABTREE: I think it's possible but I think if we make the appropriate adjustments to the ACLs along with MRIP, we should be able to keep that from happening.

MR. HARTIG: Well, if we can keep it from happening, that would convince me to vote for this amendment. Right now I'm not going to.

DR. CRABTREE: We don't want to see fisheries close just because we've statistically changed the catch estimation process, because we know that the magnitude of those catches doesn't just affect catch estimations. It affects the ABCs and the ACLs that we've put in place, so we are going to need to try and implement all of that – here are the new catches, here are the new ABCs, and we are going to need to get that all done at once.

That could result in emergency rules or I'm not quite sure where it's going to take us because I don't have the numbers yet. We all have had any number of discussions internally about the issues this creates, and we are going to have to find some way to not allow what you are talking about to happen.

MR. HARTIG: Well, I just don't want the fishermen to pay the price for this new estimation procedure. We are piling things that have to get done on top of things that have to get done, and things that are happening outside of that. It is so complex that I don't understand what is going to happen.

And obviously with the conversations you've had and trying to head off these problems before we have the impacts on the fishermen is my main thing. If we are going to impact fishermen based on the new estimation procedures, there is no way I can move forward with the amendment.

DR. CRABTREE: I think all of us should be committed to not have that happen. We are going to get new estimation numbers at some point and they may result in changes in status of stocks or changes in the ABCs. I don't know that is going to take us, but I think we need to make sure that we are taking all of that into account and factoring those things into the ABCs and into the ACLs as best we can.

We are going to have a transition period where we are going to have to figure that out until we can get all the stock assessments done, and we are going to have to work through that, Ben. But I don't think any of us want to see fishermen penalized just because of statistical changes. I also don't think any of us want to see stocks driven down or overfishing occurring just because of changes we made. We are going to have to proceed in a very thoughtful and deliberative way, working with the scientists to figure out how to do this in the proper fashion.

MR. CURRIN: I think those potential problems and implications, Ben, are one of the reasons that we haven't seen the new MRIP re-estimation numbers yet, because they've identified these as very serious problems and they need the time to sort out an approach that is going to work to address your concerns, all of our concerns, really.

DR. DANIEL: We've worked real closely with the MRIP folks and we've done some pilot projects in North Carolina, and confidential numbers suggest that it is unidirectional in terms of the differences in the MRIP estimates and the MRFSS estimates. It appears, at least from my cursory glance, that the landings are going to be less than what we've been seeing.

You're going to have stocks and probably that is going to reflect a poor stock condition is my understanding. But the problem that you are going to have early on is if you come out and find that you're at a certain catch rate for black sea bass, let's say recreationally, you close it, these new MRIP numbers come out that are far less, suggest that the landings are far less than they actually are, you're going to keep the fishery open longer to catch the old quota, which is going to drive the stocks down.

You're going to be in a scrape I think across the board there. My concern, and I've expressed this at ASMFC, is that we need to get this information before it goes public. We need it especially at the states' level so that we can try to understand what is going on, because we are going to get creamed over this. I think it is also equally important – and I said this to Gordon and he kind of took it under advisement, but I'd say it here with Center folks here, we need some kind of a fact sheet.

We need some kind of an informational document for the states and the council members to understand and be able to address the questions if the landings are 44 percent less than what we thought they were, what does that mean, and have some documented answers for some of these problems.

Because when this does come out, it is going to be a mess, and I don't know how – there are ideas that we might start using this information in six months, in a year, two years, whenever we figure it out. If the new estimates are best available science, how do you avoid using those in all these assessments that we are doing?

How do you wait, and how do you continue? We've got people working on assessments; we are doing data assessment workshops, SEDAR reviews, all this stuff with information that is no longer best available. I don't think there has been enough thought put into, at least not that I've heard, into the fallout from this and how we move forward, but it's going to be spooky.

MR. CURRIN: That thought is going on right now, and again I think that is partially the reason for the delay, if not primarily the reason for the delay. The other thing that may or may not give us some comfort is that the methodology of estimation as per the old MRFSS will be available as well, as I understand it, not perhaps to the public on the website, but to those who are analyzing numbers.

They can still do it for some period of time into the near future by the old methodology, continuing on with the way we've been managing. If that turns out to be the best way to do it or causes the fewest problems, then that's, as I understand it again, a possibility. Correct me if I'm wrong, Roy.

DR. CRABTREE: Yes, and there is a lot of thought going into all of that right now and how to best to do that, and, Louis, we certainly agree that we need a strategy of how we're going to deal with this and we need to make sure everybody, particularly the states are on the same page with us.

I wouldn't make the statement that if the catches are uniformly lower, it means the stocks are in worse shape. If the abundance indices remain or the trends in abundant CPUEs remain unchanged, the age data is not going to change, maybe the status of the stock doesn't change all that much. It may change it, we don't know, but what it probably would mean in a case like that is that the overall productivity of the stock is lower than we thought and that could mean the estimates of MSY and as a result the annual catch limits come down.

Obviously, if we find out the catches are lower than we thought, the stocks that we've based ACLs on average catches are going to have to be reduced. That's the kind of thing we are going to have to sort through with the Center and the SSC and figure out before we can start using it. I agree with you, Louis, once these numbers are out they are the best available estimates, and we are going to have to use them, but we are going to have to make sure we do it in a thoughtful way that integrates them into the basis for the annual catch limits themselves.

MR. CURRIN: I think the other thing that we all need to keep in mind is that these new estimates are better estimates than we have had in the past. I don't want that to get lost in our communications to the public. Do they solve all the problems with estimating recreational catch?

I don't think so, but they are a heck of a lot better than what we've had in the past because of the way they've eliminated the bias. I think the other thing is that this first re-estimation thing is really just the first step in trying to make that whole process and data set better, so we are just beginning, but it is a step in the right direction.

DR. DANIEL: I agree with what you said, Roy. I didn't get the sense from the ASMFC meeting and the discussions and questions that were asked that they had that level of understanding. I think one of the reasons is because we don't deal with ACLs and AMs at the ASMFC level, so I think it is going to have far more impact on Magnuson-related stuff than it is on Atlantic Coastal Act related stuff.

I think that may be part of the reason why there was not as much discussion or concern expressed at that meeting. I just wanted to make sure I expressed those concerns here. Maybe it won't show that it's worse, but my expectation is that if the recreational estimates are far lower, certainly on those stocks that we've looked at landings information, the allowable landings are

going to be reduced. That's going to have significant impacts and its transition is just going to be very difficult.

MR. CUPKA: I was just going to say we don't know what the impacts are going to be because we haven't seen those numbers, but obviously Gordon and people have been looking at those who are working on them. At least the impression I was given earlier on – now it may have changed, but one of the problems is that those numbers aren't consistent.

They aren't unidirectional, I don't think like Louis indicated. Some of them are going to go up and some of them are going to go down. Until we get the actual numbers, unless that's changed, I was led to believe that there is no clear pattern. Some are up, some are down, and so until we see the numbers, we don't know what the impacts are going to be. Unless you've got more recent information, that was a real concern that there was no constant trend there, it wasn't unidirectional; it was all over the place.

DR. DANIEL: Yes, what I've seen was all one direction, the numbers I saw, and they ranged from about 4 percent difference to about 44 percent difference, but it was all in the same underestimated direction. And I agree, Mr. Chairman, that they are far better estimates than what we had before, so that's a good thing moving forward.

MR. CUPKA: This was just what I was told by Gordon from looking at them. I'm assuming that is still true.

MR. CURRIN: Roy, last word on this.

DR. CRABTREE: Well, I don't think we really know yet because they are still particularly working on trying to figure out how the changes affect the average fish weight part of this. There were some unexpected things happening there that they wanted to go back and look at the code. You may end up being right on it, Louis, but I just don't yet. I have not seen, and I don't think they exist yet, final catch estimates in pounds, because they are still working on it. We are just going to have to wait and see how that comes out and deal with this best we can.

MR. CURRIN: All right, Jack, do you have anything for us on the status of commercial snapper grouper quotas?

DR. McGOVERN: The landings data quarter report was just sent around earlier. As Ben requested for the snapper grouper species, starting in September I'll show plots and show where they were in previous years for all these species. Snowy grouper is at 26 percent of the quota. Golden tilefish closed in March. Greater jacks is at 25 percent. Black sea bass closed after a month and a half of being open.

It's currently at 94 percent of the quota. Dave Glockner at the Science Center tells me he believes it will be very close to 100 percent when all the landings are in. Vermilion snapper thus far is at 25 percent of the quota. We've reduced the trip limit on vermilion snapper to 1,500 pounds. Last year it closed in October, so we are watching that closely to see what happens with that. Red porgy is at 33 percent; gag at 37 percent, and the aggregate grouper is at 14 percent.

MR. HARTIG: The black sea bass season is particularly troublesome. It went from, what, 280 days four seasons ago to 45 days this year. Do we have the numbers of fishermen involved in the – I've seen some of your charts that you put together. How current are those numbers of fishermen involved in the fishery are those that you have done, Jack?

DR. McGOVERN: Just remembering off the top of my head, in 2009 there were 59 fishermen that fished black sea bass pots. Then last year there were 51. I heard just anecdotally that there are a lot of people fishing this year with black sea bass pots that never fished before. Tom might be able to comment on that. I'm also hearing the catch-per-unit effort has greatly increased, too. That may account for the very markedly increased time that the closures were met.

MR. HARTIG: Yes, the CPUE plus the number of people is what we really needed. Realistically, how long would it take to get that kind of a result for black sea bass for this year?

DR. McGOVERN: Are you talking about getting information on the number of people that fished?

MR. HARTIG: Number of people fished.

DR. McGOVERN: The logbook data – I'd have to ask Bonnie, but I don't have access to this year's logbook data. I don't know how timely those data are for this year.

MR. HARTIG: So you're saying the CPUE, not so much the number of trap fished, but the catch-per-unit effort of fishermen was significantly higher this year than it has been in the past that you're hearing anecdotally?

DR. McGOVERN: Yes, I've heard from Tom and other fishermen that they've been catching a whole lot more fish with a lot less effort than they've had in previous years this past year.

MR. CURRIN: Yes, keep in mind that in September we're going to have 18A before us again. At the end under other business, perhaps, I'd like to have the committee consider the fact that we're going to be looking at 18A, and is there anything else that we would like to ask the staff to try to make some headway on between now and September, if possible, to include in 18A.

Remember that Regulatory Amendment 9 we had a bunch of trip limit analysis that has already been done. We chose not to go forward with trip limits in Regulatory Amendment 9. In view of what is happening with black sea bass, I would just ask is that something that we would like the staff to kind of bring back and request that they put back in 18 for consideration in September? Let's do that and continue this discussion under other business as we move forward.

MR. HARTIG: Let me just clarify. The reasons, Mac, are based on the assessment, and it was a way to get some more information into the assessment from a qualitative point of view on what is actually happening in the fishery is why I asked those questions. The assessment is time specific and I'm sorry that I took the time to do that, but it is important for that.

MR. CURRIN: All right, Jack anything else? Anybody got any other questions for Jack on the status of quotas at this point? The next agenda item is the Comprehensive ACL Amendment. Carolyn is here or will be shortly to I think – no, we're not going to do that? All right, for SSCs review, she looked shocked when I said that. That's the only comment I need then. The Law Enforcement AP provided some comments as well, and I think, Myra, you are going to outline those with us.

MS. BROUWER: As you just heard, the SSC did not have any comments on the Comp ACL, so I'll tell you what the Law Enforcement AP had to say. They met over one day in Orlando last month and they took a look at the Comp ACL. They had a couple of concerns. They brought up the prohibition on filleting.

They brought this up because of species ID concerns for the species that are being removed from the fishery management unit. The concern there is that those species would no longer be subject to the requirement to be landed with heads and fins intact, and so this would present a problem for law enforcement.

They also talked about the exemption for immediate consumption. There is such an exemption to have fillets aboard a vessel in Florida. We do not have such an exemption in the South Atlantic, so that would perhaps Complicate things for fishermen landing in states that have that exemption.

The Law Enforcement AP also expressed concerns over outreach, specifically how is the public going to stay informed about so many regulatory changes coming down as a result of implementation of the Comp ACL Amendment. They wanted the council to seriously consider outreach efforts for that purpose.

Also, they had concern over how the low ACL for wreckfish would be received. They anticipate some issues with that and they asked to be involved in the ITQ program revamping that the council is considering in Amendment 20A. They also made a recommendation to consider requiring VMS for the wreckfish fishery. Those are the comments they had to offer and Otha is here from the LEAP if there is anything else I left out and also Lieutenant Fisher.

MR. CURRIN: Questions for Myra or Otha or Brandon about the LEAP's comments on the ACL amendment? Ben.

MR. HARTIG: Myra, I didn't really understand the comment on the low ACL for wreckfish. What does that mean; what was the gist of that?

MS. BROUWER: Well, I think the law enforcement anticipates that there is going to be a lot of the quota being so low is going to create a lot of problems. I guess they foresee perhaps noncompliance. I'm not quite sure but they did express serious concerns with that.

MR. GEIGER: Certainly, the Law Enforcement AP considered all the actions and chose to comment on those which they considered to be really problematic. The first one regarding filleting is something that they spent a considerable amount of time discussing – and I've got a

head nodding over here from members of the AP. That's a serious, serious consideration that we need to talk about later on here. Thank you.

MR. CURRIN: Other questions about the law enforcement comments? All right, and, of course, we've heard from the public this morning, a number of them who also provided written comments on the DEIS as well, and, Myra, are you going to go through and summarize those for us, too?

MS. BROUWER: Yes, I'll do my best, and unfortunately you've heard a lot of this already this morning, but for the record I'll go through the summary that I put together. We received four written comments for the Comp ACL. The American Sportfishing Association sent a letter. There were several issues that they raised:\

The document is difficult to read and understand. The public may not understand the implications of enacting the amendment. They feel that it is too strict an interpretation of the National Standard 1 Guidelines and Magnuson-Stevens. They feel that the overfishing level and acceptable biological catch are precautionary numbers and not strict values that should not be exceeded.

They commented on the socio-economic information, that it is voluminous and difficult to understand. They specifically request that the socio-economic impacts be summarized and included in the document. They commented on allocations, basing allocations on historic landings is not an acceptable approach.

ASA does not support a separate allocation for the for-hire sector either. They are concerned that the ACLs for dolphin and wahoo could be too restrictive and anticipate that this will be easy for the recreational sector to exceed. They maintain that it would be best to wait until assessments are conducted for species before identifying ACLs for those species. They do not support the use of landings to determine ABC, ACL and ACT.

They support the removal of species that will allow for state management. They do not support removal of species when another entity has not agreed to take over management. ACL and ACT should be equal, and they support the use of multi-year averages in determining if an ACL has been exceeded.

We received a comment letter from the Pew Environment Group. They support a commercial ACT that would give NMFS the authority to reduce trip limits when the ACT is projected to be met. They stated that exceeding the ACT should trigger an AM rather than exceeding the ACL. They recommend a more comprehensive look at each species circumstances before they are removed from the management unit, and that these species should be retained as ecosystem component species until the evaluation is done.

We received a letter from the Ocean Conservancy. They stated that other criteria besides landings need to be considered when removing species from the FMU. The document should consider the concept of desirability under Action 1 to prevent removing species that would be fished unsustainably.

The DEIS should include an alternative for establishing thresholds and triggers for determining whether species not currently under federal management should be added to the FMU. The council made a deliberate decision that the species to be removed are in need of conservation and management initially by placing them in the FMU and a comprehensive analysis is needed before deciding these species are no longer in such need.

The council should analyze the potential for bycatch as a result of species removal. Provisions should be provided for tracking and accounting for any change in bycatch that might result from removing species from the FMU. They requested that the council consider adding an alternative that evaluates landings of stock complexes if there are significant changes in landings of particular species within the complex.

An amendment should specific that stock complexes will be reevaluated periodically to ensure that species groupings are still appropriate. They suggested a performance evaluation of the ABC control rule; also describe how discard mortality is incorporated in the ABC for assessed species and provide ABC for landings and discards separately; specify the monitoring needs to provide for a full account of monitoring all bycatch; explicitly describe the magnitude of management uncertainty in setting ACLs or ACTs.

An ACT should be established for the commercial sector that takes into account this management uncertainty and the RA should have authority for in-season closures. They requested that the council consider including an update on the implementation of the standardized bycatch reporting methodology of the ACCSP and describe why it is or it is not suitable for monitoring current bycatch and dead discards.

The Ocean Conservancy supported the recreational ACT but felt the RA should be able to close the recreational fishery if the ACT is projected to be met. There is also concern that the SSC's ABC control rule for assessed species doesn't account for all sources of scientific uncertainty. The amendment should call for a future performance evaluation of the control rule to determine when and how it needs to be modified.

The Natural Resources Defense Council also submitted a written letter. They stated that the council should demonstrate how the P-star distribution for the SSC's ABC control rule for assessed species is applied to each species. Currently there isn't a detailed explanation of that in the document.

Bycatch should be included in the ACL-setting mechanism and associated AMs. The ABC for lane snapper and gray triggerfish is too high because it is above the landings level in 1991 when the stock was believed to be overfishing. The decision to remove species is based on desire to lessen the administrative burden of dealing with ACLs.

RDC maintains that this is contrary to the objectives of the Snapper Grouper FMP, NEPA, Magnuson and the Administrative Procedures Act. The vulnerabilities associated with the PSA analysis are not included in the discussion in Action 1 and they request that they be included.

They maintain that the DEIS does not explain how overfishing would be prevented for species removed from the FMU.

The DEIS presumes a species proposed for removal would be effectively managed by the states. We do not discuss how a state would be able to regulate catch in its waters that are landed in another state. For many species with landings below 20,000 pounds, unregulated catch in federal water could push them above their overfishing limit.

The criteria for removal need to be based on more than just landings. Finally, there is no permissible basis for removal of species from the FMU. If species are removed there must be some mechanism in the FMP for tracking vulnerability and triggering actions to resume management. The one other comment we received is that the best way to stop overfishing in the South Atlantic Region is to open the season on the Goliath grouper.

MR. CURRIN: Any questions for Myra on the comments? Everybody should have copies of all these letters either sent to you earlier and in your briefing book. All right, and next I think Myra is going to go through an overview of some changes that have been made since our last meeting.

MS. BROUWER: Yes, there are, as you know, 32 actions in the amendment so I didn't want to go over every single one. What I'll do is just highlight the changes that took place since the June meeting. You voted to retain mutton snapper in the FMU, so we had prepared for you to look at an appendix for the June meeting that contained all the actions for mutton.

That appendix was incorporated into the amendment, so mutton got added throughout to the various actions in the amendment. Also recall that the Snapper Grouper Committee had voted to retain misty grouper, queen snapper and yellowmouth grouper, but the motion failed at full council, so those species are still being considered for removal.

There was a change in the preferred alternatives for actions to establish an ABC control rule to reflect changes to Level 4. That's the decision tree that the SSC provided; and if you want to follow along where these changes are, that would be on PDF Page 389 of your Attachment 3B. I think it's the main document, and that is Action 3. You changed in Action 6 which establishes commercial AMs for the snapper grouper fishery to have payback only if the species is overfished.

So "only if overfished" was added to your preferred alternative for commercial for snapper grouper species as well as for black grouper. It was not added to dolphin and wahoo; it was added to golden crab. There were also changes to the recreational AMs. You chose to use a single year of landings to determine if the ACL has been exceeded. Prior to that your preferred was to use the three-year running average and then monitor the following year in-season and reduce the season as necessary. That's Action 7 and that's on PDF Page 441.

You also selected a preferred jurisdictional allocation for yellowtail and that's on PDF Page 521. That's Action 17. That allocation would be 75 percent South Atlantic and 25 percent Gulf. For mutton snapper you changed your preferred alternative to correspond to what the Gulf chose for

the jurisdictional allocation. That's on PDF Page 530. That preferred allocation would be 82 percent South Atlantic and 18 percent Gulf.

Then finally the last change you made was to the dolphin, Action 19 on PDF Page 540. We changed the preferred from the ACL equaling 85 percent of the ABC to the ACL being equal to the ABC. This change made some of the numbers in the tables change because your ABC and ACL went from 12.4 million pounds to 14.5 million pounds. You'll see the numbers changed accordingly in those tables. Those are the main changes that we made to the document.

MR. CURRIN: Thank you, Myra. Questions for Myra, comments on the changes?

MR. HARTIG: Yes, Myra, I'm sorry, there is just so much in this amendment occasionally I get lost, and I'm certain that the public has, too. One of the things with mutton snapper, when we decided that we were going to re-include it, did we have a P-Star analysis from the assessment for mutton snapper on which to set an ABC; do you recall?

MS. BROUWER: I don't recall, Ben.

MR. CURRIN: Carmichael, do you recall, John?

MR. CARMICHAEL: I don't recall for sure.

MR. CURRIN: I don't recall either. Other questions or comments? John may be able to dig that out for us. Ben, did you want to take that further? All right, we need to decide how we're going to deal with this amendment and if there are changes that the council wants to make or move it on. Discussion or comments? George.

MR. GEIGER: (No recording)

MR. CURRIN: If you could, when you get that, Myra, give everyone a page number. **Motion by George to change the preferred for Action 1 to Alternative 1, which is no action.** Is there a second; second by Robert. Discussion? George.

MR. GEIGER: (No recording)

MR. WAUGH: When you look at the list of species that are proposed to be excluded, that would remove all federal regulations from those species so there would be no permit required for them, which would void our limited entry program for those species. One of the things you have to consider, we look at some of these species and say in the past 20 percent of the landings have come from federal waters. I think black sea bass has shown us the risk in looking in the past as to what is going to happen in the future.

We've gone from a six or eight month black sea bass season to a six-week black sea bass season. I would suspect that if you stayed with your current list of preferreds, you'd see fishermen adjust to that and start targeting those species such that more than 20 percent would be coming from the EEZ. There would be no permit requirement.

Anyone could catch those species; anyone could sell those species, whether they were recreational or commercial fishermen. They could fish for those species during any other closure that we would have. They could fillet those fish at sea and land just fillets. One potential is to look at the state regulations and where the states might be able to fill in some of these gaps.

