

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL
HABITAT PROTECTION AND RESTORATION COMMITTEE

Hyatt Centric French Quarter New Orleans, Louisiana

AUGUST 14, 2019

VOTING MEMBERS

- Patrick Banks.....Louisiana
- Glenn Constant.....USFWS
- Dale Diaz.....Mississippi
- Phil Dyskow.....Florida
- Joe Spraggins.....Mississippi
- Greg Stunz.....Texas
- Ed Swindell.....Louisiana

NON-VOTING MEMBERS

- Scott Bannon.....Alabama
- Susan Boggs.....Alabama
- Leann Bosarge.....Mississippi
- Roy Crabtree.....NMFS
- Dave Donaldson.....GSMFC
- Jonathan Dugas.....Louisiana
- Tom Frazer.....Florida
- Martha Guyas (designee for Jessica McCawley).....Florida
- Lance Robinson (designee for Robin Riechers).....Texas
- John Sanchez.....Florida
- Bob Shipp.....Alabama
- Lt. Mark Zanowicz.....USCG

STAFF

- Matt Freeman.....Economist
- John Froeschke.....Deputy Director
- Beth Hager.....Administrative Officer
- Lisa Hollensead.....Fishery Biologist
- Ava Lasseter.....Anthropologist
- Mara Levy.....NOAA General Counsel
- Natasha Mendez-Ferrer.....Fishery Biologist
- Emily Muehlstein.....Public Information Officer
- Ryan Rindone.....Fishery Biologist & SEDAR Liaison
- Bernadine Roy.....Office Manager
- Carrie Simmons.....Executive Director

OTHER PARTICIPANTS

- Greg Ball.....Galveston, TX
- Avery Bates.....Organized Seafood Association of Alabama, AL
- James Bruce.....Magnolia, MS

1 Nikki Bruce.....Magnolia, MS
2 David Chalone.....Covington, LA
3 Troy Frady.....AL
4 Susan Gerhart.....NMFS
5 Benji Kelley.....Panama City, FL
6 Andy Kizlauskas.....U.S. Army Corps of Engineers
7 John Law.....Panama City, FL
8 Bart Niquet.....Lynn Haven, FL
9 Harlon Pearce.....Kenner, LA
10 Chance Seymour.....Ocean Springs, MS
11 Clarence Seymour.....Ocean Springs, MS
12 Randy Sobieraj.....Casselberry, FL
13 Bob Zales.....Panama City, FL

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1 The Habitat Protection and Restoration Committee of the Gulf of
2 Mexico Fishery Management Council convened at the Hyatt Centric
3 French Quarter, New Orleans, Louisiana, Wednesday morning,
4 August 14, 2019, and was called to order by Chairman Patrick
5 Banks.

6
7 **ADOPTION OF AGENDA**
8 **APPROVAL OF MINUTES**
9 **ACTION GUIDE AND NEXT STEPS**

10
11 **CHAIRMAN PATRICK BANKS:** I will call the Habitat Committee to
12 order and remind everybody of the members. It is myself as
13 Chairman, General Spraggins as Vice Chair, Glenn Constant, Dale
14 Diaz, Phil Dyskow, Greg Stunz, and Ed Swindell.

15
16 You guys should be able to bring up the agenda, and it's Tab P,
17 Number 1. I will give you a second for folks to see that, and
18 then I will entertain a motion to adopt the agenda.

19
20 **MR. JOE SPRAGGINS:** I make a motion to adopt the agenda as
21 written.

22
23 **CHAIRMAN BANKS:** Motion by General Spraggins and second by Mr.
24 Swindell. Any opposition to the motion? Seeing none, the
25 agenda is hereby adopted. The second agenda item is Approval of
26 June 2019 Minutes, Tab P, Number 2. Are there any changes to
27 the minutes from June of 2019?

28
29 **MR. ED SWINDELL:** I move acceptance of the minutes.

30
31 **CHAIRMAN BANKS:** I've got a motion to accept the minutes by Mr.
32 Swindell.

33
34 **MR. SPRAGGINS:** I will second.

35
36 **CHAIRMAN BANKS:** It's seconded by General Spraggins. Seeing no
37 opposition to that motion, the minutes from June 2019 are hereby
38 adopted. I will turn it over to Dr. Mendez-Ferrer for the
39 Action Guide and Next Steps.

40
41 **DR. NATASHA MENDEZ-FERRER:** Thank you, Mr. Chairman. For Agenda
42 Item IV, we will have Mr. Andrew Kizlauskas from the U.S. Army
43 Corps of Engineers, and he will be providing an informative
44 presentation about the permitting process related to the siting
45 of artificial reefs and aquaculture operations in the Gulf of
46 Mexico waters. He will also be going over the public
47 notification and comment process, and the committee can ask
48 questions and provide input to the Army Corps about artificial

1 habitat and aquaculture projects in the Gulf.

