

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

PROTECTED RESOURCES COMMITTEE

**Charleston Marriott Hotel
Charleston, South Carolina**

September 15, 2014

SUMMARY MINUTES

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Additional Observers Attached

The Protected Resources Committee of the South Atlantic Fishery Management Council convened in the Topaz Room of the Charleston Marriott Hotel, September 15, 2014, and was called to order at 2:30 o'clock p.m. by Chairman Wilson Laney.

DR. LANEY: All right, do we have any modifications to the agenda? Seeing none; the agenda is approved. Do we have any changes to the minutes for the June 2014 Protected Resources Committee Meeting? Seeing none; the minutes will be approved as well. We will go to Item 3, which is final determination for the coral listings; and I believe we have Jennifer Moore on the phone from the St. Pete Office of the National Marine Fisheries Service.

MS. MOORE: Okay, thank you very much for having me give this update on the final listings for the 20 new corals. As you said, I'm Jennifer Moore with the Protected Resources Division in the Southeast Regional Office in St. Petersburg. I was the lead staff for our region working on this listing determination.

I was co-lead with Clarence Smith in our Pacific Islands Region, because this is a joint rulemaking between our two regions because the species are across both of our regions being in the Indo-Pacific and the wider Caribbean. Let me give you the bottom line right up front. We listed 20 new species of coral as threatened. None of the species that we listed were endangered.

The proposed rule had a combination of threatened and endangered proposals for 66 species, plus we also proposed to reclassify elkhorn and staghorn from threatened to endangered. However, in this final rule we've determined that no species required the endangered status; and that's all of the new species and elkhorn and staghorn coral should remain listed as threatened.

This slide shows the seven species that are now listed as threatened in the wider Caribbean, including the South Atlantic Region and shows where they occur. Basically, it just shows that two of our seven species do not occur in the Gulf of Mexico; but the rest of them occur in all of the various U.S. jurisdictions within the ranges of these species, but they are really widely distributed throughout the Greater Caribbean, which we include the Gulf of Mexico, the Caribbean Sea and the Southwestern Atlantic Oceans.

This is just to show that this is the most extensive rulemaking ever undertaken by NOAA. That has been going on for almost five years. It was triggered by a petition for a particular 83 species of coral; so we always get the question why did you guys choose these species? We didn't choose them. The Center for Biological Diversity selected these species based on the IUCN Red List and where they believed that these species occurred in U.S. waters.

We ultimately realized that several of the Indo-Pacific species for which we were petitioned and ultimately have determined to list; they don't occur in U.S. jurisdictions; but, anyway, that's why we did a status review on those particular species. Based on the number of species and the geographic distribution of them and the complexity of the threat to these species, it took us a little bit longer than the ESA requires in doing a status review.

But here we are in now September, but we made our final determination at the very end of August to list these 20 species. The announcement was made about a week and a half before the

final rule was actually able to be published in the Federal Register because the document as a Word Document is over 1,100 pages and it is 270-and-some pages in the Federal Register; so it took a little time to actually get it published.

Both versions are available on our website, too. As I said before, this is kind of the breakdown of the proposal versus the final listings for both of our regions; and that we have now a total of corals listed in the Southeast Region. After we published the proposed rule, we received some major sources of new information that was submitted by public comment, but also that we collected ourselves.

It was a little less than two years ago that we proposed; and so the state of the science is constantly changing. So based on that new information and information submitted by public comment, we were able to lead us down a road of improved understanding of various parts of our rule that we may not have had full understanding of in the proposed rule stage.

That is related to habitat diversity and how that might affect individual threats for species; how species abundance and distribution and species-specific exposure to threats all interact to influence a species particular extinction risk or resilience from extinction. Like I said, we received an unbelievable amount of new information, both from through public comment and collected ourselves; but there were a couple of reports that were of really great importance.

One was a report, Veron 2014, submitted by Charlie Veron, who is a preeminent coral expert on coral taxonomy. That improved upon his previous tome from 2000 on the qualitative abundance estimates and distributions of 66 of our 68 proposed corals. Two of the species are fire corals and he doesn't work on those corals. For all of our corals he provided more detailed geographic distribution maps and updated qualitative and also semi-quantitative abundance estimates.

We have that information for all of the species in the rule. It really added a lot more detail to our understanding for the Indo-Pacific species because many of those species are not studied quite as well as our Caribbean species; and mostly because of the geographic distribution of them, it is very, very difficult to get a full understanding of their abundances based on that.

And also because of the diversity of corals in the Indo-Pacific, most corals, when their surveys are conducted, are only identified to genus and in some cases only to morphology, so branching versus mounding. We have a lot better information here in the Caribbean; and so while the Veron Report did provide additional information, it wasn't as instrumental as it was in the Indo-Pacific.

But, coming back to focus much more on our Caribbean species where Jackson et al, reports, sponsored by the IUCN, provided a meta-analysis, the status and trends of many aspects of Caribbean Coral ecology, but also with some very species-specific information on some of our species; mainly the elkhorn and staghorn corals; but also just gave a better understanding of the status of the Caribbean Coral Reefs and updated our understanding about the level of decline and some of the causes of decline.

Then the IPCC Working Group 1 Report, which is the physical science basis, was released in September of 2013; and that provided updates to the best available information on the climate science, including air temperature, ocean temperatures and acidification trajectories. It performs the basis for our understanding of the climate threats for this final rule.

The proposed rule was based on the previous IPCC Assessment Reports; but some of the literature that had already started coming out was based on the models that were ultimately released AR 5; so we did have a little bit of a preview of that information at the proposed rule stage; but we now have the full understanding of everything that is in the AR 5 and considered to be best state of the science.

In addition to this Working Group 1 Physical Science Report, we also earlier this year, in February 2014, Working Group 1, which is the effect on ecosystems and potential adaptation information; and that report also came out and so we were able to use the information in that report also to better inform our final rule.

One of the major differences between the proposed rule and the final rule is the exact method in which we analyzed the extinction potential for each of our individual species. In the proposed rule, as some of you may be familiar with, we had a framework that we shorthand called the determination tool.

