

**SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

**FULL COUNCIL SESSION**

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

**December 10-11, 2009**

**DRAFT MINUTES**

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Dr. Nick Farmer

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Dr. Erik Williams  
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Additional Observers and Participants Attached

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The Full Council of the South Atlantic Fishery Management Council convened as the Committee of the Whole in the Sheraton Atlantic Beach Oceanfront Hotel, Atlantic Beach, North Carolina, Thursday afternoon, December 10, 2009, and was called to order at 2:00 o'clock p.m. by Chairman Duane Harris.

#### COMMITTEE OF THE WHOLE

**MR. HARRIS:** At this time I'm going to convene the Committee of the Whole and take public comments as is per our schedule on those items that are on the agenda for this Council meeting. I'm not going to put a time limit on you. There are not a whole lot of people who have signed up to speak. I would ask that you somewhat limit your comments, if you will, to the items that are on the agenda and try to summarize the comments that you have and not repeat yourselves. At this time we are open for public comment.

**MR. BROWN:** My name is Mark Brown. I'm from Charleston, South Carolina. I own a charter/headboat on Shem Creek in Charleston. I would like to comment on Amendment 17A, the Red Snapper Management Plan. I feel like it is something I know that is being delayed, but I think that there are considerations that are going to need to be taken into account more in regards to this plan.

I keep hearing different things about the management process with the time constraints and stuff that are implemented because of this law that I feel like is broken. I think obviously that there needs to be a longer time frame to study the science and to be able to understand what is going on with the fishery better before there is management that is actually imposed on the fishery.

There was some comment made earlier, too, in regards to writing a letter to the Secretary of Commerce, and it had to do with different things in regards to that, but I think George made a comment that writing such a letter without actually having any facts or any studies in regards to the economic impact that I think was going to be mentioned in the letter would be not presented at the time unless there were some studies or some known economic values that were put into that.

I think that Magnuson-Stevens actually has provisions that are written into that law that requires that there are studies done on the economic impacts of any fishery that is going to have strict management put upon that fishery. I would really like to ask the Council to take more consideration into the economic impacts on each one of these fisheries that you're putting strict management on. If the studies are going to be so extensive into the fishery science, you know, and because of the law that is being restricted so much that where you don't have that timeframe – I mean, there should be a balance here to me.

I mean, you've got the science but you've got the economic side, too. I think that we need to have as much economic information provided and put into these decisions that are being made in regards to all these fisheries. Whether it's 17A or B or whatever, there needs to be just as much put into both sides of this so that we can understand what is happening the fishermen and why it's such an impact on them.

I heard comments last night from all the fishermen that came in here. There were a lot of people that were going to be severely impacted by this. The economics of it is really devastating on a lot of fishermen. Whether they're recreational or commercial or for-hire of whatever, it is going to hurt them because people have invested money into being able to go fishing or either make money from fishing.

There is an economic side to this, too, and please consider that. Please work those numbers up and implement those into your decision-making process so that we know that when there is a decision that comes down, that it can be known that this is going to help everybody that's involved. We know we want to manage the fishery as best as possible, but the users of the resource should be taken into consideration, too. Thank you.

**MR. SCALISE:** I would like to thank you all for the opportunity to speak today. My name is Timothy Scalise. I've been running charterboats for 25 years, primarily out of Charleston, South Carolina. I've been employed by three charters for the past 15 years, and I manage and operate two charterboats.

At this time I don't see an immediate need for area closures to end overfishing of red snapper. With the enactment of the restrictions from previous amendments and the interim closure of the red snapper fishery, I strongly believe that there will be significant decreases in the efforts of commercial, headboats and for-hire and recreational fishing. That will greatly lend itself to the faster than expected stock rebuilding.

I would like to urge the Council not to act on any area closures until further stock assessments have been completed and reviewed. I'm very uncomfortable with the amount of subjectiveness that lends itself to assumptions in the scientific process. It seems that the scientists are certain in their models running backwards to show depletions, but their models running forward to reflect rebuilding are marginal at best.

What do we know? We know without assumptions that if there are area closures enacted, livelihoods will be destroyed and many industries will be ill affected. My greatest fear is that in the future assessments we find that things weren't as bad as they once seemed and the stock rebuilding is exceeding expectations. Meanwhile businesses have closed, jobs have been lost to never return. By this time it will have been too late; the damage would have already been done. Thank you.

**MR. O'HERN:** Thank you, Council members. Dennis O'Hern, executive director, Fishing Rights Alliance. For the record, there seems to be some confusion. I'm a recreational angler. I don't have a charter permit; I don't have any commercial permit; I just fish for fun. I'm one of those foolish people who spends a lot of my excess income on fishing. I feel it is my right. I moved to Florida 25 years ago because I love it; just like I know George Geiger did.

I would also like to point out that the FRA believes there are two sectors. There is the recreational sector. We fish for fun; we pay for it whether we get fish or not. There is the commercial sector, which fishes for profit. I've got no problem with either sector. Now what I do have a problem with is some of the SSC issues that came down.

One of the things that was a real concern to me was when I was at the last Council meeting where the SSC failed to listen to Dr. Hester after you all asked them to. They sat there; they gave him the silent treatment. Then to my absolute horror, I walked in after that meeting was over and there was Dr. Andy Cooper talking to the entire SSC saying something to the effect of we must figure out how to not have to consider Dr. Hester's and Dr. Kenchington's -- as I recall the term was something like "last-minute science. If they weren't in from the beginning, we shouldn't have to hear from them."

Now, you know what, that's pretty scary because the SSC under the new Magnuson reauthorization has the power of God. They are answerable to no one, not you, not the president, not the supreme court. They've got the final, absolute power, and that is really scary when you hear something like that come out of one of the scientists. I think the FRA would certainly like to see Dr. Cooper removed from your SSC, and I certainly hope that you all gave the SSC a hard time when they ignored your request to review Dr. Hester's presentation.

I recall that you all took the time -- and thank you very much for doing that -- to actually listen to it after your SSC ignored it. That's a huge problem, my friends. Another concern I have is the unrealistic targets, the rebuilding targets set. You know, you all want to get that back to those targets. Then everybody who lives on the water needs to move off, replant your mangroves that got destroyed over the past 40 years, let's take the entire ecosystem back where it needs to be, and then maybe we can look at rebuilding a stock to some unrealistic level.

But right now that target is set so high it's virtually unachievable. It guarantees failure. We're looking at a 30-year closure, a potential 30-year rebuilding plan, and I smell a five- or six-year closure. Well, what do I know; I'm not a biologist. Obviously, the FRA disagrees with any extension of the range of management. You all have a hard enough time getting accurate scientific information in the South Atlantic and then starting to spill over into other regions doesn't seem right.

We contend that the National Marine Fisheries Service is in violation of the Magnuson-Stevens Reauthorization Act and yet you're moving forward with annual catch limits and accountability measures based on the fatally flawed science that was supposed to be somewhat repaired. This is going to be a billion dollar bungle that will surely bring these decisions under judicial review. Just as surely will be the congressional review of the economic and social damage inflicted on the basis of such uncertain science. The pursuit of completely unrealistic rebuilding targets using fatally flawed data and uncertainty will surely result in unnecessary economic devastation and social destruction, and we're going to take that one all the way up to D.C., guys. I know some of you feel like your hands are tied, and I believe they are, and we're going to try and untie them. Thank you all for your service.

DR. CRABTREE: Dennis, you talked about unrealistic rebuilding targets and I assume you're talking about red snapper, but what are the unrealistic rebuilding targets specifically you're referring to?

MR. O'HERN: Red snapper was the one target that I was referring to right now.

DR. CRABTREE: What target?

MR. O'HERN: The one that is going back to – I'm drawing a blank, Roy, because I don't have my numbers in front of me and I don't have my staff next to me.

DR. CRABTREE: None of the targets are going back to any historic time. There are two alternatives in the document. One is a 30 percent SPR; one is a 40 percent SPR; nothing to do with going back in time. Those are the targets, so are you commenting on those targets or –

MR. O'HERN: Yes, I am.

DR. CRABTREE: Well, which one is realistic?

MR. O'HERN: I believe they both are. Based on all the science that you have, setting any SPR right now is unrealistic. You don't know what is coming out of the water. You've based a lot of red snapper landings on certain charter and headboat as opposed to the 97 percent of the private anglers that don't fish from charter and headboat operations.

**MS. GASKILL:** I'm here to let you know I am a commercial fisherman's wife. My husband is Elbert Gaskill. I am Sandra Gaskill and a lot of people call me Sandy. I'm from Harper's Island. My husband is a commercial fisherman and he catches black sea bass. I'm here because you have changed the date to open or close and put a quota on the black sea bass from January to December 31<sup>st</sup> to June until May the 31<sup>st</sup>.

This is giving us a very bad situation for my husband and our livelihood. I'm going to explain to you why. In June when my husband goes out to black sea bass, he fishes off a boat from Morehead and goes out to Beaufort Bar. It's not like the fishermen that are inside; it's a lot deeper there. He has further to go. And when he gets out there in June or July, you go out to Beaufort Bar and see how many of these dingbatters you see going out and the place is full.

I guess I shouldn't say that; I should say recreational fishermen, but I'm going to call it like it is. I've been known to do that. But the thing of it is, is the conflict of interest. It is taking away from our livelihood, the commercial fishermen's livelihoods because when you go out there, there are so many of them catching whatever they catch, Spanish mackerel, king mackerel, whatever it is they're after, they go out there and they cut my husband's pots off.

When you cut them pots off, you lose them, and you lose your livelihood, too. My husband come in; he stopped blackfishing altogether. You set the date for June, okay, and now he's going blackfishing because all through the summer we put three rigs on our boat. I am a commercial fishing woman because of you people, because I am on that boat with my husband to make a living because the fuel and the price of seafoods which the imports has brought into our state has devastated our income.

We've always jumped from one fishery to another, and this is what we've had to do. Even though my husband has finally put his pots on, because there is nothing to shrimping. There is nothing to the price, which just makes ends meet.

Now he is going out – for the first time he went out this week. And now you tell me in this room that January the 20<sup>th</sup> is the end of the black sea bass fishery, for pot fishery. Did you people know that Christmas is right around the corner? And I know that each and every one of you has got an income because you all hold a job. I've been on committees. I've been on committees and I know how they work.

If you've got a job and you're not a commercial fisherman, you're sitting there making rules and regulations that you don't know a thing about these people in the room. These commercial fishermen that's in this room is going to be hurt because of you, them and their families. Now, Rita – you're Rita right here – okay, you said bring recommendations to make it understood that the council has to end overfishing; am I correct?

MS. MERRITT: I'm sorry, Sandy, I didn't hear the first part of your question.

MS. GASKILL: Okay, you said bring recommendations to this council to help from having overfishing; am I correct? Okay. Well, what you said a little while ago and the option you put up there for the cut-back on the pots, when somebody doesn't use a whole lot of pots, you're taking from my livelihood again. Because, you see, my husband has been working and setting black sea bass pots before I'd like to say Magnuson and Stevens was ever born..

He has been setting before the first permit was ever issued, and now he should be grandfathered in. He should be able to catch fish. You all don't understand them kind of things, that he has been in it for over 50 years. And you said bring recommendations – well, that's not a good recommendation that you put on this table yourself.

I'll have you to know that he has 30 pots and he sets them. I can prove it by Louis Daniel since he is in this room. He's sitting right over there. He knows my husband is a very good fisherman and he works hard, and he shouldn't be punished no more than the rest of them. But I'm going to tell you some recommendations that you should use.

I mean, everybody is looking out for theirselves. I don't know who put the June through May the 31<sup>st</sup> date on this, because I was busy shrimping trying to make a living. I can't come to all these meetings. I used to could, but when things change and many jobs being lost in the state of North Carolina and everywhere else, you have to make do the best way you can.

But there are some people that have pots and they're all looking out for theirselves, okay, so it's time for me to look out for mine and some of the other fishermen that don't sound so good. Most of the quota has been caught and it has been caught because a lot of these fishermen take their pots out, a hundred or two hundred pots, and they leave them.

Well, my husband left in June because he was in the way of the recreational fishermen, which one of these men here said that the recreational fishermen should be considered, too, which they are. As a public resource it belongs to all of us. But they leave a lot of pots and those pots that are left, I don't care, you take a percentage down from a hundred or two hundred or 30 or 25 and bring them down and you've still got that man with a load of pots. They are in that water, and I would recommend to you that when the bad weather comes, I recommend to you that you tell

them to bring them in because I know some of them have had their pots out there for almost a month, and those pots are killing and killing; because one fish goes in there, he can't get out and he eats the other to survive.

The thing about it is we're all in this together. But I do know that when you start moving things, there's a lot of years – like I was on a committee, a crab committee one time and I told them – because my husband used to crab fish – that I told them, I said my husband doesn't crab fish anymore but he shrimps. I know plenty about shrimping but I'm not going to let them face things that I shouldn't speak up and tell them about and put you out of business and you don't have an income coming in.

So I told them, I said bring some of them commercial fishermen and you set them up here into ours. They weren't supposed to do that but they did it because I insisted – bring them up here and I want to hear from them, I want to hear from them, I want you to hear from them because none of you do it for a living. And they did and they learned more that night and that week than they ever learned before.

So there's a lot of you around this table, you don't know about commercial fishermen. You don't know how hard that some of these boys in this room and me and my husband are going to have it through December and January. And you have the authority to make this quota last longer than January the 20<sup>th</sup>. And how do you know it's going to stop January the 20<sup>th</sup>?

This is only the 10<sup>th</sup> of January; where is the fish at? It's bad weather. It's just getting ready to calm down so you can go out and catch them. How do you know what they're going to catch? But it doesn't matter because it's not your grocery bill, it's not your bill, and you're not going to lose a thing. But there's a lot of things that I could think of that I should say and I will.

There's something else I want to remind you. I want to tell you something I saw. There's a reason for all of this. There's a reason for the cutting back in snapper grouper and there's a reason of cutting back in the black sea bass. Somebody in here or somewhere above you has got an agenda, and I think it has to do with aquaculture. I'm just telling you.

Bill Hogarth, most of you know him, I saw in the National Marine Fisheries because he said there was going to be a fish farm offshore. Fish farms; do you hear me? What kind of fish is going to go in them farms? What kind are they? How much is it going to cut us? We're being cut so much but imports are coming in; they've cut us.

And then I saw where the Marine Fisheries Commission announced – it's in the paper; I'm not lying – and said that allowing aquaculture facilities – Mac Currin, you were one of the ones that put the motion in and helped – they were allowed to possess undersized red porgy on the these aquaculture cultivation – the places where they raise them.

Okay, well, that's fine, they can raise anything they want to raise, but let me tell you something. I think you should make a note of it and make it a part of the council's regulations that when these quotas are caught up and these commercial fishermen are stopped, then don't let none of these federal fish – I know bass is being raised, too – federal fish be sold. t the commercial men

can't sell anything, don't you let them sell nothing. Anyway, I want you all to have a Merry Christmas, and I hope I have one, too, and I doubt it, because if I don't it's because you've done it. Thank you.

MR. HARRIS: Thank you, Sandy. Just for your information, two of the council members are full-time commercial fishermen.

MS. GASKILL: Well, I know that, but I wasn't talking to all of you, and I'm proud of them, but I feel sorry for you.

MR. HARRIS: And I made a mistake. I didn't realize we had comments on agenda items and then comments on 17B, so we do have a few more people than I thought we had to speak, so I will ask you to limit your comments to three minutes if possible.

**MR. McCAFFITY:** My name is Chris McCaffity. I'm a commercial snapper grouper fisherman out of Morehead City, North Carolina. I'm glad to just bring up a point here with the national standards for fishery conservation and management. Number 5; the conservation and management measures shall, where practical, consider efficiency in the utilization of the fishery resource.

Number 9 is conservation and management measures shall, to the extent practicable, minimize bycatch; to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. The last one, which is a very important to me, is conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

I spoke with you all last night about the trip limits. If you're going to have ACLs – and I understand that all the fish are going to have ACLs in time – they need to be managed with trip limits to ensure that the quota is filled at the end of the year but does not get shut down early. You all have the ability to monitor how many fish are being caught. Halfway through the season, if you see it's going to be shut down early, adjust the quota so that it doesn't get shut down.

The bycatch that I have is mandated by this council, by marine fisheries. There is very little fish that we would throw back if it wasn't mandated that we have to. No, we can sell almost everything. I don't want to see any area closures for the red snapper or the offshore at 240 foot. I think there are better ways to do it through talking with the commercial fishermen.

We will tell you that there are certain places that hold the speckled hind, hold the warsaw grouper. If you shut down small areas and target that, then you can allow the whole fishery to still stay open and us to make a living and efficiently harvest this natural resource that God gave us. You know, to just arbitrarily shut down something to claim that you're saving a few fish, nobody targets warsaw grouper.

If you accidentally catch one, we ought to bring it in and let you guys do some research on it; the same thing for speckled hind; tell you where it was caught, what the length is, take its earbone out and do some research, whatever you need to do. But to say that you just should have a zero

ACL on it and not keep any and then shut down the whole fishery offshore at 240 foot to save that, I don't see where that will ever open up again.

I don't know where you're going to get the data to show that they have come back. I think that by doing this that it will shut it down for a long, long time, and you should really consider that before you do it. With the red snapper, having an ACL of 79,000 pounds I think it's set at for this year, you should allow one per vessel like the Kitty Mitchell and the warsaw were. That should stay the same as well, one per vessel per trip and call it in, report where you caught the fish, let the scientists do the research.

Right here in Morehead we've got several places that you could bring it, and I'm sure up and down the coast there is something that you could do to get the data from it. There are so many things I'd like to say, but if you guys would just work with the commercial fishermen with the trip limits and ensure that the quota is met and does not get shut down early, that will be the best thing you can do to help us stay in business through this period of rebuilding as well as not try to die making a living.

You know, we're forced to go out in the worse weather, stay longer to try to catch fish, throw back discards that are mandated by the council and barely make enough money in the meantime to do it. We're not your enemy; we want to work with you. We've worked with you through two decades of this.

We've followed every rule that has been put in front of us, and I feel like now we're paying the price for that. I ask that you have mercy on us and work with us on this. We will follow your rules. We have to; we have no choice. If we don't, we get arrested or the coast guard comes and gets us. We will follow the rules, but we ask that you have mercy and allow us to make a living safely during this period of rebuilding. Thank you.

MR. HARRIS: Thank you, Chris. Terrell Gould will be followed by Greg DeBranco.

**MR. GOULD:** Well, I appreciate you giving me the opportunity to speak again. As everybody knows, I'm on the AP Panel for snapper grouper. I didn't get to see a lot of things and I'm seeing a straightforward march through a lot of inadequate data and research. A good part of it is from not having the funds to do it, and it's really starting to impact people.

I listened to the lady up here a while ago. She is concerned about it. Most of the people in here that makes a living out of the water is very concerned about what you all are doing in this straightforward march. In talking with my fellow fishermen, what we have come to a general consensus is down the road, unless the science gets better, you all are just going to shut down everything.

I know that there are some skeptics that are on the council right now that doesn't believe that this is going to have a devastating effect, but you need to talk to some of the user groups, headboats, charterboats, recreational. You all have gotten the same e-mails I've got, over 300 in the last two weeks from Florida and Georgia stating their opposition to this headlong march towards shutting them down and deprive them of a livelihood.

Duane, in your address to congress, you practically admitted this, that it was going to have a big impact on people. I've been a professional fisherman since 1976. I've lived through the king mackerel closure. I've lived through the beginning of the regulations on the snapper grouper. I even had to bite my tongue in the early 1990's when we had to go through the scup and the red porgy fiasco when it was totally shut down through a mistake at NMFS. But we've always managed to survive this, and now just about the last layer of this onion is peeled off.

I'm seeing what is going on down north. You all cut the vermilion snapper fishing in half. We're seeing an increase every year, a big increase of that fishery every year. The people that I've talked to from down south of us are claiming more and more snappers, but you all are not flexible. You can't be flexible. The Magnuson-Stevens Act really keeps you all bridled with what you can do.

Ms. Rita there – and I thank you for making that motion earlier that would have really helped out quite a bit. You all are involved in a lawsuit from down south right now; you're fighting that. You'll probably win it. The odds are stacked in your favor all around. Everybody knows that we have to have sustainable fisheries. I'm all for it; I practice conservation on my boat everyday. In some way, shape or form we practice conservation.

But the march that you all are taking, you're cutting out the best sources, both recreational – I'm not really happy with your use of the MRFSS data, which I think is highly unreliable. A lot of people don't even know what kind of fish they're catching. They don't know an American snapper from a vermilion snapper or a yellowtail snapper, so the data gets skewered.

You need to come up with up a better collection and regimen there from what you're using now. As far as enforcement is concerned, close it down. All you're going to do, in my estimation, is open up a black market. It will be just like the bootleg days back in the twenties during prohibition. There is going to be some of them that gets away with it. You take fish that is worth 3.50 on the market right now, you prohibit him; it's to go up to seven, eight and nine dollars a pound.

In this economy there is going to be a lot of people that is going to take the chance to do it. The further south we get, the more places we can go in and out of different inlets that is unguarded. People own their own boats, go to the ramp or to their house, and they don't go through dealers; you all know that. They go through friends, back-door restaurants and whatnot.

I'm really concerned about that aspect of it. The coast guard doesn't have the resources; NOAA Enforcement doesn't have the resources. The states, they're stretched to the limit, so you all have got a problem with that. It was said by one of the members last night that basically when we asked for help, it wasn't your job, which I took as, well, we don't care, we're going to do our job, you fend for yourself.

That is not what this country was built on. This country was built on working together and coming to a happy medium. Unless we can come up with a way to change the Magnuson-Stevens Act to be more user-friendly, I only have one life in this earth. I'm being deprived now

of making a living. Each year this onion has been pared down, pared down, and pared down. I'm in debt to the hilt. A lot of these other folks is in debt just like I am.

My interpretation is the Secretary of Commerce shall achieve a fair and balanced enforcement for active participants in any fishery, which I don't see. It's all stacked on the conservation side. I go to enough of these meetings where I see all of our representatives – of course, they have their right to their view. Some of them have never been on the ocean in their lives. Some of them have been over 11,000 days or whatnot, but everybody has their views of it.

What I see doesn't correspond and your science goes in a different direction. There has got to be some kind of happy medium that's reached between the users and you all and the government. Like Roy said, you said it's got to be through the Act; it has got to be changed. Ain't that what you said, Roy, the Magnuson-Stevens Act has got to be changed last night?

DR. CRABTREE: Well, in order for you to have a longer timeline for ending overfishing, yes.

MR. HARRIS: Mr. Gould, can you kind of wrap it up?

MR. GOULD: Yes, sir, I can, about another ten minutes, maybe. No, I'm just kidding. Fellas, you know, you've just got to – well, not ease up; you can't ease up. What you need to do is sort of rebel sometimes – this country was built on a rebellion – and tell your higher-ups, hey, this is wrong, we need to do something different. Thank you.

**MR. DeBRANGO:** Good afternoon. My name is Greg DeBrango. Currently I sit on the AP for snapper and grouper. A quick comment to the lady over there; you can feel the pain in her voice when she talks. And if you can find the minutes on the 2006 meeting in Washington where Dr. Hogarth stood up and praised oil and gas for coming in and funding the aquaculture program and different things like that, it is very interesting reading.

Basically, I see all what is going on. I see after every measure we employ, it seems to go to everybody trying to get their agenda in there to stop other groups from coming in and fishing, control dates, all that, when everybody out there it seems like is just trying to make a living; and when they shut you down for one thing, diversity is a way of living out there and being able to fish multi-fisheries, but it seems like that's going away.

A little background on myself – basically, I kind of heard a comment that I was semi-retired from fishing. Basically now I'm mostly a recreational diver and I do a lot of reef diving, and I go and I basically assess a lot of things. Currently I'm working for Planet Hollywood Corporation. I'm not fishing at the time, I'm just recreational, but I used to be a fisherman for a long time.

In the wreckfish fishery, golden crab fishery, grouper and snapper fishery, the shark fishery, I've been in them all, did my years of those. I finally got enough time to buy my own boat, got my permits, and immediately, when NOAA tells me my permits are good before I buy them, they turn around and tell me my permit is no good and it goes to legal immediately and puts me out of business.

So am I a little bit bitter? Maybe. All the ITQ I paid for? Yes. But Obama is president now and he's going to pay my mortgage and give me a car, so I'm going to be okay, thank you. But, 17B, when I looked at 17B, the closure and 240 foot, I asked a couple of questions about it and I saw that it was trying to determine snowies as a bycatch for any deep water fishing.

Now that I'm kind of reading the Magnuson-Stevens Act, well, it defines bycatch in there as a fish that is not sought after for food value. You know, bycatch is a fish that is not worth anything. So, by doing that, you're really not addressing the problem of getting your ACL of zero with the hinds and the warsaws. You're just basically cutting out people from fishing any deeper than 240 foot.

I gave a couple of people in here a supplementary data assessment that I'm trying to put together with the University of Georgia right now. More of what I do for a living is I work closely with a lot of lawyers, and what they hand me – you know, I'm just kind of a nobody – is they hand me problems, and what I do best is I go in there and I investigate these problems for the lawyers.

I give them the information they need, and then they turn around and they get the substantial litigation together. What I'm offering you guys is a whole new assessment on everything. Your closing of the different areas; well, I don't see a substantial reason other than just closing a whole bunch of area, that that is really going to accomplish anything but stopping everybody from fishing.

Is that where the snapper spawn, that whole area, what is going on with that? We need to look at this further, we need to have more supplemental information, and I'm offering it to you. I'd like to talk more about that, but basically everything that is going on right now is going to create more of a law enforcement nightmare.

What is going on right now, law enforcement can't even keep up with what is going on. People are bringing in 2,000, 1,200 pounds of snowies behind everybody's back. You know, the more stuff you pass, you know it's just like an extinct species. You know, if there is a will there is a way. They're going to find a way to keep coming in with everything and make their money until you catch one person, but it is still going on rampantly.

Then the other thing, just like the recreational bag limit sale, that did absolutely no good. All you did was kill a couple of licenses – more licenses I've got in my pocket to go into the shredder now, but the recreational bag limit sales are still going on. Except now what you did was those SPL licenses where everything was counted, now it is not going to be counted because the dealers are bringing them in the back door so nobody sees them.

I just want you guys to really consider for everybody's sake here – you know, everybody is devastated. I mean, I hate doing what I do. I'm a fisherman, but I'm glad I do it now because it is paying the bills, but just kind of think about more things. Thank you.

MR. HARRIS: Thank you, Greg. Rusty Hudson will be followed by Libby Fetherston.

**MR. HUDSON:** Thank you very much, Mr. Chairman and Council for this moment to be able to address you. Unfortunately, three minutes probably won't be sufficient to be able to address the multitude of items that you have on your agenda this week. I have been here since Sunday, so needless to say it has been a pretty interesting week once again.

First, just to put it on the record, in our opinion the Magnuson-Stevens Reauthorization Act is broken. It is actually destroying a lot of the fishing communities that traditionally existed here. You're looking at a person that has been involved in saltwater fishing since I caught my first fish in 1959 at the age of four. My family is five generations. Some of them, like my uncle, caught his first red snapper in 1943 and probably caught his last one last week.

He says it's better than he has seen it since the 1960's. I don't know if that means anything to you all, but that goes back to before your virgin biomass. Essentially when we submitted 1,151 comments on the interim rule which you all invoked just before this meeting, 96 percent of the people were opposed. Now we're left with the feeling that you all don't listen to us or else you're scared of the other group that is going to threaten you judicially, which is the environmental community which has become the new fishing industry stakeholder, and they're interested in saving fish and not people and not fishing communities.

They can talk about short-term effects but basically 30 years is not short term. Going on, I hear stuff about we need to quantify the doom-and-gloom effect. It will be quantified next year. In our area we opposed your Alternative 5 that you picked under Amendment 17A because you're closing down everything from the state water edge, that 66-foot profile south of Cape Canaveral right on up to what is virtually St. Augustine for some of the best red snapper fishing that has ever existed for the last six decades is where it has mostly been prosecuted.

Unfortunately, your advisory panel doesn't have any membership from that area. Unfortunately, Dr. Sedberry's 2006 document didn't include enough samples from that region. Between June 19<sup>th</sup> and July 18<sup>th</sup>, 1989, I found a very nice snapper bonanza close to the Flagler/Volusia County Line on some hard bottom that Martin Moe identified back in 1963.

By the time we got to that full moon on July 18<sup>th</sup>, 1989, those fish were through between the ones that we captured and the ones that wound up going back offshore. A spawning season closure that you had in the interim rule for four months was a smart move. You all chose the wrong move.

Essentially we're having problems with the data that you use, the dependence on MRFSS, which is supposed to be representative of the biggest user group. Two-thirds of the catch comes from the private sector. The headboat logbook doesn't even have depth. It has distance. When I see this 140-something foot BS coming out of the logbooks for the commercial, I understand why the commercial is offshore.

They're fishing for grouper and they get into some snapper. The ten-to-one ratio of dominant – whether it was snapper or grouper is pretty self-evident. But essentially you need to correct that logbook so that it has depths in it. At the updated stock assessment that you're planning for this

year, your scientists, in most cases, may not have gills. They may not really understand red snapper fishing.

We feel that somehow you need to make sure you have people there – and there are some names that I believe will be coming up, but I would like to at least submit myself with historical pictures that I can provide, that are dated from the 1940's all the way to the 1980's. Dr. Ponwith knows these exist and Ken Brennan has been provided with a sample many months ago, and I was told to wait, to quit scanning them because they were going to try to get some kind of cooperative research proposal or some way to be able to get it into the mechanism so these scientists can see what was really occurring when those Fish and Wildlife Surveys were occurring in 1960, '65 and '70.

I can cover all of that out because the prime season – and the prime season for spawning is generally from June to September, just depending on temperature, and year in and year out. I'm going to go back to scanning them and finish that roughly 800 to a thousand pictures. I'll make them available to the scientists when the update comes up just for their edification, so they can look and see a picture of the past instead of imagining what a model produces.

Right now 80 percent of the food consume in this nation is provided by foreigners so we have to trust what they send us, and we've already seen some of what they've done to our children, our pets or whatever, and now we're going to go to 90 percent. That's a little scary.

You have talked about Amendment 18. We have guys that have gone into the black sea bass business here more recently. I'm going to have to endorse a fresher control date. I understand stale control dates. Twenty pots seem to work for our guys down our way. I'm not going to speak for the rest of the people, but essentially I think that they're able to make a pretty nice payday, and I think you've seen it reflected in the catch rates that sea bass must be doing a little bit better.

Golden tile; it's unfair what you have done to them. You need to get that stock assessed next year even if you want to do it besides snowy grouper because both were done originally in '04, and the SSC found more fault with the golden tile issue, and you all don't understand snowy groupers. That 220 foot to 240 foot is where those baby snowy groupers hang out. You might see a big one every once in a while in there, but those are mostly little females.

Do you want to find the big ones? I'll turn you on to all the numbers from South Carolina all the way down to Florida, offshore, out to 650 foot, including in some of your golden tile area. Do you want to know where golden tile are? I'll provide that information from North Carolina down to Central Florida. Do you want red snapper, Kitty Mitchells, warsaw groupers outside of 240 foot or just inside of 240 foot? I'll be glad to provide it, but they're all big. They're all adults.

I have a tremendous amount of information that I have saved from my fishing days. I've probably caught virtually every kind of commercial fish in the saltwater that has been available nearshore or offshore. Just to close because I know my three minutes are probably up, Mr. Chairman, but in essence we feel like what has gone on in this country, in this benevolent

dictatorship that has taken place, is that we're creating the king's deer, and you all have become the Sheriff of Nottingham.

We can't hide in the Sherwood Forest and I don't want to have our people become poachers. We need a Robin Hood. We don't have one, but there is something that you all could do. You could talk to the Secretary of Commerce. That letter is going to be real important, Mr. Harris. I think that you'll see that your words were heard at least from the public that was listening to you and reading your material.

Dr. Crabtree, I know it has come across your desk. There is a belief from people from the recreational sector, the for-hire sector and the commercial sector that you have the last word, along with Monica and general counsel, before it goes up to the general counsel at headquarters. I have had to deal with headquarters a bunch for a lot of years. I think you need to find a way to somehow support the realization that this economic disaster is real.

It may be doom and gloom, George, but it's real. Those headboats that are coming out of Daytona and Cape Canaveral and St. Augustine, which includes boats that my family ran and owned, are going to not have anything to fish for. Give me an example of what they could fish for. Like I spoke to Mark Robson, we are in a situation where we're going to be relegated to speckled trout and flounders and whiting nearshore with the headboats because we won't have any other choices.

So, Alternative 5, you need to rethink all of your math. You need to rethink your season. You need to rethink your impact, and you need to make sure that when you get to that update, even if you push into the gray area, Dr. Ponwith, about the difference between a benchmark and an update – John Carmichael knows the sparseness of the documentation.

And the couple of sentences on your discard mortality in your final report that got revised with an additional hundred and something pages at the last moment is a little frightening because it's a lot for a person to digest, thousands and thousands of pages of material. SEDAR 7 for the Gulf red snapper had a hundred and sixty something documents.

You had one in your data, one in your assessment and ten reference documents in your review. That to me is a crime, and that's what you've unfolded on all of us. You have destroyed us. How are we going to be able to challenge you? We can't financially afford it. Pew can afford it, EDF with their catch shares they want to make into commodities for 400 percent increases in investment can afford it, Oceana can afford it, but these middle class people that you're making into unemployed people cannot. I thank you for your time.

**MS. FETHERSTON:** Good afternoon. My name is Libby Fetherston. I'm here on behalf of Ocean Conservancy. Before I forget, I want to just pick up on something Rusty just said and fully support the SAFE report, the production and SAFE reports. I think those are a useful tool for stakeholders to have a lot of information on a lot of fish species, their status, their history all in a single place.

I would like to speak a little bit on Amendment 17A. We submitted some fairly detailed comments on this letter during the comment period and encourage you all to review those in your leisure time. I would like to thank the committee for what was a really rigorous and thorough discussion I think of the various assumptions involved and consequences thereof of red snapper management measures.

I'm just going to take some time to talk about a couple of items and refer you all to our letter to pick up the rest for the sake of time. We think the selection of an Frebuild strategy designed to rebuild red snapper in the maximum allowable time is a risky strategy and should be evaluated in combination with some of the other assumptions about discard mortality and the enforceability of various measures.

And when you add all that up, we encourage you to look at the overall picture of what you have in Amendment 17A and how likely that will be to achieve the management measures that are set out in the purpose and need. We feel strongly that red snapper management would benefit from a full scientific review through the ABC Control Rule process, and we submitted yet another letter detailing that in the Comprehensive Annual Catch Limit Amendment.

We encourage you all to discuss the inclusion of these ten species undergoing overfishing in the Amendment 17 into the comprehensive document so that these conservation – these species with conservation issues can have the benefit of a full scientific uncertainty review in that document. We're really encouraged by the Beaufort meeting that analyzed the red snapper monitoring plan, and we remain fully committed to and supportive of efforts in this region to improve data collection and timeliness.

We pledge our full support to work with our partners here in the region to ensure that kind of snapper monitoring plan is fully funded and implemented so that we can all know when the improvements have begun and we can start working on new management for red snapper. I would like to thank the council, the committee, the staff and specifically Dr. Farmer for what has been a really helpful analytical tool, but all the hard work that has gone into this document, and we look forward to working with you all in the future. Thank you for your time.

**MR. LONG:** My name is Chris Long. I charter fish during the summer. I used to trap fish during the winter. I don't even know where to start. You're taking our jobs during the winter months when we've always been dependent on trap fishing. You have us all scared to death. It's down to us losing our boats and going out of business now. Now we're forced to choose from charter fishing in the summertime or trapping in the summertime.

Six months of our income we're going to have to give up to do one or the other. There are so many ways you could work with us. You can have bass open in the wintertime would be the main thing. Somebody mentioned earlier that the number of pots were too high and that's why the commercial quota got caught up so quick.

I've got news for you. The reason the commercial quota got caught up so quick is the quota is too low. We're seeing more bass this year than we ever see. None of us have actually even started trap fishing or the majority of us our season normally starts about November and the

quota is already caught up. That tells me that the quota is too low. We need more of the quota for the commercial fishermen. I'm a little bit nervous; you have to bear with me.

You're creating an insufficient fishery when we're having to run out to catch fish before the quota is caught up regardless of the weather or the price. I feel a lot of your scientific data is flawed. I think if you all were to – I don't know, I don't know. All I know is your data is flawed. You all are saying there is less fish than there were and we're seeing more fish. If you have any questions on the trap fishery, I'd be glad to answer your questions or leave you my number. I've been doing it 21 years fulltime. We're all worried we're going to be put out of business, and I hope you all take that into consideration. That's it.

**MR. SCHOOLCRAFT:** Thank you, Mr. Chairman and members of the commission. My name is Kelly Schoolcraft. I'm a commercial fisherman from Hatteras, North Carolina. I also have a variety of issues to go over, and I will do so as quickly as possible. 17B, Brian yesterday brought up the issue of which I'm about to talk about, the closure from 40 fathoms seaward.

North Carolina does have two species of fish – well, more than that, really, but sea bass is monitored by the Mid-Atlantic and the northeast on two different management plans in two different geographical areas of the state; north of Cape Hatteras and south of Cape Hatteras. I'm permitted and fish in the northeast moratorium sea bass permit. Exclusively I fish in 50 fathoms; 40 to 60 fathoms is where I fish for sea bass. I hook and line them and I trap fish in that depth and I trap fish according to conditions that allow me to.

The issue that I have with the 240 feet is what that could eventually play on me in the future. There again bear in mind I fish under the northeast, and I do realize that the sea bass is not included as a deep water species. However, what remains to happen in the future nobody can tell. What I do catch is the blueline fish in that depth or gray tilefish.

Now neither the northeast nor the South Atlantic has a management plan for this species of fish, and there is no stock assessment on it so you absolutely know nothing of what is going on yet it is included as a deep water species. The 240 feet, 40 fathoms, would play a part in whether or not I would be able to keep this fish or not. It could be that I would be throwing them away, which would be a regulatory waste or whatever. Right now I can and legally can keep them. So that was an issue of mine.

Amendment 18, extend the boundary northward, all this is done with the presumption of the snowy groupers, warsaws, I believe, and speckled hind. A letter that I read from Jack Travelstead a little while ago says that they're willing to work on that issue. I hope that this council will continue to work with him on this issue because the science that was back on the snowy grouper, what the plan is made of today, there is no commercial data on it. It's all antiquated data from Florida, a little bit from North Carolina, and it's headboat data, no commercial data at all.

So my contention is that there are two stocks of snowy grouper, but if you don't do the science and don't do the research on it you will never know. And by trying to extend that management to include the northeast states, you will never know. You need data on this species. You've got

sea bass, you've flounder, you've got king mackerel, and I learned this morning that red snapper – all those are considered two different stocks so why are you trying to consider snowy groupers as one stock? It's beyond me of why you're thinking on that. Research and data needs to be done on that.

I'll move on with my mackerel issues. I want to applaud this commission for its decision on Tuesday to not even look or consider LAPPs as an issue in the South Atlantic. The Gulf Atlantic apparently – I mean in the Gulf there is apparently a group of fishermen that want to pursue it, and I feel like your decision to refer that to the Gulf Council is very adequate and the right thing to do, but no commercial fishermen in North Carolina that I've talked to is susceptible at this time to a LAP Program in king mackerel.

This brings us to the point of management issues, and this has to do with the percentage of king mackerel allocated to North Carolina. You can go back to the catch history in North Carolina and see that we have harvested 36 percent of the TAC or ACL, whichever you want to call it nowadays, has historically been caught by North Carolina fishermen. There is a shift in effort from the snapper grouper fishery into the kind mackerel fishery.

The king mackerel fishery is a year-round fishery in Florida, which it is not in North Carolina. It's very, very seasonal in North Carolina. Our mackerel season basically starts in October. I'm one of the very few fishermen that starts in September, and it runs through the latter part of – well, it includes all the way up to the end of the season on king mackerel, which is February the 28<sup>th</sup>, and in March the new season starts again. If there is an early closure in the king mackerel due to a shift in effort from people – basically it's a Florida issue. You know, we stand to lose a fishery, a fishery that's recovered, it's not overfished and overfishing is not occurring.

Thirty-six percent, that needs to be allocated to North Carolina as our state quota to be managed as our state managers see fit. As was brought up before, we have proclamation authority. We can regulate this fishery and we do other fisheries and report directly to NMFS. Added to that, other states cannot do it and Georgia and South Carolina, you all need to come into the 21<sup>st</sup> century and get your legislation right, get your reporting right.

You know, you're part of 13 Atlantic states, and our counterparts to the northeast have no problem with state-by-state allocation. We've gone through this with seasonal and regional and none of it has worked. A perfect example is what we've just done with the dog shark fishery. It has taken eight years to get a percentage allocated to us for a state quota.

Now, this needs to happen with the Kitty Mackerel. We don't have very little, you know, for us to work on. That's a big issue that needs to be addressed and the sooner the better in the AP and among the council is a state or a percentage allocated in North Carolina. A couple of other issues that I heard people commenting; the sea bass – I just talked to one of the major players on the sea bass issue.

In the northeast originally the federal – they had the quota divided up into quarters; and when that quarter was caught up, it was shut down, it was monitored as such, it was shut down and then it opened up in another quarter. A fella I talked to a little while ago said that would be an

option worth for this council to proceed on looking at instead of having it all caught up at once, to get the TAC, ACL, whatever you want to call it, and divide it up into quarters and monitor it so that wouldn't happen.

That would be an avenue that could be pursued on a basis from you guys through discussion. Monica, I believe Virginia does have a plan for snowy groupers. It's a two-fish – you know the deal on it – and that is what the Mid-Atlantic, to the best of my knowledge, was looking at is applying that for a management plan for snowy groupers.

**MS. SMIT-BRUNELLO:** That is the state, the state of Virginia.

**MR. SCHOOLCRAFT:** State, that's right, but the Mid-Atlantic was looking at the state plan to adopt for their whole plan for the Mid-Atlantic for snowy groupers on that, so there basically is something in the pipe that could be worked on. I agree that any permitting should come out of the northeast, as you all have suggested. I guess that really kind of wraps up my comments. I appreciate the time for me to bring this – you gave me to bring these issues before the council. Thank you very much.

**MR. OSBURN:** Thank you, Mr. Chairman, I'll be brief. I'm Hal Osburn. I'm the executive director of the Florida Keys Commercial Fishermen's Association. I'm stationed in Marathon. I represent hundreds of fishermen from Key Largo to Key West. I want to start with the draft scoping document Amendment 9 for the spiny lobster; specifically your potential action for scoping 1.5 where you'll be setting the ACLs and the AMs and the optional ACT.

We do believe that at this time the best available data are in the last stock assessments, and our preference is to use it. However, I did hear at this council that there was sentiment for moving forward and using later years. I want to point out that there were several years between the last stock assessment and the newest one that will be coming out that had a number of tropical storms that prevented fishing and lowered the landings considerably. Without taking that reduction in effort into account, you will end up with ACLs that are artificially low, so please be sure that those circumstances are taken into consideration.

Also under 1.5 is whether to repeal the Spiny Lobster FMP. We are strongly against doing that. We understand that there may be some operational aspects of the joint Spiny Lobster FMP that could be delegated to Florida, but we very much encourage you to keep the South Atlantic and the Gulf Council involved. We think it would be an unfunded mandate to the state of Florida that has already limited resources to not have the help of the federal management agencies.

On Section 1.6, other issues for consideration, we believe that you should accept Amendment 1 which would basically require that all spiny lobster be landed either whole or tailed. The reason is that closes a loophole for illegal activities that have been documented when you can have tails and whole lobster.

We also do believe and have worked closely with the Florida Wildlife Commission on reducing the impacts of the trap gear on coral. We are working right now on a set of designs that are being tested as we speak to minimize movement, which has already been documented as being

fairly minimal. We have evidence that there are trap designs where the movement is virtually zero even in strong storm events.

