

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **SNAPPER GROUPER COMMITTEE**

**Renaissance Orlando Hotel Airport  
Orlando, FL**

**June 11-12, 2008**

### **SUMMARY MINUTES**

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Snapper Grouper Committee  
Orlando, FL  
June 11-12, 2008

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The Snapper Grouper Committee of the South Atlantic Fishery Management Council convened in the Vienna Ballroom of the Renaissance Orlando Hotel Airport, Orlando, Florida, Wednesday morning, June 11, 2008, and was called to order at 10:27 o'clock a.m. by Chairman Mac Currin.

Mr. Currin: I'll call the Snapper Grouper Committee to order. Good morning, everyone. Thanks for adjusting your schedule to the revised schedule that we have here and I especially want to thank our presenters, who were available and ready to go, to help us jump ahead. We have a very busy schedule for our committee. I hope that we will keep that in mind and work as efficiently as we can through our agenda.

The agenda is before you. If, as usual, you will allow me some latitude to make minor adjustments to accommodate schedules and timing, I would appreciate that. With that caveat, without objection, we will approve our agenda.

Seeing none, we have minutes from our March meeting. Everyone has received those and I hope has had time to go through and -- I would open the floor for comments or changes to our March meeting minutes. Seeing none, without objection then, we will approve our minutes.

We will adjust our schedule to try to take a number of the presentations that were scheduled for later in our agenda. Dr. Sedberry from Gray's Reef has graciously agreed to kick us off, with his presentation on the status of their research area. I believe you're going to address that and in addition, an issue regarding spearfishing and a proposal that you have for the council I believe for action in that area. George, welcome and we're glad to see you.

Dr. Sedberry: Thank you. Actually, I'm going to concentrate on spearfishing and just give a brief little update on the research area. The purpose today is to formally provide the council with the opportunity to draft Sanctuary fishing regulations for spearfishing within Gray's Reef, as per the National Marine Sanctuaries Act and our memorandum of understanding with the council.

A brief history of this -- This has been presented to you before and there's greater detail on it in your briefing book and your briefing materials, but in 1981, NOAA considered a spearfishing ban within the Sanctuary when the first management plan was drawn up. The alternative that was chosen was to ban powerheads only.

In 2003, during revision of the management plan and reconsideration of the management plan, again a spearfishing ban was proposed, but based on public comment during the scoping process, spearfishing was not banned, but again, the powerhead prohibition was continued. However, at that time, when that management plan was adopted in 2006, there was a provision in the management plan to do a socioeconomic analysis of spearfishing within Gray's Reef, to see what the effects might be, and to revisit the concept of a spearfishing ban within two years.

Those two years are upon us and now, in 2008, we're conducting an environmental assessment of spearfishing and a spearfishing ban within the Sanctuary and as part of that environmental assessment, we're giving the council opportunity to draft fishing regulations.

Our analysis has consisted of three parts. There's a biological component, a socioeconomic

component, and a law enforcement component. Again, the details of this are in your briefing materials, but based on the analysis of those three components, NOAA, Gray's Reef, has concluded that given the mounting evidence of biological impacts from spearfishing, concerns regarding the enforceability of the existing powerhead ban, the negligible socioeconomic effects, and abundant substitution opportunities that exist for spear fishermen and actually powerhead fishermen to go elsewhere, we suggest that all spearfishing activities be prohibited within the Sanctuary.

The biological considerations -- Again, these have been reviewed at the last council meeting and are in the briefing materials, but basically, spearfishing is a highly efficient harvesting gear that alters abundance and size structure of grouper and other fish populations. It's shown to have a greater overall impact on reef fishes than hook and line fishing and the effectiveness has resulted in over harvest and restrictions on this type of fishery in other parts of the world.

Spear fishing targets the largest fish and for protogynous species like grouper that change sex, with females changing to males, selective fishing on the large males can make the population susceptible to sperm limitation. These large fish that are selectively targeted by spearfishing are important as predators, maintaining an ecological balance within these reef systems. The selective removal causes populations of their prey species to increase, causing an imbalance in trophic structure.

In addition, particularly at Gray's Reef, there are vulnerable pre-spawning aggregations of gag. They school up there in the fall and at these other inshore live-bottom reefs, before they head out to the shelf edge to spawn, and those pre-spawning aggregations are targeted by spear fishermen and, of course, this is prior to spawning.

It's been shown that spearfishing alters fish behavior, causing fish to move to different and perhaps less favorable habitats, less favorable for their growth and reproduction. It's been shown that spear fishermen remove more biomass per outing, that is more larger fish, than other recreational fishing modes and then there's no catch and release in spearfishing. The regulatory discards, if any are taken, are dead.

The socioeconomic analysis that we've just completed concluded that there would be no measureable economic impact of a spearfishing ban within the Sanctuary, mainly because nobody really goes there and there's abundant substitution opportunities nearby, especially artificial reefs and other live bottom areas.

Law enforcement considerations are very important. In spite of the powerhead ban that has been in place since 1981, there's clear evidence of powerhead use still occurring within the Sanctuary, particularly along some of the larger ledges, and because the powerhead tip is closely associated with the spear gun and can't be easily differentiated from a regular spear tip from a distance, as law enforcement officers approach, it's very difficult to determine what people with spear guns are doing in the Sanctuary.

There's a substantial burden of proof that requires that law enforcement agents catch spear fishermen in the act with fish that have been power headed and with spear guns with powerheads

equipped. We've concluded that in order to effectively ban powerheads that all spear guns should be banned within the Sanctuary.

The existing regulations are shown here in regard to allowable fishing gear that's allowed within the Sanctuary and it currently lists use of rod and reel, hand line, or spearfishing gear without powerheads. Then the possession components of the regulations state that except for fishing gear stowed and not available for immediate use, possessing or using within the Sanctuary any fishing gear or means except rod and reel, hand line, or spearfishing gear without powerheads is allowed. Currently, spearfishing is allowed.

Our proposed model regulatory request language that we would ask the council to consider is to change the bold font words "to eliminate spear guns as an allowable gear" in Paragraph 5(a) and then eliminate spear guns as a gear that you're allowed to possess for ready use within the Sanctuary from Paragraph 6. Those are the two main changes that would occur within the existing Sanctuary regulations.

The other management process that we have going on within the Sanctuary that might affect fishing is we're continuing to look at a research area within the Sanctuary, which would be a small part of the Sanctuary set aside for research purposes that would limit other kinds of activities.

We're working on a draft environmental impact statement of designation of such a research area. We conducted public scoping, including several public meetings and written comments in March and April of this year, and our Research Area Working Group is going to meet the first of July to consider those public scoping comments and to make recommendations to the Sanctuary Advisory Council regarding designation of a research area and what that research area might look like if it's designated.

The advisory council will in turn meet in late July to consider the recommendations of the research area working group and then make recommendations to the Sanctuary and based on all of those recommendations, we'll draft an environmental impact statement, which we hope will be available in 2009. That's it and I would be happy to answer any questions.

Mr. Currin: Thank you, George. Are there questions for George?

Mr. Geiger: Thank you, Dr. Sedberry. That was a good presentation. Was the council involved -- The South Atlantic Council, were we involved in the original development and writing of the current fishing regulations that are in place at Gray's Reef?

Dr. Sedberry: Yes and actually, the regulation that it's place now, the council drafted -- When that spearfishing regulation was drafted during the last management plan review, it included a ban on spearfishing, but based on public comment during the environmental assessment of those regulations, that provision was removed, but the council did draft those fishing regulations previously.

Mr. Robson: You had cited a number of different studies about the relative impact on

spearfishing. Do you know if those take into account differential mortality? In other words, you've got hook and line fishing and what's the level of hook and line fishing and what's the level of discard mortality rates compared to spearfishing? Is that accounted for in your considerations?

Dr. Sedberry: There was one of those studies done on rocky bottom reefs in the Mediterranean that did take into account regulatory discards and bycatch in the hook and line fishery versus spear fishery, which has little bycatch, because it's a very targeted fishery.

It did take that into account and determine that per unit of effort, more biomass was still being removed by spear fishermen. I think some of that relates to recreational fishermen filling their bag limit with smaller fish, whereas spear fishermen fill their bag limit with the largest fish. The number of fish -- It's not the number of fish, but it's the actual biomass removed, because of larger fish being removed by spear fishermen.

Mr. Waugh: George, just to clarify, you were saying spear guns, but really you're talking about spearfishing gear, all spearfishing would be prohibited.

Dr. Sedberry: Yes, that would be slings and arrows.

Ms. Shipman: From what we've seen, I think probably the strongest support for it is the law enforcement issue, the lack of socioeconomic impacts and that kind of thing. I think there really isn't the biological evidence on Gray's Reef, per se. You all are just using those studies as the proxy and I think that's important to recognize.

There really is no evidence that we've seen and correct me if I'm wrong. That's just DNR's perspective. We don't see that biological impact, but I think, looking to the future, the other studies are being used as the proxy for what could potentially happen, but I do think the lack of impact on users -- There's not that much that goes on there, but I think the enforcement is probably one of the strongest rationales.

Dr. Sedberry: That's true. Those biological studies come from other parts of the world and there are no biological studies on the effects of spearfishing in Gray's Reef or any live bottom areas in the Southeast, as far as I know. The biological principles, we think, apply to hard bottom reefs like Gray's Reef and we're trying to be proactive here and think about what might be happening in the future if this becomes a more popular sport.

Mr. Harris: George, I appreciate you being here and giving us the presentation today. As I told you and Becky when we had our conference call, I'm not going to oppose this. I think some of the rationale is weak, but I think you've beefed it up and I agree with Susan that the law enforcement aspect of it is perhaps the strongest case that you can make, but I do have one issue with your presentation with respect to law enforcement.

We have had a developing free diving spearfishing industry off the coast of Georgia, on the Navy towers primarily, within the last couple of years and these guys are going out without scuba gear and free diving down as deep as seventy feet. The spear guns that they're using are



pretty long, but the boats are not very -- They're not much longer than maybe twenty-six or thirty feet and the stowage of spearfishing gear on a boat like that so that it's not readily available, if they're transiting and come back and fish Gray's Reef on the way back in, could be problematic.

I think you're going to have to give the spearfishing community some leeway with respect to that, because where are they going to stow this gear other than in a fish box? We're talking about some pretty long spear guns, big rubber band spear guns in some instances, and so I don't know how easily they are stowed, such that law enforcement would not consider them to be readily available.

Dr. Sedberry: We hadn't considered that and thanks for pointing that out. We would have, if this comes to pass, an education and outreach program and we might be able to suggest ways, after we've looked at these spear guns and looked at that issue, suggest ways in which they might be able to stow those to disarm them, to remove the spear from the gun or remove the elastics or whatever it takes to make it unavailable while they're transiting or in the Sanctuary.

Mr. Geiger: I think Duane brings up a good point, but we already have some SMZs, I think, within the South Atlantic that prohibit spearfishing. Monica is shaking her head yes and I think Florida also has a prohibition in state waters. I think some of that law enforcement work may have already been done in terms of stowage and we might be able to hear from somebody to talk to that issue.

Mr. Currin: You mean today or right now? I don't know whether anybody is in the audience that could shed some light on that.

Mr. Geiger: I hate to catch anybody off guard, but maybe if we're not going to take this up for final consideration today, maybe before we do take final consideration, we can hear from law enforcement in that regard. There are people -- There are folks in the audience from Florida who might be able to speak to it, but I don't know.

Mr. Currin: If somebody is available to provide input at this point, that would be great. If they're not and somebody is around in the meeting area that could provide some input, then before we take final action at council, if there's a recommendation from this committee, then we can do that.

Mr. Robson: I don't want to put Brett on the spot, but we do have somebody from Florida from our Law Enforcement Division who has considerable experience and may be able to shed some light on how we handle transit of spearfishing gear in the Keys, but I don't know, Brett, if you are able to speak to that or not.

Major Norton: I'm Brett Norton and I'm a Law Enforcement Major with Florida Fish and Wildlife and I currently took over the Federal Fisheries Program for our Law Enforcement Division. As far as transit in the Keys, I'm not sure exactly how they are currently enforcing it. I know other transit type situations, it's pretty obvious that it needs to be secured and put away, whether it be a net or other device.

Just listening to the discussion, I do have a concern with a small boat, what the gentleman from I assume Georgia brought up, but it needs to make sense to us so that we can enforce it and what I was hearing, it wasn't as easy as what it sounded.

Mr. Currin: Thank you, Brett. We appreciate it. Are there other questions for George?

Ms. Shipman: George, the mechanics of this, if you can just lay out for us what you envision the council doing, whether we would implement this or whether the Sanctuary. We do have new members that may not be familiar with the MOU and how it's been set up.

Dr. Sedberry: This would be implemented through the National Marine Sanctuaries Act by the Sanctuary, but right now, the council has opportunity to draft those regulations. They can use the wording that I've already showed or they can draft something themselves and then that would be passed along to the Secretary of Commerce.

The council can take no action on this and it would still go forward to the Secretary of Commerce or the council could draft their own management plans that the Secretary might not approve of, because it doesn't meet the goals of the proposed action. There are a lot of options here, but for us, we want to cooperate with the council and we want the council to be onboard with this idea and so to me, if the council can use the language that we proposed to draft these regulations that would be the most expeditious thing for us.

Mr. Currin: Those are the options and everybody understands that? They can do it on their own. I guess you guys are just asking for our blessing and that might provide some expedition of the process as well, George, or --

Dr. Sedberry: In the Sanctuary Act and our Memorandum of Understanding, it requires that we consult with the council, with the Southeast Fisheries Center, and with the State of Georgia.

Mr. Currin: This committee could recommend to the council then that we develop regulations to prohibit spearfishing at Gray's Reef or we could simply offer consent and say, George, you have our blessing to develop these regulations. George is asking us at this point for endorsement and for the council, I guess, to develop those regulations.

Ms. Shipman: I'm just trying to figure out what's the most expeditious for the council as well, given our workload and the things we have lined up in the queue. It may be that we may want to give our blessing and endorsement to the Sanctuary for them to do it, given what our workload is.

Mr. Cupka: I agree with that. Obviously George is here today because -- I remember the MOU when I signed it with them. They were required or supposed to consult with us before they do it, but as George pointed out, they actually have the authority to do it themselves, but they do -- I guess they're here seeking our blessing and I agree with Susan on whatever would be the most expeditious way and I suspect it would be for us just to give our blessing to them and let them proceed under their process to implement something.

Ms. Smit-Brunello: George, I'm sorry, but I think I missed this. Would you tell me the timeline that these regulations are on or proposed regulations?

Dr. Sedberry: We really don't have a timeline. We want the process to proceed, so that everybody that wants to have a say in this will have their say, but to me, the sooner the better. I know that's not really a timeline, but we should be able to -- If we get approval from the council or the council drafts regulations, we should be able to put those into the environmental assessment, which we have the boilerplate for already, and it would be done at that point.

Mr. Easley: I don't know if this is any consolation, but whichever path the committee recommends to the council and the council takes, enforcement will work closely with George and the folks on his staff to make sure that we can do what we can to get the law enforcement concerns taken care of, especially in light of the fashion that the spearfishing industry works, the size of the vessels and their equipment. That stowage issue does sound like it would be a concern and we'll work to see what language we can get into that requirement. As they say, the devil is in the details and we'll try to get down there with it.

Mr. Currin: Thank you, Otha. I'm sure if we choose to go the approval route that perhaps some -- Not caveat, but suggestion that Gray's Reef, as they develop these, would work closely with law enforcement.

Major Norton: I just called the Keys and got an answer on how we do it in the Keys and basically, the tip is off of the spear gun and bands off the spear gun and shaft is out of the spear gun. I asked the question of how would it be done and basically, all of that stuff would occur and then it would be stowed somewhere on the boat where it was not readily accessible.

Discretion is used on the part of the officer and it's kind of interesting. The captain I talked to down there, they had an incident yesterday where basically the individual stopped and he snorkeled at Sombrero on his way back and the officer questioned him.

It's the same situation we're talking about here, but there is some discretion used and the other thing she talked about is there's actually -- I didn't know this, but there's a transit provision that you cannot stop in some of the areas in the Keys National Marine Sanctuary. That may be another thing that you may consider, if you haven't done so already.

Mr. Geiger: I assume you can't stop if you have an instrument onboard or a spear gun onboard.

Major Norton: That's the way that she explained it to me just now.

Mr. Currin: Other comments or questions?

Mr. Harris: Just to that point, Mr. Chairman, and I don't want to belabor this, but we're talking seventeen miles offshore for Gray's Reef and these areas that they're spearfishing in are forty and fifty miles offshore. Telling them they cannot transit through the Sanctuary on the way back in and stop and fish is -- I don't think it's a very good option. I would urge that anybody reject the no transit provision if you've got spearfishing gear onboard. I just don't think that's very fair

or workable. It may be workable for law enforcement, but I don't think it's very fair to the fishing public.

Mr. Currin: Disabling the gear would seem to be the most appropriate and make it difficult, extremely difficult, for somebody to try to thwart the law.

Dr. Sedberry: That's really what we had in mind. We didn't have a no transit provision in mind.

Mr. Currin: What's the committee's pleasure here? I'm getting an indication that the route we would like to go, because of our workload as much as anything, would be to approve Gray's Reef moving forward with development of regulations prohibiting spearfishing in Gray's Reef.

Ms. Shipman: **I would move that the council concur with Gray's Reef's proposed prohibition of spearfishing in Gray's Reef National Marine Sanctuary or with the Sanctuary moving forward with developing regulations to prohibit that.**

Mr. Currin: Motion by Susan and second by David that Gray's Reef move ahead with development of regulations to prohibit the spearfishing in Gray's Reef National Marine Sanctuary. Discussion?

Mr. Geiger: This in no way is an abrogation of our abilities to participate in the development of any other fishing regulations in any other sanctuary as they come forward, but this is just an opportunity to expeditiously move forward on this particular issue.

Mr. Cupka: I was just going to point out under the MOU that we have with them that this certainly isn't relinquishing any requirement for them to work with us on any future actions within Gray's Reef. It's a one-shot thing and we certainly aren't giving up that ability or setting a precedent here. They will still be required to come back to us with any future actions they want to take.

Mr. Robson: Does this motion mean that the committee is endorsing the Sanctuary's rationale and approach to setting these regulations? In other words, are we acknowledging a consideration that there's a harvest issue? You had mentioned earlier that this isn't necessarily a biological issue and I think if you looked at managing that particular type of harvest that there might be lots of other alternatives that could adjust for whatever harvest of large fish.

Is this an enforcement issue that we're endorsing? I just want to make sure we're not going too far in endorsing an issue that's not necessarily a biological problem or if it is one, this isn't necessarily the only way to deal with it.

Mr. Currin: There's been some comments, Mark, that Duane made and Susan made to that point. I know George took note of those and I don't know how that will translate into your proposal as you move forward, but I would certainly hope that those would be given consideration and perhaps de-emphasize the biological emphasis that you've provided in this presentation. That's my sense, at least, from the recommendation of this committee. Does that capture people's concerns?

Ms. Shipman: It does and we've shared our comments with Dr. Sedberry and his staff in terms of some of the questions we might have had about the emphasis on the biological. Again, as I said, I see that as a proxy, those other studies being used as a proxy, in the absence of the evidence that there is a biological problem at Gray's Reef.

George, you may have said this, and I apologize if I missed it, about the public input opportunities you all have provided and the hearings and that type of thing. You all have prepared an EA, I think.

Dr. Sedberry: Right and we've had -- During our Sanctuary Advisory Council meetings, we have those in the late afternoon or early evening and the public is invited to give public comment and we have representatives of the diving community on our Sanctuary Advisory Council and so we have heard public comment at those meetings and during the environmental assessment, there will be an opportunity to comment again.

Mr. Currin: Any further discussion on the motion?

Mr. Geiger: That's interesting, Dr. Sedberry, that you said you have members of the community on your advisory panel and you have already received public input. Can you provide us or shed any light on the type of public input that you've already kind of experienced?

Dr. Sedberry: The comments have kind of been all over the place. We've heard from spear fishermen that are opposed to the banning of spearfishing within the Sanctuary and we've heard from NGOs that favor the ban and we've heard from recreational hook and line fishermen that favor the ban. There's probably a total of I would guess a dozen comments that we've taken during those meetings and they run the whole range.

Mr. Currin: Other discussion?

Mr. Cupka: I think earlier we had a presentation from George where you all were considering the establishment of research areas within the Sanctuary and that's an important component of why the Sanctuary was created. I think given some experience we've had in South Carolina with the power heading and Susan remembers some of the gyrations we went through on that years ago, but if you're going to establish these research areas, I think it's going to be awfully hard to not have some law enforcement problems in there. I see this as helping out with that whole process and so I just wanted to mention that as well.

Dr. Sedberry: I was just going to say that we recognize that there will be law enforcement issues, as there are with any fishery regulations.

Ms. Shipman: George, the Sanctuary Advisory Council, have they basically endorsed this recommendation?

Dr. Sedberry: Yes, we've gone through them and actually, they've had a motion and seconded and approved to proceed the way we've proceeded.

Ms. Shipman: I think that's important to have on the record too, that their advisory council has supported this. The only other thing I would ask, perhaps, is that the Sanctuary get together with our law enforcement, who has the joint enforcement agreement, and I know you work closely with Captain Adams and his staff, because they will be the ones largely out there enforcing whatever does go forward, and perhaps to get with Duane and find out some fishermen who are participating in that other fishery and maybe they could work together to come up with something in terms of stowage of the gear that would work. My guess, and this is, I guess, a question for Monica, is I think that probably would have to be included in the regulations of how you're going to allow that transit with stowed gear or whatever.

Ms. Smit-Brunello: Yes, I would think so. You should include it in there as an exception to the allowance of having the gear in the area.

Ms. Raine: The regulations that were put up there, I didn't read them as quickly as I should have, but I think that there is a transiting prohibition included in the current language, I think.

Mr. Currin: In George's presentation as he ran through it?

Ms. Raine: I think so, but I'm not 100 percent sure. I know that was a recommendation that I had made, but I'm not sure if it was incorporated.

Dr. Sedberry: To allow transit as long as the gear is stowed.

Ms. Raine: Could you put the language back up real quick? It's Number 6, without interruption.

Dr. Sedberry: Right. They can't stop, but they can transit.

Ms. Raine: Right.

Mr. Currin: The caveat is that the gear must be stowed and not available for us.

Ms. Raine: Right, but they need to also be moving through without interruption and so they would be allowed to transit if the gear was stowed, but they wouldn't be able to stop.

Mr. Currin: That's the way it reads now and that was Duane's concern that he expressed, that some provision be made for these guys to stop and dive on the way back if the gear is disabled in some way, I think.

Mr. Harris: Not necessarily stop and dive, but stop and fish, because they may want to troll for king mackerel at Gray's Reef on the way back in, some kind of legal fishing other than spearfishing. They're coming back a long distance from offshore and Gray's Reef is still a fairly good distance offshore and so I think there ought to be a provision made to allow them to do that.

Mr. Currin: Other comments? **Any objection to the motion? I see none and that motion is approved then.** George, thank you very much. That's a lot to chew on and I hope you can work

that out. I'm sure you'll work closely with both Georgia Law Enforcement as well as the federal folks, because they have jurisdiction out there as well.

Dr. Sedberry: We're having our annual law enforcement summit at the end of this month, on the 25<sup>th</sup>, and Georgia and federal law enforcement agents will be there and we'll go over this and many other things that we work with them on regularly.

Mr. Currin: Thank you very much. We appreciate it. Mike Jepson and Scott Raborn can ease up here or prepare to provide us with some information about a study that they've been conducting characterizing catch and discards in the hook and line fishery, I believe in both the Atlantic and the Gulf. Just the South Atlantic, okay. This is an ongoing project. They've received funding for an additional year, the types of data and information that we cry out for quite often and that should be helpful to us. Thank you, guys, for being here.

Dr. Jepson: Thank you, Mr. Chairman. I want to thank the committee for allowing us the opportunity to come and present the results of this research. I just want to give a brief introduction and then I'm going to turn it over to Scott and he can go over the summary that he put together for the Foundation.

This is a cooperative research program grant and it came out of some discussions, I think, early on with the former Program Director for the Foundation, Dave Medici; council staff and Mark Marhefka and some other snapper grouper fishermen. Basically, the thrust of the research was to really help improve the data that was going into the stock assessments for the snapper grouper fishery.

The Foundation received funding in 2006 and most of the major data collection started around 2007 and into 2008. The original deadline -- The program was supposed to end in May and we received a two-month extension to put together the data analysis and present it to the council. The program will close out at the end of July and shortly after that, we'll have a final report that will be made available to the council and anyone else that is interested.

I just want to say that there's a lot of personnel that were involved in this project and I want to thank certainly all the fishermen and vessel owners and the fish house owners that cooperated with the Foundation and the personnel on this project. Certainly we couldn't have done it without them and so we want to thank all of them for their participation and I want to thank Mark Marhefka and the South Atlantic Sustainable Fisheries Association for their input.

Mark was very key in helping us train our observers and initiate the program and so certainly he played a big role in that. I also want to point out that Daniel Parshley, our Foundation Observer Coordinator, did a great job in getting people to take part in this survey. We had two observers on the program, Frank Helies and Philip Antman. Philip, unfortunately, left after a while and Frank Helies -- Frank did most of the journeyman work and both Daniel and Frank did most of the work on this project and we certainly appreciate their efforts and couldn't have done it without them and I thank you both. Lindsey Parker was also the Foundation's regional coordinator and he assisted Daniel when he needed some help in some issues and Phil Diller was our data manager and input all the data.

As I said, Scott Raborn is the data analyst. Scott comes to us from LGL Ecological Research. Scott came from Alaska Fisheries Wildlife and has now returned back to his home state of Louisiana and put together a summary of the data that was collected. I must say that Scott is new to snapper grouper and this is his first foray into the snapper grouper fishery, but we were very glad that he was able to put together this summary of the data. With that, I think I'll turn it over to Scott and he can explain the summary that he's put together.

Dr. Raborn: Thanks, Mike. I want to apologize to the people that participated in the study. I sort of jumped in at the last minute and analyzed these data and wrote the presentation and it's funny that whoever writes the presentation puts their name first and that's what happened here, but we came back and put this slide in and decided we needed to thank the people that actually did the study.

These data are preliminary. I always like it when that's the case, because then I can default to that if I get in a jam during the question-and-answer period, but I feel pretty good about the numbers that we've presented here, but there's always a different way you can summarize things and we're going to be taking notes on ideas of what people would like to see.

First things first, I did a quick literature review and there's not much out there on discards in this fishery. Rudershausen and company looked at the fate of discards to see what happens to them, to try to get a handle on mortality, but they didn't quantify how much was discarded and how much was kept catch and all that and so that's the focus of this study.

The objectives of the two studies here are a little different and I'll speak more about that, but our main focus was to get a handle on what was the kept catch and what was the amount of discards and that was the primary focus. Secondly, we had information on the immediate fate of what happened to a fish when it was discarded and we had information on the condition of a fish when it was brought onboard and so we had the data and we might as well speak about it a little bit, but it wasn't the primary focus.

The vessel participation in this study was voluntary and so we didn't take a random sample of all the vessels that fish. However, of all those vessels that volunteered, we put observers on those vessels randomly. Of course, our observers were trained in what to record and how to behave on a vessel and the vessels were asked to fish like they would normally fish and as Mike said, the stuffy was conducted from January of 2007 to February of 2008.

This is just to give you an idea of where effort was in this study. It basically ranged from this part of Florida to North Carolina and every dot you see was a set, where information was recorded. The information recorded, we had to record information to characterize the effort and that included the trip number and the set number and how much time was spent for each set and the number of hooks that went into the water and the number of hooks that we sampled.

Of course, we recorded date and the statistical zone of each set. We also had latitude and longitude for each set and then we randomly sampled some individuals for length, to get some length frequencies, and we recorded species, of course, and then when the fish was brought



onboard, we recorded the condition, whether or not his eyes were bulging and the stomach was protruding or whether it was normal.

Then when we released the fish, they had a split second to watch it go into the water and they could record whether or not the fish was alive when it hit the water or whether or not it wasn't, but that's about all that they had time to do.

What I've done to date is I've characterized the catch by species and I reported it in catch per unit effort and effort, in this instance, is going to be hook hours. I've done that for each set within each trip and sometimes a big pitfall in these types of data analyses is that sometimes people don't include the zeros, when a fish wasn't observed on a particular set. I just wanted to mention that we avoided that pitfall and I included those zeros.

I reported catch per unit effort in terms of 1,000 hook hours. I'll explain why I did that in a second and what hook hours actually are and then for this analysis to date, I only included those sets where something was caught. There were sets where absolutely nothing was caught and so I didn't include those sets in this analysis. You can, and I did last night, but it doesn't change your conclusions a whole lot. I'll explain why I did that as well and that was roughly 88 percent of all sets that they caught something.

What we need to do in the future is anytime you report an estimate, you need to give a measure of uncertainty and because these distributions were asymmetrical and severely positively skewed, you can't use your traditional standard deviation. You need to do something else and what I propose is that you just bootstrap and get a measure of uncertainty around each estimate and I still need to do that for all species. I did it for some, just to get an idea, and I'll speak to that, and then also, I need to further develop the models to estimate what the condition was of fish as a function of depth in which it was caught.

Let's start with the effort. This table gives you the number of sets. The title is missing, but up here, it says "The Number of Sets" and this was the number of sets that was made in each statistical zone and in each quarter. Quarter is like January, February, March is the first quarter and so on. There's four quarters in a year and then there were twenty-nine total trips that we sampled.

Then up here, you can't see it, but it says the number of vessels sampled was twenty-four and then I have the total number of vessels in the fishery as 1,200 and that number, 1,200, is difficult to track. Basically, that means that that's the number of vessels that reported some catch. It could have been a pound or it could have been a thousand pounds and that gives us a coverage of about 2 or 3 percent. Really, our coverage was more, because most of the catch is coming from a few vessels and those few vessels were the ones that participated in the study and so our coverage was a lot greater than that, probably somewhere greater than 10 percent. I won't read this table to you. You can review it at your leisure.

This is the number of reels that were set and this is just to give you an idea of what an excellent job our observers did. On an average set, they set thirty-two reels. Total for this quarter and statistical zone, they set 2,370 reels and of those reels set, they sampled 73 percent of them.

Over here, they're sampling 97 percent and so they're extremely busy on the deck of that boat, trying to sample these reels.

Let me take some time and explain what hook hours are. If a reel had two hooks on it and it fished for an hour that was two hook hours from that reel. It's the number of hooks that went into the water total, from the time the set began, times the amount of time that set lasted.

For instance, in the first quarter in Statistical Zone 30, there were 5,266 hook hours and of all the hook hours in the whole study, which was 62,147, this is the percent for that particular time and area strata. Most of your effort was spent in the Statistical Zone 30, 35 percent, and most was spent in the first quarter, 37 percent. That's how you read that.

The average number of hook hours on a given trip was about 2,000. It varied, but on average, it was about 2,000 and so that's why I reported catch per 1,000 hook hours. I did 1,000, because then you can just slide the decimal point if you want to see it per 100 hook hours or ten hook hours or 10,000 hook hours or whatever. 1,000 hook hours is about half the effort of an average trip and you can think of it that way.

This table is the -- Unfortunately, I can't get the titles on these slides, but it says "The Mean Kept Catch of Individuals per 1,000 Hook Hours" and that's what this is. This is the average number of individuals kept per 1,000 hook hours and so these top five I've highlighted in red or pink. You can see that, on average, you're going to catch about 111 vermilion snapper or you're going to keep about 111 vermilion snapper and that's how you read this table and this is all the species that were kept during the study.

This table shows the discards per species and so, on average, you're going to get forty-six red porgy per 1,000 hook hours. Now, a commercial fisherman might look at that and say wait a minute; I don't get forty-six red porgies every time I go fishing. Keep in mind this is just the arithmetic mean and these distributions -- This is just a summary of a whole statistical distribution for this particular species and these distributions are not symmetrical and they're not normal and the median value for this is zero.

That means half the time you're going to get zero red porgies. Occasionally, you're going to really get into them and those times where you get into them, once they're averaged out, comes out to be forty-six per 1,000 hook hours. That's how you interpret that value. Does that make sense to everybody?

I also reported the percent discards and so for red porgies, on average, per 1,000 -- Actually, it's not per 1,000 hook hours. The effort drops out of this. On average, you're going to have 6.7 percent red porgies as discards. Now, sometimes, or half the time, you're going to have zero, but occasionally, you're going to have a high percentage that's discards and so that's how it averages out.

Now, if I collapse all these numbers across species and I total everything up, this is the table I wind up with and so for each quarter and statistical zone, I've given you the average number of kept individuals per 1,000 hook hours, the average number of discards per 1,000 hook hours and

then the percent discards per 1,000 hook hours and over the whole study, your average percent discards was 27 percent.

Now, you may notice that if you divide 197 by 404 that you don't get 27 percent, but that's not the way you get this number. If you did that, you're not weighting each set properly. You're giving inordinate weight to a certain number of sets, where you happen to have a lot of catch. That's not a mistake, but that's just the way they summarize. It's a weighting issue.

People always want to know -- In the proposal we talked about, they wanted to know what the average depth was of a fish caught and that's what this is. It's about 149 feet and then if you look at your discards by depth, that's what this graph is showing. You have the depth that they were fishing and then you have the number of discards per 1,000 hook hours and this kind of gives you a distribution of each species. The average of this distribution is this weighted mean depth and so for red porgies, your average discard came from 139 feet, scamp came from 160 feet, and so on for sharpnose and red snapper and vermilion snapper.

This table and this graph sort of summarizes the catch and the discards. There are different ways to do it. Now, these discards -- This is all discards. These are discards due to regulation and discards just because they just weren't kept and so what we're going to do in the report is go back and apply a little bit of greater resolution and give the discards due to regulatory length limits and others.

Looking at the discards and speaking to the extent that we can about the fates, there were 4,022 fish that were discarded and comparably, there were 15,577 fish that were kept. Of these 4,022 fish, we know that seven were dead when we released them or unresponsive. That's about 0.2 percent.

If you look at Rudershausen, he reports this number as high as 23 percent and around 10 percent and the reason is -- This last bullet explains it. He had an observer and he had time to sit there and watch that fish, for ten minutes or so, to see what would happen and if that fish never tried to swim down and just -- He was alive, but he was only swimming at the surface, then they considered that a mortality.

Because that wasn't a primary focus of this study, we didn't have time to do that and the last time we saw the fish and we let it go and it was alive and we had to move on to other things, to get a better handle on -- To quantify by discards as opposed to the fate of discards and that's the reason for the discrepancy in this 0.2 percent versus 10 percent.

Looking at the observed condition of the fish, of the discards when they were brought onboard, I've given it for the top five: red snapper, scamp, red porgy, sharpnose, and vermilion snapper. This is the number of fish that were brought onboard that were normal, i.e., their eyes were not protruding and their stomach was not protruding. This is the number of percentage of protruding stomachs and eyes and so for red snapper, a lot of protruding stomachs, 36 percent, and not as many for red porgy.

If you look at all discards combined, the percentage is about 11 percent and Rudershausen

reports this value a little bit higher as well, ranging from 16 to 93 percent, but this is not too bad, 11 percent out of the total.

I'm going to include a few length frequency distributions here. For red snapper, most of your catch was less than the minimum length limit. This red line is the regulation. You can't keep anything to the left of this line and you keep everything to the right of this line. Here's the centimeter group on X-axis and the number of times that centimeter group occurred on the Y and this gives you the length frequency distribution of that species.

Most of your red snapper were less than the regulation and about half the scamp were and most of the red porgy. There's no minimum length limit for sharpnose and most of your vermilion snapper were greater than this regulation, which is good news. I'm sure I've left something out that we've talked about, but it's not coming to me and so I'll take some questions now.

Mr. Harris: I just wanted to make sure all of these trips that the recorded information was by observers and not by the fishermen themselves at any time. It was all by observers?

Dr. Raborn: That's correct.

Mr. Currin: Questions for Scott?

Ms. Merritt: Thank you, Scott. The zones that you referred to that had the highest percentage of sampling was 30, 32, and 33. Where are those zones? Do you have anything that shows where these zones are?

Dr. Raborn: I don't have it and I don't know. I'm not familiar enough with this part of the world to be able to speak to that, but in the report, I can go back and in this graph, I can divide this up and show you where the statistical zones are.

Mr. Currin: Rita, if you wouldn't mind repeating his answer for the record.

Ms. Merritt: The question was geographically where are they and I guess I didn't see lat and long on the screen and so I was just trying to get an idea. Let's say Zone 32, is that off of Georgia or is it off Florida or North Carolina? I was just trying to get an idea of where these zones were.

Mr. Currin: If we want this answer on the record, either Rita has got to repeat the answer or you can come on up and state your name, please, and then you can answer that question.

Mr. Helies: My name is Frank Helies and I'm the observer for the program. The lines of latitude was the statistical zone that we recorded. If we were fishing in 32 degrees, 15, 38, for instance, that would be Statistical Zone Number 32.

Ms. Merritt: I'm sorry and I misunderstood what you were saying earlier. Thank you and that explains that. I guess as a follow-up, with the year-long observations done, were these areas hit at different times of the year? In other words, did you go back and forth or did you just

progressively move either north or south during that time period?

Mr. Helies: It was throughout the year. We went back and forth and it wasn't just concentrated in one area during one time of the year. Daniel made sure that he tried to get each of these areas throughout the different seasons. I did want to point out that we had made attempts to extend this further into Florida and into the Keys, but there was some difficulty in getting cooperation in some of those areas and there just weren't enough people to -- No one really came forward to participate, but we're still going to work on this.

The program has been extended for another year. The sea days have been reduced, but we will try to continue sampling in these areas and still try to get what we can in Florida and the Keys and possibly in North Carolina.

Mr. Currin: Other questions?

Mr. Theiling: Dale Theiling, one of the SEDAR coordinators. At the SEDAR data workshop recently for vermilion snapper, some information was presented that told us that in some cases a significant amount of bycatch and discard are actually used for bait and since you said that your fishermen were asked to fish as normal, I think it's fair to ask, did you document in any way the use of discards for bait? I'm particularly concerned about regulatory discards.

Dr. Raborn: I should have mentioned that. When I refer to kept catch, that includes fish kept for bait and I can report it. We have it in the database as separate and I can report it as kept, bait, discarded. We'll do that in the report, but it was -- The majority of kept catch was just kept and I don't know, but 20 or 30 percent maybe in bait. I'm making that number up, but --

Mr. Theiling: Is that recorded by species as well?

Dr. Raborn: Yes.

Mr. Currin: Other questions? I have one. It seems like at least one consideration when you hire industry folks and put observers on their boats to do a specified study that there's always some concern, at least, that the guys are fishing where they normally fish. Any indication at all that these were anything other than just trips that were designed to maximize the catch of the boat?

Dr. Jepson: Not that I know of and we had extensive discussions with Frank and Daniel in getting cooperation on this and as far as I can tell, unless Frank can attest to it, I think this is -- We asked them to fish under normal conditions and I believe they did and, Frank, do you have anything to add to that?

Mr. Helies: Because it was a voluntary program, the captains were compensated for having me on the boat. Because of the price of fuel and food, et cetera, et cetera, they were fishing normally. They go out there to catch as much as they pretty much can or they catch their quota, so they can make money. Me being out there didn't influence their fishing habitat at all.

Mr. Geiger: Could we go back to the red snapper release mortality slide? Let's look at the bar

graph.

Mr. Currin: The bar graph is what you're asking for? Where they had the size limit and the frequency?

Mr. Geiger: The frequency on the left indicates again?

Dr. Raborn: That's the number of times that you observed a fish of any particular centimeters. For instance, there were a lot more fish around forty centimeters than there were around twenty-five centimeters.

Mr. Geiger: Those numbers are in units and so twelve, fifteen, sixteen.

Dr. Raborn: We didn't take the length of every fish we saw. We took a random sample and so you can't total those numbers up and get the total number of red snapper that were caught.

Mr. Currin: Other questions for Scott?

Mr. Helies: I'll just make a note of the red snapper. Most of that was caught in Florida. You don't see all that many red snapper north of Florida, into South Carolina and North Carolina.

Mr. Currin: Thank you. Are there any other questions? Scott and Mike, thank you guys very much. It was good work and it looks like its producing good results that are going to help us out with some of these assessments and analysis that we do. We appreciate it and look forward to hearing from you as you finish your second year and publish some kind of report.

Dr. Jepson: Thank you and we'll make that report available to the council.

Mr. Currin: Thank you, guys, again. Kim, is Myra here? She's here and good deal. Are you guys ready? We'll go ahead and let you guys give your presentation before lunch and then if we've got time, Erik, we'll get to you. If not, we'll fall back into our schedule. Thank you for being here and I appreciate it. Kim and Myra are going to update us on the outreach efforts and Myra is going to do research and monitoring efforts at Oculina.

Ms. Iverson: Thank you, Mr. Chairman. What I would like to do is just give you an outreach overview of the activities associated with the Oculina Bank. These have been probably within the last six months. Just to remind everyone, we do have an Oculina Evaluation Plan in place. The council put that into place with components, including research, monitoring and assessment, law enforcement, and outreach. I will be talking about the outreach components or the outreach efforts along the lines of the evaluation plans for the Oculina Bank Experimental Closed Area and HAPC.

In 2008, in the spring of this year, earlier this year, we had two research cruises that were planned. There was a mapping cruise aboard the Research Vessel Gordon Gunter out of Pascagoula and also a habitat restoration monitoring cruise aboard the NASA Ship Freedom Star.

Those cruises were to occur in overlapping timelines, the end of the March or first of April. We had a great deal of conversation and phone calls and conference calls and planning. The outreach focus was going to be with the mapping cruise on the R/V Gordon Gunter, in partnership with the National Undersea Research Program at UNC-W and Andy Shepard and NOAA Fisheries, including their Habitat Division, working with Jocelyn Karazsia, as having daily web logs and that type of thing reported from onboard the ship, and the Florida Fish and Wildlife Conservation Commission.

I realize this is not the Research Vessel Gordon Gunter. What this is, at the bottom, is a small picture of the FWC aerial law enforcement plane that they use to monitor the Oculina Bank and other areas from a law enforcement standpoint. At the March meeting, they actually had that airplane at the airport there in Jekyll Island and I had an opportunity to go over and talk with some of the law enforcement personnel about the nighttime observation and the gear that's on there.

I don't know the exact technology, but I wanted just to say thank you to Major Brett Norton, who was working with us on this effort to kind of coordinate with a VIP media shuttle out to the Gordon Gunter and also to focus on this JEA effort and maybe perhaps do a flyover during that VIP cruise and then worked with NOAA Fisheries, the Office of Constituent Affairs, and we were going to do a joint news release.

All of these things are planned and I'm going over them now; however, that cruise was cancelled, kind of at the eleventh hour. It was a problem with the ship's radar. The radar had been ordered and then ended up in England and so they had one taken off and one in England and it just didn't work.

A great deal of effort and partnerships went into planning that cruise. It was unfortunate for everyone and we were all disappointed, but we have -- It's my understanding, with the other partners, that we have that cruise rescheduled for spring of 2009. The outreach efforts will remain the same. We'll continue to work with the partners and coordinate again with the teacher workshop.

We did go ahead and move forward with the deepwater coral teacher workshop that we had planned as part of that cruise effort. The workshop was held April 19<sup>th</sup> at Harbor Branch Oceanographic Institution in Fort Pierce. We had thirty-five educators from the east coast of Florida. It was a broad range of areas. In the past, we've kind of focused in a three county area between Fort Pierce and Port Canaveral, but we had teachers as far away as Miami and Fort Lauderdale and as far north as Jacksonville to come to the workshop.

We actually had twenty-two educators that participated in the workshop. We had room for thirty-five and we're hoping that we can increase that number next year. We had instructors from the Harbor Branch Oceanographic Institute and we also had law enforcement personnel and then Myra and myself representing the council and management.

We did have a good turnout. It was a great location in order to have the workshop. It was very informal. The teachers that attended had an opportunity to hear presentations. This is John

Reed, who most everyone knows here as the lead scientist in working with the Oculina Bank and the research efforts since the 1970s.

Because it was on a Saturday and it was informal, we had question-and-answer periods after each of the presentations. The teachers actually got to come up and talk with John Reed and they were given not Oculina coral to take home, but the DVDs that you see on the table. Myra went over the management history of the Oculina Bank and we worked together on that and then also talked about deepwater corals in general and the Comprehensive Ecosystem Amendment and the five deepwater coral areas that have been proposed.

Dr. Sandra Brooke was there to talk about her research in habitat restoration and Myra will talk more about that later. Agent Richard Chesler attended. I have to say thank you again to Agent Chesler. He drove all the way from Georgia and gave a presentation and then went back to a law enforcement training session and so he's dedicated and I sincerely appreciate his input. The teachers sounded very fascinated. He had a wonderful presentation and talked about the use of VMS around the Oculina Bank and demonstrated that and there were lots of questions.

Andy Shepard with the National Undersea Research Program at UNC-W gave a wonderful overview on mapping and started back with the history of mapping and not just the technical part of mapping that's going on right now with these research cruises, but going back to the ancient Egyptians. It was really fascinating and talked about all sorts of mapping techniques.

As part of the teacher workshop that afternoon, we took the teachers out to the Smithsonian Marine Station in Fort Pierce, which is a wonderful facility. It's rather small, but it's unique in that it has the only Oculina coral exhibit that I know in the country and maybe in the world.

For a long time, they had a small black box that had living Oculina coral in it and so you could kind of go in and it looked like a voting booth and pull the curtains and you could actually see the Oculina coral. Since then, they have the static exhibit, but it really does resemble Oculina coral and the Oculina coral reef and has also the video of the *Revealing the Deep* DVD that plays as part of that exhibit.

This is a close-up of the coral. They worked very closely with a professional company in developing the coral display. The teachers had a thorough escorted tour of the facility and they were able to talk with the educators there and see some of the other work and some of the things at the facility.

I would be remiss if I didn't mention Ashley Fontaine. I think I sent around an email. He was the intern that was working with Myra and myself and just left in May, but he did an incredible large amount of work in pulling together the registration and the packages that were given to the teachers.

Each of the teachers received a notebook and it has lesson plans and all sorts of DVDs and CDs with information from John Reed and from various other sources. I'll have a copy up here at the information table if you would like to stop by and look. We also had lovely tote bags made and we have these in the office and inside the tote bags is all of this stuff. It was just amazing and I



want to thank all the NGOs and everyone, all the agencies that helped contribute. The teachers loved it. They really liked things and they were so appreciative and in this day and age, where they really are limited in their resources, they were very, very happy.

Ashley, as part of his internship, also did an evaluation form. I have copies of the evaluations in the notebook and I'll be glad to share those. Everything was very positive. The teachers were saying that anyone that didn't come were remiss and they were very excited to have direct contact with the scientists and researchers and the law enforcement personnel that are involved in the Oculina Bank and I think they really walked away with a wealth of information and enthusiasm.

We also have, for the 2009 cruise, a teacher at sea. We plan on having a teacher at sea onboard and we have lots of volunteers. They will go through the NOAA Teacher at Sea Program. This is just a small -- That's not everybody, but that's a snapshot of some of the teachers that attended and we really -- It was a great day and it was a great opportunity and one that I hope we get a chance to repeat next year.

Other activities associated with outreach and the Oculina Bank, in July there's a marine educator's conference. It's in Savannah, Georgia this year and it's a national marine educator's conference and I'll be working with Smithsonian personnel to talk about the Oculina Bank and we'll be doing a paper jointly on Oculina Bank management and research.

Gregg Swanson, who is another intern that's in our office, as part of her summer internship has also been working to contact electronics manufactures and folks that do the GPS maps, to get information on how they portray the Oculina Bank and how they put together their information for their mapping and also in anticipation of the marine protected areas being put into place and so to see what's there and assess what's there and if we can work with them to better the information that's currently portrayed on the GPS.

We ordered 2,500 more of the small Oculina regulations brochures and continue to distribute those to marinas and bait and tackle stores, et cetera, down in the Fort Pierce and Cape Canaveral area and, of course, the law enforcement personnel have access to those. We're constantly sending those out and then the council regulation brochures.

Earlier, I talked about web postings as part of the Gunter cruise. One of the things that we were able to do is to post the daily web logs from the Freedom Star and that was the NASA ship that went out and did the work with Sandra Brooke and habitat restoration work that Myra will be covering. I just wanted to take you to that link to show you what has been posted on the website.

Myra has been working with the folks from the research cruise to post those daily logs. It is under the ecosystem component section of our website and there's a direct link right now from our home page, in the announcements module. You can see there's quite a bit of information in each of the days we received log reports from the Freedom Star. With that, I'll see if there's any questions on the outreach component and Myra is going to talk about research and monitoring.

Mr. Currin: Thank you, Kim, very much. Good job. Are there any questions for Kim?

Mr. Geiger: You said it, great job. Thank you very much.

Mr. Currin: It looks like those teachers were having an absolute ball and I can imagine you've gotten a lot of interest in participating in that cruise.

Ms. Iverson: We did and everyone that participated in the workshop, we have an email distribution list and we will constantly be working with them or in contact. Of course, they've been added to our mailing list, but they were very appreciative. If you do get a chance, stop by and see some of the comments that were on the evaluation forms.

Mr. Currin: Thank you. Are there other questions?

Dr. Laney: Kim, are we trying to target at all community colleges and/or some of the minority institutions that more have marine programs at the more advanced educational level with any of our outreach materials?

Ms. Iverson: Wilson, that's a very good question and I think it's a good point. Our target focus was on high school educators, mainly. There were some middle school educators that actually came, but I think at the level that we're talking about and having the scientific presentations that were given; I think the community schools, community colleges, would benefit from that as well.

I think once the word gets out that these teachers were so enthusiastic about it that we will have more participation, but we can certainly do that. The workshop was accredited and so they did get accreditation hours for the teachers, but certainly we can do that with community colleges.

Mr. Currin: Thanks, Kim, very much. Myra, we'll turn it over to you to give us a research update for what's going on out there and what's staying there.

Ms. Brouwer: Thank you, Mr. Chairman. What I'll do is walk you through and tell you a little bit about what happened. As Kim mentioned, this spring there were some research efforts that took place in the Oculina Bank, specifically in the closed area.

There were two research missions. One of them was an assessment of habitat restoration efforts. It took place from April 1<sup>st</sup> through the 10<sup>th</sup>, aboard the Freedom Star, as Kim already mentioned. The PIs were Dr. Chris Koenig, Sandra Brooke, and Felicia Coleman and it was funded by the National Undersea Research Center.

Later on, in May, there was another research cruise to the closed area aboard the Johnson Sea-Link Submersible. It was aboard their research vessel, the Stewart Johnson, and the PIs were John Reed, Shirley Pomponi, Sandra Brooke, and Grant Gilmore. This one was funded by Harbor Branch Oceanographic Institution.

The main goal of the habitat restoration project was to find out why there were vast areas of rubble with very little indication of coral recolonization and so this is an effort that started back in the late 1990s and actually, the researchers had been wanting to get funding to go back and

examine the restoration modules that had been placed in the closed area and that's what they set out to do this past spring.

Back in 1996, fifty-six reef blocks were deployed. These were artificial structures that the intent was to place them in areas that could attract coral recruits. Again, in 2000 and in 2001, there were additional artificial structures deployed. These were experimental reef balls. They were deployed in groups of five, ten, or twenty and the second set had an internal structure inside which the intent was to provide more complexity, habitat complexity, to see if that was going to attract more colonization.

Also during that time, 900 mini-modules were deployed. These were small concrete disks and the objective of those was to try to re-seed the bank. Each of these, you can see there's a PVC pipe that sticks out and on top of that is a small piece of *Oculina* coral. The researchers set out to see if these could be used to replenish the coral inside the closed area.

This map shows you the locations of where all these artificial structures were placed in the closed area. The purple indicates the reef balls and the yellow squares are the reef blocks and the blue indicates all the 900 reef disks that were deployed.

In 1999, a new *Oculina* colony was observed on one of the reef blocks at Jeff's Reef. They were coral fragments that were alive and were growing, but some were missing and some of the reef blocks at that time had been entangled with fishing line. In 2003, the researchers were able to go back and observe several new colonies on a reef block that had been deployed in 1998. There were fish, such as gag and scamp grouper, along with various smaller fish species near the reef blocks, and the bottom panel there shows a reef block with a grouper nearby and this one shows a reef ball with a snowy grouper.

This past spring, the mission intended to go back and try to find, first of all, these restoration modules and see if any recolonization had occurred. They used technical divers that conducted twelve dives and the last two were abandoned, due to poor visibility. From what I understand, this time of year is not the best time of year to be out on the bank. The currents are very strong and visibility is poor.

However, seven dives were completed at Sebastian Pinnacles, but only two of those dives were able to observe any of the artificial structures. Unfortunately, none of those structures showed any coral colonization or enhanced fish abundance and so this was a very disappointing result. However, the researchers felt that because the conditions were such that they couldn't conduct a very thorough survey -- They're still hopeful that that was a factor in why they couldn't do a better job.

No clusters of coral were observed on the south slope of the ridges and this is significant because the north slope is really not appropriate for coral colonization, due to the currents. They were hoping that the south slope of the ridges were going to be areas where they could potentially see some recruitment, but they did not see this.

There were no obvious trawl tracks and there were still live coral present at Chapman's Reef,

which is one of the two largest or the two remaining areas that have intact *Oculina* reefs in this area. However, the researchers did observe some kind of physical impact that occurred since they were out there in 2001.

One of the recruitment blocks that had been deployed in 1998 was intact and actually covered in a variety of different sized coral colonies. The other two were destroyed, with the blocks being strewn across a large area. Evidently, some kind of impact had occurred.

Another thing they did during this cruise was deploy a deepwater *Oculina* benthic observing system at Chapman's Reef. This is an instrument that has a passive acoustic fish monitor, a camera, and a temperature data logger. This was a collaborative effort between Harbor Branch and Nova Southeastern University and the intent was to deploy this instrument out there and leave it there for six weeks. I just received an update a few days ago or maybe about a week ago, that they were able to retrieve it and the data are actually currently being retrieved and analyzed.

On to the JSL submersible mission, this one took place this past May, at Jeff's and Chapman's Reefs. There were four submersible dives that were completed in a period of just three or four days and so they were very busy out there. The intent was to set out permanent markers to do some video transects in this area and also to collect sediments of coral and other things for research that is being conducted currently at Harbor Branch.

What they observed through their photo and video surveys is that it appears that Chapman's Reef has been severely impacted. There were remnants of trawl nets and broken reef block modules across the bottom and there were coral colonies that had been broken and scattered and the last video survey that was made of this area in 2001 actually showed a very healthy reef and relatively dense live coral and so as you can imagine, this was very disappointing for the folks who were doing this research.

They did have some good outcomes, however. They were able to retrieve the acoustic observatory unit that Dr. Gilmore had deployed in this area back in July of 2005. This was like finding a needle in a haystack and they were able to retrieve this unit and as of today, I don't know whether the data are being retrieved or if they're able to retrieve those data, but I imagine that they are. They also located the deepwater *Oculina* observatory that I just mentioned a little while ago, that has since been retrieved.

Also, as part of this mission, they conducted the first grouper survey with the submersible that had been done since the closed area was actually established in 1985. This was a very exciting thing that they were able to do and, of course, as you know, Dr. Gilmore is the person who's been doing this sort of work in the region.

He was able to observe some scamp grouper at each of the six coral markers that they deployed. A scamp harem was observed at two sites, with some male prenuptial behaviors being observed, and so, of course, this is very, very exciting news for the researchers. I should mention that Dr. Gilmore included a report that was part of your briefing materials and I'm not going to walk you through it, but it's very interesting. It gives you an overview of his research and some of the recommendations that he has to continue to do this work in the closed area, as far as grouper

populations are concerned.