It was an outline key and a spreadsheet that assisted us in organizing information in a reproducible way to come out to individual specie statuses. Based on some criticisms we received on that method in public comment and our better understanding of the information, we altered our determination framework somewhat in that we didn't use the determination tool and a specific outcome key.

However, we did rely on the same types of information that we used in the proposed rule to inform our final rule; and that is related to moderate being included in its distribution, the individual's susceptibilities of corals to all of the threats and other biological information. In the final rule we really wanted to make sure that we were emphasizing that this is a species-by-species analysis; and so that is what also helped us alter our determination framework.

But, the foundation of all of our entire decision-making is on the general information on coral biology, habitats and threats; and so the final rule, if you take a look at all 1,100 pages of it, has a significant portion of that dedicated to these more general topics and how they apply to corals generally because that really does provide our baseline for our framework.

You can see here we developed – distilling all of that information down, we developed a set of guiding principles that are here on the screen, numbered one through seven. It really kind of just helps us go into our species-by-species analysis with a common understanding of the things that come out of that general information on biology, habitat and threats.

One of the main things that is difficult in doing an ESA Status Review on species like corals is that they're very different than the types of species that NMFS is commonly evaluating for Endangered Species Act listing; and so the biology and ecology of these corals make it difficult

to conduct our analyses under the same types of previous frameworks that we have utilized, talking about species that are clonal and often colonial; and so you have just real fundamental differences in trying to figure out how you count these individuals and that kind of stuff.

Also, for all of our species, their responses to threats will be variable. We can't apply generalities for corals being sensitive animals to some of these threats and just assume that is going to be applicable to all of the individual species. And then you can see there is a series of other things related to the species, abundance and distribution and also how their particular habitats and the conditions that will be developed by these species in that habitats; all of that needs to be taken in consideration when evaluation extinction risks.

We took those guiding principles and then we applied all the species-specific information within that context. And rather than using the shorthand with the determination tool and a series of tables to rank individual species' information; we actually did a narrative for each of the species detailing the information in a narrative rather than in these series of tables.

Within those individual species' sections of the final rule, we provided a detailed description of all of their spatial, demographic, threat response and other relevant characteristics. Following those summaries of that information, we described how the species' information informs the vulnerability to extinction for that species and how those individual characteristics might moderate or exacerbate its extinction risk.

For our species, the most influential characteristics are geographic distribution, depth distribution, habitat heterogeneity, where they occur and their absolute abundance and threat susceptibilities. One of the key things that was really instrumental in our understanding between the proposed and final rule is that in the proposed rule we characterized individual species' abundances qualitatively using rankings related to terms like rare, uncommon and common, because we didn't have better information about densities or population status.

However, for these species that are so wide-ranging, even a rare species may have individuals that number in the millions to tens of millions or hundreds of millions up to billions just based on extrapolating their, say, local density over these extremely large ranges; and so that was something that didn't come out as clearly in the proposed rule as really it should have.

Following that description of the vulnerability to extinction, we then equated that information to one of the three potential statuses, endangered, threatened or not warranted. We have to make sure that we conduct that analysis over the entire species' range and within the foreseeable future; and that is in a non-formulaic, qualitative manner, really trying to understand individually for each species how their characteristics ultimately influence their vulnerability to extinction.

So now the next series of slides basically just introduce you to the species that have been listed as threatened; and I am not going to go over them in detail here, but I'm going to provide this presentation to you so that you have these kind of quick-look fact sheets on the individual species.

This is our old friend, *Acropora palmata*, elkhorn coral; and we determined that this species should remain threatened. It does occur in the South Atlantic, throughout South Florida from approximately Broward County down throughout the Keys and into the Dry Tortugas; and it is most common in the shallowest depths on the reef, approximately up to five meters, but can occur down to thirty meters; but where it used to dominate was in that extremely shallow reef crest zone.

This is *Acropora cervicornis*, staghorn coral, also one of the previously listed species. It, too, is found in the South Atlantic, a little bit further north than *palmata*, up to Palm Beach County on the east coast down to the Dry Tortugas and is typically found deeper than its congener, down to approximately ten to fifteen meters is where it really used to dominate, but can be found down to 30 meters, also.

Just to remind everybody that elkhorn and staghorn coral were listed as threatened in 2006; and in 2008 we issued regulations extending most of the ESA prohibitions to these species and also designated critical habitat. Both of those regulations remain in effect. Nothing changes based on this new final rule confirming their status as threatened.

Now this is one of the first of three new corals that are listed in the Genus *Orbicella*. These were formerly known as *Montastrea* but they have been reclassified to the Genus *Orbicella*. This is *Orbicella annularis*. It is one of the star corals; and it is also with *Acropora palmata*. The three species in this genus that have been listed are the framework builders of our Caribbean reefs since they're one of the corals that over the last 5 to 10,000 years actually formed the reefs that we have here in the Caribbean.

It is a boulder-like massive-forming coral. It is common throughout the Western Atlantic. It occurs as far north as Martin County in Florida and out through the Dry Tortugas within the South Atlantic Region. It is most common down to about 20 meters but can be found deeper.

This is *Orbicella faveolata*. It is also one of the framework-building corals. It is also found in the same general area as *Orbicella annularis* and can be found much deeper, though. This species can be dominant in mesophotic depths or below 50 meters or so in these reefs.

This is the last of the three star corals that have been listed as threatened, *Orbicella franksi*. It also can be found in some of the mesophotic depths throughout its range and also occurs in the same general areas from about Martin County down through the Dry Tortugas within the South Atlantic Region.

This is *Dendrogyra cylindrus*. This is also known as pillar coral. It is rather rare but rather conspicuous when it is found; so people do take note of it, but it is really, really pretty uncommon on our Caribbean reefs. It is found throughout the Greater Caribbean. It is typically shallower species, only about down to 25 meters. It forms these pillars and it can also reproduce asexually by one of the pillars falling off and starting a new colony.

The last of the newly listed species is *Mycetophyllia ferox*, rough cactus coral. One of the keys things to note about this species is that the *Mycetophyllia* are rather difficult to identify in the

field; so it might be difficult to tell this species from some of the other species in the genus and often resurveys, when they're conducted, only identify the Mycetophyllia to the genus and don't actually record which species it is.