So we do have no problem with addressing – if you feel like there are certain areas that need to be closed to the use of traps because of staghorn and elkhorn corals, we would be happy to support that. We've done that in the past. Without healthy reefs, we don't have a healthy fishery.

Let me move on to Mackerel Amendment 18. First of all, I want to congratulate this council along with the Gulf Council in the recovery of that stock. I served on the Gulf Council for ten years. I served as a biologist and manager with the state of Texas for 28 years and can remember back in the eighties the beginning of putting on regulations, bag limits, size limits, closed areas, closed times for mackerel, and we now have recovered that species. We should congratulate ourselves.

We should also do what we promised we would do for the commercial fishermen, and that was when the stock was recovered there would be benefits; the benefits specifically that I think should be added to Amendment 20, which I understand would contain the limited access privilege program. Just briefly on that, I will say that some of our members are for LAPPs; some of our members are against LAPPs, and I personally am sticking with my members.

There will be a lot of discussion, there will be a lot of education, and I want to be a part of that and have applied to be on your LAPP Ad Hoc Committee. However, in case that LAPPs do not happen for mackerel, we do believe that there are minor changes that should be made in regulations. If LAPPs go into place, then the lines on the water, the bag limits, the trip limits, they all go away.

Those are some definite benefits that I will use to point out to fishermen that are against LAPPs; but without the guarantee that LAPPs are in place, what we would like to see is a parallel set of regulations that would affect the only two parts of the fishery, the king fishery that is reaching its quota now, and that is the hook-and-line southern zone and the west coast southern zone run-around gill net fishery. We are recommending an increase in the quota.

Your latest stock assessment, which has been approved by the SSC as well as your advisory panel, documents that you can raise the quota from 10 million pounds to 14.7 million pounds next year. We're not asking for that at all. We have major segments of the fishery, recreational in particular, that are not interested in having additional fish. Those two small fisheries down in the south would like to see a 30 to 40 percent increase in their TAC.

This would amount to only a 3 to 4 percent increase in the total quota. In addition, we would like to see the trip limit for the hook and line moved from 1,250 pounds to 1,500 pounds, only a 250 pound difference, but it makes a big difference in terms of the economic efficiency of that trip. Also, finally in summary a provision that the trip limit drop to 500 pounds when 75 percent of the quota is reached basically makes those boats tie up.

It's not economical to even start your engine to go out, and so that fishery is the only one that is targeted with that kind of restriction, and we would like to see that eliminated in the event that there is not a LAP Program. That summarizes my comments. I'll be happy to answer any questions.

**MR. DAVIS:** Sonny Davis. I guess most of you know me. I've been in this headboat/commercial fishing. I have snapper grouper permits, bass permits. I've been in the headboat business, both commercially and headboat sector for over 50 years; probably 55 years to be exact. I guess you will say it's about time for you to go sit on the porch. I guess it is, but my family is involved in this fishery also.

In fact, my son is the captain of the boat today, the headboat. We also have a charterboat. I'm going to comment mostly on the headboat sector. Now, I've been watching this headboat come in I'll say for the past – I'll say ten years. Most of the time I'm on the dock. When the boat hits the dock, I'm there. The way the customers fish, they get them cleaned and so on and so forth, take them home to eat, mostly.

I will say the past – ever since these bag limits and trip limits or whatever has been in effect, I will say that the fishing has leveled off considerably. About everyday that they come in, their catches average pretty close to the same thing about each day. We also run a 24-hour trip. The catches have been great on those. We also run a half a day trip.

Now the way it is now I don't see much changing in the fishing except it has been holding steady the whole time, for say ten years. Some days is better than others, which is the way it is in the fishing industry, according to the weather. Some falls we're not able to fish at all because of the weather. In the past two years a lot of these headboats has gone out of business because of the regulations and the economic impact that everything has had on the coastal area so far.

The price of fuel and the people with no jobs hasn't been able to get to the coast, so a lot of the headboats has gone out of business. That has taken I'd say 50 percent of the headboat fisheries away. That has taken the pressure off the bottom fishing. The charterboats I would say – in Oregon Inlet; I was just talking to a captain from Oregon Inlet. He was out on the dock today. The business up in Oregon Inlet last summer and the summer before was off like 50 percent or more with most of the boats because of the economic impact. Well, you say the economic impact has got a lot to do with it.

Say the economics come back up in the next two years and these CEOs start making back their greedy millions of dollars and everything is thriving – okay, if these people decide that they wanted to buy a boat and we are unable to fish, we are out of business and we'd like to sell our boats to these people that's making a lot of money, these people are not even going to want a boat, especially a fishing boat because they're not going to be able to fish.

But what I'm trying to get the point across is, is to keep this fishery as level as it is, and it's not overfishing, and the working class of people has got a chance to go out and have a good time trying to catch a fish. The way it is today the working class of people are taking the brunt on everything in this country, and they need to have a break. You all need to think this over a little

bit and see what economic impact it is going to have on these coastal communities from North Carolina to Florida. Thank you..

MR. HARRIS: Thank you, Sonny. Louis, and he will be followed by Jeff Oden.

**DR. DANIEL:** I appreciate the chance to talk to you guys. Since the Amendment 13C decision, I don't know what good really discussing the data issues are in terms of fighting the science. We learned that lesson and learned it pretty hard. What I'm up here to talk about are a couple of things.

The first is just to continue to restate my testimony to congress as well as Duane's testimony to congress the critical needs for our data collection programs in the southeast. My blood pressure goes up everytime I think about using that headboat index as an indicator of abundance, and it also goes up when I realize that the MARFIN Survey is neither sound nor representative of what is going on in the fishery, particularly off of North Carolina.

I'll do anything I can do to help from the state of North Carolina's perspective, but we've got to get better information to make the decisions that are having such devastating impacts on our local fisheries. What I'm here to talk about, too, is we've got some really good data collection programs – at least we do in North Carolina – and we're very proud of those programs. We're spending a lot of money on ACCSP; we're spending a lot of money on MRIP; we're spending a lot of money getting a lot of the fishery data.

I think what we need to do is recognize with the reauthorized Magnuson Act the scrape we're in with this science and the scrape we're in having to end overfishing right away in some of these fisheries that have been overfished for a long time and having devastating consequences. We need to come up with a way to manage these quotas fairly and equitably so that we're not continually disadvantaged.

Some of us are continually disadvantaged by geography because we just happen to be at the wrong end of the migratory route. I know you had some discussion about state-by-state quotas. I appreciate that. I'd like to see us having state-by-state quotas for everything and giving us the opportunity to manage those fisheries so at least we can have some semblance of a directed fishery on some of these fisheries now.

I'd offer up to the council at your March meeting to have my staff put together a presentation on our quota monitoring program and trip ticket program to convince the council that we have the mechanisms in place to properly manage these quotas and keep them below the allowable catch rates better than we're doing now. Those are my primary comments. I welcome you all to North Carolina. I know you've got a tough job. I empathize with you because I have to do the same thing with North Carolina's Fisheries Reform Act. Keep up the good work; it's good to see everybody. I'm always available by phone if I can help you out. Thank you, Mr. Chairman.

MR. HARRIS: Thank you, Louis; it's good to be back in North Carolina and it's always good to see you. Jeff Oden.

**MR. ODEN:** Good afternoon. Thanks for the opportunity to speak to the council here. Anyhow, I got an e-mail the other day which I find an interesting parallel. Anyway, it relates to government and how government works. Anyhow, once upon a time the government had a vast scrap yard in the middle of the desert. Congress said someone may steal from it at night, so they created a night watchman's position and hired a person for the job.

Then congress said how does the watchman do his job without instructions so they created a planning department and hired two people; one person to write the instructions and one person to do the time studies. Then congress said how will we know when the night watchman is doing the task correctly, so they created a quality control department and hired two people; one to do the studies and one to write the reports.

Then congress said how are these people going to get paid, so they created the following positions, a timekeeper and a payroll officer, and then hired two people. Then congress said who will be accountable for all these people, so they created an administrative section and hired three people; an administrative officer, assistant administrative officer and a legal secretary. Then congress said we have had this command in operation for one year and we're \$18,000 over budget. We must cut back overall cost, so they laid off the night watchman.

We're the night watchman, folks! Anyhow, this is a very interesting parallel. When I think of, for instance, let's see, the agency that Dr. Crabtree works for, they funded a study recently to, you know, assess the global impact on fisheries and how it might affect migrations, and yet we don't see these being incorporated in the stock assessments or the implications thereof.

This council spent untold funds on MPA studies and they've recently instituted a few. Now they're proposing a 40 fathom closure, which makes all that irrelevant – I mean many of them, anyway. And it just goes on and on and on and we're the ones who are left with nothing, so to speak.

The NGOs, they end up being funded by the government and they in turn turn around and sue the very agency that endowed them or the very government, that is. It's like the gentleman, Mr. Davis said before, it's the working guy that is getting left out of all this. But, to carry on to my comments, there are some very important issues and especially the 40 fathom closure.

To me that is so absurd when you consider that in 1994 – the 40 fathom closure being perpetuated on speckled hind and warsaws – it was 1994 that – I just got the pamphlet from Jack McGovern there that stated that it was shut down in 1994 for anything but the retention of one and no sale. Interestingly enough, right under that you have a hundred percent logbook coverage upon renewal of the permit.

In other words, you want data collection and then you denied it and now you're shutting down a fishery that you have not a clue as to what has happened in the last however many years. I mean how absurd can it get? Well, when you consider one thing since 2006 – the snowy quota I believe right now as of the 4<sup>th</sup> of December of this year was 66 percent, and that is a 400 percent reduction from it was in 2006 when the commercial fishery was still at least that much.

I don't know what it was accurately that year, but I'm assuming it was close to 280 some thousand pounds, so we're at 66,000 pounds. I mean, that is an incredible reduction and yet it's not enough supposedly to save the warsaws. You just heard one gentleman say the charter business is off 50 percent.

Well, I was talking to Rom. He fishes out of Hatteras. Last year it was 38 percent in Hatteras. This year they don't have accurate figures on that. That's in the charter industry. There's two major reductions that have come about and will be for the foreseeable future. I'm sure Dr. Crabtree is not going to up my snowy quota anytime soon.

But, anyhow, I mean when you couple that, what more do you need to daggone take care of any perceived impacts on warsaw, which you haven't a clue about, anyway; and if congress asks you, you can say, well, we're off the hook, we don't know. That is one important issue. Louis just spoke as well as Kelly before him on state-by-state quotas, which I'm, you know, adamantly for. Every state should have the ability to take care of its own.

I think each state should be allocated a historically percentage. Let's not go ahead and deviate from that. Anyhow, accountability measures – I was sitting and listening last night online – and, by the way, your audio is not the best, so you could definitely improve that, I think. It was mighty to hard to hear all but Dr. Crabtree.

But, anyhow, accountability measures, the issue of three-year targets; is that to be in the foreseeable future recreationally; which is to say this, you know, commercially we have to ante up every year. If we exceed a quota, we pay it back. I don't want anything that doesn't belong to my sector, but I don't want to have to pay anything back to another sector that was not my fault.

Recreationally three-year targets do not work. You know that with summer flounder, you know that through every fishery you've ever done that way, and yet you still continue down this path. There has got to be a better way. Let's be accountable; I mean everybody, and not just commercially, and that is the way it is now and that's the way it's going to be as long you continue down that path, and you know it.

Anyhow, the last issue was improving the accuracy and timing and quality of fishery statistics. That's one of the issues on Amendment 18 and ironically the last one. I would have thought that would have been first way back before Amendment 13, but it wasn't and now we're getting around to that. As it was said before, our state has some of the best data there is. As fishermen and when I was on the AP in the past, we offered our help.

You may not have the funding to do anything to help the accuracy of the fisheries, but you do have the funding to go do an assessment on a debatable topic like climate change and the effects it may have on fisheries. I don't understand that. You know, people's lives are being affected; people are going out of business literally. All these communities are being altered and yet you all have the priorities mixed up. Anyhow, I thank you for your time.

**MR. HARRIS:** Thank you, Jeff. The last speaker that has signed up to speak on agenda item comments is Robert Freeman, and then I've got a list of people, some of whom have already spoken, that have signed up to speak on Amendment 17B. If you covered your comments when you first spoke with respect to 17B, I'd ask you just to wave your hand. But if you still have more to say about it, we will welcome you to the microphone. Robert.

**MR. FREEMAN:** I'm Robert Freeman. I've been snapper grouper fishing for 37 years off of here; mostly concentrating on the deep water, so I've seen lots of changes. I've seen it probably at its best and I've seen it as it is today. I am sorely disappointed that we are continuing to pass amendments that have put more and more restrictions on the fishery out there before the ones that have previously been passed have a chance to show the benefits.

This past season we, too, were economically impacted by the overall economy, but when the phone rings one of the first things my customers want to know is "what are we going to be able to keep if we come?" When it gets to point they can't keep enough to justify the trip, if they can't keep the entire bag limit for the species that we target, then we're out of business. That's where you're putting us.

A lot of the data supposedly – I've been told when we had the meeting in New Bern in November, some of the data that we're using to justify what is being caught and the need to close down fisheries or reduce catch was everything from boat ramp surveys. Boat ramps are not where the boats are coming from that are going out there snapper grouper fishing. That's Point Number One.

Headboats – headboats in North Carolina aren't using electric reels. They're not fishing beyond 40 fathoms so their data won't tell you a darned thing about snapper grouper catches in that targeted 40 fathom area. The MARMAP boat out of Charleston – there was a meeting two weeks ago over at Tybee Island, South Atlantic Marine Fisheries, NOAA representatives, around 35 to 40 people there, the crew of the boat, the scientists on the boat, and the concern that they have is there's a high percentage of the time when they go to do surveys – and they estimated around a hundred days or slightly more per year that they can actually go and survey in an area.

Louis Daniel shared some information with me some years back, three or four years ago. I think that boat had been to North Carolina about eight times in twenty years. Well, they're managing and altering lives in North Carolina based on that kind of information. How would you like for that to be what impacts your paycheck? They don't collect data that means anything.

We set up programs and somebody somewhere that maybe was the father of that plan feels good about it, the for-hire census. All it tells you is how many hours somebody supposedly had a rod and a reel in their hand and what did you go to catch? There is no question about was the sea condition such that you could actually fish for what you left the dock to go catch? Did it impact what you caught? They don't even ask what did you catch. Now what of scientific data is this? How do you make determinations on the magnitude of the fish out there?

This past season we brought better than 7,000 bottom fish to the dock. We're forced more and more to target the trigger fish because we can only have the one snowy out of the three-grouper

limit; and because we are fishing most of the time 60 to 90 fathoms, we're bringing the gray tilefish in. Once in a while we'll see a golden tilefish if we fish 40 fathoms in the northeast edge of where I can reach on a normal day.

I'm covering around 300 square miles of bottom off there because it is a convenient point I can reach with the speed of my boat in an eleven-hour trip. The MARMAP boat, one thing they commented about with their sampling techniques, less than I think 150 feet they're able to use traps. Well, some of the fish of interest won't go in a trap, so how are you going to tell anything. Well, we're using TV cameras.

Well, you've got to be real good to identify some of these suckers when he's milling around out there trying not to be eaten and get food for himself as well. Well, in deeper waters they said they couldn't even use their longline gear, which is their preferred fishing method in the deep water, if the current is more than a knot and a half. Well, that means over 50 percent of the year they cannot fish if they chose to come from North Carolina.

Well, I understand that boat is headquartered in Charleston. I don't know when they've been up here. I saw one of the big NOAA boats off here this year – I could not tell you the name of it. It was irrelevant – at The Point. I asked them what they were surveying and they were looking for invasive species. Well, those invasive species are not putting people out of work.

In this small community article in the paper in just the last few weeks we've lost two boat dealerships. More of the manufacturing facilities are severely being impacted because if people can't catch fish, they don't need fishing boats. Restaurants are going out of business because people are not coming here to go fishing. They're not staying in the motels. It is a big impact on this community here as well as others all up and down the whole entire eastern seaboard.

It is time that we as tax-paying citizens, which ends when we quit being able to run these boats, we wind up with a liability we can't sell, and I spent lots of money last year repowering my boat to have a more efficient engine and be Tier 2 compliant and all this kind of stuff. But, we are not being dealt with fairly, that we're proceeding and are being forced to accept all these new amendments based on data that is terribly flawed.

When we had a meeting some time within the last year in New Bern, the comment was made again I'm trying to understand how do you guys that don't fish out there 35,000 hours in a lifetime or a hundred-plus days a year; how in the world do you know what is out there and how many and how big and how old they are and how many eggs do they have when they hatch them out all this kind of stuff and what happens to those eggs.

How do you get this data if you aren't being out there or you're canvassing folks like myself? Once in a while, this past year twice the North Carolina folks came to the boat to survey the catch, measure fish, how many species did we catch, what size and that sort of thing? We need to be treated more fairly.

If we take some of our scientists and put them on these boats, but for some reason there seems to be a resistance of this committee, their representatives, the MARMAP people, whatever, getting

on boats that are actually catching these fish. They admitted at the Tybee Island meeting they really would appreciate it if we would give them our Loran numbers. Well, why don't you give me your list of girlfriends' phone numbers and I'll give you my Loran numbers?

You know, do you want to charter my boat, pay your fee and go with us, fine, I'm okay with that. One of the things that had come from Marine Fisheries recently was one of the things that we'll have to do is carry an observer. All right, what is the coast guard's position on this observer? Is that Passenger Number Seven that makes us illegal? Can we now only carry five passengers instead of six, which means I've got to charge my customers that much more so that I wind up, hopefully, maintaining a profitable business.

I just don't understand the thinking that comes from this panel when you're dealing with as many lives as you're dealing with. It's not just us that are sitting in this audience. It's all these other folks in the community that are being dastardly disadvantaged by what happens here. The fishery out there in my experience is not in that bad a shape.

I started fishing out there in, yes, a trailerable boat, and nobody ever stopped me at the boat ramp to see what we caught, but that was in 1971. Since then I have commercial fished. I will say I got rooked out of my commercial permit because I had another job that paid a little more money than the boat did, so I didn't get to keep my commercial permit, and now it looks like I'll be put out of the charter business, which I dearly love.

I enjoy taking people out and showing them a good time. I tell them we're not selling fish; we're selling entertainment. But when they can't have any fish, they're not going to be very entertained taking a three-hour boat ride. I ask you to take no action on 17A and B. It is not justified by what I see off of North Carolina.

Spend some effort in building a data collection system that gives us a better chance of you knowing what is out there and us staying in business. There have been several people ahead of me pleading and I'm pleading this is a real crime to our community of what is coming out of these proposals. It is not justified. I thank you for your time.

**MR. HARRIS:** Thank you, Robert. The following people have signed up to speak on Snapper Grouper Amendment 17B. As I said, some of them have already spoken and if they covered their 17B comments already, I'd ask that they just wave me off.

**MS. FETHERSTON:** Good afternoon again. My name is Libby Fetherston and I'm here representing National Conservancy. We would again like to thank the council, the committee, the staff and the IPT for all the hard work and thought that has gone into Amendment 17B. This document appears poised to end overfishing of nine species that are identified in the annual report to congress in sort of one fell swoop, and that is no small achievement.

We submitted a detailed comment letter that outlines some of the concerns that we have about this document, and I will refer you to that, and I will be discussing again just a couple of points that I'd like to raise at this time. In some of the issues I would just like to note the comments that were addressed by the committee is specifically the accountability measures, so thank you

all for that discussion. I want to highlight one of these issues here, and that is the importance of the incorporation of scientific uncertainty for these nine species that are designated as undergoing overfishing by the report to congress.

It seems to me that these nine species perhaps warrant more consideration of the impact of scientific uncertainty on their management rather than less, and these are the only – ten when you included 17A – ten species that are categorically excluded in the generic annual catch limit amendment from consideration through the ABC Control Rule that the Science and Statistical Committee put together.

I realize that this is perhaps a touch premature as you have not gotten to that item on the agenda yet, but I'd just like to raise that point here that we think that it's worth discussion during committee about overfishing species under the generic amendment and the ABC Control Rule. I would also like to point out now that we mentioned the framework action, we think that could use perhaps a bit more discussion and we would encourage you to move that also to the generic amendment.

Although I realize that may not be a popular item of discussion, I just wanted to raise that one point here. Beyond all these issues, we really do think that 17B is an impressive feat by the council in one document to do really a lot of work, and we commend you all on what you've done so far. Regardless of what the issues in our letter, if they get addressed or not, this is the first step in what will be a process of working with the stakeholders, the SSC, and the council, and we thank you all for your time and expeditiously moving this important document forward. Thank you.

**MR. HUDSON:** Rusty Hudson, director of Sustainable Fisheries. With regards to Amendment 17B, having sat through the Scientific and Statistical Committee's meeting since Sunday, I'm actually appalled that this council wound up fast forwarding it over to the Secretary of Commerce via SERO. The reason why is because there was stuff like warsaw grouper data was 1990, the last that went into that dated assessment; speckled hind grouper, what we call Kitty Mitchell down our way, 1999.

Golden tile, the SSC said it was an old assessment; snowy grouper which was done in the same year, '04, which was the first time, was a dated assessment. Just to give you a little story, in 1980 I got the super critters to come out, which are the big headboats over by the lighthouse in Ponce Inlet, to what we call the roll-down northeast of Ponce Inlet. We had nice conditions out there so they drifted the roll-down, which goes from 220 to 300 foot.

Usually you catch a lot of the younger snowies, but on the deeper edge you'll get some of the bigger ones – a couple of thousand snowies in a couple of hours between the boats. Just to give you an idea, your 523 is a joke, so it wouldn't take much for that to be wiped out. If you're going to have accountability measures, at least the following year you won't have much left if that is going to be part of the situation.

But then, again, you all are trying to close all that bottom from 66 foot out to the 240 and from the 240 out to the edge of the EEZ. You've really got it in for everybody over in the central and

northeast coast of Florida. We're kind of appalled by that. Hopefully, maybe when the judicial review comes, maybe when the economic disaster is declared, maybe you'll see what you really did. But ultimately I'll reissue the same offer that if you want to know where these animals are, if you want to be able to research them independently, I have the data. I have the places to go.

It's up to you to decide if you want to do real science or if you're content with the incomplete job you've done thus far for the last 20 years. All I can say is that it is wrong that you're going to put these people out of business. I'm surprised and I'm happy that Ben and Rita, you voted against trying to fast forward it. You should have waited until at least March so you could have possibly done a little more fine tuning to Amendment 17B.

But ultimately you all have got to get something done. You feel the pressure that maybe the 800 pound gorilla is in the room and we're going to sue you if you don't get it done. So, I'm issuing a challenge to the environmental group in here. Come on and work with us. Don't put our families to death economically. It's wrong. And it's the same thing I'm saying to this council and to NMFS.

We're tired of it. It has been going on for years. You all practiced on my shark fishery for a long time. Now I've had to morph into the stuff I grew up on. These people are scared to death. None of you took a cut in pay this week, this year, next year. We all did. We're so far in debt now thanks to the economy and to the impact that unless you step forward, unless this council steps forward to the Secretary of Commerce. Think about it, the Secretary of Commerce destroying small businesses. Something is really wrong with that picture. I thank you for your time.

MR. HARRIS: Rom Whitaker.

**MR. WHITAKER:** I know it has been a long afternoon, but I want to thank the chairman and the council for coming to North Carolina. As you've heard today, we've got some serious problems and I'm going to comment on a few of them. I'm a charterboat fisherman from Hatteras. I'm also here representing North Carolina Watermen United.

I would like to add that in our recent survey that the charter/headboat industry – I'm not talking about recreational. I'm talking about just the charter/headboat industry brought over \$650 million to North Carolina. As far as I know, that's no support from any state organization, but that's a big number to me, a tremendous number to me

I know if the state had an opportunity to solicit an industry that would produce that kind of income, they would be after it as hard as they could go. But, anyway, I look around and I see most everybody here has got laptops and with the touch of your finger you've got access to unlimited information.

Now, if that's good information, then you can make a good, reasonable decision. If that's bad information, then your decisions are not going to be reasonable. They're not reasonable to me and I think a lot of other people in this room. I mean, here we have public comment. I'm not so sure that the public comment doesn't need to be at the SSC meetings.

There are some really smart fishermen in this room, some high liners is what I call them, and I think that this council needs to involve them in the process. I mean once you all get your numbers, if they're bad numbers then your hands are tied. Magnuson-Stevens says you've got to end overfishing. If the scientists tell you it's overfished, then we're done. I can't tell you how many hard-working, smart watermen are out of business because of the standard answer, and that's best available science.

Well, everyday we're going out of business over the best available science. In my opinion it's not the best. It's far from the best. At any rate, you all are managers and I really respect and have a lot of admiration for all the time that you give up for the council, and you seem to be doing a great job of taking care of the fish, but the fisherman has got to come into the formula somewhere.

I know you've got to end overfishing, but I think somewhere in Magnuson it says you have to look at the economic impact of the actions you're taking. I think 17B is ridiculous. Anyway, I fish at Hatteras. I fish mostly over 40 fathoms. I know that this 17B is supposed to be taking care of the speckled hind and the warsaw.

In my last ten years I don't remember catching either one of them bottom fishing. You say, well, it's not going to affect you. Well, let me tell you tilefish is a big part of our fishery up there now, and you've already put regulations in place. You went from five per person for everybody on the boat – which if I did caught everybody on my boat, if I had a party of six, that would be 40 – to three per person to only my charter.

So, in essence, you've already dropped that limit by 50 percent. You know, I've gone to 40 to if I have a party of six now, I could catch 18. When the dolphin aren't biting and when the tunas aren't there, when the wahoos are somewhere else, let me tell you something, those 18 tilefish make the difference of my customers coming back the next year and probably not. We just need more input.

I don't know if you've done any studies on the release mortality of these two fish. Maybe you have; maybe you haven't. I would like somebody in this room – and this is a question – to tell me where the science is that says you need to stop snapper grouper fishing in Hatteras over 40 fathoms or from Hatteras north because we're killing speckled hinds and warsaws.

As far as separate quotas, I'm in agreement with Kelly and Jeff and some of the others. North Carolina has done a great job of keeping up with what is out there. I think if we're going to start slicing up the tide, then I want to make sure we get what we have worked so hard to document that we get our share. Thank you.

**MR. ODEN:** When Rom speaks of tilefish, he's speaking of gray tilefish. That needs to be clarified. I thank him for making that plain to me. That's a very important issue in our area especially when I see the golden tile fishermen may be exempted in Florida; because as the logbook data will clearly show in Dare County we can fish all day long and not catch one snowy grouper, one warsaw or one speckled hind.

Anytime you want to see it, all you've got to do is put somebody on the boat, and then we'll show you that. On that point, our fishery is clearly different in a lot of ways. As Kelly mentioned earlier, we have a sea bass line there, and I believe it's on the 35/10. I'm not quite sure of the lat/long guys – I mean, the TD guys and not lat/long. But, anyhow, that line on the north side of that, you hardly ever see more than two miles above that a B-liner.

On a very extreme occasion there has been a red snapper or two caught up there in the bass pot fishery, which is executed in the northern sector, and very rarely. One winter they were out there in the middle of the winter and they actually caught some, which kind of has some interesting implications when you consider that they had never been seen there before.

And here you are trying to say that, well, you know, I've always been told that – at least when I was with the ASMFC, they told me when something expanded their range they were actually doing better, and that may fall into the same implication of what you were trying to look at, a climate change or warmer waters moving fish further north; I don't know.

I'm probably sticking myself and our area in a bad position by even mentioning that, but the simple fact is the point I was trying to make is there is rarely, if ever, anything other than a deep water complex species above that line. To that point, it's a totally different fishery, and that's something that needs to be understood. Basically that line is where the South Atlantic fisheries as you know it ends. I'm talking about the snapper species.

So to that point, I know you all are talking about moving your jurisdiction northward. Maybe you should daggone rescind back to that line because we've clearly got a whole lot better data than you all do on our area, and you all don't seem to be too interested in coming up our way and figuring out what we do catch.

From what I was told a while back, I mean you all made the statement that 5 percent of what is caught in the South Atlantic on snowy grouper – I believe it was 90 percent of what was caught was five pounds and less. Well, the last year I did have the fishery, 3 percent of what I caught was five pounds and less, and that was called a small.

That's all I've got to say about it, but clearly the fishery is not your fishery. It is a totally different fishery and that line should be the Mid-Atlantic line. From there, you've got your hands full of what you're trying to do here without going into the Mid-Atlantic. Let's let them do their own jurisdictional issues and come up with their own plan.

The fishery out of Virginia and North Carolina, from that point north, it's a totally different fishery than the one you all want to paint us into. Virginia, I can't count the world records on snowies in the last couple of years. Every species up there, gray tilefish, they're having world records on those; and ours aren't too much smaller, I can tell you that, but you don't seem to want to hear it. To that point, that was my last point to make there and you all need to consider that. Thank you.

**MS. BINNS:** Good afternoon, Chairman Harris and council members. My name is Holly Binns and I manage the Pew Environment Group's campaign to end overfishing in the Southeast U.S.

Thank you for the opportunity to provide some comments today. We really appreciate the hard work that the council staff and the NMFS staff have put into finalizing Amendment 17B, which will put into place protection for nine species, including two species, warsaw grouper and speckled hind which are considered critically endangered by the respected International Union for Conservation of Nature.

Also, I wanted to thank the council for expanding the accountability measures for some species in this amendment. This is a necessary step toward restoring healthy fish populations in the South Atlantic Region, and we strongly urge the council to vote today to send this amendment to the Secretary of Commerce for approval and implementation. However, there are just a couple of issues in 17B that will need to be addressed in the Comprehensive ACL Amendment.

Specifically, an allowable biological catch control rule must be incorporated into the Comprehensive Amendment and applied to all species under your jurisdiction, including those covered by Amendment 17B. In addition, we believe that management uncertainty has been inadequately accounted for in this amendment as is required by law, and the Comprehensive ACL Amendment should address this uncertainty in a systematic way through the development of an annual catch target control rule.

I think these are measures that are really critical to ensuring healthy fish populations that can provide jobs and food and recreational opportunities for generations to come, and so we look forward to continuing to work with the council to develop measures to end overfishing. Thanks.

**MR. HARRIS:** Robert Freeman. That's all the comment cards that I have that say they want to speak. Kenny is holding his hand up. I've got Danny Juez that said maybe, so I will ask him to come up next and then I will call on you Kenny.

**MR. FREEMAN:** My dad once told me be careful about beating a dead horse; that you're not likely to get real good results other than bruised meat. My comments earlier about where some of the data was coming from, in my excitement and nervousness I left out a couple of points. One was the meeting in New Bern about a year ago, some questioning around the science, where do you start doing one of these scientific assessments?

I couldn't tell you what data they were going to use as a starting point, but they said we'll take that number and add 30 percent. Then we go to another level to further process this assessment of what supposedly is out there and we'll calculate that number and add another 30 percent, so that hopefully we'll be right. Well, that just doesn't quite get it for me.

The other comforting area that they were putting time into to gather data is a telephone survey. I said, okay, who are you calling? Well, it is a random household survey of people living in coastal areas. It's not like you're doing a public opinion poll where every household is going to have one.

How many hundreds of phone calls have you got to make to find somebody that went bottom fishing anywhere on the eastern coast? Sixty percent of my customers come from Virginia and northward; a high percentage of them around Washington, D.C. So it is not a local audience

you're canvassing to find out what is out there. So rather than keep beating this horse, I'd like for no action to be taken on 17B.

It is not justified by what is existing off of North Carolina in the bottom fishing area out there. I have not kept emphatic records of numbers and all that. I have in the past submitted data to the Department of Marine Fisheries, and it was not used and I quit sending it. We need a comprehensive effective way to monitor our catches and that stuff be put into some real numbers that you don't have to keep adding 30 percent at two or three levels to come up with a number that says, hey, this is what we think is out there. Get on some of these boats several times. You can't go out there on any one day and do a fishing trip. You won't kill them everyday.

My last two charters of this year, we went to a place – we couldn't get away from the grouper. We needed some silver snapper. The B-liners had already been shut down. We couldn't get away from the groupers. The next day we said, well, we won't go there. Well, we still got our limit of grouper and then we couldn't get away from the B-liners. Some areas, the dogfish eat us alive.

These are some examples of previous amendments managing the red porgy. They have taken over some of the areas that historically were grouper areas. The B-liners have taken over some of the wrecks that we used to be able to go get lots of grouper on. We aren't near as smart as fishermen or scientists in understanding what is going on out there.

I've got a few numbers that have been honeyholes over the years. Chris McCaffity was here earlier today. Chris started fishing with me over 20 years ago, and one of them was Chris' honeyhole. You could go there everyday and catch a boatload of snowy grouper. Today you go there, it's tilefish. All those grouper didn't get caught, but some of these species move in and out on these areas.

We just aren't being serviced correctly by the frequency that the testing is done off of here if that is where a high percentage of the confidence is coming from that says this is what we've got to do to save this fishery. This fishery needs to be saved by realistic data that all the fishermen can say, yes, you guys did a good job, you've put it all together, that's the best you could do. I haven't heard anybody get up here today and say we have that confidence. I thank you for your time.

**MR. FEX:** My name is Kenneth Fex. I'm fishing captain and owner of the Raw Bar. I'm on the advisory panel for snapper grouper. I would like to thank Mac for the opportunity during this week to interact with the council members during the sessions. I had to bite my tongue on your circle hook mandate. It's gone through several public scoping meetings. It's been fought and stood up against it.

My fishery up here don't need it. I've caught ten red snapper last year. I've probably caught 30,000 other fish, so for ten fish you're going to try to mandate that I change my gear type. I'm really not for that. I'm not for it neither because you really haven't analyzed any bycatch mortality of it; so if you're going to mandate a hook that is going to get away from bycatch

mortality, I think it ought to take away from some of these numbers that you guys are bringing up for us. Otherwise, I ain't going to support that at all.

I did go to your SEDAR assessment down in St. Pete, Florida, about the red grouper and black grouper. It does seem that our red grouper stock up here is separate from the South Florida stock, and that was noted by some of the scientists. That's why I think the trigger mechanism of the red grouper added to your total allowable catch of grouper, when you aggregate count of blacks, reds and gags, I don't think the reds should be included in there because they are separate stocks, and our stock might be different from South Florida.

Why I am down in St. Pete, Florida, that is my hometown. The last couple of years I've been going down there three times a year. I go talk to the fishermen at the dock and try to learn a little bit about this IFQ Program and the Catch Share Program. I am not for it at all. It only gives the vessel permit holders the allocations. It does nothing for the fishermen.

In my area there are probably 15 percent owner-operated vessels, so the only people that are going to be having the quota shares are going to be the vessel permit holders. The fishermen are going to lose out. I've seen it on the National Fishermen's Magazines and everything all about it, so I don't support the Catch Share Program at all.

While I am down there in St. Pete – I plan to go there two weeks from now – I'm going to talk again with them fishermen down there, but I'm also going to take a vested fisherman buyout idea down there to NOAA. I have talked with NOAA while I was down there during the stock assessment on the idea to work with Environmental Defense.

They keep talking about fleet reduction, and I see the reasoning behind it, but I don't want to regulate people out. I would like to buy them out, just buy the latent permits, get the effort out of there because what is going to happen is effort shift is going to start coming up this way because our area is not going to be closed, so that kind of worries me. I plan on checking into that.

In the handout I handed out, I have a letter that I wrote to my local paper about all the fisheries' management ideas that are going on. I support what you guys are doing. I'm not totally supporting all your regulations, but I understand that you are bound by the scientists and by your regulations and the Magnuson-Stevens Act.

I do support you guys in a lot of ways and I understand where you're coming from, and I feel the sincerity of all these fishermen behind me because I am a fisherman and I am going to lose out. I would like to thank you, though, for the opportunity to speak and a chance to be here. Thank you.

MR. HARRIS: Thank you, Kenny. That's all the cards that I have that indicate they wanted to speak. Is there anybody else that wants to address the council today? Okay, then I am going to adjourn the Committee of the Whole and turn it back to the Snapper Grouper Committee and recommend that we take a ten-minute break, Mr. Chairman.

(Whereupon, the Committee of the Whole was recessed at 4:15 o'clock p.m., and reconvened at 4:45 o'clock p.m. December 10, 2009.)

MR. CURRIN: We will reopen snapper grouper as a Committee of the Whole and continue with our agenda. All right, our next agenda item is Amendment 20, and Kate is going to take us through there as well.

MS. QUIGLEY: Okay, Amendment 20 has its own folder in the snapper grouper.

MR. CURRIN: Attachment 24 is the folder.

MS. QUIGLEY: And it's called "Snapper Grouper Amendment 20 Draft". If you scroll down to PDF Page 14, there is a listing of alternatives to be considered. At the last council meeting there were some changes to the alternatives, that we have an MSY, OFL and ABC alternatives, and there were a couple of changes that the council had made and we put into this document.

Then the intent was to have the SSC review them and provide any comments that they had on the MSY, OFL and ABC options. They didn't get around to that and they didn't have any additional data to base their comments on, so they did not take a look at this. These are the same as what we had talked about at the last council meeting, so I'll just go them one by one. Then the council had asked staff to develop some additional alternatives, and I did that in additional actions and alternatives and we can go through those.

Action 1, changes to the Wreckfish ITQ – Alternative 1, no action; Alternative 2, eliminate the current Wreckfish ITQ Program and replace with alternate effort-limiting criteria for participation; Alternative 3, eliminate the current program and do not replace it; and Preferred Alternative 4, modify the Wreckfish ITQ Program to keep the Wreckfish ITQ Program and update it to meet the new requirements of MSA.

We talked about how the new requirements don't apply to the Wreckfish Program because it was implemented prior to when the Reauthorized MSA was implemented, but we talked about how if major changes were made to the Wreckfish Program, then it would be required to meet the new requirements of MSA, so we went forward with developing actions and alternatives. Are there any comments or changes to the first action?

MR. GEIGER: Well, with the catch share policy having been announced today, obviously would we move forward utilizing the catch share policy as kind of our roadmap and would that then dictate major changes, or would we have to see what we come up with to determine whether it was major changes?

MS. QUIGLEY: I haven't read it yet so I'm not sure. I don't know yet.

MR. CURRIN: Any other questions or comments at this point about that first action? Rita.

MS. MERRITT: It's an old comment but I'm going to continue to say it. I can't see that it's reasonable to be changing an ITQ. We haven't had a stock assessment since probably 1990ish.

We haven't had a meeting with the shareholders yet, which is planned. We need to review the new catch shares information. There are just so many things to look at, I just find it unreasonable to be moving along this path and to be setting up major changes at this time. It's really just a comment.

MR. PHILLIPS: Okay, Rita, what you would suggest is that we read the new report and the new guidelines and talk to the fishermen and see where those two things meld together?

MS. MERRITT: And schedule an assessment before 2013, recognizing how crammed the SSC's schedule is. I know it may feel like it's unreasonable, but we've gone overfishing in years and neglected it. Why should we be moving forward on something we don't know where we are with it?

MR. CURRIN: Well, one part of that rationale is that we're required under Magnuson to review ITQ Programs within ten years. It hasn't been done so that's the one impetus for at least opening this thing up. If we're going to open it up, I think we ought to take as broad a look at it as possible. That doesn't require that we make any changes, but we are required in my mind, at least, to look at it and to review the program and decide if there are any changes that need to be made. Roy.

DR. CRABTREE: Well, the other thing, Rita, is we've got to put in place annual catch limits, and we've got to do that by 2011. In all likelihood they're going to be substantially below what the current TAC is, and that's going to affect the amount of fish that the few people who are fishing are allowed to catch. I think that's going to force us to redesign this thing.

MS. MERRITT: To that, Roy, isn't it true, though, that this ITQ Program does not require us to do that because it was prior to the requirement?

DR. CRABTREE: No, we have to have annual catch limits for all of our fisheries including this one. When you look at the MSY options in Action 2, the most recent landings have been 835,000 pounds. It is highly uncertain the status of the stock. The SSC is going to come in and apply some reduction from that for uncertainty.

We could easily be looking at an ACL of 600,000 pounds or so. I think right now – how much is it right now, 2 million pounds, and so that is going to dramatically reduce the amount of allocation everyone has, and that's going to force some real changes on the fishery if we don't make some modifications to it.

MS. MERRITT: I understand; I'm just really concerned that we haven't done a stock assessment. We just keep putting it off and putting it off. I'm just feeling neglected.

MR. CURRIN: Duly noted. All right, Kate.

MS. QUIGLEY: Okay, Action 2, wreckfish MSY options; Alternative 2, 1.946 million pounds. This is average landings from 1988 to 1994, which represent the years of high landings.

Alternative 3, MSY of 0.835 million pounds, and these are the average landings from 1988 to 2007, which is all the years of landings except for 2001 and 2003.

Monica and I have talked and we have talked about this in the committee about pursuing getting waivers from fishermen to sign, and that is still being worked on. Alternative 4, MSY implied by ABC Control Rule. We haven't gotten SSC input yet, so we're not able to move forward really with this action at this time. If there aren't any comments, I'll move on to Action 3.

MR. CURRIN: No comments; that's a reasonable range of alternatives. I think we've stated that before.

MS. QUIGLEY: Okay, Action 3, pretty simple. Alternative 2, F 30 percent SPR; Alternative 3, F 40 percent SPR; and Alternative 4, OFL implied by ABC Control Rule.

MR. CURRIN: Any questions or comments on that action?

MS. QUIGLEY: Okay, Action 4, wreckfish options; Alternative 2, 1.75 million pounds. That's 197,000 pounds than the MSY Alternative 2. Alternative 3, 1.5 million pounds. That almost 450,000 pounds less than MSY Alternative 2. Alternative 4, amount equal to that calculated with the use of ABC Control Rule.

MR. PHILLIPS: I thought the SSC set the ABC. Explain it to me; I missed something.

MR. CURRIN: Gregg, can you help us out with that?

MR. WAUGH: Yes, I was going to ask – and I'm sorry, just due to our workload, we haven't had a chance to go through this in great detail – are these the same alternatives that we had from before? Okay, and this is from June when we met with the SSC? Okay. Because, to me the MSY, there is no MSY that is implied by the ABC Control Rule nor the OFL, so we need to reword those to be an MSY that the SSC provides us basically for Alternative 4, and the same thing for Action 3 Alternative, it's OFL from the SSC. The OFL goes into their ABC Control Rule.

Then we pick with Action 4, when we get the wreckfish options, that Alternative 4 is correct where it equals that calculated by the use of the ABC Control Rule. If it's okay with all of you, we'll make those changes to the previous couple of actions.

DR. CRABTREE: So then, Gregg, we're going to end up with alternative ABC Control Rules and not just one; right?

MR. WAUGH: That's something for us to discuss. We had some just very preliminary discussions with Monica. The ABC Control Rule for SEDAR-assessed species is going to be pretty complex and the ABC Control Rule for the data-poor species is going to be pretty complex, and there is going to be a lot of time and effort that the SSC has put into that, and I'm just not sure that this is one where we have to come up with another alternative control rule.

The council has given levels of risk guidance, and they'll certainly have that. Maybe that's the part of the control rule that we look at some alternatives, but I think that's something we need to have some more discussion about because it's going to be very hard to explain one control rule to the public.

DR. CRABTREE: At some point we're going to have to make some decisions about levels of risk. We've given them a range, but we haven't made a decision, and it seems that is kind of inherent in these ABC Control Rules. I would agree with you that we need to talk about that.

MR. CURRIN: My impression, Roy, was that at some point when this ABC Control Rule was finished and they're working on a tiered process and have finished it basically for assessed species, that would come to the council for consideration of adoption. Then that would become the council's default ABC Control Rule and based on the emphasis and information about the various stocks would determine the ABC.

DR. CRABTREE: And I understand that. It's just difficult for me to see how we're going to be in a position where there is only one reasonable ABC Control Rule. It seems almost certain to me that there are going to be different ways to come at it. It's hard for me to say without seeing what they've got, but it doesn't seem likely to me that there is only one way to go with this, and this is a decision you have to make as the council and not a decision the SSC makes.