That's one thing that the NRDC letter lays out pretty clearly that in many cases the states don't have adequate regulations to prevent targeting these species; and whether or not states would change their regulations to fill in the gap after the federal regulations are removed is yet to be seen. The net result of excluding these species is that you would have fishing effort towards them that would result in a higher bycatch and more bycatch mortality of our other species.

NRDC comments go into that in detail. In fact, their first letter in their packet dated February 14, 2011, was public hearing comments. One of the requests that they make in there is that we provide them an update on bycatch reporting. We've talked about this in the past. Right now on the commercial side only 25 percent of the commercial fishermen are selected to maintain log books. That could be increased to 100 percent, which would provide better data.

But they have asked in all of their comments for an update on what is being done to collect bycatch data now. We've got the 25 percent logbook and then the MRFSS records the discards. In their June 9 letter they reiterate a lot of these concerns; and then in their latest one, August 1, they lay out the same request and this is a comment on the DEIS.

I think if you stay with your current preferreds and exclude those species; it makes significant changes to our current snapper grouper management approach. Those fishermen that have invested by purchasing snapper grouper permits will see the value of their permits diminished. Bycatch mortality would increase. Those would be issues that we would have to figure out how we would address and also then work with the states to fill in the gaps left if we remove all federal management.

MR. GEIGER: Gregg, are there examples of how other councils are handling issues similar to this?

MR. WAUGH: Well, I know we are under a time crunch, and the Mid Atlantic, as I understand it, has indicated that for some of their species they are specifying ACLs now; for others they will do that in the future through an amendment process. Should you approve the motion that would change our preferred to no action, we would have two choices, is to try and take the time today to identify those ACLs, which I don't think can be done.

We need additional work on our SSC's part. The other option would be to go forward in the Comprehensive ACL with ACLs for those species that we have them for and then in an amendment, perhaps CE-BA 3 that we work on next year, come back and fill in after the SSC has given us further guidance on the control rule to fill in those ACLs for the remaining species. I think that is the approach that the Mid-Atlantic Council has taken.

MR. HARTIG: George, I've had second thoughts about this also, thinking of all the implications over time and reading through all of the comments we had from the public, and there are some very good points made there. Although certainly where you have management already in place for species like under the Florida Marine Life Rule, those three species I wouldn't have any problem removing. I think you could do a better job with this than what is here currently. I've got problems as well as you do.

MR. PHILLIPS: Gregg, did I understand you to say that the Mid-Atlantic was going to do ACLs on the species they had stock assessments for and then stuff they didn't have they were just going to put on hold and do it when they could, which would not meet the timeline; is that what I heard?

MS. BROUWER: Charlie, I believe the Mid-Atlantic Council is going forward with approving a control rule, so they are approving the methodology that will be used to establish those values. Apparently that would comply with the mandates of the Magnuson Act. It's just that the numbers themselves will be specified at a later date for some of their species. That's how I've understood it.

MR. PHILLIPS: Okay, I'm inclined to agree with Ben. There is some good stuff in here and then there is a lot of stuff that no matter what you do it's going to be a shipwreck, wreckfish for one, and I just don't see landings in and of itself being science without any biology or CPU or life history or range of habitat. I think this needs a lot more work. I understand wanting to leave stuff in, but I think it may be more problematic than what you would say. I'm not sure how to do this.

DR. CRABTREE: Well, I think this action is one that we need to give some more thought to, but I'm not sure that going all the way to let's not take any out is the best thing. Mike and staff have significantly reworked this section of the document. That was sent out to you by Mike this morning about 8:00, and I hope you all will take a little time to take a look at it.

You talk about what have other councils done and you look at the Mid-Atlantic, well, I believe the Mid-Atlantic manages about 12 species, so they never put any species like this into the FMP to begin with. In the Gulf I believe we have a little over 30 species in the Reef Fish FMP and the Gulf is proposing to remove, I can't recall how many, but several of those.

The Gulf, back in the late 1990's removed 15 to 20 species, including all of the porgies and the grunts from the FMP. I haven't seen any calamitous consequences of their removing those species at that time. I'm not aware of any issues with filleting at sea with the Gulf that are any different than what we have over here, so I'm not sure, all of those kinds of things there is much reason to think they are going to happen.

I think if you look at the section that's been revised, and if you look at the guidelines in terms of what we ought to be looking at, National Standard 7 Guidelines address some of these things and they list a number of things that we're suppose to look at. If I could, Mac, I'll just go through some of them. Fishery management use may be organized around biological, geographic, economic, technical, social or ecological goals. That's in National Standard 3.

National Standard 7 says we ought to look at the following things when we make these decisions.

One is the importance of the fishery to the nation and the regional economy. Two is whether an FMP can improve the condition of the stock; three, the extent to which the fishery could be – and I emphasize “could be” – or already is adequately managed by the states; whether an FMP can further the resolution of competing interest and conflicts; whether an FMP can produce more efficient utilization to fishery; whether an FMP can foster orderly growth of a developing fishery; and, seven, the cost of the FMP balanced against the benefits.

Now, it seems to me that as you go through this section of the document, there are a number of things we look at that I think make valid arguments for removing those species. If you look at this, I believe it's smallmouth grunt and tiger grouper as far as I can tell don't occur in the South Atlantic. There are zero landings, period, for either one of them.

It seems there is a pretty good rationale that we don't need to manage something that doesn't seem to occur in our area's jurisdiction. I think that the species that are covered under the Florida Marine Life Rule, clearly there we've met one of the criteria that are brought up here in that they are adequately managed by the state of Florida. That's not likely to change.

We have a number of species in here for which 95-plus percentage of the landings occurs in state waters. I don't think you can make a very good argument that the FMP can do much to improve the status of those stocks. They are state water fisheries. I understand there are concerns raised by some about the adequacy of state management.

I think there were some concerns raised about the types of conservation standards that states manage to. But I would argue that the Magnuson Act clearly intended for us to manage federal water species. It didn't intend for us to come in and try to take over state management or provide even an example for state management.

In fact, it clearly restricts our authority to manage fisheries in state waters. I think some of these, sheepshead being one and jack crevalle, have traditionally been managed by the states. I think we have relatively little ability to influence what is going to happen with those fisheries. What I would urge you to do rather than acting on this motion; instead I think what we ought to do is kind of go through the criteria we've set out and talk about some of these.

I think this is going a little too far. I'm not comfortable with where we are right now. I'm particularly uncomfortable with our choice of Preferred Alternative 8. Tomtate, knobbed porgy, jolthead porgy and whitebone porgy; all of those appear to have substantial landings in the 60, 70,000 pounds, and they are predominantly EEZ fisheries.

I don't think we've given sufficient rationale on why we're removing them since they don't match up with the criteria we've selected. Then the last thing I'd point out is we've had conversations with NOAA's Office of General Counsel about what if we changed some of these preferreds and decide to leave some of these species in the FMP and it becomes no action for some of those species; could we then just use the control rules that we already have, calculate the

ACL and put them into the document today, and they've advised us that they believe we could do that. We have gone through and calculated what the ACL would be using the control rules that we have.

I think it is possible if we want to remove some of these species or retain some of the species in the document that we can go ahead and implement the ACLs in the document today so that they receive the protection they need without having to go through a great deal more process with it. I'd remind you at the previous council meeting in June we did have discussion about a few species, one of which was queen snapper. I believe the AP raised some questions about that, so . I think that's one we ought to rethink.

I've never been very comfortable with removing some of the grouper species that are in here, one that removes them from the seasonal closure that we've put in place. I think they're high dollar fish and that causes some concerns to me. I'd like to see us review some of those. Then to the bycatch issue that was raised, if you'll look through the text that staff has put together that addresses that, the conclusion in there is that the potential effects of removal of these species on bycatch are expected to be minimal in most cases, because the species proposed for removal are not generally targeted or desired.

It's hard for me to see how this is going to have much impact on prices of snapper grouper permits and things like that. A number of these, the fisheries are all taking place in state waters, anyway, so presumably people are already fishing for these that don't have snapper grouper permits in some cases. At any rate, I think a little more detailed discussion of this is what we need, but I'm not sure that just going back to no action isn't going a little too far back the other way.

MR. HARRIS: Mr. Chairman, I agree with everything Roy said. There are states who do have regulations in place that require fish be landed head and fins intact; so irrespective of where those fish come from, irrespective of whether they are removed from an FMP or not, there are those regulations in place. Georgia has them. I don't know whether Florida does or not, and I don't know about the other states.

MR. CURRIN: I think what we heard is Florida has an exemption for consumption that day or something like that. It's true, I was talking to Bill, Florida does have the capability and would presumably act to provide protection for any of these species that aren't currently protected under their current regulations.

North Carolina can do the same thing; I'm sure Louis can speak to that as well. The comments that we received from Pew and Ocean Conservancy and NRDC were very concerning to me, particularly about the lack of state coverage for some of those species. I don't want to toss any of them under the bus and the bycatch concerns.

Roy addressed some of that; the staff has addressed some of that; and that gives me some comfort as well. I'm torn because by the same token as some of the same comments I think that were made at the last council meeting that – you know, many of these species are very minor players and they've been available to the commercial fishery and the recreational fishery with

minimal control by the South Atlantic Council for 40 years, 30 years at least. We haven't seen any train wrecks.

The landings, although some of them are trending up, if you look at the time series, most of them have been just kind of rocking along, and we've seen no evidence that there has been even the capability of concentrating or targeting these things. I'm tending to come down on Roy's side to some degree. .

DR. DANIEL: Just to throw maybe a little bit of a monkey wrench into some of this is that North Carolina just recently had legislation passed that doesn't allow us to be more restrictive than the federal rules on the fish species. If there is not any measures taken and if they are not included in the FMU – right now we have the bag limits and the permit requirements for all species in the FMU – I would have to take all those species out of there. I don't think many of these occur in state waters in North Carolina, but certainly sheepshead and jack crevalle would be two that could cause some difficulty for us in North Carolina.

DR. CRABTREE: Well, Louis, you manage quite a few species in North Carolina for which there is no federal management, speckled seatrout, so it's not that clear, correct?

DR. DANIEL: No, it's federal regulations.

DR. CRABTREE: But If we took these out, there would be no federal regulations on them, so it seems to me it would be no different than you managing speckled seatrout.

DR. DANIEL: I don't think that would fly, but it might.

MR. CURRIN: That's kind of new water for us as well in North Carolina, so I don't know how that would play out ultimately.

DR. DANIEL: I mean, otherwise we would have to do the same thing that you all are trying to avoid, and that is either do some type of a stock assessment to justify management measures on the species that we don't know anything about or that don't occur in North Carolina waters. To the point that Duane made on the filleting at sea, I have not seen that be a problem in North Carolina either.

Right now, if that's a problem you could do it now with blackbelly rosefish or any number of other species that occur out there. If you could fillet them and bring them in and say they are something else, that would be a problem, and we just haven't seen that as a problem in North Carolina.

MR. CURRIN: I've got George to that point and then Duane to that point, and then, Bill, I'll get you, I promise.

MR. GEIGER: (No recording)

MR. HARRIS: To that point I just wanted to make sure that I correct the record. I was wrong; Doug said I was wrong. It's only species managed by the state that are required to be landed head and fins intact.

MR. TEEHAN: Mr. Chairman, yes; I just wanted to give the pull-toy speech that we give every time the subject comes up on whatever council. Florida can extend management of species into state waters, and we have for certain snook and certain state-managed species. We've also agreed to take over stone crab, which is a federally managed species, and repeal that whole FMP. We do have concerns over what we consider a species that can easily be transported out of the vicinity of Florida.

We cannot regulate vessels that are not registered in the state of Florida or do not land in the state of Florida. Our concerns with yellowtail, for instance, when the Gulf Council was looking at it was that vessels coming from other states and harvesting off EEZ off of Florida and not being regulated and then returning to their home port; so that's just our little word of caution we always throw out.

MR. BOYLES: Mr. Chairman, just to give the South Carolina perspective on this, as I think you've all heard me recount time and again, one of the great gifts that David Cupka gave those of us in the State Chair was working with the South Carolina General Assembly years ago to adopt by reference all the regulations in South Carolina that are promulgated under the authority of the Magnuson Act and the Atlantic Tunas Act.

That is the measure by which we manage fisheries in state waters that are under the jurisdiction of the council and HMS. When we look at species removals, you also heard me recite time and again the very time-consuming process of managing these fish via legislation with our General Assembly.

Our plan is, should species be removed by council and approved by the secretary, that we would look at those species that we have significant fisheries for and work with our General Assembly and our constituents to establish appropriate management measures via that legislative process. Let me affirm, I guess, or echo what Duane had indicated on the record for Georgia is in our code for species that we manage by state, it has to be specified in the code about them being landed head and tail fins intact. If there is silence in the code and if there is no federal management, then I guess the potential exists for there to be some filleting at sea. I don't know that that is an issue that we have seen in the past.

LT. FISHER: I appreciate George bringing up at least twice the concerns that we had issued at the LEAP meeting. Drilling down that a little further, depending on which alternative you look at sort of drives how concerned we are with it. When you look at Alternative 7, which is one of the preferreds, you look at misty grouper, blackfin snapper, rock sea bass, queen snapper, yellowfin grouper, all different types of snappers and groupers, you're now going to potentially have a situation where you have regulated species of snapper and grouper, which have to be maintained in whole form for us to be able to identify, for us to be able to determine compliance. Then other species which are biologically very similar, you can't tell one fillet apart at sea. I

think the situation is pretty obvious how that is going to create enormous problems for enforcement in one of our very high interest fisheries.

DR. CRABTREE: I'd like to make a substitute motion that we select as preferreds Alternatives 2 and 5. If I get a second, I'll explain it.

MR. CURRIN: Motion by Roy to change our preferreds to include only Alternatives 2 and 5, and second by David. Discussion?

DR. CRABTREE: Yes, in part I've been trying to get puddingwife out of our FMP for as long as George has been on the council, and I do think that those species in Alternative 5 are Florida fisheries, period. They're covered under the marine life rule, which is more restrictive than anything we have and I'm confident Florida will retain them there.

It seems to me we ought to do that because if we set ACLs for those species and close them down, Florida in my opinion will not comply with that closure of the ACL and they'll continue to be harvested under the Marine Life Rule. I think that's not going to work.

Alternative 2, we've pulled back to species with 95 percent of the landings in state waters. I simply think those are state water fisheries, and you can argue about how good a job the states do managing them, I suppose if you want to, but they are state water fisheries and they ought to be the state's responsibility to manage them.

I don't think that it's affective for us to establish ACLs when almost all of the fisheries are outside our jurisdiction. I think it's going to lead us to problems. I don't think that federal management can do much of anything to improve the status of sheepshead and, jack crevalle. I don't think there is any reason to think that effort is going to significantly going to shift.

We don't manage those species in the Gulf of Mexico. I don't think we ever have. I'm not aware of any problems with those fisheries in the Gulf. This gets us down to taking about – I think it's around 11 species out of it. I would suggest that – and even with this we'll see where the vote goes and we still have two species in the FMP that in my view don't occur in the EEZ here. So after we dispense with this, I may ask Myra if it's within the range that we remove species that don't occur in our EEZ, which would be tiger grouper and smallmouth grunt. I guess I want to see if there is any support for this before I do.

DR. DANIEL: Roy, I was going to make a friendly amendment to add tiger grouper and smallmouth grunt.

DR. CRABTREE: Well, if they're not included in either of these alternatives, I think we ought to deal with that as a separate motion.

MR. CURRIN: I would agree, let's go ahead and discuss this motion we have. Is there any further discussion on this motion? Does everybody understand what it does? Is there objection to the motion? I see no objection, that motion is approved and becomes the main motion. All right, the substitute is now the main motion. Any further discussion? Any objection to the

motion? I see none, that motion is approved. Okay, a couple more species that have been bounced around that apparently don't occur in our area of jurisdiction. Roy.

DR. CRABTREE: I guess I'd like to ask Gregg and Myra about the best way to do this. It seems to me what we're talking about is an alternative to remove species with zero landings, which would mean tiger grouper and smallmouth grunt. I don't know if we would be better to add an alternative to remove species with no landings that would be those two. I guess, Mara, that seems to me to be within the range since we had remove -- they are on at least the list of some of the alternatives we've already had.

MS. LEVY: I would agree that it is within the range of what you've been considering thus far. They are included and were included in discussion in the DEIS, so I don't see a problem with you adding an alternative that would just consider those two at this point.

DR. CRABTREE: Gregg or Myra, do you have any thoughts on how best to do that?

MS. BROUWER: I guess adding a separate alternative would make it the cleanest way to address it. I'm just not sure whether we can parse out analyses just for those two species. I'll have to confer with the rest of the IPT.

DR. CRABTREE: It seems to me that the analyses will conclude that it doesn't have any impact to remove them since they apparently aren't there, so it's not going to have any impacts on anything, I would think.

MR. WAUGH: Yes, we'll have to look at the literature, because I started looking at the literature for tiger grouper and I think we need to be a little careful about saying just because they don't show up in our landings statistic they don't exist. The literature -- and Jack would probably be a better one to answer this, but for tiger grouper it certainly shows it occurring in Florida,, and based on some of the reef dive surveys it is documented in Florida. I think we just need to be careful with some of that rationale.

DR. CRABTREE: Well, I'll make a motion that we add an alternative to remove the two species for which we have zero landings in our data base and that's tiger grouper and smallmouth grunt.

MR. CURRIN: Motion by Roy to add an alternative to remove tiger grouper and smallmouth grunt from the FMU, which they have no landings. Second by Duane Harris. Discussion?

MR. PHILLIPS: I guess it would be a question for law enforcement. What happens when you find somebody with some grouper fillets in Florida and they tell you it's tiger grouper and you don't have any other way to say it is or it isn't?

MR. EASLEY: We have a couple of options, one, believe them, take them at their word, or collect a sample and take it to a laboratory for forensic analysis.

MR. HAYMANS: Is it possible through a regulatory amendment or something to add in a no fillet at sea for any species in the EEZ? I mean, is that something that we can do?

MR. CURRIN: I'm not sure of the answer to that question, but I think I know the answer, and I think the answer is, no, we can't establish regulations for species for which we have no authority. Mara, you can probably answer that best.

MS. LEVY: I would say that if they are not managed species and they are not included in your FMP, then you don't have any authority to regulate them so taking them out would mean there would be no regulation. You can't just have an overall regulation for any species that is not affirmatively managed.

MR. HAYMANS: From the states perspective I can do it with regard to gear. I can regulate a species as landed based on what gear it was caught with. I'm thinking at least from a state standpoint that maybe I can do it in Georgia' all fish are landed head and fins intact, whether I manage it or not.

MR. CURRIN: I would presume you could on a state level as well as long as you didn't have a legislature telling you that you couldn't do something that the feds didn't tell you it would give you permission to do. I'm not still clear on that either, but it could have an impact, you're right. I see no reason that the individual states couldn't establish landing laws that are different from, over and above, less than federal landings. I think the states can handle it. .

DR. DANIEL: To that point, anything we have a size limit or a bag limit on, you have to land with the tail attached. That's why our stuff is all covered except for very few species.

DR. CRABTREE: I just have a hard time believing we're making a loophole if we take two species out that are so rare. I'm a little troubled that cottonwick is remaining in, because according to the table there have been six pounds of landings total from 2005-2009. The notion that somebody is going to come in with a fillet and say that it's something you don't manage and just make it up, I guess they might, but they could do that now.

They could claim it's Lord knows just about anything. As I said, we've got a lot of other councils that don't put every species – I mean, the train of thought that we're on leads us to say we've got to manage every species that exists. It seems to me that is clearly not consistent with common sense or with the guidelines that we have.

We are at a point with ACLs and things that if you have these species in the FMP you are going to have to deal with them and there are going to be closures and consequences. That means we are going to devote time and energy to trying to deal with these species. I think we have to think about do we have the resources to do that? It seems to me there is not going to be any benefit. If we do keep those species in, we are going to either have to put them in some group or we are just closing the fishery down and saying no one can land them.

MR. CURRIN: Don't look at that table too carefully, that is how we got where we are right now today. I suspect there are a few more in there that would at least justifiably meet the same criteria as cottonwick, which I don't disagree with you at all.

MS. BROUWER: Actually, I was just going to say that we received an update to some of the tables, Roy, that were in the revised Action 1 discussion showing that there are actually no landings for cottonwick.

MR. CURRIN: No landings for cottonwick?

MS. LEVY: Is there any indication or information as to why there was the change between zero and six?

MS. BROUWER: I believe Nick Farmer's e-mail said that he updated those tables to be consistent with the methodology that was used throughout the document. I don't know exactly what that means, but the update was done by Nick Farmer yesterday.

MR. CURRIN: Charlie, did you have an amendment that you wanted to offer to add cottonwick to this?

MR. PHILLIPS: Well, considering what Otha said that they can do a fillet ID if they see anything egregious, I'm satisfied that folks having a few pounds of personal consumption fillets is not going to be a problem and we may be trying to kill a mouse with a shotgun here.

MR. EASLEY: Yes, to Charlie's point; there is the option to do a forensic analysis, but for recreational fishing it's not likely to happen that often. It's not cheap to do, it's not that timely. It is an option, but I don't think we'll be able to exercise that too much.

DR. CRABTREE: Well, my concern now would be since our rationale here is that we're taking them out because we don't have landings – and I agree with Gregg, I'm not going to go so far as to say they don't exist in the EEZ, but if they do exist, they exist in a very small portion of it and extremely low abundance. My concern would be based on Myra's telling us that cottonwick have zero landings, why aren't we putting in here – I mean, we need to be consistent. **I think I would amend my motion to add cottonwick to that list, if that's okay with my seconder.**

MR. CURRIN: Amended motion by Roy to add cottonwick for the same rationale that their current table indicates that there are no landings in the last four or five years. Is there a second; do we need a second? Okay, Duane, you're okay with that? All right, so we have an amended motion to add a new alternative to remove tiger grouper, cottonwick, and smallmouth grunt for which we have zero landings in our data base. George.

MR. GEIGER: (No recording)

DR. CRABTREE: Discards of what, of these three species?

MR. GEIGER: (No recording)

DR. CRABTREE: How is that affected by whether we have them in the FMU or not? If people occasionally catch one and discard it, that's going to continue regardless of what we do. We have no way of knowing because they are at so low abundance that they are not going to show up.

I suspect if landings of one of these does show up, it's likely in the recreational fisheries somewhere, George. I just think these are so rare that most recreational fishermen wouldn't even know what one was if they saw it. It's just not clear to me how whether we leave these in or take them out is going to make any difference.