This is an encrusting species and it is usually fairly small. It is also found throughout the Wider Caribbean. It does not appear to be in the Gulf of Mexico. It can be in most reef environments from 5 to 90 meters. Then the question is what is next? Well, right now other than for elkhorn and staghorn coral, there are no individual prohibitions for the newly listed corals. If we were to determine that it was necessary for us to extend the Section 9 prohibitions to these corals, we would have to go through a separate rulemaking process under our ESA Section 4D to determine whether or not we needed to extend prohibitions to these corals or flexibility within 4D that wouldn't need to extend certain prohibitions on certain activities if it still provided for the conservation of those species.

However, even though those prohibitions in take are not prohibited; the responsibility for federal agencies to consult on the new corals is going to be in effect as soon as the rule is in effect, which is published on September 10 and it will become effective October 10. So from that date forward, all federal actions that may affect the species would require consultation.

The next bullet is related to the 4D rule if we were to determine we wanted to extend the prohibitions to those corals. The other thing, too, that was something that we were looking into at the time of the proposed rule is that several of these corals were proposed to be listed as endangered; and so that is where we would require Section 10 comments from our Headquarters Office if anybody wanted to conduct research or enhancement activities on these species.

But, because none were listed as endangered, we do not need those Section 10 ESA research permits for the newly listed corals nor for elkhorn or staghorn because we have an exception in our 4D rule for activities that are permitted under the local jurisdiction. So all the local jurisdiction's regulations and permitting activities still hold for elkhorn and staghorn and also the newly listed corals.

Another activity that we would be investigating in the future is designation of critical habitat if it is determinable and prudent for these newly listed corals. We also may develop recovery plans similar to the recovery plan that was just recently released for elkhorn and staghorn corals, the draft plan that is also out for public comment. We may determine that we want to also develop recovery plans for these newly listed species.

Then through discussions with Jennie Lee and Andy Herndon in our office, we collected information on which of the South Atlantic Fisheries Management Plans may require reinitiation because of the new listing; and this is a list of what they have identified and the route of consultations that will likely be undertaken for these. At the end of the presentation, if there are any specific questions about this, I'll definitely yield Jennie, who is also on the phone, to talk about that.

That takes me to the end of my presentation and here is my contact information and our website. At corals.sero.nmfs.noaa.gov are all of the documents related to this final determination and feel

free to contact me at any time if you have any questions; but I am open to taking questions right now.

DR. LANEY: Thank you very much, Jennifer, for that excellent presentation. Do we have questions from the committee or from council members? Dr. Duval.

DR. DUVAL: Jennie, just to reiterate, so right now there is no immediate impact of the listing decision other than that consultation has been reinitiated for those three FMPs? Okay, thanks.

MR. HARTIG: That picture you showed of the staghorn; it looked like it was one of the areas where they have been growing these corals; is that correct?

MS. MOORE: Yes, this is actually from a grounding site in Puerto Rico where as part of the compensatory mitigation for the grounding there was a nursery established; and they used these cages to grow the corals out and ultimately place them back out on the reef.

MR. HARTIG: Yes; and to follow up with that, I think recently I heard that some of the corals that have been transplanted as staghorn, I guess, was actually seen spawning this fall. That is great news to know that these aquaculture corals will function in the environment. That gives us some hope that we can go through these areas and repopulate some of these areas where these animals have disappeared. Is there a long-term plan to do that?

MS. MOORE: Yes; we're in the process of developing that specifically for elkhorn and staghorn coral right now. Actually as we speak, the nursery partners that have been growing these corals are meeting in Miami to begin those conversations about developing a more comprehensive plan. This has kind of grown up grassroots and then got accelerated pretty quickly through the Recovery Act funding that they received; and now we're kind of at an operation status.

We need to make sure that we're undertaking these things in a very strategic and cognizant way so that we don't wind up putting too much effort into something that then ultimately fails. We want to make sure that we do this strategically. The main goal of doing these out-plantings – well, is a couple.

Here you could see that you can produce a growth of a large area of coral, a repopulated area that formerly looked like this, and this is in an area that was impacted by a large ship grounding. That is one really great thing; so it immediately provides additional habitat. The other thing that we want to do, though, is really the idea behind this is that we would out-plant these corals in a manner so that they have the genetic diversity and there are individuals that could actually then ultimately reproduce naturally and continue to repopulate the population that way.

And so like you said, it is very encouraging to see that we have some of these nursery-grown corals that have been out-planted actually spawning in the wild; so that is really good news. That is exactly the whole idea behind these types of activities is not to rely on our manipulation, but basically give the corals a jumpstart to do their thing the way they're supposed to.

MR. HARTIG: I have one more followup. You know, with global warming and the impacts on corals, do you all have a timeframe that you're looking at where the corals potentially could go away based on differences in climate change?

MS. MOORE: That is a question far larger than the work I work on. There are lots of different publications out there that projects the fate of mostly coral reefs and not necessarily individual coral species; and so there are several that suggest that in the Caribbean coral reefs, as we know it, could be gone in the fifty years or so from the climate impacts.

That is heavily dependent upon which of the IPCC pathways you select to build your models. There are four that the IPCC has put out right now; and those are based on either high-emission scenarios or low-emission scenarios; so there is just a lot of uncertainty and variability in the system to be able to say by a certain date they're all going to be gone. We have seen a trajectory in the past and likely to be continuing to see increasing frequencies of climate-related events.

Right now there is a bleaching event going on in the Florida Keys, which we're hearing is starting to subside, but there was a significant amount of elkhorn coral that is dead this year because of the bleaching event. Based on the trajectories of the air temperature, there is likely going to be more frequent bleaching events in the water.

DR. LANEY: Other questions? Okay, I'm not seeing anymore; so unless there are some burning questions, we will move on to Agenda Item 4, which is the proposed listing for Nassau grouper, which is covered in Attachment 1; and, Jennie Lee, are on the phone or, Phil, are you going to do that?

MR. STEELE: I hope Jennie is, but I can certainly give you an update if she isn't.