They advise on this but you choose the ABC Control Rule. You choose the risk of overfishing that is allowable. I do agree with Gregg, this is something we're going to need to look at more carefully because I need to have a better understanding of exactly what the SSC is coming to us and recommending.

MR. HARTIG: Well, I know Erik is here.

MR. CARMICHAEL: It's probably not fair to have Erik come up and try and speak on behalf of the SSC, but it's better for me to come and do it. They've actually done their ABC Control Rule and approved the proposed control rule for you consider, which they approved in June, and copies have gone around to the council, I'm fairly certain.

The thought is that will be taken up by the council as part of the Comprehensive ACL Amendment. It is based on MSY as was discussed and then decrementing from MSY by a buffer, which for assessed stocks becomes a probability of overfishing buffer. Their intended discussion for this week, which they didn't get to was how to equate that buffer to an adjustment in landings when you only have landings.

Recognizing that they're still grappling with getting the MSY level based on landings alone, as are most of the SSCs, waiting for some additional guidance which may or may not become available in time through the National Standards Guidelines and such about just sort of what are acceptable ways of getting to MSY when all you have landings.

In the case of wreckfish and these other species, the SSC discussed this week that they intend to take those up when they meet in April, when they talk about how it is they would go from

landings, which is really they have an assessment but it is quite a few years ago, and it hasn't been through SEDAR, and there are questions raised about, in the case of wreckfish, at least, whether or not it's a unit stock that was assessed and whether or not our fishermen operate on what is arguably a unit stock.

So there are questions there, so it will be another species where they're very likely looking at landings. And the hope then now we've discussed at the SSC having a webinar in January so we can talk about the process that we didn't get to talk about at this meeting, so to continue this meeting's discussions.

Then in April they really intend to be in a position to give you the ABCs that would come out of their control rule. There are going to be alternatives for control rules. Obviously, we'll talk about that through the Comprehensive Amendment. If there are other specifics, sure, throw them out here and we'll try to answer them.

MR. CURRIN: Any other questions for John or comments? Roy.

DR. CRABTREE: Well, it just sounds like to me what we're going to have to do is we can get their recommendations and look at the control rule, but the key here is going to be we're going to have to provide different alternatives in terms of the amount of risk of overfishing that we would accept. Then for the unassessed stocks, I don't think we can do that, but there is going to be some reductions on buffer. We're going have to figure out how to handle that.

It does sound like to me there will need to be different alternatives based on the levels of risk, and then maybe you apply different levels of risk, apply it to the control rule and you can then see what the consequences of those different choices are in terms of what the actual ABC would come out. It may be that those levels of risk you're going to choose – I think what the SSC is recommending is different levels of risk for each species. I mean, it's not a level of risk; it's species specific, which means we're going to need to go through that exercise for each species, I suppose.

MR. CARMICHAEL: I think talking about the levels of risk is a good way to get into it. What the control does is it's built from a starting point of risk of 50 percent chance of overfishing occurring, and then there are four different levels with each a maximum adjustment of 10 percent, so then it gives you a range of overfishing based on how the decisions are made within each level and then it will relate to the stock status, the quality of the data, how well the assessment dealt with uncertainty.

Then it goes between a zero to a 40 percent reduction so your probability of overfishing occurring for each individual stock can then range from 10 to 50 percent. Obviously, one thing the SSC discussed was the starting point. Perhaps the council is not comfortable with any stock having an ABC that in the best case would have a 50 percent chance of overfishing occurring. I think we can work within that.

Then there is nothing that is absolute about the range being 40 points. Perhaps the council wants a wider range and the scoring within level could be adjusted to get a little bit different look at risk. I think there is some flexibility there within this framework to develop a number of options.  
MR. CURRIN: Anything else? Ben.

MR. HARTIG: Just one question; we're talking about those four steps where you go down 10 percent; that's just the chance of overfishing, correct; that's not you're going to reduce it 10 percent at each step? Okay.

MR. CARMICHAEL: That's exactly right. In the case where you have a probability of overfishing occurring, the buffer values, which the ten is the buffer value at each place, the buffer value equates to how you adjust the overall probability of overfishing. The council had given advice back in I think September of '08 stating like 10 to 40, perhaps, with a midpoint of 25, so this works out pretty close within that range.

Across the 15 stocks that we looked at, I think the average was 27.8. It was very close to the 25, so in that case they do relate to a probability of overfishing, which then how that affects poundage, of course, relates back to all the assessment outcomes. Now in the case of a fishery with only landings, it may very well end up that it relates to a reduction in the average landings.

But, again, there are issues that have been thrown out and ideas have been thrown out about things like 75 percent reductions as a default. You know, we have the question of what is the time series over which you get landings; do you use some high point in the landings; do you use a low point in the landings; do you use an average versus a percentile. Those are all the things that they'll need to talk about between now and April to try to get in place to make that, so in those cases it could actually be each step is an actual percentage reduction in landings, but it was just summed up.

MR. CURRIN: John, since we're on this topic – and I had planned to bring it up during the Comprehensive ACL discussion, but since we're here has there been any consideration, when you're looking at landings, in looking at a trend, whether the landings are trending down, trending up or trending flat? I guess in a simplistic way I was thinking, well, the slope of that regression line might be a scaling factor and give you some indication of what the stock has been doing over the last few years that would vary in how you dealt with it. So, a very simplistic way.

MR. CARMICHAEL: We haven't quite got that far. I know that is certainly something that could be looked at, and we're sort of at the point of just trying to get the landings. I think the expectation of the SSC was that an exercise like that would probably be what would be considered in calculating MSY from landings that they requested of the Science Center, which we got the response about what the Science Center thinks would take to do that.

I think part of the reason it would take time and effort is to look into those sorts of things. I think one of the concerns, of course, is once you go down that path you've got to start considering, well, are the landings going down because of regulations, are they going down because of the stock, so then it opens up a whole lot of things you'll have to consider. It won't be easy.

MR. CURRIN: It's nothing simple. All right, any other questions of John regarding the ABC Control Rule at this point? Ben.

MR. HARTIG: Yes, to that point, you're actually going to have to bring some fishermen in when you start looking at some of the landings, especially for species like Spanish mackerel where we have actual fish houses that are actually instituting trip limits, and then we have days that we can't even go fishing for a number of days, which are decreasing the landings' figure. So some of this you're going to have to come to us and say what is going on to get our input in some of that.

MR. CURRIN: All right, if there are no other questions, we'll move on.

MS. QUIGLEY: Okay, Action 5, wreckfish allocation options, this was a new action put in back in September. Alternative 1 would be the no action alternative, but I don't have that in here. What I've got is Alternative 1, 90 percent commercial and 10 percent recreational; Alternative 2, 95 percent commercial and 5 percent recreational; and Alternative 3, 100 percent commercial and zero percent recreational.

MR. CURRIN: Yes, I guess, Kate, Alternative 3 actually is no action on that one.

MS. QUIGLEY: Right, I'll switch that around.

MR. CURRIN: Any questions about this action? Keep in mind I know there is opposition in the industry to any recreational allocation or use of this resource, but these things are showing up off of Virginia as well, as I understand, in that same snowy grouper, tilefish fishery, and the guys up our way off of Hatteras are starting to see a few on occasion as well; sometimes more than a few. Rita.

MS. MERRITT: The latest update is they're showing up and being caught and landed down in the Keys as well.

MR. CURRIN: Bahamas, Portugal, all over the place. All right, is everybody okay with these alternatives as a range? All right.

MS. QUIGLEY: Then if you recall at the September meeting some new actions were chosen by the council, but you asked staff to develop some alternatives, so that's what was done. Up on the board you see – I'm looking at PDT Page 16 – Action 6, redistribution of unused quota share. Alternative 1, no action; Alternative 2, redistribute shares belonging to deceased quota shareholders; Alternative 3, redistribute shares belonging to shareholders that are not able to be contacted for two years; Alternative 4, redistribute shares belonging to shareholders with significant violations on their record, to be determined by the council what "significant" means.

MS. SMIT-BRUNELLO: Do you mean fisheries violations?

MS. QUIGLEY: That is what I meant, yes.

MS. SMIT-BRUNELLO: I knew that's what you meant.

MR. PHILLIPS: Well, if they had significant violations; wouldn't they be subject to losing their snapper grouper or do they have to still have a snapper grouper to catch wreckfish?

MS. QUIGLEY: They do need a snapper grouper permit to catch wreckfish, yes, they do. I'm not sure what the regulations say with regards to when you lose your permit.

MR. PHILLIPS: Well, I guess my point is that we would let law enforcement or the NOAA Law Enforcement – if they lost their permit, then it just goes back instead of us deciding what "significant" was. If they lose their snapper grouper, then they lose their shares.

MS. SMIT-BRUNELLO: I'll look into this further because there are a number of things that can happen when you get a violation. You can get just money, you can get a permit sanction on top of it, you can get your catch taken away if there is any. I know, depending on the violation, that equates to a certain amount of time for permit sanctions. There is a lot to go in here so I'll look into this further.

MR. PHILLIPS: I was not going to belabor this. I would rather you looked at it and decide what is significant and what the penalties would be rather than us doing it.

MR. CURRIN: Well, they may or may not do that but they can at least tell us what's on the books now. I had one question regarding Alternative 2. I take it because that's there that these shares cannot be passed down through an estate. I know they can be sold before people die, but if people die and they're still holding their shares, they can't pass along as property in someone's estate; is that the case?

MS. SMIT-BRUNELLO: I'm not so sure that is the case.

MR. CURRIN: Okay, we certainly need to look into that.

MS. SMIT-BRUNELLO: We will look into that, too, and it probably depends on the law of the state that the person lived in or they died in or wherever their estate resides.

MR. BOYLES: Kate, in Action 6; these are not intended to be exclusive alternatives, so it would probably be better to characterize them as subalternatives under each action, and they could be cumulative or we could select a combination?

MS. QUIGLEY: Yes, I'll put a note in there that says that the council can choose more than one action.

MR. CURRIN: Anyone think of any others that strike you as needing to be included? All right, the next action is cost recovery fees.

MS. QUIGLEY: Does anyone want to make a motion to make this an actual action instead of alternatives or perhaps I can go through all of these and then you could make a blanket motion.

Okay, cost recovery fees is the next action, Action 7. Alternative 1, no action; Alternative 2, implement a cost recovery fee based on a percentage, 3 percent or less of X-vessel value, that pays for costs associated with the administration and enforcement of the Wreckfish IFQ Program over and above traditional management of the Wreckfish Fishery. IFQ dealers will be responsible for fee collection and submission on a quarterly basis. That was borrowed I believe from one of the Gulf documents.

And then Alternative 3, implement a cost recovery fee based on a percentage, 3 percent or less of X-vessel value, that pays for costs associated with the administration and enforcement of the Wreckfish IFQ Program over and above current management of the Wreckfish Fishery under an IFQ. It is assumed that revision of the Wreckfish IFQ Program will be no more expensive than current management if IFQ dealers will be responsible for fee collection and submission on a quarterly basis.

MR. BOYLES: Kate, that last one you say would be no more expensive or would be more expensive?

MS. QUIGLEY: Let me try to figure that out; one moment.

MR. BOYLES: You said one thing and wrote another.

MS. QUIGLEY: Okay, I mean what I wrote.

MR. GEIGER: Yes, it will certainly be more expensive because we collect no fees now, so it's certainly going to be more expensive.

MS. QUIGLEY: Yes, I'm trying to figure out what it is that I was trying to get at there.

MR. CURRIN: Okay, everybody is straight on the – is everybody okay with those alternatives?

MR. STEELE: Well, there are a number of alternatives in most of the IFQ Programs in the Gulf of Mexico that I think we could add to this. I could work with Kate on it, but it seems to me that they're kind of redundant and really all you need to do is implement a cost recovery fee associated with administration and enforcement of the Wreckfish Program, period.

MR. HARRIS: Mr. Chairman, so you'd only have the no action or that action?

MR. STEELE: Well, like I said there are a number of other alternatives you could put in there, whether the dealer collects it, whether the fisherman does it. There are a bunch of other ones, but the whole concept of this thing, you just need to recover the cost recovery fees associated with the program.

MR. CURRIN: Yes, that makes sense. That's a good idea to just have the no action, a recovery fee and within the recovery fee a series of alternatives about how to collect it or how they vary.

DR. CRABTREE: Yes, because just looking at it, it's not exactly clear to me what the difference between Alternative 2 and 3 is.

MS. QUIGLEY: I'm still trying to figure that out. I think I miswrote something so I'll work on that.

MR. CURRIN: We can look at the alternatives that have come out of the Gulf and perhaps use some of those if they look reasonable. Bob.

MR. MAHOOD: Mac, maybe I'm just dreaming this or maybe it happened so long ago in this process that I forgot what we did with it, but it seems like at one time that we talked about the fact that only two to three vessels were harvesting. If you charged them 3 percent of their landings, you're not going to have enough to pay Roy's cab fare back and forth to work. At one time didn't we talk about a provision that would tax the coupon holdings or the quota holdings? If we did, what happened to that; was that deemed not to be legal?

DR. CRABTREE: We'll have to find the wording in the statute, but I think the language in the statute is that it's based on landings, so I don't think you can recover cost recovery on fish that aren't landed. It has to be on landings.

MR. CURRIN: Well, we'll take a look at what has come out of the Gulf or been developed in the Gulf and incorporate some of those.

MS. QUIGLEY: Okay, Action 8, VMS – Alternative 1, no action; Alternative 2, require all vessels with a wreckfish permit to carry an operational VMS unit.

DR. CRABTREE: And I'm assuming that what we're going to do here is that the fishermen are going to be required to pay for the VMS, the installation charge and the monthly maintenance fees. Then subject to availability of funds, they will be able to apply for reimbursement for the cost of the VMS unit through the NMFS Reimbursement Fund. That would be my intent with this.

MR. CURRIN: I think that's how we've handled it before. There seems to have always been some money when we've done this.

DR. CRABTREE: And I think, Mac, there is still some money, but I don't know if the new budget – apparently we have a budget now, but I have no idea if it contains funds for VMS units or not. I haven't had a chance to look at it.

MR. CURRIN: And, certainly, no guarantees on that. I guess we could conceivably pay for it through the cost recovery fees, too, and just let them buy them on time.

DR. CRABTREE: I don't know about that. I don't think you can do it that way.

MS. QUIGLEY: Okay, Action 9, overage or borrowing allowance – Alternative 2, allow wreckfish shareholders to annually land wreckfish in excess of annual pounds owned in the

amount of 2 percent of pounds associated with shares owned and have that amount taken off of next year's annual pounds' allocation. Then Alternative 3, the same wording, but 5 percent.

MR. CURRIN: Questions or comments. Are those values usual or normal, Kate, to the best of your knowledge in fisheries where they are allowed to –

MS. QUIGLEY: They were arbitrarily chosen but they're within the range that British Columbia and other places that I've seen used. This is not used in the same way, though, as in the Gulf.

MR. STEELE: Well, a suggestion also that may go with this, Mr. Chairman, is that this could come back a little bit and kind of bite you later on depending on what is happening with TAC. One thing that you might want to consider is what we've done in two programs in the Gulf is that we allow them to go over X amount on their last trip.

Say if they have a hundred pounds left on their last trip, they can actually land 110 pounds – this is for law enforcement and so forth – and that will come off near year. That may be something else that the council may want to consider instead of just at five or ten pounds annually. If everybody went over five or ten pounds annually of their total amount, that could really influence the TAC for the following the year. You might want to think about that, also, just on their last trip.

MR. CURRIN: Yes, in this fishery it could be as high as 15 and maybe 20 percent.

MR. STEELE: Absolutely.

MR. CURRIN: If everybody went over. Yes, that seems like a reasonable approach, some percentage or range of percentages on their last trip. Everybody okay with those?

MS. QUIGLEY: And then there is Action 10, resource rent extraction, and I believe in articles distributed either for the Snapper Grouper Committee or the SSC it talked about resource rent and what that is. This is something we talked about at the last committee meeting. Resource rent is the amount of profit taken by a fishing vessel that is over and above normal returns.

What they mean by “normal returns” is first you cover your costs and you pay the skipper and you pay the owner of the boat so there is a little bit of profit there. Resource rent is over and above that, so some people think that resource rent belongs to the public and therefore that resource rent should be extracted in IFQ fisheries. There is some language about this as well in the wreckfish review, and I'll show that in just a little while.

What I've written up is Alternative 2, hold an annual auction, which is the typical way of extracting resource rent, of portions of the TAC to fishermen with a wreckfish permit. Alternative 3, hold an auction every five years; Alternative 4, hold an auction every ten years; and Alternative 5 is set the tax on shareholders equal to an estimation of “super profits, profits that exceed normal profits made in the fishery”.

All this language is based on this article that was distributed. If you take a look at Attachment 25, this is the wreckfish review that you've seen a number of different times; and PDF Page 17 of that document, at the bottom of the page there is a discussion about resource rent and definition of resource rent and how that is sometimes applied to IFQ fisheries, typically through an auction but sometimes through a tax..

MR. GEIGER: Mr. Chairman, I guess right off the bat we need to readjust our thinking in terms of verbiage. Resource rent extraction, in the new catch shares draft they talk about royalties, so these are now royalties that we're discussing. It also goes on in that section in the draft policy and, of course, the draft policy is a draft, that those funds are put into an account and sequestered for use for monitoring, new entrants, research and sustaining fishing communities associated with wreckfish, where the species that royalties are collected.

MR. CURRIN: Certainly, this is a very new idea for the South Atlantic or perhaps for fisheries in general, but it is not a novel idea regarding the use of commonly held public trust resources in the United States. There are a number of examples in forestry and the oil and gas industry and all of that. It's a very interesting paper if you haven't taken the time to read it that Kate has sent around. Other comments on this action?

MR. PHILLIPS: Okay, I'm trying to envision an auction. I see a number of ways that it happens, but if you do a new catch share, then all your old histories and your old catch shares are gone. Everybody with a permit, whether you had a 0.1 percent share or a 2 percent share, you're on equal footing to bid for whatever allocation. I'm just curious if that's the way it would work.

MR. CURRIN: Yes, I guess it could be structured any way that you wanted to, with delays and not having all the shares available and portions of the shares – I don't know – and you can put limits on the proportion of shares that people can buy so that Big Daddy Warbucks doesn't come in and buy the whole IFQ shares when it's up for sale. Other comments on this action?

MR. STEELE: Well, I don't know how the council feels about this, Mr. Chairman, but there are provisions in Magnuson where back to the cost recovery program that 25 percent of the cost recovery program can be used as a set-aside to allow new entries into the fishery. I don't know if the council is considering something like that, but it seems this would also be a place, too, where some of this resource rent could be extracted to allow provisions for young fishermen to come into the fishery; so either this or in cost recovery could be a provision to allow that.

MR. STEELE: Phil, tell me how that works. You said up to 25 percent of the cost recovery; would that amount of money then be used to purchase shares at an auction or something that then could be sold to new entrants?

MR. GEIGER: And is that 20 percent of the 3 percent cost recovery?

MR. STEELE: It's 25 percent of the 3 percent, which is kind of going to be like four dollars. I don't remember exactly all the language of the provisions in the Magnuson to allow that. The Gulf Council elected not to do that, but the language is in Magnuson. If you're concerned about

providing for new, younger fishermen to come into the fishery, this is one way you could do it. We could check on the details and let you know.

MR. CURRIN: Okay, that's worth doing because over time it might be meaningful. Tom.

MR. SWATZEL: I guess I'm just confused. I thought that you could obviously charge for cost recovery, but I didn't think federal law allowed you to charge rent or royalties concerning fisheries; is that correct?

DR. CRABTREE: No, it does allow you to have options and do these types of things.

MR. CURRIN: Other comments on this action? Are we okay with this? All right.

MS. QUIGLEY: All right, Action 11, sunset provision applied to share ownership specifically – Alternative 2, redefine wreckfish shares so that they expire every five years with the start date upon implementation of this amendment. The council will determine if the share owner is reissued the shares for another five years after the time has expired. Alternative 3, redefine wreckfish shares so that they expire every five years with the start upon implementation of this amendment. An auction will be used to determine the next owner.

MR. CURRIN: Questions of comments about this action? David.

MR. CUPKA: Kate, would it be possible for someone – it would be possible for someone to get a share maybe a couple of years after everybody else got it, so what we're saying is every five-year period and not every five years for each permit holder. That would allow it to have all be staggered and you wouldn't be able to have an auction or whatever. Is that the intent?

MS. QUIGLEY: I haven't thought that much about it, but it was basically a redistribution every five years, a potential redistribution under Alternative 2, and potential but more likely redistribution under Alternative 3.

DR. CRABTREE: It seems to me this action really ought to be tied in with the previous one. I mean if you're going to auction them off every five years, then clearly they must sunset every five years; and they're going to sunset every five years, you've got to do something to figure out how you give them back out. Aren't they sort of tied together?

MS. QUIGLEY: Yes, I had a hard time trying to figure out – I mean these actions were all part of the list of options that could be done, and then the council chose all these different actions. I tried to combine the ones that I could, but, yes, if you wanted to combine them, then that could be done.

MR. CURRIN: I think we ought to try that. That was a good catch, Roy, because they are very similar at least with the annual five-year or ten-year auctions. It may not work, Kate, but we can see if that will help.

MS. QUIGLEY: Then we've got Action 12, reallocation of wreckfish to non-ITQ shareholders. Now, this also could be tied in with the previous two. Alternative 2, set aside 5 percent of the

wreckfish TAC each year to be auctioned off to snapper grouper commercial permit holders that do not possess the wreckfish permit and wreckfish shares. Alternative 3, set aside 10 percent, the same wording, of the wreckfish TAC each year to be auctioned off to snapper grouper commercial permit holders that do not possess a permit and shares.

Alternative 4, implement a use-or-lose provision and set the annual pounds needed to be used every two years or they are forfeited to be sold at auction to anyone holding a wreckfish permit. Alternative 5, implement a use-or-lose provision and set the annual pounds needed to be used every five years or they will be forfeited and sold at auction. That is the last action.

MR. CURRIN: Comments or questions about Action 12? This does provide a mechanism for holders of snapper grouper permits to obtain wreckfish shares through auctions. That requires a lot of planning, I guess. My desire I guess would be that it could be a little more spur-of-the-moment so that the guys that encountered them had some way to purchase some shares perhaps after the fact to allow a legal landing of fish that were in their possession. Maybe they know enough about where they fish and the like that they can plan to have some just in case, that kind of thing; I don't know. Roy.

DR. CRABTREE: Right now, as I understand it, the shares can only be exchanged among the initial shareholders. Do we have anything in here that undoes that and allows purchase of shares by anyone with a snapper grouper permit?

MS. QUIGLEY: No.

**DR. CRABTREE: I would like to move that – it seems like it could fit in here, but I move that we add an alternative that would allow the transfer of shares among anyone with a snapper grouper permit.**

MR. CURRIN: I think that's a good idea; is there a second? Seconded by Charlie. Discussion. George, you've got a question?

MR. GEIGER: In Action 12 we have a reallocation of wreckfish to non-ITQ shareholders.

DR. CRABTREE: And that's what this would allow. It would mean if I'm a shareholder in the fishery now, someone can buy me out and buy my shares and in that way the allocation is reallocated to someone else, but instead of us auctioning it, it is determined by whatever the market bears.

MR. GEIGER: Well, back in the beginning isn't there an action for transferability? We've covered that.

DR. CRABTREE: Well, that's what I asked and was told no.

MS. QUIGLEY: No, I don't think there is. There is something that talks about a reallocation of shares belonging to deceased shareholders.

DR. CRABTREE: I just don't support keeping this a closed group of people, it seems to me, and then it gets to kind of what Mac was talking about. If people are out there and they're encountering wreckfish, it seems to me anyone in that commercial fishery ought to have the option of buying shares from someone else.

DR. CURRIN: Well, another way to approach it, Roy, is for him to not only sell the shares permanently but it's providing some mechanism that coupons – the way this is set up now the guys have coupons, so the sale of coupons to someone with a snapper grouper permit, with a temporary transfer.

**DR. CRABTREE: Well, I would amend my motion to say “transfer wreckfish shares or allocation”.**

MR. SWATZEL: When you start talking about auctioning the shares off and it may be the highest and best use; why would you want to restrict them commercially? I mean what if on the recreational side somebody wanted to go in and buy shares and use them recreationally; what difference would it make to us?

MR. CURRIN: That's a good question. George.

MR. GEIGER: I agree with Roy that we should have an alternative that would allow transfer of wreckfish shares. I also agree with Tom that I don't think we should restrict it. We're talking about opening this up and giving anybody an opportunity. I don't think it should be constrained to somebody with a snapper grouper permit.

MR. CURRIN: Well, we've got an action in the amendment right now that would provide some allocation to the recreational community. If they want to buy them from somebody else, I guess they could buy them and then not sell them.

MR. GEIGER: With this you'd have to have a snapper grouper permit. There is an allocation but that's minimally to cover bycatch associated with people who encounter these species and are not directly fishing on them. Your allocation is so low that it's just going to be a bycatch fishery for the recreational sector so they don't have to discard these animals dead. If in fact somebody in the recreational sector wants to buy allocation, why should they be prohibited from doing so? Well, that motion up there says you have to have a snapper grouper permit to be able to do that.

MR. CURRIN: I guess we could put in a series of alternatives that included not only that; or if you wanted it in one, that's fine. This is Roy's motion, so let's craft that –

DR. CRABTREE: I would be fine to broaden that some to ask staff to develop a series of alternatives that would allow transfer of wreckfish shares or allocation without specifying to whom.

MR. CURRIN: Is there a second to Roy's motion?

MR. GEIGER: Second.

MR. CURRIN: Seconded by George. Discussion. David.

MR. CUPKA: Mr. Chairman, I'm still thinking about this. This was kind of what I was getting at before. I think this would allow you to do that, but if we get in a situation, Roy, where we're looking at extracting rent or something from that, where these permits are good for a period of X number of years and then everybody has to get in the auction again, I could see a situation where somebody may buy shares from somebody and then next year they lose it because – I mean how would you handle something like that.

DR. CRABTREE: I would think the values of the shares would decline over the five-year period; and so if you're in the final year of them, the shares would be worth no more than leasing the coupons for that year would be. I would think whoever is purchasing these would make sure that they understand what they're buying. So if you're buying the right allocation that has got five more years, then that is going to be worth a lot more than if it has only got a year left.

MR. PHILLIPS: Mr. Chairman, if I remember how it works when I was in this fishery, you could sell shares to anybody with a snapper grouper at any time, and you could rent your coupons to anybody that had shares, but what would be different with this is if you, say, wanted to sell your coupons or lease them for a year to somebody that did not have a share but just had a snapper grouper or you could lease your shares to somebody in the recreational sector so they could have a bycatch, but they didn't necessarily have to have a share.

To have a share of the fishery that you were allocated every year, you had to have a snapper grouper, but I think what Roy is getting to is how to spread it out. Somebody without a share could actually lease coupons and not have to buy the share or a recreational person could lease some coupons. They're not going to want much, I don't think, but I think that's kind of where you're wanting to go.

MR. CURRIN: I think so. To that point, Roy.

DR. CRABTREE: Yes, it is where I'm wanting to go. The other part of this, it's not clear to me why we need a wreckfish permit. Maybe we do, but I would like that to be looked at. Now, on the idea of a recreational fisherman being able to buy or lease shares, that I think is going to run into a great deal of difficulties because I'm not sure how – you know, how are they going to go to a dealer and then report their landings and pay cost recovery? I don't know how that would work. Maybe you guys can figure something out and maybe there is a way to do it, but there are a lot of complications on trying to do it there.

MR. BOYLES: Mr. Chairman, at the risk of reopening another can of worms, back when we were having discussions among the Allocation Committee, at the time we had extensive discussions about in essence non-use of a portion of the resource. I'm just curious if there is any interest among the council that we allow for transfer of a portion of the wreckfish fishery to the recreational community or to whomever.

DR. CRABTREE: To me if you want to set aside for conservation purposes, then lower the amount of shares you're going to have to begin with and lower the quotas. Now, I don't have any objection to figuring out a way to allow the recreational fishermen to buy this stuff. It's just you've got to figure out how you're going to account for it and track and handle all these other things. That's difficult for recreational fishermen, but maybe you can come up with some provision to do that. But I think if conservation is your goal, that's where specifying optimum yield and what the catch levels are going to be comes in to me.

MR. MAHOOD: I think this is a question for Phil. Phil, do they still print up all the coupons every year and distribute them to people that haven't been using them for ten or twelve years?

MR. STEELE: Yes.

DR. CRABTREE: The goal here is we're not going to do that anymore. This is going to become an electronic program, and it's going to be online and all of these coupons and all that are going to go away.

MR. GEIGER: All right, first off, Roy talked about cost recovery and it's royalties, and the royalties are based on profit made off of a public resource. Recompense –

MR. CURRIN: There is nothing in this motion about that, I don't think.

MR. GEIGER: Well, I'm talking about what he verbalized, and currently the recreational sector is prohibited from possessing for wreckfish. I've asked Kim to ensure that is correct in our regulation, but as we move forward here – I mean that's why we talked about getting an allocation for the recreational sector because right now the recreational sector is encountering these animals all the way down into the Keys, as Rita noted, and they have to throw them back dead for the most part.

We wanted to have enough in terms of an allocation for there to be a bycatch fishery to allow people who encounter them – at least people who encounter them to land one without throwing it back dead. That was the purpose of the allocation.

MR. CURRIN: We've got that option in there; it's an action that's already in there for a percentage allocation to the recreational community to cover bycatch.

MR. SWATZEL: I could see the possibility of a for-hire fishery perhaps developing with wreckfish where you have already federal permits existing in the for-hire and you have a means of tracking catch to a certain extent that could be used in the wreckfish fishery; so just a consideration that at least for-hire permits are certainly an option in terms of a buyer for these – or at least a renter of these shares.

MR. CURRIN: And I think that would be allowed under this motion. Anything else on this motion? Monica.

MS. SMIT-BRUNELLO: Just as a point of clarification – and I’ll work with staff, too, on this – I think the wreckfish shares are a little bit more transferable than you think. It’s not just to the existing 25 or whatever shareholders. When I looked back at the plan, the council’s idea is that these would be freely transferable. Now, to possess a wreckfish you have to be a wreckfish shareholder and you have to have a wreckfish permit. You can get those things; you can purchase it from someone. And you need coupons, and that’s only transferable between the shareholders, so I think it’s a little bit more transferable than we thought.

MR. CURRIN: Yes, but it requires somebody willing to sell a share, and that apparently has been an extremely difficult thing for anyone to get that’s not currently a wreckfish permit holder, from people I’ve talked to, anyway.

MR. MAHOOD: When this was initially discussed, you only had to buy one-tenth of a share from somebody to be eligible to get the coupon. I remember that discussion. It wasn’t meant to be a big impediment, but this fishery hasn’t operated at all as we envisioned when this was set up, so it’s certainly due for a revamp.

DR. CRABTREE: And the intent of my motion is just for staff to develop a suite of alternatives to try and open this thing up so the shares end up and the allocation can end up to the people who want it the most. There is no specific direction here, just come up with some ideas of a way to open this thing up.

MR. CURRIN: That’s right, so we’re not making any decisions about anything but whether we’re going to look at this or not. Anybody else got anything else to say before we vote? The motion is to add a series of alternatives that would allow transfer or wreckfish shares or allocations. Any objection to the motion? I see none so that motion is approved. Now we’ve got Actions 7 through 12 that we have talked about that have not been in the document before. Duane.

**MR. HARRIS: Mr. Chairman, I think it’s actually Actions 6 through 12, and I would move that we include Actions 6 through 12 in Amendment 20 and the associated alternatives as discussed here today for each action.**

**MR. CURRIN: Okay, motion by Duane; seconded by David. Discussion on the motion. Any objection to the motion? I see none; that motion is approved. Brian.**

DR. CHEUVRONT: Kate, I wanted to find out if there has been any discussion of alternatives regarding maximum allowable allocation by any one shareholder? I know that has been an issue in some ITQ Programs to avoid monopolies and things like that, and that has been a concern of some fishery participants in the past.

MS. QUIGLEY: The plan was to do a presentation in March; that Mike Travis, an economist at the Southeast Region, and myself would do a presentation in March on what the guidance says with regards to what this was called in the past, at least excessive shares, and to identify what excessive shares might be in this fishery.

However, I have talked with Mike recently and it looks like there is some work being done for the Surf Clam and Ocean Quahog Fishery with regards to excessive shares and discussions taking place and reports being written.

We think that it would perhaps be best if we wait until those reports come out and take a look at what they say and use some of that guidance in our presentation and what you can use to identify excessive shares here. Instead what we would like to ask is that we put that presentation off until at least June to see what comes out of that, but that is the intent is that would be done.

DR. CHEUVRONT: And related to that, I'm fine with that, I just want to make sure that this is an issue that gets discussed in designing this ITQ Program and it doesn't get lost somewhere else while we're developing it, and I will be happy. I just want to make sure that we were not avoiding it

DR. CRABTREE: Yes, that was what I was going to bring up because it is a requirement of the Act. We will have to put a provision in here that addresses excessive shares and it prevents any one entity from accumulating excessive shares, so I would think there will have to be an Action 13 in here that addresses that.

MR. CURRIN: Anything else on Amendment 20? Gregg.

MR. WAUGH: Mr. Chairman, what about some guidance to staff. We're likely to get an ABC that won't support the two individuals that are currently fishing. Do you want to give us some guidance on a fallback position such that we – I mean the amount of work in developing this amendment as you all have laid out is a huge task, and I'm just thinking ahead to our other amendments and the timeline.

I guess if we want it before the 2011 fishing year, I can't remember if we have some requirement in wreckfish to have any quota adjustments prior to the start of that fishing year, but just thinking ahead to mid-2011 to have this implemented; if indeed the SSC recommendation is an ABC that's very low, do you want to give us some guidance on how to proceed or just wait until we get the SSC's recommendation. I'm just concerned about the staff workload and direction.

DR. CRABTREE: You might want to put an alternative here to withdraw the IFQ Program and do something else if the catch levels are going to be so low that it's just not practical or it doesn't make sense from an administrative burden point of view to have the program. If they came in with something extraordinarily low, I'm not sure having an IFQ Program, for example, to manage 50,000 pounds of fish makes sense from an administrative burden point of view.

I suppose it's conceivable that it could work that way, but I don't know where that boundary would be, though, that you would decide that this program just doesn't make sense anymore. I think I'd prefer to cross that bridge when we get there. I'm not sure what else we do. If revamping this program takes longer than we have and we have to go ahead and put the ACLs in place, I think that is going to cause a hardship on the participants in the fishery, but I'm not sure how to go about fixing that without changing the program. I don't have a good solution for that.

MR. MAHOOD: It could come down to that lower level, but even it dropped to a million pounds it would severely affect the two people involved in the fishery in that if their shares were reduced in proportion to the total reduction they probably still couldn't make it.

DR. CRABTREE: I know.

MR. MAHOOD: So what we had talked about is, is there going to be a provision that is going to be a straight reduction, is it going to be some other mechanism based on what they've landed over the last few years. What they say is any reduction pretty much – well, they've given us a number I think – I can't remember – a million and a half pounds or something like that, but if you get below a certain point the people in the fishery under the ITQ can't make a go of it.

DR. CRABTREE: Anything other than a straight reduction, though, would be a reallocation of shares, which to me is a fundamental change to the IFQ Program. I agree with you that – and I suspect the TAC is going to be reduced substantially because of all the uncertainty, and I think it is going to create a real problem for these guys, which is why – and I come back to Rita's question about why we need to change this program, and I think that's part of the reason why. I also think the excessive shares component of this is going to be problematic, but I'm not sure how you could reduce shares unevenly without fundamentally changing the program.

MR. CURRIN: Is it conceivable that if it comes in that low that we could – we've got to do the ACL. We could shift that into the Comprehensive ACL Amendment, the ACL for wreckfish, but could that be accompanied by an action to just simply end the Wreckfish ITQ Program?

DR. CRABTREE: Yes, you could, as I said, withdraw the program, but then what are you going to replace it with? I don't think you want to just set an ACL and open it up to everybody.

MR. CURRIN: Well, you know, the guys that have been out there, there's like two them that have been out there. I don't know, but there might be some others that would go out there for some trip limit, but they haven't been going out there for their shares they're allocated over the last five or six years. I don't know; it's just a thought.

DR. CRABTREE: Well, I don't either, but I think it would be difficult to say, all right, we're going to withdraw this program, reduce the commercial quota, and then have a limited entry program with two people in it. You know, limited entry, you've got to address excessive shares under any circumstance and having only two people have access to a fishery – maybe that's not excessive shares but it's sure I think a tough argument.

MR. CURRIN: I don't know; we'll give it some thought. George.

MR. GEIGER: Well, could we go back to the two people who are currently involved or try to convene a meeting with all the current shareholders and explain to them the belief as to what the TAC will look like and the problems associated with excessive shares and give them a peek at what we're developing here in terms – because I think we've heard in the past that a reduction beneath 1.5 million pounds and they weren't going to go for anything.

MS. QUIGLEY: Something that we talked about at the September meeting was the idea of holding a Wreckfish Fishery IFQ Program Shareholder Meeting, getting together the shareholders that we could actually contact and doing three things. One is review and provide comments on the draft program review of the South Atlantic Wreckfish IFQ Program, which you've seen.

Another would be to hear updates on proposed changes to the Wreckfish Fishery IFQ Program, so basically have them take a look at what we've come up with so far as possible options and to provide them with information about ACLs and the possibility that average landings might be used and what that ACL could look like and then what would happen to their shares as a result of that.

Then number three would be to develop a list of issues that shareholders would like to see addressed or changes made and get their reaction. That would be the idea of a shareholder meeting. We could add additional things, but the idea was for me to come back with some sort of agenda and that's what I did is to include those things as part of the agenda and perhaps to hold this meeting whenever the council would like.

The two people that participate – and there's a couple of others from year to year that participate – they start fishing I think April 1<sup>st</sup> or April 15<sup>th</sup>; I can't remember which – April 15<sup>th</sup>. My question to the council is would you like to hold this meeting and when and are there other things on the agenda that you would like included?

MS. MERRITT: This fishing closure, it's a spawning closure season, is January 15<sup>th</sup> to April 15<sup>th</sup>, so I would suggest that as close as possible after January 15<sup>th</sup> that you schedule this meeting with the shareholders. I think we've got to get some input on these decisions beyond just the two active ones. We need to get all the shareholders together and kind of get some feedback there.

MR. CURRIN: Yes, they need to be apprised of the possibilities and be thinking about some contingencies, depending upon the level of the recommendations from the SSC. Is everybody okay with Rita's suggestion? Bob, that's doable from the staff's perspective to try to get these guys together.

MR. MAHOOD: It's all doable.

MR. CURRIN: It's a can-do crowd. All right, that's all Kate has and that's all we've got on Amendment 20, so we'll go back to Rick and move into the Comprehensive ACL Amendment.

MR. DEVICTOR: Okay, this is Attachment 26 to your briefing material. This is the Comprehensive ACL Options Paper. We start on Page 1 where Action 1 is to consider designating some snapper grouper species as ecosystem component species. We probably want some guidance also as we go through this on whether we can do ecosystem component species for the snapper grouper species.

This is outlined in the National Standard 1 Guidelines on Ecosystem Component. Basically, you keep the species in the fishery, but you don't specify ACLs for them. You keep them in there for

data collection, for example, or to monitor them. However, they must meet certain criteria. They must be a non-target species or non-target stocks; not subject to undergoing overfishing or overfishing nor likely to become so.

That raises a question as a lot of these species are unknown and how does that fall out, because I don't believe the National Standard 1 Guidelines touch upon if the stock status is unknown. And generally not be retained for sale or personal use. So those are criteria in the National Standard 1 Guidelines that tell you if they don't meet that criteria, then you cannot put them as ecosystem component species.

But if you recall, in September you provided alternatives to staff and we put this in the document. First, we have a Table 1 that shows landings of all 73 snapper grouper species, and I'll just highlight that there are some mistakes in the headings. The columns are right, but if you go under 2007, that last column should be OR; and then for 2008 it should follow the same pattern, COM, HB, CB and OR. I just wanted to highlight that; some people brought that to my attention.

Going through the alternatives, if you'll scroll down, Alternative 1 is no action. Alternative 2 is designate species with landings that were less than or equal to 1,000 pounds; designate these as ecosystem component species. You can see in Table 2 which species those would apply to. There are 11 snapper grouper species.

Then there is an alternative at the 2,500 pound level, and you can see what snapper grouper species those would apply to, so those are 16 species. Alternative 4 is setting it at 5,000 pounds and those are 18 species. Those are the alternatives currently in the document in terms of specifying snapper grouper species as ecosystem component species. Then the next action gets to removing species from the fishery management unit.

MR. CURRIN: Reaction to what has been done or is outlined in these alternatives here. Roy.

DR. CRABTREE: Maybe Jack is the best, but does tiger grouper even occur in the South Atlantic Area?

MR. CURRIN: I've heard Phil Conklin talk about catching tiger grouper. Now that may be a different species, I don't know.

DR. McGOVERN: They might get it in the Tortugas. There are no landings of tiger grouper.

DR. CRABTREE: You have never seen them in MARMAP or show up in any of our independent –

DR. McGOVERN: No, we've never seen them.

DR. CRABTREE: That might be one you could make a good case for just taking out of the FMP.

MR. HARTIG: I've never seen one in South Florida.

MR. CURRIN: That's the next action. What about these alternatives, and I'm most interested in the reaction from the Region and the Science Center on whether these are reasonable to consider. At what landing level do we get to the point where we're going to get push-back, and it may be at the thousand pound average; I don't know.

MR. HARTIG: Well, you've only got one up there with substantial landings compared to all the rest and that's blackfin snapper. The rest of them are under 500 pounds that you have on that list, so that could be your demarcation line. You would get it even closer.

MR. CURRIN: Well, that's at a thousand pounds; and when you go up, you start adding a few more species to capture that don't really have substantially greater. You start adding a few more as you increase that landing level. I don't know what is reasonable, but we're going to need some guidance at some point. Duane.

MR. HARRIS: Did I hear you say, Rick, to be designated as an ecosystem species they cannot be retained; so if they're caught you can't keep them if we designate them as an ecosystem species?

MR. DEVICTOR: I see Monica getting out the National Standard 1 Guidelines, but if they're generally not retained for sale or personal use they cannot be designated as ecosystem component species.

MR. HARRIS: Say that again, if they are –

MR. DEVICTOR: They cannot be specified as ecosystem component species if they're retained for sale or person use.

MR. HARRIS: Right.

MS. SMIT-BRUNELLO: And it says not generally be retained for sale or personal use.

DR. CRABTREE: And I think that's the key, and I certainly think you can make a pretty case that if there's only 200 or 300 pounds or 500 pounds caught a year and retained – whether it's retained or not, it sounds like to me they're not generally retained. I suspect they're just not generally caught, but where exactly the boundary is between “generally” I would tell you probably nobody really knows, and it depends on your building a good argument.

But if you put these in the context of the level of landings we see for most species, I agree with Ben that there are some pretty sharp breaks for a couple of those where some of those species clearly just are rarely encountered and would be rarely retained.

MS. SMIT-BRUNELLO: Here is some more helpful information. Occasional retention of the species would not in and of itself preclude consideration of the species under the EC's classification. I'm sure that made it more clear for you all. Yes, not generally is the definition of occasionally.

MR. HARRIS: So a question for you, Monica; with respect to these poundages listed here, will any of those alternatives cause you heartburn, like less than 2,500 pounds? When you've got a species like rock sea bass of 2,453, I would suspect that rock sea bass is just retained when somebody is fishing for black sea bass and just happens to throw it in the cooler, but somewhat of a – you know, that's a fair amount of weight, but throughout the entire South Atlantic it's not. Is there anything in here that gives you heartburn?

MS. SMIT-BRUNELLO: Not right now.