Again, there's concern that now Jeff's Reef may be the only remaining relatively healthy Oculina reef in the world, since Chapman's Reef has sustained a good bit of damage, and the researchers wanted to pass along to the council that they feel that the Fort Pierce Coast Guard and the FWC Vessel, The CT Randall, should make these two reefs their priority sites for surveillance and enforcement and not just for trawling, but also for bottom fishing.

This is, as you know, something that has been ongoing and the enforcement part of this whole thing is something that could use some more discussion and there's always going to be folks that are not satisfied and, of course, there are issues with resources and all that. I would be happy to answer your questions.

Mr. Currin: Thank you, Myra, very much. It's very disappointing to hear all the damage that's been done out there. I know that's crushing to the researchers.

Mr. Geiger: My question is not so much for Myra, but I guess kind of comments directed towards our law enforcement community. I had an opportunity -- I would never -- I have too much respect for these guys to catch them off guard and so I did talk with them yesterday as a group and discussed some of the disappointments that we've experienced and the damage that's been done post-2001 to Jeff's Reef.

I think it was timely, because Otha Easley has -- He's kind of new on the job and hasn't experienced or wasn't privy to the discussions and in-depth discussions and wrangling we did over the original law enforcement activities out there. Also, Brian Sullivan from the Coast Guard is relatively new, replacing Chad Brick, and he probably has not experienced the original law enforcement discussions, as is Brett Norton from the FWC, who is replacing Bruce Buckson.

In that regard, I conveyed my concern in regards to not so much the lack of enforcement -- I have a tremendous amount of respect for what these guys do and what they've done since the original concerns were raised with enforcement over the Oculina Bank and my concern was basically with the tempo of the operations that are conducted by Florida utilizing the CT Randall.

I certainly -- I don't need to do anybody's business, but it was kind of a discussion that I hope these guys will take back and look at in terms of the effort that's being made out there. It would be remiss of me if I didn't recognize the effort that's already been made. NOAA Fisheries has taken the initiative to assign a special agent in charge of this area to coordinate all law enforcement activities and we're receiving a report now of Coast Guard over flights and the use of Coast Guard vessels on station when they're transiting between Miami and Jacksonville.

We basically received the CT Randall's as part of the JEA to conduct operations out there and so there's been a lot done, but I don't want to just have anybody sit back and think we're all satisfied with what's being done. I think something can always -- More can always be done and I would like to receive some assurances that at least our new law enforcement people are now aware of the criticality with which we hold that habitat and the need for that enforcement to continue and certainly we would appreciate their attention to a continued emphasis on the

enforcement of that area, especially based on the recommendation of the researchers and what they saw in this most recent cruise.

Mr. Currin: Thank you, George. Any other questions or comments for Myra and/or Kim? I see none and thanks, ladies, very much. Before we break for lunch, Erik Williams is going to do his presentation on the conversion from weights to lengths that we requested that NOAA look at at our last meeting. The SSC has been briefed on this and I think Erik is planning on cutting and running or something after lunch today and so we're going to try to accommodate him this morning, if we can. Thanks for being flexible.

Dr. Williams: Thank you, Mr. Chairman. I apologize if this is cutting into the lunchtime for you guys, but I'll run through this fairly quickly. It should be pretty brief. Basically, we needed to come up with a conversion factor for converting snowy poundage to numbers and part of that reason is that the MRFSS sector or the recreational sector is best monitored in numbers, rather than in weight.

The MRFSS intercepts for snowy grouper are practically zero and therefore, the survey does not get any weight estimates and as I said, MRFSS only provides estimates of catch in numbers. The catch limit or the assessment that determined the catch limit was basically working in the unit of weight and so what we need to know is how much a snowy grouper caught in the MRFSS sector weighs. It seems like a simple question, but it's not that easy to answer.

In the stock assessment for snowy grouper, we applied the headboat selectivity to the MRFSS component. Basically, we do this a lot with some of our assessments, because MRFSS is usually data limited. We just assume often that the headboat sector represents the MRFSS sector in terms of age and size of fish that are being caught.

One solution would have been, since we relied on the headboat, is why not just use the headboat weight samples? The problem is even the headboat doesn't intercept snowy grouper very well. In fact, on average, we only sample about four snowy grouper per year from the headboat sector. An alternate solution is to use the headboat selectivity times an age structure from the model times the weight at age and basically, then we could come up with an average weight.

It's important which age structure to use. In this case, we use the age structure that was at equilibrium at FMSY, because that's essentially -- The F reduction was reduced to, roughly, a little less than FMSY and so we figured the age structure would be representative at FMSY and that was readily available to us. It had already been calculated.

This is the headboat selectivity. Now, the issue that popped up right away when you look at this is you can see that the headboat only captures the youngest fish. In fact, most of them are all immature. You're looking at age one, two, three, four and up to about age six and then they don't catch any older than that.

The problem is recently, just within the last three or four years, we know that there is some recreational fishing activity occurring, particularly off of northern North Carolina and Virginia, where they're capturing some of these big snowy grouper that are occurring offshore in deep

waters.

As an alternate selectivity, we decided to assume that the selectivity might be flattop or logistic, in which case then we assumed all the fish over age five are equally susceptible to fishery. What this results in is what you see here, are these two possibilities for conversion factors to use. In one case, if we use the headboat selectivity, we would be assuming that the average weight of a snowy grouper was only 3.7 pounds gutted weight. If we use the flattop selectivity, then we assume that the average weight is about 8.4 pounds.

The SSC has already sort of recommended that we use the flattop selectivity and that's primarily because of what's occurring with these big fish being caught off of North Carolina and Virginia, that it's not going to take very many of those fish to skew the average weight to something much greater than 3.7. That was the SSC's recommendation for a conversion factor to use. That's all I had.

Mr. Currin: Thank you, Erik. Are there questions for Erik? Just as a point of information, I asked Jack yesterday -- I had remembered incorrectly from our discussions during 13C the average weight caught in the commercial fishery and so I asked Jack McGovern if he could come up with some values for me and he did that for the years 2003 through 2007.

They range from -- This is for the commercial fishery, converted from mean lengths, with the appropriate length/weight conversion, and it averaged five pounds, roughly, 4.98, in 2003. The highest value was in 2006, when the average commercial fish weighed about 8.2 pounds. It may be a little high, compared to the commercial catch anyway, assuming that flattop selectivity, but not too far off.

I didn't average all of those, but ranging from five to eight pounds or something like that, probably a five to six-pound average for the commercial fishery. Are there questions for Erik or comments? This will certainly come into our deliberations as we move through these four amendments that we have on our plate today and tomorrow.

Mr. Geiger: I guess it's a rhetorical question, because if you had evidence, you would have presented it. Other than pictures from Virginia and northern North Carolina, which is outside of our area of jurisdiction, do we have any examples or evidence of catches of snowy grouper that large in our region?

Dr. Williams: The suggestions I've had is that they are catching some of these larger snowy just south of Hatteras, too, that some of these big fish are there and it is primarily northern North Carolina and Virginia. The other concern is how they end up showing up in the MRFSS survey and whether those numbers get counted for North Carolina.

Certainly if they're landed in Virginia or they're intercepted in Virginia, they're going to get counted for Virginia. This is where I forget the jurisdictional boundaries, because didn't we extend the jurisdictional boundaries for snowy to include Virginia and North Carolina? That's where I forget the regulation.

Mr. Geiger: I think we requested it. Is Gregg here?

Mr. Waugh: That's a proposed action in Amendment 17, is to extend the jurisdiction.

Mr. Currin: Other questions for Erik or comments? I see none. Erik thanks very much. We appreciate it. Mr. Chairman, we'll recess until -- It's about ten after and can we get back by 1:30, as close as we can? See you around then.

(Whereupon, the meeting recessed at 12:10 o'clock p.m., June 11, 2008.)

The Snapper Grouper Committee of the South Atlantic Fishery Management Council reconvened in the Vienna Ballroom of the Renaissance Orlando Airport Hotel, Orlando, Florida, Wednesday afternoon, June 11, 2008, and was called to order at 1:30 o'clock p.m. by Chairman Mac Currin.

Mr. Currin: It looks like our AP has entered the room or is finding seats and we welcome them, of course. We'll reconvene the Snapper Grouper Committee. At the request of the SSC, as they have been deliberating fervently over the last few days, Carolyn has requested that they come in and give us their recommendations on 15B, 16, and 17 and anything else that you guys have to say to us today.

We've invited the AP in for that. I'm not sure of the status of the presentations on the SEDARs and either Roy or Bonnie -- We had Kyle and Erik has left, I know, and I know Joe O'Hop is here and perhaps that will be the one presentation on the results of the SEDAR, on mutton snapper, that we will receive and then we will get right back into our agenda as it's stated. Welcome, everyone. Carolyn, thank you guys and we'll turn it over to you.

Ms. Belcher: Thank you, Mac. I was going to ask what the pleasure of the group was relative to my presenting the specific items, as far as Amendment 15B. Do you want to field questions after I present to you what our general meeting summary was or would you rather that I just present you all with the summary and we come back to questions?

Mr. Currin: I think it will probably be best if you will pause after each one of the amendments and we'll take questions on those. Does that suit everybody?

Ms. Belcher: I'm just going to read to you all a summary of what we did during our SSC meeting and if you have additional -- Obviously there's not going to be many points of clarification. I've kind of summarized to say that we've had a lot of significant discussion, but to capture all of that, obviously, in a report is a little bit too much detail. If there's specifics of questions or concerns or if you want to know if we discussed them or addressed them, feel free at that point to ask us about that.

We were given a presentation by Dr. Holliman on the economic analysis for assessing the impacts of the prohibition on the sale of recreationally-caught bag limits. There was limited discussion, with much of the dialogue focused on issues of illegally-sold catches and how that data was captured and we, in the end, ended up endorsing the analysis as the best available science.



Erik Williams discussed methodology to be used to convert weight of snowy groupers to numbers of individuals. The main question asked of the SSC was which selectivity should be applied, whether it was a dome-shaped selectivity, which was based on data from the headboat, or should we use a flattop selectivity, which we see more commonly with the commercial?

After discussion, which included concern over this newly developing recreational fishery targeting large snowies off of Virginia and the potential impact -- It was more of a theoretical question than anything else, is would this selectivity have impacted the snowy grouper assessment, had it been included at that point?

We had a debate relative to that, or discussion, to see if we felt that that would happen and given the timing associated with that assessment, felt that that particular issue relative to that fishery did not affect it, because it terminated -- What did we say, 2006 was the data? Because it was a relatively newly developed fishery, we didn't think at that point, obviously, it would have led to us changing a selectivity curve. The committee recommended the use of the flattop selectivity.

We at that point, again, made the decision about whether or not we could endorse 15B as the best available science and the group voted to put it forward as based on best available science. We also discussed, at Gregg Waugh's request, the alternatives for monitoring bycatch, as outlined under 15B. After some clarification points from staff, we suggested that Alternative 3 reflects the best available science for monitoring bycatch in the Snapper Grouper Amendment 15B. That wasn't a specific motion, but we did suggest that for consideration. With that, I'll take questions.

Dr. Crabtree: I guess I have questions about the last part, about Alternative 3 reflects the best available science. It seems to me, from just a science perspective, I don't see what the difference is between Alternative 2 and 3. Both implement the ACCSP statistical program bycatch module. The only difference is that Alternative 2 lays out some specifics about how we're going to monitor bycatch in the event that that module is not implemented, since we as a council have no way -- That module has to be implemented by ACCSP and they have not implemented it.

I don't know if there's going to be funding provided to do that or not and so the problem has been if that's all we say and it's not implemented, then that leaves us vulnerable, without any bycatch reporting methodology. It seems to me that we need to lay out how we're going to do the best we can with what we have until the bycatch module is implemented. I'm not sure how that was explained to you by staff, but it's difficult for me to see, from a best available science perspective, why 3 would be preferable to 2.

Ms. Belcher: That might be one of those things that I have to go back and recheck the wording, because I was pulling from notes from everyone. Again, it wasn't a motion, but it was a suggestion that was put forward and I just extracted it from notes.

I know that in the discussion that we had that it was relative to feeling like Alternative 2 was in hopes that this module would come up and that we would implement it at that time and that in the discussion it was felt that 3 was kind of pushing for that issue, for that to get online. We were trying to at least say that rather than we're hoping that we'll have the ability to do it, we

wanted someone to say that we're pushing for the ability to do it.

Dr. Crabtree: The council has been pushing for it to happen for many years, but it's not something that I can make happen or the council can make happen. It has to happen because ACCSP makes it happen and there are funding issues with it and that's really the problem. I don't see that there's any difference between the two alternatives along those lines.

Mr. Belcher: Then I guess the question back would be why have two separate alternatives? Again, if they're very similar items -- I think that's where, again, where we had that discussion. One was kind of in utopia it would be great if we had it, where the other one it felt like there might be a little bit more leverage in which we could bargain for getting that. Again, if that's just a misunderstanding on our behalf, we can pretty much apologize for that, but again, it was just relative to the explanation to the group, that was our interpretation, that one had more teeth than the other.

Dr. Crabtree: Okay, so it's really not a science issue at all, but it's a perception about which might have more of an impact on funding becoming available down the road and so it's not really a science issue?

Ms. Belcher: Yes. Like I said, that's probably bad wording of behalf of, again, relying on someone else's notes. Again, I should put the disclaimer on this that this is my report. I'm accepting responsibility for the information in this document and so, again, if there's any kind of miscommunication relative to my interpretation of someone else's notes, for that I'll apologize.

Mr. Robson: Carolyn, getting back to 15B and the recreational sale issue, the economic analysis that was done, did the SSC discuss anything related to that analysis as far as some sense of the estimate or was there any discussion about the amount of unreported or underreported landings and how that might have affected that analysis?

Ms. Belcher: We had a lot of questions relative to the fact that there was eliminations of -- How legal catches were or weren't handled in that. I don't know that we really had any problem, necessarily, with what estimates came out of that. It was just more of the fact of acknowledging that there's certain issues and how do you get at that. It's kind of that embedded uncertainty around that type of stuff and unless we could come up with an alternative method to increase that precision, I think it was just more, again, acknowledging the fact that those illegal catches would have an impact.

Mr. Currin: Any other questions for Carolyn on her report on 15B? Just as a comment, I spoke with Julie Defilippi, the lady from ACCSP that was here yesterday, and specifically asked her last night what was the expected timeline for the bycatch module at ACCSP and she hemmed and hawed a little bit, but it was roughly, she said, at least a year-and-a-half or two years. Nothing else for Carolyn on 15B? Okay.

Ms. Belcher: Snapper Grouper Amendment 16, Gregg Waugh presented an overview of Amendment 16 and Jack McGovern presented new information on values to be used to adjust effort for landings and fishing behavior responses, in response to the closure due to the quota

being met.

The SSC had recommended that he consult with the AP for a better indication of the values. That was one of those things that, again, we felt that that was the best source for them to get that information and so we really had no reservations with the numbers that Jack had put forward relative to that.

A discussion focused on issues associated with the requirement for dehooking and venting tools in Amendment 16. That was where we spent quite a bit of time. For most of us, it was very surprising that we actually spent as much detail on this as we did. The SSC passed a motion requesting that this requirement be removed from the amendment, because of poor documentation of the benefits relative to those species outlined in 16.

It was suggested by members of the SSC that this particular management measure be considered as a stand-alone amendment and then the SSC further discussed Amendment 16 as best available science, with that caveat relative to the dehooking requirement.

Mr. Currin: That was just specifically the dehooking tool as a requirement?

Ms. Belcher: It was, I guess, the alternative relative to the requirement for venting and --

Mr. Currin: Circle hooks and dehooking tools, all three then, that whole action then?

Ms. Belcher: The bycatch mortality associated with that.

Mr. Currin: Questions for Carolyn on Amendment 16? I see none.

Ms. Belcher: 17, obviously this is the long-awaited event for most folks, in that we spent -- As all of you know, we had basically two half days, on Monday and Tuesday, which was supposed to be our working session to develop our report, and we dedicated a lot of time and a lot of debate, which we were all pretty happy with the outcome. We went basically around the gamut and back again and pretty much to arrive at the same point we had been at at the end on Monday.

Snapper Grouper Amendment 17, without the time to vet this process, we were compelled to adopt an ad hoc approach and this is dealing with how to establish the OFL and the ABC levels. Until NMFS or the council can provide the SSC with guidance on the process for establishing ABCs, the SSC is willing only to offer interim recommendations, since we cannot capture the uncertainty in factors, such as stock assessment results, time lags in updating assessments, the degree of retrospective revision of assessment results or projections.

We chose to tackle those species with the most information first. This is just to kind of give you an idea of how our motions evolved. Given that a probabilistic approach has been applied to the data in the recent gag assessment and that the approach has been reviewed, confidence in its use for determining OFL and ABC levels was high.

For those species that have been assessed, but did not have probabilistic analyses associated with

them, a motion was made for the council to request that those analyses be run and that these analyses would be included as part of the terms of reference in future SEDAR assessments. These analyses are critical to the determination of ABCs in accounting for uncertainty.

For those assessed species, we developed an interim approach which set the OFL equal to the yield at MFMT, which is outlined in the current rule, and the ABC equal to the yield at 75 percent of FMSY, which is the current proxy for FOY. Assuming the council was to set the ACL equal to ABC, future management actions under this interim process would be similar to status quo.

Mr. Currin: Would you slow down a little bit in your presentation? I'm trying to make some notes on this too, since we don't have anything in front of us.

Ms. Belcher: It's email.

Mr. Currin: I haven't opened my emails to get it and thank you. Sorry, Carolyn. Thank you very much.

Ms. Belcher: I guess is everybody caught up? I can go back and read something slower. I'm hoping it's not my talking speed. For me, I'm actually talking slow.

Mr. Currin: No, you're talking kind of fast, but I'm writing slow as well. You started out and you said that as an interim measure that OFL is equal to MFMT and then I think it was ABC and if you'll go right back to that, just so I can make some notes. I would appreciate it.

Ms. Belcher: We set OFL equal to the yield at MFMT, which is as it's outlined in the current rule, and the ABC equal to the yield at 75 percent of FMSY, which is the current proxy for FOY. Assuming the council was to set the ACL equal to ABC, future management actions under this interim would be equivalent to status quo.

Dr. Crabtree: I don't know if you want to go through it or if you want to talk about issues that come up as we get to them or do you want to finish? How would you like to --

Ms. Belcher: Whatever you all feel. I can --

Dr. Crabtree: Mac, do you want me to wait or go ahead and raise a question I have about that?

Mr. Currin: I'm okay with -- If it doesn't bother you, Carolyn, in the presentation, then, Roy, go ahead and ask your question and that's fine.

Dr. Crabtree: It's hard to talk about status quo now, because the status quo has changed because ACLs are going in place. In the past, we haven't had ACLs, but it does seem to me that it would not be status quo, because currently, the 75 percent of FMSY is the optimum yield level now, which is the target that we're trying to manage to, and really, the limit that we're trying to avoid right now is the maximum fishing mortality threshold.

The way this is set up, the ACL is going to be the limit that we're trying to stay below and so if that becomes equivalent to the FOY level or the 75 percent of FMSY, then it seems to me we've now set that as the limit, which means that the target catch level will have to be set below that and I believe we would have to redefine optimum yield at a more conservative level. It doesn't seem to me, in just looking at this, that that would be status quo.

Ms. Belcher: Maybe status quo was the incorrect terminology there. I think it was -- It's more consistent with how we've put information to the council before and that was where we were trying to go with that, is that in the past these have been some of the numbers that we have put forward.

When we made those recommendations in December, that was what we were targeting then and so from that standpoint, I guess it's more consistent than actual status quo. The problem is what you're indicating is that because of the new definitions with an ACL, it doesn't give you a lot of wiggle room relative to that level.

Dr. Crabtree: What the council has talked about a little bit is trying to come up with some alternative ABC control rules between now and the next council meeting, which is September, so that we can go through those alternatives and have staff go ahead and populate them with the numbers and then when you folks reconvene in December, we should be able to bring you in a series of alternative ABC control rules that hopefully the council and the SSC can come to some agreement as to which would be the most appropriate.

Then that would give us a laid out protocol for how we're going to handle these issues and get us off this ad hoc approach that I think has caused a lot of confusion and difficulty. That's kind of the approach the council is thinking about right now.

Ms. Belcher: Before going into further detail with what we've proposed for interim, I think the biggest -- Even though it's not what everyone was hoping to see come out of us for potential recommendations, the big thing for us is that it's got the dialogue open. Again, we've asked for it, but I don't think we've asked for it in a clear enough way.

We keep saying we don't have guidelines and maybe that wasn't the best thing to state to the council. We don't have your guidance in how we need to proceed. It's not so much that we were stalling the development of this, but it's just without any firm guidance of how to do it, we took our best stab at it, knowing full well that this is probably not the best solution, but it did at least get us, as a group, debating the points and trying to put something forward that we could agree to.

Dr. Crabtree: I think all of us appreciate the effort you've put and that you've been put in a very difficult position. I think having the guidelines take longer than anyone thought really contributed to that and then they came out so recently that I'm not sure that SSC members have really had enough time to study them very carefully.

I think we've just been in a really difficult spot and I think to some extent it puts the SSC in a very difficult position to be asked to make kind of ad hoc judgments on what are very

complicated and difficult issues. We're going to focus a lot of energy on trying to lay all of this out more clearly and get this resolved before you folks come back in, so we can make a lot of progress, I hope, at our next meeting on it.

Ms. Belcher: With regards to those species -- Again, I'm just going to lay out what we came to conclusions relative to interim and again, relative to Roy's comments, you may not necessarily want to hear them, but I at least want to put them on your record as well. For those data-poor species identified in Amendment 17, we had just landings data available and that was speckled hind, warsaw grouper, red grouper, and black grouper.

We attempted to develop an overarching procedure to be used for the four species. However, information from members indicated that fishery independent projects existed that indicated that speckled hind and warsaw grouper were conspicuously absent from historical areas of catch. The group then decided to address the ABCs and OFLs based on individual species, because of this result.

Because the OFL could not be determined for speckled hind and warsaw, the fact that we believed that the biomass was relatively small and the high degree of uncertainty associated with these species, the group felt that any catch would likely result in overfishing of these stocks and therefore, felt an ABC of zero was warranted. Those are obviously open to debate and adjustment, because we do acknowledge that post-quota bycatch mortality, or even bycatch mortality, is an issue.

Mr. Robson: You're saying an ABC of zero was warranted for speckled hind and warsaw or all of those?

Ms. Belcher: That was the problem. Originally, we tried to come up with something that would cover all four. Warsaw and speckled hind were the two that we really felt were not doing very well, based on the anecdotal information in the room, and therefore, we pulled them out. Actually, we pulled them all out separately, but those two specifically had ABCs of zero assigned to them.

With regard to black and red groupers, they're not necessarily data poor. The problem is that these species lack an assessment. In discussing with some individuals around the table, it was felt that we could probably vet these species through a SEDAR process, that the data would be there and support that.

Because anecdotal evidence indicated that red grouper are probably in a healthier state, the group used average landings over five years as a proxy for the OFL and set the ABC slightly below the OFL, to account for uncertainty. There was less information relative to anecdotal status for the black grouper and as such, the ABC was set lower than that of the red grouper.

For those of you that are aware, the percentages that we put forward were 90 percent and 95 percent, 95 being for the red and 90 for the black. Those numbers were kind of put up to at least open a dialogue for discussion, but we really didn't have anybody that could put any other numbers on the table. They were open to change at that point and at that time, we really couldn't

figure out how to adjust it. We just knew it needed to be lower than the OFL.

There was considerable debate about these recommendations and a motion was drafted to rescind the motions for only the data-poor species. This was -- We made all of these decisions on Monday and Tuesday morning, there was a little bit of shaken confidence within the group and so we went back and kind of debated the issues.

We put a motion on the table to take the motions away for the data-poor species. Concerns were expressed that the measures were inconsistent in terms of conservation, in terms of conservativeness, relative to that. Some felt that we were more conservative in one essence and not conservative enough in the other and also -- The measures were inconsistent relative to the conservativeness or were not conservative enough, in the case of the black and the red. After further debate and discussion, the motion failed, due from lack of support. We didn't make the two-thirds vote.

OFLs and ABCs were not recommended for the deepwater or shallow-water groups, because of the lack of scientific basis for those groupings. The SSC discussed and recommended a future meeting time for a more in-depth discussion, with the goal being the development of guidelines for establishing control rules for setting OFLs and ABCs. Unfortunately, scheduling conflicts within the group did not allow for this. A motion was made to request that the council allow for the SSC to have an additional day at the December meeting for further discussion.

Mr. Currin: Thank you, Carolyn. Questions about 17? Carolyn, in discussing the lack of support for establishing both deepwater and shallow-water groups, what sort of information specifically is lacking? What kind of information do you folks need to either decide that that's a good idea or a bad idea?

Ms. Belcher: I'm going to defer some of this to Andy Cooper, because Andy has been involved in Lenfest, but our understanding was that when species groupings are used that there's supposed to be some consistency in life history traits of species and if you use an indicator species, you usually try to take the weakest in that grouping, but if we have conflicting indices within that, it's a matter of how are you going to pick that indicator?

With this, because it's more based, I think, on division of -- If I'm wrong, please correct me, but division of how the fishery works, where they're prosecuted, shallow versus deep water, that they just felt that to do that group without being able to follow those types of -- Again, with the guidance of what Lenfest put forward, we just didn't feel comfortable with how those groupings had been determined. It was more of a fishery determination than a scientific determination.

I know there's been work that Erik has done looking at different ways to group species, but it's very conflicting in how you get those groupings. If they group well on life history, again, the trends aren't always reflective of one another and in trying to pick your best indicator, it leaves a lot to question, because you can have two in direct opposition and you can have one that splits the group and so which one would you pick to determine your catch levels for that grouping?

If I've messed it up or missed anything, Andy can help clarify some of that. That was where it

was coming from, was more that it wasn't based on life history and characteristics of the fish themselves.

Mr. Currin: Then if I interpret what you said correctly then, it's basically an objection or an uncomfortable feeling with the way the suggested groups that we have, which we based primarily on encounters within fisheries, and so exposure to effort and harvest -- That's how we grouped them, because they were going to be encountered in the same fisheries, which makes a lot of intuitive sense.

Then it's not so much that there's a lack of information, but it's just that you guys don't agree with the way we grouped them and that we should come up with a -- If we want to do this, we need a better or different methodology to group this species?

Ms. Belcher: Correct.

Mr. Currin: Thank you. Are there questions?

Mr. Iarocci: More of a comment, Mr. Chairman, and thank you. Carolyn, I appreciate your comment in here about the scheduling conflict and the timing. You've got a lot of new members and a lot of stuff on the table to deal with right now.

I heard basically the same thing this morning at the AP meeting and I just want to lend my support for the additional time for you guys to get together and any other ways we as a council can help support to make your job easier and to move more smoothly and also for the AP, when there's scheduling conflicts and timing involved, where if they feel they need an extra day for dealing with issues, we need to get that beforehand and deal with it as a council.

Mr. Currin: Other questions for Carolyn on Amendment 17? I see none. Are you going to talk about the SEDARs or anything else? Had you planned to do that? Those are in the report.

Ms. Belcher: I have a summary relative to what we have done with accepting the science in those assessments. Directed questions, I'm going to have to ask again -- There's certain things that we are asked as a group that when we were go through and review these documents, we're reviewing these documents as stand-alone science.

There's times that pointed questions come up to us that when we're reading the document we're not thinking about how other stocks have been assessed or how this assessment was previously done to look at these assumptions. What we're doing is looking at the logic and the progression in which these assessments were developed. If you have specific questions to the SEDARs themselves, all we ask is give us a little bit of time. I can't answer everything directly. There might be, again, some commentary from either Luiz or Andy, if they have direct remembrance of it, but unfortunately, I can't speak to direct details of it.

What I'm going to give you is basically that the committee received presentations on red snapper, greater amberjack, and mutton snapper. There were some clarification questions on red snapper, but no major concerns were expressed for any of the assessments. The SSC passed



motions to accept all three assessments as based on the best available science. With that, that's our actions relative to that.

Relative to the questions of specific assumptions within those documents, those are things that, again, if you have directed questions, we would be more than glad to field them as a group, but to do that now; I don't feel comfortable with commenting to that.

Mr. Currin: That's fine and that's kind of the bottom line that we needed from you all on that, that you've looked at them and deemed them as being the best available science.

Mr. Robson: That's good and I appreciate that. I did have -- I don't even know if it's appropriate for the SSC to look at this question, but we received an awful lot of public testimony with regard to red snapper, that -- Of course, this is all anecdotal, but that there seem to be higher numbers and more fish out there than people have seen for ten or fifteen years. Is there anything in the assessment that reflects that or if not, why not?

Ms. Belcher: Andy Cooper is going to talk to that point.

Dr. Cooper: From my recollection, I believe the assessment indicates that abundance has been approximately doubled over the past twenty years or fifteen years. It does agree with the anecdotal evidence that there are more out there than before. However, relative to how many there used to be forty years ago, we're still way away. It does agree with the observation that there's more than there have been over the past ten years or so.

Mr. Currin: Any other questions about assessments, the three assessments that these guys went through? I have one and it relates, I guess, a little bit to the last question I asked. One of the potential management measures within currently Amendment 18 on red snapper is to consider time/area closures, which would affect, of course, not only red snapper, but other species that are commonly caught with those species and thus, some impetus and rationale for establishing these species groups that we have been looking at for quite some time.

Any discussion from you guys about that particular issue or related impacts? Maybe it's just too early to determine right there, but just questions of what other species are going to be impacted and how we calculate those impacts and feed those into management measures that are associated with other species. That may not be real clear exactly what I'm asking, but --

Ms. Belcher: I can't say that we directly spoke to that. Off record commentary, I think there was some discussion, but I don't remember anything directly on the record that we discussed or brought to the table relative to that.

Mr. Harris: Carolyn and Luiz and Andy, the assessment report suggest that there were two very strong year classes for red snapper, in 1998 and 1999, I believe. Could two strong year classes in a row represent the number of fish that we seem to be hearing are out there right now? I've suggested that to fishermen, but I don't know if that's the case. Just based on what I do know about fisheries science, it seems that you can get an awful lot of fish from a couple of really strong year classes and does that make sense to you all?

Dr. Barbieri: Yes, it does make sense. You see in several fisheries, especially when you have species that have a long life span and have a really large number of age classes in the fishery that you can have these episodic fluctuations in year class strength and you're going to have some specific year classes that will be driving these fluctuations in abundance from time to time.

When you read the assessment and you look at these upticks in abundance that have been observed lately, they are consistent with those strong year classes that would be just entering the fishery right now. The concern, from our point of view, is what's behind those to support this biomass increase, but yes. The short answer to your question is yes.

Mr. Currin: I have one more and then I promise you that I'll leave you alone. The catchability, the increase, 2 percent increase, per year in catchability, I guess due to technology, concerned me and I've expressed some of that concern before, at least in this committee and I don't know about with you guys specifically.

I just ran a quick spreadsheet on it and I don't know over what length of time that was applied to generate the values in this assessment, but I believe I read that they did it for the longest time series they could, which I believe started in 1986 or somewhere like that, potentially twenty years, and it may be less than that.

Compounding 2 percent over twenty years results in some fairly significant increases in catchability and I guess my question is whether you guys discussed that at all. According to the little spreadsheet I ran, twenty years increases catchability by 43 percent and if you carry it out for twenty-eight years, then it's up to 67 percent. If we keep compounding this for long enough, we're pretty soon doubling the catchability every X number of years and that's a long time and I won't have to worry about that, probably, but it is an impact.

Just to make that assumption, to me, it's got to have a little more basis and it's got to end at some point. Technology, in my mind, does increase over time and there's no question about that. It happens in spits and jumps though and I don't think it's a regular increase.

That doesn't mean you can't model it by assuming some value, a small increase that occurs over a length of time, and come out in the end at the same place, but I think it's unreasonable to assume that increase at some point in time and just let it sit in the background and keep churning without taking some measure of trying to groundtruth and determine exactly, as best we can -- Get a better estimate of how technology increases catchability. Did you guys discuss that whole catchability issue much at all? If not, I would appreciate comments on that.

Dr. Barbieri: Yes, we did. First of all, we recognized that this assumption of linear increase in catchability is not ideal. It's the best that we have at this point to use. We do know that there's a documented increase in catchability over time and we want to have that accounted for in the assessment.

We have been discussing with the council's science program and the SEDAR program to actually have a dedicated workshop and I think it's a multiday workshop that is to be held I think

in November of this year and several of us have been invited to participate and we'll discuss nothing but catchability.

The idea is to really bring everybody together and dissect all the issues related to this variability in catchability and how it's impacting the outcomes of this assessment. Having said that, in the case of red snapper specifically, there were some of those sensitivity analyses that incorporated a wide range in catchability and it does look like the biomass of the stock, according to the results of the assessment, is so depressed at this point that the outcome of the assessment would not change by far, even with those assumed changes in catchability. We felt pretty comfortable with those assumptions and we will explore this further after this upcoming workshop.

Mr. Currin: Thank you, Luiz, very much. Andy, do you have something?

Dr. Cooper: That 2 percent came from I believe it was the data workshop for Atlantic gag, where fishermen gave anecdotal evidence that over -- I forget the time period, but there was about a 30 percent increase in efficiency and the folks there then calculated it and that translated to about a 2 percent increase over a specific time period.

This is taking fishermen information, what they think catchability and efficiency have changed, and turning that into an annual one and just doing it for that time period. I do not believe there's any intent to let that just keep going. I think they have a specific time period and they have information that catchability has changed and therefore, put that 2 percent in for that time period.

Mr. Currin: That makes me feel more comfortable then. Thank you.

Mr. Geiger: Thank you, Mac. You and I have had some discussions about this catchability issue and Luiz pretty much covered the information on the catchability workshop in November, but I want to issue an invitation to the fishermen in the room that we are seeking volunteer participants in that workshop and there's an opportunity here to participate in that very important process.

Information is contained in the *South Atlantic Update*, the newsletter, or just contact John Carmichael at the council office to get on that list or get your name included in the mix of those who will be selected to participate.

Dr. Crabtree: I may have missed this, but a sensitivity run was done, I assume, without the 2 percent assumption in it. How much difference did it make in terms of outcomes and status of the stock?

Dr. Cooper: I can't remember the exact changes, but over all their sensitivity runs, the largest the stock was at, I believe, was 7 percent of virgin and the smallest was at about 4 percent. No matter what we were changing, looking at different mortality schedules -- What they did. I didn't do any of it, but different catchability, the stock size was somewhere between 4 and 7 percent and the fishing mortality rate was between I think it was seven and twelve times FMSY. It made a difference, but relative to being overfished and is overfishing occurring, not a lick of difference.

Mr. Currin: Thank you, guys. Any other questions?

Mr. Geiger: Are we done with Carolyn?

Mr. Currin: That's what I'm trying to determine. Are there any other questions?

Ms. Shipman: In discussing the red snapper stock assessment, did you all have any other observations of what could be accounting for what would appear to the fishermen to be the disconnect between what they're seeing maybe in the core of the stock, the core geographic area, and what the output of the stock assessment is suggesting in terms of the depressed level of the stock? Did you all have any other discussion on that?

Dr. Barbieri: No, we didn't, but this is a common type of phenomenon that we see and that relates to a wide range, if not all, of the stock assessments that we have to deal with. It's the fact that when we do a stock assessment that stock assessments are conducted for the stock as a whole and that encompasses the entire distributional range of a species. The species do not distribute themselves randomly over the habitat.

They will be aggregated in smaller areas where density per unit area is higher and the perception -- Because catch rates will be high, the perception is the abundance levels are high, but when you look at the biomass of the stock relative to whatever benchmark we're using for the stock as a whole, that is still below what it should be. This will create, and oftentimes it does, create a disconnect between the perception of people fishing specific areas and finding a lot of fish and that doesn't represent the population as a whole, when you distribute that over the entire distributional range and compare that to historical abundance, that that's still a healthy stock.

Mr. Robson: I'm going to put Luiz on the spot, Carolyn, since he's used to this kind of question from me. In the assessment and the evaluation of the biomass and the age structure of the red snapper fish population, the data that's used to generate those estimates, what's the weakest link, if you will, in the information that's in the assessment that applies to our understanding of the biomass of the stock or its age structure and so forth?

Dr. Barbieri: Stock assessments are imperfect by nature and they represent our best attempt to really summarize all sorts of input and outputs that the fishery is taking and relate standing stock biomass to what it should be in a healthy stock, versus the current situation. We have a lot of imperfections, but it's a whole lot of moving parts.

In this case, I think that the stock recruitment relationship and our ability to relate spawning stock biomass to subsequent recruitment was relatively weak and the review panel, the SEDAR review panel, expressed that and with that concern, they recommended that a proxy for FMSY be used, because of an inability for us to really estimate that MSY without good recruitment information.

Having said that, two models were run for the red snapper and one was -- It really covers the wide range of model qualities from I think it was the surplus production model and a very sophisticated statistical catch at age and the models produce results that are very consistent and

given the amount of information that was put into the assessment, my perception is that this is a strong assessment and that we can be confident and I guess the outcome of the panel's recommendation reflects that sense of confidence.

Mr. Swatzel: It's really hard to understand these assessments if you're not trained in fisheries biology and so I'm just trying to get a better understanding of it and particularly related to the issue of sample sizes and whether they're significant enough, in terms of whether we're sampling enough fish.

I was looking at some of the tables and it looked like in terms of the -- I guess its Table 3.9, which is the sample size by gear of red snapper ages. I was just adding up from 1980 through 2006 and think there were about 1,714 samples that were done on those fish, which represented about sixty-six fish a year that were sampled.

If you look during that same time period, there were 685,000 fish landed, which came out to be I guess maybe a quarter of 1 percent of all the fish that were landed were actually sampled. Is that enough of a sample to really get a good sense of what's going on? I'm just asking the question.

Dr. Barbieri: It depends on what you call what's going on. Your sampling is to whatever you're trying to estimate. In your case, if you're looking at age composition, did we have enough samples to build a valid age composition, I would say yes. Could it be improved? By all means. I think that this body actually should be making those recommendations, that science programs be improved and funding for the science programs be improved, so we have better biostatistical samples and therefore, more reliable assessments.

For this species, because we have a history of sampling and we can really build an age composition from the measured catch, I think that -- I have a degree of confidence that it was sufficient. Ideal? No, but I do believe that it was sufficient to give us an idea of the age classes, especially because the stock -- When you look at the age composition, historically versus what it is, the stock has -- by about thirty years classes.

The older ages, which are the least abundant in the population and therefore, the most difficult to find, because there are less of them to be found, are no longer present in the population. In that case, the problem now is to estimate those age classes, we have a truncated age composition that's a little easier for us to estimate.

Mr. Currin: Anything else for Carolyn or Luiz or Andy?

Mr. Geiger: One last thing, Mr. Chairman, thank you. I guess we have some gratitude and thanks or thanks and gratitude that Carolyn withstood or took her first year of fire as SSC chair or your first term under fire as SSC chair and she's agreed to two more years and was duly elected, with Luiz Barbieri elected as vice chair. Thank you in gratitude for your service and thanks for accepting the responsibility of doing this into the future. You made Mom proud, Carolyn.

Mr. Currin: Thank you all very much. Head off to the Magic Kingdom and have a good time.

We appreciate all your work this week, Andy and Luiz, very much. Thanks a lot. I've had a couple of requests from members of the AP. Danny Hooks asked for five minutes of -- Later he's going to do that, when they come back in, I guess, and bring us their recommendations on something.

Bill Kelly also has some dehookers and I believe he's emailed everybody some information on these and he did a little quick and dirty circle hook and j-hook comparison on a couple of boats. I'm going to give Bill Kelly five minutes. If now is okay, Bill, we would love to have you come up here. He's going to show us what he does and explain to us how he does it.

Mr. Kelly: Mr. Chairman, I want to thank you, along with council member Tony Iarocci, for giving us an opportunity to come up here and talk about circle hooks. We will be brief. We had hoped to include some audiovisual presentations, but some equipment complications on our side don't match with you all and so they will be available if you would like to see them on a break or later on in the day.

As I mentioned, I'm Bill Kelly with the Islamorada Charterboat Association and the South Atlantic Charterboat Association and I have Captain Richard Stieglitz here with me and Richard is a lifetime commercial fisherman from the Marathon area in the Florida Keys. To say that you've captured our attention with the possibility of mandated circle hooks would be an understatement. It's front-page news in the *Key Noter*, which is our biggest newspaper. That would be like making the *New York Times* up in this neighborhood. Big time it is.

With some certain time constraints in place, we had an opportunity to do both some charter/headboat, or for-hire sector, as well as some recreational sampling and, of course, Richard has some rather breathtaking video and some still pictures that we want you to see. Although we're both targeting yellowtail snappers and using a number of different hooks, non-offset circles and offset circles and the most popular j-hook, which is a Mustad 91/74, if you read the paper that I sent around, the styles of fishing are as distinctly different as night and day.

In the free styling method, or free lining, as we call it, where we play these bait back in the current on charter and recreational angler efforts, we are targeting big fish. We want fish that are two to six pounds, ideally. That's the game that we're playing.

By contrast and to give you an example, in three hours effort on a good day, I'm sure that we could catch a recreational bag, a charter recreational bag, of sixty fish that might represent 180 to 240 pounds, if we were really lucky. If you contrast that to what Richard is doing, Richard, in that same three-hour period, along with maybe one or two other anglers, they might boat 650 fish that would constitute 1,000 in pounds. It's rather dramatic the approach that they take to this and the approach that we take to it and he will share those differences with you.

What we pointed out, and if you have the survey chart where we're able to display some of those numbers, we were quite surprised in that the number of gut-hooked and lip-hooked fish with regard to circle hooks were almost identical, but we want to remind you that we switched to an offset circle hook, and it was the Owner MUTU, in order to get a circle hook catch.

We tried it for about a half-hour with non-offset circle hooks and then the free lining method, or drifting method, that we had, even with experienced anglers and three of us taking our turns at it, we had zero hookups using the non-offset circle hook. I believe Richard will tell you that non-offset circle hooks work for them, but he's also going to tell you about a very exciting style of yellowtailing called dipping.

We were quite surprised and another statistic that was most interesting, and even on our limited sampling, was the number of pulled hooks that we considered to be solidly on and with that regard, we had 22 percent, a fairly consistent statistic, of 16 to 22 percent of circle hooked fish, where you would fight them for two or three minutes and you thought you had that fish well on its way to the boat and you would simply pull the hook on it. That's a big percentage of fish to lose, whether you're commercial fishing or you're trying to make the day for your six-pack charter.

In contrast, on the limited sampling that we have, it was 26 percent for j-hooks on pulled hooks, but that statistic was all over the spectrum, as I mentioned. It went from zero percent all the way up to 100 percent and the 100 percent happened to be a very proficient recreational angler, very good at yellowtailing, but that was just the luck of the draw.

I think with some more extensive sampling, if the council would like to do that -- We have charter and headboat operators and we have recreational anglers and we have commercial fishermen that will be more than happy to carry on additional testing for you to determine the efficacy of circle hooks compared to j-hooks and non-offset compared to offset.

I want to point out that a paper was just released by the Mote Marine Laboratory on May 28 of 2008. It was authored by Karen Burns and it was her Technical Report Number 1176, dated May 28, in which she found that circle hooks did not enhance red snapper survivability, but did enhance the survivability of red grouper.

It was of no consequence with regard to gag or mangrove snapper and a lot of her findings were based on species oriented fish, the size of their air bladders and the depths that they were caught at. We're finding that the use of circle hooks and their efficiency can be very species specific and we would certainly encourage folks to use them from a conservation standpoint, but we certainly don't think that they work in all applications.

We do have many charter and for-hire members and recreational anglers that have voluntarily switched to circle hooks for their bottom fishing efforts and, again, we still have a question mark with regard to the efficiency in catching yellowtail and mangrove snapper and as the Mote Marine report already points out, they're not necessarily that beneficial in reducing the mortality of mangrove snapper and other species of fish.

That's it in a nutshell, because I know you've read my paper. I would like to let Richard talk to you. He's really got some interesting methods of fishing that he'll describe to you and he has some super audiovisual locked up in a little camera here.

Mr. Currin: Richard, thank you and I appreciate you being here. I would ask that you be as brief

as you possibly can. We've got lots to do.

Mr. Stieglitz: I will. Bill covered 99 percent of it. The majority of my fish that I catch are on the surface. I watch him eat the bait and I flip him right there out of the water. With a circle hook, you can't do that. You have to let the fish swim away from you. I flip them fish in and out of the water like that and I have videos of the fish on the surface and I have videos of how my dehooker works.

This is a dehooker. When the fish comes up, the line goes down through here and we grab it and the fish just falls in the box. He actually just almost -- If he doesn't fall off, I just take the end of the pole and pop him and he falls in the icebox. I don't never touch a fish with my hand, unless he's small and we have to -- If I catch a fish that's right at the twelve-inch mark, I have a gauge and I unhook him with my hand and measure him and he either goes back or goes in the box.

Very few do I touch with my hands. If you want to take a few minutes during the break to come see my video, you'll see the fish on the surface and you'll see the fish going on the dehooker and you'll see how they come off and the straight hook is what we have to have. I've got little circle hooks in here that we've tried and this hook here was dehooked two fish off of it and this is what the hook is supposed to look like.

Every fish, I would have to tie a new hook on, because these little circle hooks, all they do is straighten them out. They will not work for us in this yellowtail fishery, running it down through this piece of steel. When it comes down, I pull on it tight. When the hook comes tight on that right there, the hook can't move. The fish wiggles and he just falls right off of the hook and into the box.

Like I said, the best thing to do is get with me during the break and I can show you these videos, the different hooks that we use. I use lead heads and all different kinds of things. This here is my favorite hook. It don't bend and it's stout enough that it don't bend and it's small enough to catch yellowtails and I know you all are wanting to go on break, unless you have any questions for me. I was quick.

Mr. Currin: Thank you, sir. Any questions for Richard or for Bill? Thank you. I encourage you to get up with Richard during the break and we'll see if we can project that, to show it to everybody that's interested in seeing it.

Mr. Stieglitz: Anybody that's interested, I've got a stack of pictures.

Mr. Kelly: Mr. Chairman, if I may, I just want to explain the swizzle stick. You saw it in the diagram and it's very effective. You do not have to touch the fish. You can hold the fish over the side and it would be particularly effective for recreational anglers that may end up catching a lot of fish below the size limit. You match the stick to the bite of the hook or the size of the hooks that you're using.

It's obviously a bigger stick for maybe mangrove snapper or groupers. You insert it and you swing it like that and the line leads the stick directly to the hook. The barb of the hook bites into



the stick and it does minimal tissue damage and the fish slides off the stick into the water. We've found that the sticks get better with age, like some things, because they get a little roughed up and so forth and they even grab that hook even better and dislodge it from the fish and let it slide off.

Mr. Currin: Thanks, Bill, and thanks, Richard. We appreciate it. Questions?

Mr. Geiger: I just wanted to thank them for coming. Again, we appreciate it. This has been a very productive meeting for industry and for constituent input. Thank you, Bill, for your excellent work in this regard and it's been a hot topic around the table and we're going to work on it.

Dr. Crabtree: Bill, on the dehooker, you spin it around with the fish and the barb of the hook or the point of the hook kind of goes into the wood?

Mr. Kelly: What we're doing is we match the stick to the size of the hook. This would obviously be much more appropriate for a 4/0 to a Number 6 hook and you can see -- What happens is we take the stick and we hold the line in our hand and we spin it like this and the line leads us directly to the hook and you'll notice how the shank of the hook bends over the stick and the barb catches into the wood, because of the pressure you're putting on it. It actually pulls the barb or the point close to the stick and in most cases, the fish will simply fall off.

Now, how about the mortality of the fish? Well, it's reduced, because what happens is you may have a small area, maybe an eighth or a quarter of an inch, where it's penetrated the fish's stomach lining or something, but it represents just a small tear.

Most folks would associate releasing a fish with doing this. You get him up and there he is and he's too small and so what's the fish thing a mate or a recreational angler does? He goes right here with it like that or he goes right here like this and he goes, oh, boy, it's gut hooked and so he pulls on the line, embedding the hook even further.

If you have a yellowtail snapper stick, which would be much closer to what Roy has or maybe the ones wrapped in yellow, as Susan has, you stick that in there and you don't have to touch the fish. It goes in and you hold the line and spin three or four times like that and it dislodges the hook and out it comes.

Dr. Crabtree: My take on the draft language we have here is this would be an allowable dehooking device, based on the language we have.

Mr. Kelly: Yes, and it's much more preferable than trying to force some metal object or something down the fish's --

Dr. Crabtree: The draft language doesn't -- All it says is you have to have a device to remove the hooks and it has to be constructed to allow the hook to be secured and the barb shielded without reengaging, which it sounds to me like this would do, and it must be blunt and all edges rounded. This sure looks blunt and rounded to me. I think this would be an allowable dehooker,

according to what we have written.

Mr. Kelly: Thank you. It's been used very successfully in the Keys and it works on a number of different species and not just snapper. Thank you.

Mr. Currin: Thanks, Bill, very much and, Richard, thank you. We'll get your pictures in a pile and hope that we can get together with you during the break, so that those who are interested can see the video. Our next agenda item is to -- Once again, we'll welcome Stacy Harter back. We sent her home without letting her talk the last meeting and she's graciously agreed to come back and talk to us about some work that they've done pre-closure regarding Amendment 14 and some of the MPAs. Stacy is from the NOAA Panama City Lab and we're delighted to have you back again.

Ms. Harter: My name is Stacy Harter and I'm with the NOAA Fisheries Lab in Panama City. Myself and Andy David are the PIs on this project and like you heard, I'm going to tell you what we've been up to with the South Atlantic proposed MPAs. So far, we've got three years of pre-closure data on habitat and fish assemblages.

I'm actually first going to start out, just for a couple of minutes, and tell you about a similar project that we have going on in the Gulf of Mexico. Madison-Swanson and Steamboat Lumps MPAs were set up in 2000 to protect the gag grouper populations and we've been able to map, multibeam map, both of these areas and our lab has been doing annual surveys on these areas since 2001.

This shows bathymetry and acoustic backscatter data for the Madison-Swanson MPA and what it reveals is the location of different habitat types and because we've got both of those areas mapped, what we've been able to do is do a stratified random sampling design, where the strata are based on habitat similarity and geographic proximity and then sample sites are randomly chosen within each stratum.

The reason I bring up this project to you guys is because this is really what we would like to be able to do with the South Atlantic MPAs, but we haven't been able to get the funding to map the areas and so we've had to make do with what we have.

Getting into the MPAs, we've studied five of the proposed MPAs. We're looking at Snowy Wreck, Northern South Carolina, Edisto, Georgia, and North Florida. This map shows all the different options that have been suggested and it also points out which ones are the preferred options.

We're not looking at the artificial reef off of South Carolina, because we are sticking to the natural hard bottom, and we also have not had a chance to look at the St. Lucie or East Hump, based on logistical reasons. They're so much farther away from the other MPAs that we only get so much cruise time and so we have to maximize our effort.

On the bottom is what little multibeam mapping we have been able to do. We have a portion of the Georgia MPAs mapped and we've done probably about half of Alternatives 1 and 3 of the

Northern South Carolina. The target species for these MPAs are five species of grouper. We've got snowy grouper, warsaw grouper, yellowedge, misty, and speckled hind and then two species of tilefish, the blueline and golden tilefish.

The objectives of our studies were to obtain estimates of reef fish density and species composition, which are associated with bottom features, both inside and outside the preferred proposed MPAs. We wanted to describe the habitat features both inside and outside the preferred proposed MPAs and then document the relationship between the habitat and the fish assemblages.

To do that, our primary gear was a remotely operated vehicle. It was equipped with lights and lasers for measuring purposes and it had a digital video camera on it and a digital still camera as well. We usually did about one-hour dives and the pro for using this type of gear is that you can survey large areas at one time, the con being that it does alter the behavior of some fish.

For that reason, we've brought in the station camera array as our secondary gear type. It's got four different video cameras that point in each direction, so you can get a 360-degree view of the bottom. We usually do about thirty-minute soaks for these and the pro being that it does not alter fish behavior. It doesn't have lights on it and it's not moving like the ROV is, the con being that you get a limited area of coverage, because it is stationary and not moving, doing transects, like the ROV.

We have sampled so far in 2004, 2006, and 2007. We were supposed to do 2005, but that was the year of all those hurricanes and our ship time got redirected for hurricane recovery efforts. We have targeted hard bottom reef habitat, primarily because that's the habitat that most of the target species utilize, and because starting this out in 2004 and having no maps and very little background information on the areas, we used local knowledge and split-beam acoustic bathymetry, which we had on the ship in 2004, and then in subsequent years, we were able to use information that we gained from previous cruises.

We did sample sites both inside and outside of the preferred MPA alternative and we tried to hit as many different habitats as possible. We put our habitats into five different categories. We saw sand. We saw pavement, which we characterize as no relief, but a definite apparent presence of hard bottom. There may be cracks or crevices providing structure or epifauna growing on the bottom.

Low relief outcrops was anything less than one meter of relief. Moderate relief outcrops were one to three meters of relief and the high relief ledge was greater than three meters of relief. They were usually large boulders and they had overhangs and all kinds of structural complexity.

This is a map that shows where we've sampled in each of the MPAs. The circles are the ROV sites and the star design is the camera array sites. Those that are in the lighter gray is where we found hard bottom and the darker symbols are where we did not find hard bottom. This top graph here is the Snowy Wreck MPA and you can see that all of the shallower dives that we did we found hard bottom in, but anything we tried to do deeper, all we found was sand.

In the northern South Carolina MPA, and this is Alternatives 1 and 3 and down here is 2, we saw hard bottom in most of the areas we went. In this particular area right here, in Alternative 2, we found some high relief ledge area there, about three to four meters relief.

For Edisto, nothing special here. We did see hard bottom in most of the areas that we visited. The Georgia MPA, you'll notice that a lot of the sites we visited are outside of the MPA and in the shallower portions of it. We know that this MPA was designed for the tilefish and we know we have not particularly covered the tilefish habitat here and I'll talk about that a little bit more in the talk later.

The North Florida MPA are these last two graphs. This is Alternatives 1 and 4 and 2 and 5. Again, we found some high relief ledge areas right in this area here and also in this area down here. We believe that it's connected, that this is a big large ledge, but without the maps, we don't have any evidence of that.

For the videotape analysis with ROV tapes, all fish were identified and counted and habitat type was noted. Dives were divided into smaller transects of fifty to 150 meters within a single habitat type and then densities were calculated as the number per hectare and for the camera array tapes, all fish were identified and counted in a twenty-minute segment on the tape and then abundance values were calculated as the maximum number of a particular given species of fish in the field of view at one time.

The reason we did that instead of measuring every single fish that we saw is because it takes into account those fish that are constantly swimming in and out of the field of view of the camera. We'll look at a few results now.

This is relative abundances from the ROV dives. The first column is inside the preferred alternative and the second column is outside the preferred alternative. The top portion here is the Florida MPA and you work your way north, down to the North Carolina MPA. None of the target species were among the most abundant fish seen and I've listed the top five most abundant species seen in each MPA, but other members of the snapper and grouper complex were and I've highlighted those in yellow.

In Florida, tomtates and vermilion snapper were among the most abundant fish seen and that's because we saw large schools of them swimming around on the high relief ledge that we found there. Outside the Georgia preferred alternative, we saw red porgies and outside the Edisto and inside of South Carolina, we saw tomtates and no snapper grouper complex members were among the most abundant fish inside or outside of North Carolina. We found a lot of anthiids there, which are small sea basses, primarily made up of roughtongue bass or red barbier.