MS. LEE: Okay, our proposed rule to list Nassau grouper as threatened under ESA published September 2, 2014. Using the best available information, we had prepared a biological report and completed an extinction risk assessment. The report and risk assessment incorporate and summarizes the best available scientific and commercial to date and addresses the status of the species, the five ESA listing factors and current regulatory and conservation and research efforts.

Again, this is the proposed rule and Jen just went over the final rule. We're only at the proposed rule stage. In evaluating the status of the species, we looked at demographic factors, including abundance, growth rate, productivity, spatial structure and connectivity, diversity. We also evaluated about 13 potential threats, including commercial harvest, historic harvest, fishing spawn aggregations, climate change, habitat alterations – the list continues.

Ultimately we concluded there were three factors that were contributing to the status of the species, including inadequacy of existing regulatory mechanisms, lack of law enforcement and reductions in fishing spawning aggregations. We determined that Nassau grouper are likely to become endangered of extinction in the foreseeable future from a combination of factors.

Again, this is the proposed threatened listing. The proposed rule is based on key conclusions from the biological report and the extinction risk analysis that was conducted. There was also

the comprehensive status review. I summarized some of those for you. The species still occupies its historical range and made of a single population over a broad geographic area.

The species possesses life characteristics that increase the vulnerability to harvest. The species forms large spawning aggregations; but these are declining in size and number across the species' range. For example, historically 50 spawning aggregation sites have been identified throughout the Caribbean and less than 20 probably still remain.

Current regulations and the lack of law enforcement throughout the species' range are not effective in protecting Nassau grouper or their spawning aggregations. The combination of vulnerability to harvest, life history characteristics and lack of regulations or law enforcement indicates that the species again is likely to become endangered or extinction in the foreseeable future.

We do have a bunch of additional information online. You have the full Federal Register in your briefing book. Right now there is a 120-day comment period that will December 31, 2014; so actually you probably will have another council meeting prior that comment period closing. During the comment period, NMFS is seeking information of spawning aggregation threats to the species and conservation efforts aimed at protecting Nassau grouper.

In terms of questions you might have on what would a threatened status for Nassau grouper mean to the fishing industry or for trade and development, harvest and possession of Nassau grouper is currently prohibited in the United States, including Puerto Rico and the USVI; but the species are still a target in commercial fisheries in some countries in the region.

If NOAA Fisheries finalizes a threatened Nassau grouper, we may propose a 4D rule, which can include any or all of the protections for an endangered species. The rule similar to the one you're familiar with Acropora allows us to issue protective regulations and exemptions subsequent publishing a listing.

Development of 4D, NOAA Fisheries would contact and coordinate with state, territorial and federal resource managers to identify activities that may adversely affect Nassau grouper. Critical habitat; at this time in the Federal Register; NOAA Fisheries advises the critical habitat designations are not determinable because more information is required to identify those physical and biological features essential to conservation of the species.

NOAA Fisheries has not more than one year from the date of the final rule if published to designate critical habitat. If you have any questions, there is more information on line. Jason Rueter in the Southeast Region's Protected Resources Division is the best point of contact and the lead in developing the proposed listing rule.

DR. LANEY: Okay, thank you, Jennie. Questions from the committee or the council members?

MR. HAYMANS: Mr. Chairman, I'm not on your committee, but I appreciate the opportunity to ask a question. Jennifer, thank you for that explanation. The last part of it basically was a little

bit fast for me; and I'd just like you to go back over what are the potential additional measures that are going to go into place for Nassau based on its listing as threatened.

MS. LEE: I'm sorry I spoke too quickly; but I want to emphasize we just published the proposed rule. This is not a final rule like Jen was talking about. A lot of times at this stage people like to know what happens if it's listed and a final rule is issued. That would essentially be a year from now; and that is where I was talking about we could potentially do a 4D rule. Right now this is just a proposed rule. We're taking comments and we have a year before making a final listing decision.

MR. HAYMANS: Well, suppose it is listed; we already can't retain any. I assume with the rule that you're speaking of we can reach to other countries and ask them to do the same; but then do we reach into other fisheries that may interact with them and shut those down as well? What are the additional measures that could be applied if it is listed?

MS. LEE: Certainly with any listing, we would look at Section 7 Consultations on our fisheries; but at this time – and one of things I'll say is during this coming year where we're looking at whether or not we list, we can and do plan to consider our fisheries and what Section 7 Consultation might be needed if the listing went final. There is something called a Conference Opinion that is only required if you think a federal action may be likely to jeopardize. Right now we don't really anticipate any further actions as far as actual fishing regulations in the South Atlantic.

MR. HARTIG: Jennifer, thanks for the presentation. One thing; if you go back into landings – and I don't know how you've separated Nassau out of the groupers when groupers were sold as all groupers; but of the things that's important is that – I mean, when I fished in The Bahamas when it was legal, we brought back a number of Nassau groupers; and I think in the entire 40 years I've fished up on the southeast Florida coast, I've caught one Nassau grouper.

Although a number of them showed up in the landings from time to time, most of those came from The Bahamas. The other thing I would say is that if you look at your spawning aggregations, none have ever been seen in Florida. Whether or not the Keys ever had a self-sustaining population of Nassau groupers is under dispute.

These animals, like a number of species we see – I'm trying to think of the other species that conjurer to Warsaw and I can't think of it right now; but a number of these species that live in these island-type habitat, insular species, reside in some of the tropical areas as larvae that come from these different areas that settle out and may never ever constitute a reproductively active population that could sustain a population in your areas. That's a pretty important concept to try and address in this threatened type of context; so have you look at that broadly?

MS. LEE: Yes; not me specifically; but I think if you look in the biological report you will find detailed information on all of the populations they considered in terms of what we had for available information on spawning aggregations in different areas and any historic and current information. I know you brought up whether or not the Keys was an important aggregation ever;

and the report is not indicating so, yes, you are correct. I would advise that you look at the report in detail.

MR. HARTIG: I appreciate that I will and I will send you some comment; but some of that needs to be taken into consideration as well.

MS. LEE: There is a map in the report with all of the available spawning aggregations and where they are.