2
3 Also, in the public, we have representatives from other Army
4 Corps of Engineers districts related to the Gulf of Mexico, and
5 so the council is encouraged to ask specific questions that they
6 may have.

7
8 In Agenda Item Number V, we will have a presentation by Dr.
9 Hollensead, and she will be presenting a preliminary outline
10 incorporating NMFS recommendations into council documents as
11 they pertain to the five-year essential fish habitat review, and
12 she will also provide a proposed timeline and process. The
13 committee should ask questions and provide relevant feedback.

14
15 **CHAIRMAN BANKS:** Thank you very much. Any comments from the
16 committee members before we move on to Agenda Item Number IV?
17 Seeing none, I would like to introduce and welcome Mr.
18 Kizlauskas from the Army Corps of Engineers to provide a
19 presentation to us. Welcome, sir.

20
21 **PERMITTING PROCESS FOR SITING OF ARTIFICIAL REEFS AND**
22 **AQUACULTURE OPERATIONS IN FEDERAL WATERS**

23
24 **MR. ANDREW KIZLAUSKAS:** Thank you. Good morning, council.
25 First, I would like to thank you for the invitation that you
26 extended to the Corps to present information about permitting of
27 aquaculture projects and artificial reefs. I am Andy
28 Kizlauskas, and I'm with the Corps Jacksonville District.
29 Homebase for me is the Panama City Permits Section. Typically,
30 we cover an area from Bay County over to Taylor County, projects
31 in the water and in wetlands there.

32
33 What I would like to go over with you all this morning is the --
34 I will kind of give you a brief geography of our Corps
35 jurisdiction over the Gulf. You all have a pretty wide area,
36 and we've got several districts and divisions that you will be
37 engaging with for these kind of projects. Then we'll briefly go
38 over our regulatory authorities that we issue permits under,
39 authorization types we'll go over, and then we'll get a little
40 bit into an overview of the permit application process and our
41 review.

42
43 Finally, we'll finish up with some compliance and permit special
44 conditions review, and probably the most important thing we'll
45 end with is stakeholder engagement, which, if there's a take-
46 home message from today, it would basically be providing some
47 information to you on how you can better engage in our process
48 and provide your stakeholder comments and identify issues or

1 conflicts early in the process, so that we can avoid conflicts
2 with some of our permit actions.

3
4 Here is kind of the rundown of what we're dealing with, in terms
5 of Corps districts. We have got our Southwest Division, which
6 is going to be mainly Galveston, that you will be working with,
7 and then we've got the Mississippi Valley Division. New Orleans
8 is going to be your coastal district, and then you've got SAD,
9 the South Atlantic Division, where my home base is, as well as
10 the Mobile District.

11
12 Then, of course, within each of these districts, we're going to
13 have various field offices, and this becomes important, because,
14 if you've got a specific project that you're interested in, you
15 kind of want to know who you're going to be engaging with,
16 because, ultimately, it will be likely with a field office.

17
18 You can always contact the district office, and they will get
19 you to the right folks, but we've got maps on all of our
20 division websites that can kind of point you in the right
21 direction, if you know where the project -- What county the
22 project is in.

23
24 Briefly, the authorities we operate under to issue permits for
25 aquaculture and artificial reefs are, first, the oldest
26 environmental act, which is the Rivers and Harbors Act of 1899,
27 and that basically regulates all the work in waters of the
28 United States, and that extends out 200 nautical miles, and so
29 we're pretty much always going to be hitting that authority for
30 our artificial reefs and aquaculture projects.

31
32 Then we have a slightly more limited authority under the Clean
33 Water Act, Section 404, that regulates field discharges.
34 Oftentimes, artificial reefs, depending on the type of material,
35 will need an authorization under the 404 Clean Water Act.

36
37 Types of authorizations, the one we're going to be most
38 interested in here is going to be the individual permit, and
39 this is the vast majority of the artificial reef projects and
40 aquaculture projects are going to be permitted using an
41 individual permit, and where this is important is that
42 individual permits require public notice, which has a lot of
43 stakeholder involvement. It gives stakeholders and the public
44 an opportunity to comment and identify issues, and so that's
45 where we're going to focus most of our energy today.

46
47 We also have some other permit actions, letters of permission,
48 and these are generally not used for aquaculture and artificial

1 reefs, but they are for more minor individual permits, and then
2 we've got our general and nationwide permits. Nationwide
3 permits are essentially permits that are issued every five
4 years, and they are good nationwide. If you meet certain
5 project criteria, you can get your project authorized under a
6 nationwide permit, and they are basically for more minor
7 projects that have a minimal cumulative impact.

