

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

195<sup>TH</sup> MEETING

Westin Beach Resort

Key Largo, Florida

MAY 19, 2004

WEDNESDAY MORNING SESSION

**VOTING MEMBERS**

Irby Basco	Texas
Karen Bell .....	Florida
Roy Crabtree .....	Regional Administrator, NMFS - SERO, St. Petersburg, Florida
Maumus Claverie	Louisiana
Myron Fischer	Louisiana
Karen Foote (designee for James Jenkins)	Louisiana
Joseph Hendrix .....	Texas
Stevens Heath	Alabama
Julie Morris	Florida
Robin Reichers .....	Texas
David Saucier.....	Mississippi
Walter Thomassie	Louisiana
Bobbi Walker	Alabama
Kay Williams .....	Mississippi
Roy Williams .....	Florida

**NON-VOTING MEMBERS**

Larry Simpson Gulf States Marine Fisheries Commission, Ocean Springs, Mississippi

**STAFF**

Steve Atran .....	Population Dynamics Statistician
Lorna Evans .....	Transcription Specialist
Joseph Graham .....	Court Reporter
Lela Gray .....	Transcription Specialist
Shepherd Grimes	NOAA General Counsel
Stu Kennedy	Fisheries Biologist
Rick Leard.....	Deputy Executive Director
Cathy Readinger	Administrative Officer
Wayne Swingle	Executive Director

**OTHER PARTICIPANTS**

CMDR Chris Austin.....USCG, District 7, New Orleans, Louisiana  
Pam Baker .....Environmental Defense, Corpus Christi, Texas  
CMDR David Cinalli .....USCG, District 7, New Orleans, Louisiana  
Marianne Cufone..... The Ocean Conservancy, St. Petersburg, Florida  
Virginia Fay.....NMFS-SERO, St. Petersburg, Florida  
Jill Jensen ..... Gulf Restoration Network, New Orleans, Louisiana  
John Merriner..... NMFS-SEFSC, Beaufort, North Carolina  
Lt. Don Montoro .....USCG, District 8, New Orleans, Louisiana  
Russell Nelson .....Coastal Conservation Association, Oakland Park, Florida  
Bart Niquet.....Lynn Haven, Florida  
Chris Niquet.....Lynn Haven, Florida  
Eric Schmidt ..... Ft. Myers, Florida  
Phil Steele.....NMFS-SERO, St. Petersburg, Florida  
Jim Twiggs ..... Mississippi Charterboat Captain=s Association, Biloxi, Mississippi  
Wayne Werner ..... Galliano, Louisiana  
Larry Yarbrough ..... U.S. Coast Guard, Miami, Florida  
Bob Zales, II .... Panama City Boatmen=s Association (PCBA), Panama City, Florida

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The Gulf of Mexico Fishery Management Council convened in the Coral Reef Ballroom of the Westin Beach Resort, Key Largo, Florida, Wednesday morning, May 19, 2004, and was called to order at 8:30 o'clock a.m. by Chairman Bobbi Walker.

**CHAIRMAN BOBBI WALKER:** Good morning. My name is Bobbi Walker and as chairman of the Gulf of Mexico Fishery Management Council, I welcome you all. This is the 195<sup>th</sup> meeting of the Council.

Members of the public will be permitted to present oral statements in accordance with the schedule published in the agenda. Please advise the Council staff if you desire to address the Council. Please give written statements to the Council staff.

1996 amendments to the Fishery Management Act require all oral or written statements to include a brief description of the background and interests of the person and the subject of the statement. All written information shall include a statement of the source and date of such information.

It is unlawful for any person to knowingly and willingly submit to a Council false information regarding any matter the Council is considering in the course of carrying out the Fisheries Act. If you have a cell phone, pager, or similar device, we ask that you keep them on silent or vibrating mode during the Council sessions.

A tape recording is used for the public record. Therefore, for the purpose of voice identification, each member is requested to identify themselves starting on my left.

**MS. JULIE MORRIS:** My name is Julie Morris and I'm from Florida.

**CMDR. CHRIS AUSTIN:** Commander Chris Austin, Chief of Law Enforcement at the 8<sup>th</sup> Coast Guard District. It's my first time being here with the Council, and I'm glad to be here. Yes, I am John Sherlock's boss, so I'll take anything that you know about him, and it's a pleasure to finally meet with you and see you folks.

**LT. DON MONTORO:** Lieutenant Don Montoro, 8<sup>th</sup> Coast Guard District.

**CMDR. DAVID CINALLI:** David Cinalli representing the 7<sup>th</sup> Coast Guard District. It's great to see everybody and great to be back.

**MR. DAVID SAUCIER:** Dave Saucier, Mississippi.

**MR. ROBIN REICHERS:** Robin Reichers, Texas.

**MR. IRBY BASCO:** Irby Basco, Texas.

**MR. JOSEPH HENDRIX:** Joe Hendrix, Texas.

**MS. KAREN FOOTE:** Karen Foote, Louisiana.

**MR. WALTER THOMASSIE:** Walter Thomassie, Louisiana.

**MR. MYRON FISCHER:** Myron Fischer, Louisiana.

**MR. PHIL STEELE:** Phil Steele, NOAA Fisheries.

**DR. ROY CRABTREE:** Roy Crabtree, NOAA Fisheries.

**MR. SHEPHERD GRIMES:** Shepherd Grimes, NOAA General Counsel,  
Southeast Region.

**MR. ROY WILLIAMS:** Roy Williams, Florida.

**MR. STEVENS HEATH:** Steve Heath, Alabama.

**MS. KAREN BELL:** Karen Bell, Florida.

**DR. MAUMUS CLAVERIE, JR:** Mau Claverie, New Orleans.

**MR. LARRY SIMPSON:** Larry Simpson, Gulf States Marine Fisheries  
Commission.

**EXECUTIVE DIRECTOR WAYNE SWINGLE:** Wayne Swingle, Gulf Council  
staff.

**MR. TONY IAROCCI:** Tony Iarocci, liaison for South Atlantic  
Council.

**CHAIRMAN WALKER:** Thank you, and we want to welcome Commander  
Christopher Austin, who is Lieutenant Commander Sherlock=s boss,  
and we would also like to welcome Commander Cinalli here with  
us again today. I think Mr. Simpson has a report for us from  
Corky.

**MR. SIMPSON:** Yes, Madam Chairman. Corky finally got in about  
three o=clock yesterday home time. The doctor had emergency  
surgeries and so forth. He got out about 7:30 or 7:45 and went  
to ICU. He wasn=t conscious. He probably got conscious at  
midnight last night.

I talked to a friend of this morning at 7:30 and he was sitting up and he had a word for the Council. This is characteristic of Corky and to let you know he= s doing great. He had four bypasses. He says that he misses everyone on the Gulf Council. He respects and likes you all and can= t wait to get back to disagree with you.

**CHAIRMAN WALKER:** Thank you, Mr. Simpson. Now I would like to proceed with the adoption of the agenda, and we= ve been requested to move the draft public hearing document of vermilion snapper up right after public testimony.

The reason for this is to expedite the submittal to the EPA so that we can have a document back to us on the first day of our July meeting.

If you remember, we have a cutoff date of October on acting. Is there any objection to making that move? With no objection, then we= ll move that. I think Wayne has some additions under Other Business.

**EXECUTIVE DIRECTOR SWINGLE:** Yes, Madam Chairman. Under Other Business, which is Tab K there, under Tab K-1, there= s a slate of candidates to serve in a generic operator= s permit management committee that Chairman Walker has approved and for your consideration.

Under Tab K, Number 3, there= s a similar slate of candidates to be appointed to an ecosystem management committee, and that is Ms. Walker= s recommendation. Then under K-2 there= s a request from the Law Enforcement Advisory Panel that we help fund a special meeting of that group to update the strategic plan for enforcement and do an operators= plan for 2005. Then we added yesterday an issue of including an attendance record to the minutes that are being typed by the court recorder.

**CHAIRMAN WALKER:** Thank you, Mr. Swingle. Is there any other discussion, additions, or deletions to the agenda? Is there any opposition to adopting the agenda as amended? The agenda is adopted.

Our next item is approval of minutes. Does anyone have any discussion?

**DR. CLAVERIE:** Are Wayne= s written comments automatically done?

**EXECUTIVE DIRECTOR SWINGLE:** Yes, I followed up on Shepherd Grimes=

requirement that I attach that to my request to Joe Graham that those changes be made and put the changes on the table back there so the public would have access to them.

**CHAIRMAN WALKER:** Can I have a motion to adopt?

**MR. GRIMES:** I have some changes, and this is all just minor stuff. But page 39, line 14, this was actually from public testimony, but it says alternatives in Amendment 2 on page 2. I believe since it was Amendment 22 that we were dealing with that it should reflect Amendment 22. But, again, it was Mr. Bob Zales public testimony. I believe that=s what he was referring to.

Page 137, line 36 refers to the **APower group.** That should be **APowers,** Joe Powers with National Marine Fisheries Service. Page 174, line 22, this is actually a statement by Chairman Walker referring to **Acare and bill,** and I believe that=s Karen Bell.

Page 177, line 8, this is my statement. I guess towards the end of that line, it says **Ato do this way** and just insert **Ait** between **Ado** and **Athis.** I may have said it that way. It=s possible, but it=s grammatically incorrect. That will do it; and excellent minutes, by the way, excellent.

**CHAIRMAN WALKER:** Thank you, Mr. Grimes. Any other comments on the minutes? Can I hear a motion to adopt the minutes as amended? **Mr. Reichers made the motion to adopt the minutes as amended. Mr. Hendrix seconds it.** Is there any opposition? No opposition, the minutes are approved.

Our next agenda item is public testimony on Reef Fish Amendment 22. Our first card is Dr. Russell Nelson.

**DR. RUSSELL NELSON:** Thank you, Madam Chair. Actually, our comments don=t differ from the other two times that you=ve been trying to finalize this amendment. We support what you=ve done and our major concern remains that this Council has not effectively dealt with shrimp bycatch. Thank you.

**CHAIRMAN WALKER:** Thank you, Dr. Nelson. Are there any questions for Dr. Nelson? No questions, Bob Zales.

**MR. BOB ZALES, II:** Good morning. Bob Zales, II, representing Panama City Boatmen=s Association. With this red snapper situation, I don=t know where the definitions of MSY and everything is going to play here and all your concerns with steepness.

I know that in being part of the SEDAR data process a few weeks ago, there seems to be a lot of different ways to go with this now, and there's a lot of different scenarios being played out there, including dropping steepness down to 0.8 rather than dealing with 0.95 or better and changing MSY projections and stuff like this.

So, I don't know in this amendment here if this is something you play with or if you wait and just amend it after this whole process with red snapper for this year is over, but some of the issues that were brought up and a lot of the information I saw made a lot of sense to me and several others. I think you should consider all that and play with that.

The bycatch issue is still of a large concern to us, especially with the new study. We're really concerned about the bycatch reduction only being in the neighborhood of 11 or 12 percent of red snapper, and information that's out there that clearly says that the problem with red snapper rebuilding is not with the directed fisheries. It's with the bycatch issue.

But then, again, at this same workshop, there was data that was presented that said that maybe that bycatch issue is not the problem that it's perceived to be; that some of these small fish may be going to die regardless of whether they're caught in the net or whether they're going to be eaten.

So, these things need to be considered with all that. I'm probably going to have a little bit of time left here; and if you've got any questions about red snapper, I'll take them. But if not, I would like to clarify some information on the AP report for vermilion snapper, if I could.

**CHAIRMAN WALKER:** Okay, Mr. Zales. Does anybody have any questions on Amendment 22? Mr. Zales.

**MR. ZALES:** Thank you. On the Reef Fish AP, I was at another meeting, so I missed the first day, and I had several of the AP members tell me the fact that I wasn't there may have made a difference because of there didn't seem to be anyone to provide any information from the northern part of the Gulf on vermilion snapper.

Bob Shipp graciously allowed me to talk a little bit about that on the second day, which I did, and expressed the concerns that we have in the Northern Gulf about the situation, especially

when it comes to the allocation issue.

Amendment 1 clearly established an allocation of 67 percent commercial and 33 percent recreational. Currently, the harvest allocation is roughly 79/21. Now, knowing recreational information like I do and understanding the MRFSS system like I do, I would probably argue that the 21 percent that is indicated to be harvested by the recreational sector is probably a high number. It's probably somewhat less than that in reality.

So, what we're asking for is consistency. Several of us have asked for consistency in the various plans over time and would like to see consistency here with the allocation issue.

We're not wanting any more than what we were given in Amendment 1, but we would like to maintain that 33 percent, and we think that the information clearly shows that the recreational sector is not the cause of any problem with vermilion snapper.

If anything, by default we have worked to conserve that fishery because we haven't harvested our allocation. So much like king mackerel, we haven't harvested our allocation there either, so you have extra fish running around in the water.

Two other issues, I made two motions on that second day, one regarding Goliath grouper and one regarding the charter boat moratorium permit.

On Goliath grouper, in my reading of the report, it's not clear to me what the intent of my motion was and what I believe the motion that I made was.

It was that the Goliath grouper, that there should be allowed for scientific research purposes some type of exempted permit for the retention of Goliath grouper that are currently being brought up by fishermen, recreational and commercial, that are dead, that are being wasted, and that scientists should need some real fish to look at biologically; and rather than wasting those fish, some exempted permit be created to bring those fish to the docks and give them to the Fisheries Service or whoever.

And the charter boat moratorium permit, in the report it says something to the effect to just enforce that permit. My motion was not to just enforce it.

My motion, which was unanimously approved by the panel, was that if you cannot enforce this permit, that you need to consider

letting it go because if it can't be enforced, it's not doing anything positive for those of us in the fishery because people are fishing illegally, in a sense. They're retaining fish out of the quota, and it's having a negative impact on the fleet that is complying with the permit. So any questions?

**CHAIRMAN WALKER:** Thank you, Mr. Zales. Are there any questions?

**MR. WILLIAMS:** Bob, regarding your desire to keep your 33 percent of the vermilion snapper allocation rather than the 21, are you wanting a change in bag limit or size limit or anything there or are you going along with the preferred option?

**MR. ZALES:** No, Roy. I would argue, and there are many of us that would argue in the Northern Gulf especially, that we don't see that you need to make any change at all to our bag limit or the size limit.

The size limit at ten inches, we feel that it's more than adequate. The bag limit, which is currently under the twenty- fish aggregate, we would argue that if you do anything by pulling vermilion snapper out and creating its own bag limit, not only do you negatively impact the vermilion snapper, you also negatively impact a lot of fish out there that you know absolutely nothing about, which was the reason why the twenty- fish aggregate limit was created.

So if you leave that fish in there, you help to protect some of those other fish that you know nothing of; and at the same time you probably, in some cases, will have fewer vermilion snapper retained in a bag limit, because of being in the aggregate with others, than you would by putting vermilion snapper on their own bag limit.

**CHAIRMAN WALKER:** Are there any other questions for Mr. Zales? Thank you, Mr. Zales. With the Council's approval, that ends our public testimony, except that I have two other cards, and these people have requested to talk to us and address VMS for longline boats and ITQs. I'm sorry, we don't have some of the cards.

If the Council doesn't object, though, these are only two individuals, and they've driven from Panama City Beach, Florida, and I'm going to allow them to speak unless I hear any objection.

I think we're running on time. We may even be able to be through

today. It's Chris Niquet and Buster Niquet that have requested. We have four additional cards for red snapper. Mr. Wayne Werner.

**MR. WAYNE WERNER:** I was also on the SEDAR panel and I'm Wayne Werner. I would like to say there's a lot of information that's coming up that when we first started this process, when I first came to my first meeting in 1988 and we came, boy, we were worlds apart on the way that everything looked from what we were seeing and what the science read.

And that's fifteen years later and everything has come a lot closer to what we see out there as to what the science says. But, there's a few things that are going to come up that kind of interests me because some of these studies that are going on are so short.

A good example is the fishermen that have been catching these red snappers for years have been coming to meetings and saying, you know, we're killing a lot of fish while the season is closed, and we're killing just way too many.

It looks like out of the SEDAR process, from the reporting system, we're killing about a million pounds a year every year while the seasons are closed, and these are not just little fish. They average 4.65 pounds according to the reports that we've sent in.

These are such short studies, and I'm not sure that they're going to be able to incorporate them into the science. These are very important things, but they're very short studies. I mean, we might have fourteen years of public testimony backing them up, but we just don't know if this is all going to come to light in this process.

Some of the things that I discussed with them was you have to look at different mortality rates when the fishery is closed and when the fishery is open due to different depths of water that are fished. I mean, if we're fishing in 300 feet of the water when the season is closed, you're going to have close to 100 percent mortality rate on these 4.65 pound fish average.

You know, when the season is open, you're fishing a lot shallower and it might be 60 percent. I just hope that all this gets incorporated. I just wanted to mention that the process I thought got a lot closer from what we saw fourteen or fifteen years ago to what we're seeing today. Thank you.

**MR. BASCO:** Wayne, would you give me an average of your release mortality, about what percentage of the fish overall, deep water, shallow water?

**MR. WERNER:** Well, it depends. It's all different. If you release during the season, I'm going to say that it's increased because you have a lot more recruitment. Over the last year or two, on my boat I'm starting to see 30, 35 percent that we're throwing back now. We didn't see that for years. Now when the season is closed, you might throw back seventy or eighty fish a trip, but they're all nice fish and they're in deep water.

**MR. BASCO:** Okay, so apparently you agree with the 33 percent release mortality that's factored in?

**MR. WERNER:** Well, no, I can't say that because now you're talking about even on our reports that this million pounds is 25 percent while the season is closed that's never been counted in the process and never been evaluated into the model, and that just is while the season is closed, and that's what I'm hoping comes out.

**MR. BASCO:** I see. Okay, well, if you look at 33 percent on the commercial allocation, you're looking at about one and a half million pounds of fish if it is 33. If it's higher, well, it's more than a million pounds.

**MR. WERNER:** Well, let me say one thing, Irby. We reported 2.1 million pounds a year of discards is what it came out to. I felt that it was a low number because I didn't think any fisherman went out there and said, look, I killed a whole bunch of fish. I felt like no one wanted to shoot themselves in the foot.

**MR. BASCO:** Well, okay, but there's one commercial fisherman in Galveston that has two Class 1 licenses, and he was actually keeping records himself. Now, of course, it naturally gets better as the water is shallower, but he's thinking somewhere in the 30 percent range is what he thought his release mortality was during the season.

**MR. WERNER:** During the season, okay.

**MR. BASCO:** And I think he was giving me honest numbers. I don't think he was trying to pull my leg about it. Thank you.

**MR. WERNER:** Well, that sounds pretty consistent with what I said.

**CHAIRMAN WALKER:** Is there anyone else that has a question for Mr. Werner? Mr. Werner, I have one question for you. You said that you feel like the commercial industry is killing about a million pounds annually during the closed season. What are you targeting during that closed season, and Ms. Morris was interested in knowing what you're targeting in 300 foot depth of water?

**MR. WERNER:** Basically vermilion snappers, scamp, black groupers, yellowedge groupers, that type of fish, just a whole mixture of fish.

It just seems like west of river -**B** and the Council did this with scamps. They made scamps part of the deep water complex and shallow water complex to address the fact that most of the fishermen fish out in fifty fathoms when the season is closed west of the river. I mean, this has been a long time discussed.

**CHAIRMAN WALKER:** And just to follow up with that, so you are vermilion snapper fishing and that=s when you're encountering the bycatch with red snapper?

**MR. WERNER:** Actually, you have -**B** you know, I was listening yesterday and when you're red snapper fishing, you don=t have as much problem with the vermilion snappers as you do when you're vermilion snapper fishing with the red snapper. The problem is worse.

**CHAIRMAN WALKER:** Thank you. Ms. Morris, did you have anything? Thank you, Mr. Werner. Ms. Jill Jenson.

**MS. JILL JENSON:** Good morning. Thank you for allowing me to speak with you about red snapper this morning. I=m working for the Gulf Restoration Network. It=s a network of fifty environmental groups and a few social groups dedicated to preserving and protecting the resources of the Gulf of Mexico.

We are going to submit some written comments yet this morning. Mainly, I would just like to say that we can=t support the rebuilding aspect of this amendment. We feel that it=s too passive in nature.

There=s a lot of reasons, and in particular I would like to discuss the reliance of half of the shrimp fleet going broke is not really, I think, a good rebuilding plan. I also think it=s a

bad idea to rely on one fishery going broke to keep another fishery open.

I'm also a little confused at how the National Marine Fisheries Service can develop a business plan for the shrimp fleet in the Gulf of Mexico and at the same time need half of them to disappear in order for it to be relevant.

It's confounding to me and I'm not really sure how you can have any reliance that this could happen. I think that the shrimp fleet is innovative, and I think that it's a very viable fishery. It's a great product and we don't know for sure what's going to happen, and there should at least be a contingency plan.

There's a lot of other issues that we have addressed through written comments, and I know that the Ocean Conservancy and Environmental Defense are also prepared to speak about some of these. Thank you.

**CHAIRMAN WALKER:** Are there any questions for Ms. Jenson?

**DR. CRABTREE:** Well, I just want to point out that when you do projections twenty or thirty years into the future, you have to take into account what the most likely things to happen are. Right now, the economics show that the most likely thing to happen is that a large percentage of the shrimp fleet goes out of business.

If that doesn't happen, then the Council will have to take additional action. But right now, that is the status quo prediction, and I don't know how you ignore what all of your science projects is most likely to happen.

Now, we did look at different scenarios in this amendment. We looked at various levels of shrimp effort reduction; and if it doesn't happen, then additional measures would have to take place to reduce fishing mortality rates in the study.

I would also suggest that this notion that we're being totally passive is incorrect. We took action in the Shrimp Committee this week to establish a moratorium on shrimp permits, and we are addressing in Shrimp Amendment 14 fractional licenses and various other things.

I would argue that we are taking steps to address effort in the shrimp fishery, but we can't just ignore the reality of the projections that we have, and the current red snapper stock assessment model is relatively insensitive to changes in TAC.

We've been through this meeting after meeting and so you can reduce TAC a few million pounds and it has very little effect on the recovery on the stock. Now that may change when the new assessment is completed.

We have new information and data on a wide range of different topics. We're in a little bit of an awkward timing position right here, but the reality is that under the current stock assessment paradigm you can't rebuild this stock without addressing shrimp, which we're doing in Shrimp Amendment 13 and 14.

But I don't know how we can make reasonable projections into the future and not take into account the dynamics of the economic situation in the shrimp fishery. We've acknowledged that it's uncertain. It may not happen. I can't foresee into the future. We may be back to fifty cents a gallon gasoline two years from now. I can't rule that out.

But that's not what the current projection and the best science we have indicates is going to happen. I think what we've put together is reasonable, but we as a Council have acknowledged all along that there are great uncertainties here and that it's quite likely that we'll be back after the SEDAR process is completed and have to amend this rebuilding plan. We may be looking a very different stock assessment paradigm, I just don't know, but that's where we are right now.

**CHAIRMAN WALKER:** Thank you, Dr. Crabtree. Are there any other questions for Ms. Jenson? Thank you, Ms. Jenson. Mr. Chris Niquet.

**MR. CHRIS NIQUET:** My name is Chris Niquet. I'm from Panama City, Florida, and about the VMS on shrimp boats or can we talk about that?

**CHAIRMAN WALKER:** Wait just a minute. I've got you on red snapper, too. Let's finish red snapper first.

**MR. NIQUET:** Okay. Well, it's the same thing. Something with the ITQs and the TAC or the taking of the snapper in closed areas or closed seasons or by illegal gear. One of the ways is to get around this is to put VMS on all the longline and snapper boats or the Class 1 snapper boats that are currently fishing.

What this will do is you'll be able to real time tell where they're

fishing. If they're in a closed area, if they're inside the fifty fathom line, you can tell it 24/7. You don't have to put a jet on them. You don't have to photograph them. You don't have to prove it. All you've got to do is go out there and give them a ticket and arrest the captain.

Don't get the permit holder. He ain't running the boat. Get the captain. Something else you need to do is when someone has longline gear on the boat, if they're a longline fisherman, and they also hold a Class 1 snapper permit, either have them have no longline gear in the first ten days of the snapper season on the boat, so they can't longline fish; or, don't let them fish for snapper at all with longline gear.

I know it's illegal now, but if they don't have the gear on the boat, it's real hard to fish it. Just some suggestions for the Council that haven't come up before that need to be considered. Thank you.

**CHAIRMAN WALKER:** Thank you, Mr. Niquet. Are there any questions?

**MR. FISCHER:** The science indicates a lot of items toward the rebuilding of red snapper, and I think a consensus is stopping the longlining and stopping the buoy fishing inside of fifty fathoms is one of the key elements.

So, people going back into that fishing could devastate the fishery. Do you see in either your area or any area of the Gulf, do you hear about illegal longlining inside of fifty fathoms? Like, do you think it's something going on?

**MR. NIQUET:** No, sir, I know it is. I don't think, I know. Here's the reason I know. In every other animal or fish that's governed or that's provided their existence by the government, Council, or a rules committee, they work to preserve the breeding stock of this particular fish or animal.

Longline fishing and buoy fishing historically catches the breeding stock, anything from eight pounds up to thirty pounds, which is your breeding stock. You don't let them catch your breeding stock, you're going to have plenty of fish. It works with deer, squirrels, turkeys, and buffalos. It works with salmon. It works with speckled trout. Why won't it work with snapper?

**MR. FISCHER:** So you feel if this Council would work on an amendment that would make it illegal to possess red snapper and longline

or buoy gear simultaneous would solve some of the problem?

**MR. NIQUET:** I know it would. If they've got B- as it exists now, longline gear is the easiest and most efficient way to catch large numbers of large red snapper.

If the gear is not allowed to be on the boat during the first ten days of snapper season or if you're caught inside fifty fathoms fishing for whatever with longline gear, whether it be shark or grouper or whatever, you've eliminated the problem.

There's not a whole lot of red snapper outside of fifty fathoms. You've got a couple of places to the west of where they catch them in fifty-four or fifty-five fathoms on one or two ridges. Most of your fishery is inside fifty fathoms. If they can't have longline gear during the first ten days, you ain't going to have a longline problem.

If they're inside fifty fathoms fishing longline gear, I think the Coast Guard or whoever is in charge should stop and check them immediately because the only fish they can be in there west of the river fishing for with longline gear inside of fifty fathoms I think is shark. Is this correct or not? Can someone tell me?

**CHAIRMAN WALKER:** I think that's correct.

**MR. NIQUET:** Let's board them and check them. What's it going to hurt? It's part of their job. It's part of the enforcement. But it makes it a lot easier if you've got a longline boat and it's got VMS and you don't have to run out there and check it. You can just punch him up on the satellite and say, **A**My Lord, looky here, he's inside the line and let's go get him. @

You can even tell when they stop. You can tell how far they run. If they're running the longline gear, they've got to lay it out and they've got to run right back down the same line. You can tell when they're laying longline gear. I don't know why the Council hasn't thought of it or enforced it before, but it needs to be looked at and considered.

**CHAIRMAN WALKER:** Thank you, Mr. Niquet. Are you finished, Mr. Fischer?

**MR. FISCHER:** Yes, thank you very much.

**CHAIRMAN WALKER:** Mr. Niquet, we have one other question for you.

**DR. CLAVERIE:** Mr. Niquet, could you tell me your participation or interest in this fishery?

**MR. NIQUET:** Yes, sir. I have two Class 1 red snapper permits that I currently own, and I was in the red snapper fishery as a crewman several years ago.

I'm just interested in having the red snapper fishery continue as a viable entity without having the ITQ system gather up and bunch the production into the hands of a very few. Because, as anybody here knows it, you have no competition in a fishery or selling nails or rowboats or gasoline -- the price goes up, the product goes down. It's never failed to happen.

**CHAIRMAN WALKER:** Thank you, Mr. Niquet.

**DR. CRABTREE:** Thanks, Chris, I appreciate you being here. I just wanted to point out that we've heard the concerns about longliners hitting red snapper before and the concerns about them violating the fifty fathom gear boundary, and that's part of the reason why we did two things we've done this week.

One, when we were talking about longline endorsements in Amendment 18, which we tried to put on a faster track, one of the conditions of having a longline endorsement in that amendment would be that you would have to have VMS on board your boat, which would allow us to enforce the line.

And then, secondly, in the red snapper ITQ amendment, we added an alternative this week that would require anyone fishing under a red snapper ITQ coupon also to have a VMS on board the vessel.

So, if these all go through, anybody whose out there catching red snapper is going to have VMS on board, and that ought to allow us to police that gear boundary as you've suggested. I guess we have not considered an alternative to prohibit the take of red snapper with longline gear, but that's something we could come back to at some point if we wanted to.

**CHAIRMAN WALKER:** Thank you, Dr. Crabtree, and I'm sure you meant IFQ instead of ITQ.

**DR. CRABTREE:** I apologize for that, I certainly did.

**CHAIRMAN WALKER:** Mr. Niquet, we have one other question.

**MR. WILLIAMS:** Mr. Niquet, are you a bandit fisherman and a longliner both? Do you do both?

**MR. NIQUET:** No, I currently don't have a boat and don't fish on a boat. All I am is a permit holder. But my father, Buster, is a longline fisherman off of Panama City, and he has snapper fished off Louisiana before.