MR. MAHOOD: Maybe Roy can help me or Phil; in the report to congress there is a level that above that level is considered a substantial species; below it's non-substantial. I'm not sure of the terminology. What is the cutoff for that; does anybody recall?

DR. CRABTREE: I think it's 200,000 pounds so we'll have to check. Jim Balsinger tells me in Alaska for most of our fisheries they catch that much in one tow.

MR. CURRIN: Well, interestingly, I saw a report about the halibut fishery or a trawl fishery out there that has a bycatch allowance of 12 million pounds of halibut for the single fishery, so they are a different scale. Duane.

MR. HARRIS: Mr. Chairman, given the comments that we've just heard from Monica and Roy, I would recommend that we go with Alternative 4, which is any species for which there is less and equal to 5,000 pounds – now he's going to change his mind.

MR. CURRIN: No, we don't need to pick a preferred right now, but we've got enough to –

MR. HARRIS: I know, but all those options are fine with me, then.

MR. CURRIN: Okay. I guess the question is do we want to add an option for 10,000 since we're on a roll. David.

MR. CUPKA: Don't we have to do something other than just look at landings, though? Isn't there four criteria that they have to meet or are we assuming they meet the other criteria when we pick one of these alternatives?

MS. SMIT-BRUNELLO: I think when you develop your record you go through that criteria and you decide whether it should be an ecosystem species or not. It does say in the guidelines that it is important to consider whether use of the ecosystem species classification in a given instance is consistent with the Magnuson conservation and management requirement.

I think you look at the record as a whole and decide based on the facts, whether it's just landings or – you know, I'm sure you have information of whether some of these species are even within the South Atlantic area and that sort of thing, so we put all of it together.

DR. CRABTREE: And to Bob's question, it is 200,000 pounds that is the breakoff. I think at this stage in developing this, if you wanted to add another alternative that used 10,000 pounds just to see how many more species that would add, I wouldn't have any heartburn with that, but I think we've got a pretty reasonable range in here. My read on the guidelines, I think certainly some of these you can make the case for, but we're going to have a lot of discussion just exactly when the breakoff is.

MR. CURRIN: Well, that's good advice to me at this point. I think what everybody has to keep in mind that even though to an individual 2,500 or 5,000 pounds of fish sounds like a lot of fish, we've got three-plus million anglers in the South Atlantic and over 1,500 commercial or close to that – at least close to a thousand anyway snapper grouper permits or 800 and something, may be larger proportions in one sector or the other because of particular fishing habits.

MR. HARRIS: I would recommend that we add another alternative that is equal to or less than 10,000 pounds and create that table.

**MR. CURRIN: I don't think we need a motion to do that. Oh, you've already got it. Okay, motion by Duane to add an alternative that designates the ecosystem species if landings are less than or equal to 10,000 pounds. Seconded by Spud. Discussion. Any objection to that motion? I see none; that motion is approved then.**

Thank you. Action 2 is to remove species with low occurrence in federal waters from the Snapper Grouper FMU.

MR. DEVICTOR: And this looks at a comparison between state landings and federal landings. Alternative 1 is no action. Alternative 2 is remove species when 95 percent of landing is in state waters, and you can see the list of species there. Alternative 3, remove species when 90 percent of landings are in state waters; and then 80 percent is Alternative 4.

Alternative 5 is remove species that fall under the Florida Marine Life Species Rule, so this would be queen triggerfish, porkfish and pudding wife. There is something that the staff is probably going to have to give some thought to, but there are some species – I believe sailor's choice is one – that falls under some of these alternatives and also the alternatives in the previous action. It can't be both of them so we may want to combine this action into one in some way so we don't have a species falling under both, taking it out of the FMP and also putting it as an ecosystem component species.

MR. CURRIN: Yes, there or some sort of contingency that is in the document that if one falls under this, then it's removed from the other. I don't know how the best way to do it. Roy.

DR. CRABTREE: I think this again is a reasonable range of alternatives. I want to ask Mark if he has any comment on this 2,729 pounds of Goliath grouper landed in state waters. We'd like to see you do something about that, if you would.

MR. ROBSON: I have no comment on that.

DR. CRABTREE: And I'm going to suggest that right off the top we just remove Goliath grouper from this list. We're clearly not going to remove Goliath grouper from our management plan, I don't believe. Before our friends in the audience get all worked up about that, I think we ought to be clear about that because Goliath grouper is still listed as overfished, I believe, so that's going to happen. But I think other than Goliath grouper, I think this a pretty reasonable range of alternatives to take a look at.

DR. CHEUVRONT: And so you looked at all the species that are in the complex like I didn't notice spadefish or anything on there?

MR. HARRIS: Yes, it's on there.

DR. CHEUVRONT: Where is spadefish?

MR. HARRIS: Close to the bottom.

DR. CHEUVRONT: Yes, which alternative?

MR. CURRIN: It's in Alternative 4, Brian. It doesn't make the list until Alternative 4.

DR. CRABTREE: Mac, do we need a motion to take Goliath grouper off the table or can we –

MR. CURRIN: I think we can do that with direction to staff. Is everybody okay with the range we've got here? It seems reasonable to me. Okay, Action 3 is multispecies groupings for specifying ACLs and ACTs and AMs. Rick.

MR. DEVICTOR: This is PDR Page 9, and we may have to wait for some more information from the SSC on this. They didn't get to this topic this week. We have several alternatives in there looking at groupings based upon several papers that were recently prepared. These papers are included as appendices. Alternative 2, that paper is under Appendix D; and Alternative 3, that paper is under Appendix C; as is the one under Alternative 4 if you want to see details on how they determined the groupings.

Continuing on, Alternative 5 is establish species groups following the methodology used for the Gulf of Mexico and the Caribbean ACL. That is still to be worked on. We should get a presentation from those groupings in March, hopefully. Alternative 6 are grouping that you've seen before.

These are based upon a common sense approach, life history patterns and where they live and such. Those are the six species groupings. The National Standard 1 Guidelines speaks on groupings and says that you could do that if you wished to, and it does have some criteria about that that we may want to look at.

MR. CURRIN: Does this look good to everybody? If you haven't had time to look at those papers, they're interesting in helping to explain some of this stuff. At least you will understand

where these folks are coming down. You may not like it. Any comments on this action? All right, let's move on.

MR. DEVICTOR: Action 4 on PDF Page 12 is to specify an ABC Control Rule for species not undergoing overfishing. You have Alternative 2, and we sort of talked about this today on we're waiting for the control rule and we'll plug this in there, and so you'll see that by the time you meet in March. Then there is Alternative 4 on dolphin and Alternative 5 on wahoo. I believe there was a question on those, Gregg.

MR. WAUGH: The MSY for both of these species – well, actually the current MSY and OY for dolphin and wahoo include the Atlantic, the Caribbean and the Gulf. The options that we had presented before looking at some proportion of MSY for ABC and so forth, we had that applying to not just the Atlantic. I think here we can't just drop those other two areas.

While we wouldn't mind that extra landings, I imagine the Caribbean and the Gulf would have some concern if we were taking that large a portion of MSY just for the Atlantic. I think to be correct, Alternative 4A and 5A need to say for the Atlantic, Gulf and Caribbean. We need to have some discussions on how we're going to deal with this or we just get the SSC to give us recommendations totally separate from what was done before, such that we get an MSY number and so forth that we can use just for the Atlantic.

MR. CURRIN: Comments or thoughts. Yes, I'd certainly like to have it so that we're managing Atlantic only. If we can get that split out somehow, that would be my preference. All right, anything else there?

MR. DEVICTOR: And staff had a question for the committee, and we feel that it would probably be best if we could separate these out by FMPs so there would be one action dealing with going from ACLs, control rule, and such for snapper grouper species and then going on to dolphin and wahoo. We just feel that would be best to find certain things for the public and the council if we separated this amendment out, restructured it going by FMPs.

MR. CURRIN: That would certainly seem to me to be the most user-friendly approach, whether that complicates you guys' life to do that.

MR. DEVICTOR: Yes, it helps.

MR. CURRIN: It helps you; that's even better, then. Is everybody okay with that? They would be linked and presented by FMP separately. I'm seeing no problems from anybody.

MR. DEVICTOR: Okay, moving on and you see that there is a progress to this where you first take species out of the FMU and the ecosystem components and then you get the ABCs; and before you set the ACLs you allocate between sectors. So if you move on down to the allocation section, we have a series of alternatives, and these alternatives actually came from the council meeting in September '08.

The motion at that time was use these for the Comprehensive ACL Amendment. Alternative 2 is divide allocations among two sectors, commercial and recreational, and then use the following equation, and you can see it there on the page. Alternative 3 is to divide it between three sectors, commercial, recreational and for-hire, and then you have an equation to determine that. I just want to see if there are anymore alternatives on how to allocate the snapper grouper species.

MR. CURRIN: Thoughts on different allocation strategies or alternatives. Roy.

DR. CRABTREE: Well, just a thought; do we really want to go down that path for all of these species of sector-specific ACLs? I mean if the total landings for a species are 20,000 pounds or something like that and it's not of much significance or economic importance, do we really want to allocate it and have separate sector ACLs? It's just a thought because I think for a lot of these the recreational catch estimates are going to be really poor.

MR. CURRIN: What do you think about that, some threshold? Some would be relatively arbitrary at this point. Do you want to look at them in the future and then make the decisions individually?

DR. CRABTREE: I guess so, but you're not required to do sector-specific ACLs so you could just have an overall ACL that's everybody; and if it's hit, you shorten the season for everybody the next year. And if it's some of these species, nobody is really fishing for them and really wants them anyway, and I don't think it would have much economic impact, I'm sure somebody will show up and say they specialize in long-spine porgy fishing.

But, by and large, I don't think it would receive a whole lot of attention. Unfortunately, by and large I'm not sure that anything we do is going to make much difference in how many are landed of some of these because of the proportion in state waters and various things, but some of these fisheries are just insignificant enough that I'm not sure that it's worth putting them up like that. It's really up to you guys what you want to do with it.

MR. CURRIN: It makes perfect sense to me, Roy. I just don't know what threshold that ought to be done. I think we probably just need to look at all of them and then –

DR. CRABTREE: That's right, and I'm just suggesting that you might have another alternative in here where you have just a single overall ACL and not go through the rest of these exercises.

MR. CURRIN: That would handle it. Brian.

DR. CHEUVRONT: To that point, do we need to do a motion on that, then, to make that alternative or just direction to staff?

MR. CURRIN: I don't think so unless the staff wants one. You guys okay with that; with the direction to just add an alternative that keeps it in one lump? Okay, other comments about allocation?

MR. DEVICTOR: Okay, there are more allocation alternatives. Action 6 is specify allocations among sectors for dolphin. Then you have Action 7 for wahoo. Those are the same alternatives I have previously shown you. Then we have sargassum and we may want to talk about sargassum, but there is a note further on down that showed some studies where sargassum for other genus that live and die within six months may be an annual crop and thus exempt from the ACL and AM requirements.

MR. CURRIN: It's kind of a unique, I guess, because we've got a plan, but basically there has been no harvest in a number of years; and maybe in the absence of the plan it could be considered an ecosystem species; I don't know. Brian.

DR. CHEUVRONT: Or it can be considered habitat, and we kind of have a policy of not harvesting habitat.

MR. CURRIN: Well, I think we've been down that road.

DR. CHEUVRONT: I understand that, but I think let's just set ACL equal to zero. Nobody is harvesting it now, right, in the South Atlantic?

DR. CRABTREE: But do you want to have another alternative for a discard ACL where you track discards of sargassum? No, but I've seen a lot of – and I've done it myself if you're recreationally fishing particularly for dolphin and you discard a lot of sargassum.

MR. CURRIN: Well, believe it or not, when I was going through this, I was very concerned if we had an ACL of zero that some overzealous enforcement officer might come up behind a charterboat and find a little branch of sargassum on there and how they dealt with it, so we certainly want to prevent anything like that from happening; not that it is going to.

DR. CRABTREE: I would think an alternative to set the ACL at zero would make sense. Then if you incidentally or accidentally catch sargassum, you would be required to release it unharmed.

MR. CURRIN: What is wrong with considering it designated as an ecosystem species? I mean there has been no interest in harvest.

DR. CRABTREE: I think you could do that. It would be kind of unique. We'd have an FMP with one species in it, and then it's an ecosystem species.

MR. CURRIN: Maybe after 15 years the FMP might get withdrawn.

DR. CRABTREE: Well, I think if we could find a way to protect sargassum without having a Sargassum FMP, I would be a hundred percent in support of that. I would ask Monica to explore is there a way to do that.

MR. CURRIN: So at least maybe as a placeholder or as a note, Rick, we can put it down as ecosystem species, question mark, and remind us to take a look at that. Any other comments

about sargassum? Everybody is okay, I presume, with the allocation alternatives for dolphin and wahoo. All right, ACLs, ACTs, AMs, there is not much we can do on that for now.

MR. DEVICTOR: We're waiting for ABCs.

MR. CURRIN: Right. Yes, Ben.

MR. HARTIG: Mac, just a general question; is that the consistent formula that we're using for everything from now on as far as –

MR. CURRIN: It's kind of what the council has settled on it seems, Ben, at least to date. I mean we've specified it in this ACL Amendment, but that doesn't mean it couldn't change. You're familiar enough with it and you know kind of what it does. It looks at a long time series and assigns some weight to that. It looks at a more recent time series and assigns some weight to that.

MR. HARTIG: Yes, and I have no problem. My thing through the whole time was just to be – whatever we use be consistent with what we use.

MR. CURRIN: We've been fairly consistent since this was developed.

MR. DEVICTOR: If you scroll down, you can see there are alternatives for dolphin and wahoo for setting an ACL. I'll just note that those are there for you, and we should get ABCs for those and then you can compare them. There is an AM alternative for dolphin; then an ACL alternative for wahoo.

Then you get into management regulations, and the one that you talked about previously was greater amberjack, and that's changing the trip limit, but we don't have a lot of information in there for you to evaluate whether those are the right alternatives or not. That recommendation came from the public, I believe.

MR. CURRIN: All right, that gets us through the Comprehensive ACL Amendment to date.

DR. CRABTREE: One thought, going back to the alternatives on removing species from the fishery management plan, I would also like to take a look at which of these species are covered under the Florida Marine Life Rule, because I think that rule is much more restrictive than anything we have. I know pudding wife, my favorite species, is. I think queen triggerfish is covered under the Florida Marine Life Rule.

MR. CURRIN: There is an Alternative 5 in there that looks at those.

DR. CRABTREE: Is there an alternative in there to do that?

MR. CURRIN: Yes. Anything else? All right, all done with that, Rick? All right, thank you very much. We've got a handful of other things. I promised Ben we would have some

discussion of his desire to swap the Golden Tile SEDAR with the currently scheduled snowy grouper.

Before we get to that, though – that will be the third item of business – we had an issue left over from 17A, Rick, I think, that was dependent upon decisions in 17B, so we want to get back to that. In addition, the SEDAR participants, we tabled that, I think, and we need to get that back up. It's been so long I can't even remember exactly what the issue was in 17A. Roy.

DR. CRABTREE: One other issue, Mac, is you remember last night at the Q&A – I think his name was Chris – we promised some discussion of I think it was vermilion snapper trip limits, so at some point we need to do that.

MR. DEVICTOR: The one action in 17A – it's PDF Page 67 – is that when you got to the exemptions and got to golden tilefish, you discussed – well, let's first look at Amendment 17B and the deep water closure there before revisiting this Alternative 8. I believe right now you specified Preferred Alternative 7 to allow black sea bass pot fishing and Alternative 9 to allow spearfishing?

MR. CURRIN: Yes.

DR. DEVICTOR: Okay, and so you wanted to revisit Alternative 8 and that basically would allow – and I think that just touches longline gear, but allow harvest of golden tilefish.

MR. CURRIN: Yes, and it's currently set at 50 fathoms, I guess, where they can operate at least throughout – is that consistent with the whole area that we're considering for a closed area now? Can they longline inside of 50 fathoms, anywhere along that proposed closed area? If not, they're restricted outside of it, anyway, it seems to me. Ben.

MR. HARTIG: So the outside line is 50 fathoms; is that what you're telling me or it's not?

MR. DEVICTOR: I think Gregg is going to check, but your preferred alternative now is to use the commercial logbook grids. It's not going on the 40 fathom curve which you were looking previously, so I wouldn't say it follows the 50 fathom curve.

MR. CURRIN: That's true. Thanks, Rick, I'm still stuck on looking at those depth contours. So, yes, there is probably some 50 fathom areas out there that are within those closed areas. What is your pleasure on this? It's pretty simple. You know, we talked about allowing spearfishing and allowing black sea bass pots in the closed area, so the alternative here is whether we want to allow golden tilefish longlining in those closed areas.

It has been exempted everywhere else, so I don't think there is any intention to shut the golden tilefish fishery down. It occurs primarily in mud bottom. Occasionally when there are some rocks around, they do encounter some snowy groupers. Perhaps they'll be more careful avoiding the rocks since they can't keep them. What is the committee's desire? Mark.

MR. ROBSON: I guess I'm still a little – I'm trying to understand this because we're trying to determine if – right now the longline fishery is restricted to beyond 50 fathoms; isn't that correct, so the area that we're talking about, it doesn't go beyond 50 fathoms, right? It does?

MR. CURRIN: That's what we're trying to figure out, and I'm not sure we can determine that from the maps or can we. Roy.

DR. CRABTREE: I think at minimum the longline alternative there ought to reflect the language currently in the regulations, which says that they may possess only the following South Atlantic snapper grouper: snowy grouper, warsaw grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish and sand tilefish. I don't think there is any intention here to allow longliners to start fishing for species other than those they've been heretofore restricted to.

MR. CURRIN: I think that's incorporated by reference there and that –

DR. CRABTREE: Is that incorporated by reference in it?

MR. CURRIN: 62.35; is that it?

DR. CRABTREE: Okay, that's what that refers to, okay. And then it's my understanding – and, Jack, correct me if I'm wrong, but based on the logbook information the incidence of red snapper taken in that fishery is extremely low.

MR. CURRIN: What is your pleasure here, folks; do you want to allow them to fish or not?

DR. CHEUVRONT: I don't have a problem with allowing them to continue to fish under the same restrictions that they had before, so do we need a motion?

MR. CURRIN: Yes, we need a motion to make it a preferred, an additional preferred.

**DR. CHEUVRONT: Right, so I'll make the motion that we make Alternative 8 to allow the longline fishery to occur in the closed area as an additional preferred alternative.**

**MR. CURRIN: Motion by Brian; seconded by Ben. Discussion. No further discussion; is there any objection to that motion? I see none; that motion is approved.** All right, was there anything else in 17A that we had to do, Rick, that you're aware of?

MR. DEVICTOR: Didn't you have something with Nick Farmer?

MR. CURRIN: Oh, yes, there is. After we kind of went around and around about selecting a preferred closure area and Duane had some heartburn with it being so close to the coast of Georgia, I talked to Nick Farmer after our committee meeting yesterday and asked him if he could possibly look into some runs or applications of his model where he could consider what to me would seem a reasonable assumption about less discard mortality in that shallower water.

I think there is evidence in the literature that that in fact occurs, a number of studies. I didn't really expect him to come back today and have that, but he told me today that he did. Nick, you can come up so that we can discuss that and kind of tell us what you did and what the results were.

I'll let him tell you what he did, but I said look at Alternative 4, for example, 4A, which is the 98 to 240 closure and then draw some lines to the coast and let's make a reasonable assumption about the reduction in discard mortality in those inshore areas. Then up above where there is no closure and down below where there is no closure and yet we still have some low rates of red snapper encounters, let's go ahead and just assume the values of 40 percent for the recreational and 90 percent for the commercial and just kind of see what it gives us.

And, again, that's not playing with any of the compliance or effort shift parameters that we at least have some ability to approximate through the compliance measure in his model. I appreciate very much your doing this, Nick, and being available and hanging around today so that you can share it with us.

DR. FARMER: I've made some updates to the model, and I think John Carmichael might have distributed that out to you guys, so you're welcome to take a look at it yourself. I'll just go through a brief discussion of the changes that were made in terms of additional features and kind of the rationale behind them, and then I'll show you some outputs based on some various scenarios of input parameters.

As a refresher, there are various factors contributing to release mortality and barotrauma is a major source of that release mortality. It's directly related to depth of capture. There are many others that impact red snapper that include surface interval and handling, hook location and predation and water temperature.

In looking at Mac's request, the idea is that effort shifting into shallower water may occur following the implementation of spatial closures, and several studies have suggested discard mortality may be as low as 20 percent if fish are caught in waters shallower than 20 meters, so about 66 feet.

It's difficult to predict changes in release mortality because the level and pattern of effort shifting is unknown. Higher discard mortality rates will probably continue in open areas and delayed mortality rates may be higher than those estimated. I've summarized a few studies so that we can build kind of a rationale for why we might examine a decreased inshore release mortality.

SEDAR 15's arguments basically follow this line. They say the recommended discard mortality by depth for red snapper in the Gulf of Mexico stock assessment, SEDAR 7, was 15 percent at 20 to 40 meters and to 40 percent at greater than 40 meters. Then in the next paragraph it says for the recreational fisheries, MRFSS and headboat release mortality should be set at 40 percent, 30 to 50 percent sensitivity range, and they back that up with the rationale that the mean minimum depth in the recreational charterboat fishery was 43 meters and the mean maximum depth was 58 meters, so it falls into that greater than 40 meter range from the SEDAR 7 process.

Also, SEDAR 15, in discussing commercial release mortality, says the recommended discard mortality by depth for red snapper in the Gulf of Mexico stock assessment was 71 percent at 55 meters to 88 percent at 83 meters in the commercial fishery, so they recommend following that; and a few other studies that for the commercial fishery release mortality should be set at 90 percent, and it seems that they follow that with the rationale if the commercial fishery had a mean minimum depth of fishing of 43 meters and a mean maximum of 71 meters.

In discussing kind of a different shallow release mortality, there are a few studies out there that I wanted to bring to your attention. The first is by Gitschlag and Renaud in 1994. They did a short-term less than 20-minute diver observation study of releases from a headboat. One caution about that is that the presence of divers in the water may have reduced post-release predation because sharks tend to be averse to divers and bubbles, which is good news for all the scuba divers out there.

They also did not account for any delayed release mortality, and some studies that have followed this one have shown that delayed release mortality is a factor. For Gitschlag and Renaud, in 1994 they observed immediate mortality estimates for red snapper caught at depths less than 24 meters of 1 percent.

Burns et al in 2004 did a study of barotrauma-related mortality in red snapper using depth chambers. She observed no barotrauma-related mortality from simulate depths of 21.3 meters to 70 feet and 27.4 meters, 90 feet, so that's two studies of zero to 1 percent release mortality due to barotrauma at least in an immediate context. She did observe 40 percent mortality from red snapper brought up from simulated depths of 42.7 meters, which seems to follow the SEDAR 15 and SEDAR 7 recommendations.

An unpublished study by Diamond et al is the meta-analysis of a variety of studies, and she was kind enough to provide this during the September meeting. If you look at this graphic, basically what she has done is she has plotted a linear aggression on the immediate mortality, and then she has plotted a logistic regression following the delayed mortality.

Basically, what I want you to note is kind of where the breakpoint is at 20 meters, and it's more clearly elucidated on this slide. You can see that regardless, linear or logistic, the fits seem to suggest 20 percent or less release mortality at depths of shallower than 20 meters in this amalgamation of a variety of studies. There are about six studies pulled into this meta-analysis.

What does that mean in terms of the South Atlantic? Well, I went through the commercial logbook and looked at the bathymetry in the South Atlantic using soundings charts and kind of pulled out the maximum depth in feet for all the various grid cells for the logbook. There are four cells that have a maximum depth of less than or equal to 66 feet, so less than or equal to that 20 meters.

Those cells actually do account for a reasonable percent of red snapper removals, so reducing release mortality in the inshore will actually have an impact on the projected reductions. With that said, I went through a couple of different scenarios, basically moving from conservative assumptions to less conservative assumptions. In this graphic here you can see an area closed for

each alternative; and running through them, Scenario 1 here shows no impacts of previous amendments and it shows Amendment 17A having a conservative assumption that targeted trips for red snapper only will be eliminated.

It also assumes 80 percent compliance and it assumes throughout the fishery that the commercial release mortality is 90 percent and the recreational release mortality is 40 percent. Scenario 2 shows you directed and targeted trips being eliminated by Amendments 13C, 16 and 17A; at 85 percent compliance, with 40 percent recreational and 90 percent commercial offshore release mortality, and then a 20 percent across fishery sectors inshore release mortality, so for those four cells I identified, the release mortality in this Scenario 2 has been shifted to 20 percent, which seems to follow the rationale of a variety of scientific literature.

Scenario 3 is I guess the least conservative scenario. I would say that is basically the upper end in terms of all the assumptions that I could make. That shows you directed and targeted trips being eliminated by all the amendments; 100 percent compliance; 40 percent release mortality across sectors in the offshore area; and 20 percent release mortality in the inshore.

You can see how that falls out with the various scenarios. In addition to this study, I actually also was able to do something for Duane. You had asked me to look at a new bathymetric closure, and I have that built into the model as well, so we can examine that if you'd like. The model is ready to go and it should hopefully be in your e-mail in-boxes.

DR. CRABTREE: Nick, I know what the shape of 3 is, but what is the difference between 3A, 3B and then what is the difference between 4A and 4B that's not in our draft amendment?

DR. FARMER: 3A is that four-grid cell closure, mostly concentrated off of Northeast Florida and Georgia, and that would be a closure from 98 feet to 240 feet. 3B in this table would be those same four cells but the closure would be from 66 feet to 240 feet. 4A would be a seven-cell closure, so extending the closures into South Carolina, and that would be 98 to 240 feet for 4A and from 66 to 240 feet for 4B. I can show you a graphic of that if that would help.

DR. CRABTREE: It probably would. You also looked at these but going out to 300 feet; correct?

DR. FARMER: Yes, I have that built into the model, but I haven't done a slide similar to this to complement that, but I can show you that output in the model with whatever scenario of input parameters you would like to see.

MR. CURRIN: Any questions of Nick about what he has done here before he goes on and shows you the results. My intent here is in view of the angst that was associated with the closure that barely was selected to perhaps provide, depending upon these results, an alternative for consideration by the committee if that's what they so desire. Any questions for Nick at this point? Charlie.

MR. PHILLIPS: Will you show me one more time the fishing mortality in the Gulf? I thought you said 140 foot.

DR. FARMER: Yes, let me show you that in just a second. Just really quickly for your edification, looking at this graphic here, this is showing you the A, B and C closure scenarios; so, from 98 to 240, the smallest of those, that's kind of between the orange lines with the yellow stripes. Then for B would be kind of the sage green extending into the orange; and then going from 66 to 300 feet are the bright yellow lines. You can see kind of spatially how that works out. Also, those turquoise boxes there on the end are the Moe 1963 survey of offshore fishing identified red snapper spawning aggregation locations.

DR. CRABTREE: So, Nick, this line is 66 feet?

DR. FARMER: That is 66 feet.

DR. CRABTREE: This is line is 98 feet?

DR. FARMER: That is correct.

DR. CRABTREE: And then this 240?

DR. FARMER: The orange line there is 240 on the outside and the yellow line is 300, so you can see there is not a big jump there spatially between 240 and 300 because the bathymetry cuts real hard right there. All right, you wanted to see the SEDAR 15 quote of SEDAR 7, right?

MR. PHILLIPS: Yes.

DR. FARMER: All right, let me show you that. Did you want to see it for recreational or commercial?

MR. PHILLIPS: Commercial; 71 percent at 55 meters, which I'm guessing is 170 feet or something, give or take, and 88 percent – and they're longlining, mostly, catching these or both?

DR. FARMER: I don't know exactly what study that quota came from. I might have that documentation actually within the model spreadsheet, because if you look at the release mortality tab, I've got all the relevant PDF pages from SEDAR 7 pasted in that.

DR. CRABTREE: I'm fairly sure this comes from some work LSU did, and they were riding on bandit boats. I'm not positive but I'm fairly sure.

MR. PHILLIPS: I just want to make that we're kind of comparing apples to apples, how long they've got those fish out of the water and how long we've got them out of the water, that kind of thing. While I've got the mike, are we going to have a chance to look at these preferreds again once we have seen this; and once we look at the 30 percent are we going to have a chance to look at what our preferred is again at some time?

MR. CURRIN: You will have a chance to change the preferred I guess at this meeting at least when I present on behalf of the committee the motion from our committee meeting regarding the

preferreds. If there is some desire to do it then, you could do it. If it's the desire of the committee to do it after considering this presentation, that's okay with me, too, and then we'll just have a different preferred when we go to the council. I guess that's okay, legal, and all that.

DR. CRABTREE: You could change preferred at full council at this meeting; you could change your preferred at the March meeting; and assuming that we take final action at the June meeting, you could change the preferred then, so you're going to have several other cracks at it.

MR. CURRIN: And my desire, Charlie, to bring it to you now and while we're staying late – and I apologize for all that – was that if there is some desire to change the preferred at this meeting, that is going to facilitate the staff's analysis between now and March and wouldn't take as much time as if we changed that and/or something else in March. Duane.

MR. HARRIS: Of course, I have a desire to change the preferred at this meeting because I don't think the preferred that has been selected is reasonable in any way, shape or form. It may meet the goal according to the model of reducing the discards, but I could never vote for it. I really would rather not have a preferred at this meeting; but if we have to, if it's the desire of the council to go in with a preferred, I'm willing to make a motion tomorrow. I'd rather not do it tonight because I'm almost brain-dead and just deal with that tomorrow in full council.

MR. CURRIN: Well, let's look at it and then we can deal with it at full council. We won't even consider it tonight and just present it to you. Roy.

DR. CRABTREE: Do you feel like you have what you need or would you like staff to print a copy of that map or something that you can look at overnight, or do you feel like you've seen enough? I want everybody to feel like they have the information they need. I think these have been e-mailed out so people have them.

MR. ROBSON: Well, I know I got the model, the excel setup. I don't know; did we get e-mailed, Nick, the tables that you just showed us on the results for the different alternatives?

MR. FARMER: No, but I would be more than happy to send that out to John and have him distribute it.

MR. ROBSON: For those percent reductions; that's what we need to be looking at.

DR. CRABTREE: I think, Nick, it would be good to send those ranges of the reductions out, and then I think it would be good to send that map out that showed the lines and where things are, e-mail that out to everybody so they've got it and have a chance to digest all this so we can come in tomorrow and make a decision and we've had a little time to think about it.

MR. HARRIS: What I have forwarded from Mike is a revised model with the bathometric Alternative D, 98 to 300 feet, and I don't know whether that just came to me or it went to everybody. I'd like to look at those tonight and come back with something tomorrow.

MR. CURRIN: All right, is everybody good with that and okay with that approach? Please take the time to look at that tonight so we can have a succinct discussion of that tomorrow. Robert.

MR. BOYLES: Mac, can you clarify what we should be looking at because we've gotten several things? At least I got several models, I believe, so can we just affirm what we need to look at?

DR. FARMER: To that point, it's probably best if I just walk you through the model just real quick to show you the changes that have been made so you can see how to do it. Basically, all the functionality remains the same here. I've just added Input Field 3B now, and that would be your post Amendment 17A private, charter and headboat inshore release mortality, and that is going to impact Cells 3379, 2981, 3081 and 3181, and it tells you that right here underneath in the white. When you open it up and see it on your own screen, you should be able to read that.

MR. ROBSON: And just to be clear, what you have done there in that revision is what is being called "revised model with bathometric alternative" because that's what we've all been looking at?

DR. FARMER: That's correct and the excel spreadsheet itself carries the end tag of 98 to 300 on it, so that should distinguish it from any other version.

MR. CURRIN: And the 10/12 date.

DR. FARMER: And so you've got the ability right there with Input Field 3B to change your recreational inshore release mortality; and then with Input Field 4B you have the ability to change your commercial inshore release mortality. Then, finally, I removed the 66 to 300 foot checkbox. I just decided to make things less complicated for you. You have now a 98 to 300 checkbox. Right there on the right-hand side, you can see, hopefully, where I'm moving the mouse around right here; so if you check that box, that is going to examine the bathometric closure that Mr. Harris asked me to put into the model.

MR. CURRIN: Is everybody clear? Please take a look at it tonight or sometime before tomorrow. Any other questions for Nick at this point? Robert.

MR. BOYLES: Mac, could we do what Roy suggested; could we get a copy of – Nick, could you send us a copy of the percent reduction and the comparison of the area? If you would do that, that would be helpful as well.

MR. FARMER: Yes, I can definitely do that. In fact, probably what I'll end up doing is I'll even add a little bit more because I did not update it for that 90 to 300 foot, so maybe I'll throw something in there for that to help you guys out.

MR. CURRIN: All right, thank you, Nick, very much. We greatly appreciate it. Okay, a couple of more things – we've got to vote on participants for the upcoming SEDAR updates. Don't we have to do that or are we going to do that tomorrow at council or do you want to handle that now? All right, let's hold that one until tomorrow. Now we did not approve the 17B Proposed Rules so we need to do that.

MR. HARRIS: And they have been sent out.

MR. CURRIN: Everybody has an opportunity or has received a copy of those. Whether you've had an opportunity to thoroughly review them, I don't know. Brian.

DR. CHEUVRONT: Are we doing this as council or –

MR. CURRIN: This is a Committee of the Whole that we're in right now. Again, if we'd rather wait until tomorrow for that, I guess we can do that, too. Let's wait until tomorrow; that will make sure everybody has got more homework for tonight on that. All right, let's see if we can handle Ben's issue regarding the Golden Tile SEDAR and then the other thing is the trip limit issue that Chris McCaffity brought up last night at the public hearings.

MR. HARTIG: Mr. Chairman, I have had the opportunity to talk to a number of people about this issue, both tilefish fishermen and scientists. It is a tough one because we are going to make a number of people mad if we switch snowy grouper for golden tilefish. Having said that – and I'm real sensitive to that – I still think it's compelling, after having especially talked to the fishermen, that we switch those two on the SEDAR agenda.

This isn't something that I would do flippantly. I take seriously, having been involved in SEDARs, the amount of work that they've done, but since tilefish had been on the assessment agenda for quite a long time, a lot of that work has been done in aging for golden tilefish. They have started doing the snowies, which is problematic, but in talking to some of the biologists I don't think it's that big of a problem.

Now Erik may differ significantly and John may have some problems with that, but I have talked to a number of people. Quite frankly, we are going to have a tilefish fishery that is going to be operating. The SSC has said the assessment was old. There are a number of reasons to do this, not the least of which is that significant changes have occurred in that fishery since the last assessment.

Before you implemented the quota, we had seen landings in the bandit fishery rivaling historic numbers. We haven't been able to target that fishery since you all implemented the quota in that longline closed zone, so those fish just continue to rebound in that area. The assessment is definitely warranted. It will give fish back to the commercial and recreational, by the way, fishery, and you may be able to alleviate some of that – although it's not a large percentage, they will get more fish from a new assessment, at least in our opinion. I'll leave it at that.

MR. CURRIN: Comments or reaction? Roy.

DR. CRABTREE: Well, Ben, you're presuming that with a new assessment they'll get more fish, but, of course, it's possible they would get fewer fish with a new assessment. There is no way of knowing what the outcome will be.

MR. HARTIG: Right.

DR. PONWITH: I've consulted with our biological sample processors, and on the federal side we've maintained a pretty good clip on keeping up with the golden tilefish samples, but there are also the SEAMAP samples. When we put the emphasis on snowy to be able to get those done in time for an update, they actually stopped working on golden tilefish.

At this point they've only processed about 40 percent of the samples that they've got in their possession. In consulting with them on the feasibility of making this shift, they said that to be able get the remaining otoliths processed and still have enough time left over to prepare the data for the update wouldn't be feasible with them working on it themselves.

MR. MAHOOD: Ben, not to disagree with you about what is important or not, but in the SEDAR process through the SEDAR Steering Committee we sit down and make these decisions of which assessments and updates will be carried out. We have promised Bonnie that we would not switch on them at the last minute.

I think they probably started working on the snowy grouper after last September's meeting, and so they've been gearing up for the snowy update and assessment. It's kind of unfair at the last minute to come in and ask that they change; and it sounds like from what Bonnie is saying it's not even feasible that they do that.

MR. HARTIG: Yes, unfair to change goes both ways, Bob. It was very unfair to change golden tilefish from the update that it was scheduled to be on several months ago. That was very unfair to the tilefish fishermen; so if you're telling me about fair and unfair, when you switched these species without consulting any fishermen about what may or may not happen with the species, that is unfair. The fairness of this goes both ways.

MR. CURRIN: Well, keep in mind it wasn't Bob that switched it.

MR. HARTIG: No, I understand, but I'm talking about the fairness issue. I don't want to take it out on Bob, but unfortunately for me it goes beyond just this issue on tilefish. That's why I'm showing a little bit of anger, because frankly this fishing year changed and we have been trying to get pushed – for the last five years it has been pushed from at least two amendments that we asked. My frustration is not related to just this one issue, and it came out – and I'm sorry, Bob, if I was curt there.

MR. MAHOOD: I am on the steering committee and I probably did vote for it.

MR. HARTIG: And I am sensitive to what Bonnie said. I didn't get a long chance to talk to Marie. I just had a short conversation. If it can't be done, it cannot be done, and I'll acknowledge that. If this problem ever comes up again, it would be nice to have some fishermen involved that have been looking forward to this update for a long, long time.

It has been part of their – in the Tilefish Workshop they said if we got an increase in quota, we may be more amenable to going with the ITQs, so there is a lot riding on this benchmark assessment for the tilefish fishery, and that is why it was so important to try and get it changed in

this meeting. If Bonnie says it can't be done, I'll take that and take it back to the fishermen that it can't be, and that's the answer that I will give them, but I'm not going to go down without at least expressing their views and my views about golden tilefish. Thank you.

MR. CURRIN: Thank you, Ben. Any other comments or questions for Ben or John? I think we have to accept it just as you did. The bottom line is the bottom line. Okay, the only other issue that we want to deal with tonight is addressing some comments that were made by some of folks at the public hearing last night regarding their desire to manage fisheries by trip limits.

I will tell you Mr. McCaffity was at the New Bern Hearing that I chaired. I did talk to him there. He made very similar comments about his desire to manage with trip limits. My response to him there was that I couldn't think of an amendment that we had passed recently that did not have a trip limit option in them. Gregg has I think pulled up very rapidly that option from Amendment 16 for vermilion, which is of primary interest to him. We did have a trip limit option in there. It was considered and placed in the considered but rejected appendix.

MR. WAUGH: I can read it if you'd like, Mac.

MR. CURRIN: Yes, please do.

MR. WAUGH: "The primary purpose of a trip limit would be to extend the fishing season. However, the council believes that trip limits could impose significant hardship to fishermen, particularly with the high cost of fuel. Instead the council is considering splitting the year into two quotas as a method to extend the fishing season.

"The two-quota system also has the added benefit of ensuring that retention of vermilion would be allowed later in the fishing season when a large portion of the catch has historically been taken. The council also chose not to consider establishing a trip limit for the 225-pound trip limited permit holders because their catch is a very small portion of the overall catch. Amendment 15B proposes to prohibit all bag limit sales and this is not expected to affect the proportion caught by trip-limited permit holders." We also had a trip limit analysis – that's another appendix – for both gag and vermilion, so the committee and council did look at this for both of them.

DR. CHEUVRONT: I've spoken with Chris McCaffity several times over the last several months, and he has brought this up with me in those conversations as well. I want to make sure that we understand what he was asking of us; why he wanted to have trip limits. I think his request, and we understand the full extent of it, is almost an impossible thing to do.

He wants us to establish a trip limit that would extend the fishing season through the entire length of time plus catch the entire quota. Now, I don't know how we can do that. To me that's an impossibility. We'd have to predict the future accurately every single time. Now, I think he was responding to the fact that none of us expected that the second quota period was going to be completely caught up in about 2-1/2 months. I don't think anybody foresaw that. On the other hand, I think the full extent of the request that he has asked for is untenable. I don't know how we can do it.

MR. BOYLES: Mr. Chairman, just a note everybody else's benefit, we've been approached in South Carolina from some anglers as well advocating a trip limit approach. Wayne Mershon I know has made extensive comments on the record, and I would like to refer the council to that as well.

DR. CRABTREE: And I don't have a preference one way or another on the trip limit. I'm sure the larger producers are not going to want it and the smaller ones will want it, and it's always that way. I can tell you, though, I went down this path in the Gulf of Mexico with red snapper and ten-day mini-seasons and all of that stuff and none of it extended the season year round.

The only thing that extended the season year round is when we went to the catch share program. As much as people are still resistant to this idea, they need to start coming to grips that with hard quotas and things and derby fisheries, the only way you really get out of that bind is in a catch share type program. The rest of these things, they may slow you down a little bit, but you're not going to get year-round fisheries I don't believe any other way than that. They're just going to have to decide how important is that to them.

DR. CHEUVRONT: And for trip limits to have even a chance in this we'd have to constrain participation as well. We just don't know; we don't know how many people would participate; we don't know how many trips would be taken; we don't know if the fish are going to be there; we don't know all these different things. I understand where Mr. McCaffity is coming from and I've listened to him, but I think Roy was exactly right in explaining why this perhaps isn't such a good idea.

MR. PHILLIPS: I'll be short. The fishermen down my way, they didn't get enough fish on a trip limit to make it feasible, which is the same rationale there. The only way you're going to stretch it out all year is catch limits somehow in some way.

MR. HARTIG: In your example, Roy, they had to fish through it. They had to fish through the worse damned situations you can imagine in red snapper to be able to figure out that they had to go to a catch share program. I wish it would be different here; I don't think it's going to be. Maybe we do develop some trip limits for some of these fish, and it may be difficult between the vessel sizes and maybe you do a tiered approach like they did in the Gulf; maybe we do that.

Didn't we in fact at the last meeting say that we would develop trip limits for the snapper fishery? Didn't we have two – we had a group of fishermen that wanted catch shares and we had a group that wanted trip limits. Didn't we say that we were going to develop both? I mean if we said that we were going to do that, we've stepped up to the plate already. We should develop trip limits for the snapper grouper fisheries based on getting together with the AP and figuring out how they would do it.

MR. CURRIN: Yes, there was an analysis that was done in 16 for vermilion trip limits. Clearly, the route we chose in 16 to try to extend the season did not work, and several others have said it almost doesn't matter what you do, that it's very difficult to make that season extend for as long as everyone would like to participate.

You know, we heard it today as well – well, six-month seasons didn't work; let's go to quarters. Yes, I guess you just hope, skip and jump your way around and ultimately the quota is caught up pretty quickly within whatever time period I think you do. I'm not opposed to any of it; and if that's the way the fishermen want to do it, that's great with me. I don't think we have a vehicle right now to try to address trip limits in vermilion at this moment – maybe in Amendment 20, if that's where it needs to be done or somebody wants it to be done.

MR. HARTIG: Just to what we decided at the last meeting to develop trip limits for the snapper grouper fishery, we decided that already, so that is going to be done. Where is it going to be done, in 20 or do you have any ideas? Yes, Comprehensive Catch Shares Amendment; thank you, Kate. How far are we away from looking at that?

MR. CURRIN: If I had to predict, you'd see your golden tile assessment first. Any other comments on the trip limits? Thank you for the discussion. The next time I see Mr. McCaffity I'll make sure to tell him that we did talk about it. Somebody there is not a good answer or a good approach for any of this regarding where we are. Well, we'd like to recess as a Committee of the Whole until what time tomorrow morning, Mr. Harris.

MR. HARRIS: Thank you, Mac, great job. I'm willing to come in and start our meeting at 8:00. We have got a closed session for a legal briefing in the morning at 8:00; and as soon as that is over with, we'll go into full council.

(Whereupon, the Committee of the Whole Meeting was recessed at 7:20 o'clock p.m., December 10, 2009, and adjourned after the closed session at 8:15 o'clock a.m., December 11, 2009.)