Next, we'll look at grouper densities. On the Y-axis is the density and the different MPAs are along the X-axis and the different colors are all the different habitats. The red is the sand and then you work your way up in complexity, all the way up to high relief ledge. What you see is basically what we expected to see, is that grouper densities increased with increasing habitat complexity.

Lionfish -- The reason I'm bringing up the lionfish is because, as most of you know, their densities have drastically been increasing over the years and if they already haven't, we believe that they're going to have a definite impact on the ecosystem. They occupy the same habitat niches as grouper do and they consume the same type of prey items as grouper do and so they're going to have an effect.

We saw the same type of pattern as we did with the grouper, increasing lionfish densities with increasing habitat complexity and most of our grouper were found in the two MPAs off of South Carolina.

Here, I've separated out all the different grouper species that we've seen, as well as the tilefish, and lionfish are also included in this graph. This is density for each of the species. The top graph is Florida and we work our way north, down to North Carolina. Inside the preferred alternative is in green and outside the preferred alternative is in yellow and you can see that scamp, which is this column right here, was the most abundant grouper species. They were found in each of the MPAs that we visited.

Lionfish however, the first column here, we also saw them in each of the MPAs and their densities were comparable to, if not higher, than the scamp. As far as the other target species, snowy grouper is this column right here. We found them in most of the MPAs and their highest densities were found inside the Georgia preferred alternative.

Speckled hind is the next column over. They were only found in low densities inside Edisto and North Carolina MPA. Warsaw grouper, we only saw those in low densities of the South Carolina and finally, blueline tilefish is this last column over here and they were found in low densities in the South Carolina.

You can see we saw the greatest diversity of species in the South Carolina MPA. One thing that surprised us was the lack of grouper at the Florida MPA. Because of the high relief ledge habitat we found there, we expected to see more.

These are the results from the camera array drops and they did mirror what we found with the ROV. Both of these graphs are for Florida. The top one is inside the preferred alternative and the bottom one is outside. I've listed the top ten most abundant species and if any of the target species were found among the most abundant, I have circled them in yellow. For instance, we saw warsaw grouper inside the Florida MPA.

Other than that, vermilion snapper seemed to dominate both inside and outside the Florida MPA. For Georgia, we didn't do any camera array drops inside the Georgia preferred alternative, but outside, we did see speckled hind. Other than that, grunts and scad were among the most abundant fish seen.

At Edisto, no target species were among the most abundant. Yellowtail reef fish dominated inside the preferred alternative and tomtates were abundant outside. South Carolina, again, no target species, but tomtates were abundant inside the preferred alternative and porgies were the most abundant outside and finally, North Carolina, we did see snowy grouper both inside and

outside the preferred alternative. Other than that, amberjack and roughtongue bass inside and anthiids, which are the small sea basses, outside.

In summary, we observed four of the seven target species, including snowy grouper; warsaw grouper, speckled hind and blueline tilefish and we believe that depth and habitat probably describes why we didn't see the other three. Tilefish tend to prefer the muddy habitats farther offshore from the shelf break and we know that those areas are underrepresented in our data and therefore, the tilefish are underrepresented.

We believe that water depth probably explains why we didn't see the misty or yellowedge grouper. Of the target species, these two species are the deepest grouper species and the majority of our ROV dives tended to stay with the shallower reef areas. We saw the importance of habitat with the grouper and lionfish densities increasing with increasing habitat complexity. Scamp was the most abundant grouper. However, the lionfish were not far behind.

This project has really given us a unique opportunity to obtain pre-closure data. Most of the time, you're not given the opportunity to get before data and then compare it to the after data and we have some information now on the habitat and the target species densities and the species compositions of these areas and as long as funding continues for us, we will continue to do research after the fishing pressure is reduced and then compare population levels.

Based upon the similar work that we have going on in the Gulf of Mexico, the two factors that are most likely to affect the success of shelf edge MPAs that target reef species with strong site fidelity are going to be the selection of locations containing sufficient amounts of suitable habitat and a vigilant enforcement program.

Just a few acknowledgements. Funding for our project was provided by the Southeast Fisheries Science Center in 2004 and the Coral Reef Conservation Program in 2005 to 2007. We've used both the NOAA Ship Delaware II and the NASA ship Freedom Star to do our work and then I've listed a bunch of names of people who have helped with cruises and ROV support and such and I'll just leave you with an update for 2008.

We are currently planning our next cruise for this year. Next month, we'll be back out on the NASA boat, obtaining some more pre-closure data, and we've made it a point to add in a few dives in Georgia that's a little bit deeper that will hopefully target that tilefish habitat that we really haven't targeted yet and that's all I have.

Mr. Currin: Stacy, thank you very much and it's encouraging to see, from results of your work, that the lionfish have gotten the word that they're not allowed in the South Atlantic MPAs and they can stay outside, but they can't come inside. Thank you very much. I just had one question and then I'll open it up for anyone else that might -- What's the temporal distribution of your samples? I'm encouraged to see that you've gotten three years of data in so far and that's a good thing and is most of the sampling effort during the summer?

Ms. Harter: Yes, it's ranged from -- The earliest we've done it is April and I think the latest we've done it is August. We try to stay within the spring and summer months and a lot of that

has also depended on when the funding comes through.

Mr. Robson: Thank you and that was a very good presentation and I appreciate that. You all spent a good amount of time on these areas. Was there by any chance any recording of time on site and the amount of fishing or other activity that you observed out on those sites and if so, does that have anything to do with your summary comment about the necessity of enforcement for success of these MPAs?

Ms. Harter: We have taken notes when we do see fishing boats in the areas that we're studying. We make notes of that and also, while we're doing the ROV dives, we make notes of when we see debris or human impacts or artifacts and stuff like that. What was the other part of your question?

Mr. Robson: I guess I was trying to get some sense of whether you see -- If you observed while on site much activity in any of these areas and the last part was you specifically mentioned law enforcement and I just wondered where that came from.

Ms. Harter: That comes from basically other areas that I'm involved in researching, the Gulf MPAs and the Oculina Area, I'm also involved in. We've just seen that when you get these remote MPAs that are fifty or sixty miles offshore, that sometimes enforcement is a little hard to control. That's where that comes from. Like I said, we do keep track of when we see boats and when they're fishing out there and everything like that.

I'm trying to think. There was one particular area where we went one year and there was probably about ten boats around us and for being that far offshore, we kind of thought that was a little surprising and I think it was one of the ones off of South Carolina, but off the top of my head, I'm not positive.

Mr. Harris: Stacy, do you recall when the first lionfish was observed off the southeastern coast?

Ms. Harter: Before we started studying.

Mr. Harris: We saw our first one off of Georgia eight years ago, eight or nine years ago.

Ms. Harter: I was going to say around 2000, maybe.

Mr. Harris: It was brought in by a doctor who was a collector.

Ms. Harter: Even just over the few years that we've been studying these areas; it really is amazing, especially this past year, 2007. The densities have just spiked.

Mr. Harris: When you say they feed on the same species that grouper feed on and so there's competition there and are you seeing any really big lionfish or are they still small fish?

Ms. Harter: The biggest ones we've seen are probably like this.

Mr. Harris: Then the larger grouper would probably not be in competition for food with the lionfish.

Ms. Harter: Right, it may be the ones that are --

Mr. Harris: Does anything eat lionfish?

Ms. Harter: Not that I'm aware of.

Mr. Waugh: Goliath grouper.

Mr. Currin: Do they? Has that been documented?

Mr. Harris: There you go. That's our salvation.

Mr. Currin: If they don't have any trouble with them, then probably some of these other big groupers wouldn't have any trouble with them either. That would be an interesting experiment, to toss a few in with some big gags or snowies or something and see if they chow down on them. Are there other questions for Stacy?

Mr. Geiger: I think it's safe to characterize that we did get a lot more bottom habitat than camera drops or observations without bottom habitat?

Ms. Harter: We did get a lot more with the hard bottom than without.

Mr. Geiger: We had snowy grouper occur in each one of the areas that you looked at?

Ms. Harter: Maybe not Florida, but all the other MPAs, we did.

Mr. Currin: Anything else? Stacy thanks very much. We appreciate your patience and willingness to come back four months later or three months later or whatever it worked out to be. We did move a little closer to you.

Mr. Robson: Just a comment on that. I think I heard some cautionary statements about if we want to make sure we follow through with this research that we're going to need to have adequate funding for the future, for the post-establishment work. I think we need to pay attention to that as a council and do whatever we can to make sure that these projects do get funded in the future.

Mr. Currin: Joe O'Hop, are you almost ready? Are you loaded up and ready to go?

Mr. Geiger: Joe is always loaded.

Mr. Currin: Good. Joe is heavily involved in the mutton snapper SEDAR that the State of Florida did and he's here to give us an update or presentation on the results of that SEDAR-15 on mutton snapper. Thank you very much and welcome.



Mr. O'Hop: Bob Muller did most of the modeling. There was a host of people involved in the data workshop and the assessment workshops and probably way too many to really give proper credit to, but basically, I'm just here to give the results of it. Mutton snapper was part of SEDAR-15. It has been known for a long time. It was described in 1828.

This assessment is basically for the Southeast United States region and it was done for both the Gulf and the South Atlantic Councils. Mutton snapper are known from southern Brazil up through North Carolina and occasionally up to Massachusetts and throughout the Caribbean and Gulf of Mexico.

There's some work on the genetics of the stock. Basically, there seems to be, for all intents and purposes, one stock in the Southeastern U.S. and it's relatively homogeneous genetically. The most differences are between Puerto Rico and the rest of the mutton snapper in the Caribbean and the Southeastern U.S. For the purposes of this assessment, we were able to treat the mutton snapper in the Southeastern U.S. as a single stock.

As far as larval dispersal goes, the average duration in the larval stage is probably typical of snappers, around thirty days. The Florida current probably serves as a pretty effective barrier for larval transport and essentially, our stock is pretty much self-sustaining. There is the possibility of a small amount of larval interchange between the Caribbean and the U.S., but mostly, the mutton snapper in the Southeastern U.S. waters is self-sustaining.

We're going to treat, for the purposes of this assessment, the mutton snapper that occur from Texas waters up through North Carolina as a single stock of fish and in fact, mutton snapper are fairly uncommon in catches west of Florida and north of Florida. Most of the catches are going to be in the south Florida area and we've defined that, these large broad regions, which correspond to none of the statistical areas, by the way, but basically the southwest Florida Keys and the Southeast Regions.

Some of the major management actions -- There are others that would affect the harvest of mutton snapper, both commercial and recreational, but basically, the 1983 grouper snapper FMP by the South Atlantic Council, there was a twelve-inch minimum size limit implemented by Florida for the state waters and that was followed, in 1990 and 1991, by twelve-inch minimum size limits by both councils. In addition, the South Atlantic Council put in the ten fish aggregate bag limit and had a May to June spawning limit for commercial harvest that was limited to ten fish.

These had very little impact on the size of fish harvested, but it was a good start. In 1994, the South Atlantic Council raised the minimum size to sixteen inches and the Gulf of Mexico followed that in 1999 and the South Atlantic also set a management benchmark at the MSY proxy for a 30 percent static SPR.

Some of the parameters that we need for the assessment relate to age and growth. This is the plot of some of the age versus length data that we had to work with from 1981 through 2006. The areas -- The fish here basically are coming out of our fishery independent surveys. The

recreational catches in yellow are basically in this area and all the rest are commercial data.

There's some headboats and tournament catches sprinkled in there, but basically, the recreational fishery are around the early age classes. The commercial harvest tends to be on the larger and older fish.

One thing to note on here is that around 700 millimeters, you're going to have a large spread of age at that size. There's a big smear of ages and so you have very little information on the age of the fish once you get up into this size range and so it's very important to be sampling otoliths out of these populations, as it is for most of the fish that we have in the Southeast. I would like to emphasize we need more otoliths or other age structures, rather than just length sampling.

What was known prior to the mid-1990s is that the maximum age of mutton snapper was below twenty years. Mike Burton's work covered the span from about the early 1990s to 2000 and it extended that maximum age. He found some individuals out in the twenties and the maximum age was, I think, twenty-eight for some of that area. He did find one thirty-one-year-old fish.

For the SEDAR, we had some additional samples to work with. A lot of these came out of the -- Significantly, a lot of them came out of the longline fishery west of the Tortugas and that found many more individuals out in the mid-twenties and our maximum observed age is out at forty years old and so we considerably extended the maximum age for these species, for mutton snapper, and this has some large important implications for our estimates of natural mortality.

Another parameter that we needed related to reproduction. We started with some life history studies out of our Tequesta and Marathon Lab. We collected approximately 2,000 fish, spread out over a little more than a year, and looked at maturity, growth, and some other factors. Basically, we had about 2,000 fish to work with and they were about equal numbers of males and females.

By the way, this fish is -- We don't have to worry about hermaphroditism. They're dioecious, which is considerably -- It makes a lot of the assumptions for the assessment a lot simpler, but once we talk to our reproductive biologists, they told us to concentrate on areas where you would expect spawning and right now, spawning is more likely seen in the Florida Keys and they told us to also limit our look at the data for the peak spawning months, which were defined as April through June, based on the histological sections.

Once we threw out some other problematic histological determinations, we were left with about thirty, actually under forty, fish in which to look at the size at maturity and our estimates of the length at 50 percent maturity is right around the sixteen-inch total length size limit. We would like to have more fish in this area and that's one of the research recommendations out of the SEDAR. We would like to get a better handle on that L50 value.

The ages corresponding to that L50 value are basically in this range. Again, a small number of fish, thirty-two, to work with, but the age at 50 percent maturity is around 3.7 years. From some aquaculture studies that were done, they found fish in this range here, about 450 to 480 millimeters, were capable of spawning and those were three-year-old fish. Admittedly, this is an

artificial situation and they're probably well fed and well cared for fish, but I think it's significant that they were getting spawning as early as three years of age and a little bit larger size than what we're estimating for age at maturity, but maturity and spawning are a little bit different.

What we were struck with when we looked at the harvest, both recreational and commercial, was that the commercial harvest was seen primarily in the Florida Keys, up through Southwest Florida. There's some overlap in the Keys with the recreational fishery. The recreational fishery, by and large, is over here in Southeast Florida.

One other thing to point out is that the longline harvest was by and large south -- It was actually southwest of the Tortugas and that's where we're getting the largest and oldest fish. The commercial fishery was divided into three sectors: hook and line, longline, and a combination of traps and other gears. The recreational sector, we divided into the headboat fishery and other recreational fishing from the MRFSS.

The harvest here in blue and this smaller portion here on the bar graph, that's the commercial harvest. The traps are up here too, in yellow, and you see the phase-out of the trap fishery and above that, starting with the headboat fishery and the MRFSS above.

The fishery in the later part of the time series tended to be within about 300 to 450 metric tons. What we have so far from the fisheries statistics data for 2007 would put the harvest somewhere around 500 metric tons. Of course, they're not quite final yet and we don't have the headboat data at the moment, but if you use the similar values from 2006, that harvest will be probably around 500 metric tons.

Discard data, we used the B2 from the MRFSS and our estimates of discards from the commercial fishery and headboat fishery. Those tended to range between eight and eighteen metric tons. Notice the scale was a lot of different. We got hundreds of metric tons for the landings and we're in the tens of metric tons for discards with release mortality.

With the higher harvest in 2007, the total mortality that we estimate from discards would be around twenty-three metric tons and so we're at a total of somewhere around 525 metric tons total for 2007. Of course, that's sort of preliminary. For the assessment, we had four different visual surveys to use, to help with the tuning of the model, and we had four different fishery dependent surveys to work with. All the survey data tended to be increasing throughout the time series and so that was a pretty good sign.

For the modeling itself, we had an array of modeling methods to use. We started with simple catch curves and we increased basically the complexity of the data needs for each of these models, finishing up with the catch at age model to generate the benchmarks.

Most of the model estimates are coming out of the statistical catch at age model. I want to talk about the stock reduction analysis for the moment. This is a model that helps look at the historical time series. What you need for it are parameters such as age and growth and some of the reproductive parameters.

We were able to reconstruct the commercial landings because the mutton snapper appear in commercial landings back to 1902 as a separate category. They're either under mutton fish or mutton snapper and while it's not a complete time series, we did have to fill in a few gaps, but mostly the landings data are fairly complete up through the present.

You'll notice a trend downwards that begins pretty much in the 1950s and its low point is around 1990. You'll see a trend upward after the 1990s, probably corresponding to that implementation of the sixteen-inch size limit. The model also tends to keep this increasing trend going into the future and so that's hopefully encouraging, but I'll have to wait and see.

Mr. Geiger: Where would the ten fish bag limit during the spawning season rule come in on that bottom graph?

Mr. O'Hop: That would be approximately here and it would take a few years for that to -- You would really need a few years for that to show up in the population trends. The statistical catch at age model, we used ASAP, which is out of the NMFS toolbox. This is the old ASAP. There's a new version that was released about a month after the assessment was complete.

It has some of the features that we would have liked to have in the old ASAP, but we used what we had to work with. The base run, which has a particular configuration of parameters and catch streams in it, shows pretty much what the stock reduction analysis shows, a declining trend through the early 1990s and then an increasing trend afterwards. It was nice to see both the results from the stock reduction analysis and the more complex ASAP statistical catch at age model support each other.

We also had a prediction from the model of increasing recruitment, which also tends to be supportive of what's seen in the visual surveys. The steepness value used for the catch at age model was 0.75. It's right in the middle of what's predicted for periodic spawners, such as snappers.

These are some of the benchmarks that come out of the model. The MSY, which if you remember the proxy for MSY being used is the yield at 30 percent SPR, is 688 metric tons. The spawning biomass here, the MFMT, that's the fishing mortality at 30 percent SPR, is predicted to be that value and OY at the yield at F40 percent SPR is 524 and so you might -- We're probably, for 2007, right at the OY. Fishing mortality is 0.18 and the ratio of the F current to the management benchmark is about 0.51.

You're probably familiar with the control rules, but just to go over this to orient you to the next slide, which will have a summary of the model runs, the MFMT is defined as the fishing mortality current over the fishing mortality at whatever benchmark is being used and the ratio of that is at one and so that's the solid line here.

The corresponding spawning stock biomass that's computed out of the model for the current year over the spawning stock biomass at 30 percent SPR, that's this value, this thin vertical line. Those are some of the points to look at. The minimum stock size threshold is set at the spawning

stock biomass at the management benchmark time's one minus the natural mortality. That's this dotted line here. MSST is here and MFMT is here.

Above the MFMT, you're overfishing and to the left of the MSST, you're overfished. That's not good areas to be in. The council can also set a control line when you're in the overfished situation at some level of fishing mortality less than the MFMT, but that's the option of the council. This is the area that you would like to see the model results in. That's the area where no additional management is necessary.

This is a summary of the model results that came out of the assessment. Our base run, which was set at the assessment workshop, that's the steepness value of 0.75, and using age/length keys, which is a particular way of looking at the way we convert size of mutton snapper to age of mutton snapper, and so for the base run, where we're using age/length keys -- We also incorporated the fishery independent and fishery dependent indices.

This series of red diamonds, that's the base configuration. The base run is this red box here and so for a -- If you vary the stock recruitment relationship, that steepness value, this is the resulting pattern that you see for that model configuration and we tried several different configurations, leaving out fishery independent indices or leaving out the fishery dependent indices, and also included some runs based on our estimates of release mortality. We used 15 percent release mortality for discarded fish, but we also reran the model at a 5 percent release mortality and that's this figure here, this series of runs here.

We've looked at whether instead of using an age-varying natural mortality, based on the Lorenzen curve, which was in the base run, if we instead used a constant mortality; this puts us into this area here. The Lorenzen curve generated some estimates of natural mortality by age that may be more appropriate for this species.

If we gave the model less data to work with, that's the blue symbols here, instead of using age/length keys if we used the actual ages from the otoliths that were sampled, we have fewer years of information on the otoliths, on the age of fish, and we also have fewer otoliths than we have lengths.

If we give the model less guidance on the age structure, it tended to push the estimates out of the model over into the overfished situation. The assessment workshop, and the review workshop too, felt that it was probably better to use a little more information that we had on the size structure to look at the age structure and they felt that the base run was probably the best reflection of the current status of this fishery, rather than to starve the model with less data.

Another point to make is that if there are older fish out in the fishery, in the population, than what we've sampled, our estimate of natural mortality may be a little too high and if we lower the estimate of natural mortality, using an older aged fish, it tends to push the estimates over to the left as well, but at the current stage, the maximum observed age is forty and we think that's pretty appropriate and that puts us into this non-overfished and non-overfishing area on the control line.

The conclusions are that fish are -- The maximum age of forty fish is pretty well supported. Fishing mortality rates were low and so we're not overfishing mutton snapper in 2006. Spawning stock biomass was increasing and above the benchmarks and so we're not overfished in 2006 and the review panel expressed a desire to have the assessment repeated in a short timeframe, three years, to make sure that the status has not changed significantly and thank you very much.

Mr. Currin: Joe, thank you very much. We appreciate you being here and tolerating our changing our schedule. Are there questions for Joe about the mutton snapper SEDAR?

Mr. Geiger: Thanks, Joe, for a very good synopsis of that SEDAR. Even I understood it and what I understood you to say and I characterize it -- I would make this characterization and it may be inaccurate and I would wish you to correct me if it is. We have a stock that's not undergoing overfishing and it's not overfished, but it could be more robust, certainly, and we wouldn't want to see much expansion in the fishery?

Mr. O'Hop: Currently, you're probably fishing -- In 2007; you're probably at the OY that's estimated for this fishery. Now, that's given all the parameters that we have are correct for this species, that we've got the age and growth parameters pretty well set and we know natural mortality, or we've got a good estimate of natural mortality, and the reproductive parameters are appropriate. If we've got those parameters pretty close to what they should be, then we're not overfishing and we're not overfished and we're probably where you want to be as far as the management targets are.

Mr. Geiger: I guess the reason I ask that is a couple of years ago, when we were last in Key West, we took public testimony and I believe we took some public testimony in regard to a request to look at a spawning season closure on mutton snapper. I'm just wondering what benefit -- I know we get tremendous benefit from spawning season closures in other stocks and what this might do for us as a precautionary measure to keep this stock as healthy and make it even more robust into the future, especially seeing as how we're going to be right at almost OY, as you say, this year.

Mr. O'Hop: With fishing effort in 2008 down, projected to be down, and fuel costs limiting some of the fishing trips, we would expect 2008 harvest to be down significantly over 2007, but it's a little hard to say. I've heard some people express that the ten fish bag limit during the May/June period is -- It's still not limiting catches to what you really want and perhaps there's more effort out there than you would like to see. I think that's a decision for the council.

Mr. Geiger: You're right and thank you.

Mr. Currin: Any other questions for Joe? Thank you very much. We're going to take a little break and let's be back here at twenty to. We'll start right at twenty to.

(Whereupon, a brief recess was taken).

Mr. Currin: Committee members to the table and we will begin. We'll begin. We're going to

move into Amendment 15B and the first item there is a presentation by Steve Holliman, who was heavily involved in that supplemental environmental impact statement draft, SDEIS, and did a lot of the reanalysis of the socioeconomic data that we requested and in a very, very timely manner and, Stephen, we appreciate you and everyone else who was involved in that. I was very, very pleased with the results that were presented and the timeliness with which you guys were able to do it.

Ms. Smit-Brunello: Just real quick, Mac, and I should have done this before. I would like to introduce Tricia Choe. Tricia is from Department of Commerce General Counsel and she looks at some of these regulations that go through the system and on up to Department of Commerce and she came down for a few days to get a feel for the council process and see what's going on and we just had a conversation and she said there's a lot more color now that's been added to these black and white pieces of paper that she usually sees. Unfortunately, she has to go back tonight and I meant to introduce her earlier. Thank you.

Mr. Currin: Tricia, thank you for coming and she's been sitting through some of the SSC deliberations and some of the AP deliberations and some of our committee meetings and she's still smiling and happy about it and so that's really good.

Mr. Geiger: That's because she goes home tonight.

Mr. Currin: Maybe that's it. She knows she's headed home very soon. That could be it. Anyway, thank you for coming and we hope to see you again some time. Come back and see us, visit us. Stephen, we'll turn it over to you and let you walk us through this.

Dr. Holiman: Good afternoon, everyone. I appreciate the invitation to come here and make this presentation and hopefully it will be informative. I have to admit to being the chief author of the analysis that you've seen in the supplemental, as well as this presentation, but I can't take credit as being the chief cook for the analysis. I have to acknowledge the most helpful efforts of Alan Bianchi in North Carolina, Robert Wiggers in South Carolina, Julie Califf in Georgia, John VonDreska on my staff did the bulk of the analysis for the State of Florida, but we had some very helpful contributions by Chad Hansen from the State of Florida.

For this revised analysis, we utilized the 2004 through 2006 state trip ticket data for each of the four states. We identified entities, all vessels that were permitted to operate in the federal fleets, the various federal fleets, and we tabulated all harvest, not only all snapper grouper harvest, but all harvest of all other species that were harvested by fishermen that sold a single pound of any of the snapper grouper species over this three-year period of time.

I need to emphasize that we stopped at 2006 because 2007 data was not complete at the time when we conducted this analysis. We analyzed the data by permit type and by this, we separated into three basic permit types, landings associated with vessels that had the federal commercial snapper grouper permit, landings associated with vessels that had the federal for-hire snapper grouper permit, and landings associated with vessels for which no federal permit could be identified and so we had three categories there.

I need to emphasize that there are certain for-hire vessels that have both federal permits, the commercial snapper grouper permit as well as the for-hire snapper grouper permit. The landings associated with these entities were combined with the commercial category. We also summarized the data by water type, basically two types of water body, the EEZ and state waters.

Species type, as I said before, we summarized all snapper grouper, as well as all other species by these entities on all trips that they took over this three-year period. We also summarized the data by dealer type and separated it into landings that were sold through federal dealers and landings that were sold through those that did not have the federal permit.

Again, for this analysis, because we had the three basic permit types, the assumption was that all snapper grouper sales by vessels without the federal commercial permit were assumed to be bag limit sales. All sales that weren't associated with that federal permit were assumed to be bag limit sales.

The caveats of the analysis, sales were not evaluated to see if quantities that were sold on the trip ticket in fact represented actual bag limit quantities. There's a couple of reasons for this. One is a commercial vessel may have had a poor day and a limited quantity of fish. Plus, there was this issue of sales by a for-hire vessel or even a private recreational vessel. There was the issue of could the vessel perhaps sell the bag limit of multiple entities on the vessel trip itself and so, as a result of that, we said we're not going to look at the actual sales quantities itself, but we're just going to disaggregate the sales according to the permit type.

Within the analysis, vessel ID matching problems did occur and to the extent that they existed, this would result in some overestimation, to an unknown degree, of the fish associated with bag limit sales. Basically, if we could not associate a particular vessel with one of the federal permits, it was lumped into the non-federal permit category.

There were particular problems dealing with dealer matching and I'll talk a little bit about that a little bit later, on one of the next slides, and it needs to be emphasized that since this analysis used the trip ticket data, it's only capable of evaluating the sales that go through these legal channels. There's a mandatory trip ticket system in all four states and this analysis only used that data and so this analysis is not capable of capturing any sales that occurred through other channels and stuff.

The results, the results were that approximately 16 percent of the average annual total snapper grouper sales, in terms of dollar value, this is nominal dollar value, were bag limit sales. This amounted to approximately 1.4 million pounds on an annual basis, valued at approximately \$2.4 million.

Within this \$2.4 million, the for-hire sector accounted for, on average, almost 180,000 pounds, valued at over \$300,000. For the sector that could not be associated with any federal permit, the results for here were approximately 1.2 million pounds and a little over \$2 million. On a per vessel basis, the for-hire total equated to 17 percent of total fish sales by that sector.

I need to emphasize that's fish sales. It doesn't account for other revenues that those for-hire



vessels may have generated, particularly their charterboat fees. This is only the proportion of total fish sales. The flip side of that is 83 percent of the revenues from fish sales were for non-snapper grouper species. For the fleet for which no federal permit could be identified, this \$2 million equated to approximately 7 percent of the average annual revenues across all fish sales for these vessels.

For these results, approximately 70 percent of the bag limit sales, this \$2.4 million, came from Florida/Georgia. I need to emphasize that because of confidentiality concerns that we had to lump the results for Florida and Georgia and the results for South Carolina and North Carolina, but 70 percent of the results, of the bag limit sales, this \$2.4 million, were associated with Florida and Georgia results. As you can well imagine, the bulk of this was Florida.

Mr. Wallace: The no federal permit, that's 7 percent of the total landings?

Dr. Holiman: That's on average, per vessel -- You realize that vessels will harvest snapper grouper species and they'll also operate in other fisheries, pelagics, inshore species. In some of these states, you may be talking about blue crab, but a variety of other species and stuff. This \$2 million equated to 7 percent of their average annual revenue from all marine life sales, as recorded in the trip ticket system.

Mr. Wallace: That's per vessel and that's not 7 percent of the \$1.4 million?

Dr. Holiman: No, that's per vessel. It was broken down to the per vessel basis. Now, obviously the council and the agency -- There's a federal nexus for what we do and so the results were also evaluated to see what proportion of the bag limit sales originated from state waters, as opposed to the EEZ, as well as what portion of the bag limit sales were marketed through dealers that did not have the federal permit. You can see the results here.

Approximately 9 percent of the bag limit sales originated from state waters. Now, we have a range here for the proportion of bag limit sales sold to non-federal dealers and the reason for this is recall that I said we had a particular problem in matching dealers with federal permits. For fishing entities, you have a unique vessel ID number, be it a Coast Guard number or a state registration number that you can track through the system, in both the permits data as well as the trip ticket system.

On the dealer side, we lack that unique identifier and so you're reduced to actually doing a visual inspection of names or owners of the businesses and stuff and we had a particular problem in the State of Florida and so we broke these results out into a range.

The 21 percent, the lower figure in this range, represents using the federal to non-federal breakout for North Carolina and South Carolina and applying that to the entire Southeast, to all four states. The upper range, the 35 percent, results if we use the actual results that we got for Florida and Georgia and utilize that in the analysis and so the lower numbers, the North Carolina/South Carolina, across the entire region.

Now, if we have compatible regulations in all states, then the amount of bag limit sales that

would be eliminated would be that average, that full average, of \$2.4 million. However, on the assumption that there are no compatible regulations implemented in any of the states, you have to back out this 9 percent and you have to account for these fish that are marketed through non-federal dealers and you see the results here.

If you get no compatible regulations in any states, you would affect -- Instead of \$2.4 million, you would affect approximately \$1.4 to \$1.7 million in average annual revenues of snapper grouper species and you can see I've got the breakout by the for-hire sector and the sector for which no federal permit was identified.

Over this three-year period of time, the results indicated -- We encountered an average of 717 entities per year with the federal commercial snapper grouper permit which recorded sales. To put this into some context, over that same period of time, there were 927 vessels that were permitted to operate in the fishery, on average, per year. Roughly 700 out of 900 vessels actually had recorded landings within the trip ticket systems.

For the federal for-hire fleet, an average of 159 entities per year had recorded snapper grouper sales. This is out of 1,342 vessels that were permitted to operate in that fishery each year during that period. For vessels that had no identifiable federal permit, over 1,400 entities per year had recorded snapper grouper sales.

The last slide is as discussed within the amendment itself, in addition to the data integrity issues and the enforcement issues, one of the motivations, or the objectives, of this action is to mitigate the adverse economic impacts that have been imposed upon the federal commercial snapper grouper fishery as a result of Snapper Grouper 13C, the pending Snapper Grouper 16, and future amendments and stuff.

In order for that mitigation to occur, the presumption is that the revenues that historically are going to these bag limit sales would in fact be transferred over to the federal fleet and so that \$2.4 million would, in theory, be transferred from bag limit sales category to vessels that operate in the federal fleet.

Now, we discussed in the analysis that you shouldn't necessarily expect 100 percent transfer, because the presumption is, although there are a number of species currently under quota, not all of the snapper grouper species are under quota right now and so the species aren't subject to quota closure.

What the federal fleet is able to catch or what they actually do catch isn't necessarily hindered by the management system that you have in place itself. It may be due to circumstantial conditions, such as where you fish, when you fish, and how you fish, such that taking this quantity of fish and the value associated with that from bag limit sales and making it available to the federal fleet, you may not get all those fish actually harvested, necessarily immediately harvested, by the federal fleet. In order to catch those fish, it may require modification of how they fish. You won't necessarily get 100 percent transfer.

Additionally, there's likely to be some distributional effects, to the extent that the fish that are

currently marketed as bag limit sales may not be processed through the same dealers or exactly the same communities or the same time of year. You may get some distributional effects along those lines, but in general, the presumption is that the centers of the bag limit activity are the same centers of where you have the commercial fleet activity and so these fish are largely going to go through the same communities.

There's some additional discussion within the amendment itself that talks specifically about some of the potential impacts on the for-hire sector that it's recognized that these bag limit sales have traditionally been used to both pay for the crew services as well as, if you will, suppress the price that the customer has to pay for the charter itself.

If you eliminate these sales, there's likely to be some sort of dynamic change within how the for-hire operations actually operate. They may be forced to come up with a different payment structure for their crew or they may be forced to hire fewer crew or they may have to raise the prices that they charge for the charter itself.

These are all valid considerations, none of which can be quantified. It's virtually impossible to put some numbers on that, but it's something that we recognize and we discussed in the analysis. Additionally, there's some discussion in the analysis about this issue of the black market sales. As I said, what you've seen to this point doesn't encompass any of these black market sales.

We have some discussion about logically what might happen to these black market sales. Again, it relates to this \$2.4 million and to what extent might that be transferred. There's a possibility that the black market sales could increase. However, there's a possibility that it could decrease if there's, as a result of this, you get heightened awareness and sensitivity of what is actually legal and you get a higher degree of self-policing within the industry itself. We discuss it, but it's, again, another one of those things you can't really get a firm handle on. That's my last slide and thank you and are there any questions?

Mr. Currin: Thank you, Stephen, very much. Again, I was very pleased with the analysis that I saw and the timeliness with which you guys got that out. We appreciate that.

Mr. Swatzel: I think one of your slides said there was about 159 vessels that had for-hire permits that had actually sold bag limit fish and is that correct?

Dr. Holiman: These would be vessels -- Again, recall that we said for vessels that had both permits, they were included in the federal commercial fleet and so there would be -- There's more than this number of federally-permitted vessels that operate in the snapper grouper fishery. Some of them are included in this 717 as well.

Mr. Swatzel: Do you know how many?

Dr. Holiman: Not off the top of my head, no.

Mr. Swatzel: Would it be possible to get that?

Dr. Holiman: I think we've got those numbers. I can't confirm for sure, in some of the raw data and stuff, but that could be possible.

Mr. Swatzel: At least in the 159, what's the distribution of those, roughly? I think you said it was more oriented to Georgia and Florida and is that correct?

Dr. Holiman: The results overall were dominated by Florida numbers, but within -- I don't have a copy of it with me right now, but the results by different permit category are separated by the different state groups within the SDEIS itself and so that's in one of the tables there and so we could look that up, to see to how many of those vessels came from the North Carolina/South Carolina fishery as opposed to the southern fishery.

Mr. Geiger: Thank you, Dr. Holiman, for that presentation and the quick work on getting this done for this meeting. On your last slide however, on your first bullet, you talk about a motivation for action and I spoke about this the other day to you and you said it was an assumption. I have a difficult time with making that general assumption as the sole reason for the motivation for us taking this particular action.

I can understand from your perspective as an economist why you might think that, but I assure there were many motivations, several other motivations, aside from the single motivation to make bag limit sold fish available to the commercial sector, to mitigate the effects of recent and future actions.

Dr. Crabtree: Steve, you had a slide in there that referenced if no compatible regulations and I guess what I'm getting at is, and this would apply just to the charterboats, I suppose, the way our rule is written now, we're prohibiting a charterboat from selling fish caught from the EEZ only, but they could still catch them and sell them from state waters.

If we were to broaden that prohibition and say that federally permitted charter vessels cannot sell snapper grouper, regardless of where they're caught, how much would that change the impacts? I'm assuming that the only state you could really catch snapper grouper in any real quantity in state waters is Florida. I know Florida has some regulations on the book now about requiring the federal permit, but I'm not clear exactly what they are. How much of an additional impact would that be on the charter fleet if we broaden that or have you looked at that or can you say?

Dr. Holiman: I haven't broke out those numbers specifically, but it would entail tinkering with the numbers that we have right now and using this 9 percent and these figures here.

Dr. Crabtree: Really, you don't have any way of knowing -- If a charterboat sold fish, you have no way of knowing whether he caught them in state waters or in the EEZ, correct?

Dr. Holiman: All we have to go on is what's recorded on the form. They have to self-report where the fish originated from. Now, the extent to which you can control the truthfulness of the response is probably limited, since the enforcement of this would occur at the dock, as opposed to on the water. We could come up with some numbers. Whether they would be realistic numbers or not would be subject to debate.

Dr. Crabtree: Of the charterboats -- I don't know if you looked at this or not, but of the Florida charterboats that were selling recreational bag limits, did most of them report that they were from the EEZ?

Dr. Holiman: Yes, across all states. It's basically an EEZ fishery across the entire South Atlantic.

Dr. Crabtree: Just based on that, it sounds to me like if we extended that prohibition on those vessels, that they just can't sell them, it really wouldn't be much of an additional impact from this, since what they're selling they're already reporting is from the EEZ anyway.

Dr. Holiman: Basically, you're talking about the difference between that \$2.4 million and the \$1.4 to \$1.7. You would increase that \$1.4 or \$1.7 a little bit closer to the \$2.4, assuming compatible across all states, but it wouldn't be a big jump, I don't think.

Mr. Currin: Roy, I don't think the total impact would change at all, based on these analyses, because the analysis, as best I understand, is the total sales, whether they came from either state or federal waters. Is that correct? Am I correct in that?

Dr. Holiman: Which numbers are you talking about? The \$2.4 applies to all states and all waters and all dealers, assuming 100 percent compatible regulations and stuff, correct.

Mr. Currin: It would affect that value.

Dr. Crabtree: Here's where I'm coming from. Say a charter vessel comes into the dock and sells their recreationally-caught fish and they're met by a law enforcement agent and they say where did you catch the fish and the guy says I caught it in state water and I don't think we have a case, regardless of where he may have caught them.

We can ask when we get to the appropriate point. I'm sure we could ask law enforcement to comment on that, but I think the way the rule is structured now, we've got a loophole that's going to create an enforcement problem for us and it sounds like, to me, we could probably close that loophole if we made it a prohibition for the federally-permitted charter vessels, regardless of where the bag limit caught fish are caught. That would close that up and so that's something I think we ought to give some consideration to.

Mr. Currin: It sounds like something we ought to give some very serious consideration to as we start discussing 15B. Other questions for Steve on the analysis? Thank you. I think we've got you signed up for -- Is he going to summarize the --

Dr. Holiman: I believe that's a typo and Jack or Kate is going to do it.

Mr. Currin: Somebody is going to summarize the comments that we received on the supplemental draft environmental impact statement. Jack, are you going to do that for us then?

Dr. McGovern: Yes, Mr. Chairman. The comments on the supplement to the DEIS for 15B are included in the briefing book and additional -- The comment period ended on Monday, June 9<sup>th</sup> and additional comments were sent to council members by email. There are twenty-three comments on the SDEIS for Amendment 15. Four of the comment letters were in support of the action, the proposed action, which would require a valid federal commercial permit to sell South Atlantic snapper and groupers.

One comment just indicated it supported the preferred alternative, the council's preferred alternative. One individual felt that allowing bag limit sales would serve as an incentive for some individuals to catch more fish than they normally would and therefore, prohibition of bag limit sales could have some conservation benefits.

Two individuals stated that federally-permitted snapper grouper fishermen have much more invested than others and were concerned that those fishermen who had interests that were purely recreational should not be able to sell fish and have that go against the commercial quota. One commenter felt that sales should be restricted to federally-permitted snapper grouper fishermen because they have more invested in the fishery in terms of costs of the permits and requirements of the vessels and that sort of thing.

Six of the comments neither opposed nor supported the bag limit sales action. Four of the comments kind of were referring to actions that were not being proposed in Amendment 15B. The last letters indicated that they had no objections to the actions in the SDEIS and these were letters from EPA and the Department of Interior.

The remaining comment letters opposed the proposed action for a number of reasons. Eight of the comments indicated that prohibiting bag limit sales would likely have large economic impacts on individuals catching the fish, as well as those who were connected to the businesses. Six of the comments were from individuals who felt they were commercial fishermen, but they did not possess federal snapper grouper permits, but they still felt they should have the ability to sell their bag limit through state licenses.

Three comments indicated that the proposed action would allow those with federal snapper grouper permits to monopolize the market in fisheries. Two comments indicated that the action would have little conservation benefit, since recreational fishermen would still catch the same amount as they previously did and it would not be counted against the quota, but instead, the commercial sector would be able to catch more fish.

Two individuals indicated that the proposed action was not fair and equitable, since it would only benefit commercial fishermen with snapper permits. Two comments indicated there was a conflict of interest, because they felt that there were some council members who had federal snapper grouper permits, which I don't think is the case.

Two comments stated that the catch would continue and there would be no law enforcement benefit, because there would be a black market. One individual stated that the action would put them out of business and another individual stated it would benefit the 1,200 or so federal snapper grouper permit holders, but would have negative economic impacts on a very large

number, 10,000 this person indicated, of commercial fishermen who did not have federal snapper grouper permits and many of them would go out of business.

Another comment indicated that lawsuits would be expected. One fisherman felt that since he had a federal mackerel permit, but not a federal snapper grouper permit, that he should still be allowed to sell his bag limit and anybody with any sort of federal permit should be allowed to sell their bag limit.

One comment indicated there would be substantial social effects, due to the large number of individuals and the paths of participation. Another individual stated that if Amendment 15B is implemented the council or NMFS should purchase his state-issued license and provide him with the opportunity to purchase a snapper grouper federal commercial permit at a reduced cost.

One individual indicated that recreational tracking of data is poor, but it's pretty good for commercial data and since recreational catch will not decrease, bag limit sales should be allowed so that it can be tracked better through a quota system.

Another comment indicated the action would have little biological benefit and the last comment I have is that the individual stressed that anyone selling fish was a commercial fisherman, since they had a valid commercial license and were selling to a licensed dealer and the bag limit was essentially their trip limit. The remaining pages and this email that's been sent to you is just bullets on some of the comments from the different individuals.

Mr. Currin: Thank you, Jack. Any questions for Jack about the comments that have been received since the new analysis? I think the AP -- Rick is going to send the AP's comments over. They're in the middle of discussing something important, I'm sure, and they will not send a representative over. Gregg will receive those via email and can interrupt us or provide them to us at some point before we vote on this issue.

We can open the floor up for discussion of 15B. I know Dr. Crabtree has brought up one point that he would like to consider and if there are other considerations that members of the committee would like to bring forth or if there's just discussion of the new analysis and things that people would like to get on the record, now is the time to do that. I'll open the floor for discussion on 15B.

Dr. Crabtree: I'll bring up one that I think we need to talk about a little more and this is in the reporting requirements section of the document. We have a provision in here that would require reporting from private boat recreational anglers, if selected. Is it 2-6? I think it also extends that they can be required to take an observer, if selected. I don't recall us specifically discussing that, but I guess we did. I guess my question to the council is this really a path that we go down, that we're prepared to go down at this time? I'm looking -- If you've got a copy of the rule -- The draft rule I think is in the briefing book and maybe Gregg knows what its number is.

Mr. Currin: I believe that's under Alternative 2, which is our preferred, and it's on page 62 of 318 in the document. That's the section dealing with monitoring and assessing bycatch.

Dr. Crabtree: In the draft rule, it's got a section called "Private Recreational Vessels in the South Atlantic Snapper Grouper Fishery" and the owner or operator of a vessel that fishes for or lands South Atlantic snapper grouper in or from the South Atlantic EEZ, if selected to report by the SRD, which is Bonnie, must maintain a fishing record for each trip, or a portion of trip. Complete fishing records must be submitted monthly and then it says must participate in a NMFS-sponsored electronic logbook and/or video monitoring program, as required by the Center Director.

I guess I just would like a -- Maybe we did have some discussion of this, but I don't recall us talking about this and I guess what I would like to hear from the committee is do we want to go down this path at this time and do we really think it would be useful to have private recreational anglers submitting monthly logbooks to us? Is this somewhere we really want to go?

Mr. Currin: Roy, as I read this, it just allows us to do that if we so choose. We've talked a lot about trying to generate better data. We've received a lot of comments, particularly from the commercial industry, about how they're required to submit logbooks and landings that all are captured by the trip ticket program, yet we currently have no mechanism for gathering comparable information or sampling comparable sorts of information from the recreational industry.

I don't know that we are prepared right now and certainly it would be a costly effort. That would be part of the limitation of implementing a program like that now, but depending on how the new MRIP program comes out and the suggestions that they make for improving estimates of recreational catch and effort, this sort of approach might provide us with much better information than we could hope to get from MRIP.

I know in the State of North Carolina, with our newly implemented recreational license there, we haven't firmly decided how we're going to try to approach this problem, but there's been at least some preliminary discussion of doing things just like this, with either electronic reporting from selective sampled anglers or some mechanism to improve the accuracy and precision of recreational data.

I don't see this as a big threat to you or anyone else at this point. If we also had in there that yes, by 2009 we're going to implement this program, then I suspect you would be sweating a whole lot more, but I think what this measure does is allow us to proceed down that path if and when resources are available and priorities indicate that this is the type of information that the council would want.

Dr. Crabtree: I'm not overly concerned about it, because it does say who is selected and if no one is ever selected, then it doesn't do anything. My only thing would be do we want to put this in now, before we really know where we're going with this, or do we want to wait and see what comes of the federal registry and MRIP and what the program looks like and then put something in here at that point, when we know?

Right now, it's not clear to me how we would even know who to select, because we really don't have -- We don't have a list of people who fish in the EEZ. I guess we could use the state



license base, but then if they said I don't fish in the EEZ, they wouldn't be selected. There are just all kinds of logistical things that it's not at all clear to me how that would work.

I guess the question is would we want to figure out exactly what it is we're trying to do and how we're going to do it and then come back in and put this in or do you want to put it in now and it's there and I guess if we ever need to use it, I suppose we could.

Mr. Currin: That would be my preference, Roy. How long have we been working on 15B? If we don't put this in now and we decide in a year-and-a-half that yes, we would like to maybe consider developing a program to better assess recreational impacts, then we're going to have to tack it on to another amendment and we're looking at eighteen months there and then implementing the program. I don't know. To me, it makes a lot of sense to have it in there now, so that if we do decide to go this path and funds are available to do it than we don't have to go through an amendment process here or somewhere else to implement a program like this. That's just my opinion.

Dr. Crabtree: That's fine, Mac. I'm not speaking against it really, Mac. I just don't recall us discussing it. If we did, I missed it, because I didn't realize this was in here until I read it in the proposed rule. Maybe that's just me not remembering discussing it.

Mr. Currin: I couldn't tell you what meeting, contrary to Chairman Geiger's confidence in my memory. I couldn't tell you which meeting we discussed it, but I know we did discuss it and have discussed it, in fact, before we included it in this amendment. It's been discussed for a long time, as best I recall. Are there other comments from other committee members on this?

Ms. Merritt: The whole recreational sale aspect of 15B, of course, has been excruciatingly painful for a lot of us and I guess it is time that we bite the bullet and do something about it, but I think too that we need to keep in mind that I think Magnuson-Stevens is the driver behind it, because it's very specific about the fact that recreational is for sport or pleasure and for-hire is recreational and that commercial is for sale.

It just seems -- It still seems like such an oxymoron to say commercial recreational sale, but a couple of things that also I would like to mention and in terms of full disclosure, I am an owner of a snapper grouper federal commercial permit and, of course, we've also had the negative effects of having to live with the regulations and the cutbacks that have ensued as a result of some of the way that recreational sales have been counted and used against the commercial quotas.

I guess lastly, I do think that this is a movement that needs to be done. It's a tough one and it's going to hurt some people, just as other people have been hurt in fisheries with regulations in the past, but we need to close up this loophole that we created and I say we. It's a combination of the states and federal management over time, creating this loophole in dealing with this recreational sale, and it's about time we addressed it.

Mr. Currin: George and specifically, if we could, let's talk about this issue and get clarity on this issue that Dr. Crabtree brought up. Does anybody else feel that there's a problem with leaving

that ability to monitor or sample the recreational industry if we so desire? Roy said it's not a big deal to him, but is everybody okay with that? There's no desire to remove that? Okay. Other issues in 15B?

Mr. Geiger: I was going to talk to that issue, but you pretty much summed it up.

Mr. Currin: That's fine and go ahead. Have you got more?

Mr. Geiger: No, it's probably the only thing in 15B we haven't had any public complaints about. It's a non-controversial issue, I think the first one since I've been on the council that nobody has tried to sink the ship over. Like you say, it's a space holder and if we try to do something like this, anything like this, in the future, we're looking at a two-year delay in doing it. I trust your memory that we did discuss it at some point. I would propose just leaving it in and moving on. It's not a ship sinker.

Mr. Currin: I'm getting the indication from the rest of the committee that's an okay thing to leave in for now. It doesn't obligate us to anything. Are there other issues on 15B? Roy, you brought up one and I don't know about the implications of adding something such as prohibiting charter and headboats from -- Federally-permitted charter and headboats from selling any snapper grouper from federal or state waters and whether that's a major change that's going to require more analysis or anything else. You guys will have to make that assessment or certainly we need to hear from the rest of the committee about whether they think that's an item that we would like to include.

Mr. Waugh: The action that the committee and council have approved thus far is to prohibit all sales of bag limit. Now, when you get into the regulations is where you try and tighten that down as much as possible. Doing this is totally consistent with what the council has done and I don't know that you have to have all the verbiage from the regulations in the amendment document.

I think it certainly would help getting it on the administrative record here that the council is fully in tune with that and agrees to that, if indeed you do, but that's just more getting into the specifics of how you implement a measure from the amendment. We want to ratchet it down as tight as we can if we stay with our preferred alternative. It doesn't seem to me to need any changes in the amendment.

Mr. Currin: In the amendment per se, but we would need a motion from the committee, if that's what we wanted to do, to include that at least in the regulations or wherever else it needs to be included.

Dr. Crabtree: I think at minimum the amendment would need to clarify that that was our intent. What really focused me on the issue was clearly the draft regulations, which you're going to have to deem as appropriate, refer to bag limit fish caught in the EEZ. We need to be clear and I think we can get some advice from the NOAA Office of General Counsel about are we on solid ground with this and I think we could get law enforcement and the enforcement attorney, Karen Raine, is here to give us some comments on that if we want to go down that path.

It does sound like to me that it is within the scope of what we've analyzed and it does sound like to me that the charterboat -- Dr. Holiman said that the charterboats largely are reporting that all of the snapper grouper they're selling are from the EEZ anyway and so it appears to me like we would be okay with that and we would just have to clarify the intent in the document and then staff would have to make some tweaks to the language and we would have to revise the regulations to make it clear. I don't know if Monica wants to add anything.

Ms. Smit-Brunello: I agree. I think we should clarify it somewhat and I appreciate Gregg's comments and I guess I would like to hear from members of the committee about it, particularly the state directors, on the snapper grouper fishery as it exists in their state waters and those sorts of things, and I would like to hear from law enforcement.

Mr. Currin: I guess there's two ways we can handle that. If we want input from law enforcement, we could get that at the table, if they're prepared to do so, or we could allow you and Roy and whoever else to have those conversations and then vote on this issue in a motion at full council when we consider 15B or we could vote on it today in committee.

I would like, at the very least, if we plan to go the full council route to add this measure, a good indication from the committee that this is something that the committee would like to do. I would like to have some comments from the committee and Monica indicated comments from the state directors or state representatives might be a good thing.

Ms. Shipman: Ours is non-existent in state waters. In fact, in some of the regulations, I think there's the discussion about it's a rebuttable presumption that the snapper grouper came from federal waters, but my question really is of the State of Florida. I think that's where this would most likely be an issue and I'm interested in knowing what the State of Florida allows with regard to sale of fish.

Mr. Sharp: To your point, Susan, the State of Florida requires, in addition to our state licenses and restricted species permit, a federal permit to harvest snapper groupers in excess of the bag limit from state waters.

Ms. Shipman: They would have to have the federal commercial permit and the federal for-hire permit, if it's coming from the for-hire sector?

Mr. Sharp: Correct. Now, there is a bit -- I'm stepping out a little bit on the legal side here. The way that rule is written, it says harvesting for commercial purposes and the definition of that, in our rule, is harvest for commercial purposes is intent to sell and so there's that word that's "intent" and so it gets into a gray area in the legal aspect there. That's my understanding of it.

Mr. Currin: There are some species and, Brian, you correct me if I'm wrong, but in North Carolina, it's pretty much like Georgia. It's more or less a non-issue. A few black sea bass are harvested in state waters and occasionally some gag groupers and a stray or lost rare species of something else.

Mr. Sharp: To that point, Florida is completely opposite there, where most species of shallow-water anyway snapper and grouper are potentially available in state waters.

Mr. Currin: Other comments or the desire of the committee to try to include this in 15B? Okay with it or not okay?

Mr. Geiger: I would speak in favor of including it and making it as airtight as possible right from the get-go.

Mr. Sharp: It's unclear in my mind if by including that that would also include state waters and what the jurisdiction is there. Roy mentioned you would want to hear from the legal aspect of that and I think that needs to be cleared up as well before we proceed.

Dr. Crabtree: It would mean if you have a federal snapper grouper charterboat permit that you can't sell fish caught under the bag limits, regardless of where you caught them, and it's a condition of your permit. That's solid and we've done that in many cases. What I was referring to what we need to talk to Monica is to make sure that we're procedurally okay with this tweak on it, but I think we ought to do it. I think we ought to make sure that our regulations are enforceable and I think if we don't do this that we're going to have an enforcement issue.

Ms. Smit-Brunello: I think procedurally -- I'm going to check with Mike McLemore in our office, but I think procedurally we would be okay. We would discuss this on the record and I don't see why it would need to go out for a NEPA supplement or anything of that nature, because it's really within the realm of the action that we've been discussing.

I would like, though, to get enforcement comments about this and there are other federal fisheries in which we make it a condition of the permit to abide by federal restrictions, regardless of where they fish, meaning even if they fish in state waters they agree that they'll abide by the federal regulations, because they chose to have that permit.

Mr. Currin: One thing that just occurred to me is we need to be careful in how we write this. There are some people who hold both charter/headboat permits and either federal limited or unlimited snapper grouper permits. We want to make sure that they're allowed to -- That we don't prohibit them from selling snapper grouper because they have a charter/headboat permit if they're potentially commercially fishing in some other manner and not on a charter trip.

Mr. Robbins: I just wanted to say that given Roy's explanation of if you were to pass a regulation, I don't see that that would be a problem to enforce. Of course, remember just landing the fish is not going to give us a violation. It's the actual sale. That's something we've talked about for several years now, these backdoor sales to restaurants and fish houses and so forth.

Ms. Smit-Brunello: Actually, my point was to your point, but there's already a requirement in the regulations that allows a charter vessel or a headboat permit to also have a commercial permit, but it states that a charter vessel or a headboat may have both a charter vessel/headboat permit and a commercial vessel permit. However, when a vessel is operating as a charter vessel or a headboat, a person aboard must adhere to the bag limits.

Mr. Currin: That satisfies me.

Dr. Crabtree: Hal, if we make this requirement apply to the federally-permitted charter vessel as a condition of the permit that would solve some of your problem. Yes, you would still have to catch them in the act of selling the fish, but you wouldn't have the burden on you of providing whether he caught it in federal or state waters, because he can't sell them regardless. It seems like it does close at least that part of the loophole, right?