But what I'm trying to get across to the Council is if you're going to permit the taking of snapper by longline method, sooner or later somebody is going to find a spot offshore in deep water that nobody has found before, like this Rileys Lump off here where they catch the black snapper, and they're going to devastate the breeding population.

They've already found one off the river that's pretty good, and it's inside of fifty fathoms and they're catching big fish now. Why the lack of enforcement there, I have no idea, that's not my problem.

But I know this, if you continuously catch the breeding stock of any animal, the population will fall; and if you want the TAC to remain where it's at or go up, you've got to protect the breeding stock of the red snapper and the grouper, and the breeding stock is not the zero to fourteen, fifteen, sixteen inches. Your own studies will show you the breeding stock is the larger fish.

**CHAIRMAN WALKER:** Are there any other questions for Mr. Niquet? Thank you, Mr. Niquet. Ms. Marianne Cufone.

**MS. MARIANNE CUFONE:** Good morning, everybody. Thank you very much for the opportunity to address you. My name, for the record, is Marianne Cufone. I'm here on behalf of the Ocean Conservancy. We're a national non-profit organization with members throughout the United States.

First, I would like to wish our own Dr. Rick Leard a happy birthday on behalf of the environmental community attending today. Then I will move on to share our comments.

Most of you know we've been addressing red snapper issues for a number of years, and the comments that I'm about to make have been substantially addressed a number of times in the past. There are a few new things that I would like to bring up, but I'm feeling the need to reiterate some of the main points that I've made in the past through letters and public testimony regarding Amendment 22.

Hopefully, if I have a few minutes afterwards, I would also then like to briefly address some of the comments just made by Dr. Crabtree on behalf of both GRN and the Ocean Conservancy as a member group of GRN.

A number of groups got together last year, some of you might remember, to talk to NMFS about going forward with a red snapper management plan, and we are very grateful and appreciative that National Marine Fisheries Service addressed our concerns and moved forward with trying to develop a red snapper rebuilding plan, the results being Amendment 22.

Unfortunately, Amendment 22 as written doesn't really adequately address red snapper management, in our opinion. There's a number of factors that impact red snapper, and unfortunately many of those are noticeably absent in this current plan. In particular, the ones that are incredibly disturbing are commercial and recreational directed reef fish bycatch.

The document brushes this off to Amendment 18, which we now know is going to be again delayed. Also, other than a predicted downturn in the shrimp fishery, essentially shrimp trawl bycatch isn't addressed in this amendment. I understand that is being covered by Amendments 13 and 14, depending on which aspect you're discussing, but we know those, again, are being delayed and aren't likely to be done in the very near future.

I attended SEDAR and found that there was a number of new things coming to light, in particular that there's new information on the ability or lack thereof of bycatch reduction devices. Now we're understanding that there's an 11.7 percent reduction, not 40 percent reduction like we originally thought.

The disturbing part is that a number of management decisions in the past had been based on the predicted usefulness of bycatch reduction devices and reducing red snapper, and it's just not happening. I find that to be a difficult issue, and it seems that we're moving towards that again with reviewing the potential downturn in the shrimp fishery.

Also there's new information on regulatory discards that has come to light. My understanding is that we're supposed to use the best available science. Dr. Crabtree mentioned that in his comments to Jill Jenson. I find it slightly amusing that we're talking about best available science in this document when we

know that there's new information, it's not incorporated and yet we're going forward.

There is absolutely no pressing need to go forward with Amendment 22 right now. We've got new information coming out. The SEDAR process is halfway underway. By the time this amendment is actually finalized sometime in the near future, we're likely to have a whole bunch of new information and a different perspective on the fishery.

I would just remind everyone when that happened with red grouper, we stopped the regulations cold and went back and reviewed it. I would encourage you to do that again.

We've discussed relationships between vermilion snapper and red snapper. That's not in this document either. I guess basically my point is that comprehensive management is the key here for red snapper. There's just too many factors playing in to move forward with the plan as it is. It's a mere shell of what it could possibly be.

I would encourage you all to not approve this plan, to request that the missing information be incorporated and then move forward in the future with a comprehensive document that truly addresses red snapper management.

**CHAIRMAN WALKER:** Thank you, Ms. Cufone. Are there any questions?

**DR. CRABTREE:** So, Marianne, the environmental group's Ocean Conservancy's position apparently has changed since we had a meeting at a previous Council meeting, and I don't remember when it was.

**MS. CUFONE:** April.

**DR. CRABTREE:** But at that time, your position was that the Council had to move forward on a rebuilding plan.

**MS. CUFONE:** Yes, I would agree with that actually. We wanted a rebuilding plan for red snapper that incorporated all of the factors that are necessary to manage red snapper. Amendment 22 doesn't do that.

Amendment 22 is just simply, in my opinion, a framework to do actions at a later date perhaps through a regulatory action, and I don't think that's appropriate. Red snapper is too big of an issue to compartmentalize it in little tiny pieces and address it in

a fragmented manner.

It would be better if it moved forward in total, and I had hoped that the amendment that would be developed when we talked in April would be that amendment, but this is not that. So, yes, our opinion has changed.

**CHAIRMAN WALKER:** Are there any other questions? Thank you, Ms. Cufone. I have one last speaker, Mr. Buster Niquet, who wants to talk about ITQs in snapper.

**MS. CUFONE:** Bobbi, there should be one more card for Pam Baker somewhere.

**CHAIRMAN WALKER:** I'm sorry, Mr. Niquet, can we let Ms. Baker speak on snapper, and then I'll bring you back up? Ms. Pam Baker.

**MS. PAM BAKER:** Good morning. I'm Pam Baker with Environmental Defense. I have three recommendations today. First, we recommend that the rebuilding options, which are Section 4.2, be improved using accurate and up-to-date information.

The draft relies on BRDs achieving a 40 percent reduction in juvenile red snapper bycatch mortality, but we've learned that BRDs aren't performing nearly this well. The draft relies on 50 percent effort and bycatch reduction in the shrimp fishery through at least the year 2031.

The economic analysis shows a drop in effort reaching a maximum of 39 percent in 2012; and then immediately beginning a slow climb back up. This is a cycle that we've seen in the shrimp fishery throughout its history.

However, an analysis of the rebuilding plan, page 49 tables, applies this 50 percent reduction each year from the years 2006 through 2049. This fails to account for the cycles in effort predicted in the economic analysis.

Taking into account these cycles would give us really a more reasonable prediction into the future, rather than holding this effort constant, which we have not seen throughout the history.

We have also learned that new logbook data from commercial fishermen, that commercial fishermen are throwing back 2.1 million pounds of snapper each year and recreational discards have increased by 58 percent since 1998. New research also shows that the discard mortality rates are significantly higher than

anticipated.

Accurate estimates of juvenile red snapper bycatch mortality, long-term shrimping effort, and directed fishery bycatch are absolutely essential elements of a defensible red snapper rebuilding plan. Approval of a plan flawed from the start may waste time and slow needed improvements in the red snapper and shrimp fisheries.

My second recommendation, we recommend that the Council develop a comprehensive strategy to control shrimp effort over the long term, starting with a vessel permit moratorium. Regardless of the precise status of red snapper, excess effort in the shrimp fishery should be reduced to benefit the industry and cut bycatch.

Today's record low shrimp prices and high fuel prices are projected to reduce effort over the coming several years. But without effort control, vessels, which are measured as FTUV's in the analysis, will reenter the fishery and dissipate economic and conservation benefits.

Adding a vessel permit moratorium to Amendment 13 and speeding that amendment, as suggested yesterday in the Shrimp Committee, is a good idea that I hope you will approve. The Council should also set up an ad hoc shrimp advisory panel that focuses exclusively on effort reduction for the long term in the shrimp fishery.

The third recommendation, we recommend that the Council move as fast as possible on its red snapper IFQ planning and reduce or eliminate the minimum size limit when that happens to minimize mortality from regulatory discards.

New data and studies have begun to quantify the waste caused by derby regulations. Reef fish logbooks show 2.1 million pounds of undersized and out-of-season red snapper thrown overboard, and research shows a mortality of about 69 percent on those fish. That's about 1.4 million pounds of dead red snapper; and if you take that back during derby regulations, you're looking at fourteen million pounds over the past ten years.

The draft amendment recognizes the growing discard problem and the key role for IFQs in solving the problem. Thus, the Council should move quickly and stick to the schedule which anticipates final approval of an IFQ plan in March.

I think having a good red snapper IFQ plan will also help provide

options to head off derbies, which appear to be developing in the grouper and vermilion snapper fisheries. I'll turn in my letter, which provides some more details on these comments, and has been signed by Environmental Defense; Captain Jeff Noel, who is a shrimper in Rockport, Texas; Donnie Waters; David Walker; and Wayne Werner. Thank you.

**CHAIRMAN WALKER:** Thank you, Ms. Baker. Are there any questions for Ms. Baker? Mr. Buster Niquet, I apologize for the delay.

**MR. BUSTER NIQUET:** Buster Niquet, Panama City, Florida. I've got two Class 1 permits, and I also own a longline fishing vessel which currently fishes for grouper and doesn't catch snapper at all.

Like many of the other fishermen in the red snapper fishery, I'm unhappy with the present situation. Perhaps the IFQ or ITQ system would be better. I would like to have a clear understanding that the poundage shares are the properties of the permit owners, and these shares will be sent to the permit owners each season.

To clarify, I have these red snapper Class 1 permits leased out to other fishermen. Since leasing them, I have no way of knowing if these permits were renewed or if any landings were credited to them. Mr. Steele told me I could call down there to the St. Petersburg office and find out that, but I don't even know if I still own the permits.

These permits are issued to other boats without me having any control in case the permits are not renewed. I would like that changed. I also don't think on the IFQs that the captains and crew members should have shares in this program.

At present, most of the crews on the boats are at best temporary and subject to change without any notice on every trip. Perhaps in the future they could purchase poundage coupons so as to have bargaining power, but not at present.

On the initial allocation of these poundage shares, I think it would solve a lot of uncertainty to stick with the poundage figures that were used in this referendum to decide if we were going to have IFQs or not. Let's not clutter up the staff with a lot more research.

If not, give the Class 2 holders 7 percent of the commercial TAC and split the remaining equally among the Class 1 permits. You

also have a clause in there of a requirement to have a documented landing of a hundred pounds of snapper per year in order to keep your permits.

A lot of times you'll have a boat on dry dock that won't fish for a year for some reason or other, rebuilding or repowering, and there was one at Panama City the other day that took two years before they could get it back in the water. I think Russell Underwood had one that was out of service for over a year, and it's happened several times.

We do have a problem. Chris brought up most of the things I was going to talk about with some longline boats snapper fishing, or catching snappers, and it will be easy enough to tell who they were without even doing much except just having a port sampler at the dock.

Anytime a boat comes in with 2,000 pounds of snappers that are all twelve, fifteen, to thirty pounds, you know he's not catching them on hook and line. I think Wayne Werner will back that up.

You just don't get that many big fish on rod and reels or on bandits usually; and when the same four or five boats do it every year, four or five openings, there's something bad wrong there. It needs checking into. It looks bad for the rest of the longliners, and it looks bad for the bandit fishermen also. That's all I have to say about that.

**CHAIRMAN WALKER:** Thank you, Mr. Niquet. Are there any questions? That concludes our public testimony, unless we've missed someone else. Is there anyone else that filled out a card and wanted to speak? Okay, we're moving on along then.

If you remember, we moved the vermilion public hearing draft document up to right after public testimony.

**MR. WILLIAMS:** Thank you, Madam Chair. The vermilion snapper portion of the reef fish amendment has been handed out separately so that we can proceed here. Just for your information, the vermilion snapper amendment is at Tab B, Number 5.

Stu Kennedy reviewed changes to Draft Amendment 23. An SEIS cover sheet, fishery impact statement, and executive summary have been added. The amendment will be sent to EPA for their forty-five day review ASAP so that their comments will be available for the July Council meeting.

The yield streams for the various rebuilding strategies and the

tables on pages 33 and 34 now have slightly lower values, which were revised by NOAA Fisheries, based on a more appropriate use of CPUE and harvest data, but are still based on a 25.5 percent reduction.

The effect is to reduce allowable harvest levels by about 10 percent. Consequently, in the Preferred Alternative 3 on page 34, the allowable harvest in 2004 has been reduced from 1.637 million pounds to 1.475 million pounds. Alternative 6 on page 35, which is the zero F alternative, has been moved to the considered but rejected section.

Shepherd Grimes recommended that the discussion be bolstered to explain why the Council chose to go with a ten-year rebuilding plan rather than a shorter plan, taking into account the factors in 305(e) (4).

Stu Kennedy continued that beginning on page 37 the background discussion has been simplified to include only the scenarios using 20 percent recreational and 33 percent commercial release mortalities.

On pages 45 and 46, only the recreational harvest alternatives for the Preferred Strategy 3 have been included in the discussion with the remaining alternatives being moved to considered but rejected.

The same action was taken for the commercial harvest alternatives beginning on page 51. These changes allow the RIR and the environmental consequences section to concentrate on a narrower range of alternatives.

Stu Kennedy also reviewed the Reef Fish SSC and AP comments on the amendment. The AP recommended equal 25.5 percent reductions for both commercial and recreational sectors based on current harvest proportions. The SSC did not have a quorum and only had biologists present, so they did not discuss the socioeconomic aspects

He noted that the SSC report at Tab B, Number 7, pages 1 and 2, included several recommendations to the Council to improve communication between Council and the SSC. Acting Chairman Roy Williams felt that these SSC recommendations went beyond the scope of Amendment 23 and should be reviewed by the full Council, and so I would hope we would come back and talk about those before the committee ends.

The committee recommends, without objection, that the SSC

recommendations on pages 1 and 2 of the SSC summary be deferred to the full Council; and since we're trying to expedite this, I guess I would recommend that we come back and deal with those later at this point. Are you acting chairman now, Julie?

**MS. MORRIS:** Yes, I'm the acting chairman. The real chairman is returning at this moment, though. So, this is not a motion?

**MR. WILLIAMS:** Well, no, it wasn't a motion. It was just a recommendation, and I had asked Steve to flag it so that we didn't miss it.

**MS. MORRIS:** So later in the day, when we do the full Reef Fish Committee report, you would like to **-B**

**MR. WILLIAMS:** I think we ought to come back and discuss it.

**MS. MORRIS:** But not discuss it now?

**MR. WILLIAMS:** Well, if we want to expedite this **-B** apparently there's a hurry to get this, so they're not really relevant just to this amendment.

**MS. MORRIS:** Then continue.

**MR. WILLIAMS:** Okay. Wayne Swingle noted that the amendment was missing references to the public hearing schedule. Stu Kennedy responded that it was an oversight and would be corrected. Robin Reichers asked if the tradeoffs of increased catches of species in the twenty-fish aggregate limit had been addressed due to redirection of effort.

Stu Kennedy responded that there was no analysis of the potential for increased landings, but there are few species other than red snapper associated with vermilion snapper trips. An average recreational harvest is only about two fish per trip. Thus, it is unlikely that removing vermilion snapper from the twenty-fish aggregate would be an incentive to increase harvest.

For the same reasons, he felt that the lane snapper and triggerfish, the remaining two species in the aggregate bag limit, would not increase in harvest.

**The committee recommends, without objection, and I so move that the Reef Fish Amendment 23 be sent forward to public hearings.**

**CHAIRMAN WALKER:** Thank you, Mr. Williams. We have a committee

motion. Is there any discussion?

**MR. WILLIAMS:** Well, I've been approached by several people, and Bob Zales brought it up again this morning, about the 33 percent recreational share that was inferred by Amendment 1, and their share has been reduced to 21 percent now and that they are unhappy with that.

I know there was a lot of AP discussion about it. There was objection even to the way we had **B-** some objection even to the way we had done our preferred alternatives, which made the commercial fishery take a slightly larger hit than the recreational fishery did, since it was the increase in commercial catch that generated this problem.

I'm wondering if there is any empathy on the Council to just leaving the recreational fishery as is, which was Alternative 1. That's not the preferred alternative, but I am having second thoughts about it.

**CHAIRMAN WALKER:** Mr. Williams, are you making a motion for that to be the preferred alternative?

**MR. WILLIAMS:** Not yet, but I think it would be appropriate to have some discussion on it.

**MS. BELL:** From my understanding, Roy, you just said basically what I was thinking, that I don't see how any fishery is constantly going to maintain the same allocation. I mean, there are so many factors that affect it, be it the rulemaking that we have here or the market or just all those different things that impact it.

I know that there are fisheries where it's gone the opposite where the commercial fishery -- their share has decreased. I think dolphin is an example of that.

I just think it's kind of like just how things go, and so I don't see where for one side you're going to do one thing, and then I don't think you can correct it. I think it's just a part of the process.

**MR. REICHERS:** Well, Roy, I too am somewhat questioning where we ended up with this, because if you remember our discussion last time, we actually had, I believe, Alternative 3B, and then we went to 3A basically because of the argument you just made and the argument that Mr. Zales made this morning.

I guess I'm prepared to go to public hearing with the preferred alternative that we have, but I believe we really should look at the public hearing comments regarding this option. While I agree with Ms. Bell and as we stated last time, these things will be ever changing.

But, if we're going to continue to reference the initial allocation, then we should also be making an attempt to keep that allocation in check as we see those changes through time.

By choosing Alternative 1, we would be leaving the opportunity to be closer to that original percentage. We don't really know where it would end up if we make these changes, but we could then revisit it after a couple of years. So, I guess I have some support for Alternative 1 as the option.

**DR. CLAVERIE:** I think that we ought to attempt to maintain the established ratio. The ratio is established when you start putting regulations on the fishery, and you can't always know what the regulations are going to accomplish until you have experience on it.

But in answer to Karen's thought, it seems to me that if you let one fishery take fish away from the other fishery through the regulations, that then the thrust becomes get rid of that gear; and by keeping it where it should be, you minimize that thrust.

**MR. BASCO:** Thank you, Madam Chair. I guess if a motion is in order, I would move that we just have no preferred alternative. **Instead of now we have Alternative 3A, I would move that we have no preferred alternatives on this particular section.**

**CHAIRMAN WALKER:** We have a motion to take the preferred alternative out of this section. Do we have a second?

**MR. SAUCIER:** Second.

**CHAIRMAN WALKER:** Is there any discussion on the motion?

**DR. CRABTREE:** Well, I think you ought to go out with a preferred alternative and my advice at this stage of the game -**B** I mean, I'm okay with it going out like it is and getting public comment on it, but I'm not sure I understand the logic behind going out with no preferred alternative.

I also think if you decide that you're going to take no action on

the recreational side, then that=s going to affect your choice of action on the commercial side because you=re still trying to get an overall level of reduction. I think you would probably have to go with more restrictive measures on the commercial side if you went down this path.

**CHAIRMAN WALKER:** Thank you, Dr. Crabtree. Is there anyone else that wants to speak to the motion? The motion is that the Council take the preferred alternative out of Amendment 23, Section 4.2.3.2, Recreational Harvest Reduction Alternatives.

**All in favor of the motion, please raise your hand; all opposed. I vote to take it out. All right, the motion carries that there will be no preferred alternative under 4.2.3.2 in Amendment 23.**

We=re back to the original motion, which is to send it for public hearings. Are there any further comments?

**MR. GRIMES:** My only question is, as I understand it, this document was to go as is and be rushed up so that it could be delivered to the EPA so you can bring the EPA=s comments back before you in July.

You=ve just voted to take something out of the document and I=m curious as to whether that=s going to prevent the document from being revised and sent out.

**CHAIRMAN WALKER:** Mr. Grimes, we have not voted to take anything out of the document. We have voted not to have a preferred alternative.

**MR. GRIMES:** Which will mean changing the document and taking your preferred indication out of the document.

**DR. CRABTREE:** I mean, it=s not like you just go to that alternative and remove the word **Apreferred@** because throughout the text of the document it refers to the preferred alternatives and it does greater analysis based on the preferred alternative.

It=s going to require going through the whole document and do it. I also, having read this document, I don=t think there=s a whole lot of discussion in here regarding allocation issues; and if you=re going to open the door on a major allocation adjustment, I believe that=s going to require quite a bit of revisions of the document in order to justify why you=re doing what you=re doing.

I can look back at this again, but I don't recall seeing a great deal of discussion in here. There's a few paragraphs that address what was said in, I guess, Amendment 1.

**CHAIRMAN WALKER:** Dr. Crabtree, I recall a great deal of discussion in the Reef Fish Committee meeting and maybe not at full Council.

**DR. CRABTREE:** I'm not talking about what was said in terms of discussion. I'm talking about text in the document to document the actions you're taking. But, it will require more than just removing the word "preferred" from that alternative; and how much it would delay us if we have to do this, I don't know.

**CHAIRMAN WALKER:** All right, Council, you've heard our counsel's opinion and Dr. Crabtree's opinion.

**MR. REICHERS:** I'll just respectfully disagree that it's going to take a lot of time to remove the preferred alternative. I think you can remove it from both the item and the discussion without using a lot of time.

I might also add that if you remember the discussion at the last Council meeting, there was a tremendous amount of discussion regarding this particular option and the possibility of readjusting those back towards the split which had been originally set or the percentages originally set.

I certainly believe that both staff and the IPT knew that this was a possibility and would have some of that language and thought processes working to quickly incorporate it.

It could have maybe been incorporated before we got the document this time, but it certainly should be able to be incorporated in a fairly quick manner if that's what is needed to go to public hearing. If not, it could be incorporated after that.

**EXECUTIVE DIRECTOR SWINGLE:** Madam Chair, I guess in the Amendment 1 it creates a framework procedure for setting TAC through regulatory amendments, and that framework procedure does indicate that if a regulatory amendment is prepared, then you would use the allocation ratios in Table 8.1 for that purpose.

Now this started off as a regulatory amendment, but because of the complexity of the document, it has become a plan amendment. So, that procedure does not really necessarily apply; and even when it did apply, the Council had alternatives to change the allocation ratio, and there are some thoughts in it that the

NMFS came back and revised all the MRFSS data, except they couldn't do that for 1979 and 1980, and so that is still specified as part of the time period that would be used.

I think I brought this up before, but I wanted to make you aware that it does not necessarily apply to a plan amendment, and we have an example of the reverse allocation in that initially greater amberjack were taken more extensively by the commercial sector than the recreational sector, something on the order of a 65/35 ratio, and that essentially reversed itself over time, and we avoided that issue in the rebuilding plan for greater amberjack because of that problem.

**MR. GRIMES:** I would just like to indicate, I guess in response to Mr. Reichers and sort of for the record, that there was discussion at the last Council meeting, I believe it was, when Amendment 1 came up and this sort of implicit allocation ratio and how you dealt with it.

Thank you, Mr. Swingle, for reading that. We had discussed this at some length last time. The only discussion of any sort of reallocation, if you will, that came up led Mr. Roy Williams to change the alternatives that were in there that your staff, Stu Kennedy, went back and incorporated and made somewhat of a change to shift things back over.

The IP listened to what the Council said. It made these changes in it and now you're talking about going back and making greater changes than you referred to before, so it's not like people aren't listening the Council. It's that the Council is moving more that way.

I would like to just remind you, like I said before, by doing this, more than likely you just lost your chance to get EPA's comments back and do this at the July meeting. This is pushing you closer and closer to that one-year time line you have, and just be aware of that.

**CHAIRMAN WALKER:** Mr. Grimes, for the Council's benefit, I think the one-year time line ends in October; is that correct?

**MR. GRIMES:** I believe so.

**MR. KENNEDY:** Yes, the time line ends at your September meeting actually, so you would have to do it by then. To this question of allocation -- and Shepherd was right in that we took what you specifically discussed, a change in percent harvest to reduce the recreational catch slightly less than 25 percent and then

make that difference up in the commercial catches, and the document reflects that.

If you go to Amendment 1, there are a lot of other changes that have to be made. The data that are in the table for Amendment 1, I think it=s 8.2 or 8.1 or something like that, are no longer valid.

So, there would have to be a complete discussion of how that came about and what impacts new numbers would be. The current numbers of 79 and 80 are no longer valid at all. They don=t even occur in MRFSS anymore. So, there have been a lot of changes since the 1981 time frame -- or 1989 time frame, excuse me, when that amendment was put in place. That will change this document substantially if indeed you go that direction.

**CHAIRMAN WALKER:** Mr. Kennedy, let me ask you a question before I recognize anyone else. The Council has not chosen that alternative nor any alternative. This is for a public hearing document. The Council has just chosen not to have a preferred alternative. Do you see that affecting the timing associated with having that document ready to go to EPA?

**MR. KENNEDY:** By itself, I think we would miss by a week or so to put this in the Federal Register and the forty-five day period. I think we would get the EPA comments back a week or two after the July meeting, which would still give you time to finalize this and put it in the September meeting. So from that point of view, it could be done.

You=re getting very close to the end of the process because at that point September is your last chance to do something. I guess my concern is only that the gist of the conversation you have, whether it should move further towards the Amendment 1 allocations, if that=s the case, that will cause a significant delay. So we can probably -**B** I think the IPT can probably make the deadline for getting it to the EPA in time for the September meeting.

**MS. MORRIS:** I was on the losing side of that vote and it was a very close vote, and it sounds like we=re getting lots of commentary from our professional colleagues about problems that this creates; and because it=s a hearing draft and because we=ll have a chance to incorporate the response from the public in our next revision of the document after the hearing, I just wanted to ask if anybody who was on the prevailing side of that vote would ask to reconsider.

**MR. WILLIAMS:** I have a question. Let's say that we did withdraw off the preferred motion and we voted to reconsider and then defeated it; and we get to the final hearing in July and there has been enough reversal of opinion that we want to then adopt Amendment 1 for the recreational fishery.

Can we do that or are we in effect saying, no, you can't do that because if you're going to do that, you're going to have to make all these other changes in the commercial fishery? Is Alternative 1 then sort of a phony alternative? Is it not anything that we could adopt at the final hearing? That's kind of what I'm getting a read here, I don't know.

**CHAIRMAN WALKER:** Mr. Williams, I'm going to give you my interpretation and then ask Mr. Grimes if it's correct. Any choice, any alternative that is in an FMP, I think the Council can build a record to support that choice. I don't think that the Council is forced to go by a preferred alternative, are they, Mr. Grimes?

**MR. GRIMES:** No, you can certainly change your preferred alternatives. You can add new alternatives. It's going to depend a lot on public comment. It's really also a matter of degree. If you all of a sudden change and go 180 degrees in direction, potentially you may have to go back to draft stage before you would go directly.

But that's more of a draft EIS versus FEIS concern than it is a Magnuson Act. Don't forget, because this is an EIS, this is the document you're sending to EPA for review, too. It's not just going to public hearings.

**CHAIRMAN WALKER:** Answer my question, can we -**B**

**MR. GRIMES:** I said, yes, you can change preferred alternatives. That was the first thing I said.

**CHAIRMAN WALKER:** Thank you very much.

**DR. CRABTREE:** Just a couple of things. One, based on what I'm hearing from my staff, the goal is to file this on Friday and this is Wednesday. I mean, we're talking a very tight time line to file with EPA in terms of making revisions to an FEIS.

Secondly, if you come back in July and you want to make some real

changes in it that are going to make significant adjustments in the allocation, they're going to have to beef up this document considerably to justify doing that, because in my view there's not enough discussion in here right now that addresses all the concerns, all the things Wayne read, the uncertainties in the data, the economic effects of it, and why you're doing all that.

So it's going to require some strengthening of the document. Now don't mistake what I'm saying. I'm not disputing that there are some allocation issues here and there are some trends that have shifted allocations over the last decade. I think that's clear from it.

The Council is within its purview to look at allocation issues. I think kind of the bind we're in now is that we're in a rebuilding plan that has statutorily required deadlines, and we're trying to not just rebuild a stock, but we're trying to make allocation decisions on it, and we're running into a problem because allocation issues are going to be difficult and controversial.

There are going to be a lot of different opinions on it, and it may prove difficult to deal with those within the time frame that we have left right now. I just want you to be aware with that. I'm not telling you that you don't need to adjust allocation issues. You're going to have to deal with these, but there's some difficulties with trying to do it in a rebuilding plan is all.

**CHAIRMAN WALKER:** And, Dr. Crabtree, this Council is very aware of time lines, and we did act on the red grouper amendment on time, and I don't think it's still been acted on by the agency officially.

**MR. REICHERS:** Well, I'm still having a little confusion. If Alternative 1 is the status quo option and we have enough discussion about the status quo option in the current paper without preferred being beside it or not, and we have enough discussion to send it to EPA in its current form as that being one of the options we could choose, how by removing preferred we then don't have enough discussion about status quo options and can't send it to EPA by Friday.

If the status quo is truly an option, which is Roy's question, is status quo truly an option and if it's not, we certainly shouldn't be sending it to public hearing as it being one of the options.

**MR. KENNEDY:** Status quo option is required in all of these cases because it is the basis from which you make changes, and so all

of the analyses are based on what status quo would be and then what happens or what changes based on status quo.

But in all these cases, with the rebuilding plan or the harvest reduction, status quo is written as not a viable alternative. So, if you choose to take that one, it requires changing a lot of text to account for that.