If we leave them in, unless we put them in some group, our ACL is going to be zero for them and then if one ever is caught and if whoever catches it happens to know what it is, they'll have to discard it. You reach a point where things are so infrequent and in such low abundance there's really not much gain from our trying to manage it.

MR. HARTIG: A number of these species are insular species, species that occur primarily around islands versus species that occur in the continental areas that we manage predominantly. Certainly, the Keys is a different transition type zone, but even there we don't have a number of insular species.

You have remnants of these insular species which occur throughout the world in insular areas that occasionally show up in the Keys with no reason to manage it because population-wide it has no impact on the population that lives primarily around islands. I fully agree with what Roy is saying for a number of these species.

I'm not sure cottonwick is insular but I know that tiger grouper certainly is. It's just one of the different biological things that you run up against in your management that you have to deal with; and certainly these small species that occur occasionally in the Keys, there is no reason to have federal management on them.

MR. CURRIN: Any other discussion? I'm certainly more than comfortable with these removals. All right, is there objection to the motion? I see none; that motion is approved. All right, what else on this Action 1? Roy?

DR. CRABTREE: Well, I think we need to have some more discussion about what do we do with the species we've now retained in terms of annual catch limits. That is a preferred alternative and the record is clear that we selected this as a preferred alternative, Mac, or do we need to do that?

MR. CURRIN: I don't think that it is clear because I don't think that motion was made.

DR. CRABTREE: All right, I'll make the motion that this new alternative be our preferred alternative.

MR. CURRIN: Motion by Roy to select this new alternative, whatever number it turns out to be, as a preferred; second by Duane. Discussion. Any objection to that motion? I see

none; that motion is approved. Okay, and you're exactly right, Roy, we need to decide how to deal with these ones that we've now brought back into the fisheries management unit.

DR. CRABTREE: Mac, just to be clear for the record, then that means that Alternative 4, 7 and 8 are no longer preferred alternatives.

MR. CURRIN: That should be clear on the record.

DR. CRABTREE: Then I guess what we need to talk about is what do we do with these species now in terms of ACLs? I guess one way to go is to say we are going to come back in and implement ACLs through a framework provision as quickly as we can. I guess the other way to look at it – and I've had discussions with Mara and Monica in GC about this – is we do have the control rules that we've selected in this document and they are all based on landings. We could just punch in the landings number we have for these and come up with ACLs and add them into the document today.

Now they would not have been reviewed by the SSC, but I don't think that prevents us from going ahead and putting the ACLs in the document. There is also the issue about if we are going to retain these, what groups would they go in. I think Jack and Company would have to advise us, but some have natural groups they would fall into, others may not. I think the bigger issue is whether we want to go ahead and try to put the ACLs in this document today or whether this is something we are going to come back to as quickly as we can.

MR. CURRIN: Yes, thoughts on that? I have an opinion, of course. Gregg.

MR. WAUGH: A question of Mara that might help you; do we meet the Magnuson Act requirements if we just specify the control rule, because you may want to stop there? We've had discussion. Even though we've got ACLs for all these other species, once MRIP comes out that's all going to have to be redone.

My thought was before we had to specify the ACLs in order to meet the requirement of the Act; but if other councils are getting guidance that all they have to do is specify the control rule, then you may just want to stop here for these species and deal with it in a future amendment once MRIP is released. If Mara could answer that, that would I think be helpful.

MS. LEVY: I'm trying to think about it. I think the Act requires that – it does say establish a mechanism for specifying annual catch limits and accountability measures, but it needs to be implemented in the Fishing Year 2011. I don't necessarily think that it's enough that you just say we have a control rule and sometime in the unknown future we are going to specify the ACLs.

I know that some councils have done them separately, and they have a process by which they've established the rule and then they do the specifications in a different amendment. I don't think the intent is to put it off past the deadline if at all possible. None of the other regions that I am aware of in our area are doing that, meaning they are together and we are getting them done by the end of the year as specified in the Act.

That's not to say that you can't say that you need time to look at these and implement the ACLs by framework and try to the best of your ability to get it done within the time period, but I would advise that the ACLs need to be implemented within the timeframe.

MR. BOYLES: Mr. Chairman, I just wanted to affirm mutton and hogfish remain?

MR. CURRIN: All right, what is your pleasure here as far as how to proceed? Personally I am a little uncomfortable with trying to establish those ACLs and then stick those in the amendment at this meeting. I think either through framework or of the time is very sensitive perhaps some sort of emergency action could be initiated either today or in September to put the ACLs in place.

Roy, I agree with you, I think that the – and I'm not trying to put words in the SSC's mouth, but I think that they probably will come down and use their established control rule to calculate those ACLs. I'd be a lot more comfortable I think with them actually thinking about that and saying, yes, that's the way we would approach it as opposed to us doing it may generate some bad blood.

MR. TEEHAN: Mr. Chairman, I may have missed this, with all the talk of puddingwife I was thinking about dessert. How long will it take to get this framework ACL established? Do we have any guestimates on that?

MR. CURRIN: I couldn't tell you; maybe Gregg can give us an idea.

MR. WAUGH: Well, we're going to talk about that at full counsel under other business. It comes down to we've been double-timing it on amendments that had statutory deadlines and we've completed a whole host of them that didn't. If the idea is this would be a new regulatory amendment that would be added, we need to look at what you'd be willing to give up on the other amendments that we're looking at between now and the end of the year. That's under other business' we have that scheduled.

DR. CRABTREE: Well, in my view if that's the path we go on, that has to become our number one priority to get done. I think we'd have to schedule an SSC meeting as quickly as possible and get it done. I don't think there is much way we could have it done by the end of the year without another one-day emergency council meeting, which I think is something we'd need to talk about.

I guess staff could think about it this morning and this afternoon and report back to us at the end of the day. I think if this is the path we go down, I'm likely to make a motion at the end of the day that we have another one-day council meeting to come in and load it up.

MR. CURRIN: Well, Roy, let me ask you something then. If we do go down this path and don't have an emergency meeting and don't get these in until, say, March and we're three months late and miss the deadline, would we be the only council that is going to be beyond the deadline on establishing ACLs for all their managed stocks?

DR. CRABTREE: You'd be the only one at this point in the game that it appears to be the case of. I can't tell you that the other ones will all get theirs through the process that quickly or not.

MR. CURRIN: Other thoughts? We've heard from a handful of folks about the way you'd like to proceed. Charlie.

MR. PHILIPS: I'm very concerned at how we set the ACLs on these' and if we're going to use just landings, which is what we're using already, when the, say, landings of vermilion or something else, a directed species, the landings TAC goes up for that, the interaction between that and a bycatch, which is going to be some of the species on this list, these landings are going to go up because they are proportional generally I think. We're going to shut down directed fisheries over these small ACLs, and I'd rather be late and try to get this done right than hurry up and shut down directed species.

MR. CURRIN: Well, I think we only run that risk, Charlie, if we start lumping some of these in with some of the commercially important or recreationally important species. I don't see that as being likely to occur. It may, but again until we get some idea and recommendations from Jack and some of the other scientists as to where these things belong, then we won't have the absolute answer to that question.

All right, what is your desire, folks, on how to proceed here? Is everyone most comfortable with trying to do this in a separate action or do you want to try to deal with it as per Dr. Crabtree's suggestion? Yes, you can think about it over lunch and then we'll come back; how is that?

MR. CUPKA: Yes, we'll go ahead and break for lunch. As I said earlier; we'll try and just take a 30-minute break.

MR. CURRIN: Apparently during lunch it was discovered several pounds of landings of cottonwick somewhere, so they don't meet the criteria of the last motion. I think it's probably advisable to go back and revisit that amendment to the motion that included cottonwick along with tiger grouper and smallmouth grunt, if that is the desire of the council. David.

MR. CUPKA: Thank you, Mr. Chairman; I'd make a motion that we remove cottonwick from the list of species to be deleted.

MR. CURRIN: Motion by David. Is there a second?

DR. CRABTREE: Point of order; shouldn't it be a motion to reconsider?

MR. CURRIN: We could do that.

MR. CUPKA: Okay, a motion to reconsider.

MR. CURRIN: Okay, motion by David to reconsider the previous motion, is there a second? Second by Duane Harris. Okay, does everybody understand what we have before us, the motion

to reconsider? Any objection to that motion? I see none; that motion is approved and now the previous motion is on the floor. I don't know how to deal with that. David.

MR. CUPKA: I'll just make a new motion to remove cottonwick from our earlier motion.

MR. CURRIN: Motion by David to remove cottonwick from the new alternative that was established. Second by Duane. Discussion?

DR. CRABTREE: So we're basically amending the motion.

MR. CURRIN: We're going to remove cottonwick from that alternative that we established. Well, it could be through an amendment or be removed. If you're not comfortable with that, you'd rather see an amendment, that's fine.

DR. CRABTREE: I think what I'm going to do; I made the motion originally, I'll withdraw it, and then, David, you can make a new motion that doesn't include cottonwick; how about that?

MR. CURRIN: Yes, I can't remember who the seconder was, who was the seconder of Roy's original motion? Duane, are you okay with removing that? Okay, the motion has been removed and now a new motion, David.

MR. CUPKA: I would move that we add a new alternative to remove tiger grouper and smallmouth grunt from the fishery management unit based on zero landings in our data base.

MR. CURRIN: Motion by David, a second by Duane to add a new alternative to remove tiger grouper and small mouth grunt from the snapper grouper FMU based on zero landings.

DR. CRABTREE: It's your intent that this new alternative be a preferred, David?

MR. CUPKA: Yes, and also that would be a preferred if it passes.

MR. CURRIN: I'll read it again for, Joe – add a new alternative to remove tiger grouper and smallmouth grunt from the Snapper Grouper FMU based on zero landings; also make this a preferred alternative. Any further discussion? Any objection to that motion? I see none; that motion is approved.

All right, we've still got to decide, folks, how we're going to proceed. I think it is imperative we get this Comprehensive ACL Amendment approved today in some form. The question I guess is whether we try to include some ABCs – ask the IPT to calculate ABCs and ACLs without the advice of our SSC or whether we delay and allow the SSC opportunity to develop those ABCs and ACLs sometime in the future.

I think the implications are if we go the latter route and provide the SSC with an opportunity that it's likely going to be well into the spring before ACLs for these species are in place. The risk we run I guess is trying to ask the IPT to put those in today is irritating and perhaps even stronger

terms more than irritate our SSC because we have not allowed them to do their job. What is your pleasure; how should we proceed? Roy.

DR. CRABTREE: Just one thing, after consulting with Jack and Mara, it does not appear that we can do it through a framework action because our framework allows us to adjust ACLs but not to implement ACLs. We are talking about a plan amendment. One thing that might bear some discussion – and I think this came out of public comment, but it might be that some of these species – you recall that we had an alternative in here to do ecosystem species.

We moved that to consider but rejected because we had decided to remove them. Now that we're not removing them, it may be that some of these species would meet the requirements to be ecosystem species; and if they did I think we could resurrect that alternative from the appendix and do that.

I say that this came out of public comment because my recollection is that the NRDC comment had a table in it somewhere that indicated some species they thought would qualify as ecosystem species; is that correct, Jack? It's Page 12 of their comments so we at least have one public comment that some of these would qualify.

I think the trickiest one of the criteria is the one about not generally retained. Of course, if a species has a hundred pounds of landings over five years, it seems to me you could make the case that it's not generally retained. I guess it's probably not generally caught either, but that might bear some discussion. Mara, am I correct that since we did have that alternative in the considered but rejected, that we could resurrect that and classify some of these potentially as ecosystem species?

MS. LEVY: I'm looking into that. I'm thinking that the answer is probably yes, but I want to double check first.

MR. CUPKA: Roy, I'm wondering too, if we did something along those lines if it wouldn't help with another concern we have, and that is putting them in groupings. If we put them in an ecosystem group rather than trying to put them into some of those other groupings where they wouldn't become choke species, that would help with that, too, wouldn't it?

DR. CRABTREE: Well, if we classify them as ecosystem species, then they are exempted from the ACL requirement and we don't have to worry about that. I can tell you the ones that the NRDC indicated were black snapper, cottonwick, French grunt, grass pogy, longspine pogy, ocean triggerfish, puddingwife, rock sea bass, saucereye pogy, smallmouth grunt, Spanish grunt, and tiger grouper.

Now some of these, tiger grouper, smallmouth grunt, pudding wife, maybe a couple others we're still planning to remove, but this might be something worth asking staff to look at and come back to us later this afternoon.

MR. CURRIN: It makes sense to me. Anybody else, comments, thoughts? Myra.

MS. BROUWER: Yes, I just request some clarification. I thought the guidance in the past that the council received was that even if species were designated as ecosystem components they would still need to have an ACL specified. Is that no longer the case?

MS. LEVY: If they're an ecosystem component they are not technically in the fishery, so they wouldn't, but they do need to meet the criteria set out that would make them in that category.

MR. CURRIN: I'm certainly comfortable with that. I've been comfortable with it from the very beginning, but the guidance and the discussions we've had in the past was we had very few to almost no species that would qualify under the guidance and advice that we received earlier. In talking to David Newman, they interpret it a little bit differently, I guess, and perhaps not quite as stringently as the advice we were given earlier. I'm all about trying to do it if we can feel everyone is comfortable with asking staff to do that and look at additional species that might qualify as ecosystem species and include those,. I'm all about it.

DR. CRABTREE: So if they could do that and then come back to us towards the end of the day, we could see which ones we thought might qualify and then we can look at what does that leave us, and then we can return to the discussion about what to do about it. If we got this down to a relatively small number of species with ACLs, I'd like to talk again about just going ahead and putting the ACLs in. I understand some consternation with the SSC and that's something to be concerned about, but the other part to this is the law requires us to do this by a specific time.

I think trying to comply with what the law requires is more important to me than creating some consternation with the SSC. I think that most of these species have such low landings that there is very little good science advice that they're going to be able to give us on what to do with these. I think that's a good plan is to ask staff to take a look at what might qualify and then come back to this towards the end of the day.

MR. CURRIN: Is everybody okay with that? Is staff okay with that at least for now? I guess the recommendation if everybody is okay with Roy's suggestion is to kind of put the Comprehensive ACL on hold unless there is something else in there other than Action 1 they want to deal with, come back later and after we've given the staff some time to look at these ecosystem component species, who and what might qualify, and then bring the Comprehensive ACL back up to decide how we are going to proceed with those species that are included that we're going to have to develop ABCs and ACLs for and then approve that amendment later; is that the suggestion, Roy?

DR. CRABTREE: Well, yes, right now I just want to look and see where we stand. I think we just retained about 15 to 16 species; does that seem about right, Mara? In looking at the NRDC list they've got 9 or 10 species they think could qualify as ecosystems, and I don't know how many of those are in the ones we retained.

If we could get the list of retained down to we need ACLs for 5 or 6 species, then my position is going to be let's implement the ACLs today in this amendment and then let's convene the SSC, get them to go through it and modify those ACLs for a framework. I don't see why that causes

any real heartburn with anyone. I'd like to see how many ACLs we are talking about before I'd get into that.

MR. CURRIN: All right, is that okay with everybody then? Let's see if there is anything else in the Comprehensive ACL that anybody wants to consider changing. Is everybody comfortable with the rest of it? This is the primary issue that I was aware of where there might be consideration of changing. Bill.

MR. TEEHAN: Mr. Chairman, are you opening up the entire amendment at this point and we can go to any action we want or are you still focusing on the beginning?

MR. CURRIN: Well, we're going to have to wait for the beginning. What I'm trying to do is finish with everything else in here so that we can come back to this one particular issue. Yes, if there are other issues within the amendment that you would like to consider and discuss, that's fine. Myra said there is one more issue that staff had a question about. If we can take care of those quickly, David Newman from NRDC wanted to make a comment as well. I think this is probably regarding the ecosystem species that we were talking about, so go ahead, David.

MR. NEWMAN: Thanks for the opportunity. I just wanted to clarify that in the March or February public hearing draft to the ACL Amendment, there is this consideration of alternatives for EC designation, and there is a list listing out the criteria. There is an evaluation of whether they would qualify.

According to this list, which is what I think is what the council may want to rely on; there are seven species that are bolded in yellow. This is Page 254 of the either March or February draft, the PDF page. Our list here is a suggestion of 11 species but that may be broader than what the NS1 guidelines actually allow. The other suggestion is it might be helpful to pull up the guidelines and the language on retention that Roy is speaking about. Thank you for the opportunity.

MR. TEEHAN: This could be real quick or this could be real long. Action 24, Page 122, I would like to make a motion that Alternative 2 in Action 24 be removed to the considered but rejected list, and that is the prohibition of bag limit sales of dolphin from for-hire vessels. Page 122 in the document that I am looking at, which I think is Attachment 3B.

MR. CURRIN: Page 122, PDF 122, Bill?

MR. TEEHAN: Yes, I'm looking at Attachment 3B, 122 and 123, Action 24.

MR. CURRIN: That may be the real page number as opposed to PDF.

MR. TEEHAN: Okay, then I'd say the 182 up on the top of mine.

MR. CURRIN: All right, everybody got it, PDF page 182, these are the management measures for dolphin. I think Bill's motion was to remove the current preferred Alternative 2; is that correct?

MR. TEEHAN: Remove Alternative 2, which is one of the preferreds, to the considered but rejected list.

MR. CURRIN: Bill's motion is to – is everybody clear on that -- move Alternative 2, one of our current preferreds to the considered but rejected appendix. Is there a second? I see no second, so the motion dies for lack of a second.

MR. TEEHAN: Thank you for your consideration.

MR. CURRIN: All right, Myra, you had one more thing that we needed to deal with.

MS. BROUWER: Yes, one item that I thought the council might want to discuss is the determination for overfishing. The majority of the species in this amendment we don't have an OFL determination for them, the OFL is unknown. Therefore, we have no way of determining when overfishing is occurring.

Yet in June you amended the commercial AMs to require payback only if a species was overfished. Well, what is going to determine whether a species is overfished or not? The council might want to consider what we've done I believe with Spanish mackerel and cobia is to have the ACL be the determining threshold for overfishing. Of course, this has a lot of disadvantages and some advantages to it, but nevertheless I thought that might be something that you want to discuss.

DR. CRABTREE: I understand the issue of defining overfishing, but I don't think we have any way to define overfished just based on catches. We have defined overfished; its 1 minus M times the MSY in previous amendments, but that requires a stock assessment. The only way we determine something is overfished is if we got a stock assessment that said it was. I don't know any way around that.

Now the overfishing, I think we probably could define overfishing as catches that exceed the ACL. It has plusses and minuses. The plus of it is in any given year you can look at it and say the catches exceeded it or didn't, so you can answer the question. Whereas, right now the problem we have with the status of stocks report, which just came out recently, is they won't change that report until they have a stock assessment that confirms overfishing is ended or the stock is no longer overfished.

Well, we get stock assessments every four or five years at best and so what happens is we take actions but then the status of stock report doesn't change and it lingers on. I would argue that every one of the stocks in the status of stock report now that are listed as undergoing overfishing, if the information we have been given is correct, are not undergoing overfishing.

We've addressed all that and we've ended overfishing for all of these stocks, but they are still listed as undergoing overfishing. The downside with changing to the OFL or the ACL is that if we have a big recruitment event there is a very good chance that we'll go over the ACL particularly in the recreational fishery; and then if that happens it's going to get listed in the

status of stocks report as undergoing overfishing, and then we'll have to take action to reduce the ACL and all of these kinds of things.

But then we may get a stock assessment that says you weren't overfishing at all, you just had a big recruitment event, which is a good thing, not a bad thing. That is the downside on it. So the plus side is it's more timely in terms of what you're doing. The downside is though you might misread high catches as overfishing when in fact it's not overfishing at all, it's good recruitment.

MR. CURRIN: Other thoughts? I'm not particularly comfortable with assuming or making the assumption that ACL is equal to OFL. I'm very uncomfortable doing that. I made a suggestion earlier that if we want to establish an OFL, I think there is a way we can do that by dividing the ACL which we've been given by 0.75.

It's artificial, I don't know whether it has any meaning, but if you think about it, when we've been given OFLs we derive our ACLs by taking 75 percent of that in many, many cases. In my mind, and it may be warped, there is some sense of logic there. Roy.

DR. CRABTREE: Well, there may be a sense of logic there, but I believe if you tried to do that it requires alternatives and that's not in this amendment. I don't think you can define OFLs here. I think some people would argue that because the SSC has said you don't have OFLs that that is problematic. I don't know that we can go down that route.

MR. CURRIN: All right, so what do we do? Myra.

MS. BROUWER: Well, then the issue still is under Action 6 and a few other actions in the amendment for the preferred AM alternative. For the commercial fishery, you have for the species in the table above, if an ACL is exceeded the RA shall publish a notice to reduce the ACL in the following season by the amount of the overage only if the species is overfished. What to do with that is my question?

DR. CRABTREE: Well, that is a different issue and I think in that case you are going to go look at the status of stocks report; and if it says it is overfished, then it is overfished. If it doesn't say it is overfished and we don't have a SEDAR assessment that is more recent, then it is not overfished and so that wouldn't kick in. I think the thought has been that we are talking about stocks that are in rebuilding plans is where that would apply. Does that seem to clarify it?

MR. CURRIN: Is that okay? That makes sense. Okay, Myra, anything else other than the hanging issue on Action 1 for the Comprehensive ACL Amendment?

MS. BROUWER: No, I think that would be it, and then you will have to decide if we want to go over the proposed rule text later on today.

DR. DANIEL: Can I go back to one thing? I'm hesitant to say much because I haven't been involved in this for a long time and I don't want to overstep or go plow over old ground. I guess the bag limit sales for for-hire guys, did you have discussion on the impacts that this will have in terms of folks coming back to the dock, deciding to head on home, what do you do with the fish

if the patrons don't want them? Did you have that discussion because that is going to be a problem? I'm just wondering.

MR. CURRIN: I don't recall. George is nodding his head that we did have that discussion.

DR. DANIEL: The preferred is still to prohibit the for-hire bag limit sales?