## FULL COUNCIL SESSION

DECEMBER 11, 2009

The Full Council of the South Atlantic Fishery Management Council convened in the Sheraton Atlantic Beach Oceanfront Hotel, Atlantic Beach, North Carolina, Friday morning, December 11, 2009, and was called to order at 8:15 o'clock a.m. by Chairman Duane Harris.

MR. HARRIS: Okay, we will adjourn the Committee of the Whole and come back into open session for Full Council. Okay, I am going to call to order the meeting of the South Atlantic Fishery Management Council for December 2009 and welcome everybody. I would introduce our liaison from the Gulf and the Mid-Atlantic, but Tom McIlwain and Red Munden had to leave early. They were here and I'm sorry I didn't recognize them earlier, but I apologized to them and they said it was okay.

Welcome to our newest council member from Georgia, Spud Woodward, so, Spud, welcome as a new council member. Also, Wilson Laney had to leave early so his U.S. Fish and Wildlife Service Report has been sent around by e-mail, and he asked me to apologize to you. Also, we

did have two past council chairmen attend the meeting. They are not here with us right now, and that is Dr. Louis Daniel and Pete Moffitt; and Dennis Spitzbergen, too, so he was here as well.

Just to call your attention to some new committee assignments in the book, with Susan's departure we needed to make some changes and Spud knows what he is up to now, and we did make some other minor shifts as well, so I just call your attention to those. Judy Jamison from the Gulf and South Atlantic Fisheries Development Foundation, welcome, Judy, glad you're here. Bob, you had another announcement?

MR. MAHOOD: Also I'd like to officially introduce our new staff person, Kari Fenske. If you haven't had a chance to meet Kari, she will be working with John's group and the SSC.

MR. HARRIS: And I know Roy had a new staff person here earlier, but I don't see her in the room. Has Anik left us now?

DR. CRABTREE: No, Anik is still here, and Anik is not really new. She has been with us for several years, but she hasn't been to a South Atlantic Council meeting yet. I think everyone knows Rod Dalton. Rod is retiring at the end of the year. Rod has got I think 30 years in with the agency and has been working on your rules for many years and was a regular attendee at council meetings ten or fifteen years ago. Anik is going to be our main regulations' writer. We're also hiring another gentleman, Scott Sandorf is coming into work for us to help with writing our regulations, too.

MR. HARRIS: Yes, that's what I meant to say, Roy, is that she was not new to the agency, but new to the South Atlantic Fishery Management Council Meeting, so I appreciate you clarifying that for me and we will welcome her officially when she walks in the door. Lt. Charlie Gris with the Coast Guard; Charlie, welcome. You've not been a stranger but you're an official designee at this meeting, so welcome; we're glad you're here. Okay, at this time let's do a roll call and I'm going to start with Tom Swatzel at the end.

MR. SWATZEL: Tom Swatzel, South Carolina.

MS. MERRITT: Rita Merritt, North Carolina.

MR. GEIGER: George Geiger, Florida.

MR. PHILLIPS: Charlie Phillips, Georgia.

MR. WOODWARD: Spud Woodward, Georgia.

MR. ROBSON: Mark Robson, Florida.

MR. CURRIN: Mac Currin, North Carolina.

MR. CUPKA: David Cupka, South Carolina.

MR. HARRIS: Duane Harris, Georgia.

MR. MAHOOD: Bob Mahood, council staff.

MS. BROUWER: Myra Brouwer, council staff.

DR. CHEUVRONT: Brian Chevront, North Carolina.

MR. BOYLES: Robert Boyles, South Carolina.

MR. HARTIG: Ben Hartig, Florida.

MS. SMIT-BRUNELLO: Monica Smit-Brunello, NOAA General Council.

DR. CRABTREE: Roy Crabtree, NOAA Fisheries.

MR. STEELE: Phil Steele, NOAA Fisheries.

DR. PONWITH: Bonnie Ponwith, NOAA Fisheries Service.

MR. EASLEY: Otha Easley, NOAA Office of Law Enforcement.

LT. GRIS: Lt. Charlie Gris, 7<sup>th</sup> Coast Guard District.

MR. HARRIS: Thank you very much. The next item on the agenda is the adoption of the agenda; and if you will give me some leeway and latitude to move things around as necessary, there are a couple of things. We did not have a Dolphin and Wahoo Committee, so that is not going to be a report. There will be no report given from that committee at this time. Bob has one other item.

MR. MAHOOD: Under other business there is actually a report from the Personnel Committee relative to an action they took with an AP member, and Robert will be presenting that under other business.

MR. HARRIS: Thank you, Bob. With that, is there any objection to adopting the agenda as I have requested? Seeing none, the agenda is adopted. The next item is the approval of the September 2009 meeting minutes. Are there any changes, deletions, additions to those meeting minutes? Seeing none, is there any objection to adopting those minutes? Seeing none, those minutes are adopted as published.

The next item is an SSS Report, and Dr. Belcher has left but she gave the report on 17A and 17B already. I know that John Carmichael had one item that he wanted to bring to the council's attention, so, John, if you will come up and do that at this time.

MR. CARMICHAEL: The SSC had two requests for memos to the Science Center requesting information to further them along on the ABC discussions. The first one was in their report under their king mackerel recommendations, and it has to do with requesting updated projection information and probabilities of overfishing. They had specified the information that they need and the time periods over which they'd like projections done.

They had included that in their report to you, so I think we should ask that the council consider writing a letter to the Science Center requesting this information for king mackerel. The other one is not something that they had explicitly included in their report, but it was something that they talked about when they were discussing their next steps in their April meeting and what they would like to do.

For their April meeting, as I said, they have to set these ABCs, and they're having a webinar and they will be posted in the Federal Register Notice. That was actually part of the discussions that led to when they're actually holding this because of the time span that we had to get that in their. So, yes, Monica, thanks for that and we definitely included all of those. It's in the Federal Register as well as other places that let people know what is going on. They want to have the webinar to talk about the information they need, but in the discussions they agreed that, yes, we at least need landings.

I have added another request to actually include, also, in the request to the Science Center is to get landings for all of the stocks that are managed by the South Atlantic. This would be from commercial and recreational, the headboat, the MRFSS, the ALS, and to get it through 2008, I suppose would be the latest it is available, so from the start of the time series through 2008.

MS. MERRITT: John, will those landings – they didn't have a breakdown by state; do you expect that? I'd like to have it in that format.

MR. CARMICHAEL: Well, I do not believe that is what we would ask for in this case because they have to focus on the ABC for the overall fishery. Certainly, when you get into evaluating your recommendations for management in the ACL Amendment, you'll probably want to look at it by gear and by state and by lots of different ways, but at this point their focus is on the total.

They're going to have to look at these total landing streams for all components and try to decide what it says about the overfishing level of the fishery as a whole and what the acceptable catch is. They're probably, I would say, going to have their hands full dealing with the 98, I believe that it is, managed species.

MR. HARRIS: Other questions of John? Is there any objection to sending those two letters to the Science Center requesting the information the SSC has requested? Seeing none, we will send those letters. Thank you, John. Anything else from the SSC, John?

MR. CARMICHAEL: No, sir, thank you.

MR. HARRIS: The next item on the agenda is the Snapper Grouper Committee Report. Mac, are you ready?

MR. CURRIN: Thanks to Rick and all the staff and team involved in preparation for this meeting. The last couple of meetings we've had at least five amendments on our agenda, so it's a busy time and the staff ends up dealing with the brunt of that, and I can't thank them enough for the great job they do.

A couple of items that were left over before I get into the report – and everybody should have received that from Mike – one is just to note that there were some questions about a table in 17A, that the values didn't seem to jive as to the date that overfishing was going to be ended under the Frebuild. Rick has corrected that table, and I just want to let everybody know that.

There is an alternative, also, in 17A that we mentioned yesterday, and it's the lottery alternative. I think it is Alternative 10 in 17A. It's very, very complicated. I think the implications in my mind at least of the complexity associated with trying to implement that, the cost to the participants if we went that way would be overbearing, and I think it would make it really not a very serious alternative to consider. There has not been much analysis done on that now. **The analysis of it would be very complicated, and I would be willing to accept a motion from the council to move that alternative to the considered but rejected file.** Robert.

MR. BOYLES: Yes, sir, Mr. Chairman, I would make the motion.

MR. CURRIN: So moved by Robert; seconded by George. Any discussion on that? I tried to set up a justification for that, and I think it's pretty clear, but if there is anything else anybody would like to say. Ben and then Rita.

MR. HARTIG: Just very quickly, there wasn't any support that I saw from the public, and that's probably a pretty good thing to put on the record, also.

MR. CURRIN: I don't recall any support at all out of the thousands of comments that we got.

MS. MERRITT: Mr. Chairman, I do agree. I think it was just something that we've been battling around for a couple of years, at least, I think. I've run into a brick wall trying to get some information on how to do it and to find out things about cost and just what it would take. Evidently it's more complicated than initially thought.

MR. CURRIN: **Any further discussion on that motion to move Alternative 10 to the considered but rejected file? Any objection to that motion? I see none; that motion is approved then.** Thank you very much. The only kind of leftover thing that I'd like to consider discussing this morning before I get into the report and the other motions by the committee and Committee of the Whole is Nick Farmer's new analysis that we talked about at the end of the meeting last night.

It has been sent to everyone. I hope everyone had an opportunity to look at it. That's the consideration of a possible additional alternative or modified alternative for 17A that makes some assumptions of a lowered mortality rate in the areas inside of 98 feet. Nick went through that last night and provided some literature and justification perhaps for using lesser values. He selected a 20 percent mortality inside that area that seems to be justified and ran the model.

Again, we don't know what compliance is, we don't know what effort shift is, but knowing that it's not a hundred percent he backed off to some degree on that; I think to 85 percent in the run that I looked at, and the required reduction – somebody correct if I'm wrong – I want to say 82 percent, which is 1 percent less than the reduction required for the Frebuild.

If you plot things like that on graphs and try to determine the difference between values or points, I suspect if there were some way to do that you would be hard pressed to detect the difference between 82 and 83 percent, but we have no science to be able to do that, but that's here for consideration of the committee. We currently do have a preferred alternative of Alternative 5, which is defined as a number of blocks, and this is just here for consideration.

MR. GEIGER: I probably should defer to you; maybe you were going to ask the same question. Robert asked to see a map and also see the block that was displayed based on the runs that have been done with the reductions that were achieved, and I think he asked for a similar tool and I didn't receive it.

MR. CURRIN: I did not receive that either. Nick had a chart, I believe, that had the various new alternative analyses that he had worked on. Yes, I thought we were going to get that sent out, too, but I did not receive that. He may be able to put that back up on the board if you're interested in seeing that. The one run he sent was the 98 to 300 feet, I believe, that offered an 82 percent reduction.

MR. GEIGER: Well, if I recall the chart correctly, there was one alternative in there other than the one that we selected, and I think it was 4B that achieved an 85 percent reduction, I believe.

MR. CURRIN: I don't recall off the top of my head, George, but that would make sense. As best I remember, 4B went from 66 feet out to 300, so it came inshore quite a bit more.

MR. BOYLES: Mr. Chairman, clearly there is a great divergence of opinion about this. Can staff give me a better handle on the implications of leaving this meeting without a preferred alternative; just so I've got a better understanding of what that means in terms of timing, what that means in terms of signifying our preferred to the public.

MR. WAUGH: Some of the economic analyses rely on putting together the sum total of all the preferred alternatives, and clearly this is the big item. It would make it difficult to complete the economic analyses. In addition, the region has plans to file the DEIS. I think they're looking at trying to file that prior to our March meeting so that the comment period is open during our March meeting.

While NEPA doesn't require that you have preferreds and certainly given that we just went and did a series of public hearings with no preferred, it would be better to give the public an idea of which of the alternatives we're looking at during that DEIS comment period.

MR. GEIGER: I guess to that point, earlier in the meeting we talked about the timeline, and Roy was going to call back to St. Petersburg and have the staff work on the timeline and tell us what it looked like, I believe.

DR. CRABTREE: Well, we did that. Jack will have to remind me, but I believe to have the comment period on the DEIS in prior to the March meeting it would have to file by January 15<sup>th</sup>, which is probably a very slim chance of happening because it has to be cleared through GC. The document would have to be modified based on all these things added, and I think that's unlikely. The most likely scenario is we would file the DEIS sometime before the March meeting and the comment period would end sometime after the March meeting, and you'd be able to take final action in June. But I do agree with Gregg; I mean it's time and I think we have the information and we need to choose a preferred alternative. I think it better serves the public for them to see where we're going.

This isn't going to get any easier, so I think we really ought do the best we can to choose a preferred. You're not locked into it. You could change it at the March meeting, you can change at the June meeting. I would encourage you to choose a preferred. Well, we already have a preferred, but I would us that we're best served to have a preferred when we leave here.

MR. GEIGER: Actually Roy covered all the points I was going to make. I think it best serves the public to make our preferred now. We can change it. We have changed our preferred alternatives at the very last minute on prior amendments. There is precedence for doing that.

MR. CURRIN: All right, Nick is up and running if there are questions about the additional analyses that he has done over this week. He had a table last night I think that outlined – I'm not sure whether 3A was the new one or not, but either two or three alternatives that are not included in our amendment at this point. 4B was one of those; he tweaked 4A, which is in the amendment in some form, and then I'm unsure about 3A and B and how those stand and compared to the current alternatives, Nick.

DR. FARMER: You should have a copy of this image right here in that PDF that I believe was sent out to you last night after the meeting adjourned. It would be Slide Number 7 in that PDF, so if you want to be able to look at it a little bit closer than you can probably see on the screen up here, but basically is a chart of the various bathometric closures that were analyzed.

There are quite a few of them. The first closure is the one that was already on the books, and that's from 98 to 240 feet, so that's between these two orange lines with the yellow stripes in between as the fill, so that would be what has been referred to in my presentation as Alternative A for bathometric closures. Well, 3A and 4A both deal with a 98 to 240 foot closure, so 4A would go all the way up to here; whereas 3A would not have any of this area closed.

Then I did an analysis of 66 to 240 feet, and that's what I've been referring as Closure B, and that would be from the green edge right here to the orange edge right here, so that's 66 to 240 feet, so you can see that closes a substantial additional amount of bottom inshore and covers a lot of these spawning aggregations identified by Moe in 1963.

4C or Closure Version C would be from 66 to 300 feet, and that's between this yellow line over to this yellow line, so slightly broader on the east edge. Then what I was asked to look at by Mr. Harris was a 98 to 300 foot closure, so that would go from this orange edge here to the yellow edge here. You will note that the gains from that, in terms of geographic area closed it's not all

that much extra area because bathymetrically there is sharp drop-off there due to the Gulf Stream.

So with that said, I prepared some tables that will hopefully help, so I'll skip over to one of those. Do you guys have any questions about those bathymetries or does that make sense? Okay, so I've got two tables in a row in the PDF that was sent to you last night. One is on Page 31 and one is on Page 32.

On Page 31 I have the A & B bathymetric alternatives on it, so A would be the 98 to 240 foot for the cells that would be closed by all three and the cells that would be closed by all four. Then B is from 66 to 240 foot. Then on Slide Number 32 I have Closure D instead of B, and D is the one from 98 to 300 feet.

If there are any questions, I can help clarify what all this means, but basically what I did in these tables is I ran through three scenarios ranging from kind of the most conservative assumptions to the least conservative assumptions. Scenario 1 could be thought of as some pretty extremely conservative assumptions and Scenario 3 I would say would probably be the most optimistic, least conservative assumptions.

MR. CURRIN: Questions for Nick or comments about the analysis? No questions or comments?

MR. HARRIS: As I said the other day, I would prefer not to choose a preferred alternative at this time simply because this is fairly new information and we haven't had time to really study it and digest it very well. However, I am willing, if the council's desire is to have a preferred alternative – and I understand the rationale in doing so – I could choose an alternative that begins the closure at 98 feet, and I would prefer one that goes out to 300 feet because I think given the discussions that we've had about some other closures, it only makes sense to go to 300 feet with this one rather than having every man's land, if you will, in between 240 and 300 feet. My preference of all of these would be either 3A or 4A, but I'm not prepared to make a motion with respect to this right now.

MR. CURRIN: Well, disregarding that is there some desire to modify our current preferred in the document? Well, I think I'm safe in saying virtually all of these, because they're modified somewhat from the ones in the document, would have to be added to the document. They're currently not in the document. Robert.

MR. BOYLES: This may be a question for, Duane, or for you, Nick. What I wrote down is your A alternative is a bathymetry of 98 to 240 feet, but, Duane, didn't you say you'd prefer a 300 foot, which is the D alternative, correct?

MR. HARRIS: Yes, and I'm sorry, I misspoke, Robert.

DR. CHEUVRONT: Mac, what I would prefer to do is the council has chosen a preferred. It may not be the best preferred, but it is one of the alternatives. If we're looking at this Slide 32 that Nick has prepared for us, it hasn't changed from what we've seen all along. What I would

like to propose is to consider making sure our alternatives in the document match the range of alternatives that Dr. Farmer has shown us on this slide.

Now, I know that could be involving some change in analyses and things that need to be done. I'd like to keep the preferred where it is so hopefully the analysis could go on. I realize that this creates a burden on staff. I just think that this is really a serious issue, and I'm sorry about the additional burden this could create, but I think it's worthy of analysis. At this point I'm not sure that I want to change our preferred.

MR. GEIGER: I agree with Brian that I'm not inclined to change our preferred at this juncture either. However, Brian, I have no objection including one or two of these alternatives, but to include the whole scenario when obviously the majority do not achieve the bar of ending overfishing and creating work when we can't recommend to NOAA an option that doesn't end overfishing.

DR. CHEUVRONT: George, I'm fine with that. That's why I didn't make it as a motion yet. I want to think it through which ones we would – I mean all of these aren't going to get us where we want to be. We already have some in the document that we know aren't going to get us where we want to be, but I wanted to have the discussion before we got a motion out there. If the mood is that we don't need to include those that aren't going to have a chance of getting us to where we need to be, I'm fine with that, too.

MR. PHILLIPS: I'm like Duane; I'd rather not have a preferred because I think it's highly likely we're going to change it. I'd also like to – if I remember what we were told, these numbers have not been reviewed. They're estimate numbers, trends, even, and they're probably close, but we don't know for sure. I think there is some leeway in these numbers. I guess the other part of the question would be I'd like to know the difference, because they say staff needs to do some more study on the preferred, and if we're going to do a preferred – and they're going to spend a lot of time looking at it and what it will do – I'd think we'd be much better off going to Alternative 3A, which is what the public asked for.

If they had to go there, that's where they wanted to go. If they're going to do a lot more data crunching on what works, let's let them crunch that on what the public asked for, and I think that gets really close if it doesn't meet the letter of the law of what we need to do.

MR. CURRIN: Keep in mind 3A and 3B are currently alternatives in the document. What we need to decide –

MR. DEVICTOR: No, 3A and 4A.

MR. CURRIN: I'm sorry, 3A and 4A; anyway, 3A and 4A are currently in the document. What we have to decide now is whether there is any desire on the part of the council to add additional alternatives at this meeting for analysis for the next meeting. Roy.

DR. CRABTREE: I think we need to add Alternatives 3B, 4B and 4D. I think the work is largely done. I don't think adding them into the document is going to be all that onerous a task.

MR. CURRIN: Would you say those again; you said 3B –

DR. CRABTREE: 3B, 4B and 4D.

MR. CUPKA: I agree with that; I'd like to see at least one alternative in there that goes out to 300, because I share some of the same concerns that Duane had. We don't want to create an every man's land in between 240 and 300. I would like to at least be able to look at that.

MR. BOYLES: Would you include 3D in that as well as an alternative, Roy?

DR. CRABTREE: If you want to, go ahead. I think you're better off to include more now. It's better to add things now than to come in later and add them; so if you think that's one that you might look at, I'd say add it in.

MR. CURRIN: If there is some desire to add these into the amendment at this point, we would need a motion to do so. Robert.

MR. BOYLES: I would like to make that motion, Mr. Chairman.

**MR. CURRIN: The motion by Robert is to add 3B, 4B, 3D and 4D to Amendment 17A; seconded by David Cupka. I believe I'm right; don't let me put words in your mouth, Robert. I'm going to let you do it.**

**MR. BOYLES: 3B, 4B, 3D and 4D.**

**MR. CURRIN: That's what I understood. Any further discussion on this motion? Is there any objection to this motion? I see none; that motion is approved.** Okay, thank you all very much, and I'm sorry we didn't get finished on time and have this taken care of before, but I'm going to move from there, unless Rick tells me differently into the Snapper Grouper Report.

Part of this was done as a Committee of the Whole. Those motions are listed at the end of your report. I will not go through those since they have already been passed by the council. The Snapper Grouper Committee received some presentation and a chance to review the Oculina monitoring efforts since our last meeting. We received presentations on the SEDAR updates that are scheduled from Dale and a status report on red snapper from Dr. Crabtree.

Erik Williams came in and updated us on the red snapper rebuilding projections. Dr. Belcher from the SSC gave us a report of their deliberations, and then Nick Farmer came in and showed us at that point the latest iteration of the model that he has been living with, I guess, for all week and for some period of time before that.

Then we reviewed the comments with Rick and Kate on 17A, 17B and Amendment 18. The SEDAR staff presented terms of reference with recommended changes from the SSC, including timelines and participants. There seemed to be a desire in terms of the red snapper update to move the assessment schedule up some and to appoint panel members that had experience with the assessment of red snapper in the Gulf of Mexico.

Regarding the timeline, there was a desire to have the red snapper assessment reviewed by the SSC by the December 2010 Council Meeting. There was discussion between the Science Center and the SEDAR staff, and it was determined that the schedule would be revised so that the assessment would be available to the SSC for an October 2010 SSC meeting, and that the results of the SSC's review would be presented to the council at our December meeting. Brian.

DR. CHEUVRONT: In the report there is a typo in the headline that we were just sent this morning. It's Number 2, SEDAR Updates, snowy grouper is listed twice and red snapper is not listed, so it's just a technical correction.

MR. CURRIN: Thank you. The committee also talked about naming individuals for the SEDAR staff to contact scientists in particular during the council week – and I believe that has been done – regarding their availability to participate as panel members, and the committee asked the SEDAR staff to present the availability to the individuals at full council and that will be done.

The committee approved the modified terms of reference, the timeline and a partial participant list. When we get to the motions, I'll just ask John Carmichael to fill us in on that. Regarding 17A, Erik Williams gave us, as I indicated, the latest red snapper projections. These included rebuilding projections of various portions of the Fmsy incorporated at very high recruitment in 2006.

Carolyn Belcher presented the SSC recommendations pertaining to Amendment 17A. The SSC had some concerns that the analyses and closure alternatives are based on assumptions that indicate possible outcomes that are in many cases too optimistic. The SSC was concerned that the model developed by the Southeast Regional Office, the one that Nick has presented to us, was run assuming a hundred percent compliance and zero effort shift, and they believed that more realistic assumptions were needed. No area-based alternatives, in their opinion, would achieve the required decrease in the catch in 2010, and they suggested closing larger areas that may be required.

Dr. Farmer presented the range of reductions in red snapper removals expected from the closure alternatives, using a number of different assumptions. The council highlighted that there would be a decrease in effort if fishermen ceased fishing or if the individual switched into other fisheries.

The Snapper Grouper Committee discussed the implications, including those in terms of the economic and social effects, from retaining the current Fmsy proxy and from specifying a new one based upon recommendations from the SEDAR Review Panel and SSC. The committee decided to retain the preferred alternative that would specify an Fmsy proxy according to the most recent SEDAR and SSC recommendation. This level is equivalent to that of F 40 percent SPR.

However, the committee directed the staff to add rebuilding strategy alternatives based on projections using F 30 percent SPR as an Fmsy proxy and keeping that very high recruitment assumption. The committee reviewed a summary of the public comments received at the

hearings. A preferred alternative was selected for a closure alternative. NMFS reported that it's possible, as you heard earlier, that the DEIS could be filed with the EPA before the March 2010 council meeting. As such, the schedule is for the council to approve sending Amendment 17A to the Secretary of Commerce at the June 2010 meeting.

17B; Rick took us through that and provided us a summary of the public comments. The council retained the current range of alternatives and the current preferred alternatives in that document. The committee clarified that the overfishing determination and the in-season recreational closure for overfished stocks would be triggered by the status of the stocks' report to congress.

Changes were made to the proposed framework. The committee voted to send that amendment to the Secretary of Committee. The committee was provided a proposed rule in the briefing book and was sent another version yesterday. I hope everybody had an opportunity to look through the additional changes that were made to the proposed rule, and we will consider that later on in my report.

Those changes were based on committee recommendations and some staff comments. Those changes include adding black sea bass and vermilion snapper AMs to the rule as they were not previously included. Just as a note, part of Amendment 18 and subsequent agenda items were discussed in a Committee of the Whole.

Kate took us through Amendment 18 and provided a summary of the public comments and presented us alternatives in that amendment. The committee recommends an action be added to the amendment that limits participation in the black sea bass pot fishery using a number of control dates. The details of the direction to staff and the team are provided in the motions.

Kate also took us through Amendment 20 and presented alternatives in the amendment. We went through all of them, and the details of those directions to staff and the team are provided in the motions that will follow. It was decided that a wreckfish stakeholders' meeting should be held the first part of 2010. We also went through the Comprehensive ACL Amendment and staff presented alternatives in the option paper, and the details and direction to staff are also in the motions as well.

Under other business a couple of things were dealt with and some of those same items were dealt with this morning. As I indicated, there are a number of motions and some which we haven't dealt with and we'll need some information before we can vote on a couple. **Motion from the committee to accept the terms of reference for black sea bass as modified by the SSC, and on behalf of the committee I so move. Is there discussion of that motion? Any objection to that motion? I see none; that motion is approved.**

**On behalf of the committee I move that we accept the terms of reference for snowy grouper as modified by the SSC. Is there any discussion of that motion? Any objection to that motion? I see none; that motion is approved.** Regarding that, there is a note on Motion 2 that the staff was to clarify a life history issue, and it was the use of the term "peculiar" and what was meant specifically by the "peculiar" use of that term to describe life history.

MR. CARMICHAEL: Actually the work “peculiar” got into the report. The discussion was really about the unique reproductive traits of those species, their sex-changing abilities and how that might affect the overall uncertainty. That is what is really intended. In a way that is peculiar I guess from the human perspective.

MR. CURRIN: I think “unique” characteristics is probably better than “peculiar”. Is everybody okay with that? The third motion from the committee offers to appoint the following individuals to the Snapper Grouper SEDAR Updates; from the SSC, Dr. Andrew Cooper, Dr. Marcel Reichert, Dr. John Boreman and Chip Collier; and also appoint as an observer Dr. Frank Hester. That motion was approved by the committee. It’s not a complete list; we’ll deal with that perhaps in a second motion. Is that the cleanest way to do that? I would offer a discussion of that motion.

DR. CRABTREE: Point of order; I believe that motion was not approved by the committee. It was tabled by the committee.

**MR. CURRIN: Thank you, Roy. That motion was tabled, as indicated by Dr. Crabtree, because we had not completed that, so I would entertain a motion to untable that motion. Robert.**

**MR. BOYLES: So move, Mr. Chairman.**

MR. CURRIN: Okay, seconded by Charlie, so that motion is untabled. Just as a reminder it’s an incomplete list. We had asked the staff to contact some scientists as to their willingness to participate with the idea of adding some additional people to that, and I believe John Carmichael has done that. John..

MR. CARMICHAEL: Yes, I have. It would probably be helpful if you make a motion where in your motion you have these separate sections, appoint the SSC representatives; appoint other scientists because there was discussion of Frank Hester and distinguishing between an observer and the participant. I think the intent is to appoint him as another scientist as a participant. It would be helpful to have that clarified. Then the final part deals with other scientists that were requested and a number of names were thrown out during the discussions of definitely highly qualified and well-respected scientists.

I have contacted those and have not received any replies from any of them. I contacted them I guess that evening via e-mail. I think perhaps it would be helpful at least to us if the council lets it’s intent be known to try and get someone like that to participate and let us pursue that further, and perhaps people higher up and people within the agency and higher stature than mine can do a little arm twisting, perhaps, and convince some of those guys who were named to come down and participate in this with us.

DR. CRABTREE: John, is it necessary for us to appoint these people at this meeting as opposed to the March meeting? It would hard for me to support appointing these people without knowing where the rest of this is going to go. Is it a setback if we – that would give us time to contact people, find out who is available and then come back to it. Would that create a problem?

MR. CARMICHAEL: Yes, it will on at least the beginning of this process because the data scoping has to occur very soon. It is scheduled to happen the first week of March. With now the changes in schedules, which I guess will come up next, we're going to have to get red snapper done even sooner, so we really can't have any of this slip back into after March.

Then, also, the SSC commented and part of their changes in the terms of reference was directing to create a couple of topical workgroups to deal with the discard mortality issue in red snapper and the historical data in red snapper, and those groups need to get their work done by June. If we're going to have people participating in all these different things, we really need to know who is there. We can't wait until March, but you could perhaps give us just some general guidance and we can fill in those workgroups.

DR. CRABTREE: Well, I guess that's where I was heading next. Is it possible for us to essentially express our intent and delegate authority to make these appointments to the chairman, vice-chairman and Mac? That would be those three folks and we give them guidance on how many other scientists we want on here and then we trust them to make those appointments after the meeting. Can that be done? That would be my preference then at this point.

MR. BOYLES: I would make that in the form of a motion.

MR. CURRIN: Well, we've got a motion on the table. I think the intent is clear and we will entertain that motion after we deal with this one up here. John's suggestion was that we do the SSC as one motion; the AP as one motion; and the other scientists as one motion so it was all clear. I remember we had the problems with how the designations were laid out in the panel, and that may be cleaner. I'm willing to do it any way you guys want to do it if you think you can craft it. Roy.

DR. CRABTREE: Well, problem with that is then we're piecemealing it, and I don't like approving the panel without seeing the whole thing. I think Robert could make his motion as a substitute motion.

MR. CURRIN: Okay, he can do that. Robert.

MR. BOYLES: I would like to do that, Mr. Chairman.

MR. CURRIN: Is there any further discussion on the motion to untable this motion? Any objection to that? I see none; the motion is now untabled. Robert.

MR. BOYLES: Mr. Chairman, I would like to make a substitute motion of what we just talked about, with Brian's help.

MR. CHEUVRONT: Okay, I think the substitute motion that we're looking for is to appoint the following individuals to the Snapper Grouper SEDAR Updates; from the SSC, Dr. Andrew Cooper, Dr. Marcel Reichert, Dr. John Boreman and Chip Collier; and as scientists, Dr. Frank Hester and others to be determined by the council chair, vice-chair and chair of the Snapper

Grouper Committee. We didn't say specifically how many others, but I think Roy had given a list of several folks.

MR. CARMICHAEL: Roy pushed on that. I said two, three or four; and Roy said let's pick a number, so I said two at the discussion at the committee.

DR. CRABTREE: I would like to see three others, I think.

MR. CHEUVRONT: Add three other scientists.

MR. CURRIN: So Hester and three others and the desire is to appoint Hester as a scientist. I thought he was recommended as an observer, and we weren't clear exactly what that was. John, can you clarify that?

MR. CARMICHAEL: There is a procedural issue as well. People that you appoint to these SEDAR workshops need to be members of your SEDAR pool. Your SEDAR pool is now broadly inclusive of the employees of the agencies within the region and the university scientists within the region and members of your AP, your SSC and all of that, other individuals of which you have added a few over the years.

If they're an employee of the federal agency, then there is some latitude in there as designees of the agency representatives here, but if you get into some of those guys like Mike Sissenwine was mentioned who aren't federal employees – they may be former federal employees but they wouldn't be in your SEDAR pool, so you may have to appoint these to the SEDAR pool, which may mean there is someone you'd like to have but you can't get them fully through the system until your March meeting when the Selection Committee and the AP Committee, which is where that is handled, because they have to be vetted like any other AP member, until that can meet and get them added in.

DR. CRABTREE: Yes, and that seems okay to me that we could add as required to the SEDAR pool at the March meeting. There wouldn't be any final recommendations or anything like that prior to then, so I think that's okay.

MR. CURRIN: All right, Brian, we'll get back to you and your motion.

DR. CHEUVRONT: I think the motion is finished.

MR. CURRIN: Okay, a motion by Brian; seconded by Robert. Discussion. Bonnie.

DR. PONWITH: In the committee report Dr. Frank Hester was listed as an observer, and I am just interested in how in the motion we've moved him to be an actual participant and what the rationale for the distinction between moving him from being an observer to a participant is.

MR. CURRIN: Well, it was kind of the issue I raised, but we didn't talk about it any. Brian, do you want to address that?

DR. CHEUVRONT: I'm going to defer to John on that.

MR. CARMICHAEL: We talked about the distinction between participants and observers and said that within the review workshop, as SEDAR is currently done, there is an identified slot as appointed observers that the council appoints, and they tend to include the SSC members and others who are there but not part of that tightly defined independent panel.

In all other workshop you appoint people just as participants and they're there just as everybody else who is there, the ones that you appoint. Others can come as observers because they're open meetings, but it is a difference in how you've done things in the past if specifically identify someone to go through all aspects of the process as this is as an observer.

It means that they would be there, and I would interpret it as meaning that SEDAR will then pay their expenses to the workshop that's held to put all the pieces together, the one face-to-face workshop that exists in the component, but they would not be receiving drafts of information as an observer and they would not be participating in report preparation and they wouldn't be seeing drafts of the report until it's all said and done.

An observer in a way is not filling much of a different role than anyone else who may sit in on the webinar; so if he is appointed as that, that's kind of what an observer implies with the exception of expenses being paid for the one workshop that's part of the update process.

MR. CURRIN: Well, that's quite different from what this motion indicates that he would be appointed as a scientist on the panel, and I have some concerns about that. One, he's not currently in the SEDAR pool, and we can handle that, but he has been a paid participant in this by a group with a defined agenda to some degree.

I don't question Dr. Hester's integrity nor his background and his credentials, but the history of having been hired to basically assess and to some degree contradict the science that has been provided by the region and the science center and our SSC gives me some pause. Roy.

DR. CRABTREE: Do we have anything, Bob or John, in our SOPPs or in the SEDAR Guidelines; is there anywhere where we address the issue of individuals who have been paid as advocates or lobbyist to come before the council and advocate a particular position? I went through this at the Gulf Council recently with respect to their SSC, and they basically have provisions in their SOPPs that paid advocates aren't eligible to serve on the SSC. I don't know if we have anything like that.

This hasn't to do with Dr. Hester. He did serve on the Black Grouper/Red Grouper Panel, but he had not been paid as an advocate by anybody to do that, so I think that was fine. I do think you need to consider whether there are some ethical issues here about someone who has been paid to advocate a position serving on this, and you need to carefully think about that.

MR. CURRIN: I think John clarified that he is in the SEDAR pool, so I was not aware of that. Thank you for clarifying for that. Bonnie, I think I've held you off for a while, haven't I? You're okay?

DR. PONWITH: That was my second generation question of whether we had –

MR. CURRIN: All right, thank you. Ben.

MR. HARTIG: I'll just say from an industry perspective, when we first hired Dr. Hester to go to the King Mackerel Assessment, it was not as an advocate role. He was there to add his expertise as a stock assessment scientist, to get the best stock assessment we could get, and to ask questions based on his expertise and his knowledge about assessments and how they all work and how the models work and everything.

Since that time there has been some questioning of the data, and that is healthy. That's healthy in the scientific process; and to review the questions that people have about data, sure, it may be from a certain perspective, but it is healthy. It is good for the process so I don't see any problem with Dr. Hester as a participant in this process.

DR. CRABTREE: But it has been a little slippery slope because you could get to a position where the environmental groups are going to pay their scientists to come in, and we have got a commercial group that pays their scientists to come in and the recreational group pays their scientists to come in, and then we've got all these groups with hired scientists.

I'm not questioning anyone's integrity or intentions, but there is a perception there that when a group of people is paying a scientist, that there are expectations associated with that. I think if you start down this path it would be very difficult for you to say no in the future if an environmental group or anyone else comes in and wants to place a member of their staff or someone they're paying to serve on this, so that's the only point. Once you do this in one case, it's going to be hard not to and then you could end up with all kinds of hired advocates on these panels. You need to think about how that affects the integrity of the process.

MR. MAHOOD: I've talked some with the North Pacific. It's pretty common; everybody that goes to a meeting up there is pretty much an advocate of somebody, and they do have a lot of scientists that come and make presentations contrary or in support of the stock assessments. In talking with the executive director up there, that at least when they make presentations to the council, if their presentation has not been vetted through their SSC, it doesn't really have any pure standing. It's just like anybody making a comment to the council, but they're welcome to do that. But I haven't looked at relative to people serving on stock assessments, but I'll certainly do that, Roy. I check with them. I know they've probably dealt with it up there.

DR. CRABTREE: And I want to be clear; I want Frank Hester to be at this meeting, and I want him to be there in a capacity where he participates, and I don't have a problem if we pay his travel. I want to make sure that the actual panel who is charged to make these decisions are people who are independent and they're not being – and that anyone from the public that views it are going to see them as independent.

DR. PONWITH: Again, I haven't studied and memorized your SOPPs and this is why this comes up. In the scientific area is a very commonplace, it's the norm that when you serve on a review panel – everytime I'm asked to serve on a review panel I fill out a one-pager conflict of

interest, and it's to demonstrate whether I have some connection to the issue or not. It's a very typical question that's asked; do you have a financial stake in the outcome of this review? That's just the premise of in the SOPPs do you have a process for that or don't you, because it sounds like this may be the first test of that question.

MR. GEIGER: Well, my recommendation is we're going to have a SEDAR Committee meeting at the next meeting, and I would encourage us to have some research done in this type conflict-of-interest form that Dr. Ponwith just addressed brought up as a topic of discussion as an added process for our SEDAR. I think that serves us very well.

MR. HARRIS: To that point, I think you're right, George, and Roy is right, and I think we need to address this in our SOPPs, so I will ask staff to schedule a SOPPs Committee meeting and have a report on what Bob has learned in speaking with the other councils so that we can address that in SOPPs before we get to this point.

It is a slippery slope and I'm very uncomfortable having somebody that's paid by any organization serve in that capacity and the capacity that we're proposing to have Dr. Hester serve. I agree with Roy; I want him to be involved in this process, but how he is involved is the thing that we've got to work out.

MR. CARMICHAEL: This discussion here I think has really helped to clarify the role from my perspective of what it would mean if he were appointed as an observer to this, recognizing that you're creating a slightly different distinguishing position than you've had in the past, but I think it is clear what is expected, especially what Roy said about being involved but not officially being part of the decision-making panel. If you chose to do that, I think we can accommodate it within the process.

MR. GEIGER: I would like to see examples of the conflict-of-interest forms that are currently out there that have been completed and discussed at our SEDAR Committee meeting at the next meeting. I think it's extremely important.

DR. CHEUVRONT: Okay, given what John and Roy have both said, I would like to amend my motion slightly. What I'd like to do – see, my concern with having Frank Hester on there simply as an observer would be as John explained it. He would just be paid to be there to observe the participation.

What I would like to see happen, though, is a slightly higher level. I'd like for him to be included on the e-mails and all that stuff of all the reports. I want him to be aware of it. I would be willing to put him down to say – I don't know if I want to create a new category and call it a participant, but perhaps what we can do, John, as a procedural thing for the SEDAR is to create some kind of a mailing list.

I mean the SEDARs that I participate in, I get by e-mail all the reports and all that stuff. I think it would be appropriate to include Dr. Hester on some of those e-mails so he can see the reports as they're coming in, et cetera, but not necessarily be part of the decision-making body. Perhaps

what we could consider doing for SEDAR is ask people who are there as observers do you want to be included on the mailing list as these things go out, and that would solve that problem.

If we left him as an observer and gave him the opportunity to decide whether he wanted to receive those materials, I think that would solve the problem that everybody has been talking about. I would like to amend my motion and for Part B to be three scientists to be determined and then the other language; and Part C now would be to invite observers – well, let's just put it this way, keeping it in the same format, observers would be Dr. Frank Hester.

MR. CURRIN: Is that okay with the seconder?

MR. BOYLES: Yes.

DR. CHEUVRONT: I'd bet we need to reread this into the record.

MR. CURRIN: I'll take care of that when we get ready to vote on it. Charlie.

MR. PHILLIPS: I just want to make sure I'm clear on what Dr. Hester's role is. He is to sit at the table, participate, get all the information, everything but vote; is that what I'm hearing?

DR. CHEUVRONT: The intention is that he's not a decision-maker, but he can fully participate in the process as it is being developed.

MR. CURRIN: Is that clear?

MR. PHILLIPS: No.

MR. CURRIN: Well, John can probably explain what he expects his role and level of participation to be. John.

MR. CARMICHAEL: It does seem clear to me. He's going to be involved in all of the discussions and he can participate on the webinars and he can take part in the discussion on the webinars, he will attend the workshop, take part in that, but when it comes down to the people that are developing the consensus and making the decisions, that is not going to be part of his role. He can make advice to them much as the SSC makes advice to you, but you ultimately make the decision, and that's I think perhaps a good analogy for how it would operated.

DR. CRABTREE: And, Charlie, our expectation and the way this needs to work is when he does provide advice or make comments, they will have to be addressed. Now he may not agree with the outcome necessarily, but they'll need to be addressed and thoroughly vetted, because we want to come out of this with all these issues and all these disagreements are thoroughly gone through. People may not be happy with the conclusion that comes out of it, but they've all been fully vetted.

MR. CURRIN: Any concern from anybody – it's just something that occurred to me and I guess the analogy is we've got state representatives on this council that the council funds their travel,

but they receive no payment for that. Is there any concern that Hester is going to be paid by whoever he is employed by to participate and then the council is going to also pick his expenses at all or is that not worth worrying about or being concerned about? Not a big deal; no legal issues there?

MR. GEIGER: The same thing applies as Roy talked about earlier. I mean that's the slippery slope to how many people you're going to pay for eventually. In this particular case you've got one, and I think we build a record that because there's only one we'll pay for his expenses this time, but if that grows beyond what we consider to be a reasonable number – you know, if we see requests from all the different activities requesting reimbursement for people to attend, we'll have to draw the line.

MR. CARMICHAEL: And I think just because the council appoints somebody, it doesn't mean you're necessarily encumbering yourselves to pay that person's expenses, especially if they are someone who is employed by some type of group that may be perceived by some as pushing a particular position. That might be something that we need to clarify now that we have crossed another bridge within our process and our SOPPs and our guidelines for SEDAR is to deal with that.

MR. GEIGER: Another good thing for the SEDAR Committee at the next meeting.

MR. CURRIN: I'm content to let John just handle that with Hester and then we'll deal with that at some later date. Roy.

DR. CRABTREE: Well, the reason we're inviting him is not so he can advocate for anybody. We're inviting him because we think it's going to strengthen process and because he has raised some issues that we think need to be addressed and we think having him there will facilitate addressing those issue. That's my reason for it and not because I'm trying to do a favor for anybody or anything like that.

MR. CURRIN: All right, no further discussion on this motion? John.

MR. CARMICHAEL: There is one further point of discussion because of how these three updates came to you as a package to sort of be synchronized together through the same path with the same deadlines and ending points and most of the work being done by the group on three collectively.

Now, red snapper has sort of stepped out of the pack a little bit and now it has faster deadline, so I just want to make sure that the intention is all of this – remember, this was three updates, so is this motion applying to participants for all three updates or is this one getting really at red snapper, especially with regard to the three additional scientists and Dr. Hester.

DR. CHEUVRONT: I think our intention is for all three as was in the original Motion Number 3 in our report.

**MR. CURRIN: All right, no further discussion on this motion? The substitute motion is to appoint the following individuals to the Snapper Grouper SEDAR Updates; from the SSC, Dr. Andrew Cooper, Dr. Marcel Reichert, Dr. John Boreman and Chip Collier; three scientists to be determined by the council chair, vice-chair and the chairman of the Snapper Grouper Committee; and as an observer, Dr. Frank Hester. Is there any further discussion on this motion? Is there any objection to the motion? I see none; that motion is approved.**

**That's a substitute motion, so that's approved as the main motion, and is there further discussion on the main motion? Is there any objection to that motion? I see none; that motion is approved.** Okay, still on the same issue we have AP members. Remember we wanted to provide some latitude for a couple of other people who might be interested. I think we've had some expression of that.