**MS. MORRIS:** In addition, Mr. Reichers, if we choose the no action or status quo alternative for recreational harvest, we have to choose something different than our current choice on the commercial side in order to have the rebuilding plan make sense.

**MR. BASCO:** Thank you, Madam Chairman. Roy, you said that your staff is planning on taking this to EPA on Friday, this coming Friday?

**DR. CRABTREE:** Yes.

**MR. BASCO:** Then, Stu, what length of time, how much time -- when could we have the preferred taken out and the proper language done? What day could that happen, what week?

**MR. KENNEDY:** Again, I think it would take longer than between now and Friday. I think it would take -- to make sure we got everything right, it would take at least through next week sometime or beyond to just take it out. That's step one of the process. What that would do would mean that you would not have the EPA comments by the July meeting. They would occur at minimum a week or two after that time.

**MR. HEATH:** As much as I hate to do this -- and I wish the Council had made all this comment during discussion of the motion. From the confusion that I see happening and in my own mind at this point, I think we need to reconsider the motion. So moved.

**CHAIRMAN WALKER:** Mr. Heath is making a motion to reconsider the motion. Do we have a second?

**MS. MORRIS:** Second.

**CHAIRMAN WALKER:** And we have a second. I've got two others on the list that I need to recognize.

**DR. CRABTREE:** I just want to illustrate the changes when you talk about the status quo, and this is basically the analysis that's in the recreational management measures section for status quo. It says Status Quo, Alternative 1, No Action, **A**These management

measures will not reduce the vermilion snapper fishing mortality rate. As a result, stock biomass and harvest would continue to decrease. Directed fishing effort would likely be reduced as vermilion snapper become more difficult to find, and it goes on and on.

That's the kind of thing if you come back and decide, well, we're going to select status quo, well, we've got all this language in here that's saying status quo is not going to do the job, so all that would have to be revised.

That will spill over into all the commercial sector things to try and show how we're going to make actions over here, and that's why I'm saying it would have to be significantly strengthened because as it's written, it just isn't going in that way, and it would take a lot more discussion in here and changes in the document to explain all those kinds of things.

I mean, that's just the way it's written at this time because it's written heading towards that the preferred alternatives are likely what's going to happen.

**CHAIRMAN WALKER:** And, Dr. Crabtree, for clarification and Mr. Williams' concern, should this Council decide that status quo is appropriate for the recreational sector, they could build that record after public hearings and choose that option. They're not deprived from choosing that option.

**DR. CRABTREE:** Yes, they could. All I'm saying is it's going to require some significant changes in the document and bolstering of the arguments for why we're going the way we're going. I'm not saying you can't do it.

I just want people to understand that it requires some real changes in the written document. We don't want to try and do something, and what I don't want to happen is I don't want anything coming to me and then I'm stuck in a problem where I can't approve something because it's not supported by the written record, and that's what I don't want to have happen.

**MR. FISCHER:** Madam Chairman, Dr. Crabtree answered my question. It's what you asked him about after going to public testimony and depending on what we hear from the public, if we could change it and how we would have to support it, so, in essence, he answered the question. Thank you.

**CHAIRMAN WALKER:** Thank you, Mr. Fischer. Is everyone ready to vote? The motion is to reconsider the motion that the Council

take the preferred alternative out of Amendment 23, Section 4.2.3.2, Recreational Harvest Reduction Alternatives. Mr. Claverie has a question.

**DR. CLAVERIE:** Is it to take the preferred status out or to take the alternative itself out?

**CHAIRMAN WALKER:** This motion is just to reconsider that motion.

**DR. CLAVERIE:** What was the motion?

**CHAIRMAN WALKER:** The motion was to take the preferred off of the alternative.

**DR. CLAVERIE:** Okay, but not to take the preferred alternative out of the amendment, because that=s what this says.

**CHAIRMAN WALKER:** Yes, it does, I agree with Mr. Claverie. Mr. Heath, we need to work on this motion a little. To reconsider the motion that the Council take the preferred off of the alternative -- all right, here=s the motion.

**I=m going to read it one more time: to reconsider the motion that the Council take the preferred off of the alternative out of Amendment 23, Section 4.2.3.2, Recreational Harvest Reduction Alternatives.**

**That=s better. All those in favor of the motion, please raise your hand; all those opposed. The motion carries.**

Somebody help me here. I think we go back now to the original motion, which was to send the original document out for public hearings.

**We=re back to the motion that Mr. Basco made to remove the Apreferred@ from any of the alternatives addressing the recreational harvest reduction alternatives in 4.2.3.2. All of those Council members in support of removing the Apreferred@ off of the alternatives out of Amendment 23, Section 4.2.3.2, Recreational Harvest Reduction Alternatives, please raise your hand. That=s four. All those opposed. That=s nine The motion fails.**

Now we=re back to the original motion, which is to send this Amendment 23 to public hearing as written. **Is there any further discussion? All those in support of sending this draft out for public hearing, please raise your hand; all those opposed please**

**raise your hand. The vote is 11 to 2. It carries to send it out for public hearing.**

Now the next thing we had on the agenda was Report of National Mercury Working Group that Columbus Brown was supposed to give to us and Columbus is not here. I apologize for not letting you know that earlier when we started amending the agenda this morning. We=re going to take that off of the agenda. We=re going to take a ten-minute break and please come back and we=ll start with Habitat Protection Committee. Thank you.

(Whereupon, a recess was taken)

**CHAIRMAN WALKER:** If Council members will take their seats, we=ll reconvene. Thank you, Council members. We=ll proceed with the agenda and the next item is Habitat Protection.

**MS. MORRIS:** Thank you, Madam Chairman. If you turn to Tab J, you have the background materials for the Habitat Committee. The Habitat Protection Committee met on Monday morning to discuss the items under Tab J.

The first item was a presentation on the potential impacts of liquefied natural gas facilities on fish stocks in the Gulf of Mexico. Mr. Miles Croome stated that the demand for liquefied natural gas was increasing.

To meet this demand, fifteen new LNGs are proposed for the Gulf of Mexico. One LNG currently exists in Lake Charles, Louisiana. Nine of the proposed facilities are closed-loop systems that would not impact fishery resources, but six proposed facilities would each circulate approximately 100 to 200 million gallons of water per day to heat the liquefied natural gas back to its gaseous phase.

Each facility would impact billions of fish eggs, larvae, and plankton each year. All fish eggs and larvae are assumed to be killed after passing through these systems. NOAA Fisheries is concerned about the potential impact of these facilities on fish populations in the Gulf of Mexico.

One facility at Sabine Pass, Texas, would filter 30 percent of the water in Sabine Lake each year. EPA has required the power-generating industry to use closed-loop systems to mitigate impacts on aquatic biota.

**A motion was passed and on behalf of the committee I so move that the Council believes LNG open-loop systems will adversely affect the biota of the Gulf of Mexico and the recreational and**

commercial fishing industries that depend on this biota. Therefore, the Council opposes the use of open-loop LNG systems in the Gulf of Mexico and recommends the use of closed-loop systems in inshore, near shore, and offshore locations.

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion?

**MR. WILLIAMS:** Is this the motion as modified? Julie was to have modified it. This is the fixed up motion? Okay.

**CHAIRMAN WALKER:** Is there any further discussion on the motion?

**MS. MORRIS:** Madam Chairman, just that we hope that the Coast Guard will be taking special note of this part of the Habitat Committee report, because I guess they will be the permit issuers for these LNG facilities in the Gulf of Mexico.

**CHAIRMAN WALKER:** The motion is that the Council believes LNG open-loop systems will adversely affect the biota of the Gulf of Mexico and the recreational and commercial fishing industries that depend on this biota. Therefore, the Council opposes the use of open-loop LNG systems in the Gulf of Mexico and recommends the use of closed-loop systems in inshore, near shore, and offshore locations.

**Is there any objection to the motion? Is there anyone that wants to abstain from the motion? Mr. Claverie abstains. The motion carries.**

**MS. MORRIS:** The HPC would also like to endorse the National Marine Fisheries Service recommendation to appropriate federal agencies of requiring closed-loop systems.

The next item on the agenda was Council participation in the Southeast Aquatic Resource Partnership (SARP). Mr. Jeff Rester stated that the SARP is comprised of thirteen state resource agencies, the Fish and Wildlife Service, NOAA Fisheries, the coastal commissions and Councils, and other NGOs.

The mission of the SARP is to protect, conserve, and restore aquatic resources, including habitats throughout the Southeastern United States. Mr. Rester stated that he attended the SARP meeting last week to decide on a management structure for the partnership, establish a SARP advisory panel, and make decisions on questions related to non-profit status, review and discuss ongoing initiatives, review and discuss workgroup activities, make changes to and address finalizing the SARP plan, discuss new project proposals and initiatives and determine the partnership's next steps.

Mr. Rester stated that the Council needed to decide if they would like to send someone to these meetings on a regular basis. NOAA General Counsel raised a question about the memorandum of understanding that the Council signed in March. The South Atlantic Council also had concerns about staff time involved in participating in SARP.

The Habitat Protection Committee asked NOAA General Counsel to prepare a memo identifying their concerns over the MOU and the Council should investigate the concerns of the South Atlantic Council regarding staff time and report back at a later date. Until these questions were answered, the Council would not participate in any additional SARP meetings. Next on the agenda was Mr. Rester's review of the Kemps **B-**

**DR. CLAVERIE:** Can I comment on this because actually it would seem to me the Council would have to approve not sending anyone to these meetings. That's an action that's taken.

We say until these questions were answered the Council would not participate in any additional SARP meetings, and there's one scheduled, as I recall, and for us to not send someone, it would seem to me it would take Council action rather than just a committee decision.

**MS. MORRIS:** Actually, the request was for the Council to take an action to pay to the expenses of sending someone to the meeting; and because of the confusion caused by the General Counsel's concerns and these concerns conveyed to us from the South Atlantic, the committee thought it was best to have a time out until those things could get resolved before we paid for a representative to attend. I don't agree with Mau, I don't think it requires Council action.

**DR. CLAVERIE:** Well, to that point, if I may. We are the only NMFS/NOAA entity that has signed on this agreement. At the time we went to sign, there was a signature line for the head of NMFS and some other Councils, and it was our understanding that they would sign.

Well, they didn't because of these issues that were raised from the legal point about some of the language of the agreement that should be changed, and then it would be okay to join. One of the alternatives we could have done is withdrawn from it, which didn't even get off the ground, that idea.

But what bothers me is if we are a signature to this agreement, the reason the South Atlantic Council is not participating, has not signed, is because they think it would take too much of their staff time.

If we don=t send anyone or don=t communicate or take some affirmative action, it may be that in abstentia we will be volunteered to do something for this organization or MOU or whatever it is that we might not like.

So to prevent that, either we need to send somebody to say, no, we can=t or we need to communicate with them in some way to say that we have a problem, and we can=t participate until things get straight. I think we can=t just let it lie because we might get volunteered.

**CHAIRMAN WALKER:** I think I agree with you, Mr. Claverie.

**DR. CLAVERIE:** I just don=t know what motion to make to do what. I mean, is it something that we can just instruct staff to send a letter saying we can=t participate until we get further -B or something. What can we do?

**CHAIRMAN WALKER:** How would the Council feel about approving by consensus staff writing a letter outlining the concerns from the Habitat Committee and just saying that we would not participate in any additional SARP meetings until we have the legal questions answered from the National Marine Fisheries Service, and hopefully we could just do this by consensus.

Is there any objection? Hearing no objection, staff will write that letter. Thank you, Mr. Claverie.

**MR. SIMPSON:** Madam Chairman and Council, you haven=t lost any communication since Doug Fruge is basically doing the executive director activities on this. We are signators. States are signators, and you can get a comment and communication back on what=s going on.

**CHAIRMAN WALKER:** Thank you, Mr. Simpson.

**MS. MORRIS:** Next on the agenda was Mr. Rester=s review of the Kemps Ridley stakeholders meeting that he attended in April. Stakeholders discussed issues and concerns related to revising the 1992 Kemps Ridley recovery plan.

In 2001, NOAA Fisheries and Fish and Wildlife Service initiated

the third plan revision. Mr. Rester stated that a recovery team consisting of species experts was established to draft the revision. Mr. Rester reported that the recovery team was seeking input on the work they had accomplished so far and issues that the stakeholders felt were important.

The stakeholders present felt the most important issue was continuing funding for nesting beach protection in Mexico. Funding for nesting beach protection in Rancho Nuevo, Mexico, was dropped in 2004 from the U.S. Fish and Wildlife Service budget.

After an outcry from several organizations, including the Texas Parks and Wildlife Department, Texas Shrimp Association, and the Gulf States Marine Fisheries Commission, funding was made available for 2004 nesting beach activities.

Mr. Rester stated that in order to avoid this again, the stakeholders felt that nesting beach funding should be a line item in the congressional budget each year.

Under Other Business, Mr. Swingle reported on the next steps that needed to be taken with the essential fish habitat EIS. He stated that the essential fish habitat EIS would be filed in June with a record of decision in July. The preferred alternatives need to be implemented in a generic EFH fishery management plan amendment by December of 2005.

Mr. Swingle reported that Council staff met with NOAA Fisheries and MRAG Americas staff to discuss MRAG Americas drafting a public hearing draft amendment for September and a second draft for November.

After a discussion of the inability of Council staff and National Marine Fisheries Service Regional Office to prepare the generic amendment, it was agreed that MRAG Americas would be better suited to draft the amendment since they drafted the EFH EIS.

**A motion was passed and on behalf of the committee, I so move that the Habitat Protection Committee recommends that Council staff proceed to negotiate a contract with MRAG Americas to accomplish a generic essential fish habitat amendment to all fishery management plans and negotiate a reasonable contract fee for such, not to exceed \$100,000.**

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion?

**MR. FISCHER:** Thank you, Madam Chair. Is this proper procedure through time that we find an entity that we want them to be the

sole person to do the work, and then in a motion state a ceiling price of what we=are willing to pay them?

I know if you approached my charter operation and said we want to take you positively and we=are not paying over \$5,000, I guarantee my price will be \$4,999. I don=t know if that=s the way you approach a contract in negotiations and stating up front the maximum you=are going to pay.

**CHAIRMAN WALKER:** Thank you, Mr. Fischer. Mr. Grimes, would you like to help us with that?

**MR. GRIMES:** I really don=t know how to respond to that, I guess. There=s certainly some validity to what he=s saying, but my understanding is that Mr. Swingle is to go in and negotiate what he considers to be a fair price once he has a better picture of the amount of work required; and that if it turns out to be a lot of work and this is going to be above \$100,000, then he cannot do it without coming back before this Council. But as your executive director, he will go in there and negotiate and get you the best price possible.

**CHAIRMAN WALKER:** Okay, and, Wayne, then my question to you is, one, the scope of work will be outlined. Do we have an hourly rate that MRAG Americas has generally charged us on this type of work?

**EXECUTIVE DIRECTOR SWINGLE:** Yes, we do and theirs is a cost- type contract, so they have to complete the work and bill us at that hourly rate for the cost. The costs were hourly rates for I think staff time, but there were certain activities, such as mapping, that were kind of job rates rather than an hourly rate. But this shouldn=t involve, I don=t think, much in the way of mapping other than we will need a map showing where the HAPCs are located.

**CHAIRMAN WALKER:** And do you feel after the scope of work has been defined, that you would adequately be able to determine a fair price?

**EXECUTIVE DIRECTOR SWINGLE:** Yes, and they=are working on the scope of work. Some of the questions they have is since this will eventually fall into the hands of an interdisciplinary planning team with NOAA/NMFS people is what, I guess, changes they would need to make to satisfy that, but a lot of that drafting would be done, I would guess, by the IPT as well.

I think we can certainly do that, but MRAG did express concerns

about knowing what NMFS/NOAA wanted them to do, and that was part of the reason they didn't give us a cost figure for this meeting.

**DR. CLAVERIE:** I agree with what Myron says, but one of the factors we're faced with is if it gets over a certain amount we have to go out to public bid, and this is half that amount, so that puts us in a safe situation there.

**MR. SIMPSON:** Thank you, Madam Chairman. I think Myron has got a good point. I think all that would be necessary to do to address his concerns is after **Aexceed@**, you could put something or words like **Anot to exceed** an initial amount that has been relayed to our executive director. If that amount is exceeded, then he would come back to the Council.@ Then you don't put a number there.

**CHAIRMAN WALKER:** Thank you, Mr. Simpson. Mr. Fischer, would you like to make that amendment to the committee motion?

**MR. FISCHER:** Well, it's already public record, and I was just pointing this out for the future. But, when we do draft a letter, I would hate to see this in the verbiage; therefore, I agree with Mr. Simpson.

I don't know a mechanism for the future if we discuss finance. We can't discuss finances in closed session. It's an awkward situation. That's all I was bringing forward is it's an awkward situation.

**However, I would like to make an amendment to the motion for a reasonable contract fee as discussed with our executive director and remove the phrase Anot to exceed \$100,000.@**

**CHAIRMAN WALKER:** Do we have a second? Mr. Thomassie seconds. The amended motion now reads that Council staff proceed to negotiate a contract with MRAG Americas to accomplish a generic EFH amendment to all fishery management plans and negotiate a reasonable contract fee as discussed with the executive director. Is there any opposition to the motion?

**DR. CLAVERIE:** It's not done. I mean, we have to vote on it, but a question to Shep is are we safe with this language in having not gone out for public bid?

**MR. GRIMES:** I'm actually not all that familiar with the process

for going out to public bid. There are others here who would know that better than I. But, there has been some sole-source justification set forth for this, so tentatively I would say it seems like you're fine.

**DR. CLAVERIE:** Well, to that point, somebody yesterday told us about the \$200,000, if it's over \$200,000 -- I don't remember who it was. I thought it was Shep and it might have been someone else.

**EXECUTIVE DIRECTOR SWINGLE:** No, that was me. Basically that is what we get from talking to the grants personnel in the cooperative programs section of NMFS, and the \$200K is about the top of it.

Regardless whether you do that or not, that's just not a cut-and-dried situation, though. You have to justify a sole-source contract and with rationale that you think would stand up to the scrutiny of an auditor.

**CHAIRMAN WALKER:** And, Mau, if you remember, we discussed the fact that MRAG Americas had done the EFH plan and they would probably **B-** it would take them less time to accomplish this work than it would going out for bid to try to find another company.

**DR. CLAVERIE:** Yes, that's why I was asking Shep. I assume our record is adequate for all of that, and including the fact that the price is supposed to be low enough where we don't really have to go the extra mile.

**CHAIRMAN WALKER:** My recollection was that this was discussed at the Habitat Committee meeting. Ms. Morris, is that correct?

**MS. MORRIS:** Yes, we did discuss it.

**CHAIRMAN WALKER:** Is there any further discussion on the amended motion? Well, the amendment is to replace **A**for such not to exceed \$100,000@ with **A**as discussed with the executive director@, so we've changed it.

**This is the amendment. Is there any further discussion on the amendment? Is there any opposition? Is there anybody that wants to abstain? The motion carries.** We go back to the original amended motion, committee motion.

**MR. WILLIAMS:** Why do we have to do this? I was not at the discussion so I didn't hear any of it. We've just filed the EFH amendment. Why are we now going and making all these changes?

**EXECUTIVE DIRECTOR SWINGLE:** Under the agreement with the plaintiffs in the AOC, which is American Oceans Campaign, which was a conglomerate of environmental groups, and Evans, we were required to first develop the EIS for our essential fish habitat amendment, and then, secondarily, as soon as that is completed, we are to come back with a generic plan amendment for all seven of our FMPs in which we would implement by rule those provisions that you adopted in the EIS.

These are largely gear restrictions that apply to coral reef areas, and I guess an establishment of some several HAPCs. But, that amendment would have to include that and go to public hearings and then you would have to approve it. Once that was done and NMFS implemented it, then that would be implemented by rules; whereas, the EIS was not binding at all in terms of rules.

**CHAIRMAN WALKER:** Mr. Williams, that answers your question. **The motion that we're voting on now is that the Council staff proceed to negotiate a contract with MRAG Americas to accomplish a generic EFH amendment to all fishery management plans and negotiate a reasonable contract fee as discussed with the executive director.**

**Is there any opposition to the motion? Is there anyone who wants to abstain? The motion carries.**

**MS. MORRIS:** That concludes the Habitat Committee report.

**CHAIRMAN WALKER:** Thank you, Ms. Morris. Next on the agenda is Reef Fish Management Committee.

**MR. WILLIAMS:** The agenda was adopted with the addition of a request from industry for an emergency action to establish a grouper trip limit. The minutes were approved with corrections on pages 30 and 45 by Shepherd Grimes.

In addition, the court reporter noted that he had been given written corrections by Wayne Swingle, but had not yet incorporated them into the minutes.

Dan Foster of NOAA Fisheries Harvesting Systems and Engineering Division gave a powerpoint presentation on the status of bycatch reduction device performance and research in the north, central, and western Gulf. The presentation reviewed performance of certified BRDs, the certification parameters, and ongoing research into BRD effects.

Observer studies from 1998 indicated that the fisheye BRD had a lower reduction rate when the fisheye was placed under the elephant ear versus ahead or behind the elephant ear. However, subsequent observer data in 2001 to 2003 showed less effective reductions in all three positions.

63 percent of vessels were still placing the fisheye under the elephant ear, even though that position was made illegal. Other factors affecting fisheye performance included bag length, bag circumference, codend net orientation, towing speed, haul-back characteristics, codend funnels, length of the elephant ear, and TED size.

Other BRD prototype designs which had been tested and met the criteria included Jones-Davis with a double hoop, a modified Jones-Davis, fish box, double-opposed fisheye, modified fisheye box, Hickman III.

Of these, the Jones-Davis with double hoop provided the greatest reduction in bycatch, and the fish box provided the lowest shrimp loss rate. Video was presented describing new technologies to observe fish behavior in trawls by using infrared LEDs to avoid alterations in fish behavior from using lights or daytime trawling.

Following the presentation, Bobbi Walker asked what input the industry has provided on improving TEDs. Should that be TEDs or BRDs?

**CHAIRMAN WALKER:** It was BRDs, Mr. Williams.

**MR. WILLIAMS:** Yes, on improving BRDs. Mr. Foster responded that there had been little input from industry to date. He felt that industry was still digesting the information. Bobbi Walker asked how random the selection and geographic distribution of vessels was for observer coverage.

Mr. Foster responded that the 2001 to 2003 program was as random as possible given the need for a vessel to have a safety certificate and space for the observer. Wayne Swingle asked if some of the changes in reduced effectiveness of the fisheye BRD was due to fishermen=s changes in haul-back procedures.

Mr. Foster responded affirmatively from some industry representatives, but not from others. Julie Morris asked what would be involved in getting new regulations to prohibit placing fisheye BRDs in the forward position.

Roy Crabtree responded that provided the placement criteria was not specified in a plan amendment, which would require an amendment to modify, changes could be implemented by NMFS with a proposed and final rule.

He added that he had discussed with NOAA Law Enforcement the need for enforcement officers to look at the BRD when boarding the vessels and that enforcement will start ticketing fishermen for illegal placement.

Lieutenant Montoro noted that in the Gulf of Mexico there are two types of fisheyes allowed: the Gulf fisheye and the fisheye, with slightly different specifications. This seems like an oversight and having two sets of specifications is confusing to enforcement and the fishermen. Roy Crabtree agreed that simplifying specifications would improve compliance.

I'm curious at this point. Do we know what it would take or do we have a better response to Ms. Morris's question as to what would be involved in prohibiting the fisheye BRD in the forward position? Has NMFS checked on that or is there any new information or it's the same. Okay.

**MR. STEVEN ATRAN:** I just wanted to mention that during committee somebody had asked if we could get a printout of this powerpoint presentation. We're going to put it in Council mail. We didn't have a chance to print it out for the Council meeting.

**CHAIRMAN WALKER:** Thank you, Mr. Atran, and Dr. Crabtree signified with a nod of his head that he did not have any further information.

**MR. WILLIAMS:** Moving on, Amendment 22 Red Snapper Rebuilding Plan, Stu Kennedy reviewed changes to Amendment 22 consisting mainly of expanded discussions on pages 24, 41, 44, and 140. He noted that on the tables on page 44, the designations in millions should actually be thousands.

He also reviewed the EPA comments, which he indicated were reasonable and would not prevent moving forward with the amendment and noted that the EPA gave Amendment 23 a lack of objection rating, which was very good.

Roy Crabtree noted that NOAA General Counsel had recommended a change to the wording of the Preferred Alternative 4 on page 59 in order to remove the phrase **A**contingent on NOAA Fisheries obtaining sufficient funding@ and replace it with wording to

make the proposed observer program a requirement when sufficient funding is obtained.

**The committee recommends without objection, and I so move that on page 59, Section 4.3.3.1.4, Alternative 4 Preferred be reworded as follows: Direct NOAA Fisheries to develop and manage an observer program for the reef fish fishery. NOAA Fisheries will develop a random selection procedure for determining vessels that will be required to carry observers in order to collect bycatch information.**

**In selecting vessels, the agency will consider the suitability of the vessel for such purpose and ensure that the universe of vessels included are representative of the statistical subzones in the Gulf.**

**Vessel permits will not be renewed for vessels that fail or refuse to carry observers in accordance with this process. The implementation of the observer program shall be initiated as soon as NOAA Fisheries obtains sufficient funding for the program. On behalf of the committee, I so move.**

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion?

**DR. CLAVERIE:** As before, I again think that the Council ought to be more intimately involved in this and that the appointed members of this Council from the participating fishers are on this Council to see that whatever happens is agreeable to the participants in the fishery or least burdensome on them or whatever, and by just saying that NOAA Fisheries will develop a random selection procedure without involving the Council in that as they do it defeats the purpose of having fishing representation on the Council. Thank you. I'm going to vote against it just for that reason.

**CHAIRMAN WALKER:** Mr. Claverie, instead of voting against it, would you amend the motion?

**DR. CLAVERIE:** Not really because to amend the motion would take a big to do, because basically it would say the Council must be involved, and there are probably other sections that would need to be amended and everything.

The purpose of this is really just to change the wording about funding, so I think it would be inappropriate, but I'm just going to vote against it because it has that provision in it that NMFS could do it on their own without Council participation.

**CHAIRMAN WALKER:** Thank you, Mr. Claverie. Is there anything further?

**MR. GRIMES:** I would just note that language is in the existing alternative in the amendment, and what Mr. Claverie is objecting to is nothing new.

**CHAIRMAN WALKER:** Is there any further discussion on the committee motion? **Other than Mr. Claverie, is there anyone that objects to the committee motion? Is there anyone who wishes to abstain? The motion carries.**

**MR. WILLIAMS:** With the change proposed in the previous motion, the committee passed the following recommendation: To forward the amendment to the Secretary for approval and implementation.

The committee recommends without objection, and I so move that the Reef Fish Amendment 22 be sent to the Secretary of Commerce.

**CHAIRMAN WALKER:** This motion is going to take a roll call vote. Is there any discussion prior to the vote?

**EXECUTIVE DIRECTOR SWINGLE:** Should the motion at the end add **A**to be sent to the Secretary of Commerce for implementation@ or **A**approval and implementation?@

**MR. WILLIAMS:** I would make that change that it reads: **The committee recommends without objection, and I so move that the Reef Fish Amendment 22 be sent to the Secretary of Commerce for approval and implementation.**

**CHAIRMAN WALKER:** Thank you, Mr. Williams.

**MS. BELL:** I wanted to ask Dr. Crabtree if he could comment on some of the environmental community=s concerns earlier about not sending this document forward. What are your thoughts on that?

**DR. CRABTREE:** Well, there were a lot of concerns raised about a number of issues by the environmental community. I mean, I think that we need to send this forward. We=ve been working on the red snapper rebuilding plan for years now and we=re required to get one in place, and so I think we need to proceed on that.

There were comments made relative to new data that is not incorporated into the rebuilding plan and the Council, all of us, are very aware that we have new data. We saw the report on

the observer study and BRD performance, and we were aware that particular study indicated performance below the targets and the certification trials that had been done.

We were aware that there is new information on release mortality rates that have been done over the past several years. We were aware that there is a longline survey that NOAA Fisheries has been conducting for the past several years.

We were aware that there has been an increase in observer coverage so that there is new information on the partitioning of age zero and age one red snapper among the bycatch.

We were aware that there has been an electronic logbook study that has been done, and that is going to have effects on the data that is going to be used for estimating the distribution of shrimp effort. I believe that there likely will be a new Bayesian methodology that will be used in the estimation of shrimp effort. So there is a great deal of new information that is available and the Council is aware of it. However, that information has not been through the Council review process yet, and it hasn't been integrated into a comprehensive assessment of the status of the stock.

That is undergoing and underway now, and we all are cognizant of the difficult position we are in that we are taking an action at the same time that a process is ongoing that may make substantive changes to the entire red snapper assessment paradigm.

I think the Council is moving forward based on the best information that we have that has been through our stock assessment review process and the SSC that we have used in the past.

But, we were aware that we will likely -- there is a very good probability that we will have to come back in after the SEDAR process has been completed and make adjustments as appropriate to it.

But I don't believe that there is any way that we can come in and choose one particular set of new information and not some other set of new information, and we don't have any way right now to know how all of these factors, when pulled in and integrated together, would affect the status of the stock.