MR. CURRIN: I think as best I recall, Louis – somebody correct me if I'm wrong – some of that discussion was if they don't intend to keep those fish to take them home with them, they don't have to keep them. Then that brings up the whole can you safely release them, is it good for the fish and all that. I think that was part of that discussion, that people do have other choices and options to make besides bringing a bunch of fish back dead in the box and then leaving them with the crew. George.

MR. GEIGER: (Not recorded)

DR. CRABTREE: I seem to recall, Louis, we had some discussion about if we allow the sale, that's an incentive for the captain to retain fish even if the customers say I don't want them and basically put every fish caught in the box so he can bring them in and sell them. I think that the thought was we wanted to remove that incentive.

MR. TEEHAN: Yes, and since I didn't get a second, I didn't give any rationale, but Florida's rationale is just that in this particular economic state, especially for for-hire fishermen and the massive other species closures in the South Atlantic, that this might be just another way to eke out a living as a for-hire fisherman, and that was the intent.

MR. CURRIN: Okay, Louis, are you satisfied at least? No?

DR. DANIEL: I understand the rationale, I would feel a lot more comfortable with that rationale were it for a species of concern, but the fact that dolphin is not really, in my mind, a species of concern I think you are going to always have those people that go out and are going to say they want the fish.

They are going to be excited about it. Part of the experience is gaffing the fish and throwing them in the kill box. I know that probably one of the intents is to try to dissuade that from occurring, but I think it's still going to happen. You are going to have a lot of fish on the dock, people with guests coming in and deciding they are tired and don't want to mess with it, and go home. I just think it's going to create some problems on the docks; but if you've discussed it, you've discussed it. The fact that Bill didn't get a second doesn't make me think that there is going to be a whole lot of changing of minds at this point.

MR. CURRIN: I think your assessment is correct. All right, then we are going to give you guys some time to look at those tables from NRDC and from the previous ecosystem components to kind of see what is included in the motions that we passed today and what is not; and at some point when you're ready, we'll come back and deal with that and then finish up with the Comprehensive ACL.

In the meantime to give you guys some time, if we can get Kari up here and we'll deal with 20A, and that will allow Myra some time. Kari, can we impose upon you to come on up and deal with Amendment 20A. Louis.

DR. DANIEL: I'm sorry; I'm trying to catch up. Dolphin allocation, is this the time that we would discuss that as well, Mr. Chairman?

MR. CURRIN: Yes, we can do that while Kari is coming up.

DR. DANIEL: I've got a real problem with the 93/ 7 allocation. I think that is patently unfair. I think it is inconsistent with the argument that we made back when we developed the Dolphin and Wahoo Plan and everybody was scared to death that there was going to be this developing longline fishery out of Charleston, and we capped that fishery at its historical level to avoid it going any higher.

Now, based on whatever reasons the landings have declined somewhat and we are going to now start using the landings history as a mechanism to do allocation. I know the Boyles' Law Issue is good for some of the species where we didn't have allocations, but we had an allocation that was thought out and done properly. **I would make a motion that the allocation between dolphin for recreational and commercial remain at the traditional 87/13 percent as our preferred alternative.**

MR. HARTIG: Second.

MR. CURRIN: Motion by Louis and second by Ben to change the preferred for the dolphin allocation to a traditional 87 percent recreational and 13 percent commercial. Discussion, Louis.

DR. DANIEL: Yes, I think clearly taking away the bag limit sales is going to have a reduction in the commercial harvest in the landings, but this is one fishery where we could provide some alternative to the fishermen. I don't think the landings, especially on dolphin, are very fairly characterized by annual landings at this day and age because of fuel prices.

I know I for one, I haven't been offshore once this year just because gas at the dock is four dollars a gallon. I know that there are a lot of other folks that are in that same boat. I also know that the commercial guys had a difficult time getting out in May. We're going to have a closure; if we have a closure you are just going to be wasting fish, what is the point of that? I don't think the justification of just looking at what fish have been landed over the last five years or using the Boyles' Law is the fair way to allocate this resource.

If there is one fish that we could provide some opportunity to the commercial guys with, with all the other closures we've got, and feel relatively comfortable that we're not going to be in a concerning situation, is dolphin. I hope the council will consider reconsidering that and vote favorably for this motion.

MR. CURRIN: Thank you and we have discussed this, Louis. Just one point of clarification, I guess it is fair to characterize the original allocation as 87 and 13, perhaps, although you have to keep in mind that wasn't the actual allocation. It was no more than 1.5 million pounds or 13 percent.

In actuality we never knew and still don't know what the recreational landings are until the whole thing has already passed, the season has been done, and so there are no controls and it just says, oops, if that happens we are going to come back in and do something. That's kind of what we've done here, and that's where we ended up I think with the preferred allocation that we have. In 2009 landings did top 1.5 million pounds in the commercial industry.

There was a lot of concern by the charterboat folks out of Hatteras that particular year with a tremendous increase in longline effort off of their around Memorial Day and just before Memorial Day. I heard from a lot of them, folks that normally wouldn't say anything to me or anyone else about anything the commercial industry did in Dare County, but I got ears full of it because of what was going on there. I guess whether the previous allocation was 87/13 or what we have currently selected as our preferred, we could talk about further, but just some background and clarification for you as to where I am, anyway, how I got where I am. Charlie.

MR. PHILLIPS: If you did an 87 percent recreational, would they have been going over that?

MR. CURRIN: To go back and look at it, I don't know. I think that recreational actually was way down that year as well, but I'm not positive. Without looking at the landings table, Charlie, I can't be sure. Other discussion on the motion? Ben.

MR. HARTIG: Louis' rationale falls right in line with what I had said before on the record, and it is very similar to what I had said and the same answer that you gave; well, it wasn't a hard allocation. It is still in my mind an allocation.

MR. TEEHAN: Just because I'm late in the game here, what is the allocation prior to this motion?

MR. CURRIN: 7 percent commercial and 93 recreational, is that correct? I believe that is correct. All right, all in favor of the motion raise your hand. 4; opposed, 7. The motion fails. All right, let's suspend our discussion of the Comprehensive ACL Amendment and move into Amendment 20A, Wreckfish, and we've got Kari up here to direct us through this.

Before we do that, Kari, Paul Reiss asked – he didn't realize it was a public comment period this morning and asked if he could speak to the council about this particular issue about wreckfish. We did get some comment. Paul.

MR. REISS: Yes, good afternoon, Gentlemen, Ladies. Most of you know me. My name is Paul Reiss and I am the president of Stone Bass Fisheries, LLC. I've been involved in the wreckfish fishery since its inception, late '80's, late 1980's, a few years before the ITQ program was even developed. We're in a tough situation here.

The SSC's recommendation of reducing the TAC to 250,000 pounds without a significant change in the allocation of shares is going to put me out of business. I attempted to show the SSC through graphs that my wife and I compiled landing history, CPUE data, and average fish size that the fishery was in good condition, sustainable, and taking that all the way back to when the stock assessment was done a few years ago that the production had been constant or actually improving CPUE-wise since then.

It has been brought to my knowledge that there are two recent stock assessments, not just one. One is in-house with the SSC; the other is in process, I gather. I've kind of gathered that this would possibly help to improve the TAC for wreckfish, but how much remains to be seen. Without a drastic improvement above the 250,000 pounds per year TAC, we're still going to be out of business.

Specific numbers, I own roughly 25 percent of the fishery; and even with that, I've historically landed for the last 10 years give or take 150,000 pounds a year, and I need to land that amount to maintain the business, the boat. It is not a cheap operation. The 430-odd pounds that I have now under this, if the share percentages aren't adjusted, that would reduce me down to something give or take around 40,000 pounds, and that is a death sentence for me.

For myself, for Cherry Point Seafood, for the trickle-down effect of those affected by this possibility is quite serious and extensive. I feel that regardless if these stock assessments are put in in time, and if they are, they would obviously I believe trend the 250,000 pounds upward. How much I don't know, but regardless of that I feel that the only way that the fishery can be saved is for you to completely – to use the existing control date that you've already come up with and do a complete reallocation of shares to the recent participants.

We've had the recent participants for the last ten years have been constant. People have had the opportunity to go out and catch the fish and they haven't. It is a dangerous fishery; it is very, very difficult. I've participated in just about every fishery there is, pelagic longlining, bottom longlining, snapper grouper, you name it, snapper grouper fishing and this is a very, very difficult fishery to succeed.

It can be done and I'm living proof that it is done, but it is very difficult and that is why you have the lack of participation that you do, and it has receded over the years. If you could do a complete reallocation of shares – oh yes, by the way, I am told that you have decided that you were going to reallocate the shares of the deceased shareholders and those that are unresponsive.

Well, that constitutes 19 percent of the shares and that is not going to amount to a hill of beans as far as keeping us in business. That's about all I need to say. I'd just like you all to know that I make myself available to any type of questions, inquiries about the fishery, I know this fishery inside and out. Through councils on the sidebar, whatever, I'm at your disposal. That's all I have to say.

MR. CURRIN: Thank you, Paul; any questions for Paul? Bill.

MR. TEEHAN: Paul, if I heard you right, you mentioned 250,000 pounds as an annual quota that you would need as a minimum to survive; is that correct?

MR. REISS: For myself, no.

MR. TEEHAN: How about for the fishery?

MR. REISS: For the fishery, I would need to see it be at least 750,000, triple what the SSC has adopted.

MR. CURRIN: Any other questions for Paul? All right, thank you. We're very aware of the scrape you are in right now and we've been struggling trying to figure out how to make it viable for you. I'm not promising anything but we're trying, that's all I can promise you. David.

MR. CUPKA: If I may, Paul, if you don't mind waiting just a minute, part of the problem we have in this fishery is that the data is confidential and we haven't even had an opportunity to look at it. But my understanding is at least in recent years that the total landings have been somewhere around that ABC level, around 250,000 pounds; is that correct?

MR. REISS: That is correct and the primary cause of that is the lack of participation. It's like I indicated, there is myself and another vessel out of Cherry Point Seafood, and a boat or two out of King Seafood in Daytona Beach, Florida. Other than that, that's all that has participated.

Now when the SSC adopted their 250, my wife and I had compiled graphs and data going all the way up through the end of last season that we presented showing CPUE has gone down, fish size has gone up, the total landings has gone up; I mean, all indicators that the fishery is in a fine state of affairs.

MR. CUPKA: I just want to point out though that the ABC level that the SSC has come up with is pretty equal to what the total landings have been, which have supported a small but limited fishery, but it has supported some operations here within recent years. If there was some way to reallocate those shares to the boats that have been participating recently, there should be enough level of catch there to continue the fishery until we get an assessment.

MR. REISS: That is absolutely correct. If you could go ahead and adopt the 250,000, wait on stock assessments that can be believed in, but it would require a complete reallocation to most recent participants, to give us enough poundage to stay in business.

MR. CARMICHAEL: I just wanted to clarify there were a couple of statements made about ongoing assessments and you mentioned one within the SSC, but the SSC doesn't have an assessment of wreckfish and they are not in the business of conducting stock assessments themselves. They review assessments that come in from sources like SEDAR.

They could come in from other sources, also. There was some discussion about I think at the June meeting that might be where some of this confusion comes up about regional office staff looking at some of the data-poor methods. Then I know the Science Center has been working

with some folks out on the west coast that have a lot of experience there to try and look at the opportunities and the outlook for assessing wreckfish with some of the data-poor techniques and addressing the situation where we in the U.S. only see a portion of the stock. But there is no assessment that is in house within the SSC that we're simply not acting upon.

MR. REISS: Well, I was deferring to what I was told this morning by Kate Quigley as to why I made the comment. Once again, I can't put my stock in a stock assessment going to save me. Go ahead and adopt the 250, but we have to totally reallocate. That's the only thing that's going to save us.

MR. CURRIN: I think that whole issue with the stock assessment – and somebody else this morning in the public comments made reference to a recent stock assessment on wreckfish. I think it's actually just some preliminary analysis that Andy Strelcheck did. There has been certainly no peer-reviewed stock assessment.

Andy has taken a look at the data and made some attempts to see what would happen under certain scenarios, I guess. There has been some analysis. I think it's fair to say that there have been some recent analysis of the wreckfish population or stock, but I don't think it's quite accurate to say there has been any kind of stock assessment on it.

MR. REISS: I agree. And once again, I would have a hard time putting my stock in the stock assessment saving me. I need reallocation.

MR. CURRIN: All right, thank you, Paul. Any other questions for Paul? Charlie.

MR. PHILLIPS: If they couldn't reallocate your shares, would it be preferable – since it is so hard for people to go out there and wreckfish – and I did it years ago – would it be preferable to just do away with the ITQ program? It doesn't sound like you are going to get a bunch of people moving into it trying to catch fish that just a couple of you are willing or able to catch. Would that be preferable if they couldn't reallocate all the shares?

MR. REISS: To tell you the truth, Charlie, I don't know how I would perceive that. I would imagine it would put people following me around the ocean. I'm not a tour guide.

MR. CURRIN: Keep in mind the comments that were made earlier during the public comment as well when a lady came up to me while we were sitting here; and if you'd like to hear from her, that's great. She offered to talk to the council about it. Her husband has participated in the last year in the wreckfish fishery because he was closed out of his tilefish fishery I guess out of Florida because of 17B. He's one I guess of the boats out of Florida, Paul, that you referred to. There have been a couple of people in the last year or two I guess that have been participating in the wreckfish fishery in addition to Paul and the other long-term participant.

MR. HARRIS: Mac, do they own shares or are they leasing shares when you say new participants?

MR. CURRIN: I'm not sure.

FEMALE VOICE: We own shares.

MR. CURRIN: The response was that she owns shares, for the record. Make sure you identify yourself for the record.

(Inaudible testimony)

MR. HARRIS: Thank you, Angela; I appreciate you clarifying that for me. The reason I asked that is because you've owned shares but you haven't been participating in the past; it's only in recent years that you've started fishing for wreckfish?

FEMALE VOICE: That is correct.

MR. HARTIG: Angela, but still the 250,000 pounds is going to impact you just like it is going to impact Paul, correct, even though you've invested \$30,000 this year in buying additional shares?

(Inaudible testimony)

MR. CURRIN: Any other questions for Angela while she is here?

LT. FISHER: Paul, this came up during our last Law Enforcement Advisory Panel Meeting and we had some discussion on it, and I'd appreciate your thoughts on it, from a safety standpoint what are your thoughts on VMS aboard the wreckfish vessels in the fishery? I understand there is only two of them – just for the ability to keep tabs on them at long range and be able to track where your folks are and us as well if there is ever a problem, because you know how dangerous it is out there.

MR. REISS: Well, I actually have VMS up and running and have had because I also have a Gulf reef fish permit and that requires VMS, so for the last five years or whatever I've had VMS up and running. I have no problem with it whatsoever. I believe it's the wave of the future. I would like to see VMS.

Any vessel, when you're talking about the allocation for recreational for wreckfish, well, that to me is going to be totally unmanageable. I would like to see – if you do feel compelled to have a recreational bag limit for wreckfish, I would like to see a part of the criteria there be whereas any vessel that lands a wreckfish has to have operational VMS as well.

LT. FISHER: We had some discussion on that as well whenever – this is news to me and for us on the Coast Guard, and we were unaware that people were landing wreckfish or encountering them incidentally in the recreational sector. The word I got back was that was happening in fairly shallow waters, these weren't obviously boats going all the way out to the Charleston Bump.

MR. REISS: That is true, but there has been some hearsay. I've heard of some recreational landings down in the Straits as well.

MR. CURRIN: All right, anything else for Paul? All right Kari. Everybody is aware of the scrape these folks are having in that fishery and we're trying to get something done about it.

DR. MacLAUHLIN: First I wanted to give a little update. Again, in June the Amendment 20 was separated into 20A and B. The council asked to have three actions in 20A, which would define latent shares to revert back to the council, establish a share cap and ways to redistribute the reverted shares through remaining share holders. Attachment 5 is the draft 20A.

That IPT also added Action 4 to establish an appeals process. The control date of March 11, 2011, published last week. Then 20B will address all the other actions that were in Amendment 20 such as cost recovery and some programming in its provisions. The IPT had a meeting a couple weeks ago and determined that this would be an EA.

It doesn't set a precedent. In August 2010 there was a proposed rule for the Alaska halibut and sable fish that revoked inactive shares and have them defined as people who had not reported landings or transferred their shares or leased their annual pounds since 1995. Then we came up with the timing based on that we can do an EA instead of an EIS.

The IPT is working on the analysis and we'll have a full document for your review in September, choose preferreds in September, and then we can go to a public hearing in the fall, and then you would submit for final approval in December. This needs to move quickly. You have to pick preferreds in September; otherwise, it won't happen in time for the fishery.

I'm going to walk through the actions as we have them. I have Page 23 in that PDF in Attachment 5. The first action is to define and revert the latent wreckfish shares. We just have a couple alternatives. These I'm going to have to get some clarification on from the council on this.

Alternative 2, the draft language right now is that the latent shares belong to any shareholder with a permit who has not reported wreckfish landings during the ten years prior to the control date. Alternative 3 is to find those latent shares as those belong to shareholders who had neither held a wreckfish permit nor reported landings in the ten years prior to the control date.

There is no longer an uncontactable alternative, and I'm going to talk about that in a minute. Then recently there have been some transfers, so now there are about 23 or 21 shareholders. I think there are some transfers being processed. In the June meeting Mike Travis gave a presentation and he used this table, which note this is no longer accurate. This has to be updated.

This is for reference only just to remind you where those alternatives came from where we were talking about a certain number of shareholders and a certain percentage of shares, and had the no and yes. Originally the alternative came from these different levels. The recently contacted, that is not something that we are going to be able to define anymore.

The way that the coupons were sent out, that method of delivery was changed and now all of those have been delivered even though we are not exactly sure if they were delivered to the shareholder or not, but they weren't returned to the regional office. As far as being recently contacted, we don't have a good way to define that.

Before in the past few years the coupons that were sent out were returned, I think was the way that was defined. We have taken out that alternative completely. We were talking – the IPT, we were talking about the Alternative 2 and Alternative 3 and I felt like it wasn't clear – I wanted to get clarification from you and then we can fix the language on it – is that Alternative 2 was anyone who didn't have landings; and then Alternative 3 was landings nor a permit because a permit at least would have indicated some intent of fishing the shares.

If that's the case, then we need to reword those alternatives because right now the way the first one is in Attachment 5 is you can have a permit but not report landings, then you would have your shares reverted, but if you didn't have a permit; it's just kind of unclear.

I wanted to clarify with the council, Mac, about is that what you were looking for was kind of more restrictive as you went along. Landings, if you had no landings between March 11, 2001, and March 11, 2011, therefore you have not fished any landings reported. That would be Alternative 2. Alternative 3 would be you not only had no reported landings but you did not hold a wreckfish permit for some kind of period in there at least indicating that you maybe were going to use your shares at a future date; you were holding on to them. Does that make sense?

MR. CURRIN: I understand it; does everybody understand it? Is that the intent of the committee and the council? There are kind of two levels there. The number of people qualifying under those two alternatives is going to be different. All right, Charlie.

MR. PHILLIPS: Kari, did you say there were some transactions going on right now; and if there are, how would somebody buying a share or how is the council going to handle that? Are they going to be buying something that they are totally going to lose? I'm curious on what happens for those between March and now?

DR. MacLAUCHLIN: I'm not positive who is doing the transferring. Can you elaborate on that, Andy? Are they active, have reported landings, et cetera.

MR. STRELCHECK: I think we could probably advise you based on proceeding forward in terms of your alternatives who might be caught up in terms of recent purchases of shares, not confidential information, but at least to make you aware that it could impact or not impact individuals depending on what is going on. Yes, we've had consolidation. We were at 25 shareholders last meeting and I think we are at 23 shareholders this meeting, and we've heard of at least two additional share transfers that are pending, so that might drop us down to 21 by the end of the year.

MR. PHILLIPS: Just to follow up, so I'm guessing that if somebody had shares that hadn't been used, which is why they are selling them; even though they transferred them after March 11th,

that transfer is still good or would those shares, because they weren't used before March 11th become part of the shares going back to the council? I guess that is my question.

MR. CURRIN: I think it depends on the landings, and I guess the landings would transfer with those shares if there were landings, I presume? I don't know that.

DR. MacLAUCHLIN: What I was assuming is that it would be defined by the shareholder; so once you have those people defined, then their shares would be taken away. If the shareholder sold half of their shares but had not reported landings, then that other half that was left would be reverted back to the council. That is what I am thinking, if that is not the intention of the council.

MR. CURRIN: All right, is that clear? Yes, Andy.

MR. STRELCHECK: Just to clarify further, the recent transactions we are aware of have been from inactive participants to people that have reported landings in recent years, so they are increasing the shares that they already own. I'm not aware of any new entrants, but certainly a new entrant could really get hung up based on this because they won't have landings history and might have purchased shares after your control date.

MR. TEEHAN: This is just some clarification for my understanding this. In the Gulf we do IFQs a little bit differently. If I have a permit and I have shares and I lease those shares to Ben and Ben catches the fish, who gets the credit for the fish, me or him?

MR. CURRIN: Can you answer that, Kari, I don't know how that works?

DR. MacLAUCHLIN: I'm not super familiar with the landings data, but I think that it's reported under the permit holder's name. I think.

MR. CURRIN: That would be my guess, too, Bill, it's just a temporary transfer to somebody.

MR. STRELCHECK: Landings are tracked back to the permit itself, so it's based on the permit and the permit holder.

MR. MAHOOD: I agree with Andy. Initially this was a big issue, because initially we had boat owners with the permit who claimed the credit for the landings history, but they had a captain on board that also wanted to claim the credit because he was going to go off on his own boat. When it came down to it, it basically boiled right down to what Andy said; it's the guy with the permit and the boat, not the captain or the person. In this case it would be the person you're leasing it to, I assume. If that held true, it would be the person with the permit and the boat.

DR. MacLAUCHLIN: With Alternative 2, just to be clear, if the shareholder has not reported landings on those ten years prior, from March 11, 2001, and March 11, 2011, of wreckfish, then any shares that he or she has when this is implemented will be reverted back to the council for redistribution; is that correct?

MR. CURRIN: Yes, it's clear to me if that's –

DR. MacLAUHLIN: If you can get rid of those between any decision the council makes and implementation, then you can sell them, anything you have left.

MR. CURRIN: We could redistribute those.