**We can modify the second motion, but an additional motion from the committee was to appoint the following members to the SEDAR Updates; Tom Burgess, Kenny Fex, Zack Bowen, Bobby Cardin. Any discussion of that motion? Any objection to that motion? I see none; that motion is approved.**

An additional motion regarding AP participation on behalf of the committee to appoint the remaining interested AP members as alternates, and that would include DeBranco, Harris and Osborne. That was the motion from the committee and I will move that on behalf of the committee. Since that time we've had two other people from our AP who expressed interest. If you would like to add them in, we can provide a substitute motion. That was Terrell Gould and Mark Brown have expressed interest. Rita.

MS. MERRITT: Mr. Chairman, didn't two other AP members express an interest to be added as well, Kelly Schoolcraft and Andy High, who were both in attendance here this week? Do we need to just –

MR. CURRIN: Probably the cleanest way to do this is to offer a substitute motion that includes not the people in this motion but the additional names. I guess that's the cleanest way to do it.

MS. MERRITT: Okay, I offer that substitute motion with those four additional names.

MR. CURRIN: A substitute motion from Rita to appoint –

MR. HARRIS: Point of order. Let's just make sure that we don't name people to these that are not on our AP. If they're not on our AP, they have to be named to our AP before they can participate as a panel member here.

MR. CURRIN: Kelly is a member of the Mackerel AP. Andy I believe has been on the Snapper Grouper AP, and I don't know whether he is currently there or not. He may be one of the resignees.

MS. MERRITT: If I'm not mistaken, Mr. Chairman, Andy High is now on the King Mackerel AP. When we discussed alternate members, we had said any AP at the time.

MR. CURRIN: I don't recall that discussion about any AP members. I mean, certainly, they're qualified, Rita. I think what we're looking is expertise in the Snapper Grouper Fishery. Surely, Andy has it. I know Kelly is a black sea bass fisherman up north of Hatteras, so I think they both could contribute. Duane.

MR. HARRIS: Mr. Chairman, I mainly bring that up because of Mark Brown. I'm not sure Mark Brown is on any of our APs at the present time. He is not on the Snapper Grouper AP. I'd love to have him, but I don't think he is at this time; is he?

MR. BOYLES: It's my understanding he is on the MPA AP. Kim, can you confirm that? Yes, Kim is confirming that.

MR. CURRIN: That point was made I think by Robert the other day when we were discussing that. Okay, I think I got halfway through that substitute motion. **The substitute motion is to appoint the remaining interested AP members as alternates; DeBrango, Harris, Osborne, Gould, Brown, Schoolcraft and High. Seconded by David. Discussion of the substitute motion.**

**MR. GEIGER: I would like to see direction to staff that we go in the order in which they're listed as alternates to be selected to participate based on the fact the first three are in fact members of the Snapper Grouper AP; whereas the remaining four are members of some other AP.**

**MR. CURRIN: Actually Terrell Gould, for clarification, is a member of the Snapper Grouper AP. In the order they're listed, your request would still be honored. Okay, further discussion of the motion? Any objection to the motion? I see none and that motion is approved, and it's now the main motion. Any discussion? Any objection? I see none; that motion is approved.**

**Also, on behalf of the committee I would move that we approve the terms of reference for red snapper as modified by the SSC and add the following items; investigation of inconsistencies with the Gulf assessment, specifically natural mortality and other inconsistencies; uncertainties be presented as a range and not a base run; reference points. Is there discussion of this motion? Is there objection to the motion? I see none; that motion is approved.**

**Also, on behalf of the committee a motion for black sea bass and snowy grouper terms of reference; the uncertainties be presented more as a range and not as a base run. Is there discussion of that motion? Is there objection to that motion? I see none and that motion is approved.**

**There was a motion regarding MSY proxies to be set at 30 percent. There was a substitute motion that was offered and that motion became the main motion, and on behalf of the**

**committee I will move to not change the preferred alternative from F 40 percent to F 30 percent, but to add analysis based on the MSY proxy F 30 percent SPR and have that completed for review at the March 2010 meeting. Is there discussion of that motion? Is there objection to that motion? I see none and that motion is approved.**

**On behalf of the committee I move that we move Alternative 2 to the considered but rejected appendix of this amendment. Any discussion? Any objection? I see none; that motion is approved. Also on behalf of the committee I move to change the rebuilding strategy preferred alternative to Number 6, which is Frebuild. Is there discussion of that motion? Any objection to that motion? I see none; that motion is approved.**

**On behalf of the committee I move that we move Rebuilding Strategy Alternative 7 to the considered but rejected appendix. Is there discussion of that motion? Any objection to that motion? I see none and that motion is approved.**

There were a couple of motions that were disapproved; another motion that was withdrawn. **Another motion I will move on behalf of the committee to reconsider the motion on Alternative 5. That was actually listed as Motion 13 in your report. Is there discussion of that motion?** Duane.

MR. HARRIS: Mr. Chairman, I just want to make sure. This was the motion to reconsider, correct?

MR. CURRIN: That's correct.

MR. HARRIS: Okay, I'm not going to object to that. I will object to the main motion.

MR. CURRIN: I don't think we actually need to do that one either; do we? I will withdraw from the committee. **All right, there was a motion that I will offer on behalf of the committee to make Closure Alternative 5 our preferred alternative. Is there discussion of that motion?** Duane.

MR. HARRIS: Mr. Chairman, as I said previously, I would vote against that motion and urge the council to not adopt that as our preferred alternative. One other additional justification; a lot of you probably don't know how the Continental Shelf off the coast of Georgia is constructed. We are farther away from the Gulf Stream than any other state on the east coast, so we have a very gently sloping Continental Shelf.

You have to go 70 miles offshore to get to the Gulf Stream and to the Shelf break environment. Most of the natural live bottom areas don't occur until you get 40 miles offshore in 95 to 130 feet of water. Most of the red snapper that exists off the coast of George do not exist until you get in that environment.

We do on occasion catch red snapper inshore of that on the artificial reefs and on the Gray's Reef National Marine Sanctuary Area, but very red snapper are caught inside of the Snapper Banks

that are 40 miles offshore, so a fisherman off the coast of Georgia has to go a long way to encounter red snapper in any quantity.

So to adopt Alternative 5, which brings the closure area into the three-mile/EEZ jurisdictional boundary along the coast of Savannah and south of that, to some extent, makes no sense to me and I don't think it would probably be approvable under the Magnuson Act. I would speak against the motion for those reasons.

MR. ROBSON: I will also have to vote against this motion for some of the same reasons that Duane has just elucidated. Given the timing now, I'm anticipating going back to our state agency commission at our February meeting and having a thorough discussion of all of the proposed alternative bottom area closures and will be looking to discuss that fully with our commission before I come back to the March meeting and make any decision about selecting a preferred.

DR. CRABTREE: Well, Duane, your argument sounds like an argument to switch to one of these other alternatives that we discussed earlier today; and if that's how you feel about it, I would encourage you to make such a motion. I would certainly be receptive to considering it. I would urge you as the council to make sure that the preferreds you take out in the DEIS is really an honest representation of where you feel that you most likely are going to wind up with this thing. We do have other alternatives that would address some Duane's comments.

MR. PHILLIPS: And to Roy's point, during public comment nobody said they wanted this box. If they wanted anything it was three. There is very little difference on what is five or four or three give you, and this is 4,000 square miles larger than the other boxes that are almost the same percentages.

I would prefer no preferred but this is not where we're going to end up or anywhere close. I think it's a mistake to take this out as a preferred. Even if we know we're probably going to change it, I think it's a mistake to take this out as preferred for all the reasons Duane gave, the size, the public hearings. Nobody was for this, and I think it would be a mistake to take this further as a preferred. Do we need another preferred; maybe, but this is not the one.

MR. CURRIN: Well, if that is the desire of the committee, now I think is the best time to reconsider that if that's what you want to do. We have got a motion that was passed by the committee and I'm presenting it to the council right now that selects a preferred closure area in 17A. Roy.

DR. CRABTREE: I was just going to say to Charlie I've heard a lot of public comment on this, and I haven't heard much support for any of these closed areas. I haven't heard anything too much telling me which one they want. Unless someone steps up and is willing to compromise on some things here, we may very well wind up with this being the preferred at the end of the day. There are other ways to address some of these concerns, but somebody is going to have to make a motion to switch one of these.

MR. HARRIS: With respect to what Roy just said, there was support at least at the Pooler public hearing that if there has to be an alternative, for it to be Alternative 3. So there was some public support and sentiment that if there has to be one, Judy Helmey, Zack Bowen and those folks all said they would prefer Alternative 3, so we did have comment about that.

DR. CRABTREE: Well, I stand corrected; I wasn't at that meeting, so thank you.

DR. CHEUVRONT: But there was also support for those who may not be actively participating in the fishery for Alternative 6, which was the biggest closure, to recover the fishery. What you're representing – and I agree, there was some support among the fishing community for Alternative 3, but there was some support for Alternative 6, the one that would be most likely to get us out of this mess. I don't want to say that there was just support for Alternative 3. There was support for more stringent closures than even what has been already offered. I'm just pointing that out as a clarification.

MR. CUPKA: I offered this motion and the reason behind it was because if we were going to have a closure I wanted it to be the smallest closed area that would still meet the required reduction. I would have preferred three because it's an even smaller area, but it didn't look like at the time it was going to meet the required reduction.

Since then we've had some other analysis done, and we may have an alternative now that will meet it. Where I find a little bit of a problem is trying to select another alternative when we haven't had that analysis and they haven't been included in the document up to this point. I know we want to try and select a preferred, but I think it ought to be something that really signifies our intent.

My problem at this point is that while I think there are other alternatives that may be even better and it may result in a smaller closed area that still meets the reduction objective, we haven't incorporated those into the document at this point.

MR. CURRIN: I understand your concern, David, and I don't know how to get out of that box, as desirable as it is. I guess it's going to be a leap of faith to some degree. We have had quite a bit of discussion about some of these alternatives during the week, and I think everybody has got a pretty good feel for what they're going to do even though they haven't been fully analyzed. We've have sat around three different times at least and talked about some of these with Nick and played with them and varied some parameters in that model and the like, so I'm relatively comfortable personally with a couple of those alternatives that we talked about. David.

MR. CUPKA: Well, I was just going to offer a substitute motion then if we want to go in that direction and that would be to make Alternative 3D as our preferred.

MR. CURRIN: Well, I think currently 3D is not in the document. We did add it, that's right. That's the smallest closure area with a 98 foot to 300 foot closure.

MR. GEIGER: How about including in 98 to 300 foot the reduction percentage that we'll get resulting from that alternative, please.

MR. CURRIN: There are three scenarios, if you remember, going from a more conservative to a most liberal –

MR. GEIGER: The middle one.

MR. CURRIN: -- and Rick has got those I think for 3D. They range from 70 to 88. Scenario 3, I believe – somebody correct me if I'm wrong – being the most liberal – that's at 88 – the most conservative being down to 70 percent.

MR. GEIGER: What was the midpoint?

MR. CURRIN: It's somewhere between those two and I couldn't tell you. I don't have a chart in front of me.

MR. GEIGER: Well, Mr. Chairman, could we have staff look that up – it was on the chart – and have it included in the motion, please.

MR. CURRIN: Nick has got that, if can come to the table and just tell us what Scenario 2 was. There is a motion by David to substitute 3D as the preferred; is there a second?

MR. BOYLES: I'll second for the point of discussion.

MR. HARRIS: Mr. Chairman, I think that what Nick has developed is a very useful tool, but it is only a tool. It may give us some percentages, but I wouldn't stake my life on those percentages being correct. My gut feeling – and it is a gut feeling. I can't refute what Nick has done – is that this closure area in all likelihood, along with a total closure of the harvest and possession of red snapper, is going to get us beyond where we need to be with respect to recovery of the species. Everything I've seen with respect to this species leads me to believe that.

Also, one other thing, if you come inside 98 feet I think your compliance is going to be much, much lower. You go out to 98 feet off the coast of Georgia, I think your compliance is going to be very good, but inside of that you're not going to get very good compliance.

DR. CHEUVRONT: I've got two questions that are related to this. I'm assuming these analyses will have to be done for these alternatives that we have added before the DEIS can go out, so are we looking at delaying the DEIS? If we can't get it out prior to the March meeting, that means are we looking at a September approval? Are we still going to be able to get it done in June?

And the other thing is that we're adding alternatives, we're doing things that we haven't had our SSC look at in terms of their scientific perspective on the probability of success. What they looked at before was the most liberal possibility. That's a hundred percent compliance, all these things that we know are not going to take place. They rejected all of our alternatives based on the fact that they were given absolutely the rosiest scenario. I don't know; I'm kind of uncomfortable with this.

DR. FARMER: To that point, I don't want to speak for the SSC, but I believe that their evaluation was based on looking at a target of 87 percent whereas the target now is 83 percent. I don't know how that would influence their overall outcome.

DR. PONWITH: Yes, the analyses that were conducted by the SSC were all done at a different rebuilding schedule than the rebuilding schedule that this suite of probabilities or percentages are based on. If we use this, basically we're rebuilding using the maximum amount of time that we're allowed to rebuild.

Our probability of overfishing is still set at the original premise, which was a 50 percent probability of overfishing. What that does is put your ABC basically on top of your OFL. There is no buffer there. If you work under that scenario and then in addition to that pick a scenario that according to the tool that we've been using to sort visualize the alternatives, puts us right at the margin of achieving the target only under the most ideal circumstances. It's kind of a trifecta of scenarios where everything has to be absolutely ideal to actually meet the objective.

MR. CURRIN: It's risky is the bottom line. I think we all know that, but we also know that we've got an update coming within the next twelve months that's hopefully going to provide more insight and shed some light on exactly where we are. George.

MR. GEIGER: My sentiments mirror Brian's basically, and I'm extremely uncomfortable choosing 3D as our preferred alternative when even at the median point at 77 percent it arguably doesn't come close and at the most conservative end of that particular alternative we only exceed our target goal by 1 percent. Mac used the term "risky".

Would anybody put their money on something – would you put your personal finances up against something like that? Quite frankly, gut feelings are gut feelings, but we can't deal with gut feelings. My question to Dr. Crabtree is if we move forward with 3D as our preferred alternative would this amendment be approved?

DR. CRABTREE: Well, it would be premature to make a judgment about that at this point. It would depend on the record you could build and how you could explain why you think that works.

MR. GEIGER: To that point, then, the question is you're telling us we can choose an alternative that has as its endpoint or as its midpoint a percentage less than –

DR. CRABTREE: Well, number one, Scenario 2 is not a midpoint. It is just a different scenario. Now you'd have to be willing to make an argument that you think what is going to happen is closer Scenario 3, but this isn't a normal distribution between Scenario 1 and 2. You can't be definitive about what scenario is more likely than the others. There is no analysis here.

You can make arguments about what you think compliance is going to be. You can make arguments about various things. I will tell you that I would be more comfortable, for example, with one of the other alternatives where Scenario 2 gets us over 80 percent than I am with this

one. I wanted to ask Nick, tell us again the difference between 3B and 3D. I thought 3D was the same as 3B but went out to 300 feet, but that doesn't seem correct.

DR. FARMER: The B alternative is from 66 to 240 feet; C would be from 66 to 300 feet; and D would be from 98 to 300 feet.

DR. CRABTREE: All right, and, George, I have some of the same discomfort, and I'll probably vote against this motion. I would prefer to see one of – if you want to go with one of the D's, I think 4D would be a better choice, and I think that one would be much easier to construct an argument for why that may be adequate. I think this one you'd have your work cut out for you to explain, but I'm not prepared at this point to tell you whether something is approvable or not.

MR. CURRIN: All right, we need to move on, if we can. George.

MR. GEIGER: I'd just like to reiterate the fact that one of the reasons we're here – and, you know, hearken back to snapper grouper management on this council, since 1982 we've never achieved any of the management goals that have ever been met with the exception of two, and that's on pinkies and Goliath grouper, and we both know what caused those particular actions. Taking short-term economic considerations into account, as severe as they may be, is difficult, but that is what has been done in the past and I believe are a huge contributor as to where we are today on a lot of these stocks.

I am very averse to making any risky decision that ultimately have no chance of getting us to the end result. I think we've got a stock assessment coming up in a relatively short period of time, and we've already been told that we can make changes predicated upon the results of that stock assessment, and we can make those changes. I think it is very dangerous to once again go down the path of short-term considerations as mitigation for what are difficult decisions.

MR. PHILLIPS: It looks like this is getting painted as all the way liberal. This is still at F 40. That was a conservative view. I was amazed reading the minutes from the SSC meeting. There was a lot of talk of why F 30 was a good number and why was it deviated to go to F 40. There was conversation that there were – some of the people thought there were a lot of similarities between the Gulf red snapper and the Atlantic red snapper.

The consensus that it was 40 percent was not solid. It might have been the consensus but there was a lot of conversation. That was some of the most interesting reading I have read in a while. This isn't all one way. There are some checks and balances built in here, and I'm going to have to vote for it. I think this will get us there. Yes, we'll be looking at more alternatives, but this is closer to probably where we're going to be than anywhere else, and I would suggest us going here.

MR. CUPKA: I would like to withdraw my motion and offer another substitute motion.

MR. CURRIN: Is it okay with the seconder, Robert, to withdraw the motion on the screen?

MR. BOYLES: Yes.

MR. CUPKA: And one reason why I thought those numbers were higher, when Rick said the most level, I guess you would say –

MR. HARRIS: Best scenario.

MR. CUPKA: -- best scenario was 88, and according to that it is not that high. **I would like to offer a substitute motion that 4D be our preferred alternative.**

MR. CURRIN: Motion by David to select Alternative 4D as our preferred; is there a second?

MR. HARRIS: I'll second it for discussion.

MR. CURRIN: Seconded by Duane. Duane, do you have a comment.

MR. HARRIS: I just want to know what it is. I mean that we've had so many of them and my head is getting kind of wishy-washy.

MR. CURRIN: Okay, the estimated reductions, Duane, are in that motion. These are the values from Nick's table based on the three different scenarios.

MR. HARRIS: But where does it go?

MR. CURRIN: This is the larger bathymetric closure that we currently have in the document. It extends to the north and perhaps a little to the south, I don't recall, of Alternative 3. It doesn't go to the south any? Okay.

DR. FARMER: Just to clarify, I've got a map up on the board. Basically, this closure would be from the orange line that runs along the west side to the yellow line on the east side. You run basically from off Shem Creek in Cell 3278, starting at 98 feet, down to just south of Port Canaveral; and then from that 98-foot bathymetric contour out to 300 feet.

DR. CRABTREE: I just want to make one point. It's kind of going back to something that George said about don't think of Scenario 2 as the midpoint because it's not. It's just a different set of assumptions. Scenario 1 assumes 80 percent compliance; Scenario 2 assumes 85 percent compliance; Scenario 3 assumes a hundred percent compliance. That's not a midpoint.

Scenario 2 assumes lower release mortality in the inshore areas as does Scenario 3, but Scenario 1 doesn't. It's not like this is a midpoint. They're just different scenarios, different possible stakes. You could come up with a Scenario 2A if you wanted that assumes some other things that would get you different ones. The problem we've got is we don't really know – we don't have any way of knowing what compliance is going to be.

Now we can monitor compliance and after the fact we can get compliance reports and look back and make adjustments based on it, but right now there is no way to know some of these things. Twenty percent release mortality in inshore areas, well, Nick presented some evidence for that. I

can tell you that in the eastern Gulf of Mexico – in the assessment update last week for red snapper in the eastern Gulf of Mexico they used a 15 percent release morality rate.

I think you could make a good case that at those depths 20 percent is reasonable. In the Gulf they've used an even lower release mortality rate. Don't view these as midpoints. There is no distribution here. It's just that these are different scenarios and it's hard to say -- I mean, I think you can argue a hundred percent compliance isn't realistic, but is 85 percent, 88 percent? That's hard to say.

MR. GEIGER: I apologize for my misuse of the English language. I have a problem with that from time to time and "midpoint" was bad, but it was the thing that my tongue wrapped first. I understand that each one of the scenarios is a selection of hypothetical parameters and that each one of those points represents a set of those hypothetical parameters, and it depends on how much you're willing to compromise, how much you're willing to believe or how much you're willing to adjust your own individual thoughts in regard to what those parameters might or might not be.

But, that said, it comes back to just how much are you willing to compromise and what have we seen in the past when we have taken a compromise to an extremist, which turns out to be not the case. You wind up paying the bill in the end and you wind up paying it to a higher degree, possibly, than you would have if you had taken the action in the beginning and mitigated it from a point beyond that downward instead of having to revisit it at some point and go upward and revisit this issue again.

I'm willing to compromise to a point where at least my compromise will get me to a point where we have the ability to achieve the reductions that have been identified as necessary, and that point to me is 83 percent. If the compromises that are presented in the three alternatives don't rise to that level, I'm not going to support it. I've got to rationalize this to myself, and I'm the one responsible for my own vote. I am not going to support anything that does not achieve the minimum requirements that have been identified as being necessary, which already, I might add, are a compromise.

MR. ROBSON: I'm going to vote in favor of the motion only because I see it as a better alternative to the current preferred, but with the discussion that we're having, of course, I think all of the same discussions of uncertainty and lack of clarity as to what we would accomplish by any one of these areas gives me even more pause that we need to really look closely at all these alternatives.

I'm planning to do that and I suspect we will need to revisit this at the March meeting as well. I am going to vote in favor of that even though my real preference at this point would be not to have a preferred alternative area. But in hopes that we can get something a little more conservative in terms of the area that we're covering and at least attempting to address, as far as a compromise is concerned, the impacts that all of these actions are going to have in the South Atlantic, I think we owe it to everyone to try to do what we can to minimize this area closure. Keep in mind, again, in reference to historical actions we are preparing to close down all directed fishing of red snapper.

MR. HARRIS: Mr. Chairman, I call the question.

MR. CURRIN: Okay, the question has been called; let's vote. Everybody clear on the motion? The motion is a substitute motion to make our preferred closure alternative that of 4D, which is a bathymetric closure from 98 to 300 feet, with three scenarios resulting in harvest reductions of 69 percent, 80 percent and 86 percent.

All in favor of that motion please raise your hand, 8; all opposed, 4. That motion is approved and it now becomes the main motion. Any further discussion? All in favor please raise your hand, 8; all opposed, 3 opposed. That motion is approved. All right, 4D now in some form becomes our main alternative or our preferred alternative for a closure. All right, thank you, that was a painful but good discussion, I think,

**I think we're on Motion 16, Rick; are we not? On behalf of the committee I would move that Alternatives 7 and 9 be our preferred alternatives, and those are regarding, I believe, black sea bass pots allowance and spearfishing in the closed area. George.**

MR. GEIGER: Yes, two points; I would like to see that Alternatives 7 and 9 have a definition after them that 7 is black sea bass and 9 is spearfishing allowed in the closed area. I voted against this in committee, and my vote against it was predicated upon a problem, again, with enforcement.

We've made some assumptions here in our previous motion concerning enforcement and compliance. One of the problems that we have is there is a gross assumption that what we're doing is unenforceable, and we hear that time after time through public comment. I don't believe it to be unenforceable.

We've seen enforcement cases already made in the MPAs that we've created in Amendment 14. Through my discussions with law enforcement officers, there are ways to enforce this and it will be enforced, I'm confident, based on those discussion with at least the Florida law enforcement officials.

One of the problems that we have here is by allowing spearfishing I think we have opened up a loophole where somebody who is a bottom fisherman, all they have to do is invest in some dive gear or take somebody who has some dive gear with them and they surreptitiously fish in our closed areas for bottom species, and the potential is there to just poke a hold in them with a speargun when you get them to the surface and they are now spear-caught fish.

I would prefer to see if we're going to go forward – and I would have no objection with opening the area to spearfishing if in fact we had some type of gear restriction in that we are compromising for the spearfishing community in that we have a giant closed area, and the preponderance of the people who utilize that closed area are in fact hook-and-line fishermen, and we're making this exception for a small group, that that small group compromise and leave all their fishing gear, handlines, rod and reels and another type of extraneous fishing equipment, other than spearfishing equipment, off the boat while they're accessing benthic species in the closed area.

MR. CURRIN: Thank you, George. Keep in mind this would be available as an activity of the commercial industry as well, so you might want to include longlines in there. Was that a motion on your part, a substitute motion to include that?

MR. GEIGER: Yes, I would make a substitute motion that spearfishing be allowed in the closed area and that a gear restriction be included restricting all manner of commercial and recreational fishing gear, handlines, rod and reels, mechanical equipment, longlines, nets, et cetera, with the exception of spearfishing equipment. Brian, help me.

DR. CHEUVRONT: Yes, I was just going to suggest, George, that maybe you could change it so that the only gear allowed on the vessel is spearfishing gear.

MR. GEIGER: That's a lot simpler; thank you.

MR. CURRIN: Keep in mind there is another alternative in there as well regarding allowing black sea bass pots so try to capture that in your substitute motion as well, if you don't mind.

MR. GEIGER: Okay, spearfishing be allowed in the closed area and only spearfishing gear allowed on the vessel.

DR. CRABTREE: I have a point of order. This really seems to me to be a clarification of the motion and not so much a substitute. The motion that we're dealing with also deals with Alternative 9, and this doesn't deal with Alternative 9 at all. It just seems to be clarifying our intent.

MR. CURRIN: I think that 7 is the black sea bass pots, but you're right, I mentioned that to George and at some point we need to make sure that if it's your intent to allow black sea bass pot fishing in that area, that that gets incorporated in this motion. If everyone is comfortable with just clarifying the intent of spearfishing, then we can operate, I guess, without a substitute motion.

MR. GEIGER: I was hoping that we could just clarify it and we didn't need a motion.

MR. CURRIN: Okay, do you want to withdraw that substitute and then let's see if we can clarify it.

MR. HARRIS: I think that can change the vote, and I think it needs to be a substitute motion because as it stands now what we have is a motion to allow spearfishing in the closed area. I don't think it's simply a clarification because I'm going to vote to allow spearfishing in the closed area, and I am going to oppose what George is trying to do. I think we need to fix that in some way, shape or form.

MR. CURRIN: Good point, Duane, thank you, I think we need a substitute motion.

MR. GEIGER: Then let's add whatever language we need including allowing the black sea bass pots in the area as well.

MR. CURRIN: And that is Alternative 7, so just language to include Alternative 7.

MR. GEIGER: Allow Alternative 7, black sea bass pots.

MR. CURRIN: I think that captures it. Discussion on the substitute?

MR. GEIGER: Yes, and what I'd like to do, Mac, being the maker I'd like to lead the discussion and have Special Agent-in-Charge Easley talk to the issue, please.

MR. CURRIN: All right, we need a second for this motion now that it's clear. Seconded by Robert. Discussion on the motion. Roy.

DR. CRABTREE: So what we're saying is we're going to allow black sea bass pots, that's separate; so if you want to go spearfishing out there you can't have any hook-and-line gear on board the vessel.

MR. CURRIN: I think that's the intent. It sounds reasonable to me as well. Otha.

MR. EASLEY: At the last council meeting, I voiced some important issues that George already mentioned about if we have multiple gears out there, they'll reel them up and then poke a hold in them and then there is nothing that we can do about it. This language here would greatly help enforcement to take care of that and reduce the likelihood of receiving false statements from fishermen.

DR. CRABTREE: What about with sea bass pots? Are the boats that are fishing sea bass pots; do they have bandit gear rigged up on them and other things on them and do we want to say if you want to go fish sea bass pots out there you can't have any other hook-and-line gear rigged up on board and would that help you with that issue as well, Otha, do you think?

Well, a vessel goes out there with black sea bass pots, the way we are right now he could also have his bandit gear all rigged up and have hook-and-line gear on board the vessel; and if you caught him you wouldn't be able to say whether he got the fish out of a sea bass pot or not. What I'm asking is should we put the same constraint on vessels that want to go fish sea bass pots in the closed area, that they can't have any hook-and-line gear of any sort on board either. They've just got to have their pots and that's it. Does everybody follow that? I think it's the same argument.

MR. CURRIN: I think you're right. Duane.

MR. HARRIS: Mr. Chairman, with great respect for our folks from the law enforcement community, in my entire career in fisheries' management I have always opposed regulations that were simply to make it easier for law enforcement to make a case, and I oppose this motion. Recall what I said earlier about the Continental Shelf off the Georgia coast.

We have people that spearfish at the Snapper Banks that are 40 miles offshore, and they come inside of that and they may troll for king mackerel; and to prohibit them from having fishing on

board the boat to do a legal activity in my opinion is unwarranted, and it's only for the ease of law enforcement.

I think you're think you're going to get high compliance and the spear fishermen in all likelihood off the coast of Georgia are going to spearfish. On the way they may troll for king mackerel or Spanish mackerel, or they may bottom fish in areas where it's legal to bottom fish. We're already closing a huge area to bottom fishing off the coast of Georgia if the preferred alternative now ends up in this amendment. I can't do anymore to our fishermen that that. It's not ridiculous but it's getting to the point to where it does become that way. Thank you.

MR. PHILLIPS: I agree; and if you send guys out there to catch black sea bass and working in pots, it is a lot of work to be trying to take bandit gear back and to off of boats. If you want to try to make sure that divers are spearfishing, just make a motion that they've got to have their dive cards on the boat, more than just dive gear, just the dive cards, and then you don't have to get into whether they have a speargun, do they have a tank and all this other stuff. If they've got a dive card, then they're divers. I think you're going to probably get compliance, and we've got a huge chunk of bottom closed. I think this is going a little further than we need to go.

MR. HARRIS: To that point, Mr. Chairman, when we talked about this last night requiring sea cards, but we do have an awful lot of folks that dive off the coast of Georgia, especially on the navy towers right now that are free divers. I don't know whether they're certified divers or not. They don't have to be a certified diver to free dive, so I don't think we want to require that even though I thought last night it was a good idea.

MR. WOODWARD: Well, that was one of my points. Another one I think that we need to consider is in a situation like Gray's Reef National Marine Sanctuary, which is recently undergoing the process to ban spearfishing in that sanctuary, in that process a recommendation included allowing the possession of the gear stowed and unavailable for use, but now we have kind of a flip side of that.

It was after a very lively debate involving a lot of federal and state law enforcement officers the decision was made that it was unrealistic to prohibit people from having spearfishing gear while they're in the sanctuary given the proximity to all these other areas that are open to spearfishing around the sanctuary. That's just one of the reasons that I would oppose this motion.

MR. CURRIN: Other discussion? Otha.

MR. EASLEY: Well, I don't look at this motion as simply a way to make it easier for law enforcement. I look at it as a way to help prevent the illegal take of the species that we're trying to protect and therefore help us get to our goals sooner rather than later. That's all.

MR. HARTIG: We're only trying to protect one species here; it's only red snapper. The rest of the species, you're making inordinate restrictions based on the one species and I don't see why.

MR. GEIGER: And I understand, Ben, that the amendment pertains to red snapper, but the bycatch associated with the pursuit of other species is a huge portion of that, so we're not just

protecting red snapper here. We're protecting the bycatch of red snapper by eliminating fishing for other species.

If you allow it to occur and when they're stopped and they have grouper species on board and they've got a hole poked in them that they did with a speargun, how many red snapper did they incur or encounter or released or whatever in the pursuit of those grouper illegally with their fishing gear? It's a problem.

In terms of Duane's passing regulations for the sake of ease of enforcement, the recommendation from our LEAP was no fishing at all in the closed area. They don't like to see any boats in the area and that's the optimum thing. Certainly, everybody compromises in everything we do, and I just believe that on the part of the spearfishing community this would also be a compromise.

MR. CURRIN: Okay, let's vote on this motion. All in favor of the motion raise your hand, please, 4 in favor; all opposed, 7 opposed. The motion fails and now we're back to our main motion. Brian.

DR. CHEUVRONT: I chose not to vote.

MR. CURRIN: Okay, let the record reflect that there was one abstention. We're back to the original motion, which was Alternative 7 dealing with allowance of black sea bass pots, and Alternative 9 allowing spearfishing in the closed area. **Is there any discussion on this motion? Is there any objection to that motion? That motion is approved with one objection.**

MR. HARRIS: Mr. Chairman, if we can, let's take a ten-minute break and then I'm to ask Dr. Morris to come up and do his lionfish presentation that is on the agenda, and then we'll come back to snapper grouper, if that's okay with the council. Dr. Morris has to leave before 11:00 o'clock so that's the rationale for that.

MR. HARRIS: At this time I want to introduce Dr. James Morris, who is with the National Ocean Service in Beaufort, North Carolina, and he has a presentation for us on lionfish.

DR. MORRIS: Thank you, Mr. Chair, I really appreciate the opportunity to talk with you briefly about lionfish. I was able to provide a more lengthy presentation during the SSC meeting, and then we had what I would consider to be a significant discussion on this issue in the Ecosystem Committee. I'm grateful for the opportunity to update the full council and for the time that you afforded on this.

I realize and I'm not naïve to the fact that lionfish is very much an inconvenient challenge and problem for us in the current climate that we are experiencing now with the snapper grouper complex, but I do want to share with you some insights that we've had over the last decade as we've studied this problem and thought about it from an invasive species context.

I do realize that we're in sort of new ground here in terms of considering the impacts of invasive species as we now have a very good example of what can happen when a non-native species is

released into our marine environment. I would like to just show you briefly what the current status of the lionfish invasion looks like.

This invasion really began in 2000 although we have very good records of lionfish that existed in South Florida prior to 2000, but as you can see the invasion has spread very rapidly. As of today in 2009 lionfish are as far south as Venezuela, are very much expected to invade into the Gulf of Mexico, and are very prevalent all along Central America and throughout the Caribbean.

This is considered to be now an established invasion, an established invader, and beyond any type of simple eradication strategies. The long-term scenario is that we completely expect lionfish to be distributed throughout the southeast U.S., the Gulf of Mexico, Central and South America and down as far as the northern coast of Argentina. The reason for this is the availability of thermal habitat.

If you look at how many lionfish are out there now, we have estimates in a few locations of lionfish reaching a mean density of over a thousand lionfish per acre; and in terms of their maximum densities, well over a thousand per acre. Then if you look at what we know about lionfish native densities, which I want to remind that this is not uncommon with invasive species that they will greatly exceed their native range densities, but in comparison we only have two estimates; that in the Red Sea around 200 lionfish were observed in the same general area; and then around five lionfish in a recent estimate per acre in Palau.

We're seeing extremely much higher densities than we see in their native range. Then also their densities appear to be increasing every year, which indicates to me that they have not yet become density dependent and are perhaps – the worse may be yet to come in terms of their spread.

In summary, about their reproductive life history – this has been a fascinating area of research in my background – lionfish are gonochoristic iteroparous asynchronous indeterminate batch spawners, which means that they spawn very often and throughout their entire life. They spawn two buoyant eggballs, which are encased in a gelatinous mucous, which breaks down in a couple of days and the eggs become free-floating and the larvae drift in the ocean currents as do most of our pelagic larvae for native reef fishes.

Around 26 to 30 days they will settle then down to the reef and are then reef associated. Their age of maturity is young, as it goes, with becoming adults and capable of reproducing well under one year of life, and that is an interesting scenario, as well, from an invasive species context, but our estimates suggest that 50 percent of those samples were sexually mature at around 180 millimeters total length, and that's for females with males maturing earlier than that.

They essentially spawn year round. Estimates in both tropical and the Bahamas as well as in the North Carolina suggests that lionfish are spawning every month of the year. The black indicates here that we actually caught fish in the act of spawning and the gray indicates that they would have spawned within a day or two of collection.

And if you noticed, those ovary conditions indicated they are spawning continuously throughout the year. One of the other questions that comes to mind in terms of their reproductive biology is

how often are they spawning throughout the year, and our estimates suggest that – and these were two independent assessments, but that they are spawning approximately every three to four days, and that was collected both in North Carolina and in the Bahamas.

That is a fairly high rate. It's not uncommon for tropical reef fishes to spawn year round, but I'm quite sure of the spawning frequency assessment here in terms of how it relates to some of our native fishes. The bottom line about reproduction is they're good at it as obviously indicated by their rapid establishment and rapid range extension and their annual fecundity is over 2 million eggs a year.

One of the interesting things that has come out of our research is that this egg mass that they release, which is common among scorpion fishes, but it is a hollow egg mass that has the capability of sperm entrapment. We know that males release very little sperm, and so we think that they have very high fertilization success as having this reproductive strategy of sperm entrapment with this eggball-type morphology.

The age-old question for lionfish has been what is going to eat them and what kind of natural population control strategies will there be? The literature suggests that the Pacific Cornet Fish was a natural predator in their native range. That observation is questionable because it is just one cornet fish and one lionfish in the stomach.

There has been some anecdotal observations recently that sharks may eat them. Greater amberjack have been seen to feed on lionfish; that Goliath grouper may be a good predator. Humpback scorpion fish we know is a predator. Here you can see a lionfish in the mouth of a humpback scorpion fish, and I've observed myself cannibalism in the laboratory.

The big question here is are any of these predation sources significant enough to reduce lionfish population biology, and for that I don't really know. One of the things that we've noticed is that our native grouper and particularly black sea bass, which is the species that I have experimented with in the laboratory, exhibit a great avoidance for lionfish in the laboratory. I'm not confident right now that at least given the present status and the densities and snapper and grouper on our reefs, that grouper and snapper will be able to provide any significant predation mortality for this invader.

Moving on to their ecological impacts, we've assessed their diet, and we've found that lionfish feed primarily on juvenile and small-bodied finfish. They do feed on crustaceans, of course, in their earlier life history. They also have a very broad diet, which is also a characteristic common among invasive species in terms of the breadth and the width of their dietary sources.

It also enables them to be a very good invader in terms of being able to feed and having a diet that is very comprehensive across many members of the reef fish community. Lionfish feed essentially on over 40 species of finfish representing 29 families, so that is a very broad diet. The top-ranked species are things like gobies, labrids, grammatids and cardinal fish. Basically, these are the fish that are the most abundant on the reefs, so they are feeding on what is readily available and in front of them.

They also are feeding on economically important species, which is a concern for us in terms of stock rebuilding plans. We do have evidence lionfish are, of course, feeding on things like Nassau grouper, yellowtail snapper and vermilion snapper. How that impacts those species is uncertain at this point.

I want to point out, and very carefully, that we found these economically important species in very low prevalence in their diet, but that reflects their abundance on the reef. And jumping to how that might impact the population levels of these economically important species are very long and somewhat debatable discussion.

In general I wanted to point out that we do know that impacts are possible and that a recent survey suggests that lionfish, at their present densities based on bioenergetics model and based on consumption estimates and the amount of energy that they require to grow at the rates that they're growing both in terms of their density as well as their individual growth rates is that at some of these higher densities they're already capable of and are consuming more biomass than are available on these reefs in some of these higher density locations.

How will this problem yield to us in terms of competition with native species? One of the interesting things is that we have, through fishing pressure, of course, created an open niche in the reefs, and there is reef space and niche availability. What we see is lionfish have the opportunity of coming in and occupying that niche, so how is that going to impact stock rebuilding efforts is certainly a big question.

Will native stocks recover in the same way that we once had hoped they would now that there is an additional member of the reef fish community and how will lionfish compete for that niche with native species as they are rebuilt? Why are lionfish so invasive just conceptually? We don't know a lot about marine fish invasions, period. We do know less about reef fish invaders.

But I can tell you when looking back at the freshwater invasive species, fish-invasive species in freshwater environments, these are the main predictors of invasiveness based on a hundred years of research in terms of looking at the life history of freshwater invaders. Lionfish possess all of the main predictors of invasiveness for freshwater fish except two, short distance to native source and parental care.

We can at least validate that some of the same life history characteristics apply in the marine environment, and that has large implications in terms of consideration where lionfish came from and how they're introduced and the invasiveness potential of future invaders. What are our options?

There has been a lot of discussion in the few years about harvesting lionfish as a food fish. There are some problems with that in terms of the harvest strategies and the way in which we remove and the impact that may have on our stewarded resources. Certainly, trapping, the lionfish do go in traps. It's problematic. We had to use live bait in the past to capture them. They were, of course, using the chevron trap, which is not a commercial gear type in the southeast.

They do recruit to hook and line but it only appears the big males are able to be caught on hook and line. Of course, spearfishing is a very effective way to remove them, but that is sort of effort limited. They are good to eat. In partnering with the North Carolina State Seafood Laboratory and our women there that are very experienced in preparing seafood, certainly with all of the sensory taste tests and experiments that we have done with lionfish, we have great information about the probability that it would be a successful food fish.

In looking out into the community, there is an interest in the public about the ecological sustainability of eating lionfish as a substitute for some of the less ecologically sustainable species. Certainly, they have been a hit in places that they have been tried as a food fish. This has got a mind of its own in terms of people are thinking about it and wanting to eat it and are coming back to us and wanting to know more about it.

There is certainly an interest in the environmentally sustainable industry, if you will, in terms of celebrity cooking and things like that. Certainly, eating for the ecosystem is a hot topic and we have seen it recently in magazine articles about this concept. Probably the most complex part of this scenario is what do we do about it, and we've recently released a publication, which we got lots of comments which were very helpful from the Southeast Fishery Science Center and the Southeast Regional Office, the NOAA Aquatic Invasive Species Program on the different management options and what are the viable management options on this issue?

Realizing that we really don't have a precedent, but we do have other issues that are similar to this in terms of invasive corals, that we begin to move forward and thinking about the problem not only in terms of how do we deal with it presently, but are we going to have to keep dealing with it in the future.

Really, it comes down to do we want engage in management of this issue in terms of trying to reduce lionfish or are we just willing to welcome lionfish into the family of stewarded resources, and that is a hard question. I realize the complexity of that question. I think there is lots of corporate knowledge to apply to this problem in terms of the Aquatic Nuisance Species Task Force and the council here as well as the commissions, and I look forward to discussions about this issue and what we can do and what the best strategies are.

Certainly, those issues are many, management options and future actions. Magnuson-Stevens certainly is part of that discussion in terms of stock protection and the possibility of moving forward with an exemption for non-native species for protection in the future as well as the harvest strategies and the impacts of those strategies and then how this plays into sort of a multispecies and ecosystem type conceptual approach to invasive species in managing the snapper grouper complex.

I brought some copies of the biology and management, an updated and integrated assessment, which I've provided to the SSC. I believe we ran out of those, but I'll be happy to provide those to you. I also brought some reprints of a paper this year that we released on the feeding ecology, which talks about the potential trophic impacts of the lionfish.

Then we've just released, about a month ago, lionfish and more examples of other non-indigenous marine species that we have provided a descriptive account for in the waters of South Florida, which is one of the plausible places where lionfish may have originated. This work has been highly collaborative and involves many aspects of NOAA as well as foreign governments and NGOs and many universities.

Certainly, I thank all of them. Much support has been provided by a lot of great colleagues and friends that have helped us along the way. Funding has been provided primarily for research on this problem with NOAA Aquatic Invasive Species Program and the National Center for Ocean Science and NOAA's Undersea Research Center and the other days of lionfish research. I apologize for the brevity of this presentation. It's certainly a very complex issue, but I would be happy to entertain any questions.

MR. HARRIS: Thank you, Dr. Morris. Are there any questions? Rita.

MS. MERRITT: Thank you, Dr. Morris, that was really interesting. I may have missed it, but did you mention any particular predators and also any evidence of cannibalism?

DR. MORRIS: There is only one published record of a predator in their native range, and that's the cornet fish, but that record is one cornet fish and one lionfish, so this does not suggest that they are a consistent predator of lionfish. There is a published record now of a couple lionfish being eaten by tiger grouper and Nassau grouper, and again those data are very sparse and do not suggest that those grouper species feed on lionfish with any regularity, although they do suggest that they can feed on them if they want to.