There were issues raised that we were not adequately dealing with discards in the directed fishery. But as we have been through,

in the current or old stock assessment that we're still working out of, it's not particularly sensitive to harvest or discards in the directed fishery.

Now that may well change. We've got new estimates of discards. We didn't have the logbook reporting of discards when the last stock assessment was done, but we have that now. It's another source of new information.

So, I just think that it's clear that there is a lot of information out there, but we're having to take action now and we're taking it based on what has been reviewed and incorporated in the past stock assessment and what we have there, but we understand that we may have to come back and make changes to it.

There have been discussions that we ought to be doing a joint amendment to the red snapper and shrimp plans, and there's some logic to that, I'll grant you, and after we get through the SEDAR process, I guess we could consider whether it would make sense to do a joint red snapper and shrimp amendment.

But I think it's hard to say right now until we see what comes out of the new assessment. There were also concerns that we're not doing enough and that this is too passive, but there are a lot of things that we're doing. We are moving forward.

There was a statement that there was a delay in terms of the moratorium in shrimp, but, in fact, at this meeting we have accelerated the looking at a moratorium in the shrimp fishery, so we are moving forward to dealing with some of those problems.

There are actions in the red snapper amendment that would establish observer programs and other things. I think we're doing the best that we can. We're fully cognizant of the uncertainties in the new information, and I think that's where we are, and my view is that our best course of action now is to go ahead and approve the amendment and send it to the Secretary, recognizing that come 2005 that we very well may be back having to look at red snapper again once the assessment is completed.

**CHAIRMAN WALKER:** Thank you, Dr. Crabtree.

**DR. CLAVERIE:** Thank you. Roy, what you say is very convincing and compelling, plus what you said earlier today during public testimony, but my question is what is the timing involved? In other words, when would this amendment be implemented and when

would the results of a new assessment be available to be acted on? Just your guess of what the time frame would be.

**DR. CRABTREE:** Well, my guess is that all of those things are going to happen this fall, because once we go through the comment periods and all the like in terms of secretarial review, we're going to be into the fall, and SEDAR is scheduled to be completed sometime in October. I don't remember the specific date. So, a lot of things are going to happen with red snapper all at once in the fall.

**DR. CLAVERIE:** Well, if based on the new information it's decided that we have to make substantial changes to what this amendment does, how long would it take before those could be put into effect? In other words, how long would we be living with the wrong stuff?

**DR. CRABTREE:** If the SEDAR review is completed in October, and then I guess it would go to the SSC, it could potentially be presented, Wayne, in November at the November Council meeting?

**EXECUTIVE DIRECTOR SWINGLE:** Basically the last SEDAR workshop begins October 25, so I don't see you being able to even know what happened by your November meeting. It will be your January meeting before you have the documentation from the entire SEDAR process.

We had proposed at that time you would look under the regulatory framework for red snapper at whether there were actions you could propose through that regulatory amendment at that time to modify the current plan based on the new information.

If that is possible, then that would be an expedited process that we should have the final regulatory amendment at least by the March or May meetings.

**DR. CRABTREE:** So we would work on, if required, amending the plan in 2005?

**EXECUTIVE DIRECTOR SWINGLE:** Yes.

**CHAIRMAN WALKER:** Thank you. Is there any further discussion on the committee motion?

**MR. GRIMES:** I just wanted to comment in response to Ms. Bell and remind the Council of its legal obligation to have a rebuilding plan in place for this fishery and the need to move forward with this. Thank you.

**CHAIRMAN WALKER:** Is there any further discussion before Mr.

Swingle takes the roll call vote? Mr. Swingle.

**EXECUTIVE DIRECTOR SWINGLE:** Ms. Morris.

**MS. MORRIS:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Mr. Heath.

**MR. HEATH:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Mr. Basco.

**MR. BASCO:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Dr. Crabtree.

**DR. CRABTREE:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Mr. Fischer.

**MR. FISCHER:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Dr. Claverie.

**DR. CLAVERIE:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Mr. Saucier.

**MR. SAUCIER:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Mr. Thomassie.

**MR. THOMASSIE:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Mr. Reichers.

**MR. REICHERS:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Ms. Foote.

**MS. FOOTE:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Mr. Hendrix.

**MR. HENDRIX:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Ms. Bell.

**MS. BELL:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Ms. Walker.

**CHAIRMAN WALKER:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** Let the record show that Kay Williams, William Perret, and Jim Fensom were absent, so that would make it 14 **B-** I'm sorry, Roy, I missed you.

**MR. WILLIAMS:** Yes.

**EXECUTIVE DIRECTOR SWINGLE:** So that would make the record fourteen to zip with three absentees.

**CHAIRMAN WALKER:** Thank you, Mr. Swingle. **The motion carried fourteen to zero with three absent.**

**MR. WILLIAMS:** We've already done the next part, Amendment 23, so we'll continue on page 4, Hogfish and Goliath Grouper SEDAR Assessment Reviews. Mike Murphy of FMRI reviewed the reports from the hogfish and Goliath grouper SEDAR assessment review workshops.

Stu Kennedy summarized the Reef Fish AP and SSC recommendations. He noted that the AP recommended raising the hogfish minimum size to fourteen inches, and the SSC recommended that the hogfish assessment be redone as a joint effort with the Gulf, South Atlantic, and Florida. Roy Williams added that Jerry Ault had asked for additional funding from Florida to address the concerns raised about the hogfish assessment by the SEDAR review workshop.

Dennis O'Hern, Fishing Rights Alliance, noted that the diving sector support for a fourteen-inch hogfish minimum size limit was based on research done by McBride and Murphy at FMRI. The committee was in receipt of a letter from Captain Pat Kelly of the Florida Guides Association requesting a controlled harvest of Goliath grouper to determine their numbers and viability to harvest.

Roy Crabtree asked that the review workshop had weighed the benefits of getting age-structured data versus expanding the visual census. The workshop had not addressed that question, but Mike Murphy noted that there was a need to tie the relative values in the model to an absolute value for abundance.

Roy Williams suggested that NOAA Fisheries partner with dive organizations to improve data collection. Wayne Swingle responded that the Southeast Center is administering a

cooperative research program and it might be worthwhile to check with Nancy Thompson about using it to incorporate Goliath grouper research.

Tony Iarocci of the South Atlantic Council noted that stone crab and lobster fishermen are catching a lot of little Goliath groupers in their traps. He suggested putting scientists on trap boats to monitor the Goliath grouper catches and obtain biological information.

Roy Crabtree noted that any abundance estimates on Goliath grouper would have a lot of uncertainty associated with it. Stu Kennedy noted that the SEDAR review contained a list of seven research recommendations for Goliath grouper. He suggested that Council staff could review the recommendations and report back to Council with recommendations on putting together a group to determine how to proceed.

**By consensus, the committee recommends that staff be instructed to come up with non-destructive or destructive ways to collect the biological data necessary to manage the fishery. I guess I'll make that motion on behalf of the committee.**

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion?**MS. MORRIS:** Roy, it seems like Mike Murphy emphasized that there were non-destructive ways to gain data about the population, and he talked about tag recapture studies to estimate population size.

I don't know why are you including destructive ways to collect biological data? Why not just go with the non-destructive ways that were recommended by the SEDAR group if we can get the data that way?

**CHAIRMAN WALKER:** Ms. Morris, I recollect that there was discussion on age and growth that they were going to need actual fish to be able to do that.

**MS. MORRIS:** My recollection of Mike Murphy's response was that you could either do age and growth or you could do an estimated population size through tag and recapture and either type of data could be plugged into the model and give us -**B** it was like an either or. It wasn't that you had to do one instead of the other.

**CHAIRMAN WALKER:** Mr. Williams, did you have anything else you wanted to add?

**MR. WILLIAMS:** Well, what I recall was that there are requests, a lot of requests from fishermen to be able to do some controlled harvest, and the advantage of harvest is you can get information on age, which is critical to most of the assessments that we do.

We did discuss, however, if we had some kind of a tagging study, we would be able to estimate absolute abundance of the stock, what the population size was, say, above twenty-four inches if you had some kind of a tagging study where you worked cooperatively with dive clubs.

If we had that, then you would be in a position to then know how many fish you could allow to be killed in order to get that age information that=s necessary for most of the models that we use. You know, I don=t really recall what language that we used, but certainly destructive ways where the fish would have to be sacrificed is one of the ways that=s always suggested, and it would strengthen the analysis if you had that age information.

**CHAIRMAN WALKER:** Thank you, Mr. Williams.

**MS. BELL:** Julie, I think part of that was also that some of the fish that are coming up are already dead, and it was a means to take them into shore and get them to a research facility, and so I think it was just in there to reflect that also.

**CHAIRMAN WALKER:** Is there any further discussion? The motion is that staff be instructed to come up with non-destructive or destructive ways to collect the biological data necessary to manage the fishery.

**Is there any objection to the motion? Is there anyone that wants to abstain? The motion carries.**

**MR. WILLIAMS:** Stu Kennedy clarified that his suggestion was not for Council staff to develop the research ideas, but to put together a group of experts to do so. Roy Crabtree recommended that Clay Porch be included in any such group.

The committee discussed the Reef Fish AP=s request that the charter boat permit requirement be enforced. Dr. Crabtree noted that one problem with this requirement is that it needs to be enforced at sea.

Buster Niquet, Panama City, noted that with a ten-mile state boundary off the Florida Gulf coast, there was room to operate charter vessels in state waters where the federal permit is not required. Roy Williams suggested asking Dave McKinney about enforcement of this regulation.

**CHAIRMAN WALKER:** Thank you, Mr. Williams, and Mr. McKinney is here now, and we're going to ask him to address the Council on this issue.

**MR. DAVID MCKINNEY:** Thank you, Madam Chair. As I understood the initial question, it was concerning the use of uncertified charter vessels fishing primarily in the federal waters, and what was being done by enforcement in order to ensure that there was some level of enforcement that was at least looking at this issue.

What I can share with the Council at this point is that we clearly have been and are looking at this issue. We have five investigations currently underway and that have been underway for quite some time concerning charter vessels that have been illegally chartering in the Gulf of Mexico.

We have a number of companies that are currently being targeted. We are pulling together the registration of permitted charter vessels and are screening those against known companies that are currently chartering so that we are able to sort through vessels that appear to be operating illegally that are not on the permit list.

In addition, we're working very closely with our state counterparts, particularly in Florida, but not inclusive, Mississippi and Alabama as well, to inform them that we would like greater shoreside and on-water inspection.

I know that the Coast Guard has done a considerable amount of boardings when they can, but under the JEA program that we have with the states, the officers are acting as federal agents when they're in federal waters, and they can make those boardings as well.

**CHAIRMAN WALKER:** Mr. McKinney, is it factual that the enforcement has to take place at sea in the EEZ or can it be handled by the state when the boats return to the dock?

**MR. MCKINNEY:** Probably the answer to that is both. The reason is that if you make that boarding at sea, clearly, you're going to go through some sort of an inspection and investigation process, including the interview of the clients. However, we've made a number of cases, as have the states over the years, when the boats have returned to port doing basically the same thing.

You intercept the vessel when it comes to the dock and you interview

the passengers and you take the information from the navigation systems. We're very good at recovering information from the current electronics, navigational electronics on board the vessels as well as looking at logs and being able to determine whether or not the boat was out fishing beyond, for instance, the state limits.

**CHAIRMAN WALKER:** It's my recollection the only charter vessels that are required to have logbooks would be the headboats?

**MR. MCKINNEY:** That's true, absolutely required to have logbooks, but a lot of vessels keep logbooks of their own identifying fishing spots and other areas that's not mandatory.

**DR. CLAVERIE:** This is a new question. The issue came up from the AP's report, and the AP report is document B-6 in our briefing book, and it comes under their other business. It said vessels were operating as charter boats without permits and you've addressed that. Then it says carrying more than six people, uninspected, and with no license to captain. Are you all also involved in those issues as well as without permits?

**MR. MCKINNEY:** No, sir, that falls to the Coast Guard's purview.

**CHAIRMAN WALKER:** Mr. Claverie, you had something else?

**DR. CLAVERIE:** Well, yes, but not on this. I wanted to go back a paragraph in the report when you get a chance.

**CHAIRMAN WALKER:** Okay, I'll recognize you again. Does anyone else, any other Council member have any questions for Mr. McKinney?

**MR. WILLIAMS:** Dave, would it make your job easier if the states required the federal permit when engaged in fishing for king mackerel and reef fish in state waters? I presume it would, wouldn't it?

**MR. MCKINNEY:** Certainly it would. You might recall that the Law Enforcement Advisory Panel for a number of years has pushed for not only concurrent regulations, but concurrent permits. Anything that reduces the amount of regulatory conflict between state and state between state and federal waters is very much appreciated by the law enforcement panel.

**MR. WILLIAMS:** Has any state done that, do you know, required them? We haven't, Florida hasn't, I'm sure.

**MR. MCKINNEY:** Not to my knowledge, but I could certainly do a check on that.

**DR. CLAVERIE:** Maybe for the record, we might want to ask the Coast Guard to comment on the more than six people, uninspected, and no licensed captain.

**CHAIRMAN WALKER:** I was going to do that next, Mr. Claverie. Does anyone have any more questions for Mr. McKinney? Now I'll ask a representative, whoever wishes to speak, from the U.S. Coast Guard.

**LT. MONTORO:** I guess I'm unclear of the question exactly.

**CHAIRMAN WALKER:** We're talking about enforcement of the moratorium charter boat survey -- I mean, the moratorium charter boat permits right now and enforcement of charter vessels having those permits at sea.

**LT. MONTORO:** And, again, I apologize, and I'm not trying to be curt, but I'm not sure exactly what the question is.

**CHAIRMAN WALKER:** There are two issues that we had talked about. At the last meeting, we talked about vessels - **B** Mau, help me with this. It was over six passengers.

**DR. CLAVERIE:** I'm trying to remember. At the last meeting what I was looking at is the AP report, which says they're operating without permits, which we've had the response to that, but they also said that there were charter boats carrying more than six people uninspected and no licensed captain, and I think those are Coast Guard issues.

**CHAIRMAN WALKER:** So you're asking the Coast Guard if they are enforcing those regulations of charter boats carrying more than six passengers and captains not being licensed?

**DR. CLAVERIE:** And they're uninspected, yes.

**CHAIRMAN WALKER:** And uninspected.

**LT. MONTORO:** And I suppose my response would be, yes, we are enforcing those regulations.

**DR. CLAVERIE:** Well, in state or federal waters, it makes no difference, right?

**LT. MONTORO:** As far as the licensing of crew on an uninspected

vessel, that=s correct.

**DR. CLAVERIE:** And is it also possible for the state enforcement agents to enforce these under the federal and state agreements, these features?

**LT. MONTORO:** I can=t speak to state enforcement as far as what they=re empowered to do. These are federal regulations, however.

**CHAIRMAN WALKER:** I think that question is probably more appropriate to Mr. McKinney on the state partnership agreements and whether they would enforce these regulations.

**MR. MCKINNEY:** Vessel safety regulations don=t fall under the joint enforcement agreement. They=re natural resource enforcement statutes only.

**CHAIRMAN WALKER:** And operating without a license is a safety issue?

**MR. MCKINNEY:** Yes, ma=am.

**DR. CLAVERIE:** I think that what is on our record now responds to what was raised in the AP, so if they want to know whether or not we looked into it, we looked into it and we have a response to their concerns.

**CHAIRMAN WALKER:** Thank you for bringing that up, Mr. Claverie.

**MR. GRIMES:** Just a quick question for the Coast Guard. It=s part of your standard procedure when you board a vessel that you would check for crew licensing, capacity requirements, and all that?

**LT. MONTORO:** That=s correct.

**CHAIRMAN WALKER:** Let me ask a question about that, because I have two certified vessels, too. When you do the annual inspections on vessels with COIs, are your inspectors told to check for permits when they=re doing those inspections?

**LT. MONTORO:** You=re referring to fishing permits; is that correct?

**CHAIRMAN WALKER:** Yes.

**LT. MONTORO:** I don=t believe so. I=m not a marine safety expert, but based on my experience in doing those, that=s not something that they would necessarily check. Captain Yarborough may have some amplifying information, however.

**CPT. LARRY YARBOROUGH:** Same answer.

**CHAIRMAN WALKER:** Okay, so for the record, you do not ask for permits or captain=s licenses when you=re doing a COI inspection?

**LT. MONTORO:** Well, captain=s licenses are different than fishing licenses.

**CHAIRMAN WALKER:** So you do request seeing a captain=s license, but you do not request seeing a charter boat permit?

**CPT. YARBOROUGH:** This is Larry Yarborough. I=m a fishing vessel safety inspector. The six-pack, the uninspected passenger vessel with six or less passengers, and the small passenger vessels that have a certificate of inspection, either of those vessels that are looked at shoreside have requirements for licensed masters.

That is examined and looked at and verified, but the shoreside check of the vessel would not include whether they have fishing permits or licenses or similar fishing documents.

**CHAIRMAN WALKER:** Thank you. Are there any further questions?

**MR. FISCHER:** Whether it be Mr. McKinney=s force or the Coast Guard, am I correct that there is no case for someone chartering without a permit? It stays in my mind from all the summaries and I haven=t ever heard of a case made of chartering without a permit.

**CHAIRMAN WALKER:** Mr. McKinney, do you know of any case that=s currently going on?

**MR. MCKINNEY:** Yes, ma=am. We have five investigations currently underway.

**EXECUTIVE DIRECTOR SWINGLE:** Back when we were doing the first draft of what became the charter/headboat permit moratorium amendment, we did run into a situation that large numbers of the people out there operating charter boats for years were completely unaware of the requirement for vessel permits to participate in the charter boat fishery, even though since the one for coastal migratory pelagics was implemented as rule in 1987 and then the one for reef fishes, I think, about 1996.

I thought the Coast Guard agreed at that point in time that in their schools for boarding officers they would basically ask that those persons request to be able to examine those charter

vessel permits.

**CHAIRMAN WALKER:** I'll ask the Coast Guard to correct me if I'm wrong, but I think that you said on boardings you do request to see the permits. It's just on the inspections you do not; is that correct?

**LT. MONTORO:** That's correct. The District instruction to the boarding officer is to conduct an initial safety inspection upon boarding the vessel. Once that's completed, the next procedure is then to inspect the permit and any other administrative item.

**CHAIRMAN WALKER:** Thank you. Are there any further questions before we move on? Hearing no questions, Mr. Williams, I would remind you that under Amendment 23 we were going to discuss the committee's recommendation on the SSC recommendations on pages 1 and 2 of the SSC summary report.

**DR. CLAVERIE:** We passed a motion just the page before on the committee that staff be instructed to come up with how to get the biological data necessary to manage the Goliath grouper.

Then on the next page the paragraph said that Stu Kennedy clarified that his suggestion was not for Council staff to develop research ideas, but to put together a group of experts to do so. Roy Crabtree recommended that Clay Porch be included in any such group.

So, my question is is staff going to do this on their own, as the motion says, or are they going to seek input from these other people that Stu Kennedy indicated is who they were really thinking about? I was just curious about how that's going to work.

**CHAIRMAN WALKER:** My recollection, Mr. Claverie, was that the SSC had already made recommendations on studies that could be done to gather this data, and that Mr. Kennedy was going to attempt to get that report and report it back to the Council. Mr. Kennedy, would you like to comment to that?

**MR. STU KENNEDY:** Yes, my intent for making that recommendation to the committee was that I think we need to bring in experts. There are a series of recommendations that are in both the SEDAR assessment report and in the previous SEDAR Goliath grouper data workshop. There were a series of recommendations.

What the committee heard were a lot of recommendations from

either AP or SSC on how to do that, whether it be exempted permits or other forms. We had guide boats. We had a lot of other options for doing that, and my intent was, and still is, to get a group of scientists who are specifically involved in this and know what research needs to be done and then get them to help us figure out how to actually do that.

**CHAIRMAN WALKER:** Mr. Claverie, in reading the motion, we've instructed staff to come up with these ways to collect the biological data necessary. We've not prohibited them from going outside and gathering this information.

**DR. CLAVERIE:** As I said, I was just curious as to whether they're actually going to do it or whether this motion precludes that; so based on your understanding of it, that's fine.

**CHAIRMAN WALKER:** The Council has instructed staff to do it and I assume it will be done. Mr. Williams, would you mind going back under Amendment 23 and addressing the SSC recommendations?

**MR. WILLIAMS:** If I could get you to turn to Tab B, Number 7, that is the summary of the SSC session, and at the bottom of page 1 and continuing on to page 2, it says -**B** I'll just go ahead and read it. Part of their deliberations about their role, they being the SSC, made several recommendations by consensus to improve the communication between the SSC and the Council and within SSC members.

First, that the results of the recommendations made by the SSC be conveyed back to the SSC providing a summary minutes of the relevant committee meetings, possibly with annotations for results, could solve this. That was one recommendation. That would seem to me to that that could probably be done by the staff person who had done the SSC meeting.

Second, that a representative of the SSC be allowed to travel to Council meetings to hear the deliberations and provide comment or interpretation of SSC recommendations as requested. They felt that the SSC meeting minutes many times were too brief or not clear enough to convey the reasons for the recommendations.

An SSC member such as the chair or vice chair could explain more clearly the consensus opinion if available for questions. Then, finally, they asked that a list server be set up for SSC members so they can collectively discuss issues relevant to their charge.

I mean, these were all raised. As I think about it now, one of the problems, and it's a minor problem, we had very poor

attendance at this one. There were five SSC members, and I believe one of those, Barbara Dorff, is from one of the special SSCs on reef fish. So really, only Al Jones, Gene Huntsman, Doug Gregory, and Jim Wilkins were there.

One thing that occurs to me is we might want to wait until there are more SSC members. I mean, I don't know how difficult it is for them to set up a list server, for example, or whether most of them are even interested in it. Clearly, there were a couple of people that were interested in it, but whether they're all interested in it or if it would just be one of those things that we would do and that would rarely be used, I don't know. I guess Steve is probably going to tell us how difficult it is or isn't to do a list server, I suppose.

**MR. ATRAN:** First of all, it's not that difficult. We're having some technical problems right now with the switch over to a new operating system with our office network, but we'll get that resolved.

There's one other technical and one possibly legal problem. The technical one is that we don't have one SSC. We have a standing SSC and a whole bunch of little special SSCs. So, how would you want to set it up, bearing in mind that every list requires an account on the computer, which requires a license from Microsoft, which is \$99.00 per license. That's just a little minor technical thing.

The other thing, though, the legal technicality, when Mike McLemore was the General Counsel he had expressed some concerns about setting up list servers, that they may in effect amount to being a closed meeting without having the public's input on it. In my discussions with Walter Keithly, it seemed to me that what he wants to use the list server for is exactly the sort of things that Mike McLemore had been warning against.

I know with the finfish SAP list server, that has a very specific purpose, just to poll the people on the Finfish SAP to see who is available to serve on various committees. But if the SSC is going to get into discussing some of the issues on this private list server, I think Mike McLemore would have had some concerns. I'm not sure whether or not it's appropriate to go forward with it.

**CHAIRMAN WALKER:** Thank you, Mr. Atran, and I would strongly recommend that we get Mr. Grimes to report to us before we proceed with anything like that.

I wanted to share with you some of the discussion that your SEDAR Ad Hoc Committee members had yesterday when we met at lunch, and we talked about the poor participation at the SSC meeting and maybe trying to recommend something to get more participation.

The SEDAR pool came to mind on how we developed the SEDAR pool and then we polled all of them to find out which ones could participate, which ones had expertise in that particular species, and then you could lower the number of participants and we would have a better chance of having a quorum at SSC meetings.

I'm not making that as a recommendation right now. I'm just asking Council members to think about it in handling our SSC similar to what we do in our SEDAR process in just developing a pool and requiring five or nine participants, and maybe this would eliminate some of the problem about not having a quorum.

**MS. MORRIS:** Am I right that the SSC is the committee that has to be added to the SEDAR process in order to make the SEDAR process legitimate as a Council process? The SSC has to review it at the end, right?

**CHAIRMAN WALKER:** That's correct.

**MS. MORRIS:** So, it seems like it's very important to enter conversation with the SSC and find out how we can make it easier for them to do their work effectively and successfully because it's a very important committee in our current process.

I would encourage the chairman to engage in conversation with them and maybe attend a meeting and maybe consider having them meet at the same time that the Council meets, the day before, so that there's more face-to-face interaction. Anything to improve communication, understanding, and mutual respect I think would be very helpful.

**CHAIRMAN WALKER:** Thank you, Ms. Morris. I know at the last meeting, and I think Mr. Fischer brought this up, and that was some of our APs actually meeting with us during our Council sessions such as the South Atlantic.

**MR. GRIMES:** Just in response to Steve's question, the SSC can't meet behind closed doors. None of your APs can, so it all has to be open and accessible to the public. I'm not familiar with

the technical lingo, but I guess if the list serve is only accessible by the individuals on the list, then it is a problem to discuss anything substantive or have meetings. If they just poll for attendance, as you mentioned, that=s obviously not a problem.

Just to one thing Ms. Morris said, the SSC doesn=t have to review it to legitimize SEDAR. That=s not really associated with it at all, but the Act specifically refers to the Council having an SSC, so the SEDAR process can=t supplant the SSC.

**CHAIRMAN WALKER:** Mr. Grimes, would you see a problem in the Council establishing an SSC pool with a lower number of participants having to participate so that we could eliminate the problem of having quorums if we so choose at a later date?

**MR. GRIMES:** Well, you have to have an SSC and -**B**

**CHAIRMAN WALKER:** And I=m not saying that we wouldn=t have an SSC.

**MR. GRIMES:** And you need a quorum of that, I guess, to conduct business. But as to how you structured your SSC and whether it was a pool of whatever, I would think you had some leeway in that regard. I=m not sure if there are regulations on it. I will take a look at that. But tentatively speaking, I don=t think that=s any problem at all.

**CHAIRMAN WALKER:** Thank you, Mr. Grimes. Is there any other discussion on the SSC recommendations? If not, Mr. Williams will move on with **B-**

**MR. WILLIAMS:** Well, could I ask what did we decide to do?

**CHAIRMAN WALKER:** There was not a motion made except that I=ve asked Mr. Grimes to report back to us on the list server for them; and I think that Mr. Atran is correct, that we=re not going to be able to allow them to participate in that manner and not be in the public.

**MR. WILLIAMS:** Okay. If I may, I would recommend -**B** there may be times of very important issues coming before us, such as red snapper, where a representative of the SSC might be useful.

I=m not sure that it=s useful to bring them to a Council meeting every time, and I don=t know that they want to either. This was

a very small group, and one person in particular wanted some of this stuff. I don't know whether they all wanted it or not.

**CHAIRMAN WALKER:** Well, my understanding from you was that you would like for at least a quorum of the SSC to meet before we take any action. Then my next question would be to Mr. Swingle, and I think that on some occasions we have had SSC members come to the Council; have we not?

**EXECUTIVE DIRECTOR SWINGLE:** In the past, sometimes we have had the chair of the SSC come and make presentations, and maybe you might want to make that a standard practice to have them come anytime an SSC presentation is being made. But more frequently, we've had the staff make the report for the SSC.

**CHAIRMAN WALKER:** And, Mr. Williams, unless Council objects, I would just take your suggestion that we wait until a majority of the SSC members join together and then make recommendations to the Council, rather than just four.

**MR. WILLIAMS:** Okay.

**CHAIRMAN WALKER:** Thank you. Are you ready to move on?

**MR. WILLIAMS:** We finished hogfish and Goliath grouper. Okay, Request for Grouper Trip Limit By Emergency Action. Martin Fisher, Rising Sun Fisheries of Madeira Beach, made a presentation to the Council and provided a petition signed by sixty-six commercial longline vessels, with four or more vessels indicating an intent to sign, requesting a 5,500 pound shallow and deep water grouper trip limit by emergency action.

Mr. Fisher noted that there were unusually high landings of grouper in January and expressed concern that the shallow water and deep water grouper fisheries could fill their quotas several months before the end of the year. He felt that a one- to three-month closure would risk instability to the grouper market and result in negative economic impacts to the grouper fishermen.

Phil Steele described the quota-monitoring process. He indicated that while January shallow water grouper landings were high, February and March landings were closer to normal and that he did not see a large increase in total landings year to date.

However, Roy Crabtree added that while the shallow water grouper quota is not currently projected to be reached, the red grouper hard TAC is projected to be reached around mid-November, which will result in a closure of the shallow water grouper fishery

under Secretarial Amendment 1.

In addition, deep water grouper landings have totaled 740,000 pounds through April, and the deep water grouper quota will likely be reached in midsummer. Roy Crabtree noted that the earliest an emergency rule could be implemented would be mid-August and it would only extend the season by one to two weeks.

He suggested that instead the Council consider a regulatory amendment to implement a trip limit for the 2005 season. Buster Niquet spoke in opposition to the trip limit and suggested that fish house records be examined before any action is taken.

He noted that the hurricane season is still to come and if there is to be a trip limit, he felt that a two-tier limit of 3,500 pounds for bandit gear and 7,000 pounds for longlines would be a more equitable approach.

Jack Golden felt that a 5,500 pound trip limit was unfair because it would primarily affect larger vessels that average 10,000 to 12,000 pounds per trip. He felt that most of the petition signers were probably vessels that only averaged around 5,000 pounds.