Mr. Robbins: That's what I testified previously to. It would take care of that problem as far as trying to determine whether he came from the EEZ or state waters.

Mr. Boyles: I'm not on your committee, but just to speak to the State of South Carolina's perspective, we have the specific code section codified in the South Carolina code that automatically tracks as state law regulations promulgated under Magnuson or the Atlantic Tunas Act and so I think we're covered from that perspective as well.

Mr. Swatzel: I just want to make sure I understand. If a charter or headboat has a for-hire permit and also has a commercial permit, they could still sell pretty much any fish they caught, even if they were under the bag limit, correct?

Dr. Crabtree: The way we've set this up in the regulations is if they are on a charter fishing trip, then they're fishing under the bag limits and they cannot sell the fish. Now, if they have the commercial permit, they can go commercial fishing and they can sell those fish, but they can't be taking for-hire or paying passengers out when they do that. There's a section in the regulations that lays all that out.

Mr. Currin: You can't charge your crew to go out and help you commercially fish. Is there other discussion on this issue?

Ms. Shipman: I noticed Mike just sent us by email some of the AP recommendations and endorsements or motions, I should say, with regard to these sales. Is somebody going to go through that for us?

Mr. Currin: Yes. As soon as we finish this discussion, we're going to get Mark back in here to go through -- They wanted specifically to go through their comments on 15B with us. As soon as we lay this issue to bed and if there are no other issues within 15B that someone on the committee wants to discuss or further discuss, then that will be our next approach. Anything else on this particular issue?

I'm getting an indication from everybody, roughly -- I haven't seen anybody speak in opposition to trying to include this, assuming there are no administrative or law enforcement snafus associated with it.

Ms. Shipman: I don't object, but I just want to make sure that we don't run afoul of any preempting state law, but based on what Monica has said, I think as a condition of getting that

permit if you agree you're going to fish by the more restrictive of the federal regulations, you're fine. I'm very sensitive to stepping on state's rights and I want to make sure that we do that properly, if it's done.

Mr. Currin: Everybody thinks, with the caveats that we've mentioned or concerns that have been mentioned around the table, that this is something that we might consider adding to this amendment at full council and is that, Gregg, in your opinion probably the best way to handle it, since we've got to gather some information?

If we get back at some point and everyone is satisfied, then we can go ahead and provide a motion to the council from this committee now. I just want to make sure that Monica and Roy and all them are comfortable with proceeding that way. Mark Marhefka, welcome. Thank you very much. Roy, have you got something else?

Dr. Crabtree: One more real quick one. In the reporting requirement part, where we talk about electronic logbook requirements and observer coverage, there's a statement in there that says compliance with the reporting requirements of this paragraph is required for permit renewals. The regulations have been drafted so if someone doesn't comply with either the observer requirement or with the electronic logbook requirement that their permit may not be renewed.

I guess, according to my staff, the amendment itself doesn't specifically say that and so I just want to confirm that that is our intent. That is how we handle paper logbooks. You've got to submit them all in. I just wanted to confirm, Mac, that that is our intent.

Mr. Currin: It certainly was my understanding, Roy, as we developed this. Is that everyone else's understanding as well? Does anybody recall anything different? I believe that's the intent of the committee. Mark, come on up. I'm sorry to make you wait and I appreciate you coming in. Find a mic wherever you feel comfortable.

Everybody should have at least email copies of the AP's comments on this. I have a hard copy here, which will help me, and, Mark, I'll just turn it over to you and let you go through and perhaps at each issue if there are questions from the committee or comments then we'll take those one at a time.

Mr. Marhefka: Thank you, Mr. Chair. First of all, I guess on Amendment 15B here, the endorsement, you guys all have this in front of you, is it reads the action to modify the sale restriction in Amendment 15B, the for-hire harvest would count towards a for-hire ACL, which we understand has not been put in place yet, but we were just -- Our concern was that we didn't want it to go and come off of the commercial quota and I guess it's just going to go and sort of be split between the two, between recreational and commercial, I guess is my take on how that's going to go and work. That's on that particular motion.

Our second motion here was to adopt Alternative 2 as the preferred alternative for the action to modify the sales restrictions in Amendment 15B. I believe that's what was in the document. Our Motion 3 was move that the council develop the permits and licensing to allow bag limit sales under the ACLs to be developed for the for-hire industry. Move that the for-hire harvest

count towards the for-hire ACL. It did fail. The motion failed on that particular one. I'm sorry that I didn't go and say that. The Motion 1, it failed and Motion 2, it carried and Motion 3, it failed.

I think the general consensus in the room was that we want to go and we want to remove the sale of recreational caught bag limit fish, the bottom line. There's many different reasons why, whether it be the quality of the product to our markets being disrupted, but that's pretty much the general consensus of the room, except for, of course, the for-hire sector, which I sort of understand the feel for where they are, because that's the beginning of where the commercial fishery all came from, is a lot of it is the for-hire sector.

We also -- I think there was a line drawn between the Dade and Monroe County line, that they were also wanting to go and talk about as far south of there, that they would be able to go and continue the sale of the for-hire bag limit, but it would have to come out of the for-hire ACL.

Mr. Geiger: Thank you, Mark. Now you just embarked on another path off of this course you were on here. You were talking about developing a separate region and allowing the for-hire sector to sell their recreational bag limits.

Mr. Marhefka: That was correct.

Mr. Geiger: Is that a motion that was made?

Mr. Marhefka: I thought it was made, but I don't see it in here. Maybe it's farther down, but I thought we made that motion. Maybe it got amended and got kicked out, but I do not see it up in here.

Mr. Geiger: Maybe it's the first one on the second page.

Mr. Currin: That's Motion 6, Mark, on the top of the second page, I think.

Mr. Marhefka: Okay, that is. Right, that was Amendment 16, but that same discussion came up that did not come in under a motion. That was just one of the open discussions that we had and I just wanted to share that with you.

Mr. Currin: Those first four motions then are the only ones that captured the discussion and the intent of the AP regarding 15B?

Mr. Marhefka: Actually, it's just the first three motions, I believe.

Mr. Currin: I'm sorry, the first three motions. Mark, did you want to go through the other recommendations from the AP on 16 and 17 at this time or do you want to come back when we begin discussing 16 to provide input there?

Mr. Marhefka: Either I or Charlie or somebody could come back in during that time. If you want me to, I'm more than welcome to go over these. It might be more useful to you if you went

through them after your own deliberations on it, instead of me going and running forward.

Mr. Currin: What's the committee's pleasure on this? I'm certainly easy.

Dr. Crabtree: My preference would be to deal with one amendment at a time. I think it will get confusing to jump from one to the other.

Mr. Geiger: I agree. I think we should do them one at a time.

Mr. Sharp: As do I.

Mr. Currin: If that's not too much trouble, then we'll come bother you again when we get into 16.

Mr. Marhefka: That's fine. Just look for myself or Charlie.

Mr. Currin: We'll make sure somebody from the AP is over here and I suspect, but please clarify this for me, that -- Danny Hooks wanted to take five minutes to address the committee and I suspect that it's on issues related to 16. Is that correct or is it a more generic statement he wants to make?

Mr. Marhefka: It's very generic, but he feels very adamant about wanting to go and make the comment that he wants to make.

Mr. Currin: That's fine and I told him I would allow that and so whenever the most appropriate time from his perspective and your perspective -- Maybe it would be after 16 would be an appropriate time to do that. Thank you, Mark, and I appreciate it. We've received the input from the AP on 15. It appears that after three motions that the majority of the AP is in agreement with our preferred alternative for dealing with bag limit sales. Any other discussion on 15B?

Mr. DeVactor: There was a question as to the wording of the alternative for snowy grouper allocations. The current preferred alternative is to specify allocation for snowy grouper at 95 percent commercial and 5 percent recreational, as you all know. The wording in that alternative specifies the poundage associated with each of those and I'm not sure if you all heard the presentation on going from weights to numbers. We have wording in the amendment right now and I just want to get your approval of that looks all right to change to specifying the numbers for snowy grouper.

Dr. Chevront: Just to get clarification, that's just for the recreational fishery?

Mr. DeVactor: Yes.

Mr. Currin: Keep in mind Erik's analysis that he presented today. At first, I thought that perhaps somewhere in between those two would be more appropriate, because of the size difference in the recreational fishery and the commercial fishery, but after looking at the average sizes that Jack provided from the commercial fishery and understanding, of course, that at least



in some areas the anglers are targeting these very large fish way offshore when they can and are landing some numbers of them. We don't have a good handle on how many, but that's certainly going to skew the average weight, or has that potential.

Dr. Chevront: Also, if we go through with Amendment 17 and extend the management unit further north, that also speaks to probably having a larger average weight of fish, to account for those northern North Carolina/Virginia fish that are being targeted now. I think it's probably a good idea to leave it as it is, because I would be afraid that on further analysis later on, if we expanded the management unit, that we might have to go back and revisit this again and I would just as soon leave it as it is now.

Mr. Currin: At 553 fish, I can guarantee you that we're going to have to go back and revisit it again. It raises the whole question of how we constrain the catch and it actually raises the question, as some of us have talked about, of any viability of any recreational fishery at all for these deepwater groupers.

Dr. Crabtree: That's what I was going to bring up. I'm looking at the MRFSS estimates and we're well over five-hundred-and-some-odd fish and I don't know that going to one per vessel is going to get you down to that. I guess the question is if we go ahead and specify the allocation here and then assuming that's approved by the Secretary, where do we come in and make that adjustment? Are we envisioning doing that in Amendment 17, where we set the ACLs and AMs or would we do a framework or what? Has anyone thought about where we would retackle this?

Mr. Currin: Roy, hold that thought just for a second. I cut Rick off and I want to make sure he gets through and we understand what we need from him and then we'll go back to that point and discuss that. Go ahead, Rick.

Mr. DeVictor: This is on page 4-1 of the document and we have it on the screen here. What we did is we simply struck through the language that said "and the recreational allocation would be 4,400 pounds gutted weight" and put in language that the recreational allocation would be based upon numbers of fish and will be based upon the best available information at the time.

The question is should we put the actual number in the wording of the alternative, which would be 523, which makes sense to us, to specify the actual numbers of fish that would come about from this?

Mr. Currin: It makes sense to me to put the numbers in there and with the explanation of the data upon which they're based or the years upon which they're based, so that it's clear that that's what's in place now, but if the average weights change, then that number is going to change, based on sampling and information available to the council. Does that make sense to everybody? I think the numbers definitely should be included. Otherwise, people are lost.

Is everybody okay with that? As of this year, it's 523 fish. I'm seeing everyone nod in agreement, or at least no heads going the other way. We should probably include that and so we need a motion to do that, Gregg? I would entertain a motion from someone on the committee to include that number value in Amendment 15B, equating to the status quo of 4,400 pounds.

Mr. Geiger: **I'll go ahead and make a motion that we specify the recreational snowy grouper allocation as 523 fish.** Do we want to say which is equivalent to the weight or equivalent to the poundage of 4,400 pounds gutted weight?

Mr. Currin: Motion by George and second by Brian. Is there discussion on this motion? George, do you want to read it or do you want me to?

Mr. Geiger: **I'll read the whole motion. It's to specify the recreational snowy grouper allocation as 523 fish (equivalent to 4,400 pounds gutted weight).** Speaking to the motion, it's obvious that 4,400 pounds -- The rationale we did this is really the only way that we can appropriately monitor the allocation for the recreational sector. To try and do it in poundage is impossible and I'm not sure that monitoring at 523 fish is possible either and if I can, I would like to speak to Dr. Crabtree's comments after we further discuss this motion and vote on it.

Mr. Currin: From my perspective, I still have concerns. I think this solves part of our problem with estimating recreational catch, but we still have what I see as the major problem of a highly variable inter-annual estimates, due to the rare occurrence of this fish in the MRFSS sampling regime.

I think we're still going to see numbers -- The oscillations are not going to be as extreme, but the oscillations are going to be there, around whatever this true value is for the recreational catch, until we get some more intensive effort and ability to sample these rare species. Other discussion on this motion? **Any objection to this motion? Seeing none, that motion is approved.** Rick, what else, while we've got you here? Anything else we need to clear up for the team before we get back to Dr. Crabtree's point?

Mr. DeVictor: Just one thing that Gregg brought to my attention. In the overview document, we have highlighted the exact sections that have changed since March. Most of the document is the exact same, but we have listed on page 4 of the overview document for the Snapper Grouper Committee the sections, just to make you aware of that, but they weren't major changes. I think that's all I have on 15B. That was the major thing that we talked about prior.

Mr. Currin: I assume everyone has had an opportunity to run through that Section G and the overview. I did not have any questions about any of the changes that had been made. Any questions from anyone else on the committee or concerns? Okay, I see none. George, go ahead, to Roy's earlier point.

Mr. Geiger: To Roy's earlier point, in regard to what we're going to do in regards to how we're going to monitor this fishery and what we're going to look to it to be in the future -- A couple of meetings ago, when we talked about the snowy grouper allocation, I made a plea in one of the alternatives to increase the allocation to the recreational sector slightly, in an effort to try and preclude what we've now seen come to pass in terms of a very low poundage allocation to the recreational sector, which we knew was going to be exceeded almost immediately, thereby eliminating our ability to end the overfishing that we were required to comply with.

This is going to be a continuing problem, 523 fish. We went to a one fish bag limit with the intention of creating a bycatch fishery for both the commercial and the recreational fishery and if it's still a bycatch fishery, obviously those measures are not enough and going to one fish per boat I doubt will do that as well.

We're left with really basically one option here and that's to look at closing the fishery, as Dr. Crabtree alluded to. The problem with what is you still have potential bycatch if you allow people to prosecute other deepwater species and that becomes a dilemma of now what do we do? If we close snowy grouper, it appears to me that there might be a requirement to look at closing the entire deepwater complex and I'll leave it at that. Roy has got his hand up.

Dr. Crabtree: Remember we got an ABC of zero for warsaw and speckled hind from our SSC today and so unless something changes between now and the next SSC meeting, it looks to me like we're going to have to close those fisheries down. Right now, I think they're at the one per vessel limit and so I think to close the remainder of the deepwater grouper fishery that there's just yellowedge, which is rarely caught, and I'm not sure what else is even in it, to be honest.

Mr. Currin: The conundrum is gray tilefish or blueline.

Dr. Crabtree: That may be a different issue and I don't have an answer to that one, but at least in terms of grouper, it looks like we are looking at closing it and I guess where we could do this, and maybe Gregg could advise us, would be in 17, where we set the catch limits and the AMs, and we could go ahead and deal with it there.

I don't know what you're going to want to do on the commercial side with snowy. We're going to have to figure that out, but I don't think we have to figure all that out today, but I think we ought to ask staff to go ahead and in Amendment 17 look at some alternatives on those lines or we may have them in there already.

Mr. Currin: We're going to be discussing 17 later on, but this is good discussion and it will save us some time. Gregg had a comment he wanted to make.

Mr. Waugh: Rick just mentioned to me that we've got alternatives in there that would be more restrictive on snowy, but Roy is exactly correct that the SSC has given you zero ABCs for speckled hind and warsaw, but remember we were scheduled to give final approval to 15B at the March meeting and we're trying to finalize it here and if you ever want to get rid of it, I suggest you finalize it here and deal with these issues in 17, because they're much bigger issues and that's the amendment that we will have all the assessment information for all the overfishing species.

Mr. Currin: That makes a lot of sense and, again, this discussion, I think, will perhaps save us some time when we start 17, discussing 17.

Dr. Crabtree: I agree and I don't think any of us, Gregg, are contemplating adding things to Amendment 15B right now and the only point I would make is I believe we have the update on the snowy grouper assessment scheduled for 2010 and so it's possible that -- Remember that we

tried to get on a constant F kind of trajectory and so maybe we get to 2010 and we'll be able to increase the TAC a little bit, so we can have a fishery again. At least that's something that we can promise to the fishermen, that we're going to relook at it before too long.

Mr. Geiger: He started it and it was like putting your foot in a hot bathtub. It's always best to get a little bit of your foot in and get used to it before you get in the water. This could be a prelude to 17 and we know it's going to be tough and so everybody start thinking about it.

Ms. Shipman: As we think about it for future amendments, I think we also need to go back and explore the suggestion Ms. Merritt had, I think in North Carolina maybe a year or so ago, about tags, issue tags for that certain number of fish, either through a lottery system or whatever. I think that's got a lot of merit and it's used in other resource management and we need to think about that and maybe start in between now and future amendments exploring how we might do that.

Mr. Currin: At this small number, it's certainly -- If it remains here or even doubles to a thousand fish and we can justify having a fishery, then perhaps some tag system might be appropriate.

Dr. Crabtree: You know when we get to the Comprehensive ACL Amendment that we may have other fisheries with these very low levels like this. I doubt snowy is going to be the only one.

Dr. Chevront: If you're going to go to tag system, put a big price on them and let the people who are buying the tags help to pay for data collection.

Mr. Currin: Again, we can have this discussion at a later time. We've got 15B on the table here and I would like to ask if there are any more comments on 15B and if not, we need a motion from the committee to approve 15B for -- Gregg tells me that it would probably be a good idea to reaffirm our preferred alternative on the sales provision. I believe it's Alternative 2 and so I would entertain a motion from the committee to reaffirm our preferred alternative.

Mr. Geiger: **I would like to make a motion that the Snapper Grouper Committee reaffirm our preferred alternative as Alternative 2, in regard to the sale of bag limit caught fish, snapper grouper.**

Mr. Currin: Motion by George and is there a second? Second by Rita Merritt. Is there discussion on that motion? **Any objection to that motion? I see none and the motion is approved.**

Mr. Sharp: From Florida, we as FWC are supporting this amendment. We have not, however, had direction from our commission. Our commission meets tomorrow, but in the interest of moving this to council, I'm going to support this today.

Mr. Currin: As you notice, Mark was called away, I presume to attend the council meeting elsewhere in Florida.

Mr. Sharp: Mark has gotten to where he is by impeccable timing, apparently.

Mr. Currin: Now we need a motion to recommend to the council approval of Amendment 15B for secretarial review.

Dr. Chevront: **I would like to make the motion that the committee send Amendment 15B to the council for review, recommend that the council send Amendment 15B to the Secretary of Commerce for review.**

Mr. Currin: Motion by Brian. Second by David Cupka. Any discussion on that motion? **Any objection to that motion? I see none and so that motion is approved.** We need to approve the proposed rule as well that will go along with this and the draft proposed rule is Attachment 12. We've pulled that up and discussed one point that Dr. Crabtree brought up and we were okay with the way that's worded. Any other discussion on tweaking the proposed rule?

Ms. Smit-Brunello: By the time full council comes around, I think we'll have to have tweaked, that's a good word, the alternative on the bag limit sale some and then the rule will have to be changed. No, it won't have to be changed. I think it's fine, but there are a few other things in the rule that will have to be changed slightly. We can discuss that at full council. I don't think you need to discuss it any further today.

Mr. Currin: Keeping in mind that this is a committee recommendation to the council and before it leaves the house, the council will have to approve it and so some minor tweaking might be considered.

Mr. Geiger: **I make a motion that we approve the proposed rule for Snapper Grouper Amendment 15B.**

Mr. Currin: There's a motion by George to approve the proposed rule for Snapper Grouper 15B. Is there a second? Second by Brian. Discussion, further discussion? **Any objection to the motion? Seeing none, that motion is approved.**

Dr. Crabtree: One other thing we're going to need to do at full council, because it's possible that somewhere along the way we will have to make an additional tweak to the rule, and so we're going to ask that the council designate the chairman as the redeemer of the rule, in case we have to make a change, so that he can then have your authority to deem that the change is okay. That's something we'll need to talk about at full council. George will need to be the redeemer, in case we need to deem changes.

Mr. Geiger: I've been referred to as the redeemer before.

Mr. Currin: We might need a vote on confidence for our chairman, to allow him to do that from the committee.

Dr. Crabtree: I think, Mac, we can do that through a motion at full council, after we vote to send

to the Secretary and deem it and all that.

Mr. Currin: That's fine. I don't think anybody will have that problem. I certainly trust him and if he has a problem, I'm sure he'll call somebody. Anything else on 15B? That takes care of it so far. Our next agenda item is Amendment 16. We've got about another fifty minutes today, at least, to jump into that. Gregg, I think you're scheduled to review the public comments. Keep in mind we have received some more via email. Everybody should be receiving those as they come in or have received them. Gregg, I'll turn it over to you, whenever you're ready.

Mr. Waugh: The first document to call your attention to is Attachment 17 in the Snapper Grouper Tab. This summarizes the written comments that were included in the first briefing book and this summary was done by Gregg Swanson, who is one of our interns in our office, and Kim also helped her with this. As you can tell from the actual comments that you have received, we got a lot of comments.

In terms of letters, we eighteen letters, forty-three emails, forty-four form letters, five petitions, for a total of 110. I'm not going to go through all of the summary, but Gregg has broken this out tracking the types of correspondence received and broken it out and given some specific comments and towards the back, there's a table that breaks it out by action item and indicating how much support there was for each of the alternatives that we have in here.

In addition, you received, in the second briefing book, Attachment 16B, that has some comments that we received after the first briefing book and there, we got sixteen comments. One was from the North Carolina Marine Fisheries Commission and the North Carolina Marine Fisheries Commission indicates that they remain concerned that due to data limitations that the assessment may not provide an accurate estimate of the stock status, indicating that state-by-state quotas would be serve their fishermen and if that's not possible, they would definitely like to see a split by regions.

In addition, you have all the public hearing minutes. Those have been provided to you, as have the videotapes from those. In Key Largo, we had twenty-six speakers. Thirty-six people attended. We had a lot of input there, as we did at each of the hearings, disagreeing with the data and the conclusions of the stock assessment. In Key Largo, we heard a lot about the impacts associated with the spawning season closure for the shallow-water groupers, where they don't catch very many gag.

In Cape Canaveral, we had thirty speakers and sixty-nine attendees and we heard a lot more about the impacts in that area. Pooler, we had nineteen speakers and sixty attendees. In Charleston, we had fourteen speakers and twenty-six attendees and New Bern was the final public hearing and twenty speakers and thirty-four attendees.

Again, the predominant concern, after dealing with the differences about the quality of the data, was that for the most part the concern was about including the shallow-water groupers and just not understanding and agreeing to expanding the gag closure to cover all shallow-water groupers. There was a little bit of input about the allocations, generally supportive of the almost 50/50 allocation for gag.

On vermilion, we heard a lot about disagreement with the existing stock assessment. Right off the bat, we told them about the process to adopt the new stock assessment and that addresses concerns. Of course, everybody is waiting to see what the new stock assessment does show.

The circle hooks and venting tools were a big issue and that started in the Key Largo hearing particularly, pointing out in large part that yellowtail and mangrove snappers are chummed to the surface and just don't lend themselves to the use of circle hooks. They were generally supportive of circle hooks for things like groupers, but also pointing out that vertical gear and bandit reel that circle hooks would be difficult to use in how they are fished at this time. That basically carried on up the coast.

As you got farther up the coast, you heard too that triggerfish would not work well with the circle hook. In general, agreement for venting, but concern about how you do that and training people how to do that and concern about the enforcement issues associated with that. That's a quick overview of the comments. You've got all the material in your briefing book.

Mr. Currin: We've received comments from the SSC on 16 as well and we'll go get Mark after we entertain any questions for Gregg or have any comments from the committee on comments that were received to date. Any questions for Gregg about comments or any comments related to that?

Mr. Geiger: Thanks, Gregg, for that recap. In addition to that, I'm sure that each one of us -- I'm making that statement, because I know I've been contacted a lot and I've talked to quite a few people who I have approached from my side, independently, and requested their input on gag and what they see and what they believe needs to be done.

To be honest, anecdotally, from my conversations with fishermen, most people, most of them, not all of them, but most of them, have indicated that there's a problem with gag and we need to do something. A lot of them won't come forward and say that publicly, because of their work and their profession, but most people see problems with gag.

We heard it from Bill Kelly that down in the Keys there's a problem. They're not catching gags anymore down there. I know I used to catch a few gags and I talked to Roy and he caught most of his on the back side. We caught gags out front and I think that we took -- There have been a lot of comments about the data, but the data is what it is and we're required to use the best available data that's been adjudicated and it's not as good as it could be, but I do have confidence, in speaking with Dr. Ponwith, that the Southeast Science Center is making a concerted effort to make improvements to that data incrementally, as funds become available.

They have reports to that effect and I truly believe, from my perspective, that we need to take some very strong actions on gag grouper over here to recover this stock and get it back to where it's a sustainable fishery.

Mr. Currin: Any other comments? Gregg has gone to get Mark Marhefka to go through the AP's deliberations on 16.

Mr. Sharp: I guess I'll weigh in now. This is going to be a big one for the State of Florida. I think we've already seen the precedent set with what we did with red snapper in the Gulf. Our commission is very hesitant to manage through closed seasons and this is a four-month closed season we're looking at now and you heard a little bit through the public comment and we'll hear more a little later, I'm sure, through the AP and public comment, that it's going to be seen as overly punitive to Florida.

In the interest of looking down the road to state consistency, what we would like to ask, acknowledging the short timeline we're on here, is to continue to perhaps explore other alternatives that could result in a shortened closed season, be it trip quota limits on some sector, on one sector or the other or both, or any other combination in the toolbox that could perhaps make sure we've looked at this from all angles before we proceed much farther with this.

Mr. Currin: Other comments?

Mr. Swatzel: I just have a question, talking about receiving comments. I think it was a day or so ago that we got an email of this review of estimators for data limited fisheries, talking about the natural mortality rate of gag grouper in the South Atlantic Bight. I don't know if anybody has read that or if staff has reviewed it.

It was I guess produced by the Southeastern Fisheries Association. I don't know enough about calculations to know, but it's something that we have received and whether or not staff has reviewed that or anybody has evaluated that document or that study.

Mr. Currin: I've got George, but before that, keep in mind the comments that John Carmichael made earlier about the workshop they've got planned to look at natural mortality. The release mortality is another thing I've heard people having real concern about the estimates for the values that are used and what we've got is based on the studies and the science that's been done to date in the Atlantic. John, I don't mean to force you up here, unless I said something wrong or stupid.

Mr. Carmichael: I've just seen a copy of it. Staff hasn't formally reviewed it and the SSC hasn't formally reviewed it. All we can say is that the natural mortality estimates are one of the things that's discussed in the SEDAR workshop and reviewed at the assessment workshop and reviewed by the review panels and as the document shows, there's a lot of different ways of arriving at natural mortality.

The tendency in SEDAR has been to use the base estimates from the Hoenig method that deal with maximum age, primarily, because there's a lot of uncertainty in the growth parameters that affect a lot of the other estimates. Then that's scaled through the Lorenzen approach.

We actually had a subsequent special review of the gag assessments in both the South Atlantic and the Gulf of Mexico and red grouper to look at natural mortality in detail and so essentially, if there's questions about that, the place to take that would have to be back to the SSC and see if they want to look at it further.



Mr. Geiger: That's what I was going to say, Tom, that the Gulf Council SSC has received the same presentation and they reviewed that document and perhaps Dr. Crabtree or Dr. Ponwith can speak to the results.

Dr. Crabtree: The Gulf Council scheduled an SSC meeting and one of the items that they looked at at that meeting was this report, which is a report by Dr. Trevor Kenchington, who is a consultant from Canada. The report that you have on the South Atlantic is very similar, I think, to a report on the Gulf, but it addresses, at any rate, similar issues.

It was reviewed by the Gulf Council SSC and they advised the council to move forward and take action based on the assessment and that the assessment remained the best available science. I don't know, Bonnie, if you want to add anything.

Mr. Currin: Any other general comments here? We will go through this document and at least touch on the management measures and the other alternatives, to make sure everybody is comfortable with them. That will probably happen tomorrow. Gregg has gone to get Mark Marhefka, so that we can receive the AP's input, and I guess he'll be here shortly. Anything else while we're waiting for those guys? Again, we're going to -- Bill is certainly interested in discussing the issue of other alternatives that might be considered as we go through the document and look at various management alternatives.

We received a lot of input on the circle hooks and I've had some discussion with some others that might indicate that we would rethink aspects of that. We'll go through all those issues, Bill. Until Mark or Charlie or someone from the AP gets in here, if anybody wants to quickly run to the restroom or grab a cup of coffee or something -- Literally five minutes. We're going to start at 5:30 again with Mark and finish him up today and then we'll start out anew with 16 in the morning.

(Whereupon, a brief recess was taken.)

Mr. Currin: Let's get everybody back to the table, if we can. Charlie is involved in a discussion with the AP and his recommendation was that we just go through their motions on 16 and if there are questions that we need to ask of them, then we can go get Charlie or somebody to come over here and address questions.

I would suggest that we at least have some discussions of their motions as we go through them. It would be good if we could do some of that today, but certainly it's going to impact -- Their recommendations are quite different from our preferred alternatives on a number of these measures and we need to be mindful of how we address their recommendations.

Starting with Motion 4, and Gregg has got these up on the screen here as we go through. I'll read them, if that will help. Move that the council implement a commercial forty-five fish limit per vessel per trip for the aggregate of gag, black, and yellowfin grouper and do not change the regulations for the other groupers. Again, a concern about species that co-occur or can be caught on these gag trips, like red grouper, for much of the South Atlantic, and in the Keys, black

grouper, which we've heard a lot about. That motion was passed ten for and four against.

I'm not sure that we did any kind of analysis that specifically addressed this, Gregg, or if you're aware of some that was similar that might give us some indication of how a measure like this would relate to the reductions that are required for gag.

Mr. Waugh: There is no alternative in the amendment that looks at a trip limit. We do have an appendix, Appendix E, that includes potential management measures for gag. This is a document that Jack has put together and we've worked on over the development and it does have some analyses of trip limits in it.

Mr. Currin: Is that Appendix E of the public hearing draft? Is that where that's located?

Mr. Waugh: That's correct. If you look at your briefing book under Amendment 16 and then it's Appendix E, Potential Management Measures for Gag. Page 34 of that has a trip limit analysis.

Mr. Currin: I'll give you a second to get there and then we'll open up a discussion of that. I think probably the easiest way to get there is through the index under the Snapper Grouper Tab. It's Appendix E of Amendment 16. Beginning on page 34 and 35, what analysis has been done on trip limits is located there. Gregg has got that up on the screen. I'm not sure how to convert the forty-five fish limit into the pounds, since the table is set up in pounds gutted weight. Jack might be able to help us with that.

Dr. McGovern: I think Mark was thinking about that forty-five fish would be about a thousand-pound trip limit and that gag are around twenty or twenty-two pounds.

Mr. Currin: In looking at the table, the first one page 34, the trip limited in gutted weight pounds, forty-five fish, it's probably -- It's going to be somewhere between, my guess, and, Jack, correct me if I'm wrong, gutted weight, but somewhere between 678 and what's the conversion for gutted? What's roughly the gutted weight if it's 1,000 pounds? Was he talking 1,000 pounds gutted weight?

Dr. McGovern: Yes, I think.

Mr. Currin: If it's not, it's 60 percent, roughly, the yield after you gut them?

Dr. McGovern: It's 1.18 is the conversion factor, but that's in gutted weight.

Mr. Currin: That's in gutted weight and so if he's talking about gutted weight, 1,000 pounds is going to get a 7.1 percent reduction, whereas we're looking for a -- Did I read that correctly? We're looking for something on the order of 35 or 36.

Mr. Waugh: That table also has a column for expected catch, based on the average landings from 1999 through 2005, and for a 932 pound trip limit, the expected catch would be 436,704 pounds. Their directed quota, taking into account post-quota bycatch mortality with no

spawning closure, would be 346,940. That would be expected to exceed the allocation, but I guess part of what their idea would be is that you would track their landings and close it when they reach it.

Dr. McGovern: I think Mark's rationale -- I was listening to him and it was that you would start the fishing season in May and then when the quota was reached, the fishery would just close and it would probably close like in November or December and you might get a four-month closure during the spawning season, but if effort went down, it might not close for four months or something like that. It just gave more flexibility and you wouldn't have a fixed closed season.

Mr. Currin: Comments?

Mr. Geiger: I guess it's not clear in my mind if we get a 7.1 percent reduction and we're looking for 31 or --

Mr. Waugh: You're going to get their reduction, because, at least as I understand it, you would be tracking their landings and you would shut them down when they reached their directed quota of 346,940. You would close the fishery when they reached that amount and so that would give you the necessary reduction. The directed quota gives you the necessary reduction.

Mr. Currin: What we're missing is -- They're excluding or they're suggesting excluding red grouper and black grouper, which I presume they would expect to remain open. At least in some sections of the country or of the Southeast, that doesn't account for post-quota bycatch mortality during some unknown period of months after that fishery would close, due to effort directed towards reds and blacks.

Mr. Cupka: I'm a little confused, because one minute it sounds like we're talking about Motion 4 and then the next minute we're talking about Motion 5, but Motion 4 does include blacks.

Mr. Currin: It does and I'm sorry and I misspoke, David. Thank you. It does not include reds though.

Mr. Geiger: I heard Jack say if effort is reduced. However, aren't we, by doing this, creating almost a derby fishery, worse than what we've got, with having an opening and a limited number of -- Then you've got safety at sea issues, because you've created a derby.

Mr. Currin: Kind of, George, but with a forty-five fish or a 1,000 pound, whatever it turns out to be, trip limit, it's going to extend it through some period. I don't know when, how long that would last, and effort could affect that some.

Ms. Shipman: I don't know if there's a way to tell from the tables, but does this advantage any geographic area over another in terms of when the fishery would close or disadvantage any area over the other?

Mr. Currin: I can't answer that question, Susan. Gregg is digging for a table now that may show some seasonality in there. With the season beginning in May, I would imagine that North and

South Carolina would be okay. I'm not sure when the peak of that fishery is.

Mr. Waugh: Page 9 has a table, Table 20 that shows the commercial landings. I'll project that. Table 21 is the percentage and so if you start in May, Florida is 15 -- 16 percent is in May and Georgia, 19 percent, and South Carolina is 12 percent. North Carolina is 16 percent. We have a March/April closure now and so that's sort of when everything reopens on the commercial side now.

Mr. Currin: From that perspective, it does appear, at least at first glance, that everybody would be on a more or less even keel starting in May.

Mr. Geiger: They certainly would be, because if they know it's going to open and they know they've only got X number of trips before the fishery is closed, they're going to probably hit them harder when it opens this time. It's a high-value fish and I can see -- If it all opens equally between Florida and North Carolina, I don't see that there's any advantage to anybody.

Mr. Currin: Roy, any comments on the ability of the Region to effectively monitor a quota when it's coming in fast and furious like that over potentially short periods, short number of months?

Dr. Crabtree: It significantly increases the likelihood that we'll close too early or too late and the faster things are happening -- The other thing is how much time advance warning do we want to give the fishermen that the fishery is going to close?

You've got to give them time to get back to the dock and I always worry -- I don't want someone who just bought bait and fueled up with gas and he's steaming out there and then we give him the notice that we're closing at midnight tonight. We've tried to give fisheries eight or nine days, at least, notice on these things, but if the quota is being caught very quickly, then you've got a significant chance of going under or over.

Mr. Waugh: Just to remind everybody, what we have proposed now is to have a directed commercial quota with that January through April closure and the closure is January through April and so in essence, the fishery would start May 1 and the only measures we have in here is the potential to divide it into two regions, which would slow down the harvest. The fishermen's suggestion for a trip limit would actually slow down the rate of harvest. What we have now is just a total quota and so that's more of a derby than what the fishermen are proposing.

Dr. Chevront: To address the issue that Roy brought up, when we've managed quotas within the State of North Carolina, where the director has the proclamation authority, he'll set up a quota that maybe will run for three weeks or a short season that runs for three weeks and the fish are all counted during that time and they determine how much of the quota is left and he will then open it up again, by proclamation, for another three weeks or whatever.

This is what's used a lot in our summer flounder and black sea bass north of Cape Hatteras fisheries and striped bass works the same way. It's a way to build in sort of an incremental season, where everybody gets time off while we get to reconcile the numbers and then we open it again, if there's enough fish to go ahead and do that left.

Mr. Currin: It works pretty well for summer flounder and black sea bass, but not quite so well for striped bass, but that's a limited quota as well. Of course, it's about what the gag quota is, when you get down to it.

Ms. Shipman: I was just interested in knowing if the AP was proposing to couple this with our proposal for the two regions, the split at the South Carolina/Georgia area. I don't see that in their motions. I see something about splitting the EEZ into two regions for the for-hire sector and so on and so forth, but I don't see what they did with the other suggestion.

Mr. Sharp: Susan, to that point, I think you'll see the motion later. I think it was Motion 7 or so. They're looking to split it regionally at the Dade/Monroe line for for-hire and recreational. I believe they made another motion to that, to include the commercial as well, essentially splitting the Keys out.

Ms. Shipman: If I may though, that sort of handles some of the Florida issues, but I don't think that handles the rationale for which we were trying to put the split, where we were proposing it.

Dr. Chevront: To that point, if you look at Motion Number 10, it does say the AP supports regional management for all fisheries managed by the SAFMC. They didn't directly endorse our Carolinas versus Georgia and Florida, but they did endorse the idea of regional management.

Mr. Currin: Other comments?

Mr. Swatzel: We've got this recommendation from industry which would seem to reduce the rate at which the fish are caught, versus just a traditional quota. It would seem like this is something that we probably should give some pretty serious consideration to.

Mr. Geiger: That's fine, Tom, but what I would ask though is from staff or Roy, what does this do to our document? Is this going to require additional analysis or can we even do this at this particular juncture and stay on schedule?

Mr. Waugh: There's not an alternative in the document now and so if you wanted to put a trip limit in, we would have to do the analysis and it would have to go back out for public comment. I'm not sure if a supplemental DEIS would be required. We definitely wouldn't meet the deadline of finishing it at this meeting and we would have to determine -- If a supplemental DEIS is necessary, we would be hard pressed, I guess, to get it done, although we did for 15B, between one council meeting.

Mr. Geiger: Monica, I see you shaking your head yes, in the affirmative. Is that correct?

Ms. Smit-Brunello: I'm shaking my head yes that I agree with what Gregg said. It would require additional analysis, to the extent we don't have that analysis now, and then we would evaluate and I'm sure we could get together at this meeting and evaluate and decide whether it would need to go out for additional public comment under NEPA.

Mr. Currin: There's kind of a bigger issue and maybe our time would be best spent the rest of the day talking about that bigger issue of implementation of this or any other regulation, in view of the President's recent edict or whatever it was, an Executive Order, prohibiting the implementation of any rules until the rest of his term, if I interpreted that correctly. Is that accurate?

Dr. Crabtree: You've all, I assume, seen the Executive Order. Now, we have statutory requirements to do certain things and we will send the rule for this up to headquarters and request that it be allowed to go through. I don't know what will happen.

I think in the case of Amendment 16, because we do have requirements, and ending overfishing is a presidential priority, that we've got a good chance. Now, Amendment 15B, that rule may take a while before it comes out, but I think the best thing we can do as a council is try to meet our obligations as best we can and I will try to move your rules as best I can, but I can't really tell you what the timing on these rules will be at this time. This one certainly does have a lot of reasons for moving it through the system expeditiously.

Mr. Currin: There are, in fact, under that Executive Order exceptions or they can be made?

Dr. Crabtree: There are not exceptions right now, but they can be made. Whether they will or not, I don't know. Monica, maybe you can --

Ms. Smit-Brunello: Just to remind us all it's not an Executive Order, but it is a memorandum from OMB. I believe there's even some discussion in there, and I reread it today, about exceptions and certain circumstances. I don't believe it's their idea to handcuff all the agencies and not let any rules through. That's not what the memo said and so I agree with what Roy said. We should do our best to meet our Magnuson Act obligations and everything else along with that and then we'll figure out, on the other end, when the rules will get published.

Mr. Currin: It sounds like it could go through. No guarantees, but it could go through and meet the timeline that we have. Roy has indicated that there's some chance and he'll push to try to do that and keep in mind that we're supposed to have it done by now. It's supposed to be done by now, that twelve-month notice on this.

Dr. Crabtree: At the same time, I want the council to know that we need to be responsive to the AP's comments and we need to make sure that we put in place the management regime that's going to get the job done. We're going to have to balance all those things right now.

Mr. Mahood: Just for my clarification on this, we had hoped that if there were no major changes that we could approve 16 and get it moving. I agree with Roy. The council needs -- Don't worry about the White House directive. Let's do what we've got to do and if it gets held up, it gets held up. If we get an exception, we get it through.

Then you have this type of thing, where obviously 16 can be more responsive or it could be maybe even better, in some respect, and you do have to balance that. I guess I don't know how you balance that. Is it worth waiting another meeting to finalize it to include something like this

or should we just move ahead? To me, that's the decision that's got to be made and how you factor all that in, I don't know.

Mr. Currin: Thank you, Bob, very much and it's a tough call for all of us. My suggestion would be, since it's five minutes to six, to please everyone take -- We're still on the first motion from our AP on 16 and I think there are at least ten more and my recommendation would be that we go ahead and recess for the evening.

Everyone please take the time to run through all of the AP's motions, because I haven't looked at all of them yet. I've been concentrating on the one we've been discussing. In the morning then, let's come in and see if we can kind of lump some of these that are similar and we've got a better understanding, in totality, of what the AP is recommending to us and begin our discussion, continue our discussion, of that.

Ms. Shipman: Perhaps between now and when we get together in the morning if the team could just, looking at these motions, see what it would take for analysis. Is it even feasible to do this between now and the next meeting? This particular measure, to the degree it would still meet our objectives and maybe lessen the pain and it's something industry has suggested, it appeals to me, but at the same time, there is -- That's speaking to the part of balance. On the other side of that, we do have to keep this moving forward.

Mr. Waugh: Certainly I feel confident that's one of the benefits of having done all this analysis. Jack has a lot of work in here. As far as analyzing the reductions and stuff, we've got that information here. The concern I would have, and I think Jim Waters has already left, is it would require him rerunning the model to get the impacts. That I have some concerns about and I don't know if Jack has a better idea or if Steve Holiman is still around. My concern would be updating the economic and social analyses.

Dr. Crabtree: Gregg, let me ask -- We don't need to do it right now, Jack, because I think we're breaking, but I'm going to ask Jack that whether Holiman is here or not, can you get hold of -- We'll get hold of him and try to get you an answer in the morning. If I could, I would like to speak to Mac and the chairman real quick when we break.

Mr. Currin: Anything else quickly before we recess until tomorrow morning at eight o'clock? We will recess until eight o'clock and thank you, everybody.

(Whereupon, the meeting recessed at 6:00 o'clock p.m., June 11, 2008.)

The Snapper Grouper Committee of the South Atlantic Fishery Management Council reconvened in the Vienna Ballroom of the Renaissance Orlando Airport Hotel, Orlando, Florida, Thursday morning, June 12, 2008, and was called to order at 8:00 o'clock a.m. by Chairman Mac Currin.

Mr. Currin: We'll reconvene the Snapper Grouper Committee. Good morning to everyone. Jack McGovern, if you would like, come on up and join us at the table. There's likely to be questions and if that will save you some time, if you want to do that, we would welcome you at any point. You can wait until the first question comes up if you would like and then just stay

there. Either way you want to do it, Jack. Before we get into 16, George has something he wanted to say about that Kenchington letter that we received and had a little bit of discussion on yesterday.

Mr. Geiger: I guess my concern is about the little bit of discussion we had about the Kenchington report and I thank Tom for bringing that to our attention. It's a thirty-five-page document that's very, very technical and I wouldn't expect and I don't think it's appropriate for the council, especially in the middle of the council, when we received it late, to be expected to go through a document like that, but I think it's appropriate, based on the fact that a constituency group did take the time and effort to put something together, to give it more than just the short discussion that we gave it yesterday.

I would propose, if it's okay with council or the committee, to send that to our SSC in December and I think that's the appropriate place for it to be reviewed. The Gulf Council did the same thing and we heard a report from Dr. Crabtree as to the outcome, but I also heard from the group that submitted the report that it's different than the one that was submitted to the Gulf Council. I think it's appropriate for our SSC to take a look at it and give it the attention it deserves. Bonnie, would you like to comment to that?

Dr. Ponwith: I think that's a good solution.

Mr. Geiger: I don't think we need a motion to do that, do we?

Mr. Currin: No, George, I wouldn't think so. It sounds like a good idea to me.

Mr. Geiger: I'm sure Gregg is capturing that as a staff action.

Mr. Currin: That sounds very logical and unless anyone on the committee objects, I would suggest that that's the way we handle that and get that assessment from the SSC.

Mr. Geiger: For Dr. Crabtree's benefit, who was forced to step out of the room, we just talked about the Kenchington report and the fact that we really gave it very limited discussion yesterday and it is, according to the group who submitted it, different than the Gulf report. I've suggested to the committee that we forward it to our SSC for their technical review and a report back to us on the findings.

Mr. Currin: Dr. Crabtree indicated that he thought that was a good idea and that's what we'll ask staff to ensure, that that report is sent to the SSC and they take a look at it and give us their assessment of it.

Ms. Williams: Kay Williams, Gulf Council. I just briefly looked at it and yes, the Gulf did send it to the SSC at the time. I had not seen the written form and it's my understanding this is actually a little different than what the Gulf had looked at and so I think that's a great idea to have your SSC take a look.

Mr. Currin: I didn't see the one from the Gulf, but I understand, from talking to folks, that it's



basically similar, but it's tailored more to the South Atlantic, of course, and therefore would be somewhat different. I think that's a good move. I hope everyone had time to go through the AP's motions that they provided us yesterday. Were there any more that came from them, Gregg, after that? Rick, you've got those?

Mr. DeVictor: Yes, we did send around the first version of the AP motions. Four more were added to that version and Mike is sending those around via email and then he's making hard copies of those four, too.

Mr. Waugh: They don't address 16.

Mr. DeVictor: No, they don't address 16.

Mr. Currin: We'll get to those when we get into other issues in 17 or perhaps 18. After going through those last night, they're not nearly as daunting as I thought they might have been, having looked at the front page. There are many of the motions that the AP endorsed the actions that the committee and the councils have selected as preferreds and so there are only a couple or three that are quite different that I believe deserve some discussion and consideration.

My recommendation, if it suits everybody, is to let's just get into the public hearing version of 16, which is Attachment 13, and begin on page 58 of 391 of that and just breeze through the management measures, all the management measures, in this amendment. As we get to those that are addressed by motions from the AP, then that would be the appropriate time to discuss those motions and consider any modifications or changes to the document. Does that make sense to everybody?

Mr. Cupka: What attachment did you say?

Mr. Currin: It's Attachment 13. It will be beginning on page 58 of 391 in that document, Description of Alternatives, beginning with gag management reference points. I think we'll go very quickly through many of these and I will let Gregg just outline those and if there are questions about them or anyone wants to reconsider the current alternatives, then raise that issue. If I hear nothing from anyone, we will move on.

Mr. Waugh: If we start, the first item is MSY and OY alternatives for gag. The preferred alternative is Alternative 2, MSY equals the yield produced by FMSY. MSY and FMSY are defined by the most recent SEDAR assessment and that value for FMSY is 0.237. The pounds value for that is 1,238,000 pounds. The optimum yield is shown there also, OY equals the yield produced by FOY.

We've got some sub-alternatives. The preferred alternative for OY is Sub-Alternative 2B. That would be fishing at the yield at 75 percent of FMSY. That's 1,217,000 pounds. Those are the preferred alternatives for MSY and OY.

Mr. Currin: Any discussion on those management reference points? I see none.

Mr. Waugh: The minimum stock size threshold shown at the bottom of that page, we've specified a formula that we use one minus M times the spawning stock biomass at MSY and that value comes right out of the SEDAR stock assessment. That's 6,816,000 pounds. That's not an action item.

The total allowable catch, this is a recommendation that came from the SSC, is the yield at FOY. The council has set the optimum yield so that estimate, in terms of pounds, is 694,000 pounds. Again, that's not an action item. We've just specified the optimum yield and that's the result of the application of that.

The next item that has alternatives are the interim gag allocation and our preferred alternative is Alternative 2, which is to define interim allocations for gag based upon landings from the ALS, which is the accumulated landings system; the MRFSS, the recreational database; and the headboat database.

The allocation would be based on landings from the years 1999 through 2003. The allocation would be 51 percent commercial and 49 percent recreational and this is shown in Table 2.4. The alternative would establish a commercial quota of 353,940 pounds gutted weight and a recreational allocation of 340,060 pounds gutted weight.

Mr. Currin: Is everyone comfortable there? Okay.

Mr. Waugh: This brings us to the management measures. Alternative 2 is our preferred and it's to establish a gag spawning season closure January through April that applies to both the commercial and recreational sectors. No fishing for and/or possession of gag would be allowed. In addition, no fishing for and/or possession of the following species would be allowed: black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney. That's our preferred and we did get some recommendations from the AP to change that.

Mr. Currin: This would be where we would need to discuss the motion from the AP, the one we left on yesterday, where they wanted a May start date to their fishery and wanted to consider trip limits on gag for the commercial fishery. Keep in mind that we did discuss, to some degree, trip limits early on in developing this amendment and chose not to consider those in any depth.

I was talking to Rick a little bit yesterday about it and I couldn't remember much about our discussion. This is the guy with the memory. He knew the exact meeting that we talked about those, or found it at least, and so, Rick, if you've got anything that you can enlighten us as to rationale or as best you can recall why the council or committee chose not to go into great depth on trip limits. I'll give you an opportunity to refresh our memories on that.

Mr. DeVictor: It came up in September of 2007, when you met in Myrtle Beach, and it was talked about amongst the council, but it was ultimately decided -- I think you went back to the AP motions and wanted to see if they had any comments on trip limits for gag and they didn't have any at that time in their motions and I think that's why the council decided not to go forward with gag trip limits at that time.

Mr. Currin: Of course, they're allowed to change their mind, just as we are as well. It's back before us now for consideration. In talking to Jack and actually, a further motion in the -- It was a 1,000 pound trip limit for vermilion, as well as another motion, but Jack says, in talking to Mark Marhefka, who was instrumental in this, that what he's looking for, instead of forty-five fish, is roughly a 1,000 pound trip limit for groupers in that. Of course, there's some other parts of that as well, of that particular motion, do not change the regulations for the other groupers, other groupers being those other than gag, black, and yellowfin grouper.

Ms. Shipman: As I understand it, if we were to go forward and add that as a preferred alternative, that would be coupled with 2 and 3. We would still have an established hard quota that that trip limit would count toward and we would still have the spawning season closure and the fishery would start May 1.

In essence, the spawning closure gives them the start date of the May fishing year that they had asked for, I think. It seems to me were we to want to explore this in detail with an analysis, which I would, that it would still be coupled with these other two motions. Am I correct?

Mr. Currin: That would be up to the committee, of course. I don't think that was the intent from the AP. I believe that their intent and feeling was with what they determine or see as a much reduced effort in the commercial fishery that beginning May 1 they would be allowed to fish until that quota is met.

Now, in reality, depending upon when that quota is met, it would likely entail a January/February closure, just as is outlined here. However, if the effort is much reduced, then they might still be fishing in December, January, and February, depending upon where the quota stood. That was their intent. Of course, the committee can approach it any way we want, but there would have to be new analysis done on those trip limits, to determine impacts there.

Ms. Shipman: It would still be coupled with Alternative 3, which is a hard quota?

Mr. Currin: Yes, it would be. I think that's their intent as well.

Mr. Geiger: That was going to be my point that based on discussions we've had that the intent was that they would not have or be forced into the spawning season closures. I think there are some biological implications there of allowing them to fish on spawning aggregations, number one. Number two, when we've talked about spawning season closures as a council, philosophically I think we've addressed spawning season closures for both sectors, recreationally and commercially, equally, for enforceability purposes and as a general philosophy, I believe.

I don't know and I think we can talk about it. When Susan talked earlier this morning, it sounds like an ideal solution, if you go to this motion and keep the spawning season closures in place, but that was not the intent.

Mr. Currin: Keep in mind that there's currently -- Somebody correct me if I'm wrong and it's hard to keep all this stuff straight, but we currently have a March and April spawning season

closure in place and so unless we eliminated that that would remain. What we're doing in Alternative 2 is just adding January and February to that existing March/April.

I don't believe they're asking that we eliminate the current March/April spawning season closure. I think the AP and everyone involved understands the importance of that. What George, I think, is getting at is those pre-spawning aggregations of groupers that occur before that spawning period and they've become vulnerable sometime in that period and large numbers could be caught there.

It's the choice of the committee on how you want to ask the staff to analyze this and that could be two alternatives, if you wanted to do that, and keep that January through April spawning season closure in place with the trip limit analysis and then do it without, I guess. I don't know if that makes sense or not.

Mr. Cupka: Gregg, don't we have tables somewhere that show the landings by month? That would give us an idea of if we did this whether they would go into January and February, could we not?

Mr. Currin: We were looking at some of those yesterday, David, and I don't recall exactly which -- There were tables --

Mr. Cupka: Obviously they would have to be analyzed. I wouldn't mind doing this, but I would still like to see us have that closed spawning season and not just the March and April, but the January through April, and if there's a good chance they would catch their quota, which is going to be reduced anyway, before January, then I don't think it would be a problem. Maybe we could set it up in such a way that if they didn't catch it then it was going to close anyway, but at least they would have the opportunity to catch it before it closed in January.

Mr. Currin: That's certainly one way we could approach it. That's not exactly what they're asking for, but that's certainly one way we could approach it.

Ms. Shipman: Those tables, it's got the commercial catch, percentage of gag commercial catch, and it's Table 23 in Appendix G and it's showing that the total percent of catch, just for January, is 10.8 percent and this is for 2001 through 2006. That's all states combined, with Florida having the highest percentage, at 17 percent, and then the February catch is about 9.8 percent. Total, you're looking at about 20 percent.

Mr. Sharp: As I've been stating, we would like to see some analysis on that, anything that could look at getting us there with a shorter closed season. We would like that evaluated.

Mr. Currin: Other comments?

Mr. Swatzel: In consideration of this, we're also talking about recreational and if you're going to go along the lines of this, concerning any modification of the spawning season closure, would that also apply to the recreational sector?

Mr. Currin: That's a good question. I don't know, Tom, how we can get to the reduction that we need in the recreational fishery without that. Keep in mind we reduced the bag limit, potential bag limit, and we got about a 5 percent reduction from that, not very much. Most of our reduction that we need in the recreational fishery, virtually all of it is accounted for by this closure and I don't see any other way to do it. Size limit increases are bad business, because of the associated discard mortality. I don't know of any other management measures that we can consider for the recreational fishery.

There would be some difference, which we've tried to maintain similarity in the way we approach these closures for both of those fisheries, at least on the surface, the way it's written. However, I believe that in practicality, or in actuality, what will happen is that that quota would be met by the commercial industry and likely occur to coincide with the closure for the recreational fishery.

There's no guarantees on that. If the effort from the commercial fishery is greatly reduced, as many of the AP think, then there is some chance that that fishery would continue into perhaps January and/or February, if it's really reduced. If I had to guess, I would say that they are likely facing a closure sometime in December or January.

Dr. Crabtree: There just aren't a whole lot of alternatives. We're already at two fish on the bag limit and we've certainly pushed the size limit as far as we can. We had discussions in the Gulf of a fractional bag limit and I can tell you that no one liked that. There just isn't a whole lot of way to go other than a seasonal closure in the fishery right now.

I think if we do decide to go with the altered fishing season and the quota and trip limit on the commercial fishery, there will be some in the recreational sector who will complain that we have a seasonal closure and they don't and that's not fair, but I think we need to be consistent in pointing out that we have fundamentally different management strategies for the commercial and the recreational fishery.