A concern that I have based on my laboratory experiments is that I have demonstrated that we see that lionfish are very much avoided wholesale behaviorally, and they are recognized as a venomous fish. There are also other examples that suggest that lionfish enjoy the defense that venom gives them because things like the Indo-Malayan Octopus mimics lionfish as one of the highly venomous species, and so there is an evolutionary question there.

How our native fish is going to respond to the high densities of lionfish in terms of will they begin feeding on them, will they adapt as time goes on, we really have no information there to base that on. I'm not that confident that a natural predator is going to pop up soon that is going to cause significant predation mortality capable of curbing the population growth. I would expect that it may be more density dependence in terms of space and diet and some of those more classical reef fish competition scenarios that's going to begin to cause a decrease in the lionfish population growth rates.

MR. HARTIG: Since the introductions were fairly early in South Florida but the populations have gotten nowhere near that of the Carolinas, do you have any thoughts on that?

DR. MORRIS: Yes, we attribute that largely to probably the Gulf Stream. You know, in 30 days you can go from Venezuela to Maine. You can really go anywhere. We have issues' detectability. Certainly, there could have been lionfish populations off the coast of Georgia, off

the coast of South Carolina, but it was really North Carolina that we first detected them and started to see their population growth.

North Carolina is a natural biogeographical pileup place. We love fishing in North Carolina because fish pile up there. Conceptually, it's not unfeasible to think that occurred with lionfish, but I agree with your observation that it's real interesting that we see all of these different non-natives in South Florida. And lionfish, we certainly had many observations of lionfish prior to 2000 when they began rapidly expanding off North Carolina, but I would attribute it mostly to the larval dispersal.

DR. CHEUVRONT: Thank you, James, I appreciate that. We did discuss some of this in the Ecosystem-Based Management Committee, and there will be a little discussion about what we discussed about it and the outcome of that when I give my report later.

MR. HARRIS: Thank you; other questions?

MR. FEX: I just wanted to make a comment. We have observed red grouper having lionfish in their bellies out of North Carolina.

MR. HARRIS: Yes, and I had a report from one of the divers in Georgia that he got a gag that had a lionfish in its stomach after he shot it. I think there are spotty records of what might eat a lionfish. The question always is do they eat more than one; who knows? But, anyway, Dr. Morris, thank you for being here. It's a very interesting subject.

As you all recall from the last meetings, I wrote an article about this after my cruise with the Gray's Reef folks. I kept trying to figure out where I got every 34 days that they spawn, but what they must have said was every three to four days and I got 34 days. I'm glad that was clarified for me. Mac, it's back to you.

MR. CURRIN: Okay, thank you, Mr. Chairman. I will continue on with motions from the Snapper Grouper Committee. **On behalf of the committee, I would move that Subalternative 11A, which deals with transit with snapper grouper species aboard, requiring gear being stowed, and that be our preferred alternative. Is there any discussion of that motion? Any objection to that motion? I see none and that motion is approved.**

**Also on behalf of the committee, I move to require the use of non-offset, non-stainless steel circle hooks when fishing for snapper grouper species with hook-and-line gear within the EEZ north of 28 degrees as our preferred. In addition, it is unlawful to possess snapper grouper species without possessing non-offset, non-stainless steel circle hooks with the intent to apply to the use of natural baits only. Any discussion of that motion? Rita.**

MS. MERRITT: I'm not so sure I feel comfortable with calling this a preferred. It kind of goes back to our original conversation in that there has been a great deal of voluntary compliance with this throughout the South Atlantic and throughout different sectors. There is still a great deal of inability to avoid bycatch mortality from I would say especially the recreational sector.

I'm sure there are people who would say that it also can happen often in the commercial sector and wanting to cut off your lines and catch quicker. It's still a lot of mortality that I think goes on, and there is some evidence to show that the fish is out of the water longer, it's being distressed as well as damaged, and it may be actually increasing bycatch mortality.

The analogy with the seatbelt law I think kind of came into this as well and the difficulty there if you'll notice. It began with giving time to get seatbelts put in some cars, getting people to use them; and then once that period of time went by, then you had another learning curve there for people to understand the value of these, and we went through years of not fining people. Now we're finally at the point where that requirement has more teeth to it.

I am hesitant to put this in. It also requires some additional costs associated to change the hooks. It's about 50 percent more to buy circle hooks for those people who would have to replace the circle hooks. I do think that this might be an alternative that could be considered. I'd like to hear more input. I had several comments opposed to this idea in several of the different public hearings. I would like to not have it to be a preferred.

MR. CURRIN: Okay, and that would be your option to vote against it. Charlie.

MR. PHILLIPS: And I kind of agree with Rita; it may be more useful to try to educate the fishermen and get them to buy into this instead of forcing them into it.

MR. CURRIN: **Other comments on the motion or discussion? Is there objection to the motion? I see two. The motion is approved with two objections.**

**Also on behalf of the committee, I would move that we request the Southeast Fishery Science Center to provide a fishery-independent monitoring plan for red snapper at our March 2010 meeting. Is there discussion of that motion? Objection to that motion? I see none; that motion is approved.**

**Also on behalf of the committee, I would move to make Alternative 2 our preferred alternative, and that is to establish the fishery-independent monitoring program. Discussion on that motion? Objection to that motion? I see none; that motion is approved.**

**Also on behalf of the committee, I move that we request the Southeast Fishery Science Center to provide a fishery-dependent monitoring plan for red snapper at our March 2010 meeting. Any discussion of that motion? Any objection to that motion? I see none; that motion is approved. Roy.**

DR. CRABTREE: Before we leave Amendment 17A, I want to clarify that it is our intent that the prohibition on retention of red snapper would apply to any federally permitted vessel regardless of whether they're fishing in federal or state waters. We had that discussion, you recall, with respect to 17B, but I don't believe we have made that clear with 17A.

MR. CURRIN: No, you're right, we have not made that clear. George.

MR. GEIGER: And my question, before we leave 17A, deals with the interim rule. In looking ahead, if in fact we run into a situation where we can't get this document signed in June and it moves out to September, what are the alternatives available us in the event that there is a lapse between the end of the interim rule and the implementation of regulations pursuant to Amendment 17A?

DR. CRABTREE: The only thing I can think of would be to request a new interim rule. Then we'd have to go to Monica and ask whether we could do that or not, and I don't know what the answer is on that.

MS. SMIT-BRUNELLO: It would depend on the record you have. I mean you get one extension – obviously, you know that – on this interim rule, and so then we'd have to look at the record to see whether another interim rule would be warranted. I can't really see how an emergency rule would come in play given the NMFS Policy on the requirements for that. I'll be thinking about, George, but we'll have to look at the record if and when that happens.

DR. CRABTREE: You recall there was Alternative 8 in the closed area that allowed longlining in the closed area. I believe we come to that at the end of the report, and that was passed by full council, so we should deal with that when we get to the end of the report; correct?

MR. CURRIN: Well, it's listed in the report, Roy, and my intent was not to go through, but if you want to raise an issue about that –

DR. CRABTREE: Should I do it now?

MR. CURRIN: We can do that now, yes.

DR. CRABTREE: We changed our preferred alternative which now the closed area only extends out to 300 feet. Longlining is not allowed inside of 300 feet, so it seems to me that we don't need Alternative 8 as the preferred alternative any longer since longlining is not allowed in the depths covered by the new preferred alternative closed area. Does that make sense to everyone, and I think that's right.

MR. CURRIN: It does make sense. I don't know how you would propose to handle it.

**CRABTREE: I was on the prevailing side on that, and I would make a motion to reconsider the establishment of Alternative 8 as the preferred alternative.**

MR. CURRIN: For your reference, that's Motion Number 37 in your Snapper Grouper Report, I believe. There is a motion by Roy to reconsider that Motion Number 37 in your report to make Alternative 8 to allow longlining for golden tile to occur in the closed area as an additional preferred. **Is there a second? Second by Duane. Discussion on that motion to reconsider? Any objection? Okay, that motion to reconsider is approved.** Roy.

**DR. CRABTREE: I would offer a motion that Alternative 8 not be a preferred alternative. If I have a second, I'll explain why.**

MR. CURRIN: Okay, motion by Roy to eliminate Alternative 8 as the preferred; second by David. Discussion, Roy.

DR. CRABTREE: And the rationale is because it is not necessary. The longlining is not allowed in the depths in the current preferred closed area. Now if we change that again, at some point we may need to revisit it, so the alternative remains in the document, but it seems moot at least where we are now.

MR. CURRIN: That makes perfect sense to me. **Any further discussion? Any objection to that motion? I see none; that motion is approved.** Roy mentioned also one other issue regarding 17A and whether we wanted to – remind me again, Roy, it was regarding federally permitted –

DR. CRABTREE: Prohibition on retention of red snapper would apply to federally permitted vessels regardless of where they're fishing. That is what we did in the interim rule, and certainly my intent is that would be reflected in the document and in the rules that we draft to go with it. I just wanted to clarify that.

MR. CURRIN: Is that clear to everyone and acceptable? It certainly is to me.

DR. CRABTREE: Then I would ask Rick to make sure the document reflects that.

MR. CURRIN: Is everyone okay with that? All right, anything else on 17A that anybody has got? **All right, we'll move into 17B, and a motion on behalf of the committee to clarify that in Alternative 2 through 5, it was the council's intent that speckled hind and warsaw grouper be closed throughout the EEZ. Discussion on that motion? Any objection to that motion? I see none; that motion is approved.**

Motions 23 and 24 offered and withdrawn by the committee. **Motion 25 I would offer on the committee's behalf to include the one snowy grouper boat limit as part of the aggregate grouper bag limit. Any discussion of that motion? Any objection to that motion? I see none and that motion is approved.**

**The next motion I would move on behalf of the committee is to approve sending Snapper Grouper Amendment 17B to the Secretary of Commerce for formal review and implementation with our intent to give the staff editorial license to address needed changes.** Bob, I believe that's a roll call vote and I'll turn it over to you.

MR. MAHOOD: Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Harris.

MR. HARRIS: Yes.

MR. MAHOOD: Mr. Boyles.

MR. BOYLES: Yes.

MR. MAHOOD: Dr. Crabtree.

DR. CRABTREE: Yes.

MR. MAHOOD: Mr. Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Dr. Chevront.

DR. CHEUVRONT: No.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: No.

MR. MAHOOD: Ms. Merritt.

MS. MERRITT: No.

MR. MAHOOD: Mr. Robson.

MR. ROBSON: Yes.

MR. MAHOOD: Mr. Phillips.

MR. PHILLIPS: No.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: No.

MR. MAHOOD: Mr. Woodward.

MR. WOODWARD: Yes.

MR. MAHOOD: Chairman Currin.

MR. CURRIN: Yes.

MR. MAHOOD: **Okay, the motion passes by a count of eight to five.**

MR. CURRIN: Thank you, Bob. We also have the proposed rules associated with Amendment 17B. Those were distributed to everyone last night or yesterday. I hope everybody went through those. Some of the corrections that were noted in our discussions have been made – I think all of them in fact – and it has been fleshed out fairly fully. I think again we would like to give the staff some latitude to make adjustments as reflected by the document as necessary. **I would entertain a motion to approve those proposed rules.** Motion by George; second by Robert. Discussion on that motion. All right, Bob, I think I need to turn it over to you for a roll vote on that as well.

MR. MAHOOD: Yes, I did have one question. If there are going to be some changes; do we also bestow upon the chairman to be the deemer of the changes.

MS. SMIT-BRUNELLO: I believe you should.

MR. CURRIN: I was going to do that in a separate motion because we need to delegate him as the deemer for not only the amendment but the proposed rules as well. That was my intent. If we need to do it differently, we can.

MR. MAHOOD: No, this is fine. Mr. Geiger.

MR. GEIGER: Yes.

MR. MAHOOD: Mr. Harris.

MR. HARRIS: Yes.

MR. MAHOOD: Mr. Boyles.

MR. BOYLES: Yes.

MR. MAHOOD: Dr. Crabtree.

DR. CRABTREE: Yes.

MR. MAHOOD: Mr. Cupka.

MR. CUPKA: Yes.

MR. MAHOOD: Dr. Chevront.

DR. CHEVRONT: No.

MR. MAHOOD: Mr. Hartig.

MR. HARTIG: No.

MR. MAHOOD: Ms. Merritt.

MS. MERRITT: No.

MR. MAHOOD: Mr. Phillips.

MR. PHILLIPS: No.

MR. MAHOOD: Mr. Robson.

MR. ROBSON: Yes.

MR. MAHOOD: Mr. Swatzel.

MR. SWATZEL: No.

MR. MAHOOD: Mr. Woodward.

MR. WOODWARD: Yes.

MR. MAHOOD: Mr. Currin.

MR. CURRIN: Yes.

MR. MAHOOD: **Okay, it passes by the same margin, eight to five.**

MR. CURRIN: Okay, thank you. **Now I would entertain a motion to delegate our chairman, Mr. Harris, as the deemer for necessary changes under the latitude that we've offered to the staff and team not only for Amendment 17B but also the proposed rules. Motion by David; second by Robert. Discussion on that motion? Any objection to that motion? I see none and that motion is approved.**

**The committee also had some discussion about a letter and there was a motion to be sent with 17B. There was a motion that was disapproved by the committee to have that letter travel with the amendment, but there was another motion and on behalf of the committee that I would offer, and that is that staff draft a letter to the Secretary of Commerce for review at our March 2010 meeting based on Chairman Harris' comments to the congressional committee. Items to address include ACLs, data delivery systems and economic impacts among others. Discussion. George.**

MR. GEIGER: I would like to direct the council members to the e-mail sent around by Mike of a letter that was sent by the Chairman of the FWC Commission addressed to Senator Nelson, which I think was an excellent letter along the same lines, if staff could look at that.

MR. CURRIN: Thank you, George. Any further discussion of that motion? Any objection to that motion? Roy.

DR. CRABTREE: Not an objection, but you might also want to get a copy – and, Bob, someone over in our shop could get it for you – Senator Shelby sent a letter, Senator Shelby from Alabama who is the ranking republican on the Senate Appropriations Committee, by the way. He sent a letter to Dr. Lubchenco in which he emphasized the significance of fishery-independent monitoring programs in the Gulf of Mexico. It might be something you might want to reference in the letter as well that there is a broad consensus building here of this.

MR. CURRIN: Very good point, thank you, Roy. **Any further discussion on that motion? Any objection to that motion? I see none and that motion is approved.** Anything else on 17B? Okay, we will move into Amendment 18 and motions associated with that. **On behalf of the committee, I move to add a new action to Amendment 18 that invokes the 12/04/08, 10/14/05 and 04/23/97 control date to limit participation in the black sea bass pot fishery with the intent being to use landings from black sea bass pots.** Is there discussion? Is there objection to that motion? I see none; that motion is approved.

Motion 30 was withdrawn by the committee. **The next motion; on behalf of the committee that I would move is to add an alternative which would grandfather the number of tags issued as of 12/04/08 and that those tag numbers be reduced by 10 percent for all participants.** Discussion of that motion. Rita.

MS. MERRITT: Mr. Chairman, as the maker of that motion I reflected back on that 10 percent, which was picked up at the time of the discussion from a prior motion that had gone to the rejected appendix. I'm not so sure that the wording should be exactly 10 percent. I would like to substitute this motion with the wording to replace "reduced by 10 percent" to "be reduced by an appropriate percentage as determined by staff to reach the target".

MR. CURRIN: I think they're probably going to need a little more guidance than that, Rita.

MS. MERRITT: Yes, I'm still hung up with that 10 percent may not be appropriate, the percentage.

MR. CURRIN: Well, I could suggest perhaps a range of percentages from 10 to up – and you pick the range. I don't want to put words in your mouth, but if you want to look at 10 on the low end and –

MS. MERRITT: Well, I'd kind of like some advice from staff on that.

MR. CURRIN: What would be your upper bound for consideration, Rita, 25 percent, do you want 50 percent?

MS. MERRITT: Well, when we were looking at reductions, I think it's 25, 50 and a hundred with the other three alternatives when it was number of traps versus percentage – and number of pots, I should say, versus percentage. Perhaps if we look at what that would work out to be a percentage across the board.

MR. CURRIN: Are you clear, Rick? I'm not sure I understand and Rick says he is not quite sure, either.

MS. MERRITT: Okay, well, 25 percent was used I know in some other conversations, and maybe that is a more appropriate number. I'm just very torn so maybe 10 to 25 percent would be the range.

MR. CURRIN: Do you want to see "and 25" or do you want something in between as well?

MS. MERRITT: Will that create a problem for staff?

MS. CURRIN: Rick said no; 10 and 25?

MS. MERRITT: Yes, thank you.

**MR. CURRIN: All right, so there is substitute motion offered to have staff look at 10 and 25 percent reductions in the number of black sea bass pots. Is there a second to that motion? Second by Duane. Discussion on the motion. Any objection to that motion? The motion is approved with one objection.**

**That substitute motion now becomes the main motion, which is to add an alternative which would grandfather the number of tags issued as of 12/04/08 to be reduced by 10 percent and 25 percent.** Discussion. George.

MR. GEIGER: I have a question; reduced by 10 and 25 percent based on what? We're going to reduce by 10 percent and 25 percent; I don't understand. Help me, please.

MR. CURRIN: I think the intent is to have those as separate alternatives to look at what a 10 percent reduction from current average use, I guess, average tag numbers over some period of time and also look at a 25 percent reduction.

MR. GEIGER: So this would be an across-the-board reduction of 10 percent of the total number of tags issued to fishermen and a total reduction of 25 percent of the total number of tags issued; so if somebody is currently fishing 20 traps, that they would experience a 10 percent reduction and/or a 25 percent reduction in the total number of traps?

MR. CURRIN: That's the way I understand the intent of the motion. Robert.

MR. BOYLES: I think I'm confused as well. I'm confused by the grandfather as well as the control date, and I'm wondering if maybe I'm missing something. Is that redundant?

MR. CURRIN: I think that may be redundant, Robert, confusing the control date and grandfathering. Rita, don't let me put words in your mouth, but I think the intent is to look at the number of tags that were issued as of 12/04/08 to the participating fishermen and then look at alternatives that would reduce that tag number down by 10 percent as one alternative and by 25 percent as an additional alternative; is that your intent, Rita?

MS. MERRITT: I think so, but I understand why Robert says that is confusing because when I read it, it is confusing to me, too. If you grandfather the number, you're not reducing anything; right? So, if you are looking to reduce the number of traps, if that is what the council has agreed that they want to do, my motion is made simply to give an alternative to using a number of reductions and going to a percentage which would make it fair across the board.

So if you have people who are grandfathered at, let's say, 20 traps and someone else who is grandfathered at 40 traps, they would be coming down in an equal amount. My dilemma is knowing, well, what percentage is it that is fair in order to accomplish the goals of the council in the reduction of the traps. Here, again, I'm just not as good in the wordsmithing as Robert is, and I'd appreciate help.

MR. CURRIN: Yes, I think the grandfathering is what is – I think it's redundant. Grandfathering and setting a date on which you base those reductions is kind of confusing, so I would suggest that if we could remove the word grandfather and then use that date as a basis for determining what people were using on that date, and then I think your intent is to look at reductions of 10 percent and 25 percent of the usage on that date. Is that what you want?

MS. MERRITT: It sounds reasonable.

MS. CURRIN: Is that clearer now to everybody? George.

MR. GEIGER: Harkening back to the discussion that we had of percentage reductions – and I may be wrong in my recollection – we were looking at limiting the number of traps in the black sea bass pot fishery; and if you came up with a number that was the optimum number that would want them to get to, as in other trap reduction programs, there is the ultimate number of traps that somebody can own.

Then I think we talked about the percentage of reduction from those who were fishing traps above that ultimate number which would have been the council target number of being reduced each year by some percentage to eventually get them down without making an automatic in one fell swoop you go from 150 traps down to 25.

You'd have some type of a step-down reduction over a period of years to work them into it rather than one automatic cutoff. I just don't understand how we can arbitrarily cut somebody who in '08 fished 20 traps and has fished 20 traps virtually their entire fishing career and now reduce the number of traps they fish to some number lower than what the council believes is an optimum number. I mean if we're just ultimately trying to reducing the trap numbers from a thousand down to 800, I think that's okay, but if you're trying to control the fishery by the use of the number of traps each fisherman can use that is not going to get at it.

MR. CURRIN: And I understand your point, George. Further discussion on this motion? Rita.

MS. MERRITT: Here, again, I'm offering this as an alternative. It's neither a preferred on my part – I just saw it as an alternative which may be fairer in the long run for everyone. One thing I think we need to keep in mind – and I'm not sure of this number, but this fishery is so very small

in the South Atlantic. I understand that there are individuals who have more pots than our complete total in the South Atlantic who are permitted in other areas outside of the South Atlantic, so it seems almost inconsequential in comparison to what may be going in that area.

MR. CURRIN: All right, further discussion on this motion? Again, I think it's clear that this is just an alternative, and I will reread because it is changed. **The substitute motion is to add alternatives which would use the number of tags issued as of 12/04/08 as the basis for reductions of 10 percent and 25 percent. Is there any objection to that motion? I see none; that motion is approved. That has now become the main motion. Any discussion on that motion? Any objection to that motion? I see none; then that motion is approved.**

**Also on behalf of the committee, I would move to remove Action Number 5 from the amendment – that is the one dealing with gag recreational allocations by either region or state – to the considered but rejected appendix. Any discussion on that motion? Any objection to that motion? I see none; that motion is approved.**

**Also on behalf of the committee, I would move to add a subalternative to Alternatives 2, 3 and 4 that keep the 300-pound trip limit when 75 percent of the quota is taken. That's regarding golden tilefish, I believe. Any discussion of that motion? Any objection to that motion? I see none and that motion is approved.**

As you will note on your committee report, there were a number of motions that were passed as the Committee of the Whole. I will not go through those. Those have passed the full council vote. Those were regarding Amendment 20 and the Comprehensive ACL Amendment. Mr. Chairman, unless Rick or somebody else tells me that I'm not through, that will end my Snapper Grouper Report. George.

MR. GEIGER: One last thing, Mr. Chairman, I would like to compliment our Director of Marine Fisheries in Florida for the excellent work he and his staff did in achieving complementary regulations for Amendment 16. That was a hugely contested issue in the state of Florida, and the important was not lost on this council when we were deliberating on Amendment 16 and what the implications of Florida concurrency was and was not. Mark, thank you very much for your hard and well-earned efforts. For those who don't know, the commission just passed complementary regulations on shallow water grouper on Thursday and at the previous meeting had done vermilion snapper and reef gear.

MR. CURRIN: Yes, thank you, George, and I don't think that was lost on anybody. We certainly appreciate that, Mark, very much. Mark.

MR. ROBSON: I know we're all in a hurry, too, but as long as we can, I want to make the statement, too, that in the state of Florida many of you may be seeing letters that are coming from our commission chairman. We're actively engaging our congressional delegation, both our two senators and our congressional representatives, in talking about the problems that all of the things that we're doing with Magnuson-Stevens compliance are creating in the state of Florida, but also we're trying to take an approach, as you've seen in that letter that I sent around to you that the chairman just sent to Senator Nelson, of understanding the requirements that the federal managers have to meet under Magnuson-Stevens, but also emphasizing we've got to do a better

job of funding the research and monitoring that's needed. I think you're going to continue to hear that message coming out of our state commission.

MR. CURRIN: Thank you, Mark. All right, Mr. Chairman, I will turn it back over to then. Thank you all for your patience and contributions and indulgence as snapper grouper ran long once again. I don't know how to prevent that. If anybody has got suggestions, please offer them to me.

MR. HARRIS: Thank you, Mac, once again for an outstanding job by yourself and the staff in dealing with the very, very difficult issue of snapper grouper management in the South Atlantic. I really do appreciate your efforts, Mac. I know when I became chairman and asked that you continue to chair snapper grouper, that wasn't the easiest decision you ever had to make, but I do appreciate your efforts, so thank you very much.

MR. CURRIN: I didn't know I had a choice.

MR. HARRIS: I may not have given you much of a choice, but I intended to, but you don't have a choice now so you can't beg out. The next item on the agenda is the SSC Selection Committee Report. Dr. Crabtree, do you have a report or is that simply an attachment? Do we have any motions to go through with the SSC Selection Committee?

DR. CRABTREE: I would defer to John.

MR. CARMICHAEL: We did have a draft report of that. It was a joint meeting with the SSC Selection Committee and the SSC. What they essentially provided were recommendations on a number of the procedural issues related to the SSC. What we've talked about is having an SSC Selection Committee meeting in March and to take those up there.

MR. HARRIS: Okay, thank you very much. That is the report of the SSC Selection Committee, Roy?

DR. CRABTREE: Yes.

MR. HARRIS: Thank you very much. The Spiny Lobster Committee Report, Mark.

MR. ROBSON: We had a committee presentation. Gregg Waugh provided a review of all the public comments that the Gulf Council scoping hearings had received regarding Amendment 10. The report is in the committee report. I won't go into the details in terms of the number of public that spoke. Gregg also reviewed the Gulf Council motion that deleted the action to repeal the Spiny Lobster FMP from Amendment 10.

We also heard a report from Jennifer Lee from the NOAA Fisheries staff regarding the biological opinion for the Spiny Lobster Fishery, particularly as it relates to protection of Acropora. There were some things that the councils would need to consider in the amendment to address the biological opinion; among these including establishing new areas or expanding the size of

existing closed areas where Acropora occurs in order to prevent damage to those coral by spiny lobster trap-fishing activities.

We would also need to consider implementing measures on identification of spiny lobster trap rope by color or some other pattern and explore the use of allowing some form of trap retrieval or debris removal programs when the fishery is closed. The committee discussed how to proceed with the development of Amendment 10. We also reviewed the SEDAR Update Schedule appointments and terms of reference.

With regard to those three items, we need motions to be made for the following items. They were deferred to full council. **We need a motion to approve the SEDAR Update appointments. The recommendations were that two SSC members, Sherry Larkin and Dave Eggleston from NC State, be on the SEDAR Update. The two AP members recommendations were from the commercial side, Tony Iarocci and Bruce Irwin as an alternate; and on the recreational side, Bob Burton and Michael Adams as an alternate; and from the South Atlantic Council staff, Gregg Waugh; and from the council I or George Geiger as an alternate. I would entertain a motion to approve those SEDAR appointments.**

MR.HARRIS: So moved, Mr. Chairman.

MR. CURRIN: Second.

MR. ROBSON: **Motion and a second to approve those. Is there any discussion of the motion? Any opposition? Show the motion passed.**

MR. HARRIS: Is that enough for you? John.

MR. CARMICHAEL: Just to clarify, David Eggleston is not actually on the SSC. He was suggested as an outside scientist by the SSC members who thought that he has experience in working with spiny lobster. Tony Iarocci was a former council member, but I don't believe he is sitting on APs at the moment, so he may need to be considered for inclusion in the SEDAR pool.

MR. ROBSON: Yes, I forgot to read and mention that. We had a discussion about that at the Spiny Lobster Committee level and determined that it was possible to make those appointments from outside the SSC and also in acknowledging Tony's expertise even though he's not on the current AP.

MR. HARTIG: Bruce Irwin is on our AP?

MR. ROBSON: Yes. Any further discussion. Any opposition to the motion? Show the motion approved. **The next thing we need a motion is regarding the update of the timing of the SEDAR Update, and the timing is presented in the committee report, Mr. Chairman and members of the council, but the timing shown below was reviewed and staff was directed to work to have a subgroup of the South Atlantic Council SSC members meet jointly with the Gulf of Mexico Fishery Management Council Spiny Lobster SSC to review the SEDAR updated assessment prior to the South Atlantic Council's December 6-10, 2010, meeting.**

The intent is for the South Atlantic Council to approved Amendment 10 for public hearings at their December 2010 meeting. We do need a motion to approve that timing. Mac.

MR. CURRIN: So moved.

MR. ROBSON: Second by David Cupka. Any discussion of the motion? Bob.

MR. MAHOOD: Are you drawing that language from the committee report?

MR. ROBSON: On the SEDAR Update timing, yes.

**MR. ROBSON: Any other discussion on the timing of the update process and the SSC review? Seeing none, is there any opposition to the motion? The motion carries. The next item that does require a motion is the approval of the terms of reference for the SEDAR Update for Spiny Lobster. The attached terms of reference in the committee report were reviewed and the modifications by the SSC were discussed.**

The committee has agreed to review the terms of reference during the council session. Hopefully, we've had to chance to look at what modifications were made to the terms of reference, and I would like to receive a motion to accept those updated terms of reference.

MR. HARRIS: So move, Mr. Chairman.

MR. ROBSON: Motion by Duane; seconded by Mac. Is there any discussion on the terms of reference? **Is there any opposition to approving these terms of reference or the motion itself? Seeing none; motion approved.**

The only other thing that I want to report, Mr. Chairman, is we want to clarify in the committee discussions that we had asked staff to schedule a Spiny Lobster Committee and an AP meeting that would occur at the June 2010 meeting. We've also discussed having Florida Fish and Wildlife Commission staff that would be available to attend in June to discuss all of the data and information that we have or that has already been collected as part of our review of this fishery over the last couple of years, particularly working with industry and recreational and environmental interest working group.

So we just want to clarify the staff direction to do that and also for the staff to explore having a joint South Atlantic and Gulf of Mexico Spiny Lobster Committee or AP meeting the June meeting in Florida. I don't know that we need a motion for that. We just want to give staff the direction to look into that. Again, we had directed staff – I've gone over that – to add actions to the amendment that would address that National Marine Fishery Service biological opinion items. I believe, Mr. Chairman, that concludes my report.

MR. HARRIS: Thank you, Mark. Just to clarify what we've done here; with respect to folks that are not already on our SEDAR pool or our APs that we are adding to these assessment updates or benchmarks, we're going to take care of that at our March meeting, so those will be approved at our March meeting assuming the council approves those appointments. Is that

clear? The Law Enforcement Committee, George; and after you've finished Law Enforcement, if you want to go right into Mackerel, you can do that.

MR. GEIGER: The Law Enforcement Committee met the afternoon of December 7<sup>th</sup> in Atlantic Beach, North Carolina. The minutes from the September 2009 Law Enforcement Committee were approved as submitted. The committee received presentations on the following agenda items:

One, Law Enforcement Officer of the Year Awards – Chairman Geiger directed members to Attachment 1 where he noted that staff had provided a comprehensive list of law enforcement reward programs from a number of state, federal and other sources. Bob Mahood went over a range of examples that could be used as a template for the council's development of an award program.

Chairman Geiger suggested that the Law Enforcement Advisory Panel was the proper group to develop the nomination criteria, review nominations and recommend a candidate or slate of candidates to the committee for the award. It was agreed that there should be one annual South Atlantic Fishery Management Council Law Enforcement Officer of the Year Award.

Staff was directed to begin the process by contacting the LEAP members prior to the next meeting with the goal of ultimately presenting the first award at the September 2010 meeting. It was suggested that staff look at the North Carolina Wildlife Federation's Award Program as an additional resource in addition to those provided.

Two, surveillance and enforcement of remote marine protected areas, the SERMA Workshop – Myra Brouwer of staff briefed the committee on her attendance at the SERMA Workshop in Washington, D.C. The purpose of this workshop was to guide the production of a technical options paper on surveillance and enforcement of remote marine protected areas throughout the world. A summary document addressing the conclusions and recommendations from the workshop is being prepared and will be available shortly.

Three, the Coral Program for FY 2010 Proposal – Myra explained that the council, as part of our Coral Reef Conservation Grant Program funding, is proposing to fund a law enforcement related project based on the SERMA Program. The project, a two-day workshop, will make this effort applicable to our region with the goal of enhancing the effectiveness of MPAs by addressing improved enforcement and monitoring techniques. The project will be submitted as part of our 2010 Coral Grant Request.

Four, Spanish mackerel net issue – Chairman Geiger explained that the issue is when a vessel exceeds its trip limit in one set and splits its net to transfer and the fish into another vessel. One of or both of the vessels could be in violation of having more than the allowable two boats on board at the time of transfer. Ben Hartig then provided additional background, and it was determined that Ben and Monica would meet prior to the full council session to work on a solution to present to the council. I look to Ben and Monica for the potential solution.

MS. SMIT-BRUNELLO: We're still working on our solution because I think we have to involve enforcement attorneys as well, and we will do that if that's okay with Ben, and then we'll bring that back at the next meeting.

MR. GEIGER: And that's fine because we do have a one-hour Mackerel Committee meeting scheduled at the next meeting, and we can take it up under mackerel, I believe, if we don't a Law Enforcement Panel meeting. Staff direction – staff was directed to contact the Law Enforcement Advisory Panel members prior to the next meeting to begin the process of their developing the SAFMC Law Enforcement Office of the Year Award. Mr. Chairman, that completes the Law Enforcement Committee Report. Any questions? Mac.

MR. CURRIN: Not a question, George, just a comment that to me that SERMA Program and seeing activity on a national level addressing issues surrounding offshore areas and remote sensing of those is probably one of the most exciting law enforcement initiatives that I've seen in a long, long time, and I think it offers a lot of promise and I look forward to seeing the results of that workshop and hope that their efforts will continue.

MR. GEIGER: Any other questions? No other questions, Mr. Chairman, that completes the Law Enforcement Committee Report, and with your approval into mackerel. The Mackerel Committee met on December 8<sup>th</sup> in Atlantic Beach, North Carolina. The committee received presentations by Gregg Waugh of the South Atlantic staff reviewing public comments from the Gulf Council scoping for Amendment 18.

Forty-three members of the public attended the hearing in Key West, Florida, on September 21<sup>st</sup> and nine individuals spoke. Thirty-six members of the public attending the hearing in Marathon, Florida, on September 22<sup>nd</sup> and three individuals spoke. Four letters were received. Gregg also received the Gulf Council motions that moved all items to meet the new MSA requirements into Amendment 18 and the remaining items into Amendment 20. The Gulf Council also approved a motion to move forward a Commercial LAP Program for the King Mackerel Fishery and established an ad hoc Mackerel LAPP AP for the commercial industry.

Monica Smit-Brunello and Robert Boyles discussed the issues involved with the state of South Carolina having cobia regulations that may be more restrictive than federal regulations. The SSC provided the following input. King mackerel recommendations – the SSC could recommend an OFL level from the options as reported in the mackerel decision document.

However, because he additional projections are necessary to develop ABC recommendations in accordance with the ABC Control Rule developed after the mackerel assessment was approved, the SSC prefers that those projections also provide information to support annual OFL levels. In order to determine an appropriate annual OFL and ABC, the SSC requires the following: updated landings, measure of recruitment, update projections which take into account the current year's landings, a request for the production of both constant catch and constant F scenarios for those projections.

Projections should provide the catch and F associated with a 27.5 percent chance of overfishing occurring over the projected period. They recommend that multiple projections be generated for

a variety of time series beginning with a single-year projection; one through 2013 and also seven- and ten-year periods. The request is for this information to be submitted to the SSC on or before March 15, 2010.

The Spanish mackerel recommendations – as the most recent assessment could not express OFL biomass, the SSC cannot provide guidance based on the assessment. In this instance the SSC would need to default to the use of landings' data as a means of determining an OFL. However, at this time the SSC has not determined the best way to derive this value from landings. The SSC intends to discuss this further under the ACL topic on Tuesday and will use Spanish mackerel as a test to work through the development of ABC in such cases.

Cobia recommendations – data may exist to assess cobia and the stock is scheduled to be assessed in 2012. The SSC will provide ABC recommendations for cobia at the SSC April 2010 meeting based on information in hand at the time when it addresses ABCs for all remaining stocks. The less information in the SSC, the greater the uncertainty to be considered.

The SSC will address the default control rule for an unassessed stock at this meeting, being December 2009, and develop an additional data request for unassessed stocks to provide the information necessary to apply the control rule in April 2010. The committee deferred discussion about ACLs until they receive input from the SSC. This will likely be at the June 2010 council meeting.

Under other business the committee was briefed about the Atlantic States Marine Fisheries Commission Public Information Document that will bring their Spanish Mackerel Plan into compliance with their internal requirements and what the councils are proposing through Amendment 18.

Public hearings may be held by ASMFC and the document is available from their website at [www.asmfc.org](http://www.asmfc.org). The committee also discussed quota monitoring and requested that the figures on the NMFS Website be kept as up to date as possible so that the fishermen can know the level of landings remaining in a more timely manner.

Direction to staff and team: Number one, schedule a one-hour Mackerel Committee meeting at the March 2010 SAFMC meeting to discuss Gulf of Mexico Fishery Management Council actions concerning LAPPs and to review the request to NMFS for data to address the SSC's needs. The South Atlantic Council will address the issue of participation in the Gulf Mackerel Commercial LAPP efforts at that time.

Number two, add an alternative to address the number of nets, trip limits and transfer at sea to Mackerel Amendment 20; and, three, clarify the SAFMC decision document on Page 34 as how to how the sale and prohibition addresses king and Spanish mackerel caught under the bag limit. The committee will also review specifying a commercial trip limit for cobia rather than calling it a bag limit. There were no motions made by the committee, Mr. Chairman, and that completes my committee report unless there are questions.

MR. HARRIS: Thank you, George; are there questions of George? The next item on the agenda is the Joint Executive/Finance Committee Report, and Vice-Chairman Cupka will give that, and he will follow that with the Protected Resources Committee Report.

MR. CUPKA: The Executive and Finance Committees met in joint session the afternoon of December 7<sup>th</sup> in Atlantic Beach, North Carolina. The minutes from the September 2009 joint Executive/Finance Committee meeting were approved with a couple of corrections by myself. The committee received presentations on the following agenda items:

First was the status of the current year's council budget. Bob Mahood briefed the committee on the status of this year's budget. He indicated that expenditures for the year are below what would be expected and the projected balance is positive. This is primarily because of the length of time the continuing budget resolution was in place and the uncertainty in the level of this year's budget, which made it necessary for the council to limit activities and expenditures during the first part of this year.

Bob indicated that the council is in good shape financially and will have adequate funding to accomplish the activities specified in the Activities Schedule during this year. On a positive note the committee was informed that the council's request for a no-cost extension of the 2005-2009 grant was approved. This will allow the council to carry unexpended funds forward to conduct activities in 2010 that were initially scheduled in 2009.

We next looked at the FMP amendment timelines and Bob pointed out that these timelines would need to be adjusted depending on the actions taken at this committee and the funding that council receives in our next year's budget. In regard to the next year's budget, Bob explained that we had hope to have the 2010 budget by now, but unfortunately, as in recent years, we are under a congressional continuing resolution.

He noted that the proposed budget is the same one provided to the council at our last meeting. He then reviewed the total proposed budget. It is anticipated that with the expected funding for next year and the approval to carry unexpended funds forward to complete work started this year that council will be able to conduct the activities necessary to meet its mandates under the Magnuson-Stevens Act.

Brian Chevront asked about the increase in council member compensation and advisory panel travel between the 2009 and 2010 budgets. Bob indicated this was directly related to the number of scheduled meetings for advisory panels and council members and 2010 Activities Schedule. I reminded everyone that we had to limit meetings and other travel-related to this year's activities as we did not receive a budget mark until well into the year.

During discussion of the budget, committee members asked how the increases in the liaison funding for the states was determined. Bob provided an explanation of how the various funding levels were determined relative to a base level and state personnel participation on the SSC. It was recognized that the council receives a much greater benefit from the states' participation than the funding provided.

In regard to next year's congressional budget, the Senate Appropriations Committee has approved a budget that provides council funding levels similar to the President's budget, which would be positive for the councils. However, the House has not acted and it appears that the Commerce Department's budget will not be approved in the near term. If the funding levels in the proposed President/Congressional Committee budgets are maintained, we will be in pretty good shape next year. Bob.

MR. MAHOOD: That became old information after I wrote the report. Evidently the House and Senate Conference Committees have met and have come up with a budget for the Department of Commerce, NOAA/NMFS and the councils. Now, I understand that budget has not been approved by the full congress and signed by the President, but that's expected before the continuing resolution ends on December 18<sup>th</sup>.

If I might proceed, I can give a little bit of detail of what happened there. I think the National Marine Fisheries Service and the councils – I can't speak for all the categories in the National Marine Fisheries Service, but ones that we deal with it looks like fared pretty well. All of the increases that were asked for in the President's budget for the councils and I believe increasing the funding for stock assessments also were met.

We should be in pretty good shape. The regional councils are listed with the Fisheries Commission, and that level was funded at \$31,855,000. The councils' share of that is about \$23,488,000, which is short of the \$29 million the councils have proclaimed they need, but still will provide us – our share will provide additional funding that we need for next year and pretty much follows what we had proposed in our budget. I think with that and the carryover we should be in pretty good shape next year. Now that is 2010. What happens beyond that I'm not sure.

MR. CUPKA: Thank you, Bob. Next we discussed council and SSC compensation for participation on webinars. The committee discussed in depth the issue of council member and eligible SSC member compensation for participating in webinars. A motion was made for council members and eligible SSC members to receive compensation for participation in webinars.

Under other business George Geiger recommended that a SEDAR Committee be scheduled at every council meeting. He and other members discussed the possibility and the committee gave direction to staff to implement Mr. Geiger's recommendation. There was one motion made, as I mentioned earlier, in regard to compensation, and on behalf of the committee I would so move. **The motion is that council members and eligible SSC members should receive compensation for participation in webinars. Is there any discussion on the motion?** Ben.

MR. HARTIG: David, is that just council members that were approved for that webinar?

MR. CUPKA: Well, we didn't discuss that, but, Mr. Chairman, I will defer to you on that.

MR. HARRIS: Well, on occasion the Chair will approve someone that was not approved as an official member to participate, and they are eligible for compensation; aren't they, Bob?

MR. MAHOOD: Ben, I would assume it would work like a public hearing. Generally we have one council member assigned and he would be the one whose travel and salary would be paid. But, upon occasion, especially this last go around where there were significant issues, the chairman and myself did approve other council members to go. Our policy is pretty clear.

If you're approved by the chairman or the executive director to travel to a meeting, you're compensated for it. I assume it is going to work similar with the webinar. I told Duane that we need to look at our current policy and see if it needs some change relative to the webinar issue, because it is a little bit different. We'll be looking at that, but I guess the answer to your question would be yes if you're approved to participate. Now, obviously, if you just have an interest and you want to go on and listen or something, that might be a different situation, but we'll look at that.

MR. CUPKA: Further discussion? **Is there any objection to the motion? Seeing none, that motion is approved.** There was some staff direction. We asked them to schedule a SEDAR Committee meeting during each council meeting. That, Mr. Chairman, concludes the joint Executive/Finance unless there are any questions. George.

MR. GEIGER: I had a whole list of justification as to why I would like to see a SEDAR meeting scheduled, but I think after what has transpired during the course of this week I'll pass.

MR. CUPKA: Thank you, George. Do you want me to go ahead?

MR. HARRIS: Yes, go ahead with Protected Resources Committee.

MR. CUPKA: All right, the Protected Resources Committee convened on Monday, December 7<sup>th</sup>. The committee received an update from Ms. Jennifer Lee of NOAA Fisheries Protected Resources Division on South Atlantic Protected Species and associated regulatory/management actions that the council should be knowledgeable of when managing its fisheries.

Specific items included, one, the re-initiation of the Endangered Species Act, Section VII consultation for the shrimp fishery due to the incidental take of smalltooth sawfish. Second, a petition by the National Resources Defense Council to list Atlantic species as an endangered species under the Endangered Species Act.

Third was a petition by the Center for Biological Diversity seeking to protect 83 coral species, eight of which are found in the South Atlantic Region, and those, again, would be protected under the Endangered Species Act. Fourth, proposed legal action regarding the incidental catch of sea turtles in gill net fisheries in North Carolina.

The committee also received a presentation from Mr. Robert Bond of the University of Georgia on the bycatch of shortnose sturgeon in the Altamaha River Shad Gill Net Fishery. The committee made one motion. **On behalf of the committee, I would move that we refer the issue of smalltooth sawfish takes in the shrimp fishery to the Shrimp Committee. Is there any discussion on the motion? Any objection? Seeing none, then that motion is approved.**

If there aren't any questions, Mr. Chairman, that will conclude the report of the Protected Resources Committee.