Karen Bell felt that the preliminary landings number for January through March appeared to be high. Robin Reichers felt the Council should not proceed with an emergency action, but that it might consider a regulatory amendment. Stevens Heath agreed that the timing was wrong for an emergency rule. Acting Chair Roy Williams concluded that the consensus of the committee was that an emergency action was not justified.

There was no consensus on whether to proceed with a regulatory amendment, but it was noted that proceeding with a regulatory amendment would take time away from work on Amendment 18. Roy Williams suggested that if by September it becomes apparent that there will be an early quota closure, an emergency action request for a trip limit in 2005 might be considered at that time.

I will pause here to find out if there=s any Council member that wants to consider either the emergency action or the regulatory amendment.

**CHAIRMAN WALKER:** Is there any Council member that wishes to address this?

**MR. WILLIAMS:** Okay, under Amendment 18, Steve Atran reviewed

the list of issues currently contained in Amendment 18 and suggested that the amendment be split. He noted that due to higher priorities, an interdepartmental planning team had not yet been formed for Amendment 18 and the SEIS and some of the economic analyses had not yet been done.

He felt that completion of Amendment 18 would proceed faster if it were limited to those issues of most immediate need with the remaining issues moved to another amendment. He suggested retaining Section 5.6, the SFA required issues, along with Section 5.5.2, Modifications to the TAC Framework, a procedure to incorporate SEDAR since these were legally required under SFA or were needed to proceed with future assessments.

Roy Crabtree agreed with splitting Amendment 18, but he felt that the most immediate needs were a longline endorsement with qualifiers and transferability provisions addressing latent permits and implementing VMS.

The committee reached consensus on retaining Section 5.1, Effort Capacity Control and Endorsements; 5.2, Effort Capacity Control Other; 5.3, Enforcement Monitoring Issues. The committee was split on whether to retain Section 5.4, Fishing Mortality and Ecosystem Issues.

There was concern that the issues contained in this section may be controversial and slow down the amendment. Karen Bell felt that the longline phase-out section would quickly become the main focus of the amendment.

However, Julie Morris felt that since much of the analysis had already been done, other than the SEIS and economic analyses, the section contained issues that she felt should be retained in Amendment 18.

Wayne Swingle noted that the Council had contracted with an economist from Gainesville named Daryl Brannon to provide up to fifteen hours work per week and Mr. Brannon was familiar with limited entry systems from the work he had done for the North Pacific Council.

**By a voice vote with one nay, the committee recommends that the Council include Sections 5.1, 5.2, 5.3, and 5.4 in Reef Fish Amendment 18.**

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion?

**MR. GRIMES:** I just wanted to mention, as I did in committee,

and I don't have any sort of problem with splitting these out, but by leaving all these SFA criteria, these are things you need to continue to move forward with.

If there are other things that you feel are priority, that's your prerogative, but you are legally required to get these SFA criteria on the books, so I suggest we continue to move forward with them as rapidly as we can.

**CHAIRMAN WALKER:** Thank you, Mr. Grimes.

**MR. WILLIAMS:** I wondered if it would be appropriate at this time **B-** what we're talking about here is effort capacity control, trying to get effort in this fishery under control. That's going to be the fundamental thing, I believe, that we're doing in this amendment.

I'm wondering if it would be appropriate to ask Bob Spaeth, who I know has been to Washington to discuss trying to get money to buy out some of these longline vessels, if we could find out what he is doing. Do you think it's appropriate to do that?

**CHAIRMAN WALKER:** Do any of the Council members object? Hearing no objection, Mr. Spaeth.

**MR. ROBERT SPAETH:** Thank you, Madam Chairman and Council members. Just about a week ago, we made a trip to Washington. SOFA understands all the problems with the latent capacity, the trip limits.

Our members are split on trip limits and not trip limits, depending on what they catch, but our members are not split on us trying to get a capacity reduction through a buyout. So what we did is we went to Washington with a group of people. Congressman Bill Young, head of Appropriation on the House side, came into the office and spoke with **B** I had Eric Schmidt with me and a couple of Republican people and a lobbyist.

We had some good indication that Congressman Young wanted to look more into it. He spent about twenty minutes asking me questions, and then he took his chief of staff and had him sit down with our working group to find out more about this.

We have been in touch with Dr. Crabtree. I had a meeting with him and brought some of the people that went to the meeting to try to get everything laid on the table. One of the questions that was asked, and we are doing this now, we have environmental

associations that are going to give us endorsement letters. We've asked sports fishermen and the whole gambit.

We've also asked Roy Williams to set up a meeting with the FWCC on supporting this, which they tentatively about a year ago said they would. At this point any help we can get to give the Congressman more ammunition to do this.

I'll tell you that we did ask for a straight appropriation, and one of the reasons that we asked for the straight appropriation is because the grouper fishery is a \$2.00 and \$2.50 fishery.

It's a lot of small business entities, and they don't make a lot of money. If we tried to do it under the Magnuson Act on some of the things, I think that us to just pay the interest on the amount of money would be very tough for the industry, the people that remained into it.

We wanted a voluntary buyout -- just a couple of things -- a voluntary buyout. Our target is 50 percent of the longline fishery. We would like to have enough of them out to give us a little fudge factor so when the fishery got better we wouldn't be back in the same position.

We also are cognizant that the fish trappers are going out and we'll probably have another 500,000 pound fudge factor there. As far as a lot of the particulars of what we want to do, in the buyout, I think we would be looking to the Council and many other organizations to help us.

One is vessel disposal. The other thing that I see coming, if this gets any further, is that we're probably going to need some control dates put in if this thing gets any further so we don't have people - **B** one of our ideas was if you buy a longliner -- and most of them have multi-permits. They have a shark permit, reef fish permit, incidental snapper **B**- that if they're going to qualify for this buyout, that all of those permits go with the vessel, and we don't want them selling them off in the future.

So, that's one role the Council might be able to help us with. Today, I don't know whether you would feel, but I would really appreciate a letter of support of some kind from the Council if they feel that a buyout is a reasonable solution to some of this overcapacity problem.

**CHAIRMAN WALKER:** Thank you, Mr. Spaeth. Unfortunately, the Council is prohibited from lobbying Congress, though. Are you

through?

**MR. WILLIAMS:** Can I ask a question, though? If he comes to us and asks us to write a letter in support of their position, are we allowed, say, to write to Congressman Young saying that Mr. Spaeth has come to the Council. Although we don't know all the particulars of what they are doing, we could say that in general the reef fish fishery is overcapitalized and we do support efforts to try to reduce the overcapacity in the industry. Could we do something like that?

**CHAIRMAN WALKER:** Mr. Williams, it's my understanding that unless we are invited by Congress to speak on an issue, that that would be considered lobbying. Since we don't know what the plan is - **B** I mean, I haven't seen anything in writing that Mr. Spaeth is offering, and I'm not sure that I would support writing a letter supporting something that we haven't seen.

**MR. WILLIAMS:** I would like to know what the attorney thinks.

**MR. GRIMES:** You can't lobby Congress soliciting funds. But it sounds like Mr. Williams, the way he described it, you can certainly write there are detailed problems in the reef fish fishery, excess capacity, and what programs you're implementing to try and deal with this issue and sort of outline the problems that I think would support what he's doing.

This Council has sent letters to Congress and the executive for other issues, I remember, and enforcement concerns, just a few meetings ago.

**CHAIRMAN WALKER:** And you don't feel that the Secretary would have a problem with us going around him, Mr. Grimes, on this issue?

**MR. GRIMES:** Sorry?

**CHAIRMAN WALKER:** You don't feel that the Secretary would have a problem with the Council going around him on this issue?

**MR. GRIMES:** Well, exactly. I don't think this is going around the Secretary. It would be if the Council has a certain feeling on something, you could express that -- copy the Secretary or send it to the Secretary and copy Congressman Young with it.

**EXECUTIVE DIRECTOR SWINGLE:** I was going to say the same thing

that Shep just said. What we have done in a number of cases is either sent a letter to Hogarth or to the Secretary of Commerce or someone in NOAA setting forth our recommendations for a buy-back program and then copying the Congress with that. We've done that once before and we got a response back from Hogarth on the issue.

**MR. REICHERS:** I just have a couple of questions, and I think they're probably directed at Mr. Crabtree. The first one is let's just say that we had support for this. What would be the fastest implementation time for a buyout. I know you can't answer in complete detail, but **B-**

**DR. CRABTREE:** I really can't because I've never worked on a buyout. I mean, presumably there would be an appropriation in the 2005 budget, which puts us into after October.

With the election coming up, it's hard to predict what changes, but my guess is the federal budget won't come along until 2006 sometime; and then by the time that could be set up, my guess would be that the appropriation would be multi-year money; and if they funneled the money through the Fisheries Service, then fishermen will have to put in applications and those would have to be evaluated.

There would have to be a formula of sorts to determine what the value of a vessel and its permits was. So it would take some time to get all that done, so I would guess you're looking at 2006 or 2007.

The other aspect of this to bear in mind is that we don't have a limited entry program in that fishery. We're working on it, and I think that likely, assuming the Council wants to go that direction, we could have something in place on that in 2006 sometime.

Of course, Congress could come in and insert language in there about various things, so it's really hard for me to judge. The advice I've given Bob is that we need to get some help from Mike Grable and some others like him in headquarters who have had experience with buyouts in other regions. We've just never done a buyout in the Southeast, and I don't have anyone who has ever worked on one.

So, one of the first things I want to do is pull in some people who can give us some real advice on how to do it. But, it's just

awfully hard to predict because you're really trying to predict what Congress may do.

**MR. REICHERS:** Thank you, Roy, and the reason why I asked is not only for this fishery. There has been that discussion in the shrimp fishery as well, and I just kind of wanted a little bit of that timetable so that people understand that it's not right around the corner and that it's going to take some time.

The other thing is more to the motion that was up on the board, and I just want to make sure that I understand. I mean, we have just a very brief outline here. But, I assume that we're still, within that effort control outline and within those bullets, that we're still leaving the possibility open for an IFQ program or at least the beginning to set the stage for that within Amendment 18 if that was deemed an appropriate alternative?

**DR. CRABTREE:** Yes. I mean, we're certainly not doing anything to preclude going down that route. We would be in Amendment 18 defining who the universe is, depending on how we go. Presumably if we have a longline endorsement, there will be some qualifiers in order to get it, and then we could look at IFQs down the road, and that would be a way to get around a lot of these issues with regard to having a twelve-month fishery.

**MS. MORRIS:** I do have a letter that Roy Williams asked the Florida Fish and Wildlife Commission to write a letter in support of this. It seems like there aren't any of the complicated problems that we see as a Council, and it seems like the Council could easily write a letter to Congressman Young just giving him a status report on where we are in Amendment 18 and what some of the alternatives are that we're considering without recommending any particular action on his part.

That would just indicate the things that we are doing will interact with any kind of buy-out program and we just wanted him to be up to date on where we were in our deliberations on it. That's what I would suggest we do about the request for a letter.

**MR. GRIMES:** I have a little bit of problem with lobbying somebody else to do the lobbying that you are legally prevented from doing.

**MS. MORRIS:** Mr. Grimes, I was formerly on the Fish and Wildlife Commission; and when I was a commissioner, I advocated that agency supporting a buy-out program for longline red grouper. I'm just remembering that we had supported that in the past and

reminding Mr. Williams that the agency should go ahead and do that at this point in time.

**CHAIRMAN WALKER:** This is taking a lot longer. I thought we were going to get ahead of schedule, but it doesn't appear that way.

**MR. IAROCCHI:** I was involved with probably one of the first major buyouts with John Bullet up in New England. If you look around the Councils right now, buyouts are a very viable option on all the Councils that are looking and being lobbied by the fishing industry right now.

When you look at Amendment 18, the longline endorsement is key to this. I just hope that everybody on this Council keeps an open mind and in the future look at a buyout as a very viable option to consider endorsing and supporting to get rid of some of this effort, because it is overcapitalization and issues like that. I'd just like everybody to just consider I think you're going to be looking at buyouts in the future on some other things, and all of us as Council members are going to have to learn to work with a buy-out program.

**DR. CLAVERIE:** Bob Spaeth talked about buying out vessels, but what about the individuals, too? It seems to me that was a problem for Congress before; and when Roy starts asking experts in it, that's going to come up, what do you say about that?

**MR. SPAETH:** What we were going to do is buy out the vessels, everything on the vessels, and removing them permanently from the fishery. That was ours, whether we put them in a landfill or the Council decided or we wanted to make artificial reefs out of them, that was it.

But the other thing was that we're looking just at the longline, and we have to have the endorsement. We've already talked to Congress about if we put a caveat in there, that the money will not be funded unless we have some kind of closed system, so we don't have overcapitalization returning again.

We would like to see a permanent fix for everybody here. I guess it was out in the west coast the trawlers did one. There was a little infrastructure problem. We would like to work and solve that.

I asked for enough money that if when we all come together, that we could probably take care of the captains and the mates. We were really looking into a comprehensive plan. But, we're just

a little premature; and as he said, we need to get with Mike Grable and SOFA is willing to do a lot of the work.

I also want to mention that the agency is also funding, through the Gulf and South Atlantic, a \$400,000 buy-out potential for the shark fishery. This would take out a lot of the shark boats because longliners do catch the sharks. That=s the gear that=s predominantly used. So we look for a lot of bang for our buck with this buy-out proposal. Does that answer your question?

**CHAIRMAN WALKER:** Thank you, Mr. Spaeth.

**MR. WILLIAMS:** I would suggest that we go ahead. I had asked for permission to him to speak because I thought it was relevant to whether we continued approving 5.1 through 5.4 or whether we wanted to do the other half of the amendment.

I think moving forward with Sections 5.1 through 5.4 tie right into what they=re trying to do there. We would be able to identify the longline vessels and set up some qualifying criteria as to who really qualifies as a longliner and who doesn=t. I would think we should probably go ahead now and debate -- I know Karen opposes including 5.4 in this, debate that.

Then I could probably offer a motion later about writing a letter to either Congressman Young or to the head of NMFS giving our perspective on the overcapitalization of the grouper fishery.

**CHAIRMAN WALKER:** All right, Council, the motion on the board is to recommend that the Council include Sections 5.1, 5.2, 5.3, and 5.4 in the Reef Fish Amendment 18 and to remove the remaining issues into another amendment. We=re going to debate this motion.

**MS. BELL:** I=ll try one more time to amend the motion to remove 5.4.

**CHAIRMAN WALKER:** Ms. Bell has made a motion to remove 5.4. Do we have a second? Mr. Thomassie seconds. Do we have any discussion on the amendment to remove 5.4?

**MS. MORRIS:** I would argue against the amendment. I think the reason to remove it has to do with it being controversial and divisive, especially with the longline and buoy gear phase-out portion of this. I=m sure seasonal closed areas will also be controversial.

But, I don=t think pulling something out because it=s controversial is a good way to go with Amendment 18. It seems

like we've been working on 18 for a long time. We keep pulling pieces out of it that we think we can go forward with without controversy, but I think the document has been well developed and we've been thinking about these issues for a long time. We're prepared to make decisions on controversial issues and we should go ahead and leave this in.

**MS. BELL:** Julie, I know we've talked about this before, and my concerns are it just starts the whole thing over again where the longliners are going to focus on this one aspect of this document, and I think the true focus should be back to the endorsements because there's so many things coming down the road that will help the fishery, be it the endorsements or the buy-back program or there are different things in play to strengthen this fishery.

So, really, the people, they're so stressed as it is. I mean, you've got in fighting amongst the different fishermen and then all these pressures, the regulatory and the stocks and just all these things, and I hate to start this all over again.

I mean, I know there's just this feeling that people don't like longlines, but a hook is a hook. You know, a dead fish is a dead fish, and I just hate to put people through this whole thing all over again. I really think it's important that the focus be on the endorsements so we can find a better way to reduce the fishery.

**CHAIRMAN WALKER:** Is there anyone else that wishes to speak on the amendment to remove 5.4? **All those in favor raise your hand; all those opposed raise your hand. The amendment fails.**

We're back to the motion to include Sections 5.1, 5.2, 5.3, and 5.4 in Reef Fish Amendment 18. Is there any further discussion?

**MS. MORRIS:** I would like to hear once again the rationale for not including 5.5 and 5.6. It seems like these aren't very difficult to do. We've been talking about asking the South Atlantic if they would take the lead on Nassau rebuilding. It doesn't seem like Goliath grouper rebuilding is going to be that difficult, and we've already made some progress on bycatch and bycatch mortality.

I don't understand why doing these sections in 5.6 particularly are going to be so burdensome that they're going to delay the document. I would just like a little discussion, and then I don't

know whether I=ll make a motion to add those back in or not.

**CHAIRMAN WALKER:** Mr. Atran, are you going to handle that?

**MR. ATRAN:** Well, on one specific item, as far as the Goliath grouper rebuilding plan goes, you a little earlier directed staff to put together a team of scientists to work on some of the research recommendations for getting some of the biological data.

Some of that ties directly in with some of the alternatives that are in the Goliath grouper rebuilding plan, for what we=re going to do between now and when the stock gets rebuilt. So if we=re going to proceed with that previous motion, that=s going to delay Goliath grouper a little bit, so it would be good to separate that out from the remainder of the issues.

As far as the rest of this goes, it=s just that it=s not that any one issue is particularly difficult, but there=s such a large amount of issues in here that the cumulative effect of trying to put together the SEIS and getting the interdevelopmental planning team together to work on all the interactions between these items is going to be very time consuming.

So the more narrowly focused we can get Amendment 18, I think the easier we can get it through and the faster we can get it through. The items that are removed, they=re not going to be just lost. They=re immediately going to go into what we=re currently calling Amendment 18B, so work will still proceed on them, but just at a different pace.

**CHAIRMAN WALKER:** Mr. Williams, as chairing that meeting, do you have anything that you would like to add?

**MR. WILLIAMS:** No, I think Steve expressed it very well. It=s just a matter of we=ve got to focus on the core issues that we have before us. Otherwise, it just continues to drag out and drag out, and I think that we really need to focus on the overcapacity on this fishery.

I know Julie would like to do this Goliath grouper rebuilding plan, but the fishery is closed. Everything is safe. It=s just not, from my perspective, just not all that pressing.

**DR. CLAVERIE:** Well, I was going to take a different tact, and that was to suggest that we affirmatively state that the sections that are not to be included be immediately included in another

amendment, and my question was how do we do that and do we name the amendment or what. I think we ought to -- whether it be the same motion or whether it would be the next motion, which is not in the committee report -- to affirmatively do something with those sections.

**CHAIRMAN WALKER:** Mr. Claverie or Mr. Williams, are you going to make an amendment?

**MR. WILLIAMS:** Steve, are you going to label this 18A; is that what I heard you say, and then the other part would 18B?

**MR. ATRAN:** Well, right now on our tentative list of upcoming activities, Wayne has an Amendment 18B on the list of activities. I guess to me it doesn't make a big deal. If we give it a number, I think the next available number would be Amendment 27. I don't really care which it's called, but it will be an additional amendment.

**CHAIRMAN WALKER:** Mr. Claverie, would you like to amend this motion to state that the remaining issues will be moved into Amendment 18B?

**DR. CLAVERIE:** Well, Julie kind of has first choice on an amendment because she said she wanted some discussion and then she would make up her mind. So if she's not going to amend to add the others in, then I would do that, yes. I need to amend this motion to affirmatively state that -B and I don't remember the section numbers -- is it 5.5 and 5.6 be placed in Amendment 18B or 27 or whatever Steve wants. Why don't we call it 18B so that it looks like we're getting on it right away?

**CHAIRMAN WALKER:** So Mr. Claverie's motion, and we'll just make it a separate motion, is to take the remaining issues, which is 5.5 and 5.6, and include them in Amendment 18B.

**DR. CLAVERIE:** Well, place them because there isn't any 18B now, is there, Steve? Okay, so place them and begin Amendment 18B or whatever we have to say to begin the amendment. Wayne, what's the magic language there?

**EXECUTIVE DIRECTOR SWINGLE:** Yes, I would just begin that. We did on the little flow diagram on Tab B-16, indicate that work would start on 18B in March of next year, so that's the type of delay you're looking at. We would go forward with 18A first and then get back into that, and that might be increased in time

when NMFS has decided who should serve on an interdisciplinary project team.

**DR. CLAVERIE:** Yes, I understand, but what language do we need in this to begin a plan amendment? I mean, you're naming it, but don't we have to say that we affirmatively say that we want to begin a new plan amendment, and it would be 18B and it would have Sections 5.5 and 5.6 in it? This doesn't say begin a plan amendment.

**CHAIRMAN WALKER:** I think it would if you would insert that at the beginning of your motion, **A**begin Amendment 18B, which will include Sections 5.5 and 5.6 in the current Amendment 18. @

**DR. CLAVERIE:** That's fine.

**CHAIRMAN WALKER:** We have a motion. Do we have a second? Thank you, Ms. Bell. **The motion is to begin Amendment 18B, which will include Sections 5.5 and 5.6 of the current Amendment 18. Is there any further discussion? Is there any objection? Does anybody want to abstain? Hearing no objection, the motion carries.**

We're back to the original motion, which recommends that the Council include Sections 5.1, 5.2, 5.3, and 5.4 in Reef Fish Amendment 18. Is there any further discussion?

**EXECUTIVE DIRECTOR SWINGLE:** Madam Chairman, that probably should be labeled 18A. I don't guess it would necessarily have to. It could remain A, but that's the way we've done it in the past. We subdivided some of the others and made them A and B before.

**CHAIRMAN WALKER:** By consensus of the Council, can we change Amendment 18 to Amendment 18A? Do I hear any objection? No objection, the motion will reflect Amendment 18A. Is there any further discussion on the motion? **Is there any objection to the motion? Ms. Bell objects. The motion carries.** Mr. Williams, when you finish this section, I'm going to suggest that we break for lunch.

**MR. WILLIAMS:** Well, I was going to suggest we break for lunch now. I could do these last couple of paragraphs if you want, but I would still like to perhaps offer some kind of a motion in support of Mr. Spaeth. Maybe I could do that during the lunch hour.

I would also like to discuss what some of us have been discussing about Nassau grouper and maybe giving South Atlantic not just the lead on that, but allow them to write the status determination criteria and let them manage Nassau grouper in the Gulf.

I've talked some with Tony and Roy and the committee has talked some. I mean, I think there needs to be some more discussion and it's about a quarter after twelve already and people probably want to eat lunch.

**CHAIRMAN WALKER:** I'm going to suggest then, if I don't hear any objection, that we just go ahead and break for lunch and try to be back here no later than 1:30. Thank you.

(Whereupon, the meeting was recessed at 12:15 o'clock p.m., May 19, 2004.)

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#### WEDNESDAY AFTERNOON SESSION

The Gulf of Mexico Fishery Management Council reconvened in the Coral Reef Ballroom of the Westin Beach Resort, Key Largo, Florida, Wednesday afternoon, May 19, 2004, and was called to order at 1:40 o'clock p.m. by Chairman Bobbi Walker.

**CHAIRMAN WALKER:** If Council members will take their seats, we'll resume. Before we resume, on behalf of the Council, I would like to wish a happy birthday to Karen Foote and Rick Leard, and we're going to cut birthday cake after the meeting this afternoon. Mr. Williams, are you ready to resume?

**MR. WILLIAMS:** Yes, ma'am, I would be glad to. Would it be appropriate at this point for me to offer a motion in support of the discussion **B-** I have a motion relative to the discussion of a buyout for longline vessels; or, I can finish the report and come back to it.

I think it's probably more appropriate right now, isn't it? The record would show that we've just finished continuing Amendment 18 with Sections 5.1, 5.2, 5.3, and 5.4, which all relate to identifying longline vessels and bandit vessels and so on.

**CHAIRMAN WALKER:** Go ahead, Mr. Williams.

**MR. WILLIAMS:** Okay, I would like to offer a motion then that we write a letter to Dr. Hogarth with a copy to Congressman Young

advising that the Council is aware that there is a discussion to buy out Gulf reef fish longline vessels.

The Council does not know the particulars of the discussion, but we want Dr. Hogarth to know that the grouper fishery is overcapitalized and removing effort from the fishery would benefit the resource and the remaining fisheries.

**CHAIRMAN WALKER:** We have a motion on the board. Do we have a second? Mr. Reichers seconds it. Discussion?

**MS. MORRIS:** Roy, can you point to a document we have developed that supports the claim that the grouper fishery is overcapitalized?

**MR. WILLIAMS:** No, but our discussions here yesterday certainly supported that. We've got a deep water fishery that's likely to close in the summer after having fished less than six months, probably.

We think that the red grouper fishery, which is probably a 75 or 80 percent longline fishery, is likely to close **B-** I don't remember what the date was, but way before the start of the season. My recollection is we were talking early fall or **B-**

**DR. CRABTREE:** Mid-November.

**MR. WILLIAMS:** Mid-November? Well, perhaps mid-November, so at least six weeks prior to the start of the season. That's it. That's what I have.

**MS. MORRIS:** Steve, do any of our grouper documents specifically state that the fishery is overcapitalized?

**MR. ATRAN:** I generally don't pay that much attention to the economic analysis since I'm not involved in writing it, but I can take a look at Secretarial Amendment 1 and see what it says. I have it on my computer.

**CHAIRMAN WALKER:** Is there any other discussion on the motion?

**DR. CLAVERIE:** Julie, there's another term that's used other than overcapitalization, and I'm trying to remember what it is. It's excess effort; isn't that what we're really **-B**

**MR. WILLIAMS:** Excess capacity.

**DR. CLAVERIE:** Excess capacity. Isn't excess capacity what

we=re really talking about?

**MR. WILLIAMS:** If it would be all right with the seconder, I would say that the grouper fishery has excess capacity rather than is overcapitalized.

**CHAIRMAN WALKER:** The seconder agrees.

**EXECUTIVE DIRECTOR SWINGLE:** For the record, I was just going to point out that we have about five to six hundred reef fish vessel permits, which are not even fished in some years, so you do have a lot of latent capacity in that fishery as well.

**MR. GRIMES:** While I don=t think it=s a problem with your lobbying restrictions, I just generally discourage this Council from sending lettings that are copied to members of Congress, and I=ve done that across the board. So, again, I would just encourage that you send it only to the agency.

**CHAIRMAN WALKER:** To that point, Mr. Williams?

**MR. WILLIAMS:** Would the agency then send it copy to him or B-

**DR. CRABTREE:** If you write this letter to the agency, it will be in the next briefing book and it will be a matter of public record.

**MR. WILLIAMS:** I would strike then the part B- just write a letter to Dr. Hogarth and strike Awith copies to Congressman Young. @

**CHAIRMAN WALKER:** Does the seconder agree?

**MR. FISCHER:** I may not be opposed to writing a letter, but I=m trying to find now where we changed the name excess capacity and see what type of precedent we are working on.

One could deem there=s considerable excess capacity in the shrimp industry and would that mean we would support such a letter to interested parties in buying out shrimp vessels? I don=t know where it=s going. I=m in favor of writing a letter. I think I=m concerned about the subject matter.

**DR. CLAVERIE:** One of my concerns is that if effort is reduced in this fishery, will it shift to another fishery that has the same problems? That=s not addressed in this. It was not addressed in the presentation we had, and that=s a great concern.

I would like to have that put in this letter if we're going to write it.

**MR. WILLIAMS:** Well, it was addressed in Bob Spaeth's presentation. He said the vessels would be totally removed from the fishery, some of them were longliners and they would lose every permit they had, right? They would have no permits left whatsoever. The permits would be zeroed out.

So that was part -**B** I'm simply offering this, Maumus, as we can't lobby Congress; and, honestly, I don't really know the particulars of Bob's proposal and his discussion with Congressman Young. I don't know all the details. I just want to get the word out that there is -- like most of our fisheries, this fishery has excess capacity and we would all benefit if there were less.

**MR. BASCO:** The only thing I wanted to say is in my HMS role and billfish role, in the Washington, D.C., meeting, we were going through a buy-out plan a few years back, and the plan was to buy forty-five longline vessels, forty-four of them, for a certain amount of money.

Of course, the problem was what are you going to do with the vessels, and that was a big question. But, finally, we had the support of two senators actually on the thing and we just **B-** by the time it got to Congress and they hashed and rehashed it in the committees, the whole thing just died. Hopefully, we're not looking at kind of a situation like this. It just didn't work at all.

**MR. REICHERS:** I guess I might ask Roy, given that there has been discussions about other fisheries as well, as someone just pointed out, if we struck the grouper fishery and actually replaced that with **A** fisheries in the Gulf of Mexico@ or something in that kind of context, just where it=s supporting that concept in discussion of removing effort in the future as part of effort removal or excess capacity programs, would you be willing to accept that if we work on that a little?

**MR. WILLIAMS:** Well, what if you did something like we want Dr. Hogarth to know that the grouper fishery, as well as other fisheries in the Gulf of Mexico, has excess capacity, et cetera. I would still like to get that word **A** grouper@ in there. I would be willing to make that -- just behind **A** grouper fishery@, put **A** grouper fishery and other Gulf fisheries have excess capacity.@

Is that all right, Robin?