The commercial fishery is being managed on a quota basis and I don't want to manage the recreational fishery on a quota basis. I suppose it would be possible, but it would mean doing projections months out, based on very limited data, and I don't think that's the appropriate way to manage recreational fisheries.

If you're going to say because of the nature of the fishery and because of the nature of the data collection that we have to manage commercial fisheries differently from recreational fisheries, then I don't think you can conclude that the closed seasons have to always correspond for them both. It's just not going to work that way.

I just think we're going to have to explain that to folks, that the reductions are going to be achieved on both sectors, but the way that we get there is different, because of the natures of the fishery, but I just don't know, Bill, what else we can look at to avoid a seasonal closure right now.

Mr. Swatzel: I would just point out if you're thinking that there will be reduced effort on the

commercial side, which there very well may be, based on fuel prices and so forth, I think you're going to see reduced effort on the recreational side, too, across the board. It hasn't happened yet, but I think it will and I just want to point that out. I think it would be a similar reduction in effort there as to what we're seeing that will probably occur commercially.

Mr. Harris: Just somebody remind me, when did that March/April closure go into effect, what year or what amendment? We're not sure?

Ms. Shipman: It was a long time ago.

Mr. Harris: It was prior to 2001?

Ms. Shipman: Yes.

Mr. Harris: The table of landings from 2001 to 2006, Georgia was the only state that didn't have any landings during those two months and I thought that I would just point that out to you all.

Mr. Currin: Yes, I noticed that there were landings among some of the other states during that closure.

Ms. Shipman: If you go by the average, which is about half-a-million pounds for the total year, looking at 1999 through 2005, and you look at those totals for January and February, that's about 100,000 pounds. If you back that off, you're at 450,000 or whatever. The quota is 100,000 less than that and so I don't know that they're going to get into January, quite honestly. I don't think they will, but I could be wrong.

**I would like to see this option and if it's appropriate, I would move that we include this option.** Now, I realize this is going to slow up the amendment, but I think to the degree that we can lessen the economic impact and curtail the derby fishery, to the degree that we can, and if this trip limit helps to spread that out, I would like to see that done.

Mr. Cupka: Second.

Mr. Currin: Susan, can you be more specific on that motion? I know it involves the 1,000 pound trip limit, as recommended by the AP, with a May start date for the commercial fishery.

Ms. Shipman: I've got to flip to another document. I'm sorry, but I'm having trouble multi-documenting on my laptop.

Mr. Currin: Duane, as presented from the AP, it was forty-five fish, but Jack's discussions with Mark and his calculations, based on average size and the like, indicated that what he was actually after was roughly 1,000 pounds gutted weight. Is that correct, Jack?

Dr. McGovern: That actually wasn't my discussion with Mark. That's discussion the AP had and they were talking about 1,000 pounds or forty-five fish.

Dr. Crabtree: We need to be clear to staff which is it we want in the document. Do we want a forty-five fish trip limit or do we want a 1,000 pound gutted weight trip limit? It sounds like they're roughly, on average, the same, but I think they need to know what do you want in the document.

Mr. Currin: Yes, we do need to be clear and I don't mean to influence your motion. I'm just trying to provide background on discussions with Jack and what he heard from the AP meeting.

Ms. Shipman: **We're going to be counting, I think, by pounds, and I would go with 1,000 pounds, the way the motion is stated, analyze a 1,000 pound commercial trip limit with a start date of May.**

Mr. Iarocci: I'm not a member of this committee, but the discussion in the motion started with forty-five fish and then it was averaged out to be 1,000 pounds. If 1,000 pounds is appropriate, I know the AP would be satisfied with that.

Mr. Wallace: I'm not on the committee also, but is there going to be some kind of a variance, because you can't weigh fish on the boat. We've got a 1,000 pound trip limit, but are you going to have some kind of variance to where you can -- On the forty-five fish, that's going to promote hi-grading.

Ms. Shipman: Mine is not doing the forty-five fish. On the trip limit -- We've got other trip limits and we've got that same issue, I think, on anything we've got trip limits with, golden tile or whatever. I do want to clarify that it's a fishing year start date of May 1 and not the trip limit starts on May 1.

Mr. Currin: **Susan, I presume you also want to include the March/April spawning season that's current.**

Ms. Shipman: **Yes.**

Mr. Mahood: Not to throw water on Susan's thousand pounds, but one of the things that our Law Enforcement Advisory Panel pushed over and over and over again is they would rather see numbers of fish for at-sea enforcement. I think they've told us on a number of occasions if they go out there and they board and they count forty-nine fish, they can take the guy right to the dock, but they don't have the ability to take and weigh a particular poundage of fish out there. They can only check them when they come back to the dock. That's just one thing that they've tried to pound into us over time.

Mr. Currin: I understand that as well. I think what the downside of that is is it could lead to hi-grading on some days and there's considerable downsides to that, but certainly any way we want to do this is fine.

Mr. Geiger: Somehow, my comment got included there, to continue the March/April spawning season closure. Was that in the original motion?

Ms. Shipman: I added it.

Mr. Geiger: You added it? I'm sorry, but I missed it.

Mr. Currin: The original motion is still being formed, I think.

Ms. Shipman: I'm very amenable to friendly amendments, including my own, and my own was to add to continue the March/April, just so that's clear. Mr. Chairman suggested that.

Mr. Currin: We have a motion on the screen here and on the table. David Cupka seconds. Further discussion on this?

Mr. Swatzel: I just have a point of clarification. If you're continuing the March and April spawning season closure, does that mean -- Obviously that's just for gag, but in the Alternative 2 that was preferred, it was eliminating possession of any of the shallow-water grouper species and is that still the intent or not?

Mr. Currin: That's not addressed in the motion. I presume if I were forming the motion, I would make sure that that were included.

Dr. Crabtree: Yes, because I think we need to do a little bit of restructuring here. We've got a motion -- Alternative 2, which is our preferred, which establishes January through April for both sectors, and now we've got one that only changes the commercial sector. Gregg or Rick, do you have some suggestions of how to restructure this, so that when we come back we're not going to get in a mess?

Mr. Waugh: I think we need to finish with this motion and then the council -- If we're going back out to get some more public input, the committee and council need to determine then what's their preferred. Is the old Alternative 2 still the preferred or is this new one the preferred? We're basically adding another alternative.

Dr. Crabtree: I agree we need to do that, but it looks like to me in Alternative 2 if we restructured that a little bit, so that it had Sub-Option A, a commercial closure, and Sub-Option B, a recreational closure. We're going to need some way where we can separate the commercial and the recreational closures in Alternative 2. We can vote this one up and come back to that.

Mr. Currin: Make sure this motion is the way we want it and the issue was brought up by Tom regarding the other species.

Ms. Shipman: I think that's a very good point. **We need to add that last sentence that's in Preferred Alternative 2 to accompany this motion, that those species would be prohibited during the spawning season closure, if the seconder would agree with that.**

Mr. Cupka: Yes, I agree with that.

Mr. Currin: As long as it's clear that that last sentence is associated with closure of the fishery in



some way. That seems to capture everything now. David, are you okay with that addition to the motion?

Mr. Cupka: Yes, Mr. Chairman.

Dr. Crabtree: That's fine, but recognize that you have an Alternative 3 on the directed commercial quota, which says that when the quota is reached that all fishing for those other species is closed, but I guess we do need to have that language to apply to the March/April spawning season closure, because it's just gag and black grouper now. I think that's right, but it needs to be clear in addition to -- The quota language is covered in Alternative 3, I think. This is applying to the March/April closure, I believe.

Mr. Currin: Have you got that, Gregg?

Mr. Waugh: The March/April closure now only applies to gag.

Mr. Currin: Roy's point is that in this motion we can make it apply to the current March/April closure.

Ms. Shipman: It's my intent that Alternative 3 would still be in effect. That preferred alternative is a companion, were this to go forward, ultimately, as our preferred. Those two are together, where you've got the no sale after the quota is met and you've got the quota established, et cetera.

Ms. Smit-Brunello: Just so the record is clear, I'm assuming that the change in the fishing year applies -- The new start date applies only to gag?

Ms. Shipman: It's for all the species and so I think it's got to be a shallow-water grouper fishing year, only for the commercial sector.

Mr. Waugh: This would start counting gag toward -- For gag, the fishing year would begin May 1 for purposes of counting towards the directed quota.

Ms. Smit-Brunello: We can clarify that in the discussion when we write it up, just so it's very clear.

Mr. Waugh: Just to point out that the AP's motion -- They did not want any changes to the regulations for other grouper and so just in crafting this now, we're moving away from what the AP asked for. They wanted just the trip limit and didn't want the changes to the existing spawning closure that we've added, just to make you aware of that.

Mr. Currin: Thank you, Gregg. I think we're aware of that.

Mr. Geiger: Mac, I guess I would speak to that point, that we're moving away from it, but we also have to include bycatch mortality in all of our considerations and I think it's important that this be considered as part of that -- I think it's important and we're required to consider bycatch

mortality in all of our decisions and I think this covers that concern about bycatch and it's important to be considered and included in this motion.

I appreciate taking their motions as they're written verbatim, but we have a number of things that we need to also consider and apply and make sure that we're compliant with the National Standards.

Dr. Crabtree: I believe the AP's trip limit was a gag trip limit, correct, and not a shallow-water grouper trip limit? I think, Susan, I would suggest you clarify that your intent there --

Ms. Shipman: I thought it was multiple species, but I don't have it in front of me. Wilson has it. They wanted a forty-five gag per trip per vessel, but then they said when the gag commercial quota is met to prohibit the harvest and retention of all shallow-water groupers and so they did couple the group with the closure, but yes, the 1,000 pound would be gag, yes. **It's a 1,000 pound gag grouper commercial trip limit.**

Mr. Currin: How does that look now? Any other discussion? Are we okay with this motion? We've gone about this in a somewhat sloppy way and Mr. Roberts would not be happy, but we'll get there.

Dr. Chevront: I'm not sure. Does this motion get at the fact that once the quota is met that there would be no fishing for any of these other species if that quota is met prior to March 1?

Mr. Currin: This motion does not, but our current Alternative 3, which is a preferred, does.

Dr. Chevront: As long as we've got that captured somewhere, I'm happy.

Mr. Currin: Are we okay with this? Mr. Cupka, are you also okay with this? All right. **The motion before us is to analyze a 1,000 pound gag grouper commercial trip limit with a fishing year start date of May and continue the March and April spawning season closure. In addition, during March and April, no fishing for and/or possession of the following species would be allowed: black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney.**

Mr. Harris: A point of order, Mr. Chairman. **I don't know whether "analyze" is the correct term or whether we should say our motion is to "establish". It's going to be analyzed and so shouldn't we just say "establish"?**

Mr. Currin: The motioner and seconder have agreed to change the word "analyze" to "establish".

Mr. Harris: **We need "May 1" rather than just "May", correct?**

Ms. Shipman: That was part of my motion, May 1.

Ms. Merritt: I'm not sure we're catching the fact that the May 1 start is for the shallow-water

grouper versus just for gag, the way that reads, because we're starting out with the trip limit is on gag, but then the fishing year starts May 1 and it kind of implies that it's only for gag, rather than the shallow-water groupers.

Mr. Currin: Rita, the quota is for gag only and so everything else just kind of tracks with the gag. That's like the indicator species, I guess, for that whole complex, even though we don't have a complex. Anyway, everything tracks with gag and it's the only species that has a quota.

Ms. Merritt: I just want to make sure that we all know what the intent is.

Mr. Currin: Any other discussion of this motion? The maker agreed to change the word "May" to "May 1", for clarification. It was agreed by the seconder.

Dr. Chevront: I'm not trying to beat a dead horse here, but picking up on something that Rita just said, we've got a SEDAR coming up for black and red grouper and if we're not specific at this point, we could end up -- This could complicate matters, if we have to put some kind of regulations later on on black and red groupers, that we're going to have to come back to this.

Is there some way that we could consider, just by simply calling this a shallow-water grouper opening date of May 1? If that's sufficient, when we get to black and red grouper, then we won't have to do something later on specifically for those. Is it just not worth it at this point to deal with it?

Mr. Currin: I can't answer it. Maybe somebody else can.

Ms. Shipman: I would keep it simple in terms of the analysis. I didn't include a fishing year for those, the shallow-water, because they don't have a quota. I think if we get to that point, based on the assessment that we have to do management regulations, we just establish the fishing year for the quota counting, if we go that route, then. I think for purposes of analysis, let's keep this as simple as we can.

Mr. Currin: Any further discussion on this motion? **Any objection to the motion? Seeing none, that motion is approved.**

Dr. Crabtree: Gregg, advise me of -- We need now to go back to Alternative 2 and what I'm thinking is could we just add a sentence to Alternative 2 that says if this alternative is chosen as the preferred that Alternative 2 applies only to the recreational sector? Would that give us what we need? If we don't change Alternative 2 and we change this, then we have conflicting commercials and so I'm looking at the cleanest and simplest way to do this.

Mr. Waugh: It may be cleanest to do a 2A and a 2B, but we still need guidance as to whether your original Alternative 2 remains the preferred or whether the new motion becomes the preferred.

Mr. Currin: I would be comfortable, personally, with maintaining Alternative 2 currently as our preferred, until we get the analysis from this alternative, or these alternatives. If everyone else is

comfortable with that, then that's the way we'll proceed, unless there's a problem with us doing that, Roy or Monica.

Dr. Crabtree: No, I agree with that and so would it be appropriate for me to offer a motion that we restructure Alternative 2 into two sub-options, one that applies to the recreational fishery and one that applies to the commercial fishery?

Mr. Currin: We can do it like that, but we've got kind of a -- If we want to keep Alternative 2 as it's currently written as our preferred, then maybe we want to leave that alone and establish another alternative, whatever number it would be, that of -- This motion is A and then we add the recreational measures as B, a portion of that. Is that cleaner or worse or --

Dr. Crabtree: I think that's less clean. This is a separate alternative, to me, and is not part of Alternative 2. If we choose this alternative, then we would end up having to come in and make last-minute changes to Alternative 2. I think we ought to anticipate that we may choose this as a preferred and structure the alternatives in a way that doesn't require us to rewrite it at the next meeting.

Mr. Currin: I'm all for that. I guess I didn't understand your suggestion. You want to add an Alternative 2B that only addresses the recreational fishery?

Dr. Crabtree: I want to have this be Alternative 2 and have a Sub-Option A that applies to the commercial fishery and Sub-Option B applies to the recreational fishery. It seems to me that's a way to do it or add a sentence into this saying that if we choose this other alternative than this one just applies to the recreational. I don't care how we do it, but I think Rick and Gregg, we need to do that and we need to do it now, so it's clean, I think.

Mr. Currin: Yes, we do. Rick suggested perhaps that we just divide the Alternative 2 into A and B, one applying to the commercial fishery and one applying to the recreational.

Dr. Crabtree: **I'll make a motion, Mr. Chairman, that we split Alternative 2 into 2A, commercial, and 2B, recreational.**

Mr. Geiger: Second.

Mr. Currin: Motion by Dr. Crabtree and second by George.

Dr. Chevront: Then I guess at this point it would probably be okay then just to keep 2B as our recreational preferred and maybe not have 2A -- Just not have a commercial preferred until we receive the results of the analysis of our new motion and then at September, choose our preferred alternative for commercial.

I think by splitting it 2A and 2B then that means Rick is not going to have to do any new analysis in regards to Alternative 2. That part has already been done. It's just been split into two pieces and it's just the new motion, this 1,000 pound trip limit, would be the only new analysis. I think that might be a streamlined way to approach this.

Dr. Crabtree: My preference would be to simply leave Alternative 2, Option A and B, as our preferred. That's what we've taken to the public and that's what we've indicated is our preferred. I would rather leave that there and let's get the analysis on this other option and we'll get some public comment on that and then we can come back in September and if we want to make that change, we can make it then. I think I would just rather leave our preferreds the way it is. Our preferred would then become both of these two sub-options.

Mr. Currin: That seems cleanest to me as well. Is everybody okay with that, at least for now? Okay. Here's a motion by Dr. Crabtree to split Alternative 2 into 2A, addressing commercial measures, and 2B, addressing recreational measures, with both remaining currently as our preferred. Is there any further discussion of that motion? **Is there any objection?**

Mr. Sharp: Just for the record, although I think we're limited in our options, I just want to voice once again that a protracted closed season is something that our commission is going to take exception with.

Mr. Currin: **One vote in opposition and the motion carries.** All right, we beat that one good, but we made a lot of progress on that as well. I'm very pleased. All right, Gregg.

Mr. Waugh: We've got our Preferred Alternative 3 is a directed quota, after adjusting for post-quota bycatch mortality, and I would ask Jack -- It appears to me if you look at that table at the bottom of page 2-5 that we've got the post-quota bycatch, the directed quota, calculated based on our spawning season closure.

In order to accommodate the new alternative, Jack, it seems to me we'll have to do some additional analyses recalculating what the directed quota would be under your new alternative that you just recommended.

Dr. McGovern: I agree. I'll have to do some new analysis. It probably won't change very much, but it needs to be redone.

Mr. Currin: Roy, did you have something?

Dr. Crabtree: No, I think we will have to do it. I was just going to point out that the correction is only 1,000 pounds, which is really within the margin of our ability to monitor these things anyway and so I don't think it will have any real impact on any of the analysis or the outcome, because it's such a small quantity of fish.

Mr. Currin: I would just point out that there's also an alternative there and we did hear some -- It's Alternative 4, to divide the commercial quota into a couple of regions, North and South Carolina and Florida and Georgia together. There was a motion from our AP that they felt that would be a good approach. Perhaps we should discuss that as well, while we're here.

Dr. Chevront: I also don't want to lose sight of the fact that the AP made two other motions, I think it was 6 and 7, where they asked that there be a sub-area below the Miami/Dade line that

would not be included in that closure, because gags apparently are not caught below south of that line. Therefore, if the closure does occur, it would not include the area south of the Miami/Dade line. I don't know that I agree with that or not, but I just wanted to make sure that we brought that point up for discussion.

Mr. Currin: Currently, our preferred on that directed quota is with no split at all. Is there any desire to change that preferred? North Carolina has pushed this hard and you received a letter from the commission indicating that our fishermen and the Division would be in favor, in fact, of state-by-state quotas, to be managed by the state, but if that was not workable or feasible, that a second preference would be regional quotas. Is there any discussion of that? Is everybody okay with where we are?

Mr. Iarocci: I would like to see some -- I'm not a member of this committee, but I would like to see some discussion on this, because this was brought up and supported by the whole AP and a lot of people. I know times have changed and there's a lot of people considering and talking about regional or splitting up and -- Yesterday, there was a lot of support for state-by-state, but this isn't state-by-state, but this is an issue in South Florida and we don't catch -- It's 1 percent and it is going to affect a lot of people down there and so I would like to see some discussion or some consideration for this.

Mr. Currin: We can open the floor to discussion of not only the two state regional quotas, but also the suggestion from the AP about the South Florida seceding from the union.

Dr. Crabtree: Tony, you're talking about the Dade/Monroe County and here's the thing though. We also have at least some preliminary ABCs from the SSC on black grouper and red grouper, indicating we should reduce somewhat. Right now, we don't have any reason to think that the status of any of these shallow-water groupers is necessarily any better than that of gag.

I think we're going to be looking at some reductions on these other ones at some point very soon anyway and so my preference would be to continue to manage this as a unit and as a group. I forget who said it, but I think George mentioned that in the past there have been gag caught down in the Keys.

I understand where they're coming from, Tony, but boy, it sure seems to be complicated and the other thing -- On the Gulf side, they have an aggregate shallow-water grouper quota in place and when the gag trigger is hit -- That's the preferred alternative they have, but in the past, when the red grouper quota was hit, the whole fishery closed and they're going down that path and not excluding Monroe County from that.

I think it's just going to get awfully complicated to have the fishery closing everywhere except on one side of the highway in the Florida Keys and I also think we're going to be just right back to needing to come in and make some reductions on these other species somehow. I understand where they're coming from and I really don't have a preference on the notion of a regional quota, if you want to have that divide at South Carolina/Georgia. I think if you set it up, that's kind of up to you, but I just think we're overcomplicating it if we try to break it at the county line.

Mr. Currin: Any further discussion on this?

Mr. Swatzel: I don't have the AP motions in front of me, but did they speak to the issue of Alternative 4 at all, concerning the break in North and South Carolina and then Georgia and Florida?

Mr. Cupka: Mr. Chairman that would be Motion 10.

Mr. Currin: Motion 10 indicates the AP supports regional management for all fisheries managed by the South Atlantic.

Dr. Chevront: This whole issue brings up to mind again the concerns that many of us have had and I guess I'm just going to lay it right on the line. **I would like to make a motion that we manage this fishery with state-by-state quotas and let each state, as long as they're within the guidelines, manage the gag quota in whatever way works best for them, both commercial and recreational.**

Mr. Currin: Motion by Brian to -- I'm going to let you state it again, so I can make sure I'm straight on it.

Dr. Chevront: **Motion to allow each state to manage its share of the gag quota, both commercial and recreational.**

Ms. Smit-Brunello: I know that, and you all know too, that there's Magnuson Act time constraints on when you finish this amendment. That year is up in June. However, the council is making a very good faith effort toward getting it done and I think that in response to really National Standard 8 concerns about if it's practicable to minimize adverse impact on the fishermen, economic impact, to the extent you can, and that's what you've been doing.

However, this motion, I fear that it would take so much analysis and other -- I guess analysis is the best way to put it, to figure out how to do that, that it may be better placed in another amendment. That's what I want you to think about, because you do have to get the actions to end overfishing, or at least start to get along that road, for gag and vermilion in this amendment.

Mr. Currin: There's a motion on the floor and it's not been seconded yet. Is there a second? Second by Rita. Discussion?

Dr. Chevront: We're already splitting it into two regions. Is it that much different to do it into four, when we're still talking about the same amount of fish?

Dr. Crabtree: I think it is. In this case, you're delegating to the states to manage its share of the quota. That will mean we would have to develop a whole process by which the state submits their plan for managing the quota to the Secretary and is then approved by the Secretary. We don't have a -- This isn't under the Atlantic States Commission and so we don't have that kind of authority and so I think this becomes very complicated procedurally and we would never make our timeline by September.

Now, if you just said we're going to split the quota into four separate quotas and the Secretary is going to shut it down when it's caught, that is less procedure, but as soon as you bring in that the states are going to manage it, I think that becomes a whole different management regime that would require a lot of work and we just can't do that in this amendment, I don't believe.

Dr. Chevront: To that point, but the system already does exist. It works with the Mid-Atlantic Council. We manage species state-by-state with the Mid-Atlantic Council. I know in North Carolina we have a system for doing this and it works for us. If you want to -- I guess the thing that I would feel more comfortable with is going to state-by-state quota.

If you don't want each state to manage their own quota at this point, but are willing to allow each state to have a separate quota, I would consider that as well, but I would really prefer that as long as we stay within the conservation guidelines or requirements that were given, I would like to be able to see us get to that point. I think Florida would probably appreciate that as well, to allow them to manage their recreational fishery, and I know North Carolina sure would, when it comes to managing our commercial fishery.

Dr. Crabtree: I want to be clear that I'm not saying I don't want this and there is a process in place, but it's in place in the Mid-Atlantic, through the Atlantic States Marine Fisheries Commission and through their FMPs. It is not in place in the South Atlantic. It's not an issue of whether I want it or don't want it. I'm not taking any position on that, but it's just there's no procedure in place in the FMP to allow us to do that and that's not a simple thing. We've never done it here before and we would have to develop all that.

We can do that, but I think you would need to set up a separate plan amendment in order to erect that kind of framework, but we just don't have it now. I know we've had this discussion, but we've decided not to do it and I just don't think we can do it in the context of this amendment, given our time constraints, but if this is something you want to look at, then you need to look at a plan amendment in order to do that, but we just don't have the procedures and the process and the frameworks in place right now to do it.

Dr. Ponwith: I'm not a member of this committee, but I appreciate the opportunity to comment and one thing that I think you're going to have to be very attentive to if this were considered is the sample size requirements for obtaining recreational data at sufficient sample size to support the further stratification of those estimates. It's a tradeoff between sample size and confidence in the estimates and if a decision were made, it would have to be supported by obtaining the resources to be able to boost that sample size.

Mr. Geiger: That's a very excellent point, Bonnie, and thank you. I would just caution the council again to heed the advice of counsel. I think Monica made an extremely important point, that we're on a timeline here and it's obvious we won't make that timeline should we proceed with this worthy motion. Perhaps there's a way to do it and plan for the future, Brian, and work into it somehow, but to try to do it in this one is going to delay us and that's going to be problematic.



Ms. Shipman: I agree with everything that's been said. I don't support the motion. Our state, for one, does not have a structure set up where we could do this. Given our proximity to both South Carolina and Florida, the fishing grounds off of our state, I could see when those other states were closed, were they to have those structures, we would have fishermen totally overrunning our snapper grounds, basically, in the absence of us having a structure where we could close. Recreationally, I think it's really problematic. Commercial I think would be easier, but I just don't see how we would track that recreational fishery on a state-by-state basis.

Mr. Cupka: Everything I was going to say has pretty much been said by George or Roy and so I would speak against the motion, Mr. Chairman.

Mr. Currin: Anything else on the motion?

Mr. Sharp: Just to these points. At first blush, it's somewhat attractive to Florida, given our stance here, but I think Roy's and several other points are well taken. The devil is really in the details here and there are a lot of moving parts without the framework in place and so I'm really hesitant on this.

Mr. Swatzel: Just a point of clarification. There is no quota, recreational quota, being proposed and so I guess you're just talking about an allocation, just from a technical standpoint.

Mr. Currin: That's correct. Further discussion? I'll ask for a hand vote here. **All in favor raise your hand, three in favor; opposed, five opposed. That motion fails.** In view of that last vote, are there any other consideration of changing our current preferred from Alternative 3 with a directed commercial quota? Okay, I see none. Alternative 5 is recreational measures. Currently, 5A is the preferred and that reduces the aggregate bag limit, as well as the bag limit for gag.

Mr. Waugh: The AP did support Alternative 5A.

Mr. Currin: No desire to monkey with that? Okay, let's move on.

Mr. Waugh: The last committee motion, the AP motion, on gag that we didn't specifically talk about, at least I don't recall us talking about it, is their Motion Number 8, to support changing the allocation alternative. They recommended Alternative 4, which would be a 61 percent commercial and 39 percent recreational.

Mr. DeVactor: That came about because I believe that alternative -- Their justification was because it captures historical harvest and also some perceived hardship to the commercial sector versus the recreational sector. I did point out that in September their motion was 50/50 and that was, in part, why the council chose 51/49 percent.

Mr. Currin: Any discussion of that point? Based on the history and where we ended up on this, I'm certainly comfortable with where we are, but is everybody else okay? Okay. Thank you, Gregg, for pointing that out.

Mr. Waugh: That's everything on gag and we'll move to vermilion. Again, just to remind everybody that what we're doing here is proposing measures based on the existing stock assessment, length-based stock assessment. We will come to a table that lays out our proposed combination management measures that would apply based on the new stock assessment that you all will receive in December.

Mr. Currin: That begins on page 64 with the management reference points, just as we did with gag. It's Attachment 13, page 64.

Mr. Waugh: The MSY is the yield produced by FMSY. These values come from SEDAR. The estimate for FMSY is 0.355, 2.7 million pounds whole weight and 2.4 million pounds gutted weight. The OY preferred alternative is 75 percent of FMSY, 628,459 pounds whole weight, 566,179 pounds gutted weight.

Mr. Currin: Is everyone okay with the management reference points?

Mr. Swatzel: Just a question. We had planned, obviously, on getting the new stock assessment and we had made some arrangements concerning what that might do concerning some of the management measures, but what will happen concerning these alternatives? These could very well change, too.

Mr. Waugh: If vermilion are still overfishing, they would be included in Amendment 17. Our plan now is to include them in 17 and sort of the way we've been thinking about this is to pick up the respecification of MSY and OY in Amendment 17, because we're going to have to look at setting ACLs across the board. We thought that would be the appropriate place to pick up those changes.

Mr. Swatzel: If you have a stock assessment that shows something dramatically different, for example, at the next meeting, are you saying we would move forward with these alternatives as they're written?

Mr. Waugh: These alternatives are going to stay in Amendment 16. We won't see the stock assessment until December and that's when the SSC is scheduled to look at it. All of these management measures will stay in here. The specification of MSY and OY would stay in here, based on the old stock assessment.

The thing that would come online in regulation would be the management measures and we have a table that shows instead of what's in here, based on the old stock assessment, here are the new measures that we want implemented, based on the new stock assessment. Any other changes, we would pick up in Amendment 17.

Mr. Geiger: Gregg's summation of that is accurate. What we did was we decided to move forward with the previous stock assessment to maintain the timeline, which was, in fact, all important, unless we got new results from this otolith reading. If that's the case, we were going to be prepared to allow Dr. Crabtree to make changes and move downward the requirements. The agreement was to move forward, under the assumption that to keep the timeline that we

were going to act on the original stock assessment.

Mr. Waugh: If there's no change to MSY and OY, we have the same formula we specified for minimum stock size threshold and that is one minus the natural mortality rate times the spawning stock biomass at MSY. You will recall that one of the problems with this stock assessment is it's not giving us biomass-based values and so we're saying that this value, minimum stock size value, is unknown at this time, given the high level of uncertainty with the biomass values. That recommendation is fully consistent with the SSC's recommendations.

Mr. Currin: Any comments? Are you okay with where we are? Let's move on.

Mr. Waugh: The total allowable catch, and this comes from the SSC, is the yield associated with 75 percent of FMSY and this is 628,459 pounds. That is the TAC that we will be implementing.

Mr. Currin: From then onward, until changed. Okay?

Mr. Waugh: This brings us to the management measures and I thought we would let Rick cover the recommendations from the AP and then we'll go through the management measures.

Mr. DeVictor: There were two motions from the AP concerning vermilion snapper. Motion Number 13 was where they recommended to the council to take the least restrictive action possible in terms of management regulation that ends overfishing of vermilion and use all available information in a new benchmark assessment. That was identical to a motion that they made in September.

Then their second motion concerning vermilion snapper was Motion 14, to implement a May 1 start date for vermilion snapper and a 1,000 pound trip limit of vermilion snapper. It's tracking largely what they decided with gag grouper.

Mr. Currin: Discussion or comments on the AP's motions here? The first one certainly is what we will do and try to do, I believe, every time, is limit, as best we can, the impact on the fishery and on the fishermen. The other, Motion 14, is to change the start date for vermilion and implement a 1,000 pound trip limit. Again, this is contrary, I believe -- I remember them discussing trip limits on vermilion early on and rejected consideration of those. Things have changed and so what's the committee's desire as to how to deal with this? We're going through an analysis for gag and doing something very similar to this.

Dr. Chevront: I'm hoping somebody can remind me on this. Do we know what the average vermilion pound weight is per trip currently? I'm just trying to figure out what kind of a reduction are we talking about. If we do this and this is pretty close to what they're normally catching, we're really setting up that derby fishery and all those fish are going to get caught very quickly. The other thing is I'm assuming that the AP meant, in Motion 14, just the commercial fishery? It sounds pretty reasonable to assume that, but it's not explicitly stated in their motion.

Mr. Currin: I would caution us if we're going to change a fishery start date that we would do it for both sectors, so that they're tracked in the same time period, because the quotas are allocated

or TACs and splits, allocations among them, are based on that year as well. If that's something we want to do for the industry, then we need to do it for the recreational sector as well.

Mr. Waugh: Appendix F of Amendment 16 has a table, Table 41, in there. I've got it projected and this is looking at the vermilion trip limit analysis and if you look at -- 1,081 is in the table, average number of trips is 270 at that. There's a fair amount of trips higher than that, in terms of percent over that trip limit. It looks like about 10.5 percent of the trips would be over a trip limit of 1,081 pounds. I don't know if Jack wants to add any explanation to that. Again, this is from that Appendix F, including a lot of background analyses for vermilion.

Mr. Currin: Brian, it may actually help moderate a derby fishery to some degree, but I don't know. It just depends. Other comments or discussion on this? What's your pleasure on this recommendation from the AP to change the fishing year of vermilion to coincide with the gag and to implement a 1,000 pound trip limit for vermilion snapper?

Dr. Chevront: I would like to ask maybe Tom how that would affect at least what his knowledge is about the headboat fishery, if we had a May 1 start for b-liners, when in fact the fishery will probably be closed for several months prior to that, once the quota is met.

Mr. Swatzel: Let me make sure I understand correctly. There's not a quota on the recreational side and in fact, I think one of the preferred alternatives is that I think it's closed October through May 15<sup>th</sup>, I believe. I'm not sure how to respond to that.

Dr. Crabtree: I don't think it would have any impact on the recreational fishery. In fact, it's not clear to me why we would need to change the recreational fishing year. We didn't do that with gag. It was just the commercial fishing year and since we're not tracking a quota for the recreational, I don't know that we need to do that. It might -- In Amendment 17, when we put the ACLs in, we're going to have to deal with how all that matches up, but --

Mr. Currin: Thank you for clarifying that.

Mr. Geiger: I just want to also mention to Tom that although there's not a quota in place now for the recreational fishery, when we go down the 17 road and we start talking about annual catch limits -- I don't know what we're going to call them, but there's going to be a limit on recreational catch. Think about that when you're thinking about this as well.

Mr. Currin: Other comments here? That's not something we want to analyze an alternative for? If not, then we will move on.

Mr. Swatzel: To me, it sounds like a good idea to have trip limits. We just did it on gag and on this particular situation, you're talking about a quota that's likely to be met a lot quicker than the gag. It's a really very, very small amount of fish that are going to be caught, from a commercial standpoint. To me, it would seem like if you're going to apply trip limits to gag, this is a fishery that you certainly would want to do it also.

Dr. Chevront: I'll go ahead and make the motion then. **I would like to make a motion that in**

**the commercial fishery for vermilion snapper that we implement a May 1 start date and a 1,000 pound trip limit.**

Mr. Currin: The motion is to develop an alternative which would, is that right?

Dr. Chevront: That is correct and make sure that it just applies to the commercial fishery.

Mr. Currin: The motion is to implement a May 1 fishing year start date and a 1,000 pound trip limit for the commercial vermilion snapper fishery and is there a second? Second by Tom. Discussion?

Mr. Harris: I note that the AP voted seven in favor and three against this motion and I would just be curious as to what those who were against this motion said at the AP meeting, if they had any discussion about it. I would like to know a little bit more about -- Even though they voted in favor of it, there was some dissent and can anybody shed any light on that? Rick, were you there for that?

Mr. DeVictor: I was there, but I don't recall and there may not have been any discussion on the three against, but I just don't recall.

Mr. Currin: Further discussion on this motion? **Is there any objection to this motion? I see none and the motion is approved.** All right, Gregg.

Mr. Waugh: Let's start at the top. We've got two alternatives for allocation, no action and then the preferred is based on the landings data from 1986 through 2005, a 68 percent commercial and 32 percent recreational.

Mr. Currin: No suggestions from the AP to modify that in any way, I don't believe, was there?

Mr. Waugh: No.

Mr. Currin: Okay. Is everybody comfortable with the current interim allocations on vermilion snapper? Okay.

Mr. Waugh: Alternative 2 is to establish a directed commercial quota based on that interim allocation of 68 percent commercial and 32 percent recreational and just as we did for gag, we'll have to recalculate what those numbers are, looking at the trip limit and seeing if that affects our post-quota bycatch mortality.

We also took and divided that commercial quota into two seasons. We allocated the directed commercial quota 50 percent to the period January 1 through June 30 and 50 percent to the period July 1 through December 31. Any remaining quota from Period 1 would transfer to Period 2 and any remaining quota from Period 2 would not be carried forward.

I should have pointed this out when we were doing that other motion that starts the fishing year. When did we start, May 1? Yes, May 1. We need to figure out how are we going to

accommodate this first period, when we had the quota split. Did the AP discuss that and was there a recommendation to get rid of the split?

Mr. DeVactor: I do not recall discussion on that split. I don't know if you recall, Tony, or anybody.

Mr. Currin: I would be curious about any discussion they had about this as well and their rationale or any discussion they had about this alternative and why they weren't comfortable with it.

Dr. Crabtree: It looks like to me what our preferred does now is break it into two six-month seasons and so I think we could just indicate that if we choose the May 1 start date then it would still be broken into two six-month sub-seasons. Regardless of the start date, that's what we're doing, we're splitting it proportionately.

Mr. Currin: Keep in mind the reason we did that is so that others were not -- Some states were subject to being disadvantaged because of the low quota and with an initial fishing year starting in May. I forget who was at risk, but some states may not have access to it during their prime fishing year. North Carolina, for example, occurs a lot in the fall, I believe.

Dr. Crabtree: Could we modify this alternative, just with some extra language, Gregg, that indicates that if the May 1 start date for the season is chosen that everything would just shift and it would still be a six-month split? I'm not sure what the best way to do it is.

Mr. Waugh: We've already got all the analysis done for this and this went out to hearing. It might be good just to come up with another alternative, sub-alternative, under here that would start May 1 and run for six months and then the second period would pick up the remaining six calendar months.

Dr. Crabtree: Mac, could we just ask staff to figure out how to do that and we'll revisit that at full council?

Mr. Currin: I'm comfortable with doing that, as long as the committee is comfortable with developing that alternative. Is everybody okay with that?

Dr. Chevront: I'm okay with that. One of the things I would like to make sure that gets considered -- I think the reason why we had split it 40 percent in one period and 60 percent in the other period was based on the rates of landings in the past and if we're shifting it now by four or five months, we might need to revisit that idea again and consider how the percentage split would go between those two six month periods. That just sort of adds a little layer of complexity to it, but I think that was the reason why we had the 40/60 split in those two six-month periods.

Mr. Currin: The 40/60 split was an alternative, but our preferred currently is 50/50. I understand your point and there may be some landings differentials on some of those months that would be affected.

Dr. Crabtree: I want to suggest, Brian, if you or other council members have thoughts about that, you need to get with staff now, between now and full council, because we need to get that figured out before full council, so that we get it set the way we want it at that point.

Mr. Currin: We can look at the monthly landings by state, get together with the staff and look at that and see what reasonable percentages might be applied there to make sure that no one is disadvantaged. Jack, did you have something?

Dr. McGovern: I talked to some of the AP members and they didn't want -- They just wanted the May 1 start date and they didn't want the seasonal split on vermilion. They just wanted gag and vermilion opened at the same time and their rationale was to reduce bycatch.

Dr. Crabtree: That would simplify the document then, if we make it just clear if we're going to go with the May 1 that we're not going to do a split, but we've all got to make an agreement to that and we're not going to come back in September and say now we want the split on May 1. I'm fine with saying if we're going to go with the May 1 that we're not going to do the split, but let's make sure we're going to stick with it.

Mr. Currin: Everybody understand that? Okay. We're comfortable then with just analyzing this alternative just to open the fishery May 1 and have at it and then we've got others that are dividing the fishing year into two parts, at a couple of different percentages. Currently, our preferred is 50/50, beginning in January. Okay?

Mr. Waugh: Then Alternative 4 deals with the recreational fishery. Our preferred alternative is 4D, to reduce the bag limit from ten to four vermilion snapper, and a seasonal closure of October through May 15<sup>th</sup>.

One thing we need to talk about is when we were doing this, the percent reduction that we're after on the recreational side is a 69 percent reduction and the alternative that we've got in here gets a 66 percent reduction. You all need to determine if that's close enough. Remember this was added at the last meeting and we came up with a rough approximation that we thought would get us closer to the 69 percent, but as it turns out, the total reduction is 66 percent.

Mr. Swatzel: First, I would like to hope that the new stock assessment doesn't require a cut of that nature, but also keep in mind I think -- I don't guarantee this, but I really think there's going to be a pretty drastic drop in effort on the recreational headboat side, again based on this fuel issue. I would just say that I think 66 percent is probably close enough.

Mr. Currin: Other thoughts?

Dr. Crabtree: Remember that we're reducing to the target, which is FOY, here. I think we do have some wiggle on that, because we're reducing to FOY. 66 percent still gets us well below the overfishing threshold and it gets us close to our target level and it's certainly within the implementation.

If you were only cutting to the limit, I would say no, you've got to get it all, but because we're

managing down to the target and we have that cushion, I think it's fine and I think, Rick, the text ought to -- Probably put a few sentences in explaining that and I think we're fine.

Mr. Currin: I'm comfortable, personally, with it.

Mr. Geiger: I'm going to speak for the council, Tom. We all hope that the new stock assessment gives us more wiggle room, but I think 66 percent is enough as well. It's close enough.

Mr. Currin: If you recall, we had some discussion, some yesterday and some at the previous meeting and the AP we've heard from and a lot of the public have talks about impacts of fuel costs and the economy in general on effort and numbers of trips. Kate has developed some information on numbers of trips and recent changes on that. Kate, we'll welcome you to come present those to us at this point. It would seem to be an appropriate time.

Ms. Quigley: Yesterday, I had Mike email out some analysis that had been done by Jim Waters and myself. This first graph that you see up on the screen was put together by Jim Waters. There's one Y-axis that shows number of trips with snapper grouper species and you've got snapper grouper trips shown in blue, annual data, and you've got all trips shown in yellow.

Then on the other Y-axis, you've got -- It's says "Inverse PPI" and that's the inverse of the producer price index for diesel, the price of diesel. Now, the inverse was used just to smooth things out a bit, but what you see is inverse PPI is going down and so the price of fuel is going up over that period of time.

As the inverse PPI is going down, at the same time what's happening is the number of trips have increased slightly on an annual basis. This is commercial, commercial snapper grouper trips specifically. As of right now -- This is 2007 data and we don't have the 2008 data yet. This is based on logbooks and so there's a big lag in the data, but as of the end of 2007, we're not seeing a correlation between diesel prices, the increase in diesel prices, and number of trips being made.

Now, there's a lot of other decisions that go into whether to make a trip or not than the price of diesel fuel and so we don't really know exactly what's happening, but we would expect that once diesel fuel prices increase that at some point the number of trips would be impacted by that. For some people, that's certainly true, but the data that we have right now is not showing correlation between diesel price and the number of trips.

This is just on the commercial side and so now we've got some data on the recreational side as well and that was also emailed out to you. Let me pull up that report and I'll just focus on the graphs. Again, we've got commercial trips right here. I split the recreational up into for-hire trips, private recreational trips, and EEZ trips.

Just on an annual basis, for-hire trips overall have increased. Now on a state-by-state basis, the number of trips made in the for-hire sector have increased in every state except -- They've increased in Florida and they've increased in South Carolina, according to the data, but they have decreased just slightly in Georgia and in North Carolina. You see Florida goes up a little bit and Georgia goes down a little bit and this is through 2007. Again, we don't have the 2008 data yet,



of course.

I just want to say one thing. We've got South Carolina there's a major increase. There's a doubling in the number of for-hire trips and so that number looks a little but suspicious and we're trying to look into that, to make sure that number is correct.

Mr. Currin: Thank you, Kate.

Mr. Geiger: I looked at this and I saw that as well and Tom had mentioned that he believed that there was an error in this and I was hoping that somebody would say they were going to look at it, but this data came from MRFSS?

Ms. Quigley: Yes, it did. These numbers were pulled from MRFSS on June 2.

Mr. Boyles: I'm not on your committee, but just an affirmation. I've talked to staff about this and we are flummoxed as to what might explain the doubling of for-hire trips in South Carolina. It's not what we've seen on the ground.

Mr. Currin: Tom mentioned that yesterday.

Ms. Shipman: I just wanted to clarify for George on the for-hire trips that Georgia -- Our staff collect those data and I will stand by those data. Those are very good. We have people that call those charter captains every week and I do think our data are good for Georgia.

Dr. Crabtree: That was going to be my point, too. Unless there's just a mistake, those numbers are what the charterboat captains report them to be. There could be some expansion thing here, because they don't call every one every time. There could be some statistical artifact and I don't know what the coefficients of variation around those numbers are, but certainly we could ask the MRFSS folks to take a look at that particular number for us in headquarters.

Mr. Swatzel: I would appreciate it if there would be some -- If they would look into that number. If you look at Table 2 on page 10 of this document, it just points out it's -- It actually, again, has 60,000 extra trips in South Carolina in 2006 versus 2007. It's doubling and there is just no way. Being involved in that industry, we had, at best, a flat year. Maybe some people had some slight increases, but I know it didn't double. There's just no way it could have.

Looking into the future, just a reminder, and most people in the industry know this, fuel prices right now are about \$2.50 higher per gallon than they were last year and so I can't imagine, looking at 2008, that we're going to see any increase at all and possibly a decrease.

Mr. Geiger: Please don't misinterpret -- I didn't mean to impugn the integrity of anything that's been collected here. I was just trying to ascertain that it was collected by MRFSS and Tom had mentioned that there was a doubling and it does look kind of funny and I participate monthly in that survey, as well as the for-hire.

Dr. Crabtree: I just wanted to draw the distinction between the MRFSS coastal household survey

effort estimates, which is one thing, and then the charterboat survey. It's really a separate effort survey apart from MRFSS, but I've asked Jack to check with the folks in Silver Spring who run that survey and see if we can take a look at that specific number and see if there is some problem there that can be identified.

Mr. Harris: I guess the question is people that are -- The charter captains themselves are not curtailing their trips. It's all going to be based on whether the people that hire a fishing guide to take them fishing stop coming to the coast or slow down in that, because they're not paying for the fuel, other than to get to where the captain has his boat.

I'm getting more calls now than I've gotten in the past. I don't think the fuel prices, at least at this point, are curtailing the people that are hiring me as a guide to take them fishing. I may change my fishing behavior as to where I take them, but they're still coming and going fishing and so the trips, in my opinion, are not necessarily going to decrease as a result of increased fuel costs.

Mr. Currin: Keep in mind that there's kind of two segments within that for-hire industry and there's great big boats that burn lots of fuel, like the offshore charterboats and the headboats, and then there's little guide boats that are relatively fuel efficient and aren't running, in some cases, long distances.

There may be some shift in increases in the small boat for-hire sector, their business, but decreases in the other. If we've got some way to analyze that information by boat size or I don't know what goes into the database, six-pack versus headboats. I know that's different, the licenses are different. We might be able to get a handle on that, to help explain it some, Tom, but I don't know. It certainly seems like an outlier under current economic conditions. Kate, thank you very much.

Ms. Quigley: Actually, I've got more. I've got a bit more. That's only the first two pages of something like a fifteen-page document. Just to let you know, the coefficient of variation around that South Carolina number for 2007 is 10.3, but I will continue to look into that number as well and I will talk with Jack about what he finds out and see if I can assist in that.

To go back to the document, that's annual data for the for-hire sector and yes, that does include headboats and charterboats. What we see is a slight drop-off in Georgia and North Carolina for-hire trips. As you move down the document, I also looked at the monthly data. Now, the monthly data for 2008 is only available for the first wave, which is January/February. I only took a look at North Carolina and Florida. They were the only two states that had that number. They should be available next week. I was told they might be available today and I just checked and they weren't.

North Carolina monthly data for for-hire trips, the large red triangle is 2008, January/February. I did a comparison between January/February of 2007 and January/February of 2008 for North Carolina and let me take a look at the results. I think we found that there was a slight decrease in number of trips.

Comparison of the first wave, in 2007 to 2008 for North Carolina, indicates a decrease from approximately 4,300 trips to 3,000 trips. You can see that in Figure 7. You can't see it exactly, but the tables are in the back of the document and a comparison of the averages also indicates a decline from 4,326 trips to 3,009 trips. That's a 30 percent decrease and that's looking at the averages across several years.

The same trends exist when comparing Wave 6, that's November/December, in 2006 to 2007 in North Carolina. Maybe there's an indication that we're seeing it in the data and it's actually showing up in the data. Florida, we don't see that same trend occurring.

If we move down to private recreational trips, annual data, there's an increase in all states and if we look at the monthly data for private recreational trips for Florida and for North Carolina, there is also no decrease. There's only an increase and that's all contained in the document.

Then we took a look at annual and bimonthly data for trips made to the EEZ and what we see is that for-hire trips, there's a slight decrease. Recreational trips to the EEZ increased from 2006 to 2007. However, trips made by the for-hire sector in November/December of 2007 were lower than the number made in November/December 2006. Right now, that's the data that we have and so there may be some indications for North Carolina and Georgia and we'll continue to gather data and to track this.

Mr. Currin: Thank you, Kate, very much, for putting that together and sending it to us. Questions for Kate about this or comments? Keep in mind I think some of the trends, although they're upward, some are very slightly upward and the same thing on some of the downward trends as well.

Mr. Waugh: Our intent would be to put this in Amendment 16, because we did hear a lot at public hearings about the impacts, and so we'll include this and by the time we have it ready to go out for the next round, we should have some more data. Of course, when we bring it back to you in September, we should have more data as well, to see whether there is indeed a continued decrease in trips.

Mr. Currin: I hope we can straighten this out with the South Carolina estimates and if in fact they stay there, we had better have a real good explanation for how they doubled, but I'm sure we can find that out. Thanks, Kate. Any other questions or comments for Kate? Let's get -- Let's take a short break. We haven't had one and let's do that. Let's take fifteen minutes, max.

(Whereupon, a brief recess was taken.)

Mr. Currin: The next measure in 16 is Section 2.1.3 on page 71, I believe, reduce bycatch of snapper grouper species. There's a number of alternatives there. Currently, the committee and council's preferred is to implement a circle hook regulation for all snapper grouper fisheries and require dehookers and venting tools on all boats engaged in snapper grouper fishing. We've heard a lot of input from the public and from our SSC and from our AP regarding this.

The AP is in favor of requiring the venting tools and dehookers are present onboard, but, again,

we've got a lot of different kinds of fisheries. We heard from the fellow from the Keys, Richard, that brought the pictures and the video and expressed some grave concern about the way he fishes and the effectiveness of circle hooks for that yellowtail and gray snapper fishery. What's your pleasure on this?

Mr. Geiger: Mac, certainly I think when we originally addressed this, we realized that we weren't going to be able to quantify any biological benefit from doing this, but I think we did it in consideration and in light of trying to minimize or reduce the effects of discard mortality. We're handling fish and adding to discard mortality and we thought that circle hooks and dehooking devices and the venting tools would be a good way to come at that, understanding that we weren't going to get any quantifiable biological benefit from it.

Certainly, as you just outlined, we've heard from the public -- I would be disposed to move forward with the venting tools and the dehooking device and hold in abeyance the mandate to use circle hooks and attack it from an I&E perspective, where we could possibly develop some more material.

Bill Kelly from our AP suggested that there's an opportunity to conduct a more long-term research program on the use of circle hooks, which might be beneficial to making a judgment in the future, but I -- Based certainly on the recommendation from the SSC, I believe it would be prudent for us to move away from the mandate for circle hooks and just include in and modify the alternative to include the venting tools and dehooking devices.

Mr. Currin: Is that a motion, George?

Mr. Geiger: **Yes, I would make that motion.**

Dr. Chevront: I'll second it.

Mr. Geiger: Instead of just saying dehooking tools, I would say we would probably have to use approved dehooking tools or, Monica, how would we do that? Roy discussed the requirements yesterday that the tool had to meet certain requirements and how would we include that in the motion?

Dr. Crabtree: I think you could just -- Let me confer with my attorney for a moment. What you're wanting to do is require that they have the dehooker and the venting tools onboard, but not require the use of circle hooks and is that correct?

Mr. Currin: That's what George is considering in the motion here, yes. Brian seconded it and we've got a motion, to require the use of venting and currently approved dehooking tools. I have some concerns about that.

Ms. Shipman: I was curious about the SSC's discussion and in a sense, their objection. They passed a motion requesting that this requirement be removed from the amendment because of poor documentation of benefits relative to those species outlined in Amendment 16 and then they suggested it be considered as a stand-alone amendment.

They really didn't elaborate on that during the report yesterday and can any of the staff who maybe attended that meeting -- Is it just the absence of the quantification of the benefits or -- It's sort of perplexing.

Mr. Waugh: Their comments were that it appeared that this was inserted at the last minute and did not have a lot of detailed justifications and there are lots of other studies that could be pulled into the justification. I think that was the crux of their analysis and they thought if you were going to do this that you need to do a more detailed examination and look at it not just in snapper grouper, but across all our fisheries.

Ms. Smit-Brunello: I would like to ask George -- George, essentially your idea is to keep what's in Alternative 2, except drop out the circle hook requirement?

Mr. Geiger: Yes.

Ms. Smit-Brunello: Since this is analyzed -- If you want to keep this in the document, all of this section, since this is already analyzed, Alternative 2, although the SSC says it needs more analysis, you could -- If you're going to have to reanalyze, you could keep Alternative 2 and drop Section B out, Use of Non-Offset Stainless Steel Circle Hooks, or you could make an Alternative 3 that essentially says what Alternative 2 does, except that you wouldn't be requiring the circle hooks. Maybe that would be even easier, since Alternative 2 has been analyzed, albeit the SSC says you need more analysis.

Mr. DeVactor: I kind of like that idea. It seems Alternative 2 is a reasonable alternative and could remain in the document.

Ms. Smit-Brunello: That's another good NEPA point.

Dr. Crabtree: Of course, then you saw the dehooker that the yellowtail fishermen, that metal thing, were using and that, I don't think, would meet our definition of a dehooker in this. I don't know if that's your -- I guess what I'm coming to is are we really comfortable with proceeding with even this at this point? It's your call.

Mr. Currin: That's a good point, Roy, and there's no distinction between -- Use of a dehooking device is to help the survival, increase the survival, of fish that are intended to be released and not fish that are being put on ice to be sold or kept and taken home to eat. It's going to be a little sticky about how we get to that point.

Mr. Iarocci: I'm not a member of this committee, but to that point, most of the commercial boats that do use these dehooking devices that are fastened to the chill boxes -- I think Richard said it on the record yesterday, but they do have the dehooking similar to what our dehooking, the smaller devices for the smaller fish, when you do catch undersized or questionable fish.

They do not throw them over that dehooker, but they do use those devices and so they are -- They will be required to have these dehooking devices. The metal dehooker, the mounted

dehooker, is totally -- I don't even consider that even in the same category as this.

Mr. Currin: That's not really a dehooking device. It's a fish removal device is what it is and it's apparently very effective.

Dr. Crabtree: It wouldn't apply to it, period, then.

Mr. Currin: I don't know, but those are some concerns, that we need to make sure that we don't require those guys to use these hand-held whatever they are devices to take their yellowtail off to put in the ice.

Mr. Iarocci: I just want to say again, state on the record, that I've been on those boats and I've done it and they do use those dehooking devices and it will be -- Most of them have it on already.

Mr. Currin: In fact, if they were required to have them onboard, rather than being required to use them, that might allow them to use something else when the occasion arose or the need arose.

Ms. Merritt: I guess I had the same point that Tony made about the dehooking and differentiating between the dehooking part from that metal piece that's on the chill box, but I think that word "approved dehooking", do we actually have an approved type or should we just go with the words that the AP used, "as recommended by SAFMC or NMFS"? Do we?

Ms. Smit-Brunello: If you look at Alternative 2, it doesn't use that language in it. It just talks about a dehooking tool or dehooking tools.

Ms. Merritt: To that point, that's why I think the word "approved" should be taken out and then if we did want to address the circle hook issue, because there are so many unknowns and not fully identified types of circle hooks, as well as problems with the conservation benefits not being on all species or not having enough information about that, all the lack of information there, I think that we should just encourage the use of circle hooks for conservation benefits, rather than requiring them. Should we make that as a friendly motion?

Mr. Currin: I would think if you want to establish more outreach for circle hooks and encourage use and that sort of thing, that probably ought to be done in another motion, if want to forward that effort.

Mr. Swatzel: On page 71 of the document, underneath these alternatives, it refers to the Gulf of Mexico reef fish amendment and the definition of dehooking device within that rule.