MR. HARRIS: What happens if there were shares transferred after March 11, 2011, or were there any shares transferred after that date? And if so, then the way this is worded those shares revert back to the council even if someone purchased those; is that right? No. Okay, that's where I am confused.

DR. MacLAUHLIN: So if a shareholder had 100 shares but he did not report landings in that qualifying period, so he's on the list, but he manages to sell 50 of his shares, then it would just be 50.

MS. LEVY: I'm just wondering wouldn't that depend who you are selling them to, because if you sold them to somebody who was not a previous shareholder before March 11, 2011, they are not going to have landings reported between them. I think there seems to be a little more nuance than that.

DR. MacLAUHLIN: So do we need to have some kind of sell by date?

MS. LEVY: I don't know if it's sell by. The way this seems to be going its sell to. If you sold to somebody I guess who already had shares, then they would be an IFQ shareholder who has reported landings. If you sell to someone who never had them before, they would not be an IFQ shareholder who had reported landings. I don't know if that's the intent; it's just the way that I'm reading.

MR. PHILLIPS: I guess that leads to another question. After the assessment – I guess this is a one-time deal, so after this takes effect, say, 2012 someone wants to go catch wreckfish, they can go get a new permit; they can buy some shares from somebody. I guess this is a one-time reallocation and after this, if they can find somebody that wants to sell them some shares, they can buy some shares, they will get a permit after this happens at time certain, am I correct?

MR. CURRIN: I think a lot of that, Charlie, is going to depend on what we do in Amendment 20B in dealing with the whole ITQ program for wreckfish. The way I view this – and I may be off base, but the way I view this, this is almost a stopgap 20A. We're trying to deal with problems that exist today in the wreckfish fishery, the ones that Paul and others have talked about, and trying to solve that problem or attempt to solve that problem as quickly as we can.

Then we'll come back at a future date and deal with the whole IFQ program, and everything is on the table then as far as I'm concerned. If we eliminate people that had permits and have been holding them since whenever, the inception of this fishery, when we get back to 20B, if we want to bring those people back in, let's say we get a very favorable new stock assessment that has a million pounds of fish available, then we can bring these people back in if we chose to do so.

But 20A, which needs to move pretty quickly if we are going to have any impact, and what I heard Paul say is depending on what we do here it may or may not help, but that is the attempt.

MR. MAHOOD: Andy, maybe you can answer this for me. Every year somebody that has a wreckfish permit has to renew it annually, correct?

MR. STRELCHECK: No, I don't think that's correct. I think wreckfish permits are open access to apply for and they are a prerequisite of obtaining shares, so you do not have to renew it on an annual basis, because you could drop your permit and then pick up a new permit at a later date.

MR. MAHOOD: I for some reason thought they were renewable annually, but if they're not then the solution I had won't work.

MR. STRELCHECK: We do have renewable requirements for permits, but if you lose it you just apply for another one at that point, because we don't limit the access to the wreckfish permits.

MR. HARTIG: All this discussion pertains to the questions that I have. Basically, you've got the dates in there; you've got the control date. If we find out that someone after the control date had purchased shares and who had landings, we can still include them because including them outside that date would be less conservative than the dates we have now. I don't see a big problem. We have an option up there that we could adjust to deal with a potential problem in the future. I don't think it's that big a deal.

DR. MacLAUHLIN: Okay, that Alternative 3 is the next one where you have to have a permit and have reported landings in the qualifying period. I have a couple different alternatives for the language in here, because they have to have a wreckfish permit within the last year, or currently, within the last five years. This was something that came up at the IPT. Could they have had an active wreckfish permit at any point for a year? I don't know. I want to say also we can do an Alternative 4, which is take all the wreckfish shares back to the council and then redistribute them.

MR. CURRIN: It's not clear to me – I was just asking David, Kari – off the top of my head for me to determine whether Alternative 2 is more restrictive than Alternative 3 or Alternative 3 is more restrictive than Alternative 2. It seems to me the limiting factor is landings. You've got to have landings regardless; and whether you had a permit or not, I'm assuming you had to have a permit to have landings. It is still not clear to me that there is any difference. I need clarification.

DR. MacLAUHLIN: This table, even though it is no longer accurate, there are a certain number of people who have not reported landings in a certain period, or I guess these are just for the past two years, but there are people who haven't reported landings, but either at some period or currently they have a wreckfish permit.

You can have a permit but not catch anything that year and report the landings for it. By saying anybody who hasn't reported landings, its all of these people, but if it's anybody who hasn't reported landings and they have not had a permit within some kind of period, it's just this group.

DR. DANIEL: So were those four folks that had permits, did they have them every year during the ten years or they might have had it just one year early on and then recognized they weren't going to fish in the fishery and not renew it?

DR. MacLAUCHLIN: Well, this table is the people who currently held one. But we can go back and look at permit history if you want to put in an alternative that you had to have held a permit for at least one year during that qualifying period or something.

MR. PHILLIPS: Okay, Kari, let's assume this is even close. You've got people with landings, which would be the most restrictive. They are going to have close to 60 percent of the shares. Paul just says he needs to have the ACL three times higher than it is right now for his shares to work out, if I understood him properly. Let's say you reallocate 40 percent of the shares that do not have any landings.

If you reallocate 40 percent of the shares, there is no way he is going to get the landings – the coupons that he is going to need for landings, if I am kind of doing the math in my head right. Maybe Paul can correct me or you can correct me.

DR. MacLAUCHLIN: Well, it depends on what you pick for Action 3, which is the redistribution formula. It could be because the larger your proportion of landings, then the larger of that 40 percent would go to that person.

DR. DANIEL: My understanding is the current ACL, the 232,375 or whatever the number is, comes from the SSC and that's just based on landings information, right?

MR. CURRIN: It's based on their collective knowledge and analysis of what that fishery – it's primarily based on landings, though, as best I remember, yes. It's about 250,000 pounds for the whole fishery.

DR. DANIEL: So we're stuck with that number?

MR. CURRIN: Correct.

DR. DANIEL: That's sad.

MR. CURRIN: I agree.

DR. DANIEL: My understanding also is that the landings information was confidential?

MR. CURRIN: Yes.

DR. DANIEL: Why did we have six people have landings? If they had six people have landings, it wouldn't have been confidential data.

DR. MacLAUCHLIN: These are shareholders who reported landings for this table in the 2009/2010 season and 2010/2011 season. There are confidential data from previous years when there were just two or three people.

DR. DANIEL: I'm sorry, can I follow up a couple of times? During this period of time here, then what were the landings during the year when you had six folks landing fish, six folks playing?

DR. MacLAUCHLIN: Only two dealers.

DR. DANIEL: Oh, its dealers, I'm sorry, I understand, I see what you're saying. Final question, I know I've talked about this a lot at the table before, there are a lot of concerns about bycatch and discards in this fishery particularly above North Carolina. I don't know about other locations, but I know a lot of our deepwater fishermen catch wreckfish in the 100 to 200 pound range, not apiece, but that amount of fish on a trip. Has there been any discussion and consideration about allowing some kind of bycatch allowance in this fishery? There is? That's in the second part of the amendment?

MR. CURRIN: Yes, that's correct, Louis. All right, so we've got three alternatives. Kari presented one more for your consideration, and that would be to revert all the shares back to the council for redistribution based on some criteria; is that appealing to anyone?

MR. HARRIS: Mr. Chairman, it would be if people hadn't just recently bought shares and spent a lot of money. That's the thing that worries me is that you've got people that have spent a lot of money on shares. Otherwise, I would think that would be a good alternative, but I can't see making someone give all their shares back that has just spent \$30,000 on buying shares.

MR. BOYLES: I agree with Duane's point. It strikes me that we just defer or just delay grappling with this issue down the road; so they're all late, but then how do we distribute shares then? I'm not sure, again given the investment folks have made; I don't think that's the best course of action.

MR. CURRIN: Paul Reiss, you had a comment?

MR. REISS: When I was in the market for a Gulf reef fish permit, one of the main criteria was – I was looking for a permit that had catch history to it, because that was an important part of the value of the permit and my ability to continually participate in the fishery because the catch history went with the permit.

I was not interested in a permit that didn't have catch history, and these folks should know that applicable to what you're talking about here, but on the same token I can understand your concern about people that have recently purchased. You could have an addendum in there to

say, all right, people that recently purchased, well, they have the right to qualify as long as they have some landings between now and, when, the end of this season.

And if they don't, then they fall under the back to the pot category. If I spend \$30,000 for shares a month ago, I'd be irritated if they were taken away though I could understand how it could be done. But give them a timeframe, I say, between now and the end of the season, which is January 14th, they have to demonstrate some landings. Then that amount of landings could be applicable to reallocation, simple.

MR. CURRIN: I can see how you would be irritated, and I would be, too, if somebody took them away and didn't give them back. But if somebody took them away and then turned around in another action and said, okay, you are part of the fishery now, you are part of the three people or four people or whatever it turns out to be that will be allowed for the near future to go out and work on these 250,000 pounds of fish, I probably wouldn't be quite so irritated, or at least I'd change my tune a little bit.

There's always a chance somebody's going to fall through the cracks there, but there are ways around this, folks. Again, the way I look at this, it's a real stopgap, near-term, short-term, hopefully, sort of approach to this fishery to head off what we are hearing is surely going to happen.

If we don't do something, nobody is going to be able to go out there and fish. What I'm hearing then is everybody's okay with the three alternatives we have here. They are pretty restrictive and might end up the same place as we'd end up if we took them all away and then handed them back.

MR. PHILLIPS: When will we get a list of possible redistribution scenarios? Are we going to redistribute according to history or according to the number of shares they had, considering they had landings, are we going to see those scenarios of possible redistribution? Again, I'm afraid that 40 percent left, even if you gave it all to Paul may not give him enough to go fishing and the rest of the guys that have it. I still think we are going to come up short.

MR. CURRIN: Well I don't know, Charlie, but there is an alternative or a suite of alternatives under Action 3 to redistribute those. We have got three actions in this amendment that we're trying to get moving and that's the first one. I want to make sure the committee is comfortable with the range and extent of the alternatives that we have in Action 1 right now.

DR. CRABTREE: Well, just some wording, the terminology that's used, revert the shares back to the council, and reverted shares, shares that return to the council's possession, that seems confusing to me. It seems to imply that after those shares are revoked, the council is going to come in and decide what to do with them, but in fact you're going to have an alternative in here that decides what to do with them. These shares are never coming back to the council, right? They are just going to be revoked and then redistributed, but the council is not going to –

DR. MacLAUHLIN: The language came from the catch share policy, but we can change it to just revoke the shares if the council prefers.

MR. CURRIN: I'm okay with either one, but the cleanest and clearest approach would be what I would advocate. Bill.

MR. TEEHAN: Is the intent to redistribute the shares? If so, then why not revert the shares for redistribution as the language?

MR. CURRIN: I'm easy, whatever language makes people happy to give the staff the latitude to think about that and make it as clear as we possibly can.

MR. HARTIG: Well, the first thing, Paul, what time of the year is the fishery most important to you? When do you concentrate most of your effort on wreckfish?

MR. REISS: The end of the season, I would roughly say from Thanksgiving to the closure.

MR. HARTIG: The reason I ask that question is because we really need to know the timing of this amendment. Well, Angela, too, let me ask her the same question, if I could.

FEMALE VOICE: (Not recorded)

MR. HARTIG: So it's more beginning for you?

FEMALE VOICE: (Not recorded)

MR. HARTIG: Well, that doesn't help me that much. I'm trying to get – and direct this to Roy; are we going to have this in place when the ACL Amendment goes into place? Are these going to be compatible amendments that allow the wreckfish fishery to continue to operate?

DR. CRABTREE: Well, I don't think it will be implemented as the time as the ACL Amendment, which we are going to try and implement by the end of this year. I don't think you're going to take final action on this amendment until December, right, Kari?

DR. MacLAUHLIN: That's the plan. This was set up because at the June meeting Monica had talked about that we could do it in March, I think, and still have time to get it in, but then Andy was talking about the coupons actually get allocated in December or January, right? That's why it is for the next fishing year, it starts in April. Then we would need to get it through in December or submit for final approval in December.

DR. CRABTREE: Then we might get it in place by April 15; we'll certainly try. That's not a lot of time to get it through the process.

MR. CURRIN: All right, back to Action 1, is everybody content with the alternatives we have there?

DR. MacLAUHLIN: Well, I need on Alternative 3, and that's defining at what point you had to have a permit. We have the landings qualifying period. Sorry, that's supposed to say March

11, 2001. I have a couple of different ways you can do this. Currently holding a wreckfish permit as of I guess implementation of this, a person who – you have to have a permit at any time between March 11, 2001, and March 11, 2011, or these are some different qualifying periods.

I guess my question to the council is for you what would indicate that you had intent to fish the shares by holding a permit? Do they need to have had it anytime in the past ten years, right now, two years in a row in the last five years, I don't know?

MR. CURRIN: What are your thoughts folks, what is the feeling? What makes sense; several suggestions here on ways to approach this?

MR. CUPKA: I just kind of feel like it needs to be recent years and not have it go back ten years. I don't know whether two years is not enough or what. What we're trying to do is keep the fishery operating for people who have been in it in recent years. I don't feel real good about going back ten years or something like that.

MR. CURRIN: It looks like there is one suggestion there, the one on the bottom that allows you options to select a range of periods, so at least at this point allows you, what, a two-year period or a four-year period or a ten-year period, and if you'd like to add some in between. If two is not enough and four is too many, you can put another option in there for three years, if that is what you'd like. Is that appealing, David, up to three probably most appealing or not?

MR. CUPKA: Well, we could, but I'd be all in favor of dropping Option C. To me that seems like too long a period.

MR. CURRIN: Is everybody okay with that, then, having a couple of options under that last version of Alternative 3 with two different qualifying periods, two years and four years, roughly?

MR. HARTIG: Well, you've got two years; have maybe five years instead of four years; I mean in Option B make it five years. You don't want to have it too current because if someone had some mechanical problems and couldn't fish a season or so, it may be problematic. Five years seems to me to be in the realm of possibility.

MR. CURRIN: Is that okay with everybody? All right.

MS. LEVY: So when we are talking about a qualifying period, we are talking about the landings, correct, not the permits?

DR. MacLAUHLIN: Sorry, I took that away.

MS. LEVY: We're talking about three, right? It says does not have a wreckfish permit at any time so we're saying if they had a permit at any time within what period, whatever qualifying periods is selected or are those the landing qualifying period that we're talking about?

DR. MacLAUHLIN: They're both. When I wrote these alternatives, these are suggestions for Alternative 3, which is just really vague. It just says define the latent shares, the shares belonging to your shareholder who does not currently hold a permit nor reported landings or something. We were trying to get a little more specific about when they held a permit.

MS. LEVY: And reported landings?

DR. MacLAUHLIN: Well, for this alternative it's to keep your shares you have to have a permit at some defined way and report landings. For Alternative 3 we could put in there you had to have had a wreckfish permit at any time in the past two years or the past five years, and those are your options. Then your landings, you had to also have reported landings in the past ten years.

MS. LEVY: Well, that is my question because Option A, B and C have qualifying periods and have different periods, and it's just not clear to me what the qualifying period is referring to, whether it is referring to landings in the qualifying period, permit in the qualifying period or both in the qualifying period. That's all I'm saying.

MR. HARTIG: If we can simplify this greatly right now, let's do it. Basically is there any sentiment on this council to use permits as a way to define if you're in the wreckfish fishery? If there is not, we're going to use landings. That would be the way I would want to go, eliminate everything that has to do with permits, because that may be applicable to the next amendment, but I don't think it is applicable to this one. I think that only landings could be considered, and I make that as a motion and a preferred alternative.

MR. CURRIN: I think at this point, Ben, rather than accept your motion, unless you're real insistent about it, and then I will, I won't accept the one for the preferred because I think we've got to consider what we are doing here. I agree with you and if that's the sense of the committee that you'd rather do away with alternatives that rely on whether you had a permit during some series of years or not, that's fine, and just strictly look at landings.

That's fine if that's the way you want to go with it. We certainly can structure this alternative and just say that the qualifying periods refer for landings and just eliminate the reference to permits in that alternative.

MR. HARRIS: Landings all were assigned to a permit, right? I agree with Ben, it's just landings; you don't need to include the term permit in there.

MR. CURRIN: I think Ben is correct. I can't envision this council allocating shares to someone in this fishery in Amendment 20A who had only a permit and did not have some kind of landings. I think you are right, a pretty fair assumption. I guess the question I would have is whether allocation to someone who did not have landings but owned a permit would be a reasonable alternative that ought to be included in this amendment, and I don't think it necessary in my mind, but the lawyers may tell me differently, I don't know.

MS. LEVY: I would just say that you should probably have more than two alternatives, because then you have no action and one thing to choose from and one thing to analyze, so it doesn't really give you a range of what you're considering.

MR. CURRIN: I think we have three, Mara, if we can figure something out here and it's different than the first two in addition to the no action. I did not accept his motion because it wasn't clear to me which alternative he wanted to select as a preferred. It is very clear to me that he wants to consider landings in reallocation of wreckfish shares, and I agree with him.

MR. TEEHAN: Again, this is just my ignorance of the South Atlantic IFQs; do you have to have a wreckfish permit to get IFQ shares or to fish them, let's say?

MR. CURRIN: It's very confusing over here, Bill, and we have been round and round about this. It's my understanding that, yes, and I don't know whether you've got to have a permit to get the shares or you've got to have shares to get a permit. It's real convoluted. I know this, that if you don't have shares or if you don't have a permit – I don't know, I'm real confused because the point I'm trying to make is we ran into an issue where you could not transfer those to somebody with a snapper grouper permit that did not have one or the other or both or something. I guess Bob or Jack or Andy could explain it better than I can.

MR. MAHOOD: Well, it's really more complicated, Bill, than what we're talking about here. I'm going to have to go back and do a little history, if that's okay, Mr. Chairman, and I'll try to make it quick.

MR. CURRIN: Please make it as brief as you can.

MR. MAHOOD: Okay, back on October 31, 1991 we required our first permit for snapper grouper permit. In March of '92 we required a permit for wreckfish, which was a wreckfish permit, and nowhere in the regulations was it tied to having the commercial permit for snapper grouper. The regulations still are very convoluted. We became aware about a year and a half, two years ago that one of our main vessels in the fishery didn't have a snapper grouper permit and only had a wreckfish permit. That sent everybody scrambling looking at the regulations. I don't know if Andy wants to help me out.

Ultimately it was clear that it was very unclear in the regulations, but a determination was made, yes, you do have to have that. I think that was in about 2009, as I recall. The vessel involved then did get a snapper grouper permit and it became a moot point. But Monica did want me to bring that up to remind everybody we do have a vessel that has quite a few landings, didn't have the snapper grouper permit, but did have the wreckfish permit.

I've talked to a number of people who were involved back in those days, and everybody has a different recollection of exactly what we were doing. I've been back last week looking at the original amendment, and I still couldn't tell you exactly what – I remember it being that the wreckfish permit was equal to a snapper grouper permit.

Since that time we've had other amendments that have gone in that says very clearly that to catch any of the snapper grouper species -- well, when we went to the two for one, it said to catch any of the snapper grouper species you had to have a commercial snapper grouper permit. It has been very convoluted and been very unclear in the regulations.

What I did want to do, Mr. Chairman, is read you -- since I happen to have this right in front of me and all marked up, and this is to get a commercial wreckfish permit: "A commercial vessel permit for wreckfishing must have been issued to a vessel and must be on board. To obtain a commercial vessel permit for wreckfish, the applicant must be a wreckfish shareholder."

So you have to be a shareholder before you get the wreckfish permit. That takes care of the chicken and egg thing. Either the shareholder must be the vessel owner or the owner or operator must be an employee, contractor, or agent of the shareholder. It says nothing about needing a commercial snapper grouper permit to get a wreckfish permit. That's kind of where we are right now. Just be aware of where we are and how confusing it has been over the last ten years.

DR. MacLAUCHLIN: Okay, we're going to have a permit plus landings alternative, correct?

MR. CURRIN: What I'm hearing from people is they don't want to consider the permits. We just need three alternatives based on landings during the qualifying period or various qualifying periods, I guess.

DR. MacLAUCHLIN: Okay, so Alternative 2 would be you have to have reported landings in a couple different qualifying periods; is that what our alternatives are going to be?

MR. CURRIN: Two options under that; one with a three-year period and one with a five-year period.

DR. MacLAUCHLIN: Okay, so you've got to have reported landings in either 2009/2010 season or 2010/2011 season or landings in the last five years, which would be 2005/2006 through 2010/2011,

MR. CURRIN: I think it would be 2006/2007, wouldn't it, through 2011, whatever, five years, whatever that period would be. It's hard for me to think about.

DR. MacLAUCHLIN: This is that one. Okay, those are the three alternatives.

MR. CURRIN: Is everybody comfortable with that? We've got a no action, we've got you had to have landings through the ten years up to the control date, and then a third alternative -- or actually under that one two qualifying period for two years and five years. Is everybody okay with that?

DR. MacLAUCHLIN: Wait, I'm not okay with that.

MR. CURRIN: That's because of the way I said it, I think. So we've got the no action alternative and a second alternative with two options for qualifying periods for landings, which gives us three alternatives, actually.

DR. MacLAUCHLIN: So you want an alternative that includes the ten years and then a five year and the two year? Okay.

MR. CURRIN: And those actually I think under that alternative ought to – okay, let's do it that way.

DR. MacLAUCHLIN: There we go; define latent shares as shares belonging to an IFQ shareholder who has not reported wreckfish landings during the 2009/2010 and 2010/2011 season. Alternative 3, define latent shares as shares belonging to any IFQ shareholder who has not reported wreckfish landings during, so this should be between the 2006/2007 and 2010/2011 season.

MR. CURRIN: Is that good?

MR. BOYLES: Just to make sure, this is just landings in any one season, correct? Okay.

MR. CURRIN: Is everybody comfortable with that? Any further alternatives that you'd like to see? Does that cover the range that we want? All right, Action 2.

DR. MacLAUCHLIN: Okay, Action 2 establishes a share cap. You gave us a couple of range of numbers to put in the alternative, so 15 percent, 25 percent, 49 percent and 65 percent, including your no action. Then the IPT brought up that 15 percent share cap would affect some of the redistribution, so in other words if you redistributed then some people would have over the 15 percent after redistribution or maybe even before redistribution.