**CHAIRMAN WALKER:** Is there anyone else? I'm going to pass the gavel to Ms. Morris and ask her to recognize me.

(Whereupon, Ms. Morris assumed the Chair.)

**MS. MORRIS:** Bobbi Walker.

**CHAIRMAN WALKER:** Thank you, Ms. Morris. I speak in opposition to the motion. I don't think we know anything about the plan that Mr. Spaeth spoke of today. I don't think we're in a position to endorse any type of buy-out program for any fishery in the Gulf of Mexico at this time. I know I certainly am not. I don't see the urgency of this having to be handled at this meeting, and I oppose this motion. Thank you.

**MS. MORRIS:** Thank you, Ms. Walker. Any other discussion on the motion?

**DR. CLAVERIE:** Bobbi, I agree with you in great part, but I thought the language of this was not dealing into the particulars, and, therefore, it sort of says if it will help, we're in favor of it. Do you consider this to be more direct than that, more severe?

**CHAIRMAN WALKER:** Yes, Mau, I do, and I think it's supporting a buy out of something and a plan that we don't know anything about. I think back to the trap fishery when they were phased out.

I think ahead to the shrimp fishery. I can even think ahead to the charter boat industry today and some of those businesses that have been unable to make it in a six-month season. When we start talking about buyouts, I think we've opened Pandora's Box. For myself, personally, I'm not supportive of taking that position at this time.

**MS. BELL:** Bobbi, I don't see it as taking a position on a buyout or not. To me, what it's saying is there's too much capacity, that we've heard there's discussions about the capacity, a buyout being one of the many things that have been brought forward, and that decreasing capacity is important to the Council and to the fishery. That's all I see it as saying.

**CHAIRMAN WALKER:** Well, I know that there was a plan in the

National Marine Fisheries Service, and they were supposed to have defined in 2002 **B-** and I=**m** not sure what year it was **B** or something like that, they were supposed to have defined all fisheries that were considered overcapitalized, excess capacity. I haven=**t** seen that report and I don=**t** know where it=**s** at, but I can remember Dr. Hogarth saying that report was supposed to have been done.

**MS. MORRIS:** Any other discussion on this issue?

**MR. HEATH:** I=**m** troubled by this because if **B-** first of all, I would assume that Dr. Hogarth in his position is well aware of these issues, and I think that if this letter is not to be seen as endorsement of one form or another by the Council, then what is the point of writing such a letter? The issues will be dealt with over time. It just feels wrong to me.

**MS. MORRIS:** Any other discussion?

**MR. GRIMES:** Just to clarify, I guess, in the event that this would pass, as I hear the discussion, this is not because anybody got up here and asked us to endorse a buy-back system for any particular fishery. If you read the wording of the letter, it doesn=**t** give any sort of suggestion that=**s** the case, and I would like the record to be very clear in that regard.

**MS. MORRIS:** Thank you, Mr. Grimes. Any additional discussion?

**DR. CRABTREE:** Well, I wonder if somewhere in this, if you decide you want to send this, if you would want to mention that you=**r**e proceeding towards a limited entry program in the longline fishery and that you=**r**e taking steps to deal with the excess capacity by limited entry in that fishery.

**MS. MORRIS:** Dr. Crabtree, it doesn=**t** seem like we **-B** I mean, we have options for that in Amendment 18 that we haven=**t** talked about for a while, but it might be overstating the case that we=**r**e taking steps at this point. Did somebody over here want to reply to that?

**MR. WILLIAMS:** Well, I was going to ask, I guess, does that need to be in this motion or can Wayne, when he writes the letter, simply add that we are proceeding with Amendment 18, which has those options in it to identify **-B**

**MS. MORRIS:** Mr. Williams, we haven=**t** decided we=**r**e writing a letter yet, so hold off on that thought.

**MR. WILLIAMS:** Well, no, this is apropos. I have to know whether to add it to the motion or whether it would be understood that Wayne would add that.

**DR. CRABTREE:** What is the question?

**MR. WILLIAMS:** The question is do I need to add a sentence or sentences that say that we are preparing Amendment 18A, which has options for identifying longline, bandit vessels, and perhaps qualifying criteria to get rid of some of them? I mean, it seems to me Wayne could simply incorporate that, and it's not necessary to be part of the motion. If everybody thinks it should be, then I would add it. I don't think it needs to be.

**MS. MORRIS:** I would agree with you.

**CHAIRMAN WALKER:** Mr. Grimes, I disagree with your statement that we were not requested to write this letter. My recollection is that Mr. Spaeth got up and told us that he had visited with one congressional person and their staff and that he wanted a letter from this Council supporting that buyout. I think he is requesting, in my personal opinion, the Council to get into the political arena, and that's another reason for why I object.

**MR. GRIMES:** Yes, Mr. Spaeth got up there and asked you to write a letter to Congressman Young. You were told by your legal counsel that you could not write a letter to Congressman Young asking him to fund their buyback. You can write a letter to the agency telling them that you support excess capacity reduction, and that is what this letter does.

**MS. MORRIS:** Are you ready to vote? Does everybody know how they want to vote on this issue? The motion is on the board.

**The motion is to write a letter to Dr. Hogarth advising that the Council is aware that there's a discussion to buy out Gulf reef fish longline vessels. The Council does not know the particulars of the discussion, but wants Dr. Hogarth to know that the grouper fishery and other Gulf fisheries have excess capacity and removing effort from the fishery would benefit the resource and the remaining fishers. We were about to vote, but Ms. Bell has a comment.**

**MS. BELL:** I have just one brief comment. Almost everybody here, I think, voted to move the longlines out to fifty fathoms. That basically would wipe out the fishery. I don't understand why everybody wouldn't support this as a means to compensate them

and achieve what you were looking for in the first place.

**MS. MORRIS:** So you support the motion?

**MS. BELL:** Yes.

**MS. MORRIS:** Okay, ready to vote? **All those in favor please say aye; opposed like sign. I think we're going to have a show of hands. All those in favor please raise their hands; all those opposed raise your hand, please. It's six to six and one abstention. The chair votes against; the motion fails.**

(Whereupon, Chairman Walker resumed the Chair.)

**CHAIRMAN WALKER:** Thank you. Mr. Williams, are you ready to conclude your report?

**MR. WILLIAMS:** I'll finish my report, but I'll just say I think that shows a lot of bad faith with what we had asked **B** I think Karen makes a good point. We had asked this industry to move to fifty fathoms, and my commission supported that on the basis that they think that there's something going to happen to help these people. So, keep that in mind as we proceed through Amendment 18.

Steve Atran reviewed a new Section 5.2.3, Maximum Crew Size on a Charter Vessel when Fishing Commercially. Maumus Claverie suggested clarifying the wording in Alternative 3 to state that no more than two crew can be in the water, rather than be engaged in spear fishing activity, since everyone on the vessel is engaged in spear fishing activity.

I don't know if I read that right -- state that no more than two crew can be in the water rather than be engaged in spear fishing activity since everyone on the vessel is engaged in spear fishing activity.

Shepherd Grimes suggested that spear fishing could be redefined to apply only to the persons swimming in the water. Maumus Claverie also suggested that **Apersons@** be used instead of **Acrew@** in this section since crew may not include passengers.

Discussion of the draft Goliath grouper rebuilding plan, Tab B-12-C, was deferred since the committee voted to remove the rebuilding plan out of Amendment 18.

I'm not sure when it would be appropriate, but there would also

before we **B-** it might be appropriate now, a discussion of possibly asking the South Atlantic Council to take the lead on, not just take the lead, to give them the management authority to manage Nassau grouper and maybe yellowtail snapper and mutton snapper in the Gulf of Mexico; and in return, perhaps we being given exclusive management authority in Monroe County for king and Spanish mackerel.

I would recommend that we talk to them about that. I think it=**s** a waste of our time to develop these overfishing criteria for Nassau grouper. The fact is they=**r**e stragglers into the United States. They occur only in far south Florida, and I don=**t** believe there ever have been big populations of Nassau grouper here.

They=**r**e coming out of their larvae and juveniles being recruited out of the Caribbean by the currents that connect us to them, and I think it=**s** just a waste of our time to fool with them. Yellowtail snapper and mutton snapper are species that occur primarily along the reef line on the south side of Monroe County.

They occur at least up to Palm Beach County and they straggle into the Gulf of Mexico. Bob Zales says he catches a yellowtail snapper once in a while, but they=**r**e **B-** again, they=**r**e fairly uncommon in the dirty waters of the Gulf, and I just think there are not enough of them in the Gulf of Mexico to justify us continuing to develop overfishing criteria and develop regulations.

Right now, we and the South Atlantic Council and Florida all have the same set of regulations. I think it would just be simpler for everybody if we started trading off some of these species and give them the authority to do that.

If you don=**t** have any objections, I would be glad to try to talk to the Council staff or other South Atlantic Council members about proceeding with some of this. I=**v**e talked to Tony some about it.

**MR. IAROCCHI:** At the break yesterday, I did go up and call Bob Mahood, who is doing a lot better now. A lot of people have asked me that, and I would like to get that on the record. He appreciates the concern.

I did let him know what we had talked about and the conversations we had had, and I also told him, Roy, about the Goliath grouper and the work being done here, just like the yellowtail and Nassau; the same thing with the Goliath grouper with us. You know, you

could take the lead with that.

I think now is the time. I would like to see -- I've been trying to talk more about it with some of the Council members and you also and Dr. Roy Crabtree about the kingfish.

We need to deal a lot closer on a lot of issues and eliminate double work. The timing right now, we have to use the **Ap@** word. We have to prioritize. Our time right now as Council members and dealing with SSC and SEDAR stuff, it=s all coming to a head, and we=ve got X amount of time to do things.

I think this will eliminate a lot of excess work. I feel now is the time, whether we set up or do a conference call or get some meetings or maybe we can have a little bit of time in Key West if we can get through this mackerel thing. I would love to start as soon as possible talking about this. I think it=s a great idea.

**CHAIRMAN WALKER:** Do we have any other comments from Council members?

**MR. GRIMES:** I=m not a Council member, but I guess your request would be first you would have to withdraw these species from your reef fish FMP, and then you would request that the Secretary designate the South Atlantic as lead Council, just so that we=re clear. I mean, you don=t ask the South Atlantic and they agree to take your authority. I mean, it=s the Secretary that gets to do this.

**CHAIRMAN WALKER:** Mr. Williams, do you want to respond to that?

**MR. WILLIAMS:** Well, I noticed that -**B** Tony got me a copy of the draft agenda for the next South Atlantic Council meeting, which is mid-June in Key West, and I was hoping there may be reef fish on the agenda.

Unfortunately, it looks like it=s three solid days of king mackerel and then some other issues, including shrimp, but I don=t really see reef fish on here. I see that you=re on their agenda, Chairman Walker.

You=re on the agenda and I thought I saw somebody else here, but perhaps I could attend at least part of that, and we might engage in a conversation with the staff or committee chairs of the appropriate committees or maybe under Other Business or maybe

outside the meeting and talk.

I mean, I think there has to be some talk and then we can maybe -- you know, once both Councils get comfortable with the idea, maybe we could proceed.

**CHAIRMAN WALKER:** If there=s no objection from the Council, I would recommend Roy attend that meeting, and I will be there, as well as our mackerel committee, those first two days of the meeting where we=re going to be meeting jointly with South Atlantic=s mackerel committee; and if we can get a consensus of the Council, and I=ll be happy to go with Roy and we=ll talk to perhaps their chair and vice chair and get a feel for this and then bring it back to you at the next Council meeting, if there=s no objection. There=s no objection, Roy, so thank you.

**MR. WILLIAMS:** Proceeding on to the Red Snapper IFQ Profile; Wayne Swingle summarized the IFQ profile at Tab B-13 and asked the committee to approve it as a scoping document for scoping hearings scheduled in August in conjunction with Shrimp Amendment 13 hearings.

He also asked the committee to approve contracting with Walter Keithly, the primary drafter of the profile, to attend scoping meetings, make presentations, and report back to Council on public comments received at the meetings. He also asked that Dr. Keithly be asked to attend subsequent public hearings to again make presentations to the public.

It was suggested that the document use the term **AIFQ@** rather than ITQ. There needs to be a change in the report there for consistency. The committee discussed whether to have preferred alternatives in the document.

Some of the committee members felt that a scoping document should not have preferred alternatives while others felt that given the large number of alternatives, preferred would give the public some insight to the Council and AP=s thinking.

A motion to send the document to scoping meetings without preferred alternatives was withdrawn. Roy Crabtree then made a motion to add an alternative to the scoping document to require VMS on vessels fishing under an IFQ coupon.

**The committee recommends without objection, and I so move, adding an alternative to the IFQ profile to require VMS aboard all vessels that are harvesting under an IFQ coupon.**

**CHAIRMAN WALKER:** We have a committee motion. Do we have any discussion? **Is there any objection? The motion carries.**

**MR. WILLIAMS:** The question was raised as to whether it would be asking too much for fishermen to review both Shrimp Amendment 13 and the IFQ profile in the same night. Wayne Swingle did not think that Shrimp Amendment 13 would draw a lot of fishermen. Roy Crabtree indicated that he might make a motion in the Shrimp Committee to add a shrimp permit moratorium option, which would likely generate interest.

Wayne Swingle noted that such a motion would delay Shrimp Amendment 13, in which case the hearing dates scheduled for August 2004 would proceed with only the IFQ profile scoping meetings. That later, I think, we determined, was not correct.

**The committee recommends without objection, and I so move, sending the IFQ profile to scoping meetings and approving the August 2004 calendar handout of scoping meeting dates and locations.**

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion?

**MR. REICHERS:** We did have discussion about whether or not Shrimp Amendment 13 would be delayed, and I think actually we were told that we would know in time to change those dates if in fact there was a change. I actually asked the question of Wayne and that=s the reason why I bring it up again.

If Shrimp Amendment 13 gets delayed, there is probably no reason to have red snapper IFQ scoping hearings in Brownsville, and we may want to look at altering those locations if that is in fact the case. Just a note.

**CHAIRMAN WALKER:** Thank you, Mr. Reichers. Is there any further discussion? **Is there any objection? Hearing no objection, the motion carries.**

**MR. WILLIAMS:** **The committee recommends without objection, and I so move, that the Council approve Dr. Keithly to assist in the IFQ profile hearings.**

**CHAIRMAN WALKER:** We have a committee motion. For clarification, I wanted to ask a question because I was sitting in on that committee meeting. I think Dr. Keithly was going to do more than just assist in the hearings, was he not, Mr. Williams?

**MR. WILLIAMS:** He is going to assist in the hearings, but then Wayne had asked for his assistance beyond that too. That was not included in the motion, though. I don=t know that it was deliberate that it was not included in the original motion to approve him.

I mean, what he=s going to be doing now is attend those meetings, make presentations, and report back to the Council. Then going back in the report, Wayne also asked that Dr. Keithly be asked to attend subsequent public hearings to make presentations to the public. I don=t know that there was opposition to that. I think it may have been just a failure to have included it in the original motion.

**EXECUTIVE DIRECTOR SWINGLE:** I did point out in that discussion that those public hearings would occur in 2005; whereas, the scoping hearings will come up this August, I think. I don=t know the committee=s position on him helping in that regard. I=m not sure.

**MR. WILLIAMS:** Would it be appropriate then for me to make an amendment to amend the motion to also approve Dr. Keithly to assist -**B** let=s make it a substitute motion, to approve Dr. Keithly to assist in the IFQ scoping meetings and the subsequent public hearings. Is that what you were asking for, Wayne, to assist in the IFQ scoping meetings and the subsequent public hearings.

**CHAIRMAN WALKER:** **The substitute motion now is to approve Dr. Keithly to assist in the IFQ scoping meetings and the subsequent public hearings.** Is there any discussion? Is there any objection?

**MR. HEATH:** Don=t you have to have a second for a substitute motion?

**CHAIRMAN WALKER:** Yes, Mr. Heath, thank you.

**MR. HEATH:** So second.

**CHAIRMAN WALKER:** We have a second, Mr. Heath. Is there any discussion? **Is there any objection? The motion carries.** Mr. Williams. I=m sorry, hold on just a minute, I think Mr. Reichers has a comment.

**MR. REICHERS:** Rick has asked that we go ahead and develop a list

of contingency sites if Shrimp Amendment 13 is delayed. He doesn't believe we will have time, as we thought we may have had.

I would move that in case of delay of Shrimp Amendment 13, that we hold red snapper scoping hearings -- and I'll give the Texas sites and Louisiana folks are working on theirs, but I would suggest Corpus Christi, Texas, Palacios, Texas, and Galveston, and can you give us yours, Karen, to help with the motion?

**MR. WILLIAMS:** Panama City and Madeira Beach.

**MR. REICHERS:** Biloxi, Mississippi.

**CHAIRMAN WALKER:** Mr. Heath, do you know of any location in Alabama that we should hold the IFQ profile scoping document?

**MR. HEATH:** We should have one at Orange Beach.

**CHAIRMAN WALKER:** Mr. Saucier, you're the only representative we have from Mississippi, so we're going to have to ask you, is Biloxi okay?

**MR. SAUCIER:** Yes, I gave him Biloxi.

**CHAIRMAN WALKER:** Ms. Foote, do you have any recommendations for Louisiana?

**MS. FOOTE:** We're having a hard time remembering why we have Abbeville on here. It's an unusual place to have a meeting. If we had New Orleans, Houma, and Lake Charles, it would make more sense if it was just red snapper IFQ.

**CHAIRMAN WALKER:** So for Louisiana, Ms. Foote is recommending New Orleans, Houma, and what was the third one?

**MS. FOOTE:** Lake Charles.

**CHAIRMAN WALKER:** Lake Charles. Okay, the motion now reads: **In case of delay of Shrimp Amendment 13, IFQ profile hearings should be held in Corpus Christi, Texas; Palacios, Texas; Galveston, Texas; Panama City, Florida; Madeira Beach, Florida; Biloxi, Mississippi; Orange Beach, Alabama; New Orleans, Louisiana; Houma, Louisiana; and Lake Charles, Louisiana.**

**DR. RICK LEARD:** I was going to say we'll know by mid-June, as I was saying the other day, whether or not we can proceed with

both documents to public hearing and scoping; and I'm presuming that with this, if we are able to get Shrimp 13 ready for the July meeting, then we would go back to the previous list that was listed on that August calendar; is that correct?

**CHAIRMAN WALKER:** Yes, I assume, with Ms. Foote's objection, I think, to one -- would you want Abbeville if we're doing Amendment 13 to the shrimp fishery, too, Ms. Foote? Would you like to replace Abbeville with Lake Charles?

**MS. FOOTE:** No.

**CHAIRMAN WALKER:** Yes, Mr. Leard.

**DR. LEARD:** I just wanted to know because we probably need to get these hearings scheduled and make sure that they're firmed up prior to the July meeting, so that's why I was asking. Thank you.

**MS. FOOTE:** The reason I'm a little nervous about scheduling it is that we haven't got to shrimp yet, and there's a whole new issue coming forward in shrimp and I have to -- if that's going to be on the agenda, then we may have different meeting spots completely for shrimp. That's why I'm hesitant to tell you right now where shrimp hearings should be.

**CHAIRMAN WALKER:** Thank you, Ms. Foote. Thank you, Mr. Reichers, for bring it to our attention. You have a motion on the board. Is there any objection? **With no objection, the motion carries.**

**MR. WILLIAMS:** The SEDAR Planning Schedule, Wayne Swingle reviewed the schedule of SEDAR meetings in Tab B-13. Roy Williams noted that Florida had accepted the request that they run the data and assessments on spiny lobster.

Steven Atran asked which of the assessments on the schedule are full assessments and which are minor updates. Nancy Thompson responded that all of the listed assessments will be full assessments.

Wayne Swingle noted that no action was required by the Council on the currently scheduled assessments, but next year the Council's input would be needed on what stocks should be inserted into the process.

One suggestion was to have annual landings updates on gray triggerfish to make sure the landings did not exceed one million

pounds, as was recommended by the Reef Fish Stock Assessment Panel.

Bobbi Walker reminded Wayne Swingle that he was drafting a letter to Nancy Thompson about some of the datasets that would be needed for future species. Wayne responded that he had not finished drafting the letter, but he had received the information from the Panama City Lab on what was available for gray triggerfish assessment.

Other species of future interest are black grouper and scamp. Nancy Thompson asked that the letter be sent so she would have documentation as to which species data should be collected for future stock assessments.

Wayne indicated that the letter he was drafting would request that John Poffenberger and an appropriate person from the recreational catch monitoring team report to the Council each July on the landings data for gray triggerfish. Any other species that the Council wanted annual reviews could be added to the letter. That completes my report.

**CHAIRMAN WALKER:** Thank you, Mr. Williams. Next on the agenda we have the Shrimp Management Committee. Ms. Foote, do you feel comfortable giving the report?

**MS. FOOTE:** I'll give the report if Roy is there for backup. I apologize for not being able to make the meeting yesterday. The agenda was adopted with the addition of a resolution in support of Kay Williams and Corky Perret.

The minutes were approved with the notation of a misspelling of Ms. Morris's name on page 21, line 6; and a notation on page 27, line 27, Dr. Leard intended to state **A**alternatives for@ in place of **A**slates of.@

A review of options paper for Draft Amendment 13 to the Shrimp FMP, Dr. Leard explained that the document was still an options paper for Draft Amendment 13 to the shrimp FMP, and he referred the committee to Tab D, Number 3. He stated that he and staff at NMFS Southeast Regional Center had revised some of the alternatives based on the Council's action at the March meeting.

He noted that the document was not yet complete and needed the economic and social analyses to be reviewed and updated. He also pointed out that there may be some reformatting of the first three sections, including the introduction, purpose and need, and history of management.

Dr. Leard then reviewed the management alternatives for royal red shrimp, noting that MSY and OY alternatives had already been approved. However, he left those alternatives in the document because they were tied to overfishing and overfished definitions that had not been adopted. Following discussions, the committee made no changes to the alternatives for royal red shrimp, Actions 1 through 5.

Dr. Leard then reviewed the alternatives for MSY and OY for the penaeid shrimp species. He stated that overfishing and overfished definitions had previously been approved and the Council had voted to remove these alternatives from the document. Following discussion, the committee made no changes to the alternatives for MSY and OY for the three penaeid shrimp species.

The committee stated that the number of vessel permits included in the discussion should be updated and be consistent. With regard to Action 8, Dr. Leard reviewed the alternatives for paper logbooks, electronic logbooks, and observers that had been developed in conjunction with NMFS staff.

He stated that it was his intention that cost from any choice of options under these alternatives would be borne by NMFS and not the shrimp industry. Following the discussion, the committee made no changes to the alternatives under Action 8.

**Dr. Leard then reviewed the alternatives to establish Gulf shrimp vessel gear characterization form that included mandatory and voluntary options. Following discussion, the committee, by consensus, agreed to add alternatives for a random sampling of a subset of shrimp vessel permit holders that will be required to complete the Gulf shrimp vessel gear characterization form and on behalf of the committee, I so move.**

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion? Is there any objection? **The motion carries.**

**MS. FOOTE:** Shrimp Vessel Permit Moratorium. The committee discussed establishing a commercial shrimp vessel permit moratorium.

**Following discussion, the committee recommends, and I so move, to include alternatives to establish a moratorium on the issuance of commercial shrimp vessel permits as part of Amendment 13.**

**Shrimp vessel permits would remain fully transferable and the qualifying alternatives considered for vessels to remain in the**

fishery would be: 1. That a vessel had a valid commercial shrimp vessel permit at the time of the publication of the control date, December 6, 2003; 2. That a vessel had a valid shrimp vessel permit as of May 18, 2004; 3. That a vessel had a valid commercial shrimp vessel permit as of the date of implementation of the final rule to implement the moratorium with options for a duration of five years, ten years, or indefinitely.

We're going to go into discussion now, if that's okay.

**CHAIRMAN WALKER:** We have a committee motion and Ms. Foote wants to discuss.

**MS. FOOTE:** I wasn't here for the discussion, and I understand that Roy presented the information that led us to this motion. Could I hear a recap of that discussion, just a short recap of why we are moving into this now?

**DR. CRABTREE:** Well, we have a control date set, we have a lot of economic problems in the shrimp fishery. I think we had these items in Shrimp Amendment 14, which it looks to me like is going to be another year down the road.

I think that we need to go ahead and deal with the issue of do we want to put a moratorium on shrimp permits while we're close to the control date, rather than waiting until we are way down after the fact, and do that?

I think that everything I've ever seen, we know we've got excess capacity in this fleet. They're not making any money anymore, and we've got a lot of potential things down the road in terms of possible dumping suits and trade actions and things.

My meetings with a number of people in this industry have been that they are supportive of a moratorium, and I just think it's a timely issue and one that we need to go ahead and deal with rather than putting it off into the future.

**CHAIRMAN WALKER:** Ms. Foote, do you have any further questions?

**MS. FOOTE:** No, thank you.

**CHAIRMAN WALKER:** Is there any other discussion? I've asked Mr. Swingle and he's trying to correct what's on the board. **After implement the moratorium with options for a duration, we are going to put a 1, five years; 2, ten years; or 3, indefinitely so that it looks like it's choices.**

Is there any further discussion on the motion? Is there any objection to the motion? Does anybody wish to abstain? **The motion carries.**

**MS. FOOTE:** The committee also recommends, and I so move, that the Council adopt the following resolution: The Council records and conveys sympathy and support for Kay Williams and Corky Perret, and our wish is for both to have a swift and complete recovery from their current illnesses.

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion? Is there any objection? **The motion carries.** Thank you, Ms. Foote.

The Council met in closed session yesterday to complete the AP Selection Committee, the Personnel Committee, and the SEDAR Committee. There will be no report from the Personnel Committee. There was no action taken. However, Mr. Basco, can you handle the report from the AP Selection Committee, please?

**MR. BASCO:** Thank you, Madam Chairman. This is the report of the AP Selection Committee, Tab B, Closed Session. I think if we could maybe get the names up on the board there; wouldn't that be the proper thing to do?

**CHAIRMAN WALKER:** Yes, Mr. Basco, just bear with us for two minutes.

**MR. BASCO:** Well, I can read it while she's getting it up there. All the members were present except Karen Foote. The committee adopted the agenda with the addition of discussions of filling the vacancy of the Mackerel AP created by the resignation of Greg DiDomenico, the Executive Director of Monroe County Commercial Fishermen.

The Council, after reviewing the paperwork, approved the Ad Hoc AP for Off Shore Aquaculture consisting the following persons and there on the board is their names.

**CHAIRMAN WALKER:** Will you read the names, Mr. Basco, for the record, please?

**MR. BASCO:** Jesse Chappel, Don Allen, Marianne Cufone, Dave McKinney, Tom McIlwain, Robert Romaine, Cynthia Sarthou, Robert Stickney, Rick Wallace, and Paul Zajicek.

**MS. FOOTE:** Just for a spelling correction, it's Robert Romaine. It's an **Ar@** instead of an **An@** in his last name.

**MR. BASCO:** As I understand it, this is not a motion. Do we need

to move **B-**

**CHAIRMAN WALKER:** That's right, all we're doing **B-** the motion was made in closed session and all you're doing is reporting it publicly.

**MR. BASCO:** Okay, reporting. The Council took action to fill the vacancy on the Mackerel AP by appointing George Niles. That concludes my report.

**CHAIRMAN WALKER:** I think Mr. Williams has a comment.

**MR. WILLIAMS:** Only that Paul Zayjack, he's with the Division of Aquaculture, Florida Department of Agriculture. I would put Florida Agriculture Department rather than Aquaculture Department.

**CHAIRMAN WALKER:** No further questions? As I said earlier, we have no report from the Personnel Committee. Next on the agenda is the Council SEDAR Committee.

The full Council met in closed session yesterday and approved the following persons to participate in the Red Snapper SEDAR Review Workshop in New Orleans on October the 25<sup>th</sup> through the 29<sup>th</sup>, 2004: Kenneth Rose from LSU; Mike Murphy, FMRI; Harry Blanchet, Louisiana Department of Wildlife; Elizabeth Babcock; Russell Underwood; Mike Nugent; Andy Kemmerer; and Mike Sissenwine.

**MS. FOOTE:** I have every reason to believe that Harry will be able to participate in this meeting in October, but as long as we're extending get well wishes, I would hope the Council would extend it to Harry. He had a non-malignant brain tumor removed a week ago and he just got out of the hospital, and he's doing well.

**CHAIRMAN WALKER:** Thank you very much, Ms. Foote. That's the report from the closed session of the SEDAR Committee. Mr. Williams or Mr. Fischer, who's going to handle the joint Reef Fish/Mackerel?

**MR. FISCHER:** I will, Madam Chair. This is Tab F. Mr. Fischer called the meeting to order. The agenda was adopted without changes. The minutes were also approved without changes.

Dr. Leard explained that following the March Council meeting, the SERO staff and the South Atlantic staff had developed an interdisciplinary project team (IPT) to develop a limited access

amendment.

He stated that the IPT recommended separating the generic amendment into separate mackerel and reef fish amendments, Mackerel Amendment 15 and Reef Fish Amendment 24, due to the addition of an action to change the opening date of the seasons for Atlantic group king and Spanish mackerel and possible additional impacts with regard to license limitation for reef fish in the Gulf.