Mr. Currin: Yes, it does.

Mr. Geiger: I understood the advice was to take the motion and make it Alternative 2D? Was that your suggestion, Monica, just make it a stand-alone --

Ms. Smit-Brunello: Or Alternative 3.

Mr. Geiger: Or Alternative 3? That's even better, because I guess that gives us another NEPA alternative.

Mr. Harris: I'm not going to belabor this point. I think maybe even with the dehooking device that we may be taking this a little bit far. I don't know of any boat that I've ever been on, including my own, that doesn't have some, perhaps three or four, dehooking devices that we've purchased over the years on our boats and some work better than others and some work better in different situations than others. If we choose to mandate a dehooking device, that's okay with me, but I just think maybe we don't need to do that.

Mr. Currin: Having the word "approved" in there still concerns me a little bit. I'm not sure what that is. We got a lot of comments from the public indicating that what this or similar rules are doing is requiring the use of one of these ARC-dehooking devices. As you saw yesterday, Bill Kelly has got a very cheap alternative that may or may not work, depending on how that's used and where the fish is hooked. It may not work as effectively for releasing that fish unharmed as perhaps some others, but depending on where that fish is hooked, I think it could be effective and there may be others as well. I have a little concern about that.

Mr. Geiger: **I'm not wedded to including approved dehooking tools or dehooking tools in the motion. I made the motion merely to move us along and open discussion and if it's the sense of the committee that a friendly motion would be in order to remove "and approved dehooking tools", I'll accept that as a friendly motion.**

Dr. Crabtree: I was just going to suggest that you take the word "approved" out, because that implies that we're going to list some list of approved devices and what we've tried to do is write a very general description of a dehooking device that would allow the use of a pair of pliers or the wooden dowel that Bill Kelly had or a lot of things, but there's no approval process. I don't know who made the motion, but, George, if it's your motion, I would say just take it out.

Mr. Geiger: I made the motion and if it's okay with my seconder -- I don't want to leave him out on a limb. There's nothing like seconding a motion and having the primary motion maker back out.

Dr. Chevront: I appreciate that, George, and I'm perfectly fine with taking out the word "approved" in reference to dehooking tools.

Mr. Geiger: What about taking out "and dehooking tools"?

Dr. Chevront: I guess I kind of really would prefer to keep dehooking tools in there. I know what Duane had said, but this just makes it clearer that we expect there to be dehooking tools on there. It may not affect most people in their current operations, but I think it should be in there that you've got to have it.

Mr. Currin: You guys are okay and the motion now read: Alternative 3, require the use of venting and dehooking tools.

Mr. Sharp: Just to speak to this point, and it's more of a comment and some food for thought, but we incorporated these rules on the Gulf side of Florida and almost verbatim to this and very quickly, we realized that it spawned a lot of questions and there's a lot of gray area in this, for example, and in Florida it will, of course, be more of an issue, just because of our coastline and the shallow water.

For example, require the use of venting tools, we began getting questions of when do you use a venting tool? Do you use it in ten feet of water or how can that be enforced? What do you tell law enforcement?

Just as an example, one of several issues that have arisen by codifying this into rule is everything from the things you never think about, MDs calling in and wondering what you do with the used hypodermic needles used for a venting tool and do you need to keep a sharps box onboard? I'm only touching on the surface of some of the things we've had to deal with by codifying this. I had mentioned earlier that maybe an O&E method might be more suitable than codifying it in rule. This is our experience thus far with this rule.

Dr. Crabtree: It may be that we're going to need to tweak the language over in the Gulf again, but my take on this is we say that one venting tool is required and must be used to deflate the swim bladders. My read is the swim bladder doesn't need deflating, then you don't deflate it and if you catch a fish in ten feet of water, I don't want you to vent the fish. You're going to do harm to it.

That's how I'm reading this language and I think there's got to be some commonsense in here. We've always come at this from an enforcement perspective of we're going to be in an educational mode and not a punitive mode, but clearly if you catch a fish in very shallow water and it doesn't need deflating, don't stick a needle into the fish. Just turn him loose and let him go. There's got to be some judgment in this and it may be something on the Gulf side that we need to tweak that language in there.

Mr. Currin: You guys can work that out on the Gulf side. We don't need to debate that here in the South Atlantic.

Dr. Crabtree: No, but if we're going to go through this, I think we ought to make sure that our rule language reflects that this is for fish that need to be vented.

Mr. Sharp: To that point, Roy, I hear you. The commonsense should prevail, but there's been some problems with that thus far.

Mr. Currin: In my mind, just requiring the possession of these tools on the boat is going to encourage or require that some one, a reasonable human being, understand how they might be used. Some come with instructions and so there's an O&E sort of aspect of this. If someone is going to say, well, I don't know -- Many people use dehooking tools and use venting tools now. I'm sure there's a certain segment of the population that does not and that's the segment that we want to have educated about the use of these things and hopefully they'll look into that and learn



something about it and attempt to use them when appropriate.

Dr. Laney: Mr. Chairman, I think that was part of the SSC dialogue too, if I remember correctly, was especially with regard to the venting tool. It varies from fish to fish where you have to position it and what the outcome will be and even those who have attempted to do that in the past have not always had glowing success and so I think that was behind part of their concern, as well as the fact that we don't have a lot of data on the survival rate of fish that are handled with these tools.

Mr. Sharp: I would just like to call the question.

Mr. Currin: The question has been called on this motion to require the use of venting and dehooking tools. **Any objection to this motion? I see none and that motion will stand approved.**

Dr. Crabtree: We're left here with -- Are we changing our preferred or did I miss that?

Mr. Currin: No, you haven't missed that and currently, we need to consider that, if this in fact will become our preferred. Currently, our preferred would include circle hooks for use by both fisheries. It's not clear from this whether that would apply to both fisheries. I guess that's the intent, that they possess, at least, and use these devices. Is there desire to make current Alternative 3 our preferred?

Mr. Geiger: **I would make a motion that we make Alternative 3 our preferred alternative.**

Mr. Currin: Motion by George to change our preferred to Alternative 3 for applying to both commercial and recreational users. Is there a second? Second by Tom. Is there further discussion? Is there any objection? **The motion is to make Alternative 3 our preferred and to apply to commercial and recreational snapper grouper fisheries. Any further discussion? Any objection to the motion? I see none and the motion is approved.**

I think the only other issue or management measure in here is the one that's designed to give the Regional Administrator direction to adjust measures that are related to any lessening of the impact as a result of the new age-based assessment that's being worked on for vermilion snapper.

Dr. Chevront: Mr. Chairman, I don't see any need to make any modifications to this at this point. We hashed this out I think in March and really, all now we're doing is waiting for time and that SEDAR assessment to go through, but I'm still perfectly happy with what we decided in March.

Dr. Crabtree: I have a couple of minor tweaks or clarification. One, I think that the alternative needs to be clear that the TAC would be adjusted. It says that the quota would be allocated, but the quota is based on the TAC and so the TAC adjustment is implicit in it. Then our person who writes the regulations found it difficult to understand what we were doing and so I expect we need to be a little clearer that this is a one-time adjustment that's going to be made and it's going to be made in the rule that implements this amendment.

I think if you just read this, it's almost like it's a framework kind of thing, but that's not what we're intending. This is a one-time deal, where in either the proposed or the final rule that implements this thing, where we may back off on those management measures. I think that intent needs to be clarified in here, so that the record is strong. I don't know if Monica may have some comments.

Ms. Smit-Brunello: Roy spoke to most of my comments. It's interesting once you start drafting the rule for things, someone who wasn't at the meeting had a very difficult time of understanding this, which makes me think the public might not understand it either, unless they attended the meeting.

I think that we can have some discussion here on what Roy just brought up and then the staffs will work together to, at least in the discussion section, explain it better, obviously, than what we've done so far, I think.

Mr. Currin: Clearly the intent was for it to be applied to this one amendment and this one circumstance with the new assessment coming in.

Ms. Shipman: That was my understanding. The current measures we have in here were a placeholder until we got back the new assessment and if the new assessment allowed us to default to these other measures that were less restrictive, that's what we would do. That was my understanding when we adopted this in March. I do think this conforms to the AP's recommendation in Motion 13. I do believe it's our intent to take less restrictive action, providing we end overfishing, based on the new benchmark assessment.

Mr. Geiger: I agree, Mr. Chairman. You summed it up perfectly and Susan certainly did, too. I agree with both of those that that was in fact our intention. We don't need a motion to do that, do we?

Mr. Currin: No, I think if everyone understands we allow the staff the latitude to clean that up and make it more comprehensible and clearer, especially for the rule writers and the public.

Ms. Smit-Brunello: This will be brought back to you in September and so you'll have the chance to look at that again and as well as the regulation writer, Rod Dalton, back in the Region. That's a good thing and then we'll clarify it.

Mr. Waugh: You all do have -- You were emailed yesterday or the day before the draft proposed rule. We don't need to go that here, given that we're not approving it, but certainly take a look at that and if there are any suggestions you all have, we will modify that. One additional suggestion that Rod did have was in this table that we fill in the actual ranges of these numbers, so it's more clear as to how you figure out which percent applies. We will do that.

Mr. Currin: Brian, did you have something?

Dr. Chevront: No, I think we've covered everything. I think the fact that we just wanted to

clarify our intent and I didn't really think there needed to be a motion on that. I think everybody understands and is in agreement of the direction to staff.

Mr. Currin: Roy, did you have another issue on 16 that you wanted to mention at this point?

Dr. Crabtree: Yes. We're going to take action in September and I think we all understand that we have to move on this document in September and I think we have good reasons for waiting until then. What I would like everyone to think about is do we want to request an interim rule? If we get to September, it's unlikely that we would get these regulations in place until well into 2009 and so the seasonal closure we're talking about would likely be past it or at the very end of it.

We aren't going to get the full benefits of the conservation measures for either one of these species in place and if we get to September, I don't think there's any way to get regulations in place by January 1, other than an interim rule.

The Fisheries Service could go back and as we complete this document and draft the permanent regulations, we could also draft an interim rule to bring before you at the September meeting and then we could do everything we can to try and get that interim rule in place by January 1. It's up to you, Mr. Chairman, whether you want to have some discussion on that now or folks want to think about that and discuss it at full council.

Personally, I think, given where we are in terms of our legal requirements and obligations and given that gag is approaching an overfished condition, that's the status in the Report to Congress, I think we probably ought to take every effort to try and get regulations in place by January 1.

Mr. Currin: I'll take very limited comments on you feel about this thing, but in 17, we're going to be discussing an issue about bringing red snapper into that amendment and also associated with that will be discussion about whether we want to begin the process of either an emergency or an interim rule.

If we can kind of hold that whole discussion until then, I think that would be most appropriate and discuss emergency action and interim rule and what should be contained within that at that time. Certainly I appreciate you bringing it up, Roy, and everybody needs to think about that and if there's any brief comments or reactions to Roy's suggestion at this point, we can have a couple or three of those, but I don't want to get into protracted discussion of that issue at this point.

Mr. Geiger: To the point that Roy made before he started talking about the interim rule, it was the time. I want to go on the record and state that we had some concerns expressed to me earlier this morning and disappointment about the fact that we're not going to stay on schedule with this amendment.

During the discussion, it was understood by me and the group who expressed the concern that they understood that the AP motions had merit and by including those, it was going to delay the amendment by one meeting, but the fact was that -- This sends a positive message, I think, to our AP that when given options and alternatives that have merit that this council will respond to

those in a positive manner.

Had this same type of suggestions or alternatives been brought forward at the last AP meeting, we would certainly be on track at this meeting and I think it's important for the AP to understand that, that if they come forward with merit and try to work within the process and work with the council that I think this council has demonstrated its willingness to work on AP motions.

I think it's also important to note that the public understands who are expecting us to stay on track, that the AP motions had merit and they accept the fact that we're going to take a one meeting delay. I think that's also important, that there's mutual understanding and agreement here on what we're doing.

Mr. Currin: Thank you, George. I think that's well said and I think the other thing that we all have to realize, and I think we certainly do, everyone certainly should, is that these are very tumultuous times in the commercial fishing industry and the for-hire sector, because of a number of economic conditions and changes that are occurring.

The way you approach your business or manage in fisheries today can be greatly influenced by wild fluctuations in fuel prices and associated impacts with that. It concerned me a little bit that we did at one point consider trip limits in this amendment and with no buy-in from the AP at that point, they were moved to the appendix, but things were different then and so I regret that we have to delay this for one meeting, but I think everyone is committed to making sure that that's the last delay for Amendment 16. Anything else on 16?

Do you want to move into 17 and/or 17 and 18 or all of that? Everyone is probably aware -- I guess this may be the best thing to discuss first, is how we deal with 18. Rick, does that seem like a reasonable way to proceed or would you rather proceed in a different way?

Mr. Waugh: In looking at the deadlines that we have to meet -- We've got the pressing deadline of January 1, 2010 to deal with all overfishing species and our Amendment 17 is targeting us to meet that deadline, but we've got a couple of species in there, mutton snapper and greater amberjack, that are right now included in Amendment 17 that are not undergoing overfishing.

Our suggestion is to move those to the Comprehensive ACL Amendment that has a January 1, 2011 deadline. The other overfishing species that we split out is red snapper. That has to be completed on the exact same timeline as Amendment 17. Those regulations have to be in place January 1, 2010. Our suggestion is to move mutton snapper and greater amberjack into the Comprehensive ACL Amendment and pull red snapper back into Amendment 17.

A lot of the analysis of impacts of how to deal with red snapper certainly appear to us, on the outset, to require time/area closures. Those time/area closures will also have benefits to other species that are undergoing overfishing and so the analysis of those impacts interact with each other and so to have them split into two separate amendments would be very difficult and duplicative.

Mr. Currin: Comments on that?

Dr. Chevront: Actually, I think I feel pretty comfortable with going ahead and making a motion that we go ahead and do that and then open the discussion for it. **My motion would be to move mutton snapper and amberjack out of Amendment 17 and into the Comprehensive Amendment and move red snapper into Amendment 17.**

Mr. Currin: Motion by Brian and second by George and discussion?

Mr. Geiger: Gregg, I just wanted to clarify, before we jump onboard here with this motion, that when you were speaking to this potential of combining red snapper into 17, were you speaking for the staff or was that your opinion that you were giving? Not the staff, but the team.

Mr. Waugh: We've discussed it amongst our staff and we also discussed it with Jack and I believe Jack has discussed it with the other team members, but that is the collective recommendation of our staff and the team.

Mr. Currin: Other comments?

Mr. Geiger: I would certainly speak in favor of this motion and I will support it.

Mr. Currin: Roy, do you have any comments or concerns about this? It makes a lot of intuitive sense to me, because of the impacts and related impacts associated with measures on one species and another and --

Dr. Crabtree: As staff has explained it to me, it makes sense and they seem to be supportive. The only thing I think we've got to do is we need to get our act together on what rebuilding projections -- What do we need the Center to deliver for us on red snapper? We need to make sure that it's everything we're going to need and get that request into them real quick, so that we can get it done. I'm relying on staff to give us the advice and it makes sense to me and so I'm fine with it.

Mr. Currin: Further discussion on the motion? Brian, did Gregg capture the motion?

Dr. Chevront: He's got it actually written a little better than the way I said it and so I'll just go ahead and read it. **The motion is to move greater amberjack and mutton snapper from Amendment 17 to the Comprehensive ACL Amendment and move red snapper from Amendment 18 into Amendment 17.**

Mr. Currin: Any further discussion on that motion? **Any objection to that motion? Seeing none, that motion is approved.** We'll get back on to our agenda under Amendment 17, now that 18 is at least close to being gone. Rather than Galen Tromble, we have Wesley Patrick, who is going to make all this proposed rule on ACLs and AMs crystal clear for everybody around the table and in the audience as well. We're glad to have you, Wes.

Mr. Geiger: Boy, are we finally glad to see him.

Mr. Patrick: Thank you for inviting me today to discuss some of our proposed guidelines to National Standard 1. I realize that many of you haven't had a chance to look at the guidelines yet, but our office wanted to take advantage of these June council meetings to give you an overview of the proposed guidelines, since they're now published in the Federal Register.

The proposed revisions were published in the Federal Register on June 6 and have a ninety-day comment period, which ends on September 6 and could be extended if necessary. Given the time constraints today, I'll only be presenting our proposed guidance on the new Magnuson Act requirements for annual catch limits and related provisions. During the ninety-day comment period, we'll be giving more detailed presentations around the U.S. and so we're interested in any comments or questions that you might have.

I'll start off with a run-through of the key MSA requirements that our proposal attempts to address. Just as a reminder, National Standard 1 states that conservation and management measures shall prevent overfishing, while achieving on a continuing basis the optimum yield from each fishery for the United States fishing industry.

In January of 2007, the MSA was reauthorized and added new requirements to end and prevent overfishing, through use of annual catch limits and measures to ensure accountability. The MSA says that fishery management plans shall establish a mechanism for specifying annual catch limits in the plan, including a multiyear plan, implementing regulations, or annual specifications at a level such that overfishing does not occur in the fishery, including measures to ensure accountability, and that each council is required to develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its Scientific and Statistical Committee or the peer review process established under Subsection 302(g).

For secretarial FMPs, this could apply to the recommendation of agency scientists or peer review process. The MSA, however, does state that species with annual life cycles, unless they're subject to overfishing, and stocks managed under an international agreement to which the U.S. is party are exempt from having ACLs and AMs.

For all other stocks, ACLs and AMs are required to be implemented in either 2010 or 2011, depending on their status. As noted in the previous slide, SSCs have a new role in making recommendations to the council for preventing overfishing. In developing our proposed guidelines, we focused on the requirements that the SSC recommend an acceptable biological catch, or ABC in particular, as this is one of the key fishing recommendations.

Revisions to Section 304(e) of the MSA also states that effective July 12, 2009, within two years of an overfished or approaching overfished stock status notification, the councils must prepare and implement management measures to immediately end overfishing and rebuild affected stocks. Previously, it required one year to prepare a plan, with no mention of implementation, and it also didn't require that overfishing end immediately by the plan.

In developing the proposed revisions to NS-1 guidelines, we had several objectives and our main objective was to create strong, yet flexible guidelines. We understand that a one-size-fits-all approach could not accommodate for the diversity in the U.S. fisheries. However, we sought to

create a solid framework that will still meet the intent of the Magnuson Act to use ACLs and AMs to end and prevent overfishing.

Thus, the NS-1 Guidelines need to provide guidance on new requirements for ACLs, AMs, and ABCs, including definitions of the terms and recommended approaches for how they might be implemented. In addition, these new requirements might fit into the framework of existing MSA requirements, such as MSY, OY, and status determination criteria for overfishing and overfished statuses.

In developing our proposed guidelines, we considered the public comments that we received in February through April of 2007 and overall, we received 2,000 comments on a variety of topics, which you can find, posted on our website. We also received input from our Regional Offices and Science Centers.

Now for some of our key proposals. Our guidelines center around three themes, revising the current National Standard 1 Guidelines system of limits and targets that were developed in 1998 to prevent overfishing using these new ACL and AM requirements; 2) is describing how both scientific and management uncertainty can be incorporated to reduce the overall risk of overfishing; and 3) is establishing accountability measures that prevent exceeding limits, where possible, and addressing overages if they do occur.

Our proposed system of limits and targets includes four reference points, with overfishing, or OFL, being the first one. The OFL would be the annual amount of catch that corresponds to the estimate of MFMT, the maximum fishing mortality threshold, applied to a stock's abundance and expressed in terms of numbers or weight of fish. MSY is the long-term average of such catches.

The ABC is an MSA-required recommendation that the SSC provides to its council, though a definition was not provided. We're proposing that the ABC is an annual amount of catch, reduced from the OFL to account for scientific uncertainty in estimating the true OFL. It could be set less than or equal to the OFL. However, it's recommended that the ABC be set less than the OFL.

The ACL is required by the MSA, but was not defined either and we're proposing that the ACL is an annual amount of catch that may not exceed the ABC, as the ABC is one of the fishing level recommendations that the SSC provides to its council.

Mr. Geiger: We're going just a bit fast with all the new acronyms. If you could, why don't you start back up with -- If you would, please, define OFL again and what OFL means and just slow down just a bit, so we can keep up.

Mr. Patrick: With overfishing, it would be the annual amount of catch that corresponds to the estimate of MFMT, that's the maximum fishing mortality threshold, and it's applied to the stock's abundance and it's expressed in terms of numbers or weight of fish and over the long term, this would equate to your MSY.

Next, you would define your ABC and that's a requirement under the MSA, but it wasn't defined, and so our definition for ABC is that it's an annual amount of catch reduced from the OFL to account for scientific uncertainty and the estimation of true OFL. It's the variability in estimating what your MFMT is and what your current abundance is, taking into account that scientific uncertainty.

We're recommending that it should be set -- We're saying that it can be set less than or equal to OFL, but in general, we recommend that it's always set less than. Next, you would define your ACL and that's not defined in the MSA either, but it's a requirement and we're proposing that the ACL is the annual amount of catch that may not exceed the ABC. The ABC is one of the fishing level recommendations that the SSC provides to its council. The ACL would be also the basis for invoking accountability measures.

Lastly, you would define your annual catch target which is not defined or required in the MSA. That's not a requirement in the MSA, but we recommend that ACT be set at or below the ACL, to account for management uncertainty, which is the uncertainty in controlling the annual catch a catch target and in quantifying the true catch limits. We recommend that the ACT be set less than the ACL in most cases, unless, for example, there is sufficient in-season catch monitoring and an ability to catch the fishery to prevent the ACL from being reached or exceeded. The long-term average of ACTs should achieve OY, provided that stock size is at or above BMSY.

In developing these guidelines, one challenge we encountered was how to interpret the requirement that ACLs be applied for each managed fishery. Some FMPs include only stocks that are the direct object of the fishery. Others include several hundred non-target stocks, taking an ecosystem approach.

NOAA Fisheries wants to ensure that the ACLs are effective in preventing overfishing, but also wants to encourage that the inclusion of species in FMPs promote ecosystem approaches to management. To address this variation of stock inclusiveness in FMPs and to encourage greater ecosystem considerations, we propose a distinction between the fishery and other stocks that have been identified in the FMPs for ecosystem considerations.

To provide you guys with a greater flexibility, we propose the following classification system. Stocks in the fishery are those that are required to have ACLs and AMs, versus ecosystem component species that don't need ACLs and AMs.

Stocks in the fishery include target and non-target stocks that are retained, including economic and regulatory discards that's defined in the MSA and non-target stocks that are not retained, but the council feels should be part of the fishery, because they are determined to be subject to overfishing, approaching overfishing, or are overfished or could become so in the future, based on the best available scientific information, without conservation and management measures in place.

The ecosystem component species are non-target species or stocks that are generally not retained, although *de minimis* amounts might occasionally be taken and have been included in the FMP to account for protection of the marine ecosystem and ecosystem approaches to



management consistent with MSA Sections 2 and 3.

Management would be applied to the fishery to protect these ecosystem component stocks with which the fishery interacts under National Standard 9, minimizing bycatch. All stocks in the FMP would be considered in the fishery unless otherwise specified by rulemaking and so it's optional to classify stocks as ecosystem component stocks. It's just a proposed tool to allow greater flexibility, should the council want that option.

More simply put, stocks in the fishery include target stocks and non-target stocks that are either retained for sale and personal use and also those that are determined to be vulnerable to overfishing or becoming overfished without conservation and management plans in place. The ecosystem component stocks are the optional category and it's intended for stocks that are rarely caught or retained. For example, stocks currently in the FMP as data collection only would meet the criteria for an ecosystem component.

In practice, overfishing is determined at the stock level because it's a biological single population based concept. Therefore, since ACLs are applied to prevent overfishing, we propose that ACLs also be applied at the stock level. Data poor stocks are not necessarily ecosystem component stocks. If there is a data poor stock that meets the criteria of being in the fishery, but there's no information available to set an ACL for it, then data poor proxies should be developed for that stock or it could be grouped into a stock complex that is part of the fishery and set an ACL for that complex.

To address the requirement of MSA Section 303(a) (15) that ACLs be established at a level such that overfishing does not occur, we propose that councils, with the advice of their SSCs, establish transparent risk policies to design control rules for specification of ABC and ACT.

Both the ABC and ACT control rules are designed so that together they reduce the risk that overfishing will occur. These will replace the MSY and OY control rules that are currently in the NS-1 Guidelines. The ABC control rule is associated with the OFL and it specifies an approach to setting the ABC for a stock as the function of the scientific uncertainty in the estimate of OFL.

The ACT control rule is associated with the ACL and it specifies an approach to setting the ACT for each stock, such that the risk of exceeding the ACL due to management uncertainty is at an acceptably low level. A group of scientists from our Regional Science Centers have been convened to develop technical guidance on incorporating science and management uncertainty to prevent overfishing and also to develop methodologies for identifying the vulnerability of stocks, based on these proposed guidelines. They hope to have the report out by the end of the year to complement these finalized NS-1 Guidelines.

Relating to the ACT control rule, one way you can assess management uncertainty is by looking at the past performance of achieving the target in the fishery and so in this example here, we have three management approaches, each with the same target levels and limit levels, but some of them have higher variabilities in catch than others and so for these that have higher variability, they should consider increasing the distance between ACT and ACL, so that the ACL is less

likely to be exceeded.

This is an illustration of who specifies the reference points, which is really a collaborative process. The SSC will start with specifying the OFL, using their best available science. To account for scientific uncertainty, We recommend that the ABC be set sufficiently below the OFL, according to the risk policy chosen by the council and using the ABC control rule. A council's peer review process could be involved in the specification of the ABC, but the ABC recommendation to the council needs to come from the SSC to be consistent with MSA Section 302(g) (1) (b).

The council will then specify the ACL, consistent with MSA Section 302(h) (6), not to exceed the ABC. To account for management uncertainty, in consultation with the SSC, the council could establish the ACT sufficiently below the ACL, according to its risk policy and using its ACT control rule.

Section 303(a) (15) of the MSA requires the FMPs establish a mechanism for specifying ACLs, including measures to ensure accountability. We propose two types of AMs, preventative in-season management actions to prevent reaching or exceeding the ACL, where in-season data permits, and AMs to address overages of the ACL, should it occur. These AMs should address operational factors that lead to the overage and address any biological harm to the stock that resulted from the overage. Lastly, all AMs should use the best available science possible.

As long as there's scientific and management uncertainty, there's always going to be some chance that overfishing could occur. However, the MSA requires that ACLs be set at a level such that overfishing does not occur and must not exceed the scientific recommendations.

NOAA Fisheries believes that allowing more than a 25 percent frequency of the ACL being exceeded would not safeguard enough against overfishing. Therefore, we propose that ACLs and AMs should be reevaluated or redesigned if the ACL is exceeded in more than one in four years. A higher performance standard could also be used if a stock is particularly vulnerable to the effects of overfishing, such as a slow-growing rockfish. The ACLs and AMs could be reevaluated if the ACL is exceeded more than say once in five or six years.

Regardless of the performance measure used, if an ACL is exceeded in a given year, AMs should be triggered. The performance measure is just a guide to let managers know that the ACT control rule and the AMs are appropriately set.

To account for differences in management techniques that have varying degrees of implementation error, NOAA Fisheries is proposing that ACLs can be divided into sectors of the fishery. This is an optional step in setting ACLs and AMs and I have a few caveats. One is that the sum of the said ratio should not exceed the overall ACL. AMs are required for the overall ACL, to protect the stock as a whole. For each sector ACL, sector ACTs and AMs should be established and sector AMs should be fair and equitable.

In state and federal fisheries, we recommend that the councils work with the state managers to develop ACLs and AMs, but where an agreement cannot be reached, our recommended approach

is to specify the ACL for the entire stock and then identify a federal portion of the ACL and then only apply the AMs in the federal water portions. It's just like the sector ACLs that I was just talking about.

In summary, we think that the proposed guidelines provide councils flexibility to address their fisheries, while providing a strong framework to meet MSA requirements. The MSA requires the ACLs and AMs to prevent overfishing. ACLs may not exceed recommendations of the SSC and ACLs and AMs are required for all managed fisheries, with those two exceptions.

Our guidelines propose the ACLs and AMs for all stocks and stock complexes in the fishery, unless the two MSA exceptions apply. Clearly account for both scientific and management uncertainty in the ACL specification process. AMs should prevent ACL overages, where possible, and always address overages if they occur and an optional ecosystem component category could allow flexibility in FMPs, for greater ecosystem considerations.

Mr. Currin: Thank you, Wes. Questions or comments? That's a lot to chew on.

Ms. Shipman: I would suggest that this PowerPoint, along with the explanatory narrative, be sent to the SSC. I don't know that they had this presentation or not, but I think it would help address some of their questions and concerns that they shared with us the other day.

Mr. Currin: Thank you, Susan. Wes informed me that he did not make a presentation to the SSC.

Dr. Chevront: I would also like it if it could be sent to us as well. One of the things that -- This isn't the first time I've heard about the ACLs and the OFL and the ABC and the ACLs and the ACTs and how they all interact, but I have to admit that one of the basic fundamentals of education of repetition and each time I hear more and more of this, I'm understanding it better.

I think one of the things that I got out of this presentation, more than I had in the past, was the difference in the roles of the scientific uncertainty versus management uncertainty and how it fits in the determination of each of those three-letter acronyms.

We as an agency, North Carolina Division of Marine Fisheries, is trying to decide if we want to respond during this ninety-day comment period and I think having a copy of this presentation, which could be shared with others in my agency and we can discuss it, would be really very helpful to us in trying to decide how to come up with any comments that we might have. If we could get that, it would be greatly appreciated.

Ms. Merritt: There is a presentation and I'm not sure it's the same one that you just did, but there is one on the website that I've been looking through. That might help.

Mr. Patrick: We are also planning to give out some Q&A questions or sheets for everybody, to give the quick facts about the guidelines. We just haven't had them approved for distribution yet.

Mr. Waugh: A couple of items that apply to issues we've been dealing with as far as species groupings. One of the things in the proposed rule does make it clear that we can do species groupings, but you have to ensure that any species in that group remains above its minimum stock size threshold. That was part of our reason for creating groups to deal with some of these unknown species.

If you know its minimum stock size threshold, then you can set all the SFA parameters. It appears that it will at least negate that use of species groupings, but the ecosystem component, we can put a lot of these minor species that we will never have assessments for into that category and we can certainly address that in our Comprehensive ACL Amendment.

We're going to get into some of these issues in 17, but the -- One area where we already talked about this a little bit is this ABC. It's clear in Magnuson that the SSC sets that allowable biological catch and the Guidelines have the councils developing an ABC control rule and I think there's going to need to be some interaction there, because the ABC determination is a scientific determination by the SSC. I think we just need to tread a little carefully there.

The issue of state/federal, from the proposed rule, it seems to indicate -- Not to pick on the State of Florida, but they're under constraints about doing seasonal closures of the recreational fishery. What this appears to be saying is that if we can't get compatible regulations with the state then we need to count that towards our ACL and then put the accountability measures on the area that we have authority, which is federal waters. To the extent that we don't get compliance at the state level, then we're going to have to be more restrictive in federal waters.

The final item that Wes didn't touch on is the timing of this and this is on page 73 of the proposed rule. We have two years to have an amendment implemented and what the proposed rule is suggesting is that of that two years that the councils get fifteen months to go through the entire development of this and then the agency would take nine months to get it reviewed and implemented.

I think we need to look at that. I think based on our experience, it would be more prudent, from our standpoint, that the council would have up to eighteen months to go through the development of the amendment and all the public hearings and coming in and looking and see if we need to revise it and go back out to public hearings and then the agency would have six months to review and implement it. That's the timing we're looking at now. That's certainly a lot more than the statutory deadlines that Congress has laid out in the Magnuson Act.

Mr. Currin: Rick, did you have something?

Mr. DeVictor: Wes, perhaps you could put on Slide 23. I had a question. That's the one where you basically showed the OFL and the ABC. I understand the buffer between OFL and ABC and the buffer between the ACL and the ACT, scientific uncertainty. Certainly our scientists go through that and then we're going to be dealing with the management uncertainty between the sectors.

Perhaps you can explain a little bit further about the factors the council should consider in

putting a buffer between ABC and ACL. I see that they could have it the same, but what should they consider if they do indeed want to put a buffer in there?

Mr. Patrick: In the specification of ACL, the council can consider the ecological, economic, and social factors that comes into account whenever you're specifying OY, if reduced from MSY.

Mr. DeVictor: Certainly if the council deems -- For prey species, when you say ecological, if there's a certain piece that should be put aside, due to prey interactions.

Mr. Patrick: That is an option that the council can do. That forage fish would come under the ecological factors, I believe, in the OY specification. Any of those factors that you want to consider could go into that ABC/ACL selection. You could also consider putting those same factors into your buffer or your management buffer or ACT control rule, you could also put those in there, if you would like, but it's flexible where you want to put those in there.

Mr. Currin: Other questions or comments for Wes?

Mr. Carmichael: When the SSC dealt with this, one of their biggest stumbling blocks is what is meant by scientific uncertainty? There are some who believe it's all tied back to probabilities of overfishing and that ABC should have some very low probability of overfishing, but in the proposed rule and in this, probabilities of overfishing are never mentioned with regard to ABC or the scientific uncertainty. It's just kind of an open book.

Do you expect that we're going to get better guidance on just what is intended by scientific uncertainty and something would allow our SSC in particular to finally get over that and have an idea of what things should be considered when they're evaluating this scientific uncertainty?

Mr. Patrick: Most definitely. When we talk about scientific uncertainty in this, in the general sense, it probably is probability based, because we're talking about the uncertainty related to MFMT and the stock abundance and we realize that in some instances you guys don't have that probability-based estimate. Instead, you're using an MSY proxy and you don't know how close that is to the real estimate.

We do have two workgroups. One of them is the ABC and ACT control rule workgroup and it's currently being headed by Mike Prager, but I believe he's stepping down and giving it over to somebody else, but I don't know who yet. They're actually meeting right now in Portland, Oregon and going over how they're going to be approaching this. They've been meeting since January. Both workgroups are hoping to have their technical guidance out by December.

Mr. Currin: Other comments or questions?

Ms. Shipman: Just a comment with regard to the accommodation, I think, for the annual stocks. I am glad to see that. Now, that only solves part of our problem. We're still down to control rules that really don't have a lot of relevance, in my opinion, for some of those annual stocks, but I am glad to see that that ACL/ACT and all of that has accommodated a waiver, if you will, for having to set some hard and fast targets or catch limits, which will be totally irrelevant by the

time you get the data in. Your annual crop will have been fished out or you'll be into your next year's crop. I am glad to see that in here.

Mr. Currin: Other comments or questions for Wes? Wes, I just have one and it's a comment. I'm not nearly as familiar with the proposed rule as I should be, but I guarantee you I will be more familiar with it very soon. Just at first blush, it seems to me that we're taking what could be, and has been in the past, a relatively simple system and cutting it up into additional chunks and adding terms in between the old limits and targets that we had and are all more or less familiar with.

By putting those steps in between -- I understand how you get there and I understand the need to consider scientific uncertainty and management uncertainty, but I think that was accounted for, to some degree, in the old system.

Yet, we've got all these new terms in here to ultimately get from the beginning, where we were before, to this target. It's that simple, but the system makes it extremely at least more complicated and more involved. What I fear about that is when we implement NEPA on top of this, at each of these specified levels in the proposed rule, we're going to have to have alternatives. We get three at one level and we get three, at a minimum, at the next level and we've got to account for all of those in each of the subsequent alternatives.

We're just ballooning documents, which we've been striving very hard to try to reduce the volume of our documents. To me, it's a big concern and I hope some consideration will be given to the complexity of the rule as you move forward.

Mr. Patrick: We're definitely willing to take into consideration any comments that you guys have during this comment period and try to come up with the best rule we can. I realize that we are introducing some new terms, but if you look around at all the regions, I believe every council, or maybe every region, has their own terms.

We were just trying to use some generic terms that could be used maybe nationwide or should at least be specified in the FMP to show how your current reference points relate to what we're saying should be done or recommending or proposing to be done.

Also, even though there are multiple steps, in our old guidelines, we still had the two control rules in place. It was supposed to be a three-step process and now it's kind of a four, with the ABC going to ACL as kind of the extra step in there. I think that this approach here gives more transparency than in our old guidelines and how management uncertainty is taken into account and how scientific uncertainty.

If you look at the rules that were out before, you would see the reduction in catch, but you wouldn't know if that was related to scientific uncertainty or if it was related to management buffers. Thanks for the comments.

Mr. Currin: Anything else for Wes? Thank you very much for being here. It's good to see you and good luck with all this. We're on to Amendment 17 and, Rick, I guess you want us in the

options paper, which is Attachment 18 under your Snapper Grouper Tab. It's Attachment 18, which is the Amendment 17 Options Paper.

Mr. DeVictor: I'll be working from the Amendment 17 Options Paper that Mac just mentioned. First, it may be helpful just to go through that first action and talk a bit about what's exactly in Amendment 17. Number one, establish management reference points for greater amberjack and mutton snapper, again, that's being pushed off to the ACL Comprehensive Amendment and so we'll take that out.

We'll set ACLs, ACTs, and AMs for species undergoing overfishing and not for two recently assessed species, which was mutton snapper and greater amberjack. I'll just remind you that the species that are undergoing overfishing are golden tilefish, snowy grouper, black sea bass, gag, red snapper, vermilion snapper. Those have had assessments and the four species that have not had SEDAR assessments are red grouper, black grouper, speckled hind, and warsaw grouper.

Then we'll put into this list that we're going to be doing red snapper in Amendment 17 and that would deal with setting MSY and OY, a rebuilding plan for red snapper, and measures to end overfishing. We'll also need a set of actions to keep the catches at the ACT and so we'll have to look at past landings and the new ACT that is set and make sure that the council will be able to keep those future catches at that ACT. This will be a part of Amendment 17.

Allocations, I missed what was discussed in here, but I've heard that now that will be put into Amendment 17 also for these species. Then Number 3, 4, and 5 deal with extending the management unit into the Mid-Atlantic Council's area of authority. We'll go through those alternatives in a second.

Number 4 deals with splitting the commercial quota for snowy grouper into regions and we have a set of alternatives that I'll walk through with those and the last one is the council is talking about having an alternative that would limit the number of hooks per line for the snowy grouper recreational fishery. To me, that gets towards holding catches, future catches, at the ACT. That probably can be bundled into that action. I'll stop there and see if there's any questions on what exactly is in Amendment 17.

Mr. Currin: Thank you, Rick. Is everyone clear on what we're trying to do here? Besides the ACLs and associated new acronyms, we've got some other management measures as well to address here.

Mr. DeVictor: Now getting to ACL alternatives, I want to throw a slide up here and Wes really went through this and this is just a different way of showing it, but staff talked quite a bit about these actions and we didn't have the proposed rule at that time and so we were working in the dark for a large part and Jack has helped us greatly.

How we've structured this, the plan is, again, to have the OFL have the ABC and again, we have gotten those values for these species from the scientists and that's the dark gray. Then the council would set the ACL and ACT. The thought process is -- Again, it's really up to this group to decide this, but to split that ACL into two different sectors and, again, you should talk about

do you want to split the recreational into for-hire and private recreational too. That's not reflected here, but certainly you would want to talk about that.

Again, this would be split up by the percent allocations, which are set for some species, such as black sea bass, but which would now be in 17. To me, we've worked with MSY and OY and MSST and MFMT and ABC and all of this. This rule, to some respects, I think simplifies things when we're talking a target, a limit, where you can fish around that target, but once you cross your limit, something is going to happen and that's what they're calling AMs. I'll see if there's any questions on that. We'll take this slowly. We have some time.

Mr. Currin: Which is good, Rick, and thank you. Are there questions for Rick?

Mr. Waugh: To clarify here, and we've got this shown in the discussion paper, but when you set your target, the distance between your commercial target, your commercial ACT, and your commercial ACL, those can be closer together, because we have real-time monitoring of that fishery and a closure.

When you look at your recreational side, the distance between those two, if indeed you look to split between the for-hire and the recreational, you're going to have to set your ACT farther below your ACL to account for the variability in the recreational catch. Should you choose to include an allocation to the for-hire, there's a potential there for tightening up their reporting, such that their ACT could be not reduced as much as the recreational ACT. That's getting at the management uncertainty and our ability to monitor quotas and ensure that that ACT is not exceeded.

Mr. Currin: Other questions or comments for Rick?

Mr. Boyles: I'm not on your committee, but in keeping with the discussion we had at Allocation the other day, I'm just wondering if -- Where we talked about the idea of conservation and where schematically does that fit in, Rick? If you could just clarify that for me.

Mr. DeVictor: That's why I posed that question to Wes. You could set it -- Because you're dealing with buffers here and you're stepping down and to me, I think that probably the best place, maybe, to put that is where you set your catch limit from your ABC. You could step that down some, if you want to, because the buffer between ACL and ACT is due to management uncertainty, like Gregg just outlined.

Dr. Crabtree: I think, Robert, there are probably a variety of places to do that, but the most straightforward -- You could set your maximum fishing mortality threshold below the FMSY reference point and that would change the whole starting point that the SSC is working on. You could also reduce your specification of optimum yield to a lower point and that would have the effect of shifting things to a more conservative position, too. There are probably multiple points along the way where you could address that.

Mr. Currin: Other questions for Rick to this point?



Mr. Harris: I've got a question to what Roy just said. That would become the council's control rule? Is that what we were talking about just then? I heard that we needed to set an ABC control rule and based on that, the SSC then sets ABC.

Dr. Crabtree: You sort of have multiple control rules now. You would have kind of a maximum fishing mortality control rule, an optimum yield control rule. You would set an ABC control rule and depending on how you set those, you could be more conservative or less conservative and I guess you could set an ACL control rule, I suppose, if you wanted to.

Now, most of our control rules have been just linear control rules, you know OY is equal to FOY times the biomass in the water. You could make them more complicated and have them become more conservative at lower biomass levels if you wanted to do that. There are all kinds of embellishments you can put on these. We have tended not to do that, but in the North Pacific, they do have control rules where the allowable fishing mortality rates go down if the biomass drops below BMSY. There are different ways you could do it.

Mr. Waugh: Roy, just one question to clarify. Thus far, we have set, by default, for the most part, our maximum fishing mortality threshold at FMSY. Now, what the SSC discussed here was using that, but given that the SSC is setting the overfishing level, if we were to change our maximum fishing mortality threshold to be 75 percent of FMSY, is the thought then that's what the SSC would use to set the OFL or are they going to stay with their determination that OFL is FMSY?

Dr. Crabtree: No, they couldn't do that, because that wouldn't be consistent with the FMP. They have to set it based on the maximum fishing mortality threshold, which is specified by the council in the FMP. If you reduce the maximum fishing mortality threshold, then they would have to reduce the overfishing level.

That's why in the end the ABC control rule and all of these control rules are specified, ultimately, in the FMP by the council and approved by the Secretary and that lays out the ground rules on these things and then the SSC comes in and they provide you guidance and advice on how to set them and then they give you the numbers that correspond with them, but I think you would have to reduce the overfishing level, because it has to be based on the overfishing threshold that's in the plan.

Mr. Waugh: I guess the part I'm just a little confused about is then, in essence, the council is setting the OFL and ABC.

Dr. Crabtree: You're setting the guidelines on what those are based on in the FMP. That's exactly right. The SSC is essentially giving you the numbers and things that come out of the assessments, but I don't know how else it can be done. What's overfishing is dependent on how you've defined it and it has to be defined in the FMP and that's the council's responsibility, to modify and change the FMPs, but you have to do it in a way that's based on the best available science and the SSC has quite a bit to say about that.

Mr. Harris: A follow-up question to that, Roy, and to Gregg's question. It seems to me, based

on what you just said, with respect to the numbers that the SSC gives us, once we've given them in the FMP some kind of control rule guidance, all they're doing is applying some mathematical formula to it to give us a number. They're not really using scientific advice. They're just being mathematicians.

Dr. Crabtree: I think a lot of things do become kind of formulaic like that, but remember in some cases we set the MFMT based on FMSY or the best available proxy for that. There may be a lot of scientific advice as to what the proxy is and what's the best way to calculate it and all those sorts of things. I think there's more to it than what you're saying, but I think the ultimate source of the confusion and difficulties the SSC faced this week with the ABC issue is because we hadn't set anything up in the FMP to provide guidance.

It's easy for them to say what the OFL is, but that's only because we've specified a maximum fishing mortality threshold. If we didn't have that, then I suspect they would have spent a considerable amount of time arguing about how do you define overfishing. Do you follow me? I think it will make it a lot easier.

Mr. Geiger: I guess my comments are to Duane's point. It may make it easier, but it seems to me that the reauthorized Act, the intent was to give the SSC more authority in terms of advising the council in terms of the conservative limits that we should manage toward and if we -- As Duane said, if we establish the formula and basically mandate to the SSC what those levels will be in a control rule, I think we're right back to where we were before.

Dr. Crabtree: I don't think you are, because I think what Congress was trying to get at in the reauthorization is to prevent a council from having a threshold in the plan and having the SSC say okay, these are the catch levels that are consistent with what you have in the plan and then have the council ignore them or set catches above them. That has happened, on occasion.

I think what the reauthorization was designed is to prevent us from ignoring those catch level recommendations, but I don't there's any way to get around the fact that the SSC will have to base their catch level recommendations on the framework that's laid out in the fishery management plan and you, this council, is responsible for the fishery management plan, along with the Secretary, and so I don't think Congress's intent was to strip authority away from the council, but I do think Congress intended to require that the councils adhere to the things they've put in place in their plan, as much as anything.

Mr. Geiger: Just interestingly, when there's a big hoo-ha about interpretation of constitutional law and everybody refers back to the intent of the founders and the framers of the constitution, we don't have the benefit of going back and talking to those people and finding out specifically what their intentions were.

In this particular case however, the people who reauthorized Magnuson are still alive and certainly all their staff and I would ask, did NOAA Fisheries go and consult with the reauthorizers in regard to the rule that we have out there that's pending?

Dr. Crabtree: Wes, can you -- I'm sure that this rule was provided or has been provided to

staffers on the Hill, but I don't know if we got comments in advance of the rule. I don't know if you have anything you can say about that or not.

Mr. Patrick: I don't know if the rule has been sent up to them to review, but I do know that during this process we have been trying to make sure that we did do the intent of the Act.

Dr. Crabtree: Clearly we wouldn't want to have Congress come in saying that's not what we meant, but we may get some comments back from folks on the Hill, I don't know. I know there is a little bit in the congressional record on Magnuson, but I think it is just a very little, because the reauthorization, as you recall, occurred very quickly. I don't think there's an extensive congressional record on Magnuson, but in the end, George, what the attorneys always tell me is we have to go with the language that's in the Act and work on that.

Mr. Currin: Other comments or questions? I'm not sure I know any questions to ask. All right, Rick, where to now?

Mr. DeVactor: Our thought process was to have a series of ACL alternatives in Amendment 17. We tried to simplify things and maybe we've oversimplified it, but to have one set -- This is on page -- It begins on page 7 of the document. So far, we've separated the ACL alternatives into commercial and recreational and so I think we need a discussion on do we just have one set of ACL alternatives, which would create one ACL, instead of right here we're branching it off.

Again, it's pretty basic, where you can set your catch limit as the same as ABC or we just put some percentages in there, if you decided to create a buffer between ACL and ABC or you could set your ACL different according to what you know about the stock. If a species was assessed under SEDAR, you could set your ACL at 95 percent or if it was not assessed, you could set it below that. We have a series of alternatives and so I guess the first question is should we just have one ACL specified or should we split it out by sectors?

Mr. Currin: Thoughts on that or questions? Should we establish one ACL for the stock and then it would be split, I presume, later, into whatever sectors that we want, or do we want to establish an ACL -- I guess it's about all the same. You establish one and then you divide it into whatever proportion that you establish and all that. Is that a necessary first step or are we just kind of providing even another layer?

Mr. Harris: Mr. Chairman, I would opt for one ACL, rather than sector-by-sector ACLs. We can divide it later.

Mr. Currin: Other thoughts?

Dr. Crabtree: The trouble is if you do a single ACL for the fishery and one sector's catches are way high and you go over, then everybody is going to be reduced. I think you could argue that a recreational ACL, at least, and a commercial ACL would make sure that the accountability mechanisms are applied to the sector that caused the overage.

Now, whether you want to go down the path of separating out the for-hire industry or not is up to

you, but that's what you need to think about. There may be cases where one sector's catch is so slight that it's not worth worrying about, but I think it will get you in a little trouble when you have a significant component on both sides. I think that some sectors will want the sector that caused the overrun to be held accountable.

Mr. Currin: That certainly is most appealing to me. Rick, do you have a comment?

Mr. DeVictor: I guess my question was should we have two sets of alternatives that look at stepping it down from the ABC? I was envisioning splitting up that between the two sectors, according to the percent allocations, but I guess my question was currently we have two sets of alternatives, commercial and recreational, and we may not need that. We may just need one set and so you get your ACL and then you split it up then. That makes sense.

Mr. Currin: Other thoughts? What's the feeling? Are we going to establish one ACL? Roy's comments are that unless there's some other provision for accountability measures for individual sectors -- I would be in favor of keeping those two sectors separated, so that paybacks are made by the offending sector. Does everybody think that's the way to go? All right.

Mr. Geiger: Then on the diagram, it would be OFL, ABC, two ACLs, with ACTs under that?

Mr. Currin: Those ACLs based on the allocations that have been specified in the plan. Heads are nodding in the affirmative. Okay, Rick.

Mr. DeVictor: Under Section 2.2.1, we would just have the alternatives read the limit is equivalent to ABC one alternative, is 95 percent, is 90 percent and such. I'll see if there's any comments on the current alternatives that we have in the document by just having one set of alternatives.

Mr. Currin: I think the important thing is that we have a range that's going to allow us the flexibility and the latitude that we need to address the uncertainty, which we don't have a good feel for right now. I don't know whether this range that's presented here captures it or if it's too fine scale. There's two questions there, I guess.

We've got a lot of sub-alternatives here, changing at 5 percent intervals. I personally don't have a good feel for whether those 5 percent intervals -- If we need to fine-tune it at that level. If we don't, then 10 percent intervals certainly may be what we want to consider and the other question then is do we go low enough with those, down to 85 percent or 80 percent. I don't have a feel for that.

Mr. Waugh: It seems to me one of the decisions you want to make that would influence this percent reduction is whether you're going to just continue with your existing data collection. One of the suggestions from the AP was to go to electronic dealer reports. If you're going to go with your existing data collection programs on the commercial side, then you're going to have to step it down a bit.

We've got a performance history we can look at to see how well we did relative to our quotas,

but the way that works now, we select certain dealers to report, based on their prior landings. I think as you saw from the bag limit sale analysis, there's quite a number of dealers that are handling a fairly large quantity of fish that are not included in our quota monitoring program now.

As we get more quotas and they are lower numbers, what right now might be a relatively small quantity being sold could affect the quota. If you're going to leave all the data collection programs the way they are, then we're going to have to step these down more, even on the commercial side.

Mr. Geiger: Would there be any merit also in possibly stepping it down a little bit more the first year, to see how the whole process works and how close we come? Then is there a framework ability to make a movement up the next year, very easily, when we find out the system works? It would be a shame to go through this and not accomplish our mission.

Mr. Currin: That's a very good point regarding framework and I hope we will consider what we currently have in framework now or what we don't have that we might need to try to address more rapidly any changes in this new approach. There may not be any, but I hope those who are capable of it are thinking about that.

Dr. Crabtree: I think if you're looking at, for example, your ability to monitor a quota and you think it's not that precise and so you may want to step something down, I would not step it down at the ACL at this particular point. I would address that by stepping down the ACT, below the ACL, because what you want to not do in that circumstance is go over the ACL. That's where I would step it down.

One thing too I want to point out that's in the rule, I guess, is if we're going to set sector-specific ACLs, the way they recommend it is we set an overall ACL and then it's divided into the two or three or however many sector-specific ACLs you want.

The way really probably this ought to be structured is the ACL is this and then it divides the sector-specific ACLs out, kind of like we have a TAC and then the two quotas, recreational and commercial, come off of that. It seems to be that's how they've structured the proposed rule here. That's something I think staff would need to work on in terms of laying these out.

Mr. Currin: I thought that was the first point we brought up and that's when you said that that may confound our ability to assess AMs to the individual sectors.

Dr. Crabtree: I think it's just a -- I'm not sure if we have a place in here where it sets up an overall ACL. It seems to just go into setting the two ACLs, but somewhere, they need to be pulled together to the overall ACL, to comply with the rule, but I think we're just going to have to give staff some time to dig through the rule and give them a lot of license to make changes to this, to make sure it complies.

Mr. Currin: I'm certainly willing to do that.

Dr. Chevront: This is getting back to the point that George made a couple of minutes ago and about whether we need to be more conservative or not. If I remember correctly from the presentation that we were just given, the guidelines say that we should set this so that our risk of going over the OFL should not be any greater than the probability of having it occur once in every four years.

What we could do is set our levels such that we think that this is not going to happen and then we measure it as we go along and then if we get to within that first four-year cycle and we do actually go over, then that should be the trigger that tells us that we need to back off and something is not working right. That's sort of fitting in, if I'm not mistaken. Wes is nodding his head yes, that that is what they had suggested.

I think the question for us is how risk averse do we want to be upfront and it's a matter of do we want to allow people to catch as much fish as we can while running the risk that we may have to back off later or do we just want to say let's set it at this level, because we're pretty darn certain that nobody is ever going to go over it once we set this level?

Mr. Currin: I think at this point, Brian, we just need to make sure that we cover the range of what we think are the tools we may need in the future to set it as conservatively or as risk prone as we would like. Roy, did you have a response?

Dr. Crabtree: Maybe Wes can help me, but my recollection is that the discussion in here about not going over more than one in four years referred to going over the ACL and not to going over the OFL. Again, that buffer that you're talking about is between the ACT and the ACL.

To me, I could easily see a system where you get your ABC and you set the ACL equal to your ABC and then you set an ACT that does have a pretty good buffer that's designed to take into account your uncertainty in being able to manage the fishery and that, in theory, keeps you from going over that ACL, at least no more than one every four years, and you come at it from something like that.

Mr. Currin: That's simpler and it's more appealing to me.

Mr. Geiger: What you just described, Roy, left out the one step there that we have now an ACL for the commercial and an ACL for the recreational underneath the ACL. I've had them put this drawing back up, because your previous explanation went back to this diagram, correct? It's easier if -- A picture is worth a thousand words.

Dr. Crabtree: You have an overall ACL which is either reduced or equal to your ABC and then, based on what your allocation is, then you have the two sector ACLs that sum to it, which is what they've shown here.

Mr. Harris: A question, based on what you just said a minute ago, Roy. Given what you said, why would you ever set your ACL below your ABC? If your ACT is what you're really interested in, why -- You said you envision a time when you would set your ACL and your ABC at the same level. If that's the case, what is the scenario where you would set your ACL below

your ABC?

Dr. Crabtree: The ACL is what determines when the accountability mechanisms kick in and so I suppose if you wanted to be really conservative and really make sure you're not going to allow overfishing, you could lower the ACL down, so that the accountability measures kicked in in a more precautionary way.

If you were to set OFL and then if you said we're going to set the ABC equal to the OFL and the ACL equal to the ABC, so those first three boxes up there are all set at the same thing, which the guidelines recommend against, but don't disallow -- If you did that, then your accountability mechanisms wouldn't kick in until you've already gone over the OFL, but if you've put buffers down in all that, then your accountability would kick in before you even get there and that would tend to reduce the odds that overfishing occurs.

The downside is if you're going to specify buffers every step of the way, you're building a more complicated system and probably a more demanding system in terms of having the data to actually specify all of those things and it may be more confusing to the public and it may be more difficult to monitor all of those things. You just have to balance all of that together.