There would perhaps need to be some subalternatives under any share cap that this would happen with. We added a couple potential subalternatives for 15 and probably 25 percent, we would need to do this, in which if this was the case, revert the shares of the current shareholders whose shares exceed that cap for redistribution or any shareholder who has 15 percent of total shares after redistribution must sell off the excess shares by the dates.

MR. HARRIS: Mr. Chairman, 15 percent seems awfully low to me. I don't know what the definition of excessive shares is at this present time, but it seems like 15 percent wouldn't even get close to what would be considered excessive shares.

DR. MacLAUCHLIN: Excessive shares are up to the council to define. For example, if you have such a small fishery, if there is only four of them, then you are not really maximizing the potential of the fishery with a 15 percent share cap. These are just some ranges that were brought up in the June council meeting.

MR. CURRIN: Again, we're not selecting preferreds here or anything.

MR. CUPKA: I was going to ask Kari in golden crab didn't we kind of grandfather in what was the percentage of the highest shares held?

DR. MacLAUCHLIN: Well that, is one of the alternatives in golden crab, but the AP is recommending the 49 percent. That could be an alternative is to have the share cap be the maximum percentage of shares after redistribution; so if one person has 45 percent, then that's set as for the rest of the time no one can hold more than that, so the largest shareholder can never grow.

MR. CUPKA: This gets back to the confidentiality thing. It's hard to kind of in a way say what the cap should be if we don't know what people currently hold. If we're trying to maintain the fishery like it is now without knowing that, it is kind of hard to pick a cap share.

MR. CURRIN: Any desire to include an alternative, add one that caps it at the highest percentage after they're redistributed – owned by one person after its redistributed?

MR. PHILLIPS: Yes, I would make that motion, Mr. Chairman.

MR. CURRIN: You don't need a motion, just some guidance to staff. Is everybody okay with that, the rest of the committee and council? Okay.

MR. HARRIS: Given the confidential nature of this information, how are we going to evaluate each of those alternatives?

MR. CURRIN: I think staff can look at them, actually; they just can't tell us about it.

MR. MAHOOD: We're working on that, Mr. Harris.

DR. MacLAUCHLIN: I want to be clear about the new alternative would set the share cap at the percentage of the highest shareholder after redistribution, correct?

MR. CURRIN: I believe that's what I heard, yes. I forget who seconded it, Ben or somebody, is that your intent? Okay.

MR. HARRIS: Is it after redistribution or prior to redistribution; because after redistribution – is it after?

MR. CURRIN: It better be after, because then you're going to give them to them and take them away again.

MR. HARRIS: Okay, never mind.

DR. MacLAUCHLIN: If it's before, then the largest shareholder cannot receive any reallocated shares.

MR. CURRIN: Well, he couldn't have a higher percentage. Okay, Charlie.

MR. PHILLIPS: Well, I don't know it may be before. If what they're going to do is your share or your percentage of coupons is going to bring you more fish. If you've got 25 percent now and you get 25 percent, it might be before. Your coupon will give you more fish per percentage, but I may be backwards.

MR. CURRIN: It depends on how you reallocate them. If you based it on the percentage that you have now and allocate them based on the percentage beforehand, then whoever has got the most beforehand is going to get additional shares and likely have the most afterwards. I don't know whether it may or may not be a higher percentage. I think I'm thinking about it correctly; I'm not positive. Doug.

MR. HAYMANS: Just for future discussions, can't we work with anonymous fishermen and percentages and not real values in order to facilitate discussion of distribution? It really only comes down to the point of where we need a defined new quota or new maximum that we have to get into numbers.

MS. LEVY: I apologize; can I go backwards for a minute, back to Action 1? We eliminated the ten-year period and it's five and two now. I was just wondering what was the reason for the ten-year period being there in the first place and what was the reason for not including it now? I'm sorry I missed it.

DR. MacLAUHLIN: At the June council meeting, I guess it was a range that was given and they wanted in the last ten years and then up to the control date. It was just one of the ranges we were given.

MS. LEVY: So now the ten years is just something that is too long a time period back is what we're saying?

MR. CUPKA: Yes, when I made the motion it was to consider just recent activity in the fishery, which wasn't a problem until we dropped the ACL from 2 million to 250,000 pounds, so we are trying to maintain the fishery where it is now and sustain the fishery until we can revisit the whole ITQ issue. We just wanted people who had been in it recently is the reason why I made the motion.

MR. REISS: If you did a complete reallocation based on landings, I would probably come in at about 70 percent, I would venture to say. If at all possible, I would respectfully suggest you adopt that 65 percent; because until a stock assessment is done to hopefully increase the TAC, then 65 percent is going to be necessary for me to operate.

MR. CUPKA: Well, we had an alternative, Paul, that would cap it possibly even higher depending on when they are redistributed it would come out. I think that would cover it; in fact it may be better than limiting it to 65 percent.

MR. REISS: Well, the higher the better as far as I'm concerned.

MR. CURRIN: We understand that. Keep in mind this is a council deliberation here; and if you've got something that will enlighten our discussion, we would appreciate that, but be careful what you have to say in providing us with all that confidential information. Okay, is everybody okay then with the first two actions? Are we ready to move to Action 3? This is to redistribute the reverted shares.

MS. MacLAUHLIN: Alternative 2 is a 50/50 formula, and it uses those three different options for the qualifying periods, so 50 percent equal allocation among all remaining shareholders and then 50 percent based on landings history either in the last two years, the last five years or the last ten years.

Alternative 3 is redistribute the reverted shares to remaining shareholders 100 percent based on their landings history within the two years, the five years or the ten years. Alternative 4 redistributes the reverted shares proportionately among all remaining shareholders based on the distribution of shares after reversion has occurred.

What this means is after latent shares are reverted, then the remaining shareholders, however are proportionately among the remaining shares are in there, that is how much they get. This is going to benefit those who own the most shares, and then they get more. Alternative 5 is the equal allocation among all the remaining shareholders, and then 6 was added by some IPT members about redistribute the reverted shares via an auction among the remaining shareholders.

MR. CUPKA: One thing I guess is Alternative 6, if we are really trying to get this in place to maintain the fishery, by the time you get an auction and all that set up, it probably wouldn't help out what we're trying to do. I'm not all that enamored with Alternative 6, to be honest with you. Alternative 2 was the way it was distributed initially when the ITQ program was set up.

But again I'm not sure if that would allocate reverted shares to the right people so that they could maintain their current landings. It's hard to really look at some of these alternatives without really knowing what the date is behind them and trying to assess what the impacts might be. At least as far as Alternative 6 is concerned, I don't think that is a viable alternative.

MR. CURRIN: Any folks feel the same way about Alternative 6? This was one suggested by the IPT to include. I'm getting a general consensus that we suggest we remove that one. Another issue I guess that raises its head here is we've got a ten-year time period associated with Options C under Alternatives 2 and 3. Would you like to remove those; general consensus of the committee? Okay, I'm seeing heads nod. Other comments? Ben..

MR. HARTIG: Yes, on 4, proportional to what; proportional to the landings history?

DR. MacLAUHLIN: Proportional to the shares that they own; so after you revert shares – if there were ten shareholders and you reverted shares and there were five left, then you would calculate the proportion that those five held of the total shares and base it on that.

MR. CURRIN: Are you clear on that, Ben, on how that works? I think it's going to be you sum all the total shares by the people that are in the fishery after everything has been reverted, and

they've got each some percentage of that pie now, and then their apportioned based on that percentage.

MR. HARTIG: Yes, the only problem I have is somehow when we start looking at these different fishermen, some of them have made significant investments to get into the fishery in a bigger way and may not have the landings history. Somehow the proportional investment or proportional shares that they own should be taken into consideration into the equation along with landings. Even though they don't have maybe high landings but they have invested, they should get some credit somehow for that investment given that they have landings, even though the landings may not be at a real high level.

MR. CURRIN: I think, Ben, Alternative 4 does exactly that, if they're left. It's proportional to the landings of the folks that are in the pool after everything has been reverted, okay? I think it does that. I'm sorry, shares not landings. Once you qualify, it's based on a portion of your shares, not landings.

DR. DANIEL: I'm still concerned about the bycatch allowance. In thinking about this and looking at all these options, if we're going to redistribute all the shares, there is not going to be anything left for a bycatch fishery. Would it be possible, practical or reasonable to add a certain – in the allocation scheme here have some kind of a percentage set aside for bycatch shares? Otherwise, you get everything distributed, how are you going to be able to allow a bycatch fishery if you've already allocated everything out?

MR. CURRIN: Well, in the context of this amendment, for the next year or two you are exactly right. I think our intent here and the reason we didn't bring that particular action into this amendment was we were trying to address the problem with the fishery as quickly as we can. I guess there is no reason we can't come in here with another action and pull that action out of 20B that had some options I believe for bycatch allowance in other fisheries and include it there if that is the desire of the council.

MR. WAUGH: Just keep in mind that we are going to be talking about priorities in a few minutes, and every action you add to any one of these amendments piles on to the timing issue and the analysis issue.

DR. DANIEL: I'm not necessarily asking to move the action from 20B to 20A. What I'm suggesting is that you're going to be getting into a whole lot of specifics in 20B, and that's cool, how you are going to do a bycatch fishery if you do one, but you do need to have – in the options for redistribution you do need to account for the fact that there are going to be some landings from the bycatch fishery that are going to have to be accounted for.

I think these options need to include that or at least have some language in there that a certain percentage of the shares, 2 percent, 3 percent, whatever the number is, those shares are going to be distributed to some kind of a bycatch fishery if we are going to allow it. Otherwise, I don't see how NMFS is going to let us have a hundred pound bycatch allowance or whatever the bycatch allowance would be, then that would potentially put us over the TAC. It sounded like to me with our highliners catching 70 percent, it's probably pretty likely that we're going to be

hitting that 237. I don't know how you are going to manage the recreational fishery. That's going to be tough if we don't do something now.

MR. CUPKA: I agree with Gregg; and while I have concerns about that, Louis, I think anything we add is going to slow it down and is not going to help the people that are in it now that needs help. I think we could deal with that in the next amendment. I don't see anything that wouldn't preclude us setting aside part of the TAC or the ACL for a bycatch fishery and then redistributing the remaining amount according to percentage shares. I think the time to look at that issue – and it is an important issue, but I think the time to look at it is in the next amendment and not in this one. We're just going to slow it down if we don't.

MR. PHILLIPS: We might pull the recreational bycatch out of hopefully the increase we get on the next stock assessment when we get it, and that timing may work out.

DR. DANIEL: Yes, I think what David said, as long as that is kept in mind and some kind of a set aside is considered – again, I see it all being distributed to the individual shareholders and they are going to need every share they can get. When you come back in 20B and start looking for set-asides, there is not going to be anything there because you've already distributed it out in this amendment. So having some kind of set aside or being able to do that in some way, shape or form to address that concern, I think you need to do it.

MR. CURRIN: Yes, I don't think it's going to preclude us from doing that because we're going to end up with here is a percentage of the TAC. Then we can go back to 20B and pull something out of that TAC. Then they just get a percentage of a slightly smaller number if we chose to set aside something for recreational fishery and for bycatch fishery and other fisheries as well. That was kind of the intent, I believe, Louis.

MS. MacLAUHLIN: Action 4 establishes an appeals process, and this is I think the language that we are using in the golden crab catch share amendment as well. Alternative 2 has the RA reviewing it and rendering the final decisions. Then Alternative 3 is a board composed of state directors and designees who review, evaluate and make the recommendations to the RA.

Then Alternative 4 sets aside a percentage of the commercial shares as a set-aside to resolve appeals; and then after the appeals process, any amount left over will be distributed back to the IFQ shareholders according to your redistribution formula. You would technically have two preferreds under this one.

Also, just to keep you guys informed, there is a National Appeals Office, and we spoke with them and Eileen Jones, and she is the Director. This is being set up there – they have draft procedural regulations, and the plan is that the National Appeals Office would handle appeals for any LAP Program. But right now it is opt in and that would be a decision by the regional office.

But Eileen Jones was very interested in coming down in September and speaking to the council at the council meeting, just giving you an update on the National Appeals Office and the services, because we have this and golden crab. And then also Myra was speaking to her about

our endorsements. Just to let you all know if you are interested in that, I can pass that on to Eileen to come down.

MR. TEEHAN: Who is this National Appeals Board? It seems like in the days of overburdening government; is this really a necessary department or agency?

MS. MacLAUHLIN: Okay, the National Appeals Office is set up in NMFS Headquarters, and they were set up as to establish a consistent central place for appeals and it is based on the Alaska Appeals Process. As of now they have done some appeals for the Alaska Halibut Charter and also the Pacific Trawl Rationalization Program that started last year.

They are still in the process of getting set up and getting their procedures set up. I think the idea behind it is they would render the decision and take care of the process and have hearings, if requested, for any LAP Program allocation. Then based on whatever the criteria is they would be the ones to review it, but then the RA would have final say and could overturn the decision.

MR. CURRIN: It's up to the committee; if you don't want to encourage this, then we can not invite her down.

MR. TEEHAN: It just seems to me that appeals are terminal. There are only going to be so many of them. How can you make an entire business out of – well, I don't care, whatever the will of the council is, but in the past we've done just panels of council members.

MR. CURRIN: We have an alternative in there that would allow the Regional Director – and he was the one I think that would make – or he or she would make the decision as to whether it's sent to the appeals court or not; did I understand that correctly?

MS. MacLAUHLIN: I am not completely clear right now on what the National Appeals Office would do for this.

MR. CUPKA: Then it goes to the Regional Administrator. Either we give him the discretion to make the decision; or if you set up this board – and I've been on one of those before, we've been that route, what we end up doing is making individual recommendations because of some of the federal requirements there and so he still ends up making the decision, anyway, and it has worked a lot better when we've gone with something like Alternative 2.

MR. STRELCHECK: If I may make a suggestion, I would recommend that you not invite Mr. Teehan back to any future meetings. (Laughter)

MR. CURRIN: Just for your edification, no one invited him to this one. (Laughter)

MR. STRELCHECK: Just for your clarification, this isn't an issue you really need to wrestle with. The appeals office is really to reduce controversy with regard to hearing of appeals. It's more of an official process that has been set up. We've had some lawsuits in other regions when appeals have been submitted and overturned or decisions have been rendered.

This is just another entity body that could hear the appeals and then the decision would ultimately rest with the Regional Administrator to uphold whatever decision is made. We have dealt with appeals at the regional level for several of our IFQ programs. We've gotten a fairly small number of them and we've been able to successfully respond to each one of those. When the time comes, we will work with the Appeals Office and decide whether it will be done at the regional level or at the national headquarters level.

MR. CURRIN: Thank you. Regarding these, Kari, I think as we've discussed appeals in the past and have always included an alternative like Alternative 2 where Dr. Crabtree would shoulder that responsibility. I believe that he has been fairly consistent in his insistence that no hardship cases should be considered as we've indicated under Alternative 3 and 2; is it in there? Okay, I'm sorry, I didn't see it, I was looking and didn't see it. All right, we're covered then. All right, everybody good then with this suite of alternatives?

DR. MacLAUHLIN: I have one more thing to say about the set-aside. In Alternative 4 it is 3 percent, and the IPT had a little e-mail discussion that maybe we would need more than 3 percent because that would be something small like 17,000 pounds or something like that. You may want to do more than 3 percent or add language that was in I think one of the Gulf amendments.

That is, if the resolution of appeals requires more than 3 percent, the shares of all the initial shareholders would be reduced accordingly in direct proportion to the percentage that was initially allocated. So basically you would start with 3 percent but have that disclaimer in there, and so if you had an appeal that went through or more than one appeal that went through that required more than that however many pounds that was, then everybody would get a little bit taken away from them to satisfy that appeal.

MR. CUPKA: I was just going to say I wouldn't have a problem with more than 3 percent because this appeals process is pretty quick and people could start fishing during the season on what they already had and then it could be quickly redistributed. If you want to go higher than 3 percent, I think that would work, too, because again it's a fairly quick process and could be redistributed back and people could still start the fishing year based on whatever portion of that they get.

MR. CURRIN: Any suggestion on a reasonable percentage above 3 – 5, higher?

MS. MacLAUHLIN: Andy, what do you think?

MR. MAHOOD: Yes, again, that's pretty hard to come up with because it depends on how many people will be included in that. I think most people have been contacted by several folks interested in buying or getting a hold of shares or quota or whatever for their headboat operations and their charterboat operations.

As a matter of fact, I talked to a fellow a year and a half ago that was about to spend \$10,000 on shares, and he was running a deep-drop fishing operation off of Florida. I said I don't think I'd do that until we figure out exactly what is going to happen with wreckfish shares. He didn't have a commercial permit or a wreckfish permit.

There is going to be interest from the recreational community or at least the for-hire community to own pieces of this fishery or have some way to incorporate the harvest of wreckfish into their operation. It's hard to determine how much to set aside, depending on what you're going to do with it in 20B.

MR. STRELCHECK: The 3 percent has been more than enough for the Gulf IFQ programs, but those are significantly larger. Keep in mind that with the appeals process you are really going to be dealing with just those shares that are reverting back to the agency and then being redistributed. You're not talking about the full quota to begin with. It could be sufficient. I would say no more than 10 percent would probably be a recommendation. We can maybe look at this further and really give you a better idea of what might be appropriate as this proceeds.

MR. TEEHAN: If Mr. Strelcheck will indulge me, I have a little bit of problem with not allowing certain hardship cases in here. Having said that, I'm glad to see there is an appeals process at all. This is still in kind of a formative stage. We're going to come back and pick preferreds later? I won't take up any more time with that right now.

MR. CURRIN: Andy's recommendation is not to go above 10; are there any suggestions from the committee or council on what we should set as a percentage here?

MR. CUPKA: That's what I was thinking along the lines of 10 percent as a good possibility and just looking at the appeals in the past that's going to be given back. You could use the approach you had, but understanding that if 3 wasn't enough you are going to start taking them back, but it's a lot easier to give back than it is to take away. If it was a long process, too, I'd be more concerned, but it goes pretty quick.

MR. CURRIN: Is everybody okay with 10 percent, then, as a hold-back on the reverted shares until the appeals are all settled? Okay, thank you, everybody, I am seeing no opposition.

DR. MacLAUHLIN: That's all I have and Bob has something.

MR. MAHOOD: Yes, I already talked about that earlier.

MR. CURRIN: All right, does the council have anything else on 20A at this point? I think we are going to talk about timing of all this and priorities after we finish our deliberations at the end of the day. All right, you want to take a 10-minute break?

MR. CURRIN: All right, let's go ahead with Regulatory Amendment 11. Brian is going to lead us through this and provide the SSC's input on this regulatory amendment as well.

DR. CHEUVRONT: Regulatory Amendment 11, the document we are going to working from here is the one we have projected now, and this is Attachment 4A under the Snapper Grouper tab. Before we get going into that, I want to talk about comments. We had one written comment that came in I believe in May that had recommended opening the deepwater from 240 to 500

feet, but leaving the closure beyond 500 feet to protect the larger speckled hind and Warsaw grouper.

The writer of that comment was from the Florida Keys. The SSC had no additional comments other than what they had given in the past about this amendment. The Law Enforcement AP didn't have any additional comments other than the fact that it supported the preferred alternative under Action 1, which was to repeal the deepwater closure altogether.

Other than that, unless somebody has some questions about that I'd like to go ahead and move on. This amendment has two actions; and depending on what you have as your preferred for Action 1 will determine what you are going to have to do with Action 2. The first action appears on Document Page 5 or PDF Page 12. This is Action 1, you currently have 11 alternatives, but we're going to cut to the chase here.

Alternative 1 is no action, which is to keep the deepwater closure in place that was put in with Snapper Grouper Amendment 17B, but your current preferred is to remove the prohibition for fishing for, possession and retention of other deepwater snapper species beyond the depth of 240 feet, and that is your current preferred.

Basically, what you're trying to do is you are basically repealing the deepwater closure for all species except for speckled hind and Warsaw grouper. You are not going to be able to fish for or possess those species, but it would open it up for everything else. I guess at this point what we need to decide is whether the council wants to have additional discussion or consider changing their preferred alternative.

MR. CURRIN: The floors open. Is everybody comfortable with the current preferred, no desire to change it, very few comments. I see no desire to change it, so I think, Brian, that eliminates the need for any kind of preferred transit provision alternative.

DR. CHEUVRONT: What we actually have then is since we have the action in the regulatory amendment, the preferred action for the transit provision then is no action, and that is on Page 13 of the PDF document, the very next page, Action 2. It becomes irrelevant at this point.

MR. CURRIN: It does and the no action is currently the preferred, anyway..

DR. CHEUVRONT: Right, so that's it. One of the points that the IPT and council staff might want to have the council consider is right now in this amendment – it is in the cumulative effects section – it mentions that the council will be dealing with the issue of protecting Warsaw grouper and speckled hind in a future amendment.

Right now the consideration is in CE-BA 3, which is starting with our next meeting in September. I guess what we'd like to know is whether there needs to be any mention of this anywhere else in the document. The point is that we have to make sure everybody understands there is a tradeoff here.

We're getting the deepwater opening back, but there will probably end up having to be some additional management measures to protect Warsaw and speckled hind. The council has discussed several things like specific targeted types of measures, like there have been hot spots where analyses have shown where these fish do tend to occur.

I don't want to put any words into anybody's mouths on how you are going to handle this, but I think it's probably prudent for folks to make the statement that we're not just going to walk away from this issue and we realize that there still is some additional work that needs to be done for speckled hind and Warsaw grouper. I thought I would throw that out there just for your consideration at this point. If you wanted to say anything or do anything at this point, otherwise we will leave it as is.

MR. CURRIN: Comments, thoughts on this issue Brian brings up.

MR. CUPKA: Thank you, Mr. Chairman. Obviously, we are well aware of the fact that if we repeal this we still are going to have problems with Warsaw and speckled hind, and I think it's everyone's intention that we try and move ahead to come up with some management alternatives that will further protect those two species from bycatch and whatever.

I was gladdened to hear during the public comment period there is a move afoot by some of the fishermen to support a grant to try and get some of this information that might be used along those lines. We'd certainly like to see the results of that and see if we could use that information anyhow in trying to move ahead and protect Warsaw and speckled hind. I think we all realize it is certainly our intent to move ahead and do what we can after this is repealed to try and give them some protection.