He stated that the options paper was reviewed in March 2004, and included four sets of alternatives that had been extrapolated from the scoping document for the joint reef fish/mackerel limited access programs and based on scoping comments.

Dr. Leard then reviewed the alternatives for Action 1 under Section 5.0, Tab F, Number 3, for a single set of alternatives under Mackerel Amendment 15 to either let the king mackerel moratorium expire, extend the moratorium for five or ten years, or replace the moratorium with a limited access license that more correctly reflected the scope and comments.

**Following discussion, the committee recommends, and I so move, that the Council adopt the alternatives for Action 1 with a change in the language for Alternative 4 from a license to a permit.**  
Madam Chair.

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion? Is there any objection? **The motion carries.**

**MR. FISCHER:** With regard to Action 2, to either retain the April 1 opening of the commercial season for Atlantic group king and Spanish mackerel or change the opening date to March 1, the committee by consensus agreed to accept these alternatives; and as a motion, Madam Chair, I so move.

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion? Is there any objection? **The motion carries.**

**MR. FISCHER:** Dr. Leard then reviewed Tab F, Number 4, the action and alternatives of Reef Fish Amendment 24. He stated that the alternatives for Action 1 were the same as for Mackerel Amendment 15.

**Following discussion, the committee recommends, and I so move, that the Council adopt the alternatives for Action 1 with a change to the language of Alternative 4 from a license to a permit.**  
Madam Chair.

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion? Any objection? **The motion carries.**

**MR. FISCHER:** Scoping Document for Extension of the Charter Vessel Permit Moratorium. Mr. Swingle reviewed the scoping document for the charter boat and headboat permit moratorium extension. He explained that an IPT with National Marine Fisheries and a time line had been developed to ensure that the moratorium was considered prior to the June 2006 expiration.

He reviewed the scoping document and explained the problems being addressed by the amendment and the purpose and need for potential action. He noted that the scoping document included alternatives for three, four, five, or six-year extensions to the moratorium, along with status quo to let the moratorium expire.

**Following discussion, the committee recommends, and I so move, the Council adopt alternatives for a five-, seven-, and ten-year extension in place of the three-, four-, five-, or six-year extension, along with status quo. Madam Chair.**

**CHAIRMAN WALKER:** We have a committee motion. Is there any discussion? Is there any objection? **The motion carries.**

**MR. FISCHER:** The committee also recommends, and I so move, that scoping meetings be held at the locations indicated in Section 7.0 of the scoping document and as indicated on Tab F, Number 6 as previously approved. Madam Chair.

**CHAIRMAN WALKER:** Mr. Fischer, can I get you to read those locations out for the record, please?

**MR. FISCHER:** Not off this sheet of paper. **Off of the calendar, we have Naples, Florida; Madeira Beach, Florida; New Orleans, Louisiana; Biloxi, Mississippi; Orange Beach, Alabama; Destin, Florida; Port Isabelle, Port Aransas, and Galveston, Texas.**

**CHAIRMAN WALKER:** Thank you, Mr. Fischer. We have a committee motion. Is there any discussion? Are they all on the board now, Mr. Fischer?

**MR. FISCHER:** Yes, Madam Chair.

**CHAIRMAN WALKER:** Is there any discussion?

**MR. WILLIAMS:** Is Destin, Florida, up there?

**MR. FISCHER:** Sorry, Madam Chair, Destin is not.

**MR. WILLIAMS:** Because right now we've got Destin.

**CHAIRMAN WALKER:** Lela, can you please include Destin, Florida?

**MR. WILLIAMS:** I think you're still missing one, aren't you? I counted nine and I count ten in the book. Madam Chairman, if I may, we've got --

**EXECUTIVE DIRECTOR SWINGLE:** They're on page 11 of the draft scoping document. There's nine of them.

**CHAIRMAN WALKER:** Is there any objection to these locations in this motion? **Hearing no objection, the motion carries.**

**MR. FISCHER:** This concludes the committee report. However, I would like to pass something out since that time. The South Atlantic SSC has met the last two days, and we have some preliminary findings and conclusions from their committee, and you could probably have Tony go into further detail.

Just roughly glancing at it, it appears the majority of the discussion centered around the mixing zone and various mixing rates, items we're going to have to address in the future, possibly in Amendment 16. I just wanted to let you know that South Atlantic is going forward and working ahead full steam and trying to progress in this area.

**CHAIRMAN WALKER:** And let me ask you, was that from their sub-SSC committee or the full SSC?

**MR. FISCHER:** The subcommittee.

**CHAIRMAN WALKER:** It's from their subcommittee, and are you wanting Council members to respond today?

**MR. FISCHER:** No, ma'am, I just wanted to pass it out to let it be known that they're progressing in this area. However, they have some codes in here that I think the Secretary of War might have to decipher. We're trying to figure out what some of the codes mean.

**CHAIRMAN WALKER:** Okay, we're going to pass these out and we'll go to the Red Drum Meeting. We'll take a short break and then if any Council member has anything they want to discuss based

on this report after our break, we'll talk about it.

**DR. CRABTREE:** Before we leave this committee and the charter boat moratorium, one issue which was brought up to me after the committee meeting was whether we would want to include an alternative in the charter boat moratorium that would allow a captain to purchase two six-pack licenses and combine them for one twelve-pack license.

I guess now if you have a vessel that takes twelve passengers, you would have to buy a license for twelve or greater to do that and this would give you some more flexibility in that you could buy some licenses from smaller capacities and combine them into one.

I wonder if the Council would have any interest in exploring an alternative along those lines because if we're going to make modifications to this program, this amendment is the place to do it.

**MR. FISCHER:** I was approached about a similar proposal; and at the least, I think we should let the public have a say on it, and it would be no addition in effort. If someone chooses to take twelve passengers out and buys up two six-pack licenses, it's no addition in effort at all. I would like to see this in the document if it were possible.

**MS. BELL:** My question would go to the Coast Guard. Isn't that a Coast Guard issue? I mean, aren't there safety things that change when you change and you put more than six people on there? I don't think it's legal. I don't know, I'm asking the Coast Guard.

**CHAIRMAN WALKER:** Karen, I think what he's talking about is if you have a passenger vessel that carries more than six passengers but you don't have a permit, for you to go out and purchase two six-pack permits to put on a multi-passenger boat; or, if you had two six-pack permits, you could build a multi-passenger boat and then put the permit on. But, no, they can't be allowed to **B-** you can't take a six-pack boat and put twelve passengers on it, no.

**MS. BELL:** I don't understand what the topic is.

**MR. FISCHER:** Actually, I would like to see it go further than that. If someone is building a large-capacity sixty-passenger vessel, give him the option of buying up ten six-pack vessels.

**CHAIRMAN WALKER:** Okay, I'm going to see if I can explain this to Karen because I want her to understand it. If someone wanted to go and purchase a vessel, such as Myron said, there's a moratorium on permits, so they couldn't get a permit to carry sixty people. But by putting this option in, it would give them the ability to go out and try to find ten six-pack permits and put them all together on that one vessel.

**MS. BELL:** Aren't six-pack permits issued by the Coast Guard?

**CHAIRMAN WALKER:** Our charter boat moratorium permits are issued by the National Marine Fisheries Service.

**MS. BELL:** And they're referred to as six-pack licenses?

**CHAIRMAN WALKER:** They limit the number of passengers on a charter boat to six people. The permits, if you remember when we did the charter boat moratorium, we capped the effort where it was that day, so we capped the number of vessels that were in the industry and we also capped the number of passengers that those vessels could carry.

**MS. BELL:** I understand that. I think what's just confusing to me is the Coast Guard also has a captain's license, right, but isn't that often referred to a six-pack license? I hear the guys all the time they have got those. That's what is confusing me. I'm confusing the Coast Guard license with the NOAA permit or NMFS permit.

**CHAIRMAN WALKER:** No, the vessel would have to comply with the Coast Guard requirements in order to carry that many passengers.

**MR. WILLIAMS:** Do we limit the vessels that carry more than six people to a specific number of people, so some vessels are licensed for ten, some for twenty, some for fifty, some for sixty?

**EXECUTIVE DIRECTOR SWINGLE:** Yes, under the provisions of the plan, if you had one inspected to carry eighteen passengers, you can transfer that, and it could only go to a vessel that was inspected to carry that many or more passengers. It could go to one inspected that could carry eighteen persons or one to twenty-four vessels or higher, but it doesn't go the other way. You can't use a six-pack license to get one higher.

**CHAIRMAN WALKER:** Karen, is that better? Do you understand?

**MS. BELL:** I think I understand. Let me ask a question. I don't think I realized that when you all are signed up for the charter boat permits, you had to apply for a certain number of people on your boat? I've never seen one of those permits, so I'm not familiar really with them. But when you requested them, you say you have twenty people or your boat holds however many and that's what you were approved for?

**CHAIRMAN WALKER:** Yes.

**MS. BELL:** So they're saying the smaller ones they could buy them up and **B** okay, I don't think we've ever done anything like that before, have we?

**CHAIRMAN WALKER:** I don't think so. I think we're at a point where we've discussed it enough. Does someone want to make a motion to make it an option in our charter boat moratorium amendment?

**MR. FISCHER:** I would like to move we add a part in the correct placement in the charter boat moratorium, a part that states that someone can combine permits, not only six-pack permits. They could combine permits to get an increased number for a new vessel -- no, another vessel. You caught me off guard asking me to do that.

**CHAIRMAN WALKER:** Does the Council object to taking a five-minute break for Myron to work this motion out, rather than us just sitting here waiting and then we'll come back?

**MR. FISCHER:** This is Dr. Crabtree's motion, if you all recall.

**CHAIRMAN WALKER:** Five minutes.

(Whereupon, a recess was taken)

**CHAIRMAN WALKER:** If Council members will take your seat, we'll resume. Mr. Fischer has his motion ready now.

**MR. FISCHER:** I think this grasps what Dr. Crabtree was first referring to when he got me on this road. **A motion to add a section to the charter boat moratorium scoping document which states a charter vessel permittee can combine permits to increase the number of passengers within his certificate of inspection requirements for their vessel or another vessel.**

**CHAIRMAN WALKER:** We have a motion. Do we have a second? Mr. Claverie seconds. Now there's discussion?

**MR. GRIMES:** I asked about this, and I thought about it for a minute, and I have a little bit of concern and don't see at this point the record for allowing a permittee to combine permits to go to a vessel with larger capacity, yet not let an individual with a larger capacity divide those permits to go the other way.

If you're tying effort to individuals, then the number of individuals that would be allowed to go -- the rationale would go both ways, so I don't see at this point the record for allowing them to go to a larger vessel, but not let the larger vessel subdivide into several smaller vessels.

**EXECUTIVE DIRECTOR SWINGLE:** Part of such rationale would be that you would increase the number of vessels rather substantially if you allowed the larger vessels to subdivide into a number of smaller vessels.

All things being equal, I don't really think you've got an exact exchange of effort by the size of the vessel really. Someone going the other way, if they are limited, say, to twelve people, they may have six fishermen and three or six passengers or something on there. So it just, in my mind, would increase the number of vessels rather substantially if you could divide it up that way.

**MR. GRIMES:** Just in response to that, though, you've tied capacity not to the number of vessels, but to the number of individuals that a vessel can carry. I guess the rationale would be that six six-pack boats can make more trips and exert more effort than one thirty-six passenger vessel.

**MS. BELL:** Actually, Shepherd, I think I disagree with that because I think the larger boats **B-** and this is just from my perspective and what I see at home.

The larger boats go out every single day, pretty much, weather permitting, as opposed to the little boats. The weather plays a bigger role. I think the bigger boats would make more of an impact in effort, but that's my perspective. I'm not opposed to putting it in the document for consideration.

**MR. GRIMES:** My intent was not to torpedo this. It was just that this is something when you go home to think about, that there's going to have to be sufficient rationale for this, and I see it being a little thorny down the road.

**DR. CLAVERIE:** I thought we went through that when we adopted what we presently have. We covered that -- and I forget how it came out, but I think if you read the regulations about trading, if that=s what you want to call it, it didn=t allow the take one and make multiple smaller vessels out of it. I think it affirmatively **B-**

**CHAIRMAN WALKER:** Mr. Swingle, do you recall that?

**EXECUTIVE DIRECTOR SWINGLE:** Yes. Basically it just provided that if you had a six pack and you wanted to sell that permit, it couldn=t be used by somebody that wanted to run a headboat or any other class of vessel inspected for a higher number of passengers.

It had to be tied to a six vessel thing and we specifically precluded that type of action. The intent was to just limit effort by not allowing the exchange of permits that would result in their ability to carry more passengers.

**DR. CLAVERIE:** That=s not what I=m talking about. I thought we affirmatively said if you have a twelve-passenger boat, you can change it into a six-passenger boat, but not two six-passenger boats. Did we say that?

**EXECUTIVE DIRECTOR SWINGLE:** We did say that you could **-B** if you had a twelve-passenger permit and your vessel was permitted, you could use that on a six-pack vessel. You could go down. You could use on one that=s approved for eight passengers and one for ten, but you couldn=t go the other way.

**DR. CLAVERIE:** No, I mean, if you went from twelve passengers to eight passengers, you couldn=t sell the other four passengers to someone else. Those four passengers disappeared.

**EXECUTIVE DIRECTOR SWINGLE:** Right, correct.

**DR. CLAVERIE:** So what Shepherd is suggesting is that=s not covered, and what I recall is that it is covered in our regulations. If you go to a smaller boat, you lose the other passengers.

**EXECUTIVE DIRECTOR SWINGLE:** Right.

**CHAIRMAN WALKER:** Mr. Claverie, I don=t recall it completely, but I think you are correct, that we said if you had a permit with twenty passengers and you purchased another boat that limited you to six passengers, then that passenger capacity dropped to six, but it would not be allowed to go up. That=s the best of my recollection.

**MR. SIMPSON:** One nuance different that I disagree a little bit. If you had a twelve-passenger boat and you went to six, you would be limited to the bag limit for the six. You could still carry passengers up to twelve. But when you landed, you could only have the bag limit for the six -- if you wanted to have observers or picture takers or whatever.

**DR. CLAVERIE:** Well, presumably, Shep has the booklet of regulations in it. Why don't you look it up and tell us?

**MR. GRIMES:** Well, I don't need to look it up. I've lived this thing for three years. But, if you come in and you qualify based on a twelve capacity passenger vessel, then you can get **B-** and that's a certificate of inspection, it's an inspected vessel - **B** you can come in and if you still have that twelve-passenger vessel, you get a permit for that twelve-passenger vessel.

If you now have a twenty-passenger vessel, you cannot get a charter permit for that vessel because it does not allow you **B-** it's only transferable to a vessel of the same or lesser authorized passenger capacity.

But, the regulations do not allow you to combine lesser for the greater or divide greater for a number of lesser. My only point was absolutely no comment whatsoever on the existing regulations, but that the discussion has tied in many ways capacity not strictly to the number of vessels.

But by doing that, you're tying it to the number of individuals that are on a vessel. You can have a lot of vessels if they weren't carrying but two passengers. Presumably it would be the same amount of recreational effort as one vessel that carried that same number of passengers.

So in tying the passengers, if you're going to allow the lessers to combine to equal or greater, what is the difference between doing that and allowing the greater to divide to a greater number of lesser passenger vessels? That was my only point. Perhaps I should not have brought it up at this juncture.

**MR. SIMPSON:** Let me ask a question. When you applied for your charter boat permit, it was based on the capacity of the vessel and that's what you were granted. Let's say Bob Zales had a six-pack capacity vessel, Coast Guard, and a six-person permit from the National Marine Fisheries Service, and let's say Bob bought a vessel that had twelve capacity vessel, Coast Guard, and he has a six-passenger NMFS permit, can he carry only six

people fishing or can he carry six people fishing and six photographers?

**MR. GRIMES:** He cannot get that permit on that vessel.

**MR. SIMPSON:** That=s where I=m in error then, I=m sorry.

**MS. MORRIS:** I would like to ask the mover of the motion whether he thinks this alternative would have a positive, negative, or neutral biological effect on the fishery, on the fish.

**MR. FISCHER:** I think this would have a positive effect, and I=m just giving you my anecdotal view of the fishery. A six-pack vessel typically sails, at least in the areas I=m familiar with, vacation to visit, with five or six people aboard. Typically they have the full six aboard.

A forty-passenger vessel often sails with fifteen or twenty, many times with ten and fifteen because that=s what the group is. They have a vessel capable of taking forty, but if the charter shows up and it=s a ten, twelve, fourteen people charter, they go. But, six-pack boats generally don=t go with one or two. People usually show up with six people. I think it would have a positive effect.

**CHAIRMAN WALKER:** And, Ms. Morris, my experience in Orange Beach is that the vessels that are licensed to carry twenty, thirty passengers, most of them charge a flat rate, and it=s for a minimum number of ten or twelve people. Is there any other discussion?

**MR. FISCHER:** One of the other issues that I didn=t want to bring up -- and we said how these permits were transferable and you can have -**B** I don=t know what the capacity on one of your boats is.

Let=s say it=s thirty people, and for whatever reason you have to get another boat because boats don=t last forever, and you go to build this new boat, and the builder says I can make this exact same boat with today=s standards and guidelines be a fifty capacity boat.

That=s fine, but your NMFS license is only for thirty, and this would give you the opportunity to buy up a few other licenses just to have that capacity. And you may not carry that many people once a year, but at least now you could advertise it and

you have the option to.

**CHAIRMAN WALKER:** Is there any other discussion? Anybody else want to say something? Is there any objection to the motion? **With no objection, the motion carries.** Mr. Fischer, is that the end of your report?

**MR. FISCHER:** Yes, Madam Chair, thank you very much.

**CHAIRMAN WALKER:** Now Mr. Kennedy is going to give us a report on Gulf States Marine Fisheries Commission Red Drum Meeting.

**MR. KENNEDY:** Actually, I'm going to go through the issue and where we stand, including that discussion of the Gulf Commission. There is nothing in your briefing book, except one piece that I'll refer to, and that's Tab B-15, which is the SEDAR schedule for the next few years.

We'll start off with the issue. The question has been is overfishing occurring on red drum in the Gulf of Mexico as stated in the 2002 Status of Fisheries Report to Congress. And, just recently I found out in the draft 2003 report it's also listed as overfished and overfishing is occurring.

Some background information on this so far, since we haven't visited red drum in some time. The commercial harvest in the EEZ has been closed since 1987. Recreational harvest in the EEZ has been closed since 1988.

The states were asked at that time, at the last amendment for red drum, to allow a 30 percent escapement of red drum juveniles to offshore adult populations.

Gulf States Marine Fisheries Commission has started a dialogue with state assessment staff to determine what the current estimate of escapement is. All the states have submitted a report in one form or another, and unfortunately I did not bring them. You all got them in the mail at some point in time since March.

But all five of them state that they are meeting or exceeding, in some cases significantly exceeding that escapement rate. The second part of the question that Gulf States is trying to answer is are the methods compatible enough to conduct a new Gulf-wide stock assessment in the future. At this point in time, no such assessment has been set up.

However, a review of state red drum escapement rates is currently scheduled to go through the SEDAR process in 2005, and that's what you'll see in Tab B-15. SEDAR Number 9, not quite halfway down the page, has a review of red drum escapement rates, the state information.

National Marine Fisheries Service doesn't collect any of that information. The states hold all the data related to near-shore red drum population abundance and escapement.

**DR. CLAVERIE:** Well, for instance, some states use MRFSS for the recreational component of that, in which case NMFS does hold that information.

**MR. KENNEDY:** That would be true, but the states are the ones at this point that are responsible for actually analyzing data and determining whether they would meet or not a 30 percent escapement rate. NMFS does not do that, so I misspoke in a sense.

So that's the background for this issue, and at this point it's really up to the Council where we go next as a Council. The Gulf Commission is going to continue this process of looking at whether the data are compatible from state to state and whether a new assessment can be done, and SEDAR Number 9 will eventually review that and determine whether that's the case or not. I don't know where to go with this at this point, so it's for the Council to decide what's next.

**CHAIRMAN WALKER:** Do any Council members have any questions?

**MR. REICHERS:** I'm just wondering, is the review of the red drum escapement, are you basically going to attempt to do the same thing that Clay Porch had done in I believe it was 1998? Is that the kind of review we're talking about, but in a SEDAR process? I'm a little confused about what that leads us to. Given the way it's worded here, it's not saying it's an assessment. It's saying it's a review of estimates and I'm confused.

**MR. KENNEDY:** It is not an assessment. It is a review of the data and the methods being used by the states to determine whether they meet a 30 percent escapement rate or not. No assessment has been set up.

When an assessment is eventually done, and it will eventually have to be done, those data, since the fishery is closed in the federal zone and has been closed since 1998 for everybody, those data are the only data that are going to be available for an

assessment. It=s important that those be done and done right and that they=re compatible before the next step, which is an actual red drum assessment.

**CHAIRMAN WALKER:** Dr. Crabtree, correct me if I=m wrong, but I think at the SEDAR Steering Committee, when we talked about doing the review, which is the third step, the review workshop, they were going to take all of the state data, gather it, review it, and see if the -**B** apparently it sounds like they=re going to be doing the same thing that Mr. Simpson and them are planning on doing to see if it is compatible to be able to do an assessment.

**DR. CRABTREE:** My memory was that they were going to review what the states provided and essentially see if it was consistent and reliable, and I would guess as a part of that they could make a determination as to whether there=s enough information for an assessment.

**DR. CLAVERIE:** Two things. Number one, NMFS does have some data that they have used previously in red drum annual report to us that is not state data and that ought to be incorporated.

Number two, the original assumption on the part of the Council was that if over a period of time there is a certain percentage of escapement, that that should be the percentage of adult population in the Gulf.

The original thought was they wanted a 20 percent spawning biomass ratio or whatever it was per recruit at one time, and then they took the per recruit off of the definition, and then they changed and so they wanted a 20 percent escapement.

Then they changed to 30 percent escapement because there was a 10 percent, quote, slippage I think is the word they used. And so if the escapement rate is going to be used -- over a length of time escapement rate is going to be used, there would have to be something to check the validity of the, quote, slippage because if the slippage was zero, you have more fish out there than the escapement rates would -**B** you have more than 20 percent.

If the slippage is greater than 10 percent, you have less than 20 percent. So, that would have to be checked. Whatever you do, you=re going to have to check to see how the population in the Gulf is doing because you don=t know the actual slippage.

**MR. SIMPSON:** This is a federally managed fish. This came up a few meetings back, and I had a dialogue with Dr. Crabtree.

I personally am convinced that almost twenty years worth of effort by the states to reduce bag limits to do escapement rate calculations has accomplished the goal that the Councils asked the states to do, and that is to allow 30 percent or more -B and as Stu indicated, in some instances it=s significantly more than 30 percent.

I=m convinced that the states have done everything that they need to do. The issue is whether or not the approval entity, I guess NMFS, says that this method is acceptable or approvable. If it is, then that fishery can then be changed from overfishing occurring, and the only question in the puzzle then would be is it overfished.

The only way, and I differ from Mau, that you=re going to get the answer to that offshore population health is some type of a tag-and-release study similar to the first one that was done in the early 1980=s, 1982 or whatever it was, Wayne.

**EXECUTIVE DIRECTOR SWINGLE:** 1986.

**MR. SIMPSON:** 1986. Now, we have gone through some exercises and secured money to do a tag-and-recapture effort that fell flat on its face. That is the only way you=re going to determine the status of that offshore stock. That is not the responsibility of the states. It is a federal issue in federal waters.

So we are just simply working with the states to make sure that we have done, we, the states, have done everything that we can do and have been asked to do and should do, and I=m convinced that we have.

**DR. CLAVERIE:** Larry, I don=t disagree with you at all. We=re on the same boat. My only difference is that they may figure some other way to determine the status of the Gulf stock other than the tagging situation. There may be some other way to do it.

Obviously, it cannot be fishery dependant and there may be other fishery-independent ways other than the tagging thing because the tagging thing gave so many problems and it is expensive.

**CHAIRMAN WALKER:** I think Mr. Leard wanted to comment.

**DR. LEARD:** Just briefly, Madam Chairman, I think that because we=re using the SEDAR process, we ought to be calling this a SEDAR data workshop because that sounds to me like the purpose

for this, is to determine what data we do have, both at the state level, federal level, to review that data, to look at what assessment methods we've got that are available to us and make a determination as to whether or not we have enough information to do an assessment, and then later review that assessment that would ultimately lead us into developing better definitions of our overfishing and overfished definitions under post-SFA criteria. So, it seems to me that it fits as a data workshop.

**CHAIRMAN WALKER:** Rick, that's a very good idea. We've got a conference call coming up Friday morning and we'll take that to the steering committee. I wanted to ask Larry if he remembered what the escapement was for each of the states?

**MR. SIMPSON:** Back in the 1980s?

**CHAIRMAN WALKER:** Now.

**MR. SIMPSON:** Oh, I don't have my piece of paper. I sent it to Mau and I sent it to Stu. The lowest possible range was in Florida, and that was 20. That was the lowest part of the range.

**MR. KENNEDY:** I thought it was higher than that, 27 to 45.

**MR. SIMPSON:** 27 to 45, and that was the lowest. There were some in the 60s.

**CHAIRMAN WALKER:** Mr. Claverie, do you recall what those percentages were?

**DR. CLAVERIE:** About like Larry does. Florida was right at the edge and Alabama -B Florida was right at the -B but it was the 30 percent number, it wasn't the 20 percent, and I think Texas was about 40. I forget Mississippi and Alabama. But Louisiana was what, Karen?

**MS. FOOTE:** 64.

**DR. CLAVERIE:** 64, and I think that was the highest.

**DR. CRABTREE:** I think some of the concerns were to see if there was any consistency in how the states were evaluating this. I can tell you, for example, in Florida, the reason for those different estimates in that range was because we found that the estimates were very sensitive to the assumptions you made about the size and age of the released fish, because at least half of the mortality in Florida is from catch-and-release fishing

because so many fish are released.

So, we did this assessment on both the east and the west coast because this was done while I was working for the FWC, and we weren't really able to make a very accurate determination of what the escapement rates are. I believe Florida subsequently put in place some programs to try and get some estimates of what size fish are being released.

I don't know what assumptions the other states in their estimates are making and how are they handling the size of the released fish and how are they factoring that in, and so we may have estimates from all the different states that are apples and oranges.

I think that was really what we wanted to look at to make sure that there was some consistency being applied. Now with respect to the tagging programs and biomass estimates, there are in the proposals to revisit the guidelines of the National Standard 1.

There was some discussions about how do you handle a stock like red drum where you really can't assess biomass very well, and one of the thoughts that was floated there was that, well, you should be able to set up a rebuilding plan that focuses on fishing mortality, and your rebuilding objective would be to maintain the fishing mortality rates below some specified level for a generation or something like that.

If you succeed in doing that, then you've met your rebuilding target and you go from there. The idea was to determine ways to specify rebuilding plans that don't require you to have biomass estimates, which would apply not just to red drum, but also to Goliath grouper and some of our discussion the other day. So there are lots of ways to come at this. That, though, I think are the concerns about the estimates from the states.

**DR. CLAVERIE:** With red fish and with most of the fish, one generation certainly wouldn't do it. It would not have done it for red fish. What is it, forty years old, when they start spawning when they're four or five, and so it would take many more generations than one generation, even with no fishing mortality at all, to rebuild that stock from the condition it was in the 1980=s and early 1990=s.

As I recall, the calculation was that in 1992 or somewhere in that time frame was the lowest population level -B that=s when the population level of the Gulf adults bottomed out, even though the state restrictions that vastly increased the escapement were

put into effect before that, and so it would certainly take more than one generation.

Also in Florida, the east coast red drum have a quirk that the west coast red drum don't have, and that is that many of the east coast red drum spawn without escaping out of the inshore estuary areas. In other words, they stay there and spawn.

When we first got into the red drum situation in the Gulf, some of the old red drum fishermen then -- this is in the 1980=s -- recalled that there was a large number of big red drum in the estuary system, and that it may be that in truth the red drum would stay inshore as spawners but that they were shot at so often by the fisheries, that they didn't live long enough, and that=s why there were no more spawners inshore.

They only found spawners offshore because those didn't get shot at so much. So, assuming that the assumption that we're presently operating on in the Gulf, which is spawners, I think one of the scientists said emigrate offshore and do not stay in the marshes, if that=s correct, that=s what our whole system is based on.

If that=s incorrect, we should have more spawners than just is in the Gulf. We should have as many as there used to be, or some percentage, of as many as 20 percent, as many as there used to be inshore, too, and that=s apparently not happening.

**MR. KENNEDY:** A couple of points. Roy is correct that one of the issues that we're trying to go through, the Gulf Commission is trying to continue on, is a discussion of whether the various methods are actually compatible.

That=s an important issue to continue on and the sooner that gets resolved, the easier it=s going to be to do the SEDAR process.

SEDAR Number 9 is really scheduled for March 2005 to August 2005, and that=s really all three workshop types, data workshop, assessment, and assessment review. No?

**CHAIRMAN WALKER:** My recollection is that it was not -- that red drum was not going to go through the full SEDAR process. It was just the review.