Mr. Geiger: Conversely, however, it may be more certain that we don't wind up getting into the overfishing box again.

Mr. Currin: I think Roy's suggestion is a very good one and may simplify our process as we go through here. I don't know what that does to the alternatives, but if we do choose to set ACL equal to the ABC and then institute our buffer between the ACL and the ACT, then we can have a really broad range of options there and depending upon the issues with the stocks, we could be as conservative or more conservative.

Dr. Crabtree: I think what it's going to come down is your decision as to whether you want a buffer between the ABC and the ACL will probably be affected by whatever ABC control rules that we work out with the SSC. If we're going to have a buffer between the ABC and the OFL, then there's probably less need to have a buffer on the other end.

I think you're going to kind of have to look at all of this as kind of a package thing, because everything intermeshes and you can't really, in the end, evaluate what's the risk of overfishing without looking at all of it as a system. If you just look at one piece of it, then you're not getting the whole picture.

Mr. Geiger: That was going to be my point. I wouldn't have any problem setting the ACL to ABC as long as the ABC -- We had a control rule in place that had that ABC conservatively set, to preclude us from overfishing, because you're not going to be able to take any action until, as Roy said, after the fact. You're already going to be in that overfishing box and trying to catch up again.

Mr. Currin: I agree. What does that do to us on these alternatives here for the commercial sector? We've got our ACL and we've got one and we've split that out and we're looking at

alternatives for the commercial sector. These alternatives set the ACL relative to the ABC, at some range that currently in our document range from equal to, I guess, down to 80 percent. It's ACT, I'm sorry.

Mr. Geiger: Don't we have to work on the ABC control rule, to know what that buffer is going to be, before we determine what our ACL percentage is going to be, based on our confidence that the ABC that is going to be below the overfishing level?

Mr. Currin: We are going to have to establish those control rules, but right now, we're just looking at suites of alternatives for Amendment 17. I don't know that we need to set those control rules now, before we establish a suite of alternatives here. Am I mistaken?

Mr. DeVictor: No, I think you're correct in that. Just to clarify this, there's going to be one set of ACL alternatives and I assume that we do need alternatives for this in the document. We talked about setting ACL equal to ABC and maybe we could justify that. It would simplify things if we did it in the actual alternatives, but we -- I'm trying to clarify that there will be one set of alternatives for ACL and how far below ABC that is or equal to that. Right now, we have it by sector on the screen, but the ACT will be by sector.

Mr. Harris: Didn't you say yesterday, Monica, that we needed alternatives for the control rule as well?

Ms. Smit-Brunello: Would you repeat that?

Mr. Harris: Didn't you say that we needed a suite of alternatives for the control rule as well?

Ms. Smit-Brunello: I don't remember saying that.

Mr. Harris: Maybe you didn't.

Ms. Smit-Brunello: Maybe I didn't, but I'll look into that.

Mr. Waugh: If we are looking at setting the MFMT that will be used for the OFL, we're going to have -- We certainly have MFMTs now and you have to decide whether you want to change those, but we will have to have alternatives for the ABC control rule, because that's something we're specifying, just like our other specifications in the amendment.

Dr. Crabtree: One thing I think that -- I think Rick and staff need to think about this, because I don't know which way is better. Right now, it's kind of laid out where here's our alternatives for ACLs and here's our alternatives for ACTs and I guess we're going to have here's our alternatives for the ABC control rules.

Another way to come at it would be here's an alternative that specifies the whole system, OFL and ABC and ACL and ACT and the buffers between them and how it all lays out. Another way to come at it would be to do it that way, where you bundle them and so here's one system and here's another system and here's another system. That way, they're kind of package deals and I



don't know if that's a good idea or not.

It might result in a smaller number of permutations of all of these things and it might give you a better way of looking at what's the overall effectiveness of this set of specifications, in terms of addressing the risk of overfishing, because it would all be packaged together. I don't have the answer to that or not, but I think we need to give these guys a lot of latitude to try and figure out what's in these guidelines and how to package this. That might be a way, Rick, to put this together that might make some sense.

Mr. Currin: That's an interesting suggestion, Roy, and it may well turn out to be a more efficient and more compact approach than the one that's outlined here, I don't know. Rick, what else do you need from us?

Mr. DeVictor: That's a direction from the council and we'll work on that and come back in September with sort of packaging these and see how that works.

Mr. Currin: I would suggest that you guys look at it and if it becomes more cumbersome than the method that you've established right here, then bring us back the best way to go about it and the most efficient way to go about it. Is everyone comfortable with giving you guys that latitude?

If you guys can do a quick and dirty kind of look at that, rather than going through the motions, and if that looks like it's going to be a better approach than the one you've outlined here, then as far as I'm concerned, bring that back to us. If that looks more cumbersome and more involved, then let's stick with the one that you guys brought this time.

Mr. Waugh: I think in terms of guidance where we need -- I agree with Roy 100 percent. That's the only way I see us doing this, is in terms of these bundles. Otherwise, it's just going to be impossible. A decision that the team is going to need, and the sooner the better, at this meeting would be best, is whether we're going to have three sectors here or whether we're going to have two. That has tremendous implications for the analysis and I think you all need to discuss that and give us some guidance.

The other is whether you want just a random set of percentages for stepping down the ACT from the commercial ACL versus either two or three sectors on the recreational side or whether you want the team to go and look at some of our past performance for how well we've tracked our commercial quota and how variable -- What are the CVs around the estimates of the for-hire and the estimates of the recreational catch, so that we come back with, rather than just a random range of percentages here, some alternatives based on past performance. I think that's the type of guidance that would be very helpful to the team.

Mr. Currin: We certainly will get into that discussion of that for-hire sector and we need to make that decision at this meeting. It makes intuitive sense to me, Gregg, to at least base the range of percentages, rather than random ones, on the information that we have, which would include what we know about the performance of these other fisheries, and let those at least establish the bounds of the range that we need to consider and perhaps even some slop on the low end, in case

something happens that we're not aware of, but that would make sense to me. I don't know whether that's the guidance or all the guidance that you're looking for on that particular point. Did that help or hinder?

Mr. Waugh: That helps in terms of giving us guidance on how far we step down here. That's good guidance. That's a start.

Mr. Currin: It may be sticky for some or not sticky for others, but at the appropriate time, we will certainly take on that issue of splitting out another sector and I'm relying on you guys to tell me when that discussion should take place, because I'm letting Rick -- Right now? All right.

The recommendation from the Allocation Committee was that we establish four sectors, actually, and we've had some discussion of the conservation allocation and I think everybody is comfortable with how we might include whatever we wanted to call that set-aside, if we choose to be more conservative. We have lots of options and places to do that without actually giving it a name, I guess.

The other big issue from the Allocation Committee was their recommendation that the council consider a specific allocation to the for-hire sector. We got some comments from the AP that related to some of our just completed actions that did relate to those as well and so we need to open the floor to discussion. We've had a little bit. We've had some comments on some of the potential impacts of establishing a separate sector here, but there's lots of things that need to be considered in that.

Ms. Merritt: I guess I'm not sure whether or not it's appropriate to set three sectors here or to set two sectors and have as a subset of the recreational sector the for-hire sector. Where my concern lies is in that the for-hire sector actually could have subsets, just as commercial can have other subsets of different types of fishing.

The for-hire sector of recreational has a higher degree of certainty when it comes to that buffer area and I would think that they would be concerned about at what point do their accountability measures come into play if another part of the recreational allocation or the ACL is threatened. Is it at this point that you make three or would it be at a later point? I'm looking for thoughts on that.

Mr. Currin: I think the question is broader than that and I would like to maybe step back from that. That's certainly a decision to make if we decide that we want a separate for-hire sector. That's the first big question. I want to make sure we all understand the implications.

Roy has mentioned some data concerns, as you start splitting out and making smaller these various sectors, and how that impacts the necessity to be perhaps even more conservative, reduce allowable catches even lower than they are now. That has impacts on everybody as well and I don't know what all the other implications are.

Dr. Crabtree: I think it may be that when you split the recreational sector into two sectors that the uncertainty on all the estimates goes up. On the other hand, that may not be correct, because

I don't know how those are added together. What I would like to ask is that at our next meeting that Bonnie report to us on how that works and how the uncertainties of the -- We've got the headboat estimate and the charterboat and the private boat and just how are those uncertainties affected by splitting these up? If the uncertainties go up for everybody, then that's a different kind of thing.

One other comment I would make is you need to think about the implications of it, because it will likely lead you into a position where you're going to have the private boat sectors closed, but charterboat fishing is allowed to go, or vice versa, and it will likely lead you to one sector coming in and saying we want a different bag limit than the other sector.

You could end up with a lot of differences there and you may get complaints from people who are private boaters that I can't afford to go out on a charterboat and so it's not fair. You need to think about all of those kinds of things, because I think you're going to hear a lot about that.

Mr. Currin: In addition -- I don't know how it's structured in other states, but in North Carolina, I can go buy a for-hire license, just for an application, if I'm a Coast Guard licensed captain. I don't have to take charters, but I can have a license, which, if this went that way, would allow me to fish, I presume, unless that were specifically addressed in some way. There's lots of problems with it.

Ms. Shipman: On the other hand, it is somewhat, at least in the EEZ and in the snapper grouper fisheries, it is a known universe, because they do have to have a permit. I would like to explore it. I think it's worth looking at. Certainly the AP -- There's been some interest there, but for all the reasons you all have raised, I think there's going to need to be a very detailed analysis of implications, but I would like to look at it.

Mr. Geiger: My concern was, again, with the data, as Roy already addressed, and then the additional sticky-wicket of where does that allocation come from? Is it a function of taking some from the commercial sector, based on bag limit sales that we've already experienced, or does it come all from the recreational side? That's another discussion that needs to be held.

Mr. Currin: Again, that discussion would have to be held if the sector is established and what staff is looking for now, I think, is guidance as to whether they need to start looking at some options that either establish that sector or options in addition that do not. We're dividing the analysis, again, at another bifurcation.

Dr. Chevront: I like the idea of bringing some information back to us later, but I think this is also a little bit of a fairness issue for the for-hire sector. Right now, they have greater restrictions that have been put on them for reporting. It may not be as strict as we have in the trip ticket systems for the commercial, but at some point I can't help but thinking that it has to be fair and that they've got to somehow be rewarded for going along with this and providing us more data.

They're giving us something to us. They're giving us better data and therefore, I think that we should be doing something in return, as much as is practicable, to say we understand that and if we can make it work, I really think that we should. Now, whether for-hire is a separate

subdivision under recreational, I don't know.

That should be worked out and George's comment of where does their allocation come from -- Without getting too far into that, if some of the recreational bag limit sales are coming from the for-hire, then perhaps some of that allocation -- If we can determine what part of that sale, maybe that part of it should come from there, I don't know, but I think it's certainly worth talking about. Let's keep it as fair as we can.

Mr. Currin: What I'm hearing then is there's interest in considering a separate for-hire sector. We don't have to look like right now at where those allocations are coming from. We haven't even talked about setting those allocations particularly right now. It will have to be done in this amendment, but I'm hearing general support for dividing that sector out.

We'll basically have another bifurcation in the document, where we've got two sectors and sets of alternatives and then sets of alternatives for three sectors divided. Is that fine enough? Rita suggested that we divide it into two sectors and then divide the one sector into two. That would be a third leg, perhaps, if that's where people want to go.

Ms. Merritt: Just to clarify that, I'm not recommending that we do that. I'm questioning whether or not this is the appropriate place to do that, with ACLs, or at some point just split it when we're doing allocations. I'm concerned about this buffer hurting one part of the recreational sector versus the others and that's all. I'm not recommending it, but I'm asking for input and advice.

Mr. Currin: In reality, that decision will be made when the decision on allocation is made and whether it's allocated from the whole or whether it's allocated from the recreational sector and the like. Bonnie is going to try to gather some information. My suggestion would be if it gives you enough time, Bonnie, that if you could provide that to the Allocation Committee in July, the 8<sup>th</sup> and 9<sup>th</sup>, if that gives you enough time to at least take a preliminary look at it. Then it may influence their recommendation to the council regarding one, two, three sectors and all of that.

Dr. Ponwith: I should be able to pull some comments together and have that in time for the Allocation Committee.

Mr. Currin: Does that make sense to everybody as the best place to at least provide that input? Okay. Is everybody clear on where we are with these sectors and how the staff is going to proceed with these? Okay. It looks like it. Rick, what next? It's only five after twelve. I can't squeeze another ten minutes out of you? Let's break for lunch and we'll be back at 1:30.

(Whereupon, the meeting recessed at 12:05 o'clock p.m., June 12, 2008.)

The Snapper Grouper Committee of the South Atlantic Fishery Management Council reconvened in the Vienna Ballroom of the Renaissance Orlando Airport Hotel, Orlando, Florida, Thursday afternoon, June 12, 2008, and was called to order at 1:30 o'clock p.m. by Chairman Mac Currin.

Mr. Currin: Are we ready to go? We'll reconvene the Snapper Grouper Committee. For the

next couple of hours, we have a few things left to do with 17. George has got one of them that I had on my list to deal with that he wants to broach right now.

Mr. Geiger: I don't know exactly when the best time to do this would be and if it is right now, we could do it, but maybe you could put it on your list and if you already have it, fine, but the SSC provided us with a list with OFL and ABC numbers for all our overfishing species and perhaps we can make some headway and maybe put them in the document and use them as space holders and provide some guidance to staff to work on some general numbers.

Mr. Currin: In the earlier discussions we've had, the council is going to have to -- The committee and council are going to have to agree upon some control rule alternatives as well that I presume will -- I don't know whether they will modify those or not, Roy, but George is suggesting that we take the OFLs and ABCs from the SSC to date, interims, as they called them, and place those in the document.

I don't know whether that gets us anything or whether it's necessary, because I think we all understand that they would likely be modified once we apply control rule alternatives meshed with those. We're just trying to decide whether to ask the staff to include those or not in the document now.

Dr. Crabtree: I think they would likely be included in some form of another. If we have an alternative in there that the ABC is reduced by 25 percent, then that would be equivalent to what they did for the assessed stocks and if we have some in there that reduces data poor stocks by 90 -- I guess it was 5 percent or 10 percent, then that would encompass what they did for black grouper and red grouper. I think it's a pretty easy matter to make sure we have a couple of alternative control rules in there that would do what they seem to have done right now.

Mr. Geiger: Then I would assume that the alternative control rules that staff would work on would be like a step-down -- Which way would it be, a step-up or a step-down?

Dr. Crabtree: I'm envisioning we would have an alternative to set the ABC equal to the OFL and then have alternatives that would set it at lower levels and then we would have a suite of alternatives that correspond to different tiers of data availability or certainty about the status of the stock. That's kind of how I see it.

You would have some sort of step-down for the age structured SEDAR assessments and then maybe more of a step-down for production models and then something that's even more for the really data poor stocks, something along those lines is what I'm thinking anyway.

Mr. Geiger: To that point, Gregg, does that give you guidance to work with, sufficient detail?

Mr. Waugh: Yes, I think that does to us and to the team. We'll include the numbers we've got from the SSC thus far, as well as work up some other alternatives.

Mr. Currin: Thank you, George. We've got accountability measures to address here and the alternatives associated with those and we've got consideration of how to deal with red snapper

and/or gag in an interim rule and then we've got several other measures, some of them dealing with snowy grouper management alternatives and the way to address some changes in fishing methods in that fishery. We'll start with accountability measures, Rick, and let you move from there.

Dr. Crabtree: Before we go to that, one more thing that I think we are going to need to address in here is when staff pulls these together, there are likely to be combinations that would push the target catch level well below what we've specified as OY. I think in those cases we would have to somehow respecify OY, I guess, to make everything jive.

I think that's something staff is just going to have to figure out a way to deal with it, but it seems with the -- If you choose the maximum step-down on some of these, we would probably be reducing by 90 percent. I don't think we're going to do that, but --

Mr. Currin: Thank you, Roy. All right, Rick, let's see. The accountability measures start on -- We've got Section 2.23, page 11 in the options paper, which is Attachment 18.

Mr. Harris: What document are we in now?

Mr. Currin: Duane, it's Attachment 18, the Amendment 17 Options Paper, and accountability measures begin on page 11 of 23.

Mr. DeVactor: Before we get into them, I just thought I would show this graphic up and this is kind of what we're talking about or this was the plan that staff came up with and the team. You can see how the ACT would be set and this is for the commercial sector. This is just one example of one AM alternative we have.

You have your ACT, which is essentially your quota, which is the lower line, and then above that you have the sector ACL and these are numbers actually just coming from black sea bass, just to put in numbers as an example. Year one, under Number 1, you're below your sector ACT and your quota and so you wouldn't shut down the fishery, because you haven't crossed over the ACT.

Year two, as just an example, you've crossed over your ACT and so under this alternative, you would shut down the fishery as soon as you shot over it. In number three, you have crossed over your ACT and so, of course, you closed down your fishery at that time, but you've also gone ahead and gone over landings for that year of your ACL and so in year four, what you would have to do is decrease your quota by the amount that you've gone over your ACL. That's just an example, again, of one alternative and how we sort of envision this process taking place.

If you start going through alternatives, that is Alternative 2A and so, again, just like our quotas now, you close the fishery when you cross over your quota, but, again, if you go over your ACL, you reduce your ACT in the following year by the amount of the overage. That seems to make sense for the commercial sector, but we've also put in some more alternatives.

Alternative 2B, we have the same thing. As soon as you hit your ACT, you close the fishery, but

instead of taking off the amount that you've gone over, what you do is you reduce the length of the following fishing year by the amount necessary to recover that amount that you've gone over.

Again, last time we met in March, what the council told staff was to look at Amendment 30A and 30B from the Gulf of Mexico, their rule that they were working on. I think it was gray triggerfish and greater amberjack and so we have adopted those and kind of put them in our document.

Alternative 3 would separate it out by the stock status and so if your species is not overfished, you reduce the length of the fishing year by the amount necessary to recover the overage from the following fishing year.

However, if your species is on a rebuilding plan, then you would close the fishery and take off that amount that you've gone over and the thought process there is if you want to be more stringent if you're in a plan, because you want to keep to the amount. As soon as you get off that, then you're off your plan and you have to redo your rebuilding plan. I'll stop there. Those are just three alternatives that we're currently looking at in the commercial sector.

Mr. Currin: Comments?

Mr. Geiger: On the last one though, you're going to take off the following year, based on the previous year's overage and not the following year's overage, right?

Mr. DeVactor: Yes, you would take off the amount that you have gone over. Year one, if you've gone over by a certain amount, you would take that off the next fishing year and so your ACT, your quota, would be lower by the amount that you've gone over.

Mr. Currin: Any other suggestions as far as alternatives to be included? They look pretty good to me and fairly comprehensive. One comment I had in thinking about these, not only these, but with the ACLs as well, is we've got a status quo alternative in there, which to me -- I know we always have a status quo alternative in there, but under the law, that's not even a legal option to consider, is it? Do we need to have a status quo alternative for accountability measures and ACLs?

Ms. Smit-Brunello: Sure. For NEPA purposes, you always have to have a no action and then compare everything against that and no action would be what's in place now, to the best we could --

Mr. Currin: Even if it's not legal to even consider it, it just has to be there to be compared against?

Ms. Smit-Brunello: Yes, no action is status quo and so sure, it's got to be in there.

Mr. Geiger: Didn't we take an earlier action to move amberjack and mutton snapper?

Mr. DeVactor: Yes, I was talking about the Gulf of Mexico in there. I think it was 30A and 30B

and I'm not sure if that's the species, but they were dealing with sort of the same thing. No, we moved it. Oh, you're talking about in this wording on -- I'll strike through that, yes. It would just be for these eight species.

Mr. Geiger: I've been working on my memory.

Mr. Currin: Okay, does this look like a reasonable range of alternatives then for consideration of commercial fishery, dealing with accountability measures? All right. We'll move on to the recreational alternatives.

Mr. DeVactor: Moving on to the recreational alternatives on page 12, in here, of course, it gets a little more complicated and we have a little more options for it. Under Alternative 2, the AM would not vary depending on stock status, and so you can see that the first one is the least conservative of the bunch and it gets more conservative as you go on.

For the first two, 2A and 2B, you would not implement any AMs if you're projecting the ACT to be met. The first one -- Again, this is on the AA should publish something in the Register for the following year and all of these alternatives do that and this follows Amendment 30A and 30B from the Gulf of Mexico.

Again, if you go over for 2A, you reduce the length of the following fishing year by the amount necessary to ensure that landings do not exceed the sector ACT for the following fishing year. 2B is the same, except a notice to reduce the sector ACT in the following year by the amount that you have gone over. Again, that's following the commercial sector example.

2C and 2D, and I don't know how reasonable they are, but if the ACT is projected to be met, you prohibit the harvest and retention of species or species groups. Again, that follows the commercial sector. If we can forecast some way -- I know that we wait for wave data and such, but we thought we would throw this out for discussion at this time.

For 2C, if the ACL is exceeded, the AA shall publish a notice to reduce the length of the following fishing year, as we have in some of the other alternatives, and then 2D is the most conservative and so you close down the fishery as soon as you hit the ACT and then if you do exceed the ACL, you publish a notice to recover the amount that you've gone over and so that follows one of the commercial sector alternatives. I guess I'll stop there. We have one more alternative that separates it out depending on the stock status.

Mr. Geiger: I guess I would speak -- As Rick said, he didn't know how applicable they would be. We're already going to take, based on the uncertainty associated with the recreational data and data collection and the lag in the ability to produce that data during the season, that it would be virtually impossible, and we've discussed it several times, that the recreational fishery is difficult to be managed using in-season closures.

Because of that, we were going to actually increase the buffer in that ACT to accommodate for that and I think the average of the first two are much more appropriate or the running average over a period of time is more appropriate than the last two items, C and D.



Mr. Currin: Thank you, George, and I would agree. I think any of the alternatives that rely upon intraannual assessment of recreational catch are going to be extremely difficult, at best, months late and if not virtually impossible to implement.

Dr. Crabtree: The problem you get into is if you get into a situation where you're in the middle of the summer and let's say you're in an overfished situation with a limited time left and so you've got a payback provision that if you go over you're going to take it off and so you find yourself sitting there in July or August and you've got the MRFSS data and it shows you've already gone over.

That's what you think about and wouldn't you be better off, in that case, to go ahead and close the fishery down and not go even further over? You know you're already over and you know you've got to pay it back and that was part of the discussion we had in the Gulf Council on these things.

I would hate to sit there in July or August and not do anything and let them continue fishing, knowing that the payback could shut the fishery down for the entire next year. Now, you can address that outside of an AM. You could take an emergency action or something like that, but that's something you think about when you're in a rebuilding plan and you only have a few years left and you put a payback in.

I agree it's not a desirable situation to be doing in-season adjustments and MRFSS is not well suited for that, but you can think of scenarios where you really probably ought to make some kind of in-season adjustment, to stay out of even worse trouble.

Mr. Currin: I guess I could envision that happening, Roy. We would like to think that the management measures we put in place would prevent us from being that far over, although there's some history to suggest that -- We've done that before and so I hope we've learned something from that and would be better at it, but perhaps as a precaution, that may be something to consider.

Mr. Geiger: I agree. I think you're entirely right. The only thing is in your scenario that you painted right at the beginning, you used the operative word "if" and then on the other hand, we've discussed the inability to get timely MRFSS data to have the information necessary to close the fishery down.

In the scenario you painted, you're right. If you had that information, it would be more desirable to close the fishery when you knew you were over if you had that data, but we know we don't have that ability now and it's not certain that we're going to have it really in the near future.

Dr. Crabtree: To some extent, we do have the ability now. I've had this happen. This happened in Gulf red grouper some years back. We looked at the data in the middle of the summer and we were already way over what we had set as the limit, just looking at the MRFSS data. We don't have this issue here, but that didn't include the headboat data and it didn't include Texas at that point, but we had already gone over.

It does happen on occasion and it's one of those cases where there's no good answer to it, but it's just what's the worst evil. My only point with it is I agree with you guys that in-season adjustments on recreational fisheries, we ought to try to avoid them, but there are circumstances where you probably need to think about that you might need to have some ability to do something quickly.

Mr. Geiger: As usual, Dr. Crabtree's arguments become compelling and I agree that perhaps we should have some form of an alternative in there, just to cover that base. He's right. That happened in the Gulf and it would certainly preclude a real problem for the following year for the recreational sector.

Mr. Currin: At least for now, I'm hearing that it's probably a good idea to leave that alternative in and see where we end up on these other things and what kind of risk we're running with those species that are overfished and we might want to consider this. Other comments on the recreational measures and alternatives here for accountability measures? Is everybody okay with the suite that we have before us? Okay, Rick.

Mr. DeVictor: I'll just point out Alternative 4, which could be applied to any of the alternatives above. It basically looks at a running average of landings and so you can see that -- This is what you compare your annual catch limit to in Alternatives 2 or 3. For 2010, you use 2010 and what you landed then. The next year, you use the average of two years and then 2012 and beyond, you use a three-year running average.

Mr. Currin: I'm glad to see that one included. That makes sense. Okay, Rick.

Mr. DeVictor: Those are the AM alternatives we currently have in the document. I don't see any advice to change anything and we'll just keep it as it is.

Mr. Currin: Are you satisfied with that?

Mr. DeVictor: Yes.

Mr. Currin: Okay.

Mr. DeVictor: That's it for the ACL, ACT, and AM actions. Next, we'll move on to the rest of the actions in the amendment. You go to page 14 and currently, there's two alternatives. Alternative 2 is to extend the management boundary for all species, and we've talked about this for a while, for the snapper grouper FMU northward, to include the Mid-Atlantic Council's jurisdiction, except for black sea bass, golden tilefish, and scup.

Mr. Currin: Monica, I would ask you, under this particular set of circumstances, if those two alternatives are adequate for NEPA purposes. I know typically we like to have more than that, but it doesn't seem to me that there are any other reasonable alternatives to consider.

Ms. Smit-Brunello: I agree with you.

Mr. DeVictor: The next action deals with regional commercial quotas for the snowy grouper fishery. I think this came as a recommendation from the AP when they met a couple of meetings ago. Landings sort of start -- There's more landings in Florida and Georgia before North Carolina and South Carolina and so there's a concern that the fishery could shut down. Again, we'll be talking about the deepwater fishery in a second more, based upon the recommendations of ABC equals zero for some species.

There's an alternative in here that would split up the snowy grouper quota by regions and we put in some landing information by state and by month and the percentages and that's Table 6 and Table 7 and the alternatives are quite wordy. I'll just switch to this slide and run through them.

Alternative 2 is -- This came from when you guys met last. You gave staff Alternative 2 and Alternative 3. Alternative 2 would set three regions: the Mid-Atlantic Council; North Carolina and South Carolina would be the second; and Georgia and Florida would be the third. Alternative 3 would be five and there would be one off of each state, including off the Mid-Atlantic, and staff has come up with this fourth one that you may want to put in here too, that would include the Mid-Atlantic and the second one would be South Carolina, Georgia, and Florida.

As you know, North Carolina is in both councils and so with that Alternative 2, North Carolina would be included with the South Atlantic or with South Carolina and not with the Mid-Atlantic Council. Alternative 3, again, would be separate and Alternative 4 would include North Carolina in with the Mid-Atlantic Council.

Mr. Currin: Is everybody okay with those at least as a suite of alternatives here? I have one comment to make or a question to ask, but go ahead, Roy.

Dr. Crabtree: I think the Alternative 3, I guess, divides this up into state-by-state quotas and I don't think it's workable. At the current level of the snowy grouper quota of 84,000 pounds and then when you look at the table that's in here, that's based on catches that are over 200,000 pounds and Georgia still only landed 3,000 pounds.

The problem is I don't know how we're going to handle a quota that's that low. It could all be caught in one trip. You've got to recognize with this very low quota that when you start splitting up like that that it's going to make it very difficult for us to close the fishery and not miss it by a large extent. Just bear that in mind.

Mr. Currin: I think at least for now, based on the input we received from some of the states and the fishermen, that perhaps it would be prudent to leave that alternative in for now, until we can have more discussion of that.

Roy, my question is essentially what we've done here by incorporating area within the Mid-Atlantic Council is you could look at that as we have actually, if there was any migration from the South Atlantic there, have actually captured more standing stock biomass in the population, whereas we're not trying to account for that in any way, if in fact that's going on, yet as we

consider allocating part of our very limited snowy grouper quota, commercially and recreationally, to a new area, it's got to come from down here to go up there, but we're not trying to account for in any way the standing stock biomass that existed there that we're kind of incorporating through this measure to include the Mid-Atlantic. Is there some way we can try to look at that or --

Dr. Crabtree: The first thing we need to do is look at what the landings are in the Mid-Atlantic and, Jack, do we have that? Is that in here, Rick? What are we talking about in terms of pounds and where is it?

Mr. DeVactor: Jack, you can help me out if I'm wrong here, but Table 9 shows the landings by states, from Florida to North Carolina, and I don't think there were any landings picked up in the Mid-Atlantic Council, except for Jersey.

Dr. Crabtree: When I'm just looking at this, Mac, the landings are so low in this table -- There's one year where it was 1,600 pounds, but other than that, it's pretty minimal. Now, if there were substantial landings up there, I guess we could look at -- Could we take the current quota for the South Atlantic region and then look at those average landings up there and maybe base their quota on some fraction of their average landings and then continue to manage below there, based on the quota?

I don't know if that would fly with the SSC or the Science Center or not, but it looks to me -- If this is really all the landings we have, then it looks to me like the fish they're catching up there, they're not enough that it's going to make much difference.

Mr. Currin: I know there's some effort, at least recreationally, in Virginia, the pictures on the internet and new Virginia records. I don't know whether that has this year or late last year stimulated any commercial activity there. I have heard, but I haven't confirmed, that at least one, perhaps more, North Carolina fishermen have been going into Virginia to fish snowy grouper up there. I don't know what landing records they're operating under and all of that or whether those fish are landed in Virginia or something else is done with them.

Dr. Crabtree: The thing is unless that one guy happens to be encountered by a MRFSS port sampler when he lands, whether he's going up there or not is not going to show up in any of the landings numbers.

Mr. Currin: This is a commercial operation.

Dr. Crabtree: It's a commercial fellow?

Mr. Currin: I don't know whether they're picked up in the Virginia MRFSS survey or not, but there are certainly advertised recreational landings of large snowy grouper.

Dr. Crabtree: Like I said, if it's recreational, unless he's intercepted by a port sampler, I don't think it's going to show up and so I suspect that the MRFSS data is not going to be informative about what's being caught up there, because it's too little. If it's commercial, there should be trip

tickets reported, but what I'm seeing here indicates there's very little of that happening.

Mr. Currin: I would just suggest that we maybe stay in close contact with the Virginia trip ticket system and try to get, as quickly as we can, updates from them on landings of snowy grouper that are occurring there, since we're talking about gathering up some more area.

Mr. Geiger: That was going to be my point and my question was to Gregg. I would bet that this chart was probably done before we incorporated the Mid-Atlantic area into our management plan and when we incorporated them or offered them the opportunity to come under our plan, did we request landings from the Mid-Atlantic states on snowy grouper?

Mr. Waugh: We would have to go back and look and see what the original assessment -- Whether they included all landings from those states. Certainly current assessments that are being done, like vermilion snapper, they're pulling landings data from that area. We can go back and check. When the next snowy grouper update is done, as well as golden tile -- All the species, we need to make sure we're pulling landings from those areas, but we can check and see if that was done in the first assessment.

Ms. Smit-Brunello: Myra brought up a good issue on email too, which was we should think about what does extending the management unit mean? Does it mean that we would also incorporate essential fish habitat and those sorts of things for like what's currently described in the Snapper Grouper FMP? Maybe, staff, we could just start thinking about what it means to extend the management unit up there and then bring that back to the council, because I assume you would want to include essential fish habitat and those sorts of -- You would have to, really, those sorts of requirements.

Mr. Currin: Yes, things that seem on the surface very simple become complicated quickly. Anything else on that management unit and the options associated with those? Rick just reminded me that we're going to be talking about several species that the SSC has indicated an ABC or ACT or whatever they gave us of zero on and that could have some implications here as well as to how we ultimately act. Go ahead, Rick.

Mr. DeVictor: This group is fine with adding the staff's alternative, Alternative 4, to the mix?

Mr. Currin: Is everybody okay with that and understand those? Does that seem like a reasonable range covered? I know Roy has reservations about individual states, but at least for now, we'll -- I guess Alternative 4 probably should -- I should note that North Carolina is included with that Mid-Atlantic Council and so two areas then in that. Give that some thought. If you've got problems or got additional alternatives that you want to see, we need to get those in quickly.

Mr. Harris: I thought we pretty much concluded we were going to do away with Alternative 3 and was that not -- I know there wasn't a motion or a vote on it, but that was my sense, that we weren't going to do that.

Mr. Geiger: At the chairman's discretion, he opted to leave it in there, just as a space holder.

Mr. Currin: It was merely a suggestion. It's no iron hand here and it's just my suggestion and if the committee wants to exclude that alternative -- Roy spoke in favor of excluding that and if there's desire among the majority of the committee to exclude that option at this point, so do it, go right ahead.

My recommendation was to at least include it for now and go through and see where it ends up. I think we all realize the problems and the headaches associated with it, but I also realize the desire by the fishing public, at least in our state, to at least consider it for some period of time. That was my rationale, Duane. Another measure that we have in Amendment 17 -- Go ahead, Rick.

Mr. DeVictor: Now is probably a good time to talk about the SSC. They gave for warsaw grouper and speckled hind an ABC equals zero as their recommendation. You currently have an alternative in there to have one hook per line for the deepwater recreational fishery for snowy grouper and staff thought perhaps to throw in one snowy per boat, but now is probably a good time just to talk, in general terms, what to do with the deepwater fishery, because you are going to be required to keep catches at the ACT. As you saw with the recreational sector in Amendment 15, it will be 523 fish that's going to be allowed for the recreational side.

Mr. Currin: Keep in mind that's 523 snowy groupers and no warsaws and no speckled hinds. I don't know what they did with yellowedge and misty and all of that. I guess there's not enough information to determine.

Mr. DeVictor: They're not undergoing overfishing and so they're not in Amendment 17.

Mr. Geiger: Maybe before it comes up, and just to get my licks in before it does come up, a mention was made yesterday of the potential for a tagging program to allow the capture of the last 523 -- That's a mischaracterization, but a tagging program to capture the 523 snowy grouper allotted to the recreational fishery each year.

I think this goes to Robert's concern that we're going to allocate down to the last fish without -- It's just difficult for me to conceive how we're going to have a fishery for 523 fish with a tagging program. When you mention the tag program, it may be limited in terms of gross numbers for tarpon, but I don't think they've ever achieved the maximum number of tags that they have available, if I recollect correctly, Bill. I think there is a limit on them, isn't there, but it's much more than 523. I think that's just, to me, an unworkable solution to the problem.

Mr. Waugh: Jack tracked down the rest of the landings data to fill in the table for the recommendations from the SSC right now, but if you just focus in on speckled hind and warsaw, their recommendations for ABC for those two species are zero. We would need some guidance from you all on alternatives you all would like us to work up to keep the total mortality of speckled hind and warsaw at zero. I think that will influence some of our other considerations for these other measures for other species.

Mr. Currin: Off the top of my head, warsaw being a part of that deepwater complex and if we're intent upon keeping that harvest and interaction at zero, then certainly an alternative to close the

deepwater fishery for recreational fishing might be considered. That deals with warsaw, but it doesn't necessarily deal with speckled hind, which occur, as I understand it, Jack -- Correct me if I'm wrong, but perhaps a little more up on the shelf than the center of the distribution of those deepwater groupers. Jack is nodding his head in the affirmative.

Dr. Crabtree: When they recommended an ABC of zero that meant that they recommended that we set the TAC for those at zero. I'm not reading that as meaning we achieve zero mortality. I don't think you can achieve zero mortality, but when they said ABC or catch, they didn't mean total removals, I didn't think, did they? I thought they meant landings should not exceed such and such.

Mr. Waugh: I don't know what their specific discussion was, but our read of the proposed rule is that the ABC does refer to total mortality, that's landed fish plus discards, total mortality.

Mr. Carmichael: I can say I think they focused on ABC as opposed to OFL, because of not being sure about overfishing on these fish, and they felt that was truly what the acceptable catch was. How that plays into the discard thing, I don't recall them getting into it at that level at all.

Dr. Crabtree: We don't really know if they meant total removals. I'm assuming that they weren't. Trying to get to zero mortality though, we've got to recognize, is not a realistic goal here. You can't get to that and I don't think there's any requirement to get to zero mortality that I'm aware of on these things, but I guess we better clarify from them what they meant.

What I expect or would like from them is when they give us an ABC that that is landed catch and when we set ACLs that is landed fish. That's always how we've done things. We've set TACs and quotas and that's how many fish are going to be caught and in the specification of that quota or that TAC, you take into account the anticipated discards that occur with it.

Mr. Currin: Roy, Rick just handed me this and this is from the proposed rule and catch is defined here and "catch" includes fish that are retained for any purpose, as well as mortality of the fish that are discarded.

Dr. Crabtree: Yes, we've got terminology things there, but I believe in the rule too that it gives the council the discretion to set the ACLs in terms of landed catch or total removals, but you have to take into account the discards either way you do it. The problem we have is we don't have any good way to monitor the discards.

If we set up ACLs that are total removals, we're going to have one hard time figuring out if we went over them or not and we're going to be way behind the curve to try and figure that out. I think the ACL rule gives you flexibility in how you do that, but you have to take into account the discards.

Mr. Carmichael: I think that was -- There may have been a few very brief, very quick comments along the lines of that, that they weren't sure about the discards and it was going to be a problem and that was sort of then going to -- There was some expectation that there was going to be some of that and that there could be some of that before you left overfishing, but they really didn't talk

about the ABC and dealing with discards. In some cases, the FOY yields that are predicted include discards and in some cases, that's kind of a separate category, depending on how the assessment was configured and how the results were presented.

They didn't get into the individual specific numbers either and so we may have to clarify some of that with the SSC and maybe we can attempt to do that over email review of the document and see where it goes and try to have some of it straightened out before December.

Dr. Crabtree: My view is that we need to specify these ACLs in terms of landed fish and that we need to set them up in a way that takes into account the discards that we think are going to occur, but when we're monitoring did we go over the ACL or not, I've been working on the premise that we were talking about what's landed and not trying to monitor the discards and all of that, because I think that's going to really be a problem for us to do.

Mr. Currin: I agree, Roy. I think you're right. I guess the question here is whatever those -- We've got to determine whether we're going to try to allow any sort of landings of warsaw and the best way -- With the understanding that the snowy grouper portion for the recreational fishery is 500 fish.

These are encountered with them and so there's going to be some bycatch, whether we allow the landing or not. It raises the issue of whether we want to consider an alternative to just prohibit fishing for this deepwater complex. That was just a question that I would raise for the committee, do you want to include that as an alternative here?

Dr. Crabtree: I think we need to, because I think we very well are going to be looking at closing down warsaw and speckled hind and at least on the recreational side of snowy grouper, I agree with George. I don't see how you can have a fishery with 500 fish. I think there's so few yellowedge and what's the other species in the complex, in deepwater? Misty grouper.

I suspect the landings of those are so low that -- I think they're extremely low anyway, but I think we do need to look at an alternative here that closes the fishery for pretty much the whole complex down. I just don't see how we avoid it, at least looking at that. I don't see anything that leads me to believe the SSC is going to change their minds on warsaw or speckled, in terms of their ABC recommendation.

Mr. Waugh: Then the idea would be that we would just prohibit all harvest and retention of speckled hind and warsaw grouper and that would ensure that we don't result in overfishing? We're trying to get some guidance here and it seems -- Certainly the ACL that we set, that's what we're trying to keep landings below.

Mr. Geiger: Another problem is that we've been under the gun for a number of years with speckled hind and warsaw grouper with not being able to get out from under the overfishing category, because there's the potential for bycatch, they keep telling us. Even though we've got them listed at zero, there's a potential for bycatch of the fishery and so they won't declassify them.



Dr. Crabtree: There is and so we can close the whole complex down and probably reduce the potential for bycatch, but as Jack said, sometimes they do stray up into shallower water and there will be some bycatch there. The reality is right now we don't know, with any certainty, whether these stocks are undergoing overfishing now or not. We haven't had any sort of assessment on them for many years, but we've never been able to reverse their status, because of the issues of bycatch and all.

It's not clear to me whether we gain much in terms of fishing mortality reduction by closing the fishery down or not, but clearly the SSC seemed to think that was the correct course of action, but I think if your goal is to be as sure as you can be that you've ended the overfishing of these stocks, then you would close that whole complex to everybody and then I think you've done about all you can to reduce the bycatch of them.

Mr. Currin: I'm hearing from Roy, at least, support, and I believe from George, for including an alternative. I'm seeing heads nod in the affirmative, to include an alternative that would close the deepwater complex to recreational harvest. That takes care of the warsaw portion of this, but we've got to somehow try to address speckled hind, which occur a little bit further up on the shelf than the center of distribution of these deepwater groupers.

If that's something we want to try to incorporate as well, either into this alternative or another one, then we perhaps ought to consider some sort of very difficult to enforce depth limit, to try to account for the center of the distribution of, as best we know, speckled hind. Jack, do you have any guidance or information to offer us on the center of the distribution or the depth limits of speckled hind?

Dr. McGovern: I know juvenile speckled hind are pretty -- Probably their zone of greatest abundance is like the shelf edge and then the larger ones are in deeper water and you find warsaw grouper juveniles up in shallower water as well.

Mr. Currin: And juvenile snowy groupers as well.

Dr. McGovern: A little bit deeper than that, like fifty fathoms or so.

Mr. Currin: The adults -- If you had to center the distribution of adult speckled hind, where would you place that, depth-wise? Adult speckled hind, what's the depth range of the center of their distribution of the adults?

Dr. McGovern: I don't know offhand. If George Sedberry is here, he probably knows.

Mr. Currin: I think George cut out a little earlier today. I guess where I was trying to go with that is perhaps the closure of the deepwater fishery would provide some protection to the speckled hind, adults anyway. There's a problem potentially with the juveniles, which occur in a shallower area. It depends on how far we want to go as to defining some depth zone for the deepwater complex.

Dr. McGovern: I'll look up speckled hind for you real quick.

Mr. Currin: Any thoughts or ideas on that? Perhaps we should just give direction to the staff to try to come back with an alternative that would offer -- Two, perhaps, that would offer protection to -- Is it worth considering just trying to protect the adults or do we need to start looking much further up on the shelf for the juveniles as well? If it's fifty fathoms or even thirty, we're probably looking at significant discard mortality for the juveniles. Even vented, they're going to have a hard time getting back down and surviving at any reasonable rate. Anybody got any thoughts on how to deal with that or what to do? Lots of blank faces.

Do you want to just -- If that's sufficient direction, perhaps staff, working with Jack and those others who are more knowledgeable of the distribution of those fish could come back with a couple of alternatives for consideration to offer various levels of protection for speckled hind. That's probably the best we can do at this point.

I guess we need to start -- If we're talking about an alternative to prohibit the recreational harvest of any of the members of the deepwater complex, we need to think about some way to define that or restrict that activity and it's probably going to be a depth zone. There may be other ways to do it, but -- That also might be something, Rick, that we need to try to begin gathering some information for.

Mr. Geiger: Perhaps another alternative, to help discourage fishing in the deepwater areas, is a prohibition on electric reels. If people had to use manual fishing reels, they might be less inclined to fish in deep water. If they did encounter one, with slower decompression as they're brought to the surface, they might have an improved survivability.

Mr. Swatzel: I guess it depends on where you're saying they can be used. I think we own about 150 of them. Most of the party boats in the Carolinas run them out, even though we may not exceed say 120 or 125 feet of water. We still use them. I wouldn't want the industry to get caught in that and I don't know how you can ban electric reels, unless it's a depth-related zone issue, but we're not fishing deep enough to catch snowies or anything like that.

Mr. Currin: Other comments? Certainly, George, that could be a part of that previous alternative, to prohibit it, but I don't know how we would work that in. Any other thoughts on that or comments? Is that something we want to consider or others want to consider or include? I'm not hearing much one way or the other. We can give it some thought and see how it develops. Are we okay on that particular issue and dealing with the SSC's ABCs that they gave us on warsaw and speckled hind? Is that all that you need from us on that?

Mr. DeVactor: Yes, I think we have enough to work with the team. We'll add that alternative to prohibit all recreational harvest and retention in the deepwater complex and we'll work with the team and see if there's anything else that we think would reduce the fishing mortality of these deepwater species. That's fine.

Mr. Currin: Okay, thank you. All right, one more thing with respect to 17 and that's the red snapper issue and the suggestion that Roy made earlier about consideration of including the gag closure, at least, in an interim rule or an emergency rule to address red snapper. We need to

discuss that.

I guess first, the way to go about that, the best way to go about that, and, Dr. Crabtree, we would have to rely on you and/or Monica to outline to us the difference between interim rules and emergency rules and offer perhaps some advice on the best way for us to go about that.

Dr. Crabtree: These would be interim rules. I don't see anything that would constitute an emergency and Magnuson provides rulemaking authority to do interim rules to reduce overfishing. It doesn't have to end the overfishing, but it has to reduce the overfishing. I think you have good grounds in the case of vermilion, red snapper, and gag right now to ask for an interim rule.

If you want to have regulations in place by January 1, which I certainly think would be wise for gag, I think given that we're not taking final action on these amendments at this meeting that would be your best shot to get that done. That would be the procedure for doing it.

Mr. Currin: One slight fly in the ointment, I guess, on the gag, consideration of gag, is the fact that we created an alternative today that would not subject the commercial fishery to that four-month closure, if that proves to be the alternative that we select. The recreational closure is still in place, as we indicated, but I would be worried a little bit about sending through a four-month closure for both of those fisheries and then come back, as we move through 16 at our next meeting, and then not consider or not implement or recommend the commercial closure. Is that a problem with you or not?

Dr. Crabtree: No, because I'm not envisioning that we would finalize anything until after your next meeting. What I would guess is we will draft the proposed regulations for Amendment 16 and we could also draft interim regulations and bring them back to the September meeting and you could look at them and then if you make a change to Amendment 16, we could make a change to the interim regulations, but I wouldn't try to publish anything until after the September meeting, plus we're going to have to complete the NEPA documents to support either the interim rule or the permanent regulations, either way. I don't think that's a problem.

Mr. Currin: Your recommendation there would be to include the measures for at least gag for both fisheries, implementing a four-month closure?

Dr. Crabtree: If what you're going to do on the commercial side is start the fishing year in May and implement a quota, we can probably get the permanent regulations in place before anything would happen there. If you want to -- On the recreational side, if it's predominantly going to be a January, February, March, April closure, we probably cannot get that in place. I think you have to look at the measures that you're doing.

Ms. Shipman: Roy sort of alluded to one of my questions. Will we have to take all of the measures or could we take the measures that would be reasonable and more easily implemented by January 1 or whenever, insomuch as we need to be taking steps to reduce that overfishing? It seems like we wouldn't have to necessarily do the entire suite.

Dr. Crabtree: I agree with that, Susan. There are a lot of things in Amendment 16, like specifying OY and all those things, which we wouldn't do in there, but you could decide to put in place a portion of those regulations.

Mr. Currin: What's the committee's desire regarding interim rules for both red snapper and gag and/or vermilion?

Mr. Geiger: I had my hand raised to basically ask the same question that Susan asked, about including the entire suite of alternatives, but I think an interim rule for red snapper would be appropriate and I think the other species as well. Seeing as how we're doing an interim rule, we can include the other species and kill four birds with one stone, so to speak, in part. Roy answered the question that we only need to take certain aspects of the alternatives.

Mr. Currin: We would certainly need to give the staff some guidance as to what those aspects would be. So far, what I've heard has been the closures for certainly the recreational fishery, in gag at least.

Mr. Geiger: And a possible potential time/area closure for red snapper?

Mr. Currin: Yes, I guess. I don't know what other alternatives might be considered for addressing the red snapper issue, other than specific time/area closures, based on the center of their distribution in that range. I don't know and, Roy, do you have ideas of suggestions?

Dr. Crabtree: My thought had been you would just close the fishery.

Mr. Currin: As an interim rule, just to close the red snapper fishery.

Mr. Geiger: To that point, then you still -- The biggest problem in the red snapper stock assessment appeared to be recreational release mortality. If you just close the fishery and people continue to fish for other shallow or mid-shelf complex species, they're going to continue to encounter what we're hearing about, this abundance of red snapper out there, and the release mortality is going to continue. Again, we're required to look at bycatch mortality in all of our plans and in this particular case, bycatch mortality is the devil.

Dr. Crabtree: Here's what you probably can't do in an interim rule, would be to set up a big time/area closure and close it to everything in it. The interim rule needs to be tailored to species that are undergoing overfishing. Jack has looked at this and I believe, Jack, you had figured that even if you just closed just red snapper that you still get a substantial reduction in fishing mortality from doing that and is that correct?

Dr. McGovern: It depends on the assumptions. I looked at a projection from the stock assessment, where they have no allowable catch and then they have the allowable discards that would be required to rebuild the fishery in the thirty-four-year time period and the first year of the rebuilding projection is 37,000 allowable dead discards.

I looked and if you assume there was no reduction in effort at all and everything was turned into

discards that's currently being landed, you would have about 129,000 discards, but if you assume that there's some targeting of red snapper and that -- Like there's some big commercial trips of red snapper, over 300 pounds.

You get rid of those and you assume that red snapper are only taken with commonly co-occurring species and there's some ability to avoid red snapper, assumptions like that I can get the dead discards or total removals down to about 51,000. Depending on the assumptions and what's really going to happen, you might get a good reduction.

Mr. Currin: The other thing, I think to maybe temper some of this discussion, is to keep in mind that the interim rule is not the end-all-be-all on this. This is just a quick and dirty measure, as Roy indicated, not to address all the problems in red snapper, but just to head off some that we know are occurring.

At that point, if that's the way we decide to go, then we've got to think about some alternatives to include in Amendment 17, as I understand it, regarding more permanent measures for red snapper.

Dr. Crabtree: That's exactly right and with gag, for example, if we were to put an interim rule in place, we would likely just close gag during January, February, March, and April and not -- I guess we could come in and close black grouper and red, but we need to keep it targeted just to species that are undergoing overfishing at this time.

Mr. Swatzel: I'm just trying to get a little bit better idea of the interim rule process. If you head down that path, generally how long does it take and what public input opportunities are there?

Dr. Crabtree: You could hold a public hearing at your next council meeting and you could specifically list the interim rule on the agenda and take public comment on it. At that point, if you approve the draft language for the interim we had, we would just go back and publish the straight to final rule, in all likelihood, because I don't think we would have time to do a proposed rule, and we would go straight to final rule on it. The public comment on it, specifically on the interim rule, would be at the next council meeting.

Ms. Smit-Brunello: It's in effect for 180 days and you can renew it for another six-month period, 186 days, if you are working on an amendment to -- You've taken public comment and you're working on an amendment that's a long-term solution to the problem.

Mr. Currin: Gregg just reminded me that we just took a ton of public comment on the gag closure, at least for now.

Mr. Geiger: I agree with the discourse you all had back and forth and that's what I wanted to jump in on, but refresh my mind again now. This interim rule is going to cover which species again, specifically?

Dr. Crabtree: Here's the issue. There was a court ruling on an interim rule we did in the Gulf on red grouper a few years ago. The judge ruled that the interim rule can only regulate species for

which you have a specific determination that overfishing is occurring. Now, there are different opinions on whether that's right or not, but that's what the judge ruled and I'm not particularly inclined to challenge that in this rule.

You could, for example, include black grouper and red grouper in it. You certainly though red snapper and gag and vermilion, since they're the subject of what we're doing here, but I think, Monica, we could address any of the stocks in the snapper grouper complex that are currently undergoing overfishing.

Ms. Smit-Brunello: That's right.

Dr. Crabtree: You could not say we're going to close a big area down to all fishing, for example. That would be a tough thing, I think, to do in a temporary rule like that anyway.

Mr. Geiger: I understand, but we started off talking about specific species and black grouper wasn't one of them. It was red snapper and gag and --

Dr. Crabtree: We started talking about gag, vermilion snapper, and red snapper. Now, the other two species though that fall in that closure that you're proposing in Amendment 16, which was going to be a shallow-water grouper complex -- If you look at which species in the shallow-water grouper complex are undergoing overfishing now, it's gag and black grouper and red grouper.

Mr. Currin: There are other members of that complex then that would remain open and there would be fishing.

Dr. Crabtree: That's right and as Mac said, this is not the end-all, but it would get you some progress and achieve some reductions in fishing mortality.

Ms. Shipman: Just a question with regard to vermilion. How long would we envision the interim would be in place before we would have the other one submitted? The one I'm torn over is vermilion, knowing we're going to be getting that assessment back in December, but we would have to take final action on this in September, right? We know we've got to take some vermilion measures, but I'm just not sure which of that suite of vermilion measures we would want to do, given we're going to have that assessment in December.

Dr. Crabtree: We could, before we went final with the interim rule, take as good a look at where that assessment seemed to be going and apply the same sort of thought process that's in Amendment 16 on that, I guess. I don't know and, Gregg, do you or Jack know when the -- John might know, when is the vermilion workshop? October?

Before we would actually publish the interim rule, we would have -- That would be completed and we could make an adjustment along the lines of what's contemplated in Amendment 16 now, I would think.

Ms. Shipman: The reason I ask that is I want to try to avoid what we went through with red pogy, that year when we had an amendment and we had an interim rule and we had an

emergency rule and they were all overlapping and that was a mess. I really would like to avoid that.

Mr. Currin: I'm sensing some inclination to proceed with an interim rule, but we need to be specific about what we want to include in that. One suggestion from Dr. Crabtree would be to include closing the red snapper fishery and then mentioned everything from gags through vermilion to blacks and reds and all that. What's the desire of the committee for consideration in this interim rule and various aspects of dealing with those species?

Dr. Chevront: Did I hear incorrectly earlier that it was also suggested a recreational closure for snowies in there? I don't know if we wanted to go that route or not, but I have a procedural question related to this. If we include all these species in one interim rule and we need to extend that rule, but only for one or two of the species, is it possible to pull out the other ones in the extension or do we have to do a completely new interim rule or how does that work? I would hate for us to be locked in to if we need to do it for one that it has to include them all.

Dr. Crabtree: No, I don't think it would, Brian. Whether the attorneys would say that's extending it or that's a new rule, I don't know, but I think either way, we can deal with it. I'm really looking at this -- At least for gag and vermilion, my hope is we wouldn't even extend it and the permanent regulations would go in place before it expired.

Now, I would not recommend we start trying to do snowy, because we don't have a NEPA document right now anywhere close or even in the works to do snowy, but we do have the gag document that's already published and vermilion is largely complete and we're going to work on a NEPA document for red snapper.

We will have to internally figure out what form of NEPA document will support this interim rule and that's just something we'll have to work on and report back to you at the next meeting, if this is how you want to go. I think to bring in anything that's not part of Amendment 16 or that part of 17 right now would be pushing it to get it done.

Mr. Currin: We don't have a NEPA document for red snapper at all. What's the committee's desire for measures to consider in this interim rule, besides a closure for red snapper?

Mr. Geiger: If I might, maybe we could go back -- A lot of water has passed under the bridge since we talked about gag and if we maybe blend species by species, we could maybe pick out the alternatives as we see them and maybe apply them that way, instead of just trying to -- My memory failed again. The pill I took only lasted for ten minutes.

Mr. Currin: Let's talk about gag first, then. Let's start with gag, any of the measures from 16 regarding gag. The first thing that pops to my mind for consideration would be the spawning season closure, January through April. Is that something that the committee would like to consider?