DR. LANEY: Okay, other questions for Jennifer Lee? I don't see any other questions; so, Kari, at this point I think our overview said we are going to review, edit and approve input from the South Atlantic Council. Do you have some text for us to review?

DR. MacLAUHLIN: In the overview, then, there is a link to the biological report; so you guys can just go from there. Then I had sent this out just to the committee; just kind of a draft report for us to kind of – I mean a draft comment for us to kind of work on as long as the committee is interested in going through this and submitting this on behalf of the council.

So, just kind of go through it – and you guys have done this before – in general this letter just focuses on the South Atlantic Council set the quota and the bag limit to zero in 1991 because of concerns for the stock. There has been a prohibition – I'm sorry, the amendment went through in '91 – since 1992 on Nassau grouper. Then also pointing out the council actions for closed areas that are in the Nassau grouper range, included the Oculina Experimental and Closed Areas, the special management zones off Fort Pierce, Florida, and then off Key Biscayne, Florida, and then several Deepwater MPAs.

These are in addition to any protected areas within the Florida Keys National Marine Sanctuary and the Tortugas Ecological Reserve. Then also some considerations for the spawning SMZs in Amendment 36 that you guys have been talking about.

We have here just kind of the last paragraph; “The moratorium on the harvest in addition to South Atlantic Council actions to protect spawning habitat have aided the conservation of Nassau grouper in the region. The South Atlantic Council recommends that NMFS take all existing protection measures in the South Atlantic and the Gulf of Mexico Regions into consideration when evaluating whether additional action is necessary. It is the council's conclusions that the actions taken are sufficient to provide the level of protection needed for stock rebuilding.”

We can wordsmith this or you guys can tell me what you want to put in there; and I can add it and then send it around to the committee for approval; and then we will send it to the council for their review at full council. If there are additional items that you want to put in there about the proposed listing that is being proposed at all, we can talk about that or any other things that you want to direct staff to look into.

DR. LANEY: So everybody has seen it on the screen; and it did come to the committee members. Does the rest of the council want to have the document? I see Chris' head nodding at

least and Michelle; so let's just distribute that to everybody so everybody has got it. Is there any immediate suggestion here for additional text or revision to the text that Kari has drafted for us at this stage of the game? Mr. Hartig.

MR. HARTIG: I don't have anything immediate, but I will develop some comments.

MR. HAYMANS: I'm not on your committee, Mr. Chairman. This is exactly the sort of thing I was thinking when I asked my question earlier about what additional can there be done in addition to what we've already done.

DR. LANEY: Yes; I think you get the general gist of the letter from Kari is the council has done an awful lot that should provide protective measures for the species. I think from my perspective, if nobody disagrees, I think we should just send the draft text to everybody on the council and then that will give everybody a couple of days to meditate on it and take a further look at it.

Then at full council, I guess we can take up whether or not there are any desirable changes. Ben, that would give you an opportunity to draft some things or make some revisions. Does that sound good to everybody? I see heads nodding in assent, and so ordered, Kari. We will just to that; just transmit the thing out to everybody and then we can take it for there. Mel.

MR. BELL: Mr. Chairman, I just had a question. She had mentioned 20 known spawning sites left or something. I assume those are all in the Caribbean and not in our area?

MS. LEE: Yes, the species is proposed throughout its range; so this is not specific information to the South Atlantic Fishery Management Council's jurisdiction.

DR. LANEY: The question he asked was whether or not the spawning sites that you alluded to are all elsewhere in the Caribbean and not necessarily within the council's jurisdiction.

MS. LEE: Correct.

DR. LANEY: Okay, any other questions regarding Nassau grouper? Mr. Hartig.

MR. HARTIG: Not a question; but I had a friend of mine that took his family down to the Keys for two and a half months this year. They went spear fishing and they saw Nassau grouper on every dive they made; one; but that's the first information that I've had that they're making any comeback at all to speak of on every reef in the Keys. That is anecdotal information, but there are some fish returning to the Keys; but I would still make the argument were they ever a reproductively active, self-sustaining population.

DR. LANEY: Okay, any other comments or questions? It sounds like, Ben, all of us ought to try and take a look at the biological report, because it sounds like they covered that question.

DR. MacLAUHLIN: I just want to say that in your briefing book there is an attachment; and that is the proposed rule in the Federal Register. That kind of has a summary of the biological

report. Then you have in your overview a link to that biological report online. If you just want to take a look at the – I think it is Attachment 1 is that Federal Register proposed rule that has kind of a summary. I just sent around the draft document. Jennie.

MS. LEE: That's great; thanks, Kari. I had perhaps wrongly assumed; but where you have the Federal Register in your briefing book, definitely read that and that will go a long ways towards being informed on this issue.

DR. LANEY: Okay, anything else on Nassau? Okay, seeing no other desire to discuss that further, we will move on to Item 5, which me, to give you a brief update on the American Eel Status Review. I think all of you got in your briefing books the compiled abstracts about eels, which were actually about all eels that were discussed at the American Fishery Society Annual Meeting.

If you have any questions about any of those, you contact the individual authors directly. Those abstracts and contact information for those folks are still up on the AFS Website. The American Eel Core Team for the Service had a conference call a week or so ago. We have gone over the schedule for completion of the status review; and I've got that in front of me an e-mail message from Steve Shepherd, who is our program manager for the review.

I'm going briefly go over with you verbally and then I'll send it out to folks in writing so you'll have that. But basically the Species Biological Report similar to the one NMFS did for Nassau grouper – we're following the same process now for Service status reviews as well; so that report came out to the team on September 10th. The team members are all in the process of reviewing it now. I have a due date of September 24th to get our comments back to Steve and our folks in Region 5.

The report will be revised per our comments and then it will be sent out to peer reviewers on October 1st. Those peer reviewers will include the entire Atlantic States Marine Fisheries Commission American Eel Technical Committee as well as solicited peer reviews by academics, by folks from other federal agencies, including NOAA, by folks from the U.S. Geological Survey. I think we're going to have a representative from the Native American Fish and Wildlife Society as well.