**EXECUTIVE DIRECTOR SWINGLE:** Under Tab B, Number 15 is what I guess Stu is referring to. But under SEDAR Number 9, we had vermilion snapper and greater amberjack, and they would go

through the whole process from the data collection to the assessment to the assessment review workshop, but the review workshop would include only red drum.

I guess it has been suggested by Dr. Leard that this probably would be more correct, to call it a data workshop, because they will be evaluating the data used by the states and the analyses used by the states.

**MR. KENNEDY:** Well, I agree, and I didn't know that red drum specifically -- I was referring to SEDAR-9. I agree with Rick that there should be a data workshop. Where I was headed was because all three of those exist in SEDAR-9, after the data workshop there should be a decision as to whether those information can move forward and go through either the assessment or the review process or whether it has to stop there.

So I wouldn't make it to a point where you just have the data workshop and end. I think the process should continue on if indeed there's no problems with the data, and if the data workshop agrees that it can move forward. So when you guys discuss SEDAR planning, you might want to leave a little space open for that if it's **B-**

**CHAIRMAN WALKER:** Well, the problem with that, though, is that we've already planned SEDAR out through 13 through 2005 to 2007, and the Council didn't vote for red drum to be a priority; and so when Wayne and I attended the SEDAR steering committee meetings, we didn't have red drum as a priority for the Council.

Now my understanding at the steering committee was that they didn't feel the data was going to be comparable between the states, but that a review of that, then they could take that back to each state and say if you can start collecting data in a similar fashion, that it can be used later on for a stock assessment. Is that how you remember it, Dr. Crabtree?

**DR. CRABTREE:** I would have to look back, Bobbi. My remembering of it is there were concerns about the consistencies of the approaches taken by the states, and they wanted to get a review together to review them and see if they could reach some conclusion about **-B** I guess about what the escapement rates are. I don't remember that we have made a priority out of a red drum assessment or really even had that discussion at this point. I think this was related to the status of stocks and trying to figure out where we are.

**CHAIRMAN WALKER:** That's correct; that's what I remember.

**DR. CLAVERIE:** I keep hearing and reading about consistency or compatibility of the methods each state uses. It seems to me that you ought to look at the bottom line, which is, is the number that they come up with, the percentage escapement, is that accurate?

One state may use one method and another state may use another method. The bottom line is, is their percentage of escapement correct. I don't know why there isn't emphasis on the results more so even than on the methodology. I don't understand that.

**MR. KENNEDY:** I think there will be an emphasis when they discuss this on both of those. The bottom line in the long term is still in order to do eventually an assessment -B a full assessment of red drum has to be done. That's not scheduled and when it happens, no one knows at this point.

But since there is no fishery in the EEZ, any assessment that is done is going to have to rely on the data that are being collected by the states and what information. And Mau is correct that there are some data being collected by National Marine Fisheries Service there.

It's going to have to rely on all of that information, and those data are going to have to be able to put together into a single assessment. That, to me, is the second part of this goal. Are we there; and if not, what do the states have to do in order to actually make that happen eventually.

**DR. LEARD:** I just wanted to say the states may be using their data somewhat differently, but I do know that the independent data collection programs in most of the states are really relatively consistent.

They use beach seines and they use multi-pound gillnets. Florida I think has a more limited program than Alabama, Mississippi, Louisiana, and probably Texas, but I think they're similar.

But that's all the more reason to get those people that are working in those programs from the states together with others in a SEDAR data panel so that they can determine what data do they have and how can they treat it in a consistent manner and see if they can come up with some modeling approach that can make it a stock assessment and then make that determination, as Mr. Kennedy has mentioned.

**CHAIRMAN WALKER:** Thank you, Mr. Kennedy. Is there any further

discussion on red drum? Any further questions? Okay, we're going to move on. It's about twenty minutes to four, and I think we can finish today if everybody will take into consideration, when they're giving their report, we ought to be able to get out of here today.

Next on the agenda is the ICCAT Advisory Committee meeting. We met back in March in Silver Spring. Under swordfish, they discussed cooperative agreements for bycatch discard studies, using new technologies in the closed areas, circle hooks, bait, et cetera.

They're also looking at doing research in closed areas off Southeast Florida for catch indices since no fish are coming from these areas. Research would be using boats with gear and technology from earlier years to get a fair comparison.

There was concern, still, about the yellowfin harvest numbers in the U.S., especially the recreational sector, and they're still waiting on information from the Dick Stone and Andy Loftus study, and NMFS is in the process of reviewing that study now.

Bluefin, they're looking at mixing zones in the Central Atlantic and a possibly boundary change. I understand that Dr. Hogarth is in France now discussing this. The Japanese have concerns as well as the Spanish.

Billfish, as I reported to you earlier, we've got a 250-fish limit in the United States, and the numbers for 2003 were above that at 286 fish.

There was discussion on renegotiating the numbers of the current data system, which would mean that we would have to adjust the other numbers by some conversion factor. They discussed letting the current regulation die out because the 250-fish limit I think dies out in 2005, and then redoing something at that time.

There was also concern mentioned again, as I've told you before, in the fishery reported in Puerto Rico. There were like a thousand billfish that they're saying is being landed there. Data, especially recreational data, was a main topic at the meeting.

There's much concern about the data system being used now, which is MRFSS and the LPS, and all of the areas affected there had strong concerns about how these numbers are generated, and there was a consensus there that they wanted a better system to generate

recreational numbers.

Also, many advisors weren't there and they've had multiple absences, and there was discussion about looking into replacing them.

Next we've got the Council Chairs Meeting, which Julie, Wayne, Dr. Crabtree and I attended. Tab M is in your book and it gives a more detailed report. Mr. Swingle is going to give you the short run for the sake of time.

**EXECUTIVE DIRECTOR SWINGLE:** Under Tab M, Number 1 was a copy of the agenda, and they summarized significant results in the Western Pacific Council. The big issue was budget issues. It turns out if you look at the figure under Tab M, Number 2, the NMFS budget over the last eight years has been increasing at a rather good rate; whereas, the Councils have been level funded.

That's resulted in a large part of the Council budgets being based on soft monies, such as NEPA money, granted to the Councils by Dr. Hogarth.

The estimate was to put all the Council budgets on a hard income basis, we would need \$6 more million annually, and I guess there is some attempt to get Congress to increase that.

Other items of budget, we will get \$140K of NEPA budgets this year from Dr. Hogarth, and the National Marine Fisheries Service is providing us \$225K for beginning the work on the ecosystem management.

Then under Tab M, Number 3 is a summary of a conference. This is our second national conference, and this one being hosted by National Marine Fisheries Service. It's scheduled, I guess, October 18 and 20 in Washington, D.C. Our Council will receive travel funding from Dr. Hogarth so three persons can attend, at least, and the rest of it will be under our dollar.

They focus on aquaculture, recreational fishing, commercial fishing, and ecosystem management. Then Tab M, Number 4 is just a brief description of the next Council chairs national conference, which will be scheduled probably in March or April of 2005, and it's focus will be on Magnuson-Stevens Act reauthorization. Madam Chair, that's it.

**CHAIRMAN WALKER:** Thank you, Mr. Swingle. Next we're going to take enforcement reports, and I'll ask Mr. McKinney to give his report first and see if the Coast Guard wants to give an

enforcement report.

**MR. MCKINNEY:** We've submitted our report previously to Steve Atran. He's put it into the Council briefings, and I think you all have a copy of the quarterly reports. Those have been updated specifically for this meeting.

The only addition that we have to that report is that we had received some complaints off of the Florida Keys concerning some dolphin feeding. We conducted a special operation in that area. At this point, we've got one investigation underway, but nothing widespread and nothing significant to report. That concludes my report, Madam Chair.

**CHAIRMAN WALKER:** Thank you, Mr. McKinney. Next I'll recognize Lieutenant Montoro.

**LT. MONTORO:** Thank you, Madam Chair. This fiscal year to date, we've had 428 commercial fishing vessel boardings. We've had fifteen Endangered Species Act violations cited, thirty Magnuson violations cited, forty-one terminations of commercial shipping vessel voyages due to safety concerns, and we've had thirteen Lancha seizures. Also important to note, we've had twenty-nine non-U.S. master violations as well. We will make this report available to the Council. Thank you, Madam Chairman.

**DR. CRABTREE:** Secretarial Amendment 1 is now in headquarters, and I'm hopeful that the final rule will publish very soon. Amendment 21, which is the Madison/Swanson/Steamboat Lumps Amendment, the final rule was published on May 4 and is effective on June 3. As of May 14, we had 2,629 vessels that had been issued a federal Gulf shrimp permit. That concludes my report, Madam Chairman.

**CHAIRMAN WALKER:** Thank you, Dr. Crabtree. Mr. Simpson, you're going to be first this time.

**MR. SIMPSON:** Thank you, Madam Chairman. I just have one item that I would like to mention. Previously it was referenced in your Council Chairs meeting that there will be a national management meeting to be held October 18 through 20.

That happened to fall on my meeting dates; and because of that and trying to be a good guy and, of course, trying to forestall any problems, we have gone to heroic efforts and have changed our meeting week to be the following week.

Instead of meeting in a conflict with that national meeting, we will be meeting in the same hotel, same location, but the following week in October.

**CHAIRMAN WALKER:** Thank you, Mr. Simpson.

**DR. CRABTREE:** Larry, I want to, on behalf of the Fisheries Service, to thank you for that because I know it was a pain in the rear, but thank you.

**CHAIRMAN WALKER:** Mr. Williams for Florida.

**MR. WILLIAMS:** Just a couple of things. The legislature recessed a couple of weeks ago and we got several things from them. They gave us, I believe the figure was \$290,000 out of the Marine Resources Conservation Trust Fund to pay for stone crab research.

In the first two years of the program, the stone crab effort management program has raised about, well, more than two and a half million dollars, and they're starting to give some it back now.

The \$290,000, I think \$100,000 of that is for trap clean up and \$10,000 is going to signage to explain that stealing from traps is a felony, and the rest is going to research to start a research and monitoring program for stone crabs.

We also got \$25.00 added on to the lobster endorsement cost. The lobster endorsement cost is \$100.00, and it will increase to \$125.00 in order to pay for clean up of lost and abandoned lobster traps.

The agency has undergone a major reorganization in the last year and a half. As you know, I think in 1998 three different agencies were merged. The old Game and Fresh Water Fish Commission, the Marine Fisheries Commission, and portions of the Department of Environmental Protection were merged into the new Florida Fish and Wildlife Conservation Commission.

For the first several years we just all kind of continued to work on our own, with the exception of the law enforcement, which did merge, but we've undergone a major reorganization now.

The legislature has authorized it, and what's in it for you or what will change some for you is that the Florida Marine Research Institute is going to be renamed the Florida Fish and Wildlife Research Institute, so you'll have to learn a new acronym when

we figure one out. That's all I have.

**CHAIRMAN WALKER:** Thank you, Mr. Williams.

**EXECUTIVE DIRECTOR SWINGLE:** Roy, does that mean actually game management will be part of that responsibility of that group or are they -**B** I would presume they would still be separated fiscally as far as laboratories and all of that.

**MR. WILLIAMS:** I think they're mostly going to be separated, but I'm not entirely sure myself. The unit itself is being merged. They are doing now and they have already assigned somebody to that laboratory to do forensic type research for Fish and Wildlife.

I believe they're doing some modeling of bear populations there now, using Mueller and Murphy and that particular group of people.

I think we'll see -**B** there are going to be changes, Wayne, and I don't know exactly what they're going to be. I think the main thrust will continue to be marine research at that particular institute, but it is changing.

**CHAIRMAN WALKER:** Thank you, Mr. Williams. Mr. Heath for Alabama.

**MR. HEATH:** Thank you, Madam Chairman, I'll make this quick. Probably the most exciting thing we've got going at the moment is we have finally gotten a pipeline running from the Gulf of Mexico up to our mariculture hatchery. We're debugging the system at the moment.

We have gotten all the ponds filled that we need to stock red snapper fry directly to ponds this year rather than having to hold them in aquaria, and we hope that will increase the number of juvenile fish that we're able to utilize in the variety of ways we have in the past, particularly tagging and releasing through an artificial reef area.

We've also successfully started our headboat survey portion of the fin collection. We just had our first shrimp closure and closed the majority of Alabama's waters to shrimping in preparation for the coming season.

We also have been cooperating with the Orange Beach Charter Boat

Association on the world champion red snapper tournament, which has been very successful, and it's wrapping up this week. I don't know whether they've gotten anything bigger to date, but the largest red snapper that was brought in as of the 18<sup>th</sup> was 32.25 pounds, I believe.

We've been able to collect otoliths and gonads from these very large fish, which helps us to increase the base of knowledge there because there were very few fish in that range.

As a result, Alabama's chief biologist was caught on live beach cam up to his elbows in the gut of several large fish, bringing titillations to the hearts of many small, young children; a very adventurous, bloody scene for young kids. That's all, Madam Chair.

**CHAIRMAN WALKER:** Thank you, Mr. Heath. Mr. Reichers for Texas.

**MR. REICHERS:** Well, of concern to this group, the Texas closure, cooperative closure with the EEZ started on May 15<sup>th</sup> and we worked with Dr. Branstetter out of Roy's office to get that notice out. I believe we're about three weeks early, and I know Steve was appreciative of us having that notice out quickly.

Beyond that, we have just finished some oyster fishery workshops in our state. We held four workshops, basically discussing items ranging from supported shell recovery programs in some way, whether it be industry supported or supported through our agency; also discussion of more traditional types of regulations. They already have sack limits, but maybe a reduction in sack limits, as well as the concept of limited entry in that fishery as well. That concludes my report, Madam Chair.

**CHAIRMAN WALKER:** Thank you, Mr. Reichers. Ms. Foote, Louisiana.

**MS. FOOTE:** We had one of the slowest openings on our shrimp season this year with the cold, wet April. We're sure it's going to pick up, but it doesn't look too good right now. We are putting down several thousand cubic yards of oyster cultch for our sea grounds, and that's a lot of taxpayer dollars at work there. That's about it.

**CHAIRMAN WALKER:** Thank you, Ms. Foote. That concludes our directors' reports. We're on to the Other Business and I think we have three or four items.

**EXECUTIVE DIRECTOR SWINGLE:** You have three under Tab K. The first of these I think they've got up on the screen, and this is Ms. Walker's recommendations for members of a management committee for a generic operator permits amendment. That slate is up there for your motion to adopt it and proceed.

**CHAIRMAN WALKER:** And Council members, I didn't choose anybody. I just sent notices out to all of you, and these are the people that volunteered to serve on this generic operator permits amendment. And if you approve, I just need a motion and a second.

**Mr. Claverie makes the motion to accept the list and Ms. Morris seconds. The list includes Joe Hendrix as chair, Robin Reichers as vice chair, Karen Bell, Maumus Claverie, Jim Fensom, Walter Thomassie, and Kay Williams. Is there any objection? Hearing no objection, the motion carries.**

**EXECUTIVE DIRECTOR SWINGLE:** The next one is Tab K, Number 3, and this again is Ms. Walker's recommendations to you for a committee to begin work on ecosystem management. I'll leave it there and someone needs to make a motion on this one as well.

**CHAIRMAN WALKER:** And same thing with this committee. I requested of you who was interested in serving, and these are the people that agreed to serve: Julie Morris as chair, Columbus Brown as vice chair, Karen Bell, Maumus Claverie, Joe Hendrix, Corky Perret, Robin Reichers, and Kay Williams. I just need a motion and a second to accept this list.

**MR. WILLIAMS:** Move the list.

**MR. HEATH:** Second.

**CHAIRMAN WALKER:** Mr. Williams makes the motion to accept the list and Mr. Heath seconds.

**MR. SIMPSON:** Madam Chairman, is it understood that Columbus/Doug Fruge or is that Columbus only?

**EXECUTIVE DIRECTOR SWINGLE:** No, we always, when we have the case of the designees, we name either the principle or the designee to be chair and vice chair, and the other one doesn't substitute for them.

**MR. SIMPSON:** I'm not so much concerned about the chair and vice chair as I am work of the committee.

**EXECUTIVE DIRECTOR SWINGLE:** If this was a committee, we would put Minton/Heath, but Vernon serves as chair and Steve Heath doesn't inherit that chair when he comes to meetings to represent that, if that's what you mean.

**MR. SIMPSON:** No, I'm not talking about officers. So if Columbus is not there, he wouldn't be the vice chairman, but would Doug be a member of the committee?

**EXECUTIVE DIRECTOR SWINGLE:** Yes. I'm sorry, I didn't understand your question.

**MR. WILLIAMS:** Can you give me an example **B**- what are they going to do? How do you manage an ecosystem?

**EXECUTIVE DIRECTOR SWINGLE:** Well, we mailed you all a copy from a Dr. Steve Mazerowski, who is a scientist at the Woods Hole Laboratory, and this has an outline of I guess the approach we will be required to use in looking at ecosystem management.

Now the South Atlantic Council is probably way out ahead of us in developing scenarios for ecosystem management, so we'll learn a bit from them.

I've asked Bob Mahood to provide us copies of everything they've done on that, and then I've also mailed the committee a number of background documents on ecosystem management that Steve Mazerowski provided to us, and so we're supposed to get a work plan.

I think Steve, maybe working with Roy Crabtree, is supposed to help us develop a work plan for at least beginning this approach. There were four Councils granted funding for this same purpose. This is New England, Mid-Atlantic, Gulf, and South Atlantic.

**CHAIRMAN WALKER:** And we were granted a \$225,000 grant for it. We've been chosen as a pilot program, one of the Councils in going out and scoping and doing public hearings and things like that.

What we'll do is probably, Roy, do as Wayne said and kind of copy what the South Atlantic has been doing with their ecosystem committee.

**MR. WILLIAMS:** Were we asked to do to it or did we ask to do it?

**CHAIRMAN WALKER:** Neither. We did not ask nor were we asked. We just got the grant.

**EXECUTIVE DIRECTOR SWINGLE:** Someone in Congress decreed that those four Councils should begin working on a pilot program. I don't really know which congressman or senator put those funds in the federal budget.

**DR. CRABTREE:** But despite whatever misgivings you may have, ecosystem management I think is the coming thing. The Oceans Commission report highlights it and I expect Magnuson reauthorization will address it, and I expect in some form or another we're going to have to deal with it.

I think really the goal of this money and this team is to figure out what would be a reasonable approach, what does it mean and how could we approach it and how could we incorporate it into what we're doing.

**EXECUTIVE DIRECTOR SWINGLE:** I just wanted to add that Mr. Gilchrest's bill that would amend the Magnuson Act has a rather lengthy section on ecosystem management.

He does at least propose for a gradual approach where the Councils and NMFS would get together and look at the principles that should be used and work out an outline. His bill requires that there be a major pilot program, one on the west coast and one on the east coast, for the first efforts at doing this, and this appears to be just some seed money for looking at those approaches.

**CHAIRMAN WALKER:** Is there any other discussion? We have a motion and a second and it's on the board. Is there any objection? **Hearing no objection, the motion carries.**

**EXECUTIVE DIRECTOR SWINGLE:** The other issue that is under Tab K is a request from your Law Enforcement Advisory Panel that you help fund a meeting of theirs in July for two days. The purpose of it would be to update the strategic five-year plan and to develop the operations plan for 2004.

This will be a fairly reasonable cost. They will go to the academy in Baton Rouge and use the rooms there, so basically there would be no cost there. The major cost will be just their travel, and most of them probably will travel by their state vehicles. So, anyway, they're requesting that you fund that meeting.

**CHAIRMAN WALKER:** So, Wayne, all we would be asked to fund would

be a per diem, food rate and gas mileage; is that all?

**EXECUTIVE DIRECTOR SWINGLE:** Yes, meals and mileage.

**CHAIRMAN WALKER:** Meals and mileage is all we're asked. Can I have a motion from a Council member to fund this?

**MS. MORRIS:** I so move that we fund this.

**CHAIRMAN WALKER:** I have a motion from Ms. Morris to fund this meeting for our LEAP committee and a second from Mr. Claverie. Is there any further discussion? Is there any objection? The motion carries.

**MR. SIMPSON:** You notice that's for half the expenses. The commission has already approved paying for the other half.

**CHAIRMAN WALKER:** Thank you, Mr. Simpson; you just saved us some money.

**EXECUTIVE DIRECTOR SWINGLE:** One last other business item. I think you all will recall that the discussion came up, when we were adopting the first minutes Joe Graham had done on reef fish, that it ought to include a list of attendees.

He's come up with a very simple method of including that, that if you agree at each meeting we'll just take a clipboard and pass it around and let everybody sign in that's in attendance, and then we'll take that and type it up and attach it at the rear of the minutes.

**CHAIRMAN WALKER:** Is that acceptable to the Council? Is there any discussion?

**MS. MORRIS:** Well, it seems like people who aren't on a committee wander in and out, and it's not like everybody is there at the beginning of the meeting or everybody is there at the end of the meeting, the additional Council members. So the idea is that if you were there for any part of the meeting, you would sign in on the clipboard?

**EXECUTIVE DIRECTOR SWINGLE:** I guess you wouldn't be counted if you didn't sign in.

**MR. WILLIAMS:** How do we do it now? Doesn't staff just write down who is -B what's wrong with that?

**EXECUTIVE DIRECTOR SWINGLE:** That would work as well, but it probably would be easier on staff if we just passed the -B

**MR. WILLIAMS:** Well, you=ll have to add to it, I think.

**EXECUTIVE DIRECTOR SWINGLE:** Yes, really. The clerical people have usually kept that record. I mean, they would record who was there in committee and who wasn=t as far as the committee.

**CHAIRMAN WALKER:** Is there any other discussion? Is there any objection to trying it this way?

**MS. FOOTE:** Well, I agree with Roy, I think we should keep doing it the same way we=ve done it because people do come and go; and even with our near-perfect system, we had to make some corrections; and if we go with the way that=s been suggested, we=ll be making corrections all the time, and it=s just not worth it. I=m not going to make that motion.

**CHAIRMAN WALKER:** I=m hearing a lot of objection to doing it like this, so am I to conclude that by consensus of the Council we are to maintain the way we=ve always done attendance? Okay.

Unless there is other business to come before the Council, I think we=re through. I=ll take a motion to adjourn by Mr. Thomassie. Thank you.

(Whereupon the meeting was adjourned 4:05 o=clock p.m., May 19, 2004.)

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INDEX OF MOTIONS

Page 4: Motion to adopt the minutes as amended. Motion carried on Page 4.

Page 25: Move that the Reef Fish Amendment 23 be sent forward to public hearings. Motion carried on Page 36.

Page 26: Motion is that the Council take the preferred alternative out of Amendment 23, Section 4.2.3.2, Recreational Harvest Reduction Alternatives. Motion carries on Page 27. Motion failed on Page 35.

Page 33: To reconsider the motion that the Council take the preferred off of the alternative out of Amendment 23, Section 4.2.3.2, Recreational Harvest Reduction Alternatives. Motion carried on Page 35.

Page 37: Move that the Council believes LNG open-loop systems will adversely affect the biota of the Gulf of Mexico and the

recreational and commercial fishing industries that depend on this biota. Therefore, the Council opposes the use of open-loop LNG systems in the Gulf of Mexico and recommends the use of closed-loop systems in inshore, near shore, and offshore locations. Motion carried on Page 37.

Page 40: Move that the Habitat Protection Committee recommends that Council staff proceed to negotiate a contract with MRAG Americas to accomplish a generic essential fish habitat amendment to all fishery management plans and negotiate a reasonable contract fee for such, not to exceed \$100,000. Motion carried on Page 44.

Page 42: Amendment to the motion for a reasonable contract fee as discussed with our executive director and remove the phrase **A**not to exceed \$100,000.@ Motion carried on Page 43.

Page 47: The committee recommends without objection, and I so move that on page 59, Section 4.3.3.1.4, Alternative 4 Preferred be reworded as follows: Direct NOAA Fisheries to develop and manage an observer program for the reef fish fishery. NOAA Fisheries will develop a random selection procedure for determining vessels that will be required to carry observers in order to collect bycatch information.

In selecting vessels, the agency will consider the suitability of the vessel for such purpose and ensure that the universe of vessels included are representative of the statistical subzones in the Gulf.

Vessel permits will not be renewed for vessels that fail or refuse to carry observers in accordance with this process. The implementation of the observer program shall be initiated as soon as NOAA Fisheries obtains sufficient funding for the program. On behalf of the committee, I so move. Motion carried on Page 48.

Page 48: The committee recommends without objection, and I so move that the Reef Fish Amendment 22 be sent to the Secretary of Commerce for approval and implementation. Motion carried on Page 53.

Page 54: By consensus, the committee recommends that staff be instructed to come up with non-destructive or destructive ways to collect the biological data necessary to manage the fishery. I=ll make that motion on behalf of the committee. Motion carried on Page 55.

Page 69: By a voice vote with one nay, the committee recommends that the Council include Sections 5.1, 5.2, 5.3, and 5.4 in Reef Fish Amendment 18A. Motion carries on Page 79.

Page 75: Amend the motion to remove 5.4. Motion failed on Page 76.

Page 79: The motion is to begin Amendment 18B, which will include Sections 5.5 and 5.6 of the current Amendment 18. Motion carried on Page 79.

Page 81: Motion to write a letter to Dr. Hogarth with a copy to Congressman Young advising that the Council is aware that there is a discussion to buy out Gulf reef fish longline vessels.

The Council does not know the particulars of the discussion, but we want Dr. Hogarth to know that the grouper fishery is overcapitalized and removing effort from the fishery would benefit the resource and the remaining fisheries. Motion failed on Page 87.

Page 90: The committee recommends without objection, and I so move, adding an alternative to the IFQ profile to require VMS aboard all vessels that are harvesting under an IFQ coupon. Motion carried on Page 90.

Page 91: The committee recommends without objection, and I so move, sending the IFQ profile to scoping meetings and approving the August 2004 calendar handout of scoping meeting dates and locations. Motion carried on Page 91.

Page 91: The committee recommends without objection, and I so move, that the Council approve Dr. Keithly to assist in the IFQ profile hearings.

Page 92: Substitute motion: The substitute motion now is to approve Dr. Keithly to assist in the IFQ scoping meetings and the subsequent public hearings. Motion carried on Page 92.

Page 93: In case of delay of Shrimp Amendment 13, IFQ profile hearings should be held in Corpus Christi, Texas; Palacios, Texas; Galveston, Texas; Panama City, Florida; Madeira Beach, Florida; Biloxi, Mississippi; Orange Beach, Alabama; New Orleans, Louisiana; Houma, Louisiana; and Lake Charles, Louisiana. Motion carried on Page 94.

Page 96: The committee, by consensus, agreed to add alternatives for a random sampling of a subset of shrimp vessel permit holders

that will be required to complete the Gulf shrimp vessel gear characterization form, and on behalf of the committee, I so move. Motion carried on Page 96.

Page 96: Move to include alternatives to establish a moratorium on the issuance of commercial shrimp vessel permits as part of Amendment 13.

Shrimp vessel permits would remain fully transferable and the qualifying alternatives considered for vessels to remain in the fishery would be: 1. That a vessel had a valid commercial shrimp vessel permit at the time of the publication of the control date, December 6, 2003; 2. That a vessel had a valid shrimp vessel permit as of May 18, 2004; 3. That a vessel had a valid commercial shrimp vessel permit as of the date of implementation of the final rule to implement the moratorium with options for a duration of five years, ten years, or indefinitely. Motion carried on Page 98.

Page 98: Move that the Council adopt the following resolution: The Council records and conveys sympathy and support for Kay Williams and Corky Perret, and our wish is for both to have a swift and complete recovery from their current illnesses. Motion carried on Page 98.

Page 100: Move that the Council adopt the alternatives for Action 1 with a change in the language for Alternative 4 from a license to a permit. Motion carried on Page 100.

Page 100: Action 2, to either retain the April 1 opening of the commercial season for Atlantic group king and Spanish mackerel or change the opening date to March 1, the committee by consensus agreed to accept these alternatives and as a motion, Madam Chair, I so move. Motion carried on Page 100.

Page 100: Move that the Council adopt the alternatives for Action 1 with a change to the language of Alternative 4 from a license to a permit. Motion carried on Page 101.

Page 101: Move the Council adopt alternatives for a five-, seven-, and ten-year extension in place of the three-, four-, five-, or six-year extension, along with status quo. Motion carried on Page 101.

Page 101: Move that scoping meetings be held at the locations indicated in Section 7.0 of the scoping document and as indicated on Tab F, Number 6 as previously approved. Motion carried on Page 102.

Page 105: Motion to add a section to the charter boat moratorium scoping document which states a charter vessel permittee can combine permits to increase the number of passengers within his certificate of inspection requirements for their vessel or another vessel. Motion carried on Page 109.

Page 125: Mr. Claverie makes the motion to accept the list and Ms. Morris seconds. The list includes Joe Hendrix as chair, Robin Reichers as vice chair, Karen Bell, Maumus Claverie, Jim Fensom, Walter Thomassie, and Kay Williams. Motion carried on Page 125.

Page 125: Motion to accept the list of Julie Morris as chair, Columbus Brown as vice chair, Karen Bell, Maumus Claverie, Joe Hendrix, Corky Perret, Robin Reichers, and Kay Williams. Motion carried on Page 127.

Page 128: Motion to fund a meeting for the LEAP committee. Motion carried on Page 128.

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