Ms. Shipman: Also, I think the reduction in the recreational limits and the quota.

Mr. Currin: The bag limit reductions?

Ms. Shipman: Yes. I think the quotas, the reduction in bag limits, the spawning season closure. We really can't do the trip limit thing yet, because we haven't seen that analysis, but at least it would get us started on the quota.

Mr. Geiger: We were told the analysis wouldn't take very long to do the trip limit analysis. Would we be able to incorporate that in September?

Dr. Crabtree: What I would recommend to you to right now is that we would just draft an interim rule for gag that would reflect the preferred alternatives in Amendment 16 that are directly related to reducing fishing mortality on gag and then if you come in at the next meeting and change one of those, then we'll make a change in the interim rule. I agree that it would be the spawning season closure, the quotas. If there's a trip limit, it would be the trip limit and it would be the recreational bag limit adjustment.

Mr. Currin: Is everybody comfortable with that? Keep in mind, again, Roy said they'll draft something and bring it in and we can say yes, this is good and this is not and let's take this out, if we want to. How about other members of the shallow-water grouper complex to be included, measures for them?

Mr. Geiger: The one thing for black grouper, the black grouper bag limit changes as well, I believe. We go down to a one fish black in that three fish bag limit, correct?

Dr. Crabtree: Yes, because that's what we're doing, is one gag or black. We could certainly do that. I guess the larger question is the seasonal closure. Would you want to just do the seasonal closure applies to gag or would you want to apply it to gag, reds, and blacks?

Mr. Geiger: I would recommend we apply the seasonal closure to all three species. Again, you get bycatch mortality reductions associated with that fishery.

Mr. Currin: I'm seeing some heads nod in the affirmative there and is that general consensus of the committee at this point? Okay. I'm seeing at least a few more heads nodding in the affirmative.

Dr. Crabtree: What you would need to do is pass a motion and have staff write a letter to me, requesting that we draft that interim rule and bring it to you for review at the next meeting. Let me point out one strange aspect of Magnuson, because when we get to full council, I will vote against the interim rule, because those are my instructions, to vote against interim and emergency rules. Having said that, that's just a procedural thing. That's what we would need, is basically a letter asking us to do the interim rule and then you could outline this basic discussion.

Mr. Currin: I'm not sure I like that, before we get to the motion, I want to make sure that these are all the measures we want to include. We talked about vermilion measures as well and whether we want to implement any of those in this interim rule as well. We're talking about a May start date for that fishery in 16 and it looks like that will be fairly close to when we get 16



implemented.

Dr. Crabtree: I would probably put that in the -- I don't know. That's something we would have to give some thought about, about whether there's any -- I don't know that it would gain anything by putting it in an interim rule, but we would have to look at that. If we make that the preferred alternative at the next meeting, I guess we can think about then whether there's any reason to put that in the interim rule.

If we really felt confident the permanent regulations would come on by even June or July of next year, then I don't think there would be any benefit by putting that change into it, because I just don't think it would do anything. If you wanted the trip limit, we could certainly do that.

Mr. Currin: We haven't even seen the analysis on the trip limit yet and so I would feel very uncomfortable trying to put that into an interim rule. That locks us into that as a measure and preferred and gets us in all kinds of trouble as well. If everyone is comfortable with this -- Roy, I guess your office is going to be drafting the rule and is that correct?

Then if the committee is comfortable, allow Roy the latitude to consider the vermilion actions and if there are actions that by implementing early will provide conservation benefits and reduce mortality, if you're comfortable with this now, and I want to make sure that everybody is, then we can allow his office that discretion. If you're not comfortable, say so and we'll just go from here.

Mr. Geiger: Are you ready for a motion?

Mr. Currin: What are we going to do with vermilion, before we have a motion, or are you going to include that in your motion?

Mr. Geiger: We just had some discussion about vermilion and we talked about the latitude of allowing the Regional Office to look at the activities that would end fishing mortality on these particular species. Dr. Crabtree already indicated that he would have to look at certain aspects of each of these regulations to determine their applicability and so I would be satisfied to give him the latitude to determine which of the measures we've already discussed in this discussion are applicable and to move forward from that point.

Mr. Currin: That's fine and I suggested that as something to consider. You were the first one I heard from that said yes, you're comfortable with that. I want to make sure that the rest of the committee is comfortable with giving Roy's office that latitude regarding vermilion.

Ms. Shipman: Just for clarification, that would be of our preferred measures.

Mr. Currin: Yes. I'm seeing some heads nod up and down and that's okay.

Mr. Sharp: I'm just abstaining from that.

Mr. Currin: There's nothing to vote on yet. You can abstain when we vote, if we get a motion.

You don't have any comment at this point? Okay. We certainly realize the position that you're in and not because you're new here, but because of Florida and the relationship with the commission and all of that. I think everybody is very understanding of that.

Mr. Sharp: Just so you get used to my voice every now and then.

Mr. Currin: I'm sensing that the committee is comfortable with allowing Roy to analyze the vermilion actions and if there are actions that would provide reductions in mortality, they would be considered in the interim rule.

Keep in mind if he comes back with some alternatives from either vermilion or gag or any of the other species that we're not comfortable with, before they're voted on and passed, the committee and the council would have an opportunity to remove those or modify them in some way, I presume. George, I'm ready for a motion now.

Mr. Geiger: **I would so move that the staff develop a letter to the Regional Office requesting the Regional Office develop an interim rule developing measures from our preferred actions for reducing fishing mortality for the following species: red snapper, gag grouper, vermilion snapper, black grouper, red grouper. Request the Regional Office develop an interim rule utilizing previously developed preferred alternatives for reduction in fishing mortality.**

Mr. Currin: Does that look good to you, George?

Mr. Geiger: Perhaps it should be reductions in fishing mortality for red snapper, gag grouper --

Mr. Currin: I think it captures the essence of what you're trying to get at. Is there a second to the motion? Is there a second? Susan seconds. Discussion?

Ms. Shipman: I have a discussion just about a technicality. We're saying preferred alternatives for reductions and then we list species. Red snapper, we really have not had a full discussion of red snapper and we probably need to do that. That's just sort of a technicality. We don't have a preferred option just yet on red snapper, like we do on the others that we've been working on in Amendment 16.

Mr. Currin: Good point, Susan. How about, George, if you would consider that staff develop a letter requesting the Regional Office close the red snapper fishery and develop an interim -- Develop an interim rule closing the red snapper fishery and measures utilizing so on and so on and so on. Will that do it?

Mr. Geiger: **Yes, I'll accept that as a friendly amendment, if the seconder will.**

Ms. Shipman: Yes. We need to look at it.

Dr. Chevront: I don't know if I'm just not remembering or I wasn't around or what, but do we have preferred alternatives for black and red grouper?

Dr. Crabtree: Yes, in Amendment 16 now, your bag limit reduction applies to gag and black grouper and the seasonal closure applies to the shallow-water grouper complex.

Dr. Chevront: Okay, in that sense, I do.

Mr. Currin: Those are the two that I recall off the top of my head. Does that satisfy everybody? George, does that capture the intent of the motion? Susan, does that capture, with the correction, the points you brought out?

Ms. Shipman: It still needs some refinement. I think that language he's blocking out, if that goes away, I think it will --

Mr. Cupka: I was going to suggest a change. Again, it was referring to previously approved alternatives and we didn't have them for red snapper. He's taking that out and so it's not a problem.

Mr. Currin: I think that does it, doesn't it, David? Is that okay with everybody? Take a good look. I want to make sure everybody is comfortable with that.

Mr. Cupka: If you did want to put in there about using preferred alternatives, then you need to put it in after red snapper, closing red snapper and using previously preferred alternatives to reduce fishing mortality or whatever.

Ms. Shipman: I think to be correct, it's develop a letter to the Regional Administrator requesting the Regional Office. I'm really trying to get this down right.

Mr. Currin: It probably should refer specifically to Amendment 16, as far as measures. Read that carefully, George and Susan in particular, but everybody. It took a long time to get there, but I think we're there.

Mr. Geiger: Thank you, Susan, very much. It's always gratifying to have you here to refine our motions and I say that in appreciation.

Mr. Currin: The motion is to ask staff to develop a letter to the Regional Administrator requesting the Regional Office develop an interim rule closing harvest of red snapper and reductions in fishing mortality, as specified in the preferred alternatives in Amendment 16 for gag grouper, vermilion snapper, black grouper, and red grouper. Discussion of the motion?

Ms. Shipman: My understanding is this will be brought back to us at the September meeting, just for the record, particularly for the public, so that they know they will have input into this and into this consideration. Also, I think it's important to acknowledge, and we had some discussion of this yesterday during the SSC report, but that the red snapper assessment has been deemed by them to be the best scientific information available.

Mr. Currin: Thank you, Susan.

Mr. Boyles: I'm not on your committee, but can I suggest that you add a verb in front of "reductions"?

Mr. Currin: Damned English major. Yes, that makes it cleaner and more proper. Thank you.

Mr. Geiger: **The motion is that the staff develop a letter to the Regional Administrator requesting the Regional Office develop an interim rule closing harvest of red snapper and implement reductions in fishing mortality, as specified in the preferred alternatives in Amendment 16 for gag grouper, vermilion snapper, black grouper, and red grouper.**

Mr. Currin: Further discussion on this motion? **Any objection to this motion? There's one objection and one abstention and the motion is approved.** Thank you. Rick, what else? Regarding red snapper, I guess we need to give the staff some general guidelines on how to start looking at what are going to prove to be extremely large reductions needed in the red snapper fishery.

As everybody is aware from the assessment, I think, and correct me if I'm wrong, but we're probably at least looking at a 90 or 95-plus percent reduction in that fishery. A large portion of the mortality is due to discards, a lot from the recreational fishery. There are going to be some very, very extreme measures that are going to have to be taken to address those.

The thought that I've given to it, and maybe some of you have thought about it as well, but the limited thought that I've given to that issue to date would indicate that about the only way we're going to be able to achieve those reductions, needed reductions, are going to be some time/area closures in the distribution, spatial distribution, of that fishery, or that population, along the coast.

I guess we can direct staff to develop a suite of alternatives considering some closures. Are there other measures that we would ask the staff to develop some alternatives for consideration in Amendment 17 regarding red snapper?

Dr. Crabtree: I think closure of the red snapper fishery would be one of them. I think the other thing though that it's important to take into account in the amendment will be the impacts of what we're doing in Amendment 16, if we go forward with the seasonal closures and the vermilion snapper closures that are the preferred in 16 now.

You're going to get, I would think, substantial reductions in discards, potentially, from that and I think Jack has looked at that. Jack, we get some reductions in red snapper from the grouper closure and the vermilion closure and all, is that right?

Dr. McGovern: That's correct. They're a couple of the top co-occurring species with red snapper. I talked about discards before with the assumptions. With just a seasonal closure, assuming things like high trip limits wouldn't occur and red snapper are only caught with co-occurring species, we could get it down to 52,000 or so.

If you also had a four-month gag seasonal closure, I estimated that the total discards for red snapper would be about 44,000 and our target, based on this projection, is around 37,000. That's based on a lot of assumptions, but it looks like you get some good reduction out of closing co-occurring species.

Mr. Currin: Then perhaps the time/area closures may or may not be necessary, considering those values. The SSC gave us a yield, essentially, or an ABC of forty-some-thousand pounds, I believe.

Dr. Crabtree: I think time/area closures are something to look at. We may not need something as extensive as we otherwise might have though, because of the things that we're already doing, and I think the staff will just have to work that out in the analysis.

Mr. Currin: If the time/area closures are not needed or these other measures achieve the reductions we need -- I'm just wondering whether we need to look at some alternatives that simply consider seasonal closures or whether we feel like we're pretty much locked into a prohibition of harvest as a measure to get to the reductions we need. We probably are, aren't we? Okay. Any other management measures that we might suggest to staff to start developing for our consideration at the next meeting?

Mr. Geiger: Jack, just as a point of interest, how do red snapper landings fall out geographically?

Dr. McGovern: Most of the red snapper commercial landings are about 57 percent are off of Florida. With headboat, Georgia and North Florida combined are 62 percent and for MRFSS, 86 or 87 percent. It's mostly Florida.

Mr. Currin: Any other measures for consideration or guidance to the staff for development for consideration at the next meeting? Gregg, do you or Rick have anything that you would suggest we include? Certainly I feel like you guys know you have the latitude, if something pops up, to bring it to the committee as a suggestion as a measure to consider.

I'm sure the committee is willing to give you that latitude, you and the team. I'm seeing yeses everywhere. What else, Rick? Is that it? Let it be noted that the Snapper Grouper Committee finished twenty-five minutes ahead of time. If there's no other business to come before the committee, we will adjourn.

Mr. Geiger: You only think you're done.

Mr. Currin: I'm sorry. 18 is wrapped into 17, Wilson.

Mr. Geiger: You're done and thank you, Mac. Another superb job and I thank staff again for being able to get us through all this stuff. I didn't think we would make it. Thanks very much.

Ms. Smit-Brunello: Did you adjourn the committee?

Mr. Currin: I did. Do we need to reconvene for --

Ms. Smit-Brunello: I can bring this up at council and it's fine.

Mr. Geiger: We've got the time now. Let's convene and take care of it now, because we've got the time and whatever we can get done and get ahead on, let's keep going.

Ms. Smit-Brunello: I would like you all to think about something in Amendment 14, which, as you all know, was the amendment establishing marine protected areas. The Notice of Availability has been published in the Federal Register and so that amendment is out for comment.

You recall that you requested a transit provision in the amendment and the proposed rule as was drafted, I think by Perry, was attached to the amendment and you all looked at that, supposedly, and I believe you did, and deemed it and it's now in the process of working its way through the clearance process, but I would like to read what the transit is and I just want to make sure that this was what you thought it was as well.

Transit means direct, non-stop progression through the MPA at a speed in excess of four knots with a visible wake. Then they go on to talk about -- The rule talks about fishing gear appropriately stowed.

I bring this up because when we talked about -- When you guys talked about transit, you discussed it in terms of what was in place at Madison-Swanson and in Madison-Swanson, which is some closed areas to certain types of fishing in the Gulf, it says transit means a direct, non-stop progression through the Madison-Swanson area.

Then there's another section of Madison-Swanson regulations that discuss surface trolling and what surface trolling means and surface trolling means trolling at a speed in excess of four knots with a visible wake. I think those two provisions were put together and put into one sentence, meaning this is what transit means. It's a direct, non-stop progression through the marine protected area at a speed in excess of four knots with a visible wake.

When the rule -- Maybe we can have some discussion here, to make sure that you're all right with that definition, or if when it does get proposed, if that's not the definition that you exactly meant, theoretically you could write a letter and comment on it and state that no, what you meant was we meant, for example, that transit means direct, non-stop progression through the marine protected area. Maybe we could have some discussion here and hopefully I haven't confused you all and so please ask me questions.

Mr. Currin: I think I understand it and I told you I didn't have any problems with it when you first brought that issue to me. The cleanest way to probably handle it, if we want to eliminate that four-knot speed with a visible wake, which may be a problem for law enforcement, would be through a letter.

My concern since then, and it just occurred to me, Monica, is dealing with someone who maybe

stopped in a different area and bottom fished and might possess a snapper grouper species aboard, yet is trolling for pelagics through there. If they hook a fish, they're going to slow down and reduce their speed below four knots and perhaps back up and at least dilly-dally for a while. I would hope that wouldn't be a problem or concern under this or any other statement. Is that clear what I'm trying to say there?

Ms. Smit-Brunello: What I should have said before I discussed this provision was that you cannot possess snapper grouper in the marine protected area. You can't fish for it in the marine protected area and you can't possess it in the marine protected area. The idea of transit was to allow someone who fished somewhere else who was merely passing through the marine protected area and had snapper grouper onboard because he or she caught it outside of the marine protected area -- If they transited through and then this is the provision of what means transit, then they would be fine if they possess snapper grouper.

Mr. Currin: So it would apply then to someone, a recreational angler, who had caught snapper grouper at an inshore rock and had continued offshore to troll for pelagics and happened to ride through one of these things. If they hooked a fish there as they were fishing, then this would prohibit them from stopping to land their fish, as it's written.

Ms. Smit-Brunello: Yes.

Dr. Crabtree: He can't troll in the MPA if he has snapper grouper onboard. He's got to have his gear stowed and he can only transit through. If he wants to troll in the MPA, he had better do that first, because he can't do it if he has snapper grouper onboard.

Ms. Smit-Brunello: The provision that follows this one, it talks about what appropriately stowing fishing gear means.

Mr. Harris: Monica, with respect to the transit provision, these MPAs are all MPAs that allow pelagic trolling, but the way that transit provision is constructed, I have concerns that law enforcement might interpret trolling at speeds slower than four knots, which is what is typically the case with live bait. I want to make sure that we're not confusing transit with trolling at a speed less than four knots. I understand why they can't have snapper grouper onboard, but I just don't want to have a case made against them because they're slow trolling with live bait. That's my concern.

Ms. Smit-Brunello: If they didn't have snapper grouper onboard, it wouldn't be an issue. It shouldn't be an issue.

Mr. Harris: I just wanted to make sure of that.

Mr. Wallace: Would it be cleaner to just have visual evidence of propulsion, instead of throwing a wake?

Ms. Smit-Brunello: I looked back through the minutes of when this was discussed and it was brought up at one council meeting and then put into the document at the next meeting and it was

transit was pretty much a direct, non-stop progression. You didn't exactly use that language, but that's what I could deem from it.

We really didn't discuss what speed and visible wakes and those sorts of things, but it's in the record because it was in the proposed rule that was attached to the amendment and so you had it before you and so I don't have a problem with it being in the rule now, but I just want to make sure that that's the committee's intent, and then we'll get to the council, that you wanted the speed in excess of four knots with a visible wake.

Mr. Waugh: Just to clarify, that wording was included in the proposed rule that we submitted back in July, along with our Amendment 14.

Mr. Harris: Just a follow-up. I don't have any problem with that language at all, as long as it's transit language. If it's a speed in excess of four knots with a visible wake, that doesn't bother me at all, as long as it doesn't impact people that are actually trolling and don't have snapper grouper species onboard.

Mr. Currin: Give some thought to this, if there's no more -- Come ahead, Otha, and join us and provide us with some wisdom.

Mr. Easley: I don't know if I can provide wisdom to this, but the -- If there's some way we can revisit the wake portion of this, at the very minimal, that would make the enforcement easier. The speed is something that we can deal with.

We would rather not, but if you're going to transit and the way things are written now, it seems that if you're going to have this snapper grouper onboard in this closed area, you've got to keep moving and anything short of that, for any other reason, then it's very difficult for us to determine what they're currently doing when they stop there. It would be easier to follow those -  
- To remove those aspects of the rule that Monica mentioned that I wasn't aware of earlier, in particular the wake issue, at a minimal.

Mr. Currin: I don't recall that whole discussion and it kind of surprised me that it left here that way, but I'm sure there was some discussion and rationale for it.

Dr. Crabtree: Otha, you're recommending to us that we drop the speed in excess of four knots and the visible wake out of it and is that correct or do you just want us to drop the visible wake?

Mr. Easley: At least the visible wake. Otherwise, continue transiting and I don't know if there's another definition for transiting in the regulations as far as speed, but without VMS, we have a hard time determining what the speed is going to be.

Dr. Crabtree: What I'm hearing is they really think we ought to drop that whole sentence and just have it say that transit means direct, non-stop progression through the MPA and leave it at that.

Mr. Currin: That was Otha's recommendation, I believe. Karen, is that what you were going to



say as well? Come up if you would like and make a comment.

Ms. Raine: I would really recommend that both the speed and the wake provisions be dropped.

Dr. Crabtree: I guess the best way to do that now would be to write a -- If the committee wants to do that, it would be to write a letter to us making that a comment and then we can try to implement that change in the final rule. Maybe we can make it in the proposed rule even.

Mr. Currin: That would be even better. Then we can take care of this at full council or do we need a motion from this committee to full council? That will at least help me remember to do it, if we did it that way.

Dr. Crabtree: **I'll make a motion that we write a letter to National Marine Fisheries Service clarifying our intent and requesting that the sentence where it says "speed in excess of four knots with a visible wake" be deleted from the final rule.**

Mr. Geiger: Second.

Mr. Currin: Motion by Roy and second by George. Further discussion? **Any objection to that motion? Seeing none, that motion is approved.** Thank you, Monica, for bringing that to our attention and thanks to the committee for not only that, but all of your diligence and attention and preparation for this meeting and getting us through ahead of time. Let the record reflect that the Snapper Grouper Committee finished twelve minutes early. We will now adjourn the Snapper Grouper Committee.

(Whereupon, the meeting adjourned at 3:35 o'clock p.m., June 12, 2008.)

Certified By: \_\_\_\_\_ Date: \_\_\_\_\_

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**SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

**SNAPPER GROUPE COMMITTEE**

**Renaissance Orlando Hotel Airport  
Orlando, FL**

**June 11-12, 2008**

**Motions**

PAGE 12: Motion that Gray's Reef move ahead with development of regulations to prohibit the spearfishing in Gray's Reef National Marine Sanctuary. The motion carried on page 14.

PAGE 82: Motion to specify the recreational snowy grouper allocation as 523 fish (equivalent to 4,400 pounds gutted weight). The motion carried on page 82.

PAGE 84: Motion that the Snapper Grouper Committee reaffirm the preferred alternative as Alternative 2, in regard to the sale of bag limit caught fish, snapper grouper. The motion carried on page 84.

PAGE 85: Motion to recommend that the council send Amendment 15B to the Secretary of Commerce for review. The motion carried on page 85.

PAGE 85: Motion to approve the proposed rule for Snapper Grouper Amendment 15B. The motion carried on page 85.

PAGE 102: Motion to establish a 1,000 pound gag grouper commercial trip limit with a fishing year start date of May 1 and continue the March and April spawning season closure. In addition, during March and April, no fishing for and/or possession of the following species would be allowed: black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney. The motion carried on page 107.

PAGE 108: Motion to split Alternative 2 into 2A, addressing commercial measures, and 2B, addressing recreational measures, with both remaining currently as the preferred. The motion carried on page 109.

PAGE 111: Motion to allow each state to manage its share of the gag quota, both commercial and recreational. The motion failed on page 113.

PAGE 116: Motion that in the commercial fishery for vermilion snapper to develop an alternative to implement a May 1 start date and a 1,000 pound trip limit. The motion carried on page 117.

PAGE 124: Motion to modify Alternative 3 to require the use of venting tools and dehooking devices. The motion carried on page 129.

PAGE 129: Motion to make Alternative 3 the preferred alternative and to apply to commercial and recreational snapper grouper fisheries. The motion carried on page 129.

PAGE 133: Motion to move greater amberjack and mutton snapper from Amendment 17 to the Comprehensive ACL Amendment and move red snapper from Amendment 18 into Amendment 17. The motion carried on page 133.

PAGE 178: Motion that the staff develop a letter to the Regional Administrator requesting the Regional Office develop an interim rule closing harvest of red snapper and implement reductions in fishing mortality, as specified in the preferred alternatives in Amendment 16 for gag grouper, vermilion snapper, black grouper, and red grouper. The motion carried on page 180.

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LUIZ BANBIEN  
ANDY COOPER

BILL KELLY (CIRCLE  
HOOK  
PRESENTATION)  
RICHARD STIGLITZ  
TAB 12  
A25

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MARK MARHEFKA ✓

~~GAREN TROMBEE~~ - NOAM HQ ✓  
WES PATRICK (NAT STANDARDS #1 BULK)

\*\* Members will be appointed to the Bluefish, Calico Scallop, and Dolphin/Wahoo Committees, if these committees need to meet during the year.

STEPHEN HOLIMA (ISB PRESENT) ✓  
JACK MCGOVERN ✓  
BILL SHARP ✓  
STACY HANTEN - NOAM ✓

## Staff Attendee List

Bob Mahood ✓

Gregg Waugh ✓

Mike Collins ✓

John Carmichael ✓

Rick DeVictor ✓

Dale Theiling ✓

Julie Neer \_\_\_\_\_

Andi Stephens ✓

Roger Pugliese \_\_\_\_\_

Kate Quigley ✓

Myra Brouwer ✓

Kim Iverson ✓

Julie O'Dell ✓

Rachael Lindsay \_\_\_\_\_

Cindy Chaya \_\_\_\_\_

Deb Buscher \_\_\_\_\_

GREGG SWANSON ✓



# PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

## Snapper Grouper Committee Meeting Orlando, FL Wednesday, June 11, 2008

NAME &  
ORGANIZATION

AREA CODE &  
PHONE NUMBER

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

Joe O'Hop FLFWC/FWRI 727-896-8626 X4136 100 Eighth Ave SE, St. Petersburg, FL 33701

Scott Raborn/LGL 318-787-2222 207 Pearce Rd, Pineville, LA 71360

Michael Jepsun GSAFFL 813-286-8390 Tampa, FL.

Darden Rice 727-560-2479 St. Pete, FL

DANIEL PARSHLEY 912-506-8869 274 PARLAND RD  
BRUNSWICK, GA 31523

Dick Brame 910-338-0012 wilm, N.C.

BUFFY BAUMANN, OCEANA 202-833-3900 WDC

Libby Felnerstein OC-FL

Ray Williams (All meetings) GM FMC

South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
North Charleston, SC 29405  
843-571-4366 or Toll Free 866/SAFMC-10

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Orlando, FL  
Wednesday, June 11, 2008

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ORGANIZATION

AREA CODE &  
PHONE NUMBER

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

Jess H. Dick/ARC Dehooker 1-877-411-4272 1640 MASON AVE Daytona

George Sedberry GANMS 912 598 2439 Bch, Fla.

Margot Stiles, Oceana 202 833 3900 Washington DC 20036

Cindy Grace - USF 908 812 6210 Tampa, FL 33647

Tricia Choe DC/USC 202 424 2665 Washington DC

Darden Rice, Oceana 727-560-2479 St. Pete, FL 3376

Brett NORTON FWC 850-488 5600 Tallahassee, FL

Eileen Dougherty EDF 843-737-4466 Charleston, SC

Dick Bram 910-338-0012 WILMINGTON, NC

South Atlantic Fishery Management Council  
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**Snapper Grouper Committee Meeting  
Orlando, FL  
Thursday, June 12, 2008**

NAME &  
ORGANIZATION

AREA CODE &  
PHONE NUMBER

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

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Debbie Fyfe BoatRacs 858-458-8105

San Diego, CA.

Greg DeBrang 326-263-2704

Edgewater, FL

Kay Williams

GMFMC

LARRY YARBROUGH 305 415 6868

COAST GUARD  
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Scott Reynolds 904-626-9666  
(KING NEPTUNE HEAD BOAT)

4378 Ocean St. 32233  
ATLANTIC Bch

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Darden Rice

Oceana

127-560-2479

St. Pete, FL

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Snapper Grouper Committee Meeting  
Orlando, FL  
Thursday, June 12, 2008

NAME &  
ORGANIZATION

AREA CODE &  
PHONE NUMBER

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417 Surry St. Wilmington, NC 28401

Karen Raine

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Tolt Cul

772-460-2105

FL - P.

Joshua Giordano - Silliman

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1170 N Shadow Dr, Mt Pleasant, S.C. 29464

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## Snapper Grouper Committee Meeting Orlando, FL Thursday, June 12, 2008

NAME &  
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PHONE NUMBER

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CITY, STATE & ZIP

Eileen Dougherty EDF

843-737-4466

Charleston, SC

Dave Allison Oceana

202-833-3900

wa DC

Dennis O'Hera <sup>FLA</sup>

727 692 6902

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Tom Burgess

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Sneads ferry N.C.

Kristen Raabe <sup>ARC</sup>  
Dehooker

877-411-4272

Po Box 730248 Ormond Bch, FL 32173

Shawn Dick

"

"

"

Buffy BAUMANN, OCEANA

202.833.3900

WDC

Jim Reeves

14300 Orange Ave, Ft. Pierce, FL

772-332-2828

Beth Curry

Same

34945

South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
North Charleston, SC 29405  
843-571-4366 or Toll Free 866/SAFMC-10



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
Silver Spring, Maryland 20910

**MAY 14 2008**

Mr. George J. Geiger  
Chairman  
South Atlantic Fishery Management Council  
4055 Faber Place Drive  
Suite 201  
North Charleston, SC 29405

Dear Mr. Geiger:

This letter formally provides the South Atlantic Fishery Management Council (SAFMC) with the opportunity to prepare draft sanctuary fishing regulations concerning spearfishing activities for the Gray's Reef National Marine Sanctuary (GRNMS or Sanctuary). Under Section 304(a)(5) of the National Marine Sanctuaries Act (NMSA, 16 U.S.C. § 1434(a)(5)), regional fishery management councils are provided the opportunity to prepare draft NMSA regulations for fishing that fulfill the purposes and policies of the NMSA and the goals and objectives of sanctuary designation. The SAFMC has considerable expertise in developing fishing regulations and could provide valuable assistance to NOAA in developing draft NMSA regulations for fishing in GRNMS.

#### Actions under Consideration and Request

GRNMS proposed to prohibit spearfishing in 2003 as part of the sanctuary management plan review and after SAFMC had prepared draft regulations pursuant to section 304(a)(5). The Council also recommended revising GRNMS fishing regulations to restrict allowed fishing gear to rod and reel, and handline. The final revised regulations were published in 2006 consistent with the Council's recommendations, except that after consideration of public comments GRNMS decided that spearfishing without powerheads would continue to be allowed for two years while GRNMS collected and reviewed additional socioeconomic information to determine what action to take, if any. Additional information has been obtained and reviewed and GRNMS is now reassessing spearfishing activities in a draft environmental assessment. The following alternatives are being considered:

#### *a. Prohibit all spearfishing activities in Gray's Reef National Marine Sanctuary (Preferred Alternative)*

Under this alternative existing regulations would be altered, eliminating "spearfishing gear without powerheads" from the allowable gear exceptions, resulting in a prohibition on all spearfishing. GRNMS would also conduct widespread outreach efforts to inform sanctuary users in order to minimize compliance issues.



*b. No Action*

Under this alternative NOAA would take no action to alter the current regulations that allow spearfishing without powerheads in GRNMS.

Section 304(a)(5) of the NMSA requires that:

*The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.*

In preparing draft sanctuary regulations for fishing in GRNMS, the SAFMC would be acting under the authority of the NMSA and may address all species of fishes and invertebrates. The SAFMC is therefore not restricted to the species or activities regulated under its current fishery management plans.

In addition to the provisions of the NMSA, a Memorandum of Understanding exists between SAFMC, the National Marine Sanctuary Program/GRNMS and NOAA Fisheries Southeast Regional Office to provide a framework for cooperation and coordination within the SAFMC's area of geographic authority; and to facilitate the exchange of information, advice and technical assistance. The MOU states that:

*Regarding fishing regulations for the Sanctuary, GRNMS is required to follow the provisions of section 304(a)(5) of the NMSA, (16 U.S.C. 1434(a)(5)). The process described in section 304(a)(5) is summarized, in part, here:*

- 1. SAFMC will have the opportunity to draft Sanctuary fishing regulations for GRNMS. Regulations drafted by SAFMC, or a determination by SAFMC that*

*regulations are not necessary, will be accepted and shall be issued as the proposed regulations for GRNMS unless the Secretary of Commerce finds that SAFMC's action does not fulfill the purposes and policies of the NMSA and the objectives of the designation of GRNMS. In that event, the Secretary will draft the fishing regulations.*

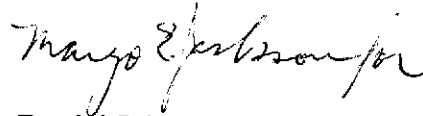
*2. GRNMS will also consult with the State of Georgia regarding fishing regulations proposed by GRNMS for the Sanctuary and shall consider the views and comments of the State of Georgia before issuing final fishing regulations. As part of this process, GRNMS will meet with representatives from the State of Georgia to discuss draft fishing regulations prior to issuance of final fishing regulations. GRNMS will also coordinate with the Georgia Coastal Management Program pursuant to the Federal consistency requirement under § 307 of the Coastal Zone Management Act (16 U.S.C. 1456) and implementing NOAA regulations.*

To assist the SAFMC, this letter is accompanied by a document that provides background information, describes more fully the sanctuary's goals and objectives, reviews action alternatives, and presents NOAA's preferred action as described in the draft EA. The goals and objectives of Sanctuary designation, together with the purposes and policies of the NMSA, serve as the benchmarks against which a regional fishery management council's draft regulations, or determinations that regulations are not necessary, are measured.

The letter is also accompanied by a memorandum documenting the law enforcement issues surrounding the use of spearfishing gear in the GRNMS.

We appreciate the time and effort of the SAFMC in developing proposals for improved conservation and marine resource protection for GRNMS. Please feel free to contact GRNMS Superintendent Dr. George Sedberry ([George.Sedberry@noaa.gov](mailto:George.Sedberry@noaa.gov); 912/598-2345) or Stewardship Coordinator Becky Shortland ([Becky.Shortland@noaa.gov](mailto:Becky.Shortland@noaa.gov); 912/598-2381) with questions or for additional information.

Sincerely,



Daniel J. Basta

Director

Office of National Marine Sanctuaries

Enclosures:

- Gray's Reef National Marine Sanctuary Request for Regulation From the South Atlantic Fishery Management Council
- Memorandum from Karen Antrim Raine



**Gray's Reef National Marine Sanctuary  
Request for Regulation  
From the  
South Atlantic Fishery Management Council  
June 2008**

Summary

Pursuant to the National Marine Sanctuaries Act (NMSA) (16 U.S.C. § 304(a)(5)), the Gray's Reef National Marine Sanctuary (GRNMS) is presenting the South Atlantic Fishery Management Council (SAFMC) with the opportunity to prepare draft sanctuary fishing regulations that are consistent with the sanctuary's goals and objectives. The specific draft regulations pertain to only spearfishing activities in GRNMS. The draft regulations will be analyzed in a Draft Environmental Assessment accompanying NOAA's preferred alternative. This document provides background information, describes the preferred and alternative management actions, rationales, and model regulatory language.

In preparing draft sanctuary regulations for fishing in GRNMS, the SAFMC would be acting under the authority of the NMSA and may address all species of fishes and invertebrates. The SAFMC is therefore not restricted to the species or activities regulated under its current fishery management plans.

Background

GRNMS protects 16.68 square nautical miles of open ocean and submerged lands of particularly dense and nearshore patches of productive "live bottom habitat." The sanctuary is influenced by complex ocean currents and serves as a crossroads to both temperate (colder water) and sub-tropical species. The series of rock ledges and sand expanses has produced a complex habitat of caves, burrows, troughs, and overhangs that provide a solid base upon which a rich carpet of temperate and tropical marine flora and fauna attach and grow (NMSP 2006).

This flourishing ecosystem attracts mackerel, grouper, black sea bass, angelfish, and a host of other fishes. An estimated 180 species of fish, encompassing a wide variety of sizes, forms, and ecological roles, have been recorded at GRNMS. Loggerhead sea turtles, a threatened species, use GRNMS year-round for foraging and resting, and the reef is also close to the winter calving ground for the highly endangered Northern right whale. GRNMS is one of the most popular sport fishing areas along the Georgia coast. GRNMS is just a tiny part of the vast Atlantic Ocean off the Southeastern U.S. coast yet its value as a natural marine habitat is recognized both nationally and internationally.

Purpose of and Need for Action

NOAA Gray's Reef National Marine Sanctuary is evaluating action on spearfishing activities in the sanctuary. It is anticipated that the action will provide needed protection to the fishes and overall natural live-bottom community for which the sanctuary was designated.

Spearfishing was considered for regulation during the original management plan of 1981, but only spearfishing with powerheads was prohibited at the time. A complete spearfishing prohibition was again considered during the review and revision of the GRNMS Management Plan beginning in 1999. Along with the fact that visitor use (primarily fishing) had increased, evidence of powerhead use despite the 1981 ban created a growing concern. GRNMS proposed to prohibit all spearfishing activities with the 2003 Draft Environmental Impact Statement/Draft Management Plan (DEIS/DMP) and associated proposed rule. The South Atlantic Fishery Management Council (SAFMC) prepared regulations to that affect at that time.

However, after consideration of public comments on the DEIS/DMP, NOAA determined to defer any regulatory action on spearfishing. The 2006 Final EIS/MP reflects instead a commitment to gather additional socioeconomic information on spearfishing in GRNMS and review the issue again in two years.

The socioeconomic information has been collected and the prohibition is under consideration at this time. In addition, law enforcement officials have again as in the past expressed the need to prohibit all spearfishing in order to prohibit powerheading due in part to the similarities in gear and the significant burden of proof. GRNMS is preparing a Draft Environmental Assessment in order to determine a course of action regarding spearfishing activities in the sanctuary.

#### *NMSA Purposes and Policies*

The National Marine Sanctuaries Act (NMSA) of 1972, as amended (16 U.S.C. § 1431 et seq.), is the legislative mandate that governs the National Marine Sanctuary Program (NMSP). Under the NMSA, the Secretary of Commerce is authorized to designate and manage areas of the marine environment as national marine sanctuaries. Such designation is based on attributes of special national significance, including conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or aesthetic qualities. The primary objective of the NMSA is resource protection.

#### *GRNMS Designation, Goals and Objectives*

GRNMS was designated as the nation's fourth national marine sanctuary in 1981 for the purposes of:

- Protecting the quality of this unique and fragile ecological community;
- Promoting scientific understanding of this live bottom ecosystem; and
- Enhancing public awareness and wise use of this significant regional resource.

While there are several goals for GRNMS, the following six objectives specifically apply to the proposed action, and are consistent with the directives set forth by the National Marine Sanctuaries Act:

GOAL 1: Protect, maintain, restore, and enhance the natural habitats, populations, and ecological processes in the Sanctuary.

#### Objectives

- a. Develop, implement, and periodically evaluate a comprehensive resource protection plan tailored to Sanctuary resources and uses that provides direction for resource management and protection.
- b. Develop, implement, and maintain an on-site management capability that reviews and assesses resource conditions and human activities, and recommends action if problems arise.
- c. Develop, implement, and maintain the surveillance and enforcement presence needed to ensure compliance with Sanctuary regulations and adequate protection of Sanctuary resources.
- d. Inform and educate the public users on the sensitive nature of the Sanctuary resources, the purpose of Sanctuary designation, and the need for Sanctuary regulations with enforcement.

GOAL 4: Facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the Sanctuary not prohibited pursuant to other authorities.

#### Objectives

- a. Facilitate uses of the Sanctuary that are consistent with the primary objective of resource protection.
- b. Establish a means to monitor Sanctuary use and resource quality over time to minimize potential user conflicts and environmental degradation.

#### Interactions with the SAFMC

The sanctuaries are guided by the provisions of section 304(a)(5) of the NMSA, (16 U.S.C. 1434(a)(5)). This section states that:

*The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone, as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The*

*Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.*

In addition, 15 CFR 922.22(b) outlines the timeline and other guidance for requests to SAFMC for preparation of draft regulations.

*(b) If a proposed Sanctuary includes waters within the exclusive economic zone, the Secretary shall notify the appropriate Regional Fishery Management Council(s) which shall have one hundred and twenty (120) days from the date of such notification to make recommendations and, if appropriate, prepare draft fishery regulations and to submit them to the Secretary. In preparing its recommendations and draft regulations, the Council(s) shall use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that they are consistent and compatible with the goals and objectives of the proposed Sanctuary designation. Fishery activities not proposed for regulation under section 304(a)(5) of the Act may be listed in the draft Sanctuary designation document as potentially subject to regulation, without following the procedures specified in section 304(a)(5) of the Act. If the Secretary subsequently determines that regulation of any such fishery activity is necessary, then the procedures specified in section 304(a)(5) of the Act shall be followed.*

In drafting regulations pursuant to the requirements of the National Marine Sanctuaries Act, the Council is drafting sanctuary regulations to be promulgated under the National Marine Sanctuaries Act and is therefore not limited to restricting fishing activities for managed species.

In 2003, the SAFMC prepared draft regulations, including a prohibition on spearfishing, for the proposed rule associated with the GRNMS Draft Environmental Impact Statement/Draft Management Plan. However, after consideration of public comments the final rule did not include a spearfishing ban. GRNMS staff presented an update of this issue at the October 2007 meeting of the Joint Habitat/Ecosystem Based Management Advisory Panel and again at the December 2007 and March 2008 SAFMC meetings.

In addition to the provisions of the NMSA, a Memorandum of Understanding exists between SAFMC, the National Marine Sanctuary Program/GRNMS and NOAA Fisheries Southeast Regional Office to provide a framework for cooperation and coordination within the SAFMC's area of geographic authority; and to facilitate the exchange of information, advice and technical assistance. The MOU states that:

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### Alternative Actions Considered

#### *a. Prohibit all spearfishing activities in Gray's Reef National Marine Sanctuary (Preferred Alternative)*

Under this alternative existing regulations would be altered eliminating “spearfishing gear without powerheads” from the allowable gear exceptions. GRNMS would also conduct widespread outreach efforts to minimize compliance issues.

Existing regulation from 15 CFR PART 922—[AMENDED]

(5)

(i) Injuring, catching, harvesting, or collecting, or attempting to injure, catch, harvest, or collect, any marine organism, or any part thereof, living or dead, within the Sanctuary by any means except by use of rod and reel, handline, or spearfishing gear without powerheads.

(ii) There shall be a rebuttable presumption that any marine organism or part thereof referenced in this paragraph found in the possession of a person within the Sanctuary has been collected from the Sanctuary.

(6) Except for possessing fishing gear stowed and not available for immediate use, possessing or using within the Sanctuary any fishing gear or means except rod and reel, handline, or spearfishing gear without powerheads.

Model regulatory request language:

(5)

(i) Injuring, catching, harvesting, or collecting, or attempting to injure, catch, harvest, or collect, any marine organism, or any part thereof, living or dead, within the Sanctuary by any means except by use of rod and reel, and handline gear;

(ii) There shall be a rebuttable presumption that any marine organism or part thereof referenced in this paragraph found in the possession of a person within the Sanctuary has been collected from the Sanctuary.

(6) Except for possessing fishing gear or means for fishing stowed and not available for immediate use while passing through without interruption or for valid law enforcement purposes, possessing, carrying, or using within the Sanctuary any fishing gear or means for fishing except rod and reel, and handline gear.

#### *Biological Considerations*

NOAA recognizes that it has been effectively demonstrated in other areas that selective removal of large individual fish by spearfishing can adversely affect the reproductive viability of a given population. Research has shown significantly reduced populations of larger predatory fishes where spearfishing occurs (SAFMC, 1990; Bohnsack, 1982; Chapman and Kramer, 1999; Jouvenel and Pollard, 2001).

Larger predators are favored targets of spearfishermen (Sadovy et al. 1994; Morales-Nin et al. 2005; Myer 2007) removing males of protogynous (sex-changing) species, which can make the population susceptible to sperm limitation (Alonzo and Mangel 2004). This is especially true for species like gag that form small spawning aggregations. Vulnerable pre-spawning aggregations of gag occur at GRNMS. Spearfishing also removes the most fecund females fishes (those with highest potential spawning output). Overall, spearfishermen remove more biomass per outing (i.e., larger fish) than other recreational fishing modes (Morales-Nin et al. 2005).

Reduction in the larger predatory fishes can have a “top-down” effect on fish populations by allowing other fish populations to increase, altering the composition of the overall natural communities including invertebrates. The largest fish are important as predators in maintaining a balanced and complete ecosystem; their selective removal causes ecological imbalance (McClanahan and Muthiga 1988; Dulvy et al. 2002). Spearfishing is also known to alter fish behavior, causing fish to move to different (and perhaps less favorable) habitats (Jouvenel and Pollard 2001).

Spearfishing is a highly efficient harvesting gear which alters abundance and size structure of grouper and other fish populations (Chapman and Kramer 1999; Jouvenel and Pollard 2001; Matos-Caraballo et al. 2006). Spearfishing has been shown to have a greater overall impact on reef fishes than hook and line fishing, relative to effort expended (Meyer 2007) and this effectiveness and efficiency has resulted in overharvest and restrictions on the fishery (e.g., no scuba; size and bag limits) imposed in many other parts of the world (e.g., Colla et al. 2004). And, finally, there is no catch-and-release spearfishing; regulatory discards are dead.

#### *Socioeconomic Considerations*

In September 2007, in-person interviews were conducted with all businesses and organizations offering scuba diving trips along the Georgia coast (Ehler, unpublished). Four charter scuba diving operations and one scuba diving club were identified and interviewed. The interviews gathered information that included operating profiles, preferred diving locations and methods, detailed business data (revenue and costs), and general opinions of the current state of scuba diving and spearfishing off the Georgia

coast. A total of 10 businesses offering scuba diving charter trips at some point during the past 5 years off the Georgia coast were identified. Of these, only 4 currently remain in business. Three are associated with dive shops and one is charter boat only. The 6 others have either gone out of business, moved away from the area, or are dive shops that no longer operate charter trips.

Findings

**Person-Days of Scuba Diving:**

Dive charters reported a total of 1,747 person-days of scuba diving off the Georgia coast in 2007. Approximately 55 percent of these person-days were non-consumptive (no spearfishing) person-days, 44 percent were consumptive (spearfishing) person-days, and the remaining 1 percent was sightseeing/sportfishing. None of these person-days occurred at GRNMS.

One scuba club reported a total of 24 person-days of scuba diving off the Georgia coast with 6 of these person-days spent at GRNMS.

A person-day is defined as one person undertaking an activity for any part of a day or a whole day.

**Revenue and Operating Costs:**

The table below summarizes the revenue and operating costs of the Georgia offshore scuba diving charter fleet as of 2007. Charter operations appear to be a break even business with most stating that they use it to get customers in the dive shop. It is important to note that major variable and unexpected costs are not factored in to the table. These variable costs typically include major engine repair or replacement and equipment repair or replacement.

*Table 1. Revenue and Operating Costs of the Georgia Offshore Scuba Diving Charter Fleet, 2007*

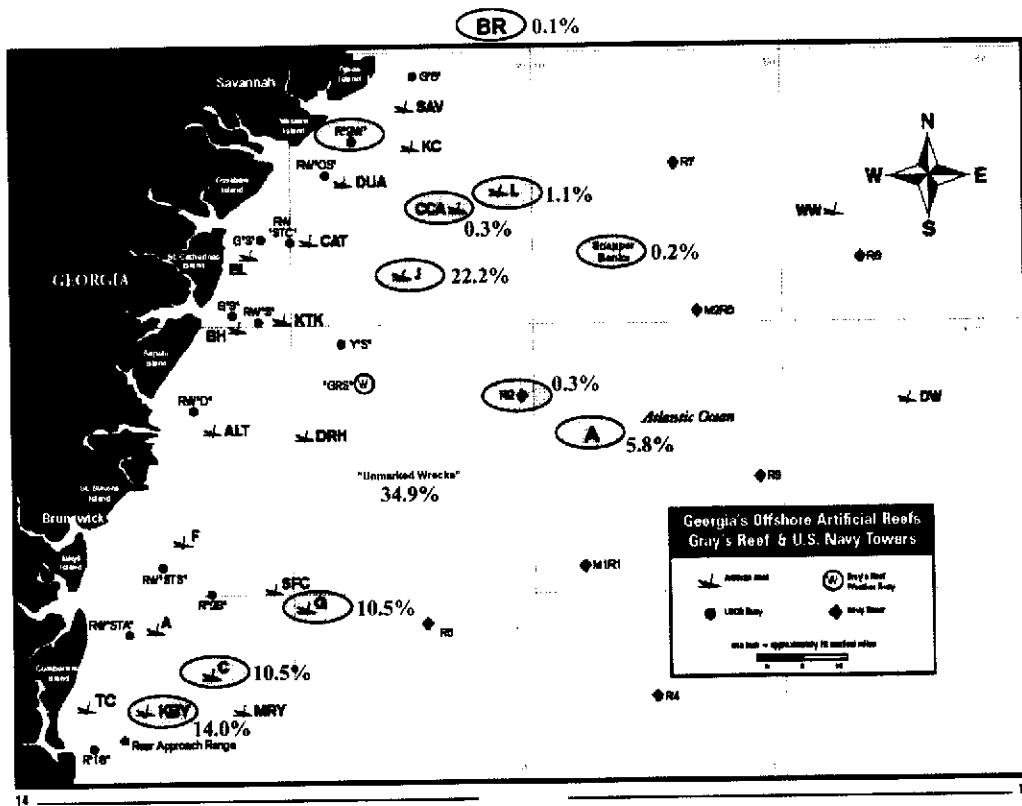
<b>Gross Revenue from Charter Diving</b>	<b>100,000</b>
<b>Operating Costs</b>	
Wages, Salaries and Benefits	3,500
Fuel	21,180
Repair & Maintenance	6,200
Equipment Rental and Leasing	41,920
Dock	7,200
Insurance	6,800
Interest Payments	15,600
<b>Total Operating Costs</b>	<b>101,800</b>
<b>Loss from Charter Diving</b>	<b>(1,800)</b>

**Preferred Spearfishing Locations:**

Figure 1 below is a map of Georgia's offshore artificial reefs, US Navy towers and Gray's Reef NMS. The spearfishing locations mentioned during the interviews are indicated with green ovals, the percentage of reported visitation is indicated with red numbers, and GRNMS is marked with a red circle. The map demonstrates the extensive substitution opportunities for scuba diving and spearfishing that exist off the Georgia coast. Even if there were significant levels of spearfishing activity reported at GRNMS, the network of other locations would significantly decrease any economic impact. The single most popular site is J Reef. "Unmarked wrecks" are where the majority of trips are made.

GRNMS's location, 17.5 nautical miles off Sapelo Island and more than 30 nautical miles from Savannah and Brunswick, makes accessing the sanctuary difficult. The map below demonstrates the multitude of spearfishing opportunities that exist closer to the primary access points of Savannah and Brunswick.

Figure 1. Georgia Preferred Scuba Diving Locations as Reported by Dive Charters and One Scuba Diving Club.



#### Private Boat Based Spearfishing at GRNMS:

A formal study of private boat based spearfishing at GRNMS has not been undertaken. A small amount (no more than 1 percent of all fishing) of private boat based spearfishing at GRNMS can be assumed, but has not been documented. This is based on on-water observations from fishermen, scuba divers, and researchers. As mentioned above, any



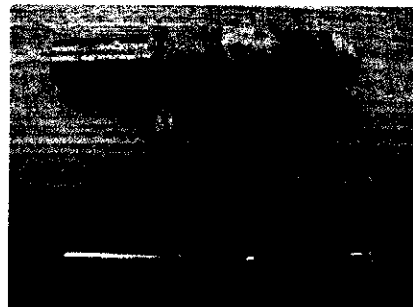
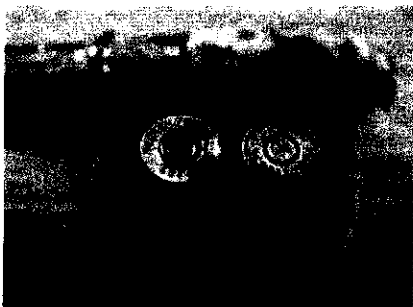
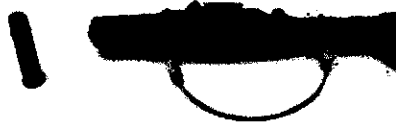
potential economic cost would likely be absorbed by the multiple substitution opportunities off the Georgia coast.

A formal economic study of private boat based spearfishing would be difficult and cost prohibitive to complete. A telephone survey would not be feasible due to the extremely high number of calls that would be required to identify spearfishers who visit GRNMS. A statistically valid sample would be nearly impossible to obtain. Only a very small fraction of calls would result in a spearfisher who visits GRNMS. On-water surveys are also not feasible due to the open ocean weather conditions. Additionally, surveys would be opportunistic with no valid sampling method.

The combination of no charter spearfishing activity at GRNMS and the abundant substitution opportunities lead to the conclusion that a prohibition on spearfishing at GRNMS would result in no measurable economic impact.

#### *Law Enforcement Considerations*

Although the use of powerheads is prohibited at GRNMS, powerhead cartridges found on site indicate that this gear is still in use. Law enforcement officials have expressed concerns that some commercial spearfishing operations may be harvesting large numbers of undersized fish from the region including GRNMS. In addition, law enforcement officials have again as in the past expressed the need to prohibit all spearfishing in order to prohibit powerheading due in part to the similarities in gear and the significant burden of proof.





*Powerheads and shells found at Gray's Reef NMS*

### *Conclusions*

NOAA GRNMS has concluded that given the mounting evidence of biological impacts from spearfishing, the concerns regarding enforceability, the negligible socioeconomic effects, and the abundant substitution opportunities that all spearfishing activities be prohibited in the Sanctuary. This alternative is preferred and would move GRNMS toward reaching its goal to protect, maintain, restore, and enhance the natural habitats, populations, and ecological processes in the Sanctuary.

### *b. No Action*

Under this alternative NOAA would take no action to alter current spearfishing activities in GRNMS.

### *Biological Considerations*

Under this alternative there would be no increased resource protection and spearfishing without powerheads would continue indefinitely.

### *Socioeconomic Considerations*

As described in alternative "a" above, the combination of no charter spearfishing activity at GRNMS and the abundant substitution opportunities lead to the conclusion that a prohibition on spearfishing at GRNMS would result in no measurable economic impact. Therefore, no economic gain would be the result of a continuation of spearfishing in GRNMS.

### *Law Enforcement Considerations*

As noted in alternative a. above, law enforcement difficulties would continue.

### *Conclusions*

This alternative presents a number of concerns including the fact that law enforcement of the powerhead prohibition will continue to be difficult. Illegal spearfishing may continue unabated. Considerable evidence suggests that spearfishing is not compatible with the primary purpose – resource protection – of the NMSA or the Goals and Objectives of GRNMS. Continued spearfishing would have no economic benefit and exacerbate the law enforcement challenges. This alternative is not preferred.

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May 8, 2008

MEMORANDUM TO: The File  
FROM: *Karen Raine*  
GCEL/SE - Karen Antrim Raine  
SUBJECT: Proposed prohibition of spearfishing gear in Gray's  
Reef National Marine Sanctuary

The current regulations for the Gray's Reef National Marine Sanctuary prohibit:

Injuring, catching, harvesting, or collecting, or attempting to injure, catch, harvest, or collect, any marine organism, or any part thereof, living or dead, within the Sanctuary by any means except by use of rod and reel, handline, or spearfishing gear without powerheads.

Except for possessing fishing gear stowed and not available for immediate use, possessing or using within the Sanctuary any fishing gear or means except rod and reel, handline, or spearfishing gear without powerheads.

15 CFR 922.92(5)(i) and (6).

In addition to resource management reasons, there are enforcement reasons to expand the current prohibition of spearfishing gear without powerheads to prohibit all spearfishing gear.

Powerheads are so closely associated with spearguns that in order to effectively ban powerheads, all spearguns should be banned. As the regulations are currently written, the government must prove that the speargun has - or had - a powerhead within the Sanctuary. Because it is difficult to determine from a distance whether a speargun has a powerhead, and because the powerhead may be removed without detection upon approach by enforcement, there may be difficulties proving that a speargun with a powerhead was in the Sanctuary in particular cases. And, proof may not be self-evident from the fish itself, which may require forensic testing to determine, if possible, the method of injury or harvest sufficient for evidentiary purposes.

Although from a prosecution perspective, completing banning possession of spearguns in addition to prohibiting injuring, catching, harvesting, or collecting or the attempt to do so



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or carrying or using spearguns in the Sanctuary is preferable, if any possession of spearguns is allowed in the Sanctuary, the following language is suggested:

Except for possessing fishing gear or means for fishing stowed and not available for immediate use while passing through without interruption or for valid law enforcement purposes, possessing, carrying, or using within the Sanctuary any gear or means for fishing except rod and reel, and handline gear.