MR. HARRIS: Thank you, David; are there any questions? The item is the Ecosystem-Based Management Committee Report, Dr. Cheuvront.

DR. CHEUVRONT: The Ecosystem-Based Management Committee convened on Tuesday, December 8, 2009. The committee discussed changes to the Comprehensive Ecosystem-Based Amendment 2 Options Paper and provided guidance to the staff. The committee also received a briefing from Dr. James Morris on management issues pertaining to lionfish and discussed the possible options to address potential impacts from lionfish and other invasive species on the South Atlantic Ecosystem.

The committee received updates from staff on relevant workshops and deep water coral activities as well as ecosystem coordination activities. The committee made the following motions. Before I give the motions, I want to explain Motions 1 and 2 are based on the options paper, and they had to do with eliminating two options that we decided were not appropriate at this time.

We did separate motions for each one. What makes it a little bit confusing, especially as you're reading the report, is the fact that there were some numbering issues in the options paper on the different number options under the activities. **The first motion is pertaining to delegating management authority of the octocorals to the state of Florida and to eliminate what was called Option 3, which is to withdraw the South Atlantic Coral FMP off of East Florida and the Gulf of Mexico and to delegate management authority to the state of Florida. On behalf of the committee, I so move. Is there any discussion on the motion? Is there any opposition to the motion? Seeing none, the motion carries.**

The second motion – and we had a very similar option there – was simply to withdraw the South Atlantic Coral FMP, and this motion did not include delegating the authority to the state of Florida, so we decided to come back and withdraw this option as well. I'll read the motion: **Motion Number 2 is to eliminate option to withdraw the South Atlantic Coral FMP. On the behalf of the committee, I so move. Is there any discussion on the motion? Is there any opposition to the motion? Seeing none, the motion carries.**

The committee also had a fairly extensive discussion of invasive species, and we put forth a motion in relation to this. **Motion Number 3 is to consider whether exotic species are to be considered part of the management unit. The committee made this motion in lieu of removing the proposed action to allow harvest of orange cup coral.**

**The intent is for staff to coordinate with appropriate agencies to develop a draft policy addressing invasive species in the South Atlantic Region that can be reviewed at the next South Atlantic Council meeting. We didn't intend this to limit the discussion to just the orange cup coral but to lionfish and potentially other invasive species. On behalf of the committee, I so move. Is there any discussion of the motion? Any opposition to the motion? Seeing none, the motion carries.**

**Motion 4; remove action to possibly allow harvest of encrusting gorgonians and to place in the considered but rejected appendix. On behalf of the committee, I so move. Any discussion of the motion? Seeing none, is there any opposition to the motion? There is no opposition and the motion carries.**

The committee directed staff to develop alternatives for the proposed action below; that is to consider requiring all harvest with the use of all non-prohibited fishing gear in special management zones in South Carolina be limited to the bag limit. The Ecosystem Committee made the following recommendations:

Work cooperatively with the Gulf and South Atlantic Regional Panel on Aquatic Invasive Species to investigate ways to address invasive species, including orange cup coral and Indo-Pacific Lionfish; develop a draft SAMFC policy on invasive species to be discussed at the March 2010 meeting; and, secondly, work with the staff to review the proposed EFH-HAPCs currently listed in the CE-BA 2 Options Paper. Mr. Chairman, that ends my report unless there are any other questions?

MR. HARRIS: Thank you, Brian; are there questions for Brian? Seeing none, we'll move along. The next item on the agenda is to review and develop recommendations on experimental fishing permits as necessary. Jack McGovern.

DR. McGOVERN: There are three attachments related to this EFP request in your briefing book. They are Items 2B, EFP Request A; Request B and Request C. Request A is an e-mail that lists the items that are requested to be included in the FMP; B is a summary of what is in that e-mail; and Item C are the regulations associated with exempted fishing permits.

What is requested is Lewis Augusta, who would be the PI of this project, he is from Vero Beach, Florida. He is the captain and owner of the Fishing Vessel Captain Lew, which is a 65-foot headboat. What he is requesting is an EFP to harvest vermilion snapper, shallow water grouper species, and he also sent an e-mail last week requesting red snapper be included in there.

He wants to harvest these species using paying customers from his headboat during closed seasons for these species. What he is interested in is conducting a tagging program for the shallow water grouper species using tags and tagging training provided by NMFS, survey of availability of bait and types of bait, record the effect of venting and dehooking tools on release mortality, to provide access to observers, collect information on water temperature and depth, and provide racks for biologists for collecting aging information.

The purpose of his study is to collect information on species during a closed season. The EFP would be for 2010. Fishing would occur for five days a week off of Fort Pierce, Florida. Legal-sized fish would be retained by anglers or given away at the dock. He indicates a maximum of 75 vermilion snapper and 25 shallow water grouper would be retained, and he doesn't provide a figure for red snapper. The gear that would be used is rod and reel. That's a summary of this EFP request, Mr. Chairman.

MR. HARRIS: Thank you, Jack. Are there comments? Mac.

MR. CURRIN: I have some reservations about granting an EFP along these lines. Personally I think it's premature to consider this until the science center has had an opportunity to design and evaluate the need for an appropriate level of fishery-dependent monitoring. We had this discussion and passed a motion in snapper grouper yesterday or a few days ago, whenever it was, to look at the level of fishery-dependent monitoring that might need to occur. Until that exercise has occurred, I have a hard time figuring out how this is going to fit into that program that we will consider in the future, so I would speak against this EFP.

MR. GEIGER: Well, to the point of the EFP in itself, and it's an important one, in the section that outlines the requirements we have a requirement to notify the individual that this is going to be discussed at a meeting other than I think within the regional office. I want to make sure that individual was in fact notified that it was going to be discussed at this meeting.

MR. STEELE: Yes, sir, he was notified.

DR. CHEUVRONT: I think Mac kind of hit on all my points. I just think this is really premature and let's wait until the next meeting when we have requested the science center to give us some ideas on what an appropriate dependent program would look like.

MR. MAHOOD: All the council can do is make a recommendation to the Regional Administrator. It's up to Roy on the timing, so we might ask Roy is it okay for the council to make its recommendation at the next meeting or do you intend to move on it before then?

DR. CRABTREE: I think if you have an opinion on it, you ought to go ahead and give it to me.

MR. CURRIN: Do you need a motion from the council?

DR. CRABTREE: It's probably the cleanest way.

MR. CURRIN: Then I would offer the motion that this EFP not be considered for approval by – or recommend to NMFS at least to not fund this EFP.

DR. CHEUVRONT: I second it.

MR. HARRIS: Motion and a second; discussion on the motion.

MR. CURRIN: If I might, "not fund" was not appropriate.

MR. MAHOOD: Yes, not fund is not correct.

MR. CURRIN: But not grant this EFP.

MR. PHILLIPS: Is the intention not to allow this until we – or not to consider allowing this until we hear from the science center? Once we hear from the science center, we may want to do this. Is that the intent?

MR. CURRIN: Yes, that's certainly my intent at this point, Charlie. As I said initially, I think it's premature to consider it. If we get a recommendation from the science center that we need X amount of effort along these lines for these species, then a similar sort of request might well be worth considering. That's my intent.

MR. HARRIS: Okay, you've heard the motion and the intent of the motion. Further discussion? Okay, we'll wait until we get the language up there. Ben.

MR. HARTIG: How is it handled; will someone send him letter telling him what we decided?

DR. CRABTREE: He will receive a determination from the Fishery Service, and in the determination it will explain why. One of the parts of that will be the council's recommendation.

MR. HARRIS: I think the clarification is at this time it could be reconsidered once we have a proposed fishery-depending monitoring program developed by the science center; am I correct in that assumption? Okay, Mac, it's your motion.

MR. CURRIN: I think you're partially right, Duane, but I have a hard time imagining, without some changes, how this particular and fairly specific permit might be considered once the program is designed. I think maybe in the response to Captain Augusta, perhaps explain to him that the science center is considering designing a fishery-dependent program; and once we know what form that would take, then we would request that he submit another EFP or request for an EFP that might fit those guidelines.

DR. CRABTREE: We'd like to deal with this one in a timely fashion, but then he could always resubmit at another time and address the comments on it, as could any number of other people.

**MR. HARRIS: Okay, the motion is to recommend that the RA not issue the Lew Augusta requested exempted fishing permit at this time. Further discussion on the motion? Is there objection to the motion? That motion carries without objection.** Jack, do you have another one?

DR. McGOVERN: That's it, Mr. Chairman.

MR. HARRIS: Thank you very much. Bob, did you say there was another one?

MR. MAHOOD: Well, we do have a generic HMS, and I'm not sure who Roy may have here to discuss HMS.

DR. CRABTREE: I don't have anyone here to discuss it.

MR. HARRIS: Well, I'll call on George because George is the one that raised the issue, and the letters that we have sent to HMS are listed under this section of the council document. The discussion we had is have we ever received a written response to any of those letters, and I think the answer to that is Bob will tell us.

MR. MAHOOD: We didn't phrase the letters in such a way we would get a written response. The response that we got was their people coming to our meeting to make a presentation. I think it goes further than that, though. In discussion this with George – and I don't want to put words in George's mouth – we had really requesting an ongoing update of the results of the longlining in the closed areas.

Well, I finally found out who is in charge up there. Of course, Margot went off to work for NOS. Chris Riesling now has taken a new job running the observer program. Then I had a hard time finding who was up there, and finally I hooked up with a young fellow. I can't recall his name right now, but he was very nice and very helpful.

They're just trying to get their hands around everything right now that was left to them, but he did point out that within that Federal Register Notice that went out most recently had the most recent information relative to the catches in the area. He said he or his boss, who was not available, would come to our next meeting and make a presentation. That's kind of where we stand on it. Now we may want to comment on the generic EFP they've put out. We have done that before. But other than what I read in the Federal Register Notice, I don't have anymore information on it.

MR. GEIGER: Bob is right, in the Federal Register there is a complete description of landings and bycatch. However, when we went down this road originally, or maybe it was in the second letter, the questions we had and some of the basis for our objection to the program was there was no scientific parameters identified in terms of what bycatch represents limits that would cause the EFP to be turned off based on observer coverage or stopped.

We still don't have any scientific plan other than the fact that they've three boats trying to make 218 sets or something in the course of time, so many inside the closed area and so many outside the closed area, to characterize bycatch and hook use and size and that type of thing, but it doesn't talk about, in terms of bycatch, how much bycatch is too much and when we need to turn this off.

At one point I think Brian did a back-of-the-envelope calculation based on turtle interactions that his state is being faced with right now. At that time he indicated that the amount of turtle interaction that they had reported to us at a prior meeting – and I think it might have been in Georgia – that those turtle interactions would have caused whatever fishery was prosecuted in North Carolina to be shut down. Correct me if I'm wrong, Brian.

DR.CHEUVRONT: You're absolutely correct, and somehow if I remember it was like 15 percent of the trips or something had a turtle interaction. It was very, very high.

MR. GEIGER: So in the Federal Register they are trying to extend this EFP into 2010 ostensibly to complete the total number of sets that they were looking for that didn't completed in 2009, and in conjunction with that provided the bycatch and catch in the Federal Register. I guess it's up to us to determine whether we want to request again the parameters under which the program would be stopped in terms of bycatch and protected resource interactions or just turn a blind eye and let them proceed.

DR. CRABTREE: Just a couple of comments. These vessels would be fishing with pelagic longline gear in other areas if the EFP didn't exist and would have turtle takes there. They're fishing within the allowable incidental take limit that the pelagic longline fishery has. Fisheries are closed down sometimes when they exceed their incidental take limit, and the incidental limits are based on the expected take in that fishery, so you can't compare one fishery to another fishery.

If this EFP didn't exist, I don't have any reason to believe the turtle takes of being any higher than they are with the EFP. These boats would likely be fishing; they're just fishing in a different area, so bear that in mind. If you have anything you want me to check into or convey to HMS, we'll certainly do that.

MR. GEIGER: Well, it would be interesting to know what constitutes or whether there are limits of incidental turtle interactions in this particular fishery.

DR. CRABTREE: We could steer you right to the biological opinion. It was written out of my office. There are three-year incidental take provisions for the pelagic longline fishery, and it's posted, I believe, on our website, and I'm sure that we point you to that, George, but it's for the fishery as a whole, and the takes with these two vessels are counted against the takes for the fishery as a whole.

There are a lot of takes in pelagic longline fishery, but only a very small fraction of those takes are mortalities when they hit the boat. Now there are a lot of restrictions in terms of circle hooks and gear removal and things like that that were applied when this biological opinion was done in order to reduce the mortality.

The other thing, when you're comparing different fisheries, is it's not just the takes that are of concern when you write a biological opinion, but it's the mortality of those takes and very few turtle actually drown in the pelagic longline fisheries. Most of the resulting mortality is the result of gut hooking and not removing the gear and that type of thing, and we have put in place a number of measures to try and minimize those things.

MR. CURRIN: Roy, I think regarding the incidental takes, those are only for threatened and protected species like sea turtles and other protected species.

DR. CRABTREE: Correct.

MR. CURRIN: I think my concerns at least go I think a little beyond that to billfish catches. I was under the impression – somebody correct me if I'm wrong – that other species like billfish and undersized swordfish and other bycatch would be used as a criterion for perhaps ending the permit.

In addition to the sea turtles – and those have been reported and as you indicated are limited, tracked and all of that through your office and are permitted as incidental takes. I think it does go beyond that, and I recommend that the council mail a letter to HMS objecting to the extension of

the permit until such time as those incidental takes and criterion are established for – or rescinding that experimental fishing permit.

MR. HARRIS: Is that a motion, Mac?

MR. CURRIN: That is a motion.

MR. HARRIS: Okay, can we get the motion up on the board and there is a second by David Cupka. Mac, would you repeat the motion, please?

MR. CURRIN: That the council send a letter to HMS objecting to the extension of the swordfish closed area – I forget how to define that exactly; you know what I mean – the experimental fishing permit until such time as HMS can respond to our initial request to outline levels of bycatch of all species that would result in rescinding that permit. Is that clear?

MR. HARRIS: It's clear to me because it's exactly what we've done in the past, and I think the request that we've made of them has been similar to this in the past. Is there discussion on the motion? Mac, do you want to go ahead and read the motion?

**MR. CURRIN: I'll be happy to. The motion is that the council send a letter to HMS objecting to the extension of the closed area EFP until such time as HMS can respond to our initial request to outline levels of bycatch of species that would result in rescinding that permit.**

MR. HARRIS: And there is a seconder to the motion? Comments on the motion? Rita.

MS. MERRITT: Just as a reminder to council that's due the 23<sup>rd</sup> of this month, so there is not a lot of time.

MR. HARRIS: Thank you. Further comments on the motion? **Is there objection to the motion? Seeing none, that motion carries.** Roy.

DR. CRABTREE: Let the record reflect that abstained on this motion.

MR. HARRIS: It is so reflected. Is there anything else under experimental fishing permits that we need to discuss? I think that was the last item. Thank you for reminding me, Bob. Our next item is the status reports by Dr. Roy Crabtree.

DR. CRABTREE: Yes, and I'll be brief. We've talked about a lot of this. I think everybody is aware that the commercial black sea bass fishery will close on December 20<sup>th</sup>. The final interim rule for the red snapper closure published on December 4<sup>th</sup>. It becomes effective on January 4<sup>th</sup>. The CE-BA 1 final environmental impact statement was sent to the EPA on December 4<sup>th</sup>. That is filed.

The final rule on Amendment 15B published on November 16<sup>th</sup> and so will become effective, I believe, December 16<sup>th</sup>, except for one provision which was the extension of the 60-day renewal

period out to one year, and that became effective immediately upon publication of the rule. The last thing I would like to mention to you is the Gulf of Mexico Update Assessment, which was done over the course of the summer and fall and was reviewed by the Gulf Council's SSC last week, and you're going to see a press release that the agency issued today.

And as you're aware, we've been working on red snapper in the Gulf of Mexico for going on 20 years, and its on and off has been one of the most controversial fisheries in the country. We did some quota reductions and shrimp trawl bycatch issues and things over the last five or six years, interim rules, all sorts of things, heard many of the similar comments as to what you've been through over the past summer regarding the science.

Well, the update shows that the overfishing projected to have ended or to end in 2009, and right now the total allowable catch in the Gulf is 5 million pounds. We have an ABC from the council's SSC of 6.94 million pounds for 2010, and that ABC is reduced from an OFL which was I think somewhere close to 9-1/2 million pounds, so it was reduced by more than 2 millions to account for the uncertainty.

This will be coming before the Gulf Council at their February meeting, but I think the important message here is these things do work. They're difficult and they're controversial and it's no fun, but when we tightened up the regulations on Gulf red snapper we were able to end the overfishing and turn things around in a period of about three to four years.

I think there is an important message here for all of us and for everyone in the South Atlantic that these things can work and you can get out of these holes; and once you do, the TACs can start increasing again. I wanted to pass that on to you and let you know that there is a press release, which I believe went out about two minutes ago because it seems to have popped on my computer. I believe that concludes my report; doesn't it, Jack. It seems that it does so thank you.

MR. HARRIS: Thank you, Roy. The Southeast Fishery Science Center Report, Dr. Ponwith.

DR. PONWITH: You've got a presentation in your briefing books if you want to follow along on in the briefing book attachment. One of the things that I'm excited about is the Southeast Region Headboat Survey. We are doing a pilot project right now testing the use of electronic logbooks for the for-hire fishery within the context of the Headboat Survey.

We've got eight vessels that have electronic logbooks that they're working toward on this project. We've let a contract right now to do the software development. The program is underway right now and is expected to continue through October 2010. The feedback we have so far on that is very good.

I'm happy about this because to the extent that this is successful is something that we could use as a transferable product nationwide as one mechanism of monitoring the for-hire headboats, and so I like that type of leadership happening in the region. The MRIP Operations Team has representation from the Center, and they were directed to put together a proposal for a pilot project to test the feasibility of a new type of dockside intercept sampling that lends itself to

complement the for-hire logbook approach. Again, the operation team identified a suite of studies to develop and test best practices in the for-hire vessel group and set priorities on those kind of list of studies and best practices.

With respect to data collection and the fish aging program, right now the status report at the Beaufort Lab holds just under 9,000 black sea bass otoliths through the 2008 fishing year. At this point we've analyzed about 94 percent of those. The 2009 fishing year is not complete so we don't have an updated tally for those yet.

We're working collaboratively with South Carolina and North Carolina state leaders on that. We did an aging workshop and thus far the comparisons among aging leaders have been very good so far. For the recreational landing statistics, I think Jack has a table that he's going to put up and share with you, so I'm going to skip over landing statistics for right now.

One additional thing that I wanted to report on is we're doing our shrimp fishery economic data collection in the Gulf of Mexico and by extension we're continuing that work in the South Atlantic right now. Annually between 20 to 33 percent of federally permitted members of the shrimp fleet will be incorporated in this starting in 2010.

It's a two-page mail survey and there is a copy of the survey instrument in the briefing book. Participation in the data collection is required for permit renewal. There is a fact sheet in the briefing book as well as the survey instrument if you have a desire to read up a little bit more on that. That's my report, Mr. Chairman.

MR. HARRIS: Thank you, Bonnie. Are there questions? Ben.

MR. HARTIG: Bonnie, I haven't looked at the report; are there numbers for snowy grouper hard parts that you've collected that you're going to look at for the snowy grouper update?

DR. PONWITH: I don't know the number of that off the top of my head, but I can find out.

MR. HARTIG: I'll call you and find out. The other thing I had is it looks like we're doing – of all the otoliths that you have, we're trying to do all of them. In some of the assessments in the recent years we have done a subset of the otoliths. Is that the intent of the science center now is to try and use all the otoliths that you have collected?

DR. PONWITH: It varies on a case-by-case basis. There are circumstances under which we collect the otoliths and then have to sub-sample to balance out those ages so that we're not over-representing a given strata. It varies from case to case. It also varies in how much variability there is in terms of getting kind of a statistical confidence, so the answer is it depends.

MR. HARRIS: Other questions of Bonnie? Thank you, Bonnie. The next item is agency and liaison reports. Let's start with the Coast Guard, Lt. Charlie Gris.

LT. GRIS: Mr. Chairman, I appreciate the opportunity to pass on a little information on the Coast Guard's enforcement effort within the 7<sup>th</sup> District. Before I go on, Otha wanted me to

mention that he had to take off, but his report was submitted electronically and it should be making its way around to you all today.

What I wanted to do was give a summation of our Fiscal Year 09 efforts, bring you up to speed on where we are with Fiscal Year 10 and then just discuss some brief operational eyelets. The 7<sup>th</sup> District Tactical Patrol conducted 829 directed fisheries' boardings within Fiscal Year 09; 272 commercial fishing vessel safety examinations. In terms of cutter hours' sortie for EEZ interdictions, that's specific foreign fishing vessel incursions into our EEZ, we had 13 hours and 118 aircraft hours for that same mission, so that's based upon directed intelligence of an EEZ incursion from a foreign fishing vessel.

We also had 11 significant violations. And the Coast Guard's Fisheries Enforcement Strategic Plan – aka Ocean Guardian – definition, a significant violation is a violation defined by one that causes significant damage or impact to the resource or fishery management plan, results in a significant monetary advantage to the violator over his or her competitor or has high regional or national interest.

I realize that those definitions leave a lot of wiggle room, but they are typically defined by input from the council, things that draw immediate attention, other things that we consider to be damaging to the fishery as a whole. In terms of our totals for Fiscal Year 10 so far – these are current as of yesterday – we've conducted 89 directed fisheries' boardings, 31 safety examinations. We've sortied cutters for EEZ incursion for 75 hours with 8 hours of aircraft support. I have no significant violations this year to report.

A couple of recent operational highlights that I want to talk about – in September Station Miami Beach conducted a boarding on a recreational vessel returning from Bahamian waters possessing 79 South Atlantic spiny lobster on board. There were four persons without any form or permit, whether that's a Florida saltwater or federal or Bahamian permit. That case is pending.

Also in September the Cutter Yellowfin in conjunction with the South Carolina Department of Natural Resources conducted in a joint operation resulting in a significant state case and a citation for undersized black sea bass. In October Station Lake Worth Inlet received a request from a sea turtle rescue organization for assistance with the release of six juvenile green sea turtles.

The station provided a surface asset which then transported the turtles and staff to a weed line approximately 14 nautical miles offshore, east of Lake Worth Inlet, where they were released. The Coast Cutters Tarpon and Yellowfin in Station Brunswick continue to schedule patrols in the vicinity of Grays Reef National Marine Sanctuary in addition to joint operations with the George Department of Natural Resources.

I want to talk about one EEZ incursion interdiction that happened outside of your AOR, so to speak. It was down in the Caribbean near Puerto Rico, but these are so few and far between I think it garners the attention. On the 27<sup>th</sup> of November of this year the Coast Cutter Shamaul observed three vessels fishing in the U.S. EEZ near Puerto Rico.

The Shamaul assisted by the Coast Guard Cutter Drummond stopped the Fishing Vessel Don Francisco of the Dominican Republic, the fishing vessel Lontadai of the Dominican Republic and the Fishing Vessel Anthony also of the Dominican Republic. During the boarding each fishing vessel was found in possession of over 100 pounds of snapper grouper species.

The vessels and crews were subsequently escorted to Cabo Rojo of Puerto Rico, transferred to a CVP and the catch was transferred to NMFS for disposition. The vessels and crews were subsequently escorted back to Dominican waters by the Coast Guard. While we don't typically have these same threats down in the South Atlantic Region as a whole, which I will include as the Caribbean, one of the nicely confusing things about the different geographic boundaries between the Coast Guard Districts, the NOAA regions, and the council boundaries is that none of them line up, so it makes it interesting for some of our forces that lie along those jurisdictional boundaries. This was a pretty significant EEZ incursion that we spent some time dealing with.

On a closing note I want to say there that there are few fisheries cases that we prosecute start to finish as the sole agency. Most of everything that we do involves a great deal of partnership with either local, state or another federal agency. I want to take the opportunity, on behalf of the Coast Guard 7<sup>th</sup> District, to say thank you for that continuing support and participation and cooperation and whatnot.

Lastly, I do want to pass along that Brian Sullivan does lament his absence here. He was overcome by events this week, but on a personal note I appreciate the hospitality that everyone has shown me and the sidebar conversations and whatnot have been both informative and entertaining. Thank you very much.

MR. HARRIS: Thank you, Charlie, and it was great to have you here this week. Please express our condolences to Brian for his other activities that he had to engage in this week, but it's good to have you here. Next we will go to – Monica, did you have anything for us?

MS. SMIT-BRUNELLO: Our office was able to hire a new Magnuson attorney. She actually started on Monday of this week and her name is Maura Levi. I think Mike has himself and her slated to come to the June meeting as well as me, I hope. Hopefully, you'll be able to meet Maura, and that's good news.

MR. HARRIS: That is good news. Thank you, Monica. Going to state agency reports starting with Florida; Mark.

MR. ROBSON: I've provided a lot of stuff over the course of the week electronically, so I'll forego my liaison report. I did have that item under other business that I wanted to bring up.

MR. WOODWARD: Just a couple of things; the penaeid shrimp fishery not surprisingly continues to decline in terms of effort. Our preliminary landings for this year are less than a million pounds. The good news is that the catch-per-unit effort goes up, so those who are out there operating are operating a little more efficiently. X-vessel value has bumped up about forty cents this year compared to the same time last year, so there are a few people hanging on, but it's quite a predicament and there is no easy way out of it.

The other thing is that Georgia has submitted a formal request for exempted status under the NOAA Saltwater Angler Registry, which is scheduled to go into effect January 1 of next year. Working with Gordon Colvin and the folks up there in Silver Spring, we're pretty confident that we'll end up getting exempted status. Hopefully, I can give you a report on that at the next meeting. That's all I have, Mr. Chairman.

MR. HARRIS: Questions for Spud? George.

MR. GEIGER: Yes, what is the exempted status; what does that mean?

MR. WOODWARD: What it means is if you have sufficient licensing of your anglers at the state level, they will not be required to purchase a permit under the NOAA Angler Registry Program.

MR. BOYLES: Just so everyone is aware, in an effort to implement the Atlantic States Marine Fisheries Commission's Fishery Management Plan for Weakfish, we are seeking legislation to reduce our bag limit of weakfish to one fish. This was until two years ago an unregulated fishery in South Carolina, so our recreational and commercial bag limit will be one weakfish if we get the General Assembly to move along with that.

Like Georgia, we are working with NMFS on MRIP to seek exempted status for our state license program such that South Carolina licensed anglers would not be required to register with the Federal Recreational Fishing Registry. That seems to be moving well along as well. I think I will just leave it at that. Thank you.

DR. CHEUVRONT: First off, I want to thank you all for coming here this week. We managed to squeak out at least a couple of hours of sunlight and above freezing temperatures. First off, this week the Director of the Division of Marine Fisheries is implementing a proclamation to complement in state waters the Black Sea Bass Closure Amendment 15B and the Red Snapper Interim Rule.

We have one proclamation that covers snapper grouper issues and we just update that so that people have them all together so they can see how they're all interrelated at times. We're actively working on management plans for southern flounder and speckled trout. Both have lots of controversial components associated with them. It's not pretty but we're going to get through it.

In recent weeks the North Carolina Marine Fisheries Commission and the Wildlife Resources Commission jointly awarded over \$3 million in new grants from revenues generated from a recreational saltwater license. The largest percentage of these funded projects were for public access resources, and other projects included angler education type things, fisheries research and habitat protection.

Nobody else has mentioned budgets. Maybe it's getting better in their states, but in North Carolina I don't if it's because we're getting used to being in a panic mode all the time or what the deal is, but it's not as dire, let's say, as it was nine months ago. Our governor issued a

statement a few weeks ago that she is not terribly worried about things right now because we did a fairly sizable set-aside from the appropriated budget that we were given.

Even though tax revenues are a little bit lower than what we projected they were going to be for this fiscal year, when our fiscal year started July 1 we're still covered with the set-aside that we've already put there to cover the shortfall, so we're okay. Ask me again in March; and who knows, in June I may be in a horrible panic mode again, but we'll see.

But most importantly, one of the most important things that has happened in fisheries in North Carolina was that last week Mac Currin was awarded the Order of the Long Leaf Pine, which is the highest civilian award that can be bestowed by the governor to a citizen of the state for their service to the state.

Mac was recognized among other things for his work on our state commission, particularly as chairman of that commission, and with this council to protect and conserve marine resources for the benefit of all North Carolinians. Other recipients of this award in the past have included the Reverend Billy Graham and the poet Miah Angelu, so I guess they're in pretty good company now. (Applause)

MR. HARRIS: Thank you, Brian, and thank North Carolina and Mac and Brian and Rita for your hospitality this week. We've always loved coming here. The other agency liaison report, Wilson sent his. Bonnie.

DR. PONWITH: I have just one followup, Mr. Chairman. I've got notice here that the National Standard 2 Rule published today. The comment deadline for comments on that is the 11<sup>th</sup> of March. The proposed rule contains guidelines that cover best available scientific information, the peer review standards, the SSC's role in the review of scientific information and on SAFE reports.

MR. HARRIS: Thank you for that. We're down to other business. I know there is an item under the Personnel Committee that we need to take up. **The motion is to remove Chris Decker from the Snapper Grouper Advisory Panel, and Robert that's your committee.**

MR. BOYLES: Mr. Chairman, thank you for reading that in the record. On behalf of the committee I so move.

MR. HARRIS: That was a committee motion so it does not require a second. Discussion on the motion. Brian.

DR. CHEUVRONT: I think the intention then was to readvertise the position; correct?

MR. HARRIS: That is the intent.

DR. CHEUVRONT: Okay, I don't know if that needed to get into the motion or not, but okay.

MR. HARRIS: That is the direction to staff. Discussion on the motion. Any objection to the motion? Mac.

MR. CURRIN: I was just going to add some clarify. Mr. Decker was selected to participate on the AP and has not participated to date. In fact, word came to the council that he has moved out of state and nobody really knows where is now, but he has moved out of region as well. I think this is a good move.

MR. HARRIS: Thank you for that clarification. **Is there objection to the motion? Seeing none, that motion is passed.** Another item of other business is Mark Robson asked for some time to go over something. Mark.

MR. ROBSON: Recall at the last council meeting we brought up to you the issue of extending our state regulations for permit into federal waters. We had previously written a letter to both councils and NOAA Fisheries, and I think we got the council blessing at that time for permit. What we have discovered is in the state rule that our permit rule is embedded within pompano and African pompano as well. We wrote a letter on November 9<sup>th</sup> to the council, and unfortunately the letter didn't clearly ask for a response from the council, but I would like to get that.

We would like to get the okay of the council to go ahead and move our state regulations for pompano and African pompano as well. In addition to that, we're looking at extending our regulations for bonefish into federal waters. I don't believe that any of those species are currently under a federal plan.

Under the Magnuson-Stevens Act the state can do that, but we wanted to make sure that we the okay or the blessing of the councils and NOAA Fisheries before we continue to proceed on that rulemaking. This would provide additional protection or regulations for all of these species that don't exist now in federal waters with the exception of pompano where there are some rules in federal waters.

I don't know the exact process here. We have submitted the letter. If you want me to officially request that we get a written response to that if there is council action that could be taken, I'm not sure how to address this.

MR. HARRIS: Well, we've done in the past, and I think the request is does the council or the Service have any intention of managing those species in federal waters, and the response has been, no, we do not. Is there a motion by a member of the council to submit such a letter? Mac.

MR. CURRIN: Duane, I would move that the council submit a letter to Florida FWCC expressing no objection to their extension of management for permit, bonefish, African pompano and pompano into federal waters.

MR. ROBSON: I think we have already received a letter on permit because we asked specifically about them previously.

MR. HARRIS: There is a second by George Geiger. Discussion on the motion.

MR. ROBSON: Well, it really doesn't need to be permit, I don't believe. It is just pompano, African pompano and bonefish.

MR. HARTIG: Mark, have you changed the African pompano regulations that are now in state waters?

MR. ROBSON: No, we have not. It is our intent to not change them, just extend them into federal waters.

MR. HARRIS: Further discussion on the motion? **The motion is to send a letter to the Florida Fish and Wildlife Conservation Commission expressing no objection to their request to extend management authority for pompano, African pompano and bonefish into federal waters. Okay, is there objection to the motion? Seeing none, that motion carries.** Is there any other business to come before this council? Charlie.

MR. PHILLIPS: As far as the Catch Shares Committee Meeting for a workshop, brainstorming, that Kate updated us on the new guidelines; is this time to do that – request that time to be set aside at the next meeting?

MR. HARRIS: Yes, and you're done it. We just heard you so they're working on it already. Other business to come before the council? Kenny.

MR. FEX: One of the fishermen in my area brought up the point that the almaco jacks have no size limit on them. This species actually grows to 30 or 40 pounds but can be caught at a point. He was requesting the council may consider putting a size limit of maybe 20 inches on this fish because it is so small but grows so big and could be caught. That might be something that the council might check on later on or whatever because it is a valuable species. It's like a greater amberjack; they catch them with them. That was one of the points one of the fishermen wanted me to bring to you guys. Thank you.

MR. HARRIS: Thank you, Kenny. We'll take that under advisement and have staff look at that and make a recommendation to us at our March meeting. The next meeting is in March at Jekyll Island and we look forward to hosting you. Anik, it was good to have you here for your first South Atlantic Council meeting. If there is there is no other business to come before the council, I want to wish all of your safe travel home and best of Christmas and Hanukah holidays. I look forward to seeing you in March. We are adjourned.

(Whereupon, the meeting was adjourned at 1:05 o'clock p.m., December 11, 2009.)

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**SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

**FULL COUNCIL SESSION**

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

**December 10-11, 2009**

**TABLE OF MOTIONS**

**COMMITTEE OF THE WHOLE INDEX OF MOTIONS**

PAGE 50: Motion to add a series of alternatives that would allow the transfer of wreckfish shares or allocations. Motion carried on Page 54.

PAGE 54: Motion to include Actions 6 through 12 in Amendment 20 and the associated alternatives as discussed here today for each action. Motion carried on Page 54.

PAGE 60: Motion to add an alternative that designates the ecosystem species if landings are less than or equal to 10,000 pounds. Motion carried on Page 60.

PAGE 68: Motion to make Alternative 8 to allow the longline fishery to occur in the closed area as an additional preferred alternative. Motion carried on Page 68.

**FULL COUNCIL MOTIONS**

PAGE 83: Motion to move Alternative 10 in Amendment 17A to the considered but rejected appendix. Motion carried on Page 83.

PAGE 88: Motion to add 3B, 4B, 3D and 4D to Amendment 17A. Motion carried on Page 88.

PAGE 90: Motion to accept the terms of reference for black sea bass as modified by the SSC, Motion carried on Page 90.

PAGE 90: Motion to accept the terms of reference for snowy grouper as modified by the SSC. Motion carried on Page 90.

PAGE 91: Motion to untable the motion concerning appointments to the Snapper Grouper SEDAR Updates. Motion carried on Page 92.

PAGE 98: Substitute motion to appoint the following individuals to the Snapper Grouper SEDAR Updates; from the SSC, Dr. Andrew Cooper, Dr. Marcel Reichert, Dr. John Boreman and Chip Collier; three scientists to be determined by the council chair, vice-chair and the

chairman of the Snapper Grouper Committee; and as an observer, Dr. Frank Hester. Motion carried on Page 99. Motion carried as the main motion on Page 99.

PAGE 99: Motion to appoint the following members to the SEDAR Updates; Tom Burgess, Kenny Fex, Zack Bowen, Bobby Cardin. Motion carried on Page 99.

PAGE 100: Substitute motion to appoint the remaining interested AP members as alternates; DeBrango, Harris, Osborne, Gould, Brown, Schoolcraft and High. Motion carried on Page 93. Motion carried as the main motion on Page 100.

PAGE 100: Motion to approve the terms of reference for red snapper as modified by the SSC and add the following items; investigation of inconsistencies with the Gulf assessment, specifically natural mortality and other inconsistencies; uncertainties presented as a range and not a base run reference points. Motion carried on Page 100.

PAGE 100: Motion for black sea bass and snowy grouper terms of reference; the uncertainties be presented more as a range and not as a base run. Motion carried on Page 100.

PAGE 100: Motion to not change the preferred alternative from F 40 percent to F 30 percent, but to add analysis based on the MSY proxy F 30 percent SPR and have that completed for review at the March 2010 meeting. Motion carried on Page 100.

PAGE 101: Motion to change the rebuilding strategy preferred alternative to Number 6, which is Frebuild. Motion carried on Page 101.

PAGE 101: Motion to move Rebuilding Strategy Alternative 7 to the considered but rejected appendix. Motion carried on Page 101.

PAGE 101: Motion to make Closure Alternative 5 the preferred alternative.

PAGE 107: Substitute motion to make Alternative 4D as the preferred alternative. Motion carried as the main motion on Page 109.

PAGE 109: Motion that Alternatives 7 and 9 be the preferred alternatives. Motion carried on Page 113.

PAGE 119: Motion that Subalternative 11A be the preferred alternative. Motion carried on Page 119.

PAGE 119: Motion to require the use of non-offset, non-stainless steel circle hooks when fishing for snapper grouper species with hook-and-line gear within the EEZ north of 28 degrees as the preferred alternative. In addition, it is unlawful to possess snapper grouper species without possessing non-offset, non-stainless steel circle hooks with the intent to apply to the use of natural baits only. Motion carried on Page 120.

PAGE 120: Motion to request the Southeast Fishery Science Center to provide a fishery-independent monitoring plan for red snapper at the March 2010 meeting. Motion carried on Page 120.

PAGE 120: Motion to make Alternative 2 the preferred alternative. Motion carried on Page 120.

PAGE 120: Motion to request the Southeast Fishery Science Center to provide a fishery-dependent monitoring plan for red snapper at the March 2010 meeting. Motion carried on Page 120.

PAGE 121: Motion to reconsider the establishment of Alternative 8 as the preferred alternative. Motion carried on Page 121.

PAGE 121: Motion that Alternative 8 not be a preferred alternative. Motion carried on Page 122.

PAGE 122: Motion to clarify that in Alternative 2 through 5 it was the council's intent that speckled hind and warsaw grouper be closed throughout the EEZ. Motion carried on Page 122.

PAGE 122: Motion to include the one snowy grouper boat limit as part of the aggregate grouper bag limit. Motion carried on Page 122.

PAGE 122: Motion to approve sending Snapper Grouper Amendment 17B to the Secretary of Commerce for formal review and implementation with the intent to give the staff editorial license to address needed changes. Motion carried on Page 123.

PAGE 123: Motion to approve the proposed rules. Motion carried on Page 125.

PAGE 125: Motion to delegate the chairman, Mr. Harris, as the deemer for necessary changes under the latitude that was offered to the staff and team not only for Amendment 17B but also the proposed rules. Motion carried on Page 125.

PAGE 125: Motion that staff draft a letter to the Secretary of Commerce for review at the March 2010 meeting based on Chairman Harris' comments to the congressional committee. Items to address include ACLs, data delivery systems and economic impacts among others. Motion carried on page 126.

PAGE 126: Motion to add a new action to Amendment 18 that invokes the 12/04/08, 10/14/05 and 04/23/97 control date to limit participation in the black sea bass pot fishery with the intent being to use landings from black sea bass pots. Motion carried on Page 126.

PAGE 126: Motion to add an alternative which would grandfather the number of tags issued as of 12/04/08 and that those tag numbers be reduced by 10 percent and 25 percent for all participants. PAGE 119: Substitute motion to have staff look at 10 and 25 percent reductions in the number of black sea bass pots. Motion carried on Page 127.

ABOVE TWO MOTIONS WERE VOTED ON AS REREAD ON PAGE 120: Motion to add alternatives which would use the number of tags issued as of 12/04/08 as the basis for reductions of 10 percent and 25 percent. Motion carried on Page 129.

PAGE 129: Motion to remove Action Number 5 from the amendment to the considered but rejected appendix. Motion carried on Page 129.

PAGE 129: Motion to add a subalternative to Alternatives 2, 3 and 4 that keep the 300-pound trip limit when 75 percent of the quota is taken. Motion carried on Page 129.

PAGE 131: Motion to approve the following SEDAR Update appointments: SSC members, Sherry Larkin and Dave Eggleston from NC State; AP members from the commercial side, Tony Iarocci, and Bruce Irwin as an alternate; and on the recreational side, Bob Burton, and Michael Adams as an alternate; and from the South Atlantic Council staff, Gregg Waugh; and from the council, Mark Robson, and George Geiger as an alternate. Motion carried on Page 131.

PAGE 131: Motion to approve the timing of the SEDAR Update and direct staff to work to have a subgroup of the South Atlantic Council SSC members meet jointly with the Gulf of Mexico Fishery Management Council Spiny Lobster SSC to review the SEDAR updated assessment prior to the South Atlantic Council's December 6-10, 2010, meeting. Motion carried on Page 132.

PAGE 132: Motion to approve the terms of reference for the SEDAR Update for Spiny Lobster. Motion carried on Page 132.

PAGE 137: Motion that council members and eligible SSC members should receive compensation for participation in webinars. Motion carried on Page 138.

PAGE 138: Motion to refer the issue of smalltooth sawfish takes in the shrimp fishery to the Shrimp Committee. Motion carried on Page 138.

PAGE 139: Motion to eliminate what was called Option 3, which is to withdraw the South Atlantic Coral FMP off of East Florida and the Gulf of Mexico and to delegate management authority to the state of Florida. Motion carried on Page 139.

PAGE 139: Motion to eliminate option to withdraw the South Atlantic Coral FMP. Motion carried on Page 139.

PAGE 139: Motion to consider whether exotic species are to be considered part of the management unit. Motion carried on Page 139.

PAGE 139: Motion to remove action to possibly allow harvest of encrusting gorgonians and to place in the considered but rejected appendix. Motion carried on Page 140.

PAGE 142: Motion to recommend that the RA not issue the Lew Augusta requested exempted fishing permit at this time. Motion carried on Page 142.

PAGE 145: Motion that the council send a letter to HMS objecting to the extension of the closed area EFP until such time as HMS can respond to our initial request to outline levels of bycatch of species that would result in rescinding that permit. Motion carries on Page 145.

PAGE 151: Motion to remove Chris Decker from the Snapper Grouper Advisory Panel. Motion carried on Page 152.

PAGE 153: Motion to send a letter to the Florida Fish and Wildlife Conservation Commission expressing no objection to their request to extend management authority for pompano, African pompano and bonefish into federal waters. Motion carried on Page 153.

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# 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.

**COUNCIL SESSION**  
**Atlantic Beach, NC**  
**Friday, December 11, 2009**

NAME &  
ORGANIZATION

AREA CODE &  
PHONE NUMBER

P.O. BOX/STREET  
CITY, STATE & ZIP

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# FULL COUNCIL - ROLL CALL VOTE

Date: December 6-11, 2009

Meeting Location

Atlantic Beach, NC

Issue: AMENDMENT 17A

	YES	NO	ABSTAIN
GEIGER	✓		
HARRIS	✓		
BOYLES	✓		
CRABTREE	✓		
CUPKA	✓		
CURRIN	✓		
CHEUVRONT		✓	
HARTIG		✓	
MERRITT		✓	
PHILLIPS		✓	
ROBSON	✓		
SWATZEL		✓	
WOODWARD	✓		

# FULL COUNCIL - ROLL CALL VOTE

Date: December 6-11, 2009

Meeting Location

Atlantic Beach, NC

Issue: AMENDMENT 17B PROPOSED RULE

	YES	NO	ABSTAIN
GEIGER	✓		
HARRIS	✓		
BOYLES	✓		
CRABTREE	✓		
CUPKA	✓		
CURRIN	✓		
CHEUVRONT		✓	
HARTIG		✓	
MERRITT		✓	
PHILLIPS		✓	
ROBSON	✓		
SWATZEL		✓	
WOODWARD	✓		