The peer reviews will be done. They have to have comments back in by October 24th; and then we will modify and finalize the draft report by November 7th accordingly. On October 8, we're going to have a webinar for all of the states and the tribes. I suppose if other folks were interested in participating, they could, but it is primarily designed for the states and the tribes to solicit their additional input and also to I guess give them a sense of what is in the Species Biological Report, which will constitute all the scientific information used in making the final decision.

On November 10th, then the report will be sent out to the whole American Eel Status Review Team and to all of our upper level management folks. In mid-November we will have a meeting to review the information and provide any preliminary thoughts we have on the listing decision recommendation. Then in December and early January and ultimately hopefully by about

February 23rd we would have something ready for the Federal Register. That is the short version of it; and just as a reminder, the final deadline date is September 30, 2015.

That's pretty much my update and I would entertain any questions anybody might have on that. I will say that having gotten most of the way through the document right now, I think our staff in the Northeast Region has done an excellent job in pulling together all of the biological information on American eel.

It was very beneficial for many of us to be able to be at the American Fishery Society Meeting and hear directly from a lot of the researchers who were doing a lot of the work on that species. Any questions? Okay, seeing none, I will send that schedule around so everybody will have that. Moving on to Item 6, the Atlantic Sturgeon Stock Assessment; the only update that I had there was – and Kari attached the summary motions and actions from the ASMFC Summer Meeting for you in the briefing book materials.

The Interstate Fisheries Management Program Policy Board did decide to delay the Atlantic Sturgeon Stock Assessment from 2015 until 2017 primarily to allow the stock assessment subcommittee the time to compile and review and analyze all of the data from the acoustically tagged Atlantic sturgeon that are swimming around out there.

There has been a tremendous amount of collaboration along pretty much the entire east coast, between academia and agency folks; Bill Post in South Carolina; I guess Doug Peterson in Georgia; Joe Hightower and Michael Effler at DMF in North Carolina; and then moving on up the coast, Dwayne Fox and other folks in the Hudson River; John Waldman, I think; Karen Linberg and then Gail Wippelhauser and others up in Maine.

So, by virtue of the fact that we have a whole bunch of tags in these fish and we have a whole lot of receivers out there, there are literally hundreds of thousands of detection data points that now await analysis and will enable us to have a much clearer picture I think not only of getting an estimate of how many fish there are out there but also what they're doing while they're out there.

That's the reason the board decided to delay the assessment for a couple of years there to allow the stock assessment subcommittee time to do that work. Any questions or comments about Atlantic sturgeon? Seeing none, we will move on to Item Number 7, which is the future role and direction for the Protected Resources Committee; and I will turn it over to Kari to lead that discussion for us.

DR. MacLAUHLIN: Okay, I just wanted to have the discussion with the committee about the committee and what we're doing; and then I have some questions about overlap I just wanted to get your input on and just make sure that the committee is – what we're doing is what you guys want to do and it is helpful and involvement. If there is anything that you want in the Protective Resources Committee, we can talk about that.

So just a little background; this committee was formed in 2002; because that was when the amendments were becoming these consolidated documents that also were integrating the NEPA

requirements and the ESA and the MMPA requirements. They weren't just the amendments and what the council was talking about.

The council wanted to be proactive and start talking about protected resources issues that were affecting the fisheries and vice versa and go ahead and get involved in these issues and have some communication with the Protected Resources Division at the regional office. Some of the goals of the committee, when they put it together, was to review all the FMPs with regard to protected resources considerations; review relevant protected resources material for discussion and comment; develop fishery-specific reporting protocols for protected species' interactions to aid with improving assessments; and participating in outreach to and education of fishermen and the general public regarding protected species.

Then some of the Protected Resources Committee Agenda Items you guys are aware of. We have briefings on issues from different agencies and then also from the Fisheries Service and any kind of proposed listings.

We've been having the biological opinion or the formal consultation updates along the way; and we've also had just education of the council on ESA, MMPA presentations and then lots of briefings and updates; take reduction team updates and take reduction plan regulations for bottlenose dolphin and then Atlantic Large Whale; just informative presentations; some sea turtle presentations; getting the comment and input such as what we're doing for Nassau grouper.

And then there was a Protected Resources Advisory Panel and the committee appointed members; but it was unclear if that AP was convened or integrated; I couldn't really tell from the minutes. Some of my questions are do you guys want to talk about some specific goals. We talked about an MOU based on the ESA Working Group that met with the Council Coordinating Committee and MAFAC. I presented their recommendations to you. We could go ahead and start working on an MOU with the region about what the council would like from the region, so there is coordination and communication.

We could start working on that in upcoming meetings. Is there any other routine information that you would like at the meetings? One thing that I do want to talk about is the biological opinions and kind of overlapping. You know especially for the black sea bass pots, large whale; it has kind of gone from some presentations in the Protected Resources Committee; and when we go through the amendment, we're talking about it in the amendment at the snapper grouper.

I kind of wanted to talk a little bit about that overlapping, especially when we are probably going to have a biological opinion in the works and hopefully we'll be able to be involved with that and have updates along the way that the council and the committee will be able to provide input and other helpful information. Would that happen in Protected Sources or will that happen in snapper grouper? I'm anticipating that snapper grouper biological opinion to be a big deal; and I want to know what you guys want.

DR. LANEY: I will look to you, Ben, for we've used up our time allocation here; so I would look to you for either some sort of dispensation with regard to giving us extra time or guidance

regarding whether we want to go into depth with this discussion now, defer it to a future meeting or how do you want to handle that, Mr. Chairman?

MR. HARTIG: I'll get our Vice-Chair Michelle Duval's opinion on this.

DR. DUVAL: Well, I want to have the discussion now. I think just because we've – I think we have worked through the rest of our agenda for today already; so I think we have the time to do this. Certainly, I would like to see some work move forward on the suggested MOU that came of that Council Coordinating Committee Report. I think that would go a long way towards hopefully improving communication between the council and the agency with regard to protected species' issues; and that was my understanding.