MR. CURRIN: Yes, and I think everybody is aware of the encouragement we received from our Snapper Grouper AP pretty consistently that they would much prefer to see us take an approach where we were looking at small areas where we know species that need protection occur and to set those areas aside either seasonally or whatever is required if it is a spawning season closure of a particular area.

Hotspots, I think Brian or somebody used the term to provide some protection for those species and others for that matter. Spawning season closures for Don DeMaria, of course, is big on the mutton snappers and a number of other species. I couldn't agree more with David, we've clearly got to do something for these two species. Those are just a couple of ideas as to how we could proceed, and there may well be others. We are going to need to do it in a timely manner, too, folks, I believe.

DR. CRABTREE: I think someone mentioned something about CE-BA 3 to address this, but it seems to me our framework allows us to do time area closures, so it seems to me the most timely way to address this would be through a framework action.

MR. CUPKA: Yes, and again I will refer to the comments we heard earlier today about Pat Harris, his proposal to work with the fishermen to do that. It's the first I had heard about that; I wasn't aware of it. I don't know if there is any way that we could comment on that or at what

stage that proposal is at. We would certainly want to support something like that. I'm just not sure how or if we could even do it at this point without knowing the particulars of the grant situation.

MR. CURRIN: Yes, CRPs were mentioned and I don't know where they are in that process, whether they've been approved or just applied for or whatever, but clearly I think we would support a project that had some chance of succeeding in identifying some of these areas.

MR. PHILLIPS: Did we want to see if we could get our Snapper Grouper AP and maybe whoever else might have some clear coordinates and areas and then kind of run these areas by the Snapper Grouper AP to see what they think works and doesn't work? Is that the methodology we are going to use?

MR. CURRIN: I believe that will have to be part of it, Charlie, as we move forward with this, yes. I think they are more than willing and happy to do that, but I think we're also going to have to look outside of that, the state agencies and individual researchers and the literature to help try to identify some of these areas.

MR. HARTIG: The universe of deepwater fishermen is relatively small. We could probably get a big bang for our buck bringing together a group of those people along with the AP to develop some recommendations. I think that may be a possibility.

MR. CURRIN: Yes, good suggestion, and I failed to mention the fishermen, but that is certainly a great source of information for us. If you remember that whole MPA process that we were involved in and how much information the fishermen brought about specific areas and what was there, it really helped inform that process.

LT. FISHER: I'll go ahead and preemptively point out that small closures that vary in time and have variable possession and gear restrictions all complicate enforcement.

MR. CURRIN: Thank you. Other comments? All right, are we ready to approve this Regulatory Amendment 11 and send it on for secretarial review? Then I would entertain a motion to that affect. Motion by Louis, second by David to approve Regulatory Amendment 11 for secretarial review.

The motion is to approve Regulatory Amendment 11 for formal review and implementation, giving the Chairman and staff the editorial license to make edits to the document. Any further discussion of that motion? All right, Mr. Mahood.

MR. MAHOOD: Mr. Boyles

MR. BOYLES: Yes.

MR. MAHOOD: Mr. Burgess.

MR. BURGESS: Yes.

MR. MAHOOD: Dr. Crabtree.

DR. CRABTREE: Yes.

MR. MAHOOD: Dr. Daniel.

DR. DANIEL: Yes.

MR. MAHOOD: Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Harris.

MR. HARRIS: Yes.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: Yes.

MR. MAHOOD: Mr. Haymans.

MR. HAYMANS: Yes.

MR. MAHOOD: Mr. Teehan.

MR. TEEHAN: Yes.

MR. MAHOOD: Mr. Phillips.

MR. PHILLIPS: Yes.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: Yes.

MR. MAHOOD: Chairman Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Vice-Chairman Currin.

MR. CURRIN: Yes.

MR. MAHOOD: I think I got everyone and the vote was unanimous.

MR. CURRIN: All right, thank you. Louis wanted to say something before we approved the codified text for this. Go ahead, Louis.

DR. DANIEL: Well, I just wanted to first off thank the council for relooking at this issue. This really had a significant impact on North Carolina and I know other locations as well. I commend you for moving so quickly to try to remedy this problem. I'd also like to thank the National Marine Fisheries Service for working so closely with us and particularly Rick DeVictor and Roy for getting the exempted fishing permit out to us as quickly as he possibly could.

In fact, the comment period ended at five o'clock one afternoon and I had the permits the next morning. I don't know what happened, but that's never happened like that before, so I wanted to thank Roy on the record for that. We have identified the fishermen, we do have observers, and we are characterizing that fishery.

We will have some information and hopefully we won't see any speckled hind or Warsaw grouper to add to your discussion on those two species, but hopefully we'll get some good on the water information that will help characterize that fishery up off North Carolina, so thank you all, I appreciate it.

DR. CRABTREE: I've gotten a lot of comments from folks about how this has gone and everything, but I think what happened here is when we approved this closure as a council we expected extremely low ACLs for all of the species, including blueline tile, and it wasn't until the May SSC meeting where we got what to me was an unexpectedly high ABC for blueline tile of over 500,000 pounds.

That really changed the whole scenario for this in terms of the economic impacts. I think the council moved very quickly to deal with this both through the EFP and through Regulatory Amendment 11. To me this was a case of a council, one, responding to new information that indicated different economic impacts and also paying attention to what we were hearing from the fishing public and changing this.

I think that the circumstances and the impacts of this closure really changed dramatically when we got the new ABC at the May SSC meeting, and that was the key to me with this, aside from we did get new analyses and things that showed this really wasn't accomplishing as much as we thought to begin with.

MR. CURRIN: Okay, we also need to deal with the codified text in the proposed rule, so a motion would be in order, George.

MR. GEIGER: (No recording)

MR. CURRIN: Motion by George; second by Bill Teehan. Discussion on the motion?

MR. MAHOOD: I think we have to do a roll call. Mr. Boyles.

MR. BOYLES: Yes.

MR. MAHOOD: Mr. Burgess.

MR. BURGESS: Yes.

MR. MAHOOD: Dr. Crabtree

DR. CRABTREE: Yes.

MR. MAHOOD: Dr. Daniel.

DR. DANIEL: Yes.

MR. MAHOOD: Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Harris.

MR. HARRIS: Yes.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: Yes.

MR. MAHOOD: Mr. Haymans.

MR. HAYMANS: Yes.

MR. MAHOOD: Mr. Teehan.

MR. TEEHAN: Yes.

MR. MAHOOD: Mr. Phillips.

MR. PHILLIPS: Yes.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: Yes.

MR. MAHOOD: Chairman Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Vice-Chairman Currin.

MR. CURRIN: Yes.

MR. MAHOOD: The codified proposed rule is approved unanimously.

MR. CURRIN: All right, thank you all very much. Brian, thank you very much and everyone else involved in this. I'm glad we were able to get to this point. I appreciate your comments as well, Roy, and I also appreciate your staff's quick work on the further analysis. I know Nick came in with some very – he provided us in a very timely manner with some more in-depth analysis than we had during 17B a couple of times, and it's greatly appreciated.

MR. MAHOOD: Yes, I just would like to point out to everyone I think Brian set a record. His first meeting as a council staff member he got an amendment approved for submission to the Secretary of Commerce.

MR. CURRIN: But if you keep in mind that wasn't first meeting dealing with this amendment, by any means. I'm not sure it would be before us if it weren't for Brian and the insistence of a number of people. We appreciate it.

All right, are we ready to get back into the Comprehensive ACL Amendment and deal with those things that we have left on the table there? I think the staff has done some analysis on the ecosystem component species. You guys need another 15 minutes for the – all right, rather than get in it and stop and start, do you want to just wait for 15 minutes until these guys are ready? All right, let's do that then.

MR. CURRIN: We're ready to continue our discussion on the Comprehensive ACL Amendment. I appreciate all the work that Andy and Myra and Jack and Mike and everyone involved has done over the last couple of hours to get us to where we are right now.

Again as a reminder, there is a handful of potentially ecosystem component species if the committee or council chooses to bring that action back into the Comprehensive ACL Amendment. I think Myra can tell us, but I believe there are about 5 additional species that would perhaps qualify as ecosystem species, and I'll turn that over to you, Myra.

MS. BROUWER: The public hearing version of the Comprehensive ACL had Action 2 to designate species as ecosystem components. We had analysis in there to look at what species met the criteria for such designations. We went back and looked through that and this table here up on the screen shows you the species that would be removed highlighted in yellow as of this morning with the decisions that you are entertaining today/ Then highlighted in blue are those species that would qualify as ecosystem components.

Then on the far right is the average landings, and this is state and federal waters combined for all sectors between 2005 and 2009. You can see bank sea bass would be an ecosystem component species, cottonwick would be another one; longspine porgy, ocean triggerfish, and rock sea bass,

actually. And schoolmaster is another one that also qualifies that had not been highlighted in the previous version of the amendment because it had been considered for removal at that time.

The species that are not highlighted in this table are the ones that would need to have ACLs put in place, and its 20 of them. I will also note for queen triggerfish the landings that you see are all recreational. There is a table in the amendment that shows zero landings for commercial. This is a species that might have some identification issues in some portions of its range. It probably gets lumped in with gray triggerfish.

MR. CURRIN: Okay, comments; what are your thoughts here, folks?

DR. CRABTREE: Just to make sure, Myra, your analysis shows that bank sea bass, cottonwick, longspine porgy, ocean triggerfish, rock sea bass and schoolmaster would qualify; so those six.

MS. BROUWER: Correct.

MS. LEVY: The qualifications come from what was previously in the amendment and then was in the rejected appendix, so these are the species that were originally analyzed?

MS. BROUWER: Correct, and there were many that were analyzed and only some that fit the criteria, so it was in the considered but rejected appendix because there was an overlap with the species that the council at that time was considering for removal.

MR. CURRIN: Other thoughts, comments? What is your desire, folks? Duane.

MR. HARRIS: I would make a motion that we designate bank sea bass, cottonwick, longspine porgy, rock sea bass, schoolmaster and ocean triggerfish as ecosystem component species in this amendment.

MR. CURRIN: Motion by Duane to designate bank sea bass, cottonwick, longspine porgy, rock sea bass, schoolmaster and ocean triggerfish as ecosystem component species in the Comprehensive ACL Amendment. Second by George. Discussion? My only question I guess is if the motion is sufficient to do what we want to do or whether we need to have a motion to bring back from the Appendix A the information and analysis or if that is just implied in this. I guess that's a question for Myra or Roy.

DR. CRABTREE: I think we would be bringing that whole action back, would we not, Myra?

MS. BROUWER: I believe we would need to, yes.

MR. HARRIS: Do you need to do that first? What is the language in the motion? Do you want me to withdraw this one?

MR. CURRIN: I don't think it's going to do exactly what we want or what we need to do. Unless the staff is comfortable with the direction to – do you want a motion to bring the action out of the considered but rejected file and to designate these species?

MR. HARRIS: Well, I'd modify my motion then, Mr. Chairman, to bring back from the considered but rejected appendix the designations for ecosystem component species or remove species and at this time consider designating those following species as ecosystem component species, does that do it?

MR. CURRIN: It does for me if it does for Myra; is that good? George, are you okay with the second there? All right, second by George. Mara.

MS. LEVY: So if we're bringing back what was in the considered but rejected, I'm thinking that what you're ultimately talking about when you make that motion is selecting Alternative 6 as the preferred. If we are going to bring the whole thing back, it might be clearer to just say what alternative we are talking about if that's really what it is.

MS. BROUWER: I think that would work except schoolmaster I believe was not included in Alternative 6, so that one would have to be added.

DR. McGOVERN: Alternative 6 didn't specifically identify the species. It just included the species that met the ecosystem component criteria, so it's okay as written, I think.

MR. CURRIN: Okay, so Alternative 6 would work, and I presume then we'd just have to have some qualification criteria that would match with the species that we have on the board here within the document. Roy.

DR. CRABTREE: Our rationale of what we've gone through is that we don't believe these are targeted species, they have not been determined to be overfished or undergoing overfishing in the status of stocks report. I know there has been some discussion about the vulnerability analysis that MRAG did, and that's out there, but the fact with most of these species is that the levels of harvest that we're seeing are at such low levels that we don't think they are likely to become overfished or subject to overfishing.

Because we're keeping them in as EC species now, that would enable us should circumstances change, to bring them back in. I think pretty clearly these aren't generally retained for sale or personal use because we have very, very low landings, and I think most of them are discards. It seems to me that they by and large meet the criteria that we've set up.

MR. CUPKA: Just a very minor point, but I think we should say there is a preferred because don't we have other preferreds in that same thing? I think we selected a couple other alternatives as preferred, too, didn't we?

MR. CURRIN: I think under this action, David, this would be the only preferred. There are other preferreds in the removal actions, yes. As long as staff is clear – and I think they are on this – I don't think that's going to be an issue. Roy, did you have something?

DR. CRABTREE: No, that was going to be what I was going to say, because I think this action was totally focused on selecting ecosystem component species. Just to come back, the rationale

why we originally took this out was because we were going to remove all the species that qualified anyway, so it seemed duplicative with what we'd already done, and that was why we removed it and not because we didn't think these species qualified or anything like that.

MR. CURRIN: That's very clear and certainly is captured well in the record. Other discussion on the motion? The motion is to bring back from the appendix the action to designate ecosystem component species and to select Alternative 6 as a preferred. Is there any objection to that motion? I see none, that motion is approved.

All right, I think that leaves 20 species that last meeting were going to be removed, that now we're considering leaving in the fisheries management unit and that will necessitate development of ACLs, ABCs and ACLs. And I think that's what Andy and Jack and Myra and Mike, and I don't know who else was involved in that, we've got to figure out how we're going to deal with these and how and when we are going to establish the ACLs and ABCs for these species, as well as put them in various species complex or groups somehow. That's what you guys were working on, I think. That's what we're looking for, Andy, a path.

MR. STRELCHECK: Myra, can you just advance the slides for me. We've already talked about the ecosystem component species that are being designated. These are the six species that wouldn't be included in the species groups or in individual ACLs. Earlier today you removed numerous species based on Action 1.

These were seven of those species you removed that would also be designated as ecosystem component if you hadn't removed them. I just wanted to point that out, but these are being removed as well as some others that aren't considered in the species group. Because these species were removed quite awhile ago, a lot of the analytical work, the cluster analyses, things that Nick Farmer presented to you many meetings ago did not include many of these species. We don't have any formal analyses in which to group them, so we are relying mostly based on life history and biological data and information for species groupings as well as just logical places in which to group the species. At this point these are certainly recommendations, but there could be some tweaks and modifications made.

DR. CRABTREE: Andy, but wouldn't you guess that because these are so rare – and I think Nick's analysis was based on logbooks, right?

MR. STRELCHECK: It was based on numerous data-sets including logbooks.

DR. CRABTREE: Aren't these likely to be so rare in those data sets that it would be difficult to get much information out of a cluster-type analysis?

MR. STRELCHECK: Yes, correct, the cluster analysis will rely either on landings information or presence/absence, and if it's a rare species then it tends to not cluster well with other species because it doesn't have anything to link the species together with.

DR. CRABTREE: So we probably wouldn't get much added value even if we had of included these in the cluster analysis.

MR. STRELCHECK: Agree. So with that said, you have right now four species groups as well as a series of individual ACLs. Those four species groups are deepwater grouper and tilefish, hinds and grunts, jacks and snappers. The species highlighted in yellow are the ones that would be added to these complexes or new complexes would be created. For deepwater grouper and tilefish we are proposing adding misty grouper, sand tilefish, queen snapper and blackfin snapper.

For the hinds and grunts complex we are recommending removing the hinds from that complex. They were placed there after all of the shallow water grouper species were removed. We feel like the hinds are more appropriately placed with the other shallow water groupers and then making this solely a grunts' complex that would include white grunt, sailors choice, margate and tomtate.

For the jacks complex there would be no changes. Shallow water groupers would be a new complex that would be created. It would include coney, graysby, yellowmouth and yellowfin as well as rock hind and red hind. The snappers complex we would add three species, black snapper, dog snapper, and mahogany snapper. Then there would be a new complex that would include five species of porgies. Are there any questions?

MR. HARTIG: Yes, I'd suggest you take the black snapper and move it over to the deepwater grouper and tilefish. I'd suggest that you make a deepwater snapper category, but the landings levels would be so small it doesn't make any sense so just move black snapper over into the deepwater groupers and tilefish, because black snapper is a deepwater species. It is not caught up on the shelf. In fact, it is caught deeper than blackfin snapper so it is more appropriate there.

MR. STRELCHECK: Yes, and that was one of those that was on the fence for us. We weren't quite clear, so I appreciate that input.

MR. CURRIN: Other questions or comments at this point? Fill me in or refresh my memory about where sand tilefish occur. Are they truly a deepwater species or do they occur much more up on the shelf? That was my impression.

MR. STRELCHECK: I think you're right. I'm not very familiar with sand tilefish. I don't think they are caught in any large abundance, so it would be hard to place them, to be honest with you.

MR. HARTIG: To that, Gregg, can you tell me what the genus and species is of sand tilefish? You can't? You've been the crusader of sand tilefish your entire career, and you can't tell me what the genus and species are? I'm serious because it's one of those species that if it's the species I think it is, it is definitely a shallow water animal.

DR. McGOVERN: When I was with MARMAP, we caught one sand tilefish the whole 11 years I was with them. We caught it at the shelf edge. I remember that, because when we caught it we didn't know what it was. It's not a deepwater, I don't think.

MR. HARTIG: Malacanthus plumieri, yes, that's the one I was thinking of, and it is a shallow water animal where I am.

DR. McGOVERN: The species is Malacanthus plumieri.

MR. CURRIN: That was the only one I had a question about, whether it ought to go somewhere different, but I don't know. Any other questions or comments on the groupings that Andy has presented? .

MR. STRELCHECK: The only additional ACL we would add for individual species would be bar jack and logically people would think that it groups well with the other jack species, but it really doesn't, so we're recommending a separate ACL for bar jack, and that would be the only change to the individual ACLs.

This gets into the numbers. I've provided estimates of what the ACL would be based on third highest landings versus the median landings. You have a control rule developed by the SSC that was used to determine the ABC recommendations for various species. I didn't feel comfortable making a final decision on what would be the basis for establishing the ABC, ACL so I am providing both.

The numbers at the top, for instance, for blueline, silk and yellowedge grouper, those are already in your amendment. Down at the bottom it shows the landings broken out by sector for the four additional species that we added to this group, and the subtotal is just for the four species at the bottom and the total is the total for all species in the complex.

For example, if you base it on the third highest landings, the commercial sector would have an increase in the ACL of 13,478 fish; the recreational ACL would be increased by 11,700 fish. If it's based on median landings the numbers go down slightly, but relative to the overall landings in the complex it is a fairly small fraction of the overall total landings.

DR. CRABTREE: Yes, and that's really a key point, at least with this one and I suspect it will be the others. There is not that big a difference to begin with between the two rules, but they really get dwarfed by the complex catch levels. If you think about us managing a commercial quota, there would be no difference when we would close the fishery between 441,000 and 438,000, because that's within the margin of error on these things, a few thousand pounds, so there is really not much difference there.

MR. STRELCHECK: Regarding your comment earlier about sand tilefish, you can see how small the landings estimates are for that, so if you did want to break it out of this complex it really doesn't fit well with any other complex so it would have to have an individual ACL, but that would be an awfully small ACL to really actively monitor sufficiently.

There is no change to this complex, no species were added, so I just wanted to point that out. For the snappers complex, we propose adding three species. Although it was suggested that we remove black snapper and put it in the deepwater grouper tilefish complex, you're only talking about a thousand pounds added for the commercial, and 7,000 pounds for the recreational under

third highest landings versus about 500 for median landings and 2,500 for recreational median landings.

But once again it's a small fraction of the overall ACL given that most of the landings are from the three primary species that are already in the species group. This would be a brand new complex, and you do get some variation depending on whether you use median or third highest landings. For commercial it ranges from 26 to 35,000 pounds; and from recreational, 86 to 112,000 pounds.

For grunts, white porgy is the primary species reported. If you add the three other species, there are actually some fairly significant recreational landings in particular of tomtate. This will add quite a bit of landings to the actual recreational ACL, but really won't affect the commercial ACL all that much. You can see that once again the median estimates are lower than the third highest landing estimates and they diverge a little bit.

Shallow water groupers, this is the group where we suggested moving rock hind and red hind to this complex and then adding four additional species. Overall, very little difference between the two approaches; they are all in the 45 to 50,000 pound range for setting ACLs for both sectors. Individual ACLs for bar jack would be less than 20,000 pounds depending on the approach selected. That's it.

MR. CURRIN: Questions, comments, how do you want to proceed here? Roy.

DR. CRABTREE: Well, I am pretty satisfied with all this and my recommendation would be that we go ahead and adopt these groups and modify the ACLs accordingly and get this done. I think it makes sense to make the modifications to the species group that Andy laid out with hind. I think what Ben laid out moving black snapper over makes sense.

For procedure point motion-wise, how would you like to do this, Mac? Would you like a motion to add an alternative to establish these modified groups and then come back to the control rules and the pounds or how do you want to proceed?

MR. CURRIN: I think let's establish the groups and then come back. Let's do it stepwise, Roy, it would probably be cleaner and make more sense to everybody.

DR. CRABTREE: Now, Myra, we've got a current Alternative 4 preferred for species grouping, so somehow we have to – are we deselecting Alternative 4 and erecting a new alternative here that establishes the groups that Andy's laid up and then that would be our new preferred?

MS. BROUWER: I think that would be the cleanest way to do it.

DR. CRABTREE: Andy, help me out here, we've got the groupings that you listed out and then we're going to have individual ACLs for bar jack; is that the only one, and then we have the other individual ACLs. I think what we need to do, Mac, is discuss and see if everybody is okay with it, what we want to do, and then I think we need to take another break and ask staff to write us up the motions to do it.

MR. CURRIN: Well, we can do it that way, and we do it that way quite often; so reaction to Roy's suggestion, is that a comfortable way for people to proceed at this point?

DR. CRABTREE: Okay, and then the other decision we need to make is whether we want to use the median or the third highest. There really didn't seem to be much difference on most of these; and when you think about the uncertainties in the landings estimates, I don't think from a practical standpoint there is much difference.

The median seems simpler to me; it seems a little more conservative, I guess. But mostly just because I think this data is really variable, particularly in these recreational fisheries, it seems the median makes a little more sense, but I could be persuaded to go either way probably on that one. I'd see if anybody else has any thoughts.

MR. CURRIN: Well, my only reaction, I guess, Roy, it seems after haggling and haggling it and sending things back to the SSC, that they for the most part ended up with the third highest, which seemed to be a little more satisfactory at least to me. There were a few examples where they stuck with the median, but I believe there are more examples of where they chose the third highest. I believe that's correct; somebody correct me if I'm wrong.

DR. CRABTREE: That doesn't give me any real heartburn because I don't think from a practical standpoint it makes much difference.

MR. CURRIN: Yes, and looking at the analysis that Andy projected, I think there was one group that there was a little bit of difference, maybe 10 or 20,000 pounds difference, something like that. Many of them were very, very close.

DR. CRABTREE: For bar jack it made some difference, but the quantities are still so low when you think about trying to track that, I don't think it would result in any difference when you necessarily project what is caught.

MR. CURRIN: I think if this is the route we go, the plan is to have the SSC look at this at some point, and so we may get some reaction from them that we could deal with it in the future, if there is some real objection on their part.

DR. CRABTREE: We could certainly do that if that is what the council wants to do.

DR. PONWITH: This is just a point to consider – and I know looking at those numbers I agree that the two choices in these cases look fairly close to one another. The one thing to keep in mind is just -- I don't know if we are going to have a need for changing or adjusting the species groupings in the future that might influence how close or not close those two choices are together.

One other consideration is selecting the one that is more conservative from the standpoint of the council's tolerance for risk that those individual species are varying in a way that is uniform

across the species groupings. That's just one more way to account for the uncertainty that you have in dealing with species groupings rather than individual ACLs.

MR. CURRIN: Other thoughts and opinions about which to use? I'm not going to push hard to go with the third highest or the medians, there is not that much difference. If you want to stick with the median, Bonnie makes a good point about them perhaps being a little more conservative. What do you think? I'm seeing mostly threes being held up around the table; I guess that would be third highest. All right, Roy.

DR. CRABTREE: What we need then is a motion or I guess an alternative that we will then move that sets up these species groups; and then we'll have to have I guess some discussion that indicates our application of the third highest control rule and adds these poundage into the others.

I think the main motion that we need – alternative that we need you to write up is the one that actually sets up the species groups and lists all the various individual ACLs they are. It takes what we didn't change in Preferred Alternative 4 and incorporates these changes and gives us a new one that gives us everything we need.

MR. CURRIN: Okay, so you want to take a little break to give the staff some time to put those together. Myra.

MS. BROUWER: My question I guess is for Mara, and I'm wondering if we could simply modify Preferred Alternative 4 as proposed by your analysis and then add bar jack to the list of individual ACL species.

MS. LEVY: I think you can do that. I just think you need to rework it because it is so specific now that it's saying single species ACLs will only be established for this, and it doesn't include that, and then it talks about how you are establishing the complexes, which doesn't include what we just did now.

If it's possible to do that, you can do it. I just don't know – I mean, it seems like it might get complicated. I don't know if it would be easier to just deselect this and have a new preferred that could encompass everything, but maybe we could take a couple minutes and think about it.

MR. CURRIN: Did that take care of at least one of your questions for now? All right, 15 minutes.

MR. CURRIN: All right, let's come back to order and try to finish up. Dr. Crabtree, have you had an opportunity to look at these motions?

DR. CRABTREE: I've only looked at what you've got showing right there.

MR. CURRIN: Well, whenever you're ready, you can make this motion.

DR. CRABTREE: Mac, do we just need a motion to adopt the modified language and do I need to read the whole motion, all the language – probably do, probably don't?

MR. CURRIN: Joe would say read it. Well, if you guys can supply him with it, I don't know, what do you guys think?

DR. CRABTREE: I'll read it, I don't mind.

MR. CURRIN: All right, read it; that would probably be cleaner, if you don't mind reading it.

DR. CRABTREE: I move that we adopt the modified language for Alternative 4, establish single species ACLs and group species complexes for the establishment of ACLs. Single species ACLs would be established for assessed and targeted species, species where ACL equals zero, and species that cannot be placed in a complex based on the criteria below. Complexes for groups of species would be established for other species using associations based on one or more of the following: life history, catch statistics from commercial logbook and observer data, recreational headboat logbook and private charter survey, and fishery-dependant MARMAP data. When a Complex ACL is exceeded, all species in that complex will be subject to AMs. When an individual ACL is exceeded, the individual stock and in some cases other species that are closely associated with it will be subject to AMs.

MR. CURRIN: Is there a second to the motion? Second by Duane. Discussion on the motion? Is everybody clear? I'm not clear on one thing. Myra, put it toward the end of that motion if you don't mind, and it's the part about when individual stock and in some cases other species that are closely associated with it – provide some clarify if somebody can to me exactly what that means or give me an example.

DR. CRABTREE: Well, I'm not sure. It was in the original motion, but I think we need to know what it means.

MR. CURRIN: It may be referring to the case where we had an aggregate ACL for gag and black grouper and red grouper, which were getting ready to change. That's the only one I can think of where we had the complex closing when an indicator species or one of the ACLs was met. I don't know; I don't want to suggest taking it out if we need it, but I'd love to be able to understand exactly what it means. I don't want it to be there if it's going to cause us a problem either.

MR. HARRIS: I agree with you, I think that's left over from the black grouper, red grouper, and gag grouper. I don't see that it fits here. Somebody has got to tell me how it does fit, but I just don't see it. You're talking about an individual stock and in some cases other species that are closely associated with it will be subject to AMs. That fits that shallow water grouper scenario perfectly, but I don't know of any other situations that it fits.

DR. CRABTREE: Should we take another break?

MR. CURRIN: I don't really want to. Myra scroll up just one more line, okay, individual ACL is exceeded.

DR. CRABTREE: I just don't think there is any case here where we have an individual ACL that triggers other species to close. We've got groups and we've got individuals, so I can only assume that's a hangover from when we had indicator species.

MR. CURRIN: The only case I can think of – and it's still in place right now – is with the black, red and gag grouper, but it very soon will not be in place. I don't know if it's critical to include that to cover that existing case or not. I wouldn't think so.

DR. McGOVERN: I think it might be left over from an earlier motion when we were considering like an indicator species that would close other species within there; and not just the black grouper example, but I think we're doing it for other species, too. That was a long time ago; I don't think that statement is valid anymore.

MR. CURRIN: Is everyone okay with that then? All right, further discussion on the motion. Joe is just going to have to be irritated; I'm not going to read it again. We'll have to be real careful about telling him about that sentence we took out.

MR. MAHOOD: It would be good if you read it again.

MR. CURRIN: Would it?

DR. CRABTREE: Yes, he won't know you took it out.

MR. CURRIN: All right, I'll read it. **The motion is to adopt modified language for Preferred Alternative 4 under Action 2 as per below: Modified Alternative 4 is to establish single species ACLs and group species complexes for the establishment of ACLs. Single species ACLs would be established for assessed and targeted species, species where ACL equals zero, and species that cannot be placed in a complex based on the criteria below. Complexes for groups of species would be established for other species using associations based on one or more of the following: life history, catch statistics from commercial logbook and observer data, recreational headboat logbook, and private charter survey, and fishery-independent MARMAP data. When a Complex ACL is exceeded, all species in that complex will be subject to AMs. When an individual ACL is exceeded, the individual stock will be subject to AMs.** Further discussion? Mara.

MS. LEVY: Not really discussion; I know this is going to happen, but in the document the alternative refers to Table 2.10, so that table is obviously going to be modified based on what Andy presented and what the new language is.

MR. CURRIN: Any further discussion? Any objection to that motion? The motion is approved with one objection.

DR. CRABTREE: I think what happens now, Myra, is that the ACLs are just automatically updated based on the high three rule and that we're status quo on these species, so I don't know that we need – I think we've made our intent to go with the highest three control rule clear. Do we need another motion or are we okay now, do you think?

MR. CURRIN: Everybody seemed to be okay with that approach, Roy, and if you want a motion, Myra, we will give you one. That is big enough and bold enough; I think it will be okay, but if you want a motion we'll give it to you. All right, Myra says she is fine with that. All right, what else do we need? That covers it, Roy, you believe?

DR. CRABTREE: I think so.

MR. CURRIN: It modifies the actual species being retained, sets up or includes these species being retained into established or either establishes groups and establishes ACLs. That should be all we need to do.

DR. CRABTREE: I believe that is right, and I believe this gives us ACLs for everything. I think we're good.

MR. CURRIN: All right, then we need to approve the Comprehensive ACL Amendment. George.

MR. GEIGER: (No sound)

MR. CURRIN: Motion by George, is there a second? Second by Robert. Discussion on the motion?

MR. HARTIG: Although some of my problems were allayed today, I'm still going to vote against this. I still believe there are too many unknowns facing us in the future and too many impacts that are going to occur from this amendment unneeded if it had some more time to be fleshed out. I'm not going to go on a long tirade about it, but I'm not going to vote for it.

MR. PHILLIPS: Mr. Chairman, as much work as went into this, and I see a lot of good stuff in it, I also see it being based on landings, and landings alone, and to me that is not science, and I think we need something other than just landings to go into this. I think these ACLs are going to bite us and they are going to bite us hard down the road. We're going to have fisheries closed because of them. I'm going to vote against it.

DR. DANIEL: Yes, I kind of agree with Ben and Charlie. I guess the two biggest things that I'm concerned about in this amendment is the dolphin and wahoo allocation, which we discussed, and tried to change to no avail. But probably more importantly is the wreckfish issue. I really don't have a dog in the wreckfish fight, but I just can't understand how we've gone since the mid-nineties not catching the quota that was established for some reason, and we haven't been anywhere near it with a very small fishery.

If the stock is in worse condition than when we established the 2 million pound quota and we need to go to 250 and basically hamstring the fishery and scramble to try to fix a broken system. I could vote for this if we pulled the Wreckfish ACL out and dealt with it under 20A, which is where I think the SSC needs to look at again. I just have great discomfort in the Wreckfish ACL, and I'm going to have to vote against it as well.

DR. CRABTREE: Well, just to Louis' point, Louis, I don't think anyone is saying the wreckfish stock is in worse shape than it was. What the SSC has tried to do is cap the landings at where they've been over the past year. The problem we have is that affects the allocation because we've allowed all these latent permits to accumulate in the fishery. I think it's more complicated, but I haven't seen anything where anyone is suggesting that the status of the stock has declined.

DR. DANIEL: But again we know we've got six folks that want to participate in the fishery. We've got a new entrant, at least one in the fishery. We've got one highliner that needs 150,000 pounds to make it. We've got a 237,000 pound quota without accounting for any bycatch. That leaves – if our highliner gets his 150,000 pounds, which looks very doubtful at the 237, that leaves 80,000 pounds left for those five folks.

I just don't see how we can make the fishery work. I just can't see the justification for dropping the quota from 2 million pounds to 250. I just can't see it and especially not knowing what the life history of this fish is in terms of when they are in our areas and what other sources of mortality exist.

Even when you get an assessment, like I was telling some folks, it would be like assessing weakfish off of Georgia. That's not going to tell you anything, because they're going to be in other places more times than when you assess them. I just have great concern over that fishery, and it gives me great discomfort to approve a 250 TAC on that fishery.

MR. CURRIN: Further discussion of the motion? Mr. Mahood, you going to have to do a roll call on this?

MR. MAHOOD: Mr. Boyles.

MR. BOYLES: Yes.

MR. MAHOOD: Mr. Burgess.

MR. BURGESS: No.

MR. MAHOOD: Dr. Crabtree.

DR. CRABTREE: Yes.

MR. MAHOOD: Dr. Daniel.

DR. DANIEL: No.

MR. MAHOOD: Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Harris.

MR. HARRIS: Yes.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: No.

MR. MAHOOD: Mr. Haymans.

MR. HAYMANS: Yes.

MR. MAHOOD: Mr. Teehan.

MR. TEEHAN: Yes.

MR. MAHOOD: Mr. Phillips.

MR. PHILLIPS: No.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: No.

MR. MAHOOD: Chairman Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Chairman Currin.

MR. CURRIN: Yes.

MR. MAHOOD: Let me count here. It looks like about 8 to 5, the motion passes.

MR. CURRIN: Okay, thank you. Now we've got to deal with the proposed rules and, of course, allow the staff plenty of latitude to implement these changes that we've approved today. We need a motion to deem the codified text as modified and give the chairmen and staff lots of editorial license to make the edits. George.

MR. GEIGER: (Not recorded)

MR. CURRIN: Motion by George, is there a second? Second by Duane. Discussion on the motion?

MS. LEVY: I just wanted to point something out that is something that is going to be edited. In the AMs for rec, in all the ones that you're establishing the new AMs for, the preferred alternative if you exceed the ACL, is to monitor the following year and shorten the season as necessary, so you would be in-season monitoring in year two; and if you saw the same trends, you'd be shortening that season.

The regulatory text that you got has language in it that says that if it is exceeded, the AA will file a notification with the Office of the Federal Register at or near the beginning of the following fishing season to reduce the length of the following fishing season, which implies it is different than what your preferred is. It implies that is going to be another year process.

We've proposed just taking out the "at or near the beginning of the following fishing year", which would make it consistent with the preferred, so it would read that the AA will file the notification with the Office of the Federal Register to reduce the length of the following recreational fishing season by the amount necessary to ensure.

By taking out that "at or beginning", it reflects what you've chosen. It was just something that got in there from I think other rules say that type of thing. I just wanted to point out that is one of those changes that is going to be made.

MR. CURRIN: Thank you very much and your suggested language does seem to capture our intent.

DR. CRABTREE: Right, because our intent was if you go over, then the following year we are going to monitor the catches and close the fishery when we think it is caught. That is the shortening of the season.

MR. CURRIN: That's right. Further discussion? Bob.

MR. MAHOOD: Mr. Boyles.

MR. BOYLES: Yes.

MR. MAHOOD: Mr. Burgess.

MR. BURGESS: Yes.

MR. MAHOOD: Dr. Crabtree.

DR. CRABTREE: Yes.

MR. MAHOOD: Dr. Daniel.

DR. DANIEL: No.

MR. MAHOOD: Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Harris.

MR. HARRIS: Yes.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: No.

MR. MAHOOD: Mr. Haymans.

MR. HAYMANS: Yes.

MR. MAHOOD: Mr. Teehan.

MR. TEEHAN: Yes.

MR. MAHOOD: Mr. Phillips.

MR. PHILLIPS: No.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: No.

MR. MAHOOD: Chairman Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Chairman Currin.

MR. CURRIN: Yes.

MR. MAHOOD: The motion passes 9 to 4.

MR. CURRIN: All right, thank you all very much. Myra, what else do we have to do with the Comprehensive ACL? Well, thank you all, Myra and the team and everybody involved in this. It has been a long road, and it hasn't been easy to get to this point. Obviously not everybody is happy, but it was important I think that we meet this mandate under Magnuson, and I think we stand a good chance of doing that.

That's something that everybody can be proud of, I believe. All right, what else have we got? Do you want me to end our Snapper Grouper Committee? I think there was some talk about a

little bit of discussion regarding Amendment 18A, if we want to give the staff a heads-up on anything else that we might want to include in 18A.

I don't know whether they've got time to try to pull that off before September or not, but it occurred to a number of us that in view of what happened with the commercial season this year lasting six weeks or so that there might be some desire to include in 18A, bring back in from Regulatory Amendment 9, the trip limit actions. There may be some other things that folks might want to include. Louis.

DR. DANIEL: Yes, I'd like to see us look at a host of trip limits immediately for those species that are running the risk of closures. I know that hurts some of the longer-term boats and has impacts. What we're seeing at least this past year; I was offshore fishing May 27th, and you couldn't get away from the black sea bass. I mean, it was the damndest thing I've ever seen.

That's all you catch. There were folks that went out three days after the opening on June 3rd and couldn't find a black sea bass. That's because they were going out and catching huge trips and they wiped them out. That's why it closed so quickly. I think it's critical that until we get an ITQ program, which I know that's blasphemy from North Carolina, but until we get something like that I just don't know how we are going to avoid these derby fisheries.

I know there are species certainly in Florida that are probably critical to them. Certainly black sea bass, vermilion snapper, gag grouper are critical to us. We also have had the influx of some of the dive boats from outside the region come in. They are taking very large quantities of some sensitive species, hogfish snapper primarily and gag grouper. I think to try to keep us on the right side of decorum; it would certainly help us greatly in managing the fishery at least off North Carolina to have those trip limits in the EEZ.

MR. CURRIN: General agreement that we'd like to, if possible, ask the staff to bring in the trip limit options from Regulatory Amendment 9 into 18 for our consideration in September.

MR. HARRIS: Mr. Chairman, if we're going to do that, we really need to look at this regionally because that was the holdup before is that it adversely affects some areas where it doesn't adversely affect other areas. It is good for certain areas I think but it is bad for other areas, so if we are going to do that I would like to take a regional approach to it.

MR. CURRIN: Well, keep in mind the only thing we are talking about here is black sea bass. I know you're concerned, Louis, and in Regulation Amendment 9 we went through all that with all those and set them up for a couple of those species. What I'm asking specifically for is whether we have a desire to bring the black sea bass trip limits back into 18A for consideration with limited participation there?

MR. WAUGH: Mac, this is the information that is included in the regional operations agreement that is in the full council tab. This is on Page 14. This is a list of items that we have up for consideration now and are looking for your guidance on. This will be the vehicle that we use to implement changes from the stock assessment.

What was in here before were the black sea bass actions in terms of limiting participation, limiting effort, and measures to reduce bycatch in the black sea bass pot fishery, looking at potentially changing the rebuilding strategy, spawning season closures, and then ACLs and management measures from the assessment.

This wasn't in here before but given the timing and the need to have this in place before June of next year, 18A is the logical document to use. We had some suggestions for minimum size limits, bag limits as well as a commercial trip limit. You all have talked about commercial trip limit but you need to let us know about minimum size limits and bag limits. Also, do you want to look at allocations within the commercial sector or do you still want to leave it just as one commercial sector?

We've got from before changes to improve data collection. Myra said that you also talked about looking at changing the AMs. That is something that would be added to this list. The timing on this, we need to approve it for public hearings in September and then bring it back to you for final action in December in order to have those changes implemented prior to the start of the next fishing year.

MR. CURRIN: So you are ahead of us there; thank you. Bill.

MR. TEEHAN: Gregg, what do you mean by allocations within the commercial sector; is that traps versus something else?

MR. WAUGH: Traps versus hook and line.

MR. CURRIN: What is your desire, folks? I mean that's again something we looked at in Regulation Amendment 9 I think was allocations between those sectors or trying to carve out something for hook and line and when the pot fishery closed and that kind of thing. Any desire to do that? Okay, I'm seeing heads nod.

Anything else in 18A' how about size limits and bag limits? What do you think? I mean we just lowered the bag limit but after the assessment, certainly we're going to have to consider changing those things if need be; whether that's raising them, lowering them, don't know.

DR. DANIEL: We know the pot fishery was off the hook for six weeks and closed. Do we have any information on the recreational fishery yet? I don't think we do.

MR. CURRIN: We do not. I think earlier folks said that they expect to get that information at the end of the month; isn't that what I heard, Jack or Andy, on the first couple of waves?

DR. DANIEL: You know, the first couple of weeks when the fishing was the best and there seemed to be a lot of effort, it was still at ten fish, and then it went to five and I guess it is still at five and it will remain at five through this fishing season. Does it remain at five in perpetuity now?

MR. CURRIN: I think so until changed. I believe it is until modified, is that correct, Gregg?

MR. WAUGH: Yes, but we do have the first two waves of 2011 and if you backtrack 2010/2011 fishing year and just take Wave 3 of 2010 and just divide that number in half, just looking at MRFSS data, that gives a total through Wave 2 of 410,553. Mike on our staff pulled these numbers off the MRFSS website.

That does not include headboat data and it does not include the methodology that the Southeast Science Center uses to generate weights, so you would expect those numbers to go up. If you look at the Southeast Regional Office Quota Site through December of 2010 we're at 421,000 so with both of those we're over. There is no doubt once we get the final numbers that we will be over and then that will need to come off of the quota for the next year.

MR. CURRIN: It's not pretty. I think to answer your question, Gregg, we're going to have to consider size limits and bag limits in 18A in reaction to the assessment and the impending overages. Anything else? Ben.

MR. HARTIG: Gregg, are these MRIP numbers or MRFSS numbers?

MR. WAUGH: No, these are the MRFSS numbers and for the first two waves of this year they were just released. It was 45,560 pounds in Wave 1 and 23,009 pounds in Wave 2. It looks like the closure that was effective February 12, 2011, certainly seems to have lowered Wave 2 numbers. Wave 2 in 2010 was 144,842.

DR. CRABTREE: Question for Mr. Teehan; Bill, has your commission discussed reducing the black sea bass bag limit or do you all plan to talk about that?

MR. TEEHAN: Yes, we'll talk about it. As you know, Roy, I don't know what they'll do but we can certainly talk about it.

MR. CRABTREE: But it hadn't come up yet at a commission meeting?

MR. TEEHAN: I wasn't at the last commission meeting so I don't know. I was at the council meeting.

MR. PHILLIPS: Could you refresh my memory on the timeline on when we're going to be doing this and getting our new assessment; so I'm guessing they are going to meld. Because when we get the new assessment, I'm guessing everything is back on the table more or less.

MR. CURRIN: Pretty much, yes. I think the Assessment Review Workshop is in the fall and we will see that finalized in December and hopefully get this rolling in December as well based on the data from the new assessment. I mean, we should have some indication of what is going on and what to expect out of the assessment, but it won't be finalized until our December meeting for us to take action.

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MR. WAUGH: That will be important for us to make sure we take a sufficient range of alternatives out to public hearing when we approve this in September to cover the likely outcomes that we might anticipate from the stock assessment.

MR. CURRIN: Other comments? All right, does that cover you? Unless Myra or Gregg tells me otherwise, that is all that the Snapper Grouper Committee had on its agenda. So, Mr. Chairman, I'll turn it back over to you and thank the staff again and everybody involved.

(Whereupon, meeting was adjourned on August 9, 2011.)

Certified By: _____ Date: _____

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