I mean I came in at the end of the development of that report onto the CCC; but that was developed as a result of general dissatisfaction between several councils or among several councils with regard to how they were being informed of protected species' issues and the avenues that they had available to them for input on the front end of things instead of being presented with information and then reacting on the back end of things. Given the issues that we're dealing in regards to right whales and the black sea bass pot fishery, I think something like that MOU would be of great assistance, but that is just my opinion.

DR. LANEY: Okay, thank you, Mr. Chairman and Madam Vice-Chairman, for giving us the latitude to continue discussion. Who is next? Dr. Duval.

DR. DUVAL: Just in looking at some of the questions that Kari has outlined here; I think specifically where would biological opinion updates occur; would it be in the committee or would it be in our species committees? I would hope that as an opinion is being developed and information is being incorporated; I would think that initially the Protected Resources Committee would be the appropriate place to provide those updates.

Then when it gets to the point of becoming close to being finalized where we have a sense of what the final opinion is going to be and there are going to be impacts to the fishery; then I think the discussion switches to that particular FMP Committee. Again, that is just my opinion at least in terms of a biological opinion.

I think considering the conversations that we've had with regard to Regulatory Amendment 16 and the black sea bass pot closure; right now I think we're in sort of a really tough gray area of we have some potential management measures that the council and the committee have provided input on that are going to affect management of the fishery; but the analyses are still being complete.

I would love to hear other folks' opinions around the table. I think we're at a point where certainly as those alternatives are being analyzed, you could probably have the update occur in any either committee right now. When it comes for selection of preferred alternatives, obviously that has got to happen in the FMP Committee.

I really think that a lot of the discussion that we've at snapper grouper with regard to development of Regulatory Amendment 16 probably could have occurred in this committee, because we've had information on sightings of right whales throughout the region. I think some things that have come out of the large whale take reduction team meetings – I know we had a few presentations I think last year in June regarding the vertical line model.

Perhaps the initial development might have been better served occurring in this committee. I don't know; I would love to hear some other folks' thoughts on that. I have kind of mixed feelings about it, certainly.

DR. LANEY: So I'm hearing from you, Dr. Duval, that you would think that one of our current goals and a role as well would be to kind of vet biological opinions through this committee initially and then route the specifics on to the individual species' FMP committee once the BO starts to shape up; and that sounds like a pretty good approach to me.

I would note also that there are some biological opinions – at least there is one that remains ongoing as far as I know on fishery-independent works, which affects me directly because of the cooperative winter tagging cruise. That one again cuts across a lot of different FMPs because it isn't species-specific; and this I guess would be an appropriate place to discuss that sort of thing as well. I know Bonnie would have an interest in those I think also; but that is just one opinion; again, a second opinion. Mr. Bell.

MR. BELL: Mr. Chairman, I'm not on the committee, but I'd agree with Michelle. I was just trying to imagine the Snapper Grouper Committee as an example has an ample number of things to deal with in a given meeting. If you could basically start discussions like this and work things within the context of this committee and then at an appropriate time fold it into the appropriate other committees it might touch on, that makes sense.

I think there is great merit in at least – and then the other thing would be maybe this committee could kind of look down range a little bit and see what other things might be likely to pop up and kind of work things.

There is plenty of discussion that needs to take place, whether it is the BO or whatever, and there is plenty for this committee to do; and then at an appropriate time you make the connection with the other committees. Snapper grouper is an example; we're always plenty busy just dealing with the discussions in that committee; so I think it would be good to work out a lot of this within the context of this committee first.

DR. DUVAL: I'll just give an example. I think my ideal vision of how discussions regarding Regulatory Amendment 16 would have worked out is that we would have been approached by the Service initially as our stock assessment was coming forward for black sea bass, knowing that we were in a rebuilding plan and that things were looking very optimistic, to have some discussion about concerns regarding how the fishery might operate and the times of year it might operate and the areas in which it might operate under an ACL that was vastly expanded rather than the way that things did play out whereby the council was presented with really no options in

moving forward with a quota increase that did not include a six-month pot closure. That's my vision for how things might have worked out differently.

MR. STEELE: Mr. Chairman, Jennie Lee is still on the line and she would like to make a couple of comments addressing this issue.

MS. LEE: Yes; I respect and appreciate all the comment and discussion on this issue. I think it definitely needs to happen. I did want to say I think when it comes to protected resources, there is really just two types of information we tend to present; is the year things are specific to one fishery or they tend to be really applicable to all of the different fisheries and committees.

I know we've been most recently talking a lot about Amendment 16. I think one thing that would be good would be if the PR Committee is going to addressing, say, right whale issues specific to the Snapper Grouper Committee, it would be good at least to have the PR Committee always precede the Snapper Grouper Committee.

I think sometimes we've had discussions in our Snapper Grouper Committee and then a day later maybe have the information that would inform that discussion after the fact; and I don't think that is particularly helpful just because you have to then revisit things later on after you have new information. I do think there is a lot of discussion and understand that committees are very full with the fishery work; but I wouldn't want to see it where the committee doesn't have the information in front of it when it is having discussions.

DR. LANEY: Thank you, Jennie, I think that's an excellent suggestion. I would note, too, I don't know how other councils operate because I don't participate in other councils; but given that at the South Atlantic all the council members are usually present for every committee meeting, it makes it easier for the PRC to involve those other committee members in their discussions; and so it makes sense to me to have the Protected Resources Committee usually scheduled early in the week to avoid the situation that Jennie just articulated.

I see Michelle nodding in agreement and Mel nodding in agreement, Chris thumbs up, Zack thumbs up; so, yes, it sounds like a good way to go. Thanks for the suggestion, Jennie; we'll definitely try and incorporate that in the preparation of future agendas to put the Protected Resources Committee early in the week. Okay, other comments?

I think one other one as far as our current goal or role is; I think just to continue to stay abreast of the ongoing listing petitions that are received by the two federal agencies that have authority under ESA and then just to keep the committee updated on how those status reviews are proceeding when species are found to be one. We've got a couple of things there; the biological opinion vetting and review and species' listing process and status reviews. Any other roles that you all see for the Protected Resources Committee to undertake?

DR. DUVAL: I can't remember if I've said this already, but I definitely would like to receive the updates on the ongoing consultations as we have been doing. I think given that most of them are fairly short, this kind of situation where someone is calling in on the phone works I think just

fine on both ends. I do want to make sure that we still keep that as part of sort of a standing agenda item.

DR. DUVAL: Okay, thank you for that; that sounds great. Kari.

DR. MacLAUCHLIN: Well, we didn't put it on this one because nothing changed; and so in the overview, that CMP Consultation, is that okay?

DR. DUVAL: Yes; and I'm fine with that. If nothing has changed and there is nothing new to report, I'm fine with including it in the overview when there is nothing new to report and nothing has changed. I think if there is something that comes forward like, oh, boy, the DPSs are really causing us a huge amount of heartache when we're looking at the CMP Consultation and we might need to reach out for some additional information; then it might warrant a brief conversation.

DR. MacLAUCHLIN: Jennie, did you have any additional comment?

MS. LEE: No; with the respect to the latter, I do think at the time of your December meeting, we will be further down the road with the progress on that draft coastal pelagic consultation and can probably share some information at that meeting. I think my main concern has just been making that the committees have the information they need during their discussions. I think that has been covered well; and I will try to not always be on the phone and actually make it to a meeting.

MR. BELL: I was just going to say it goes without saying that the committee would give you a natural conduit to just maintain effective communications with the Protected Resources Folks and a natural point of contact within the context of the council; so it makes perfect sense. I think that's important to kind of understand what the emerging issues and things might be and just maintain that effective communication. That would be an obvious function, I guess.

DR. LANEY: Another one that occurs to me, Kari, would be that this committee could serve as a forum for discussion of new research on minimizing species' interactions with all other fisheries under the council's jurisdiction. I suppose also another thing that would be of great interest to us would be genetic studies that further differentiate between DPSs or anything involving stock identification would also be of interest since that could possibly have management implications, I suppose. Other comments or thoughts?

We've sort of covered number one and number two and number three; and we've sort of touched on number four. Are we kind of down to number five? Does anybody have any specific requests for briefings for our next Protected Resources Committee Meeting or input for the next meeting's agenda items? Are we planning to meet in December; are we scheduled to meet in December? I haven't looked at the agenda. Dr. Duval.

DR. DUVAL: I guess if there are any take reduction team meetings that are occurring sort of in the interim between our council meetings, maybe just getting a brief update on sort of what transpired there. I'm sure there is probably some kind of meeting summary. I know there is one coming up; least the Large Whale Take Reduction Team Meeting. I don't know exactly when it

is, but that just strikes me as something that the committee would be interested in hearing is any outcomes or synopsis of those meetings as they impact the fisheries that we're concerned with.

DR. LANEY: One that occurs to me – and this is a possible overlap; but, Monica, I haven't looked at our legal updates for this meeting, but were you going to talk to us about the new lawsuit by the North Carolina Fisheries Association with regard to sea turtles; because that affects both the Fish and Wildlife Service and the National Marine Fisheries Service. I guess that sort of slides into protected resources a bit but it really falls more in your purview as our legal counsel, I think.

MS. SMIT-BRUNELLO: Well, Wilson, I was not going to talk about that. Our office is not the lead legal office with that lawsuit. I'm somewhat familiar with the complaint, but I can get a little more information and talk with all of you about it at some point.

DR. LANEY: Okay, yes, that one was of interest to me, I guess, because of the implications for recreational fisheries in general. I have talked to our sea turtle folks about it; and their perception was that while interactions with recreational fisheries or hook-and-line fisheries in general may occur; that they are far less a common occurrence in the recreational fisheries than they are in the commercial fisheries.

I also know that their sentiment is that from a Fish and Wildlife Service perspective, we deal with them when they're on the beach and NMFS deals with them while they're in the water. Maybe it is not totally appropriate to include us in that lawsuit; I don't know. I am not a lawyer so I will not express that opinion, although I just did, didn't I?

Any other comments or feedback to staff here? The opinion will not be taken seriously since it didn't come from a lawyer. Any other comments about the role or future function of the Protected Resources Committee and things you would like to see on the agenda for the December meeting of the committee? Dr. Duval.

DR. DUVAL: Sorry; I'll stop talking soon, I promise. The only thing I see outstanding on Kari's list of questions is frequency of meetings. I guess that's really going to be determined by what is going on; so it is hard to say do we only need to meet twice a year? There are probably times where we may only need to meet once a year. I think it just depends on how many outstanding consultations there are going on that impact fisheries of interest to the council. That's probably a conversation I would think between you and staff lead, whoever is the committee chair, and then the council chairman as well.

DR. LANEY: Yes; it may be driven by how many petitions we get and how many species get listed in the future and at what frequency I imagine would drive the need for meetings. Any other comments? Mr. Hartig.

MR. HARTIG: What about the AP? When is the last time we convened the Protected Resources AP; and do we even have one, still?

DR. LANEY: Well, we did have one, but we disbanded it I believe. Kim can probably shed more light on that than me. I think at one time there was one. That is kind of before my time and I'm not sure it ever met. I think we did have one. I think Kim is going to come and enlighten us on that point.

MS. IVERSON: Yes; you're correct; there was one, but there were several inactive advisory panels and that was kind of tabled. It doesn't mean that you can't reactivate an advisory panel, but that would be something that would be addressed through the Executive Finance Committee and go through that process.

DR. LANEY: Okay, any further discussion about whether or not you think the Protected Resources Committee needs an advisory panel or not? I think as long as we have staff or the agencies and staff of the council bringing pertinent research to us with regard to minimizing protected resources encounters and things like that, my sense is and seeing some nods around the table, that we probably at this stage of the game at least don't need an advisory panel for the Protected Resources Committee.

Okay, any other discussion, thoughts, comments? I don't see any other hands popping so, Mr. Chairman, I will yield back to you, having eaten into only 25 additional minutes of time.

(Whereupon, the meeting was adjourned at 3:55 o'clock p.m., September 15, 2014.)

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(Continued)

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PLEASE SIGN IN

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

South Atlantic Fishery Management Council Meeting
Protected Resources Committee Meeting:
Monday, September 15, 2014

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