8
9 General permits are similar to nationwide permits, but they are
10 developed within districts, and so they're more regional, and,
11 at least in Jacksonville, we've got a general permit that's
12 actually a programmatic general permit in which we have
13 delegated our federal authority to issue some shellfish
14 harvesting projects to the Florida Department of Agriculture and
15 Consumer Services, because they have an aquaculture program, and
16 so where DACS is regulating leases, they can actually issue on
17 our behalf, and folks don't have to come to us for that
18 authorization. There is some associated reporting that DACS has
19 to do to us to stay in compliance with that permit, but,
20 essentially, it's a great efficiency for the industry.

21
22 I tried to make this as simple as I could, because our process
23 can be pretty complex, but, essentially, this is a quick-and-
24 dirty of our review process. We are going to mostly focus on
25 kind of that middle path, where the permit application is being
26 directly sent up to us at the Corps.

27
28 The top half is essentially what I just discussed, where an
29 entity is going straight to say DACs or another state-
30 authorizing agency that has a programmatic general permit, where
31 authority has been delegated to them, and that can be a fairly
32 quicker path, where they will go to the state and get their
33 verification, under that programmatic general permit.

34
35 The middle path is where they are submitting right to us, which
36 is going to be the vast majority of our artificial reef projects
37 and aquaculture projects, and, here, what we'll do is basically,
38 once they have submitted a complete application, which is one
39 where the impacts of the project is very clearly identified, and
40 we know what their proposal is, once we get it to that point,
41 that is when the ballgame starts. We send out a public notice,
42 and we gather stakeholder and public interest and involvement in
43 our process.

44
45 Concurrently, that's where we're also engaging with some of our
46 resource agencies for some of other responsibilities under NEPA
47 and the Endangered Species Act and the National Historic
48 Preservation Act, and we're working with EFH issues and that

1 kind of thing that you're familiar with.

2
3 As far as our public notice, when we're sending out the public
4 notice, generally, every district now has a -- It publishes
5 their public notices on their websites, and then, for certain
6 projects, where we know there's an interest, we will send out
7 individual public notices to those entities, as well as to
8 adjacent property owners.

9
10 Then one of the important things we're tasked with is to review
11 and evaluate our public interest review factors, and we've got
12 twelve of them up there, and I think the council would fit into
13 a couple of those, and those would be issues that we would need
14 to identify and basically determine that a project is not
15 contrary to the public interest, in order to issue a favorable
16 decision.

17
18 Then, briefly, stepping into a couple of the responsibilities
19 that the Corps has, we spend a lot of our firepower with Section
20 7 of the Endangered Species Act. We're required to evaluate the
21 effects of the projects that we're permitting on endangered
22 species and their designated critical habitat, and, basically,
23 if we determine that there is an effect greater than a no
24 effect, then we have to consult with the resource agencies,
25 which is either going to be the U.S. Fish and Wildlife Service
26 or National Marine Fisheries Service Protected Resources
27 Division.

28
29 We do have a couple of efficiencies, and this is a little bit
30 Jacksonville-centric, but, in order to gain programmatic
31 concurrence, we have developed what's called the Jacksonville
32 biological opinion, and this is an intense effort with National
33 Marine Fisheries Service that really resulted in a great
34 product, where there is a lot of protection involved in the
35 project design criteria for a project, and, essentially, if you
36 meet -- If a project meets the project design criteria, then we
37 can gain programmatic concurrence on some of our may affect or
38 not likely to adversely affect determinations, and so we don't
39 have to individually go to NMFS, so NMFS can focus on some of
40 the bigger stuff that may not qualify for JaxBO, and so it's an
41 efficiency for both agencies.

42
43 Then, with the U.S. Fish and Wildlife Service, we have the
44 Manatee Key, which also allows -- It's basically a dichotomous
45 key that allows us to gain some programmatic concurrence on some
46 of our may affect or not likely to adversely affect
47 determinations.

48

1 Another responsibility we're tasked with is to consult on
2 essential fish habitat, and this, for us, gets very important
3 with siting of artificial reefs and aquaculture projects.
4 Basically, we don't want to be impacting hard bottom submerged
5 aquatic vegetation and those other resources that are down
6 there, and so I know, in our area, we will basically site those
7 projects away from those resources and put a buffer around them,
8 so that they're not impacted by reef deployments.

9
10 Then the last one we deal with for artificial reefs regularly in
11 Section 106, and these are historic resources, and, essentially,
12 we don't want to have anything deployed on a historic resource,
13 like a shipwreck or anything like that, and then we work pretty
14 closely with the SHPO, State Historic Preservation Office, on
15 those issues. Usually those require things like surveys to be
16 performed, and, again, that's another siting issue.

17
18 That's where siting is critical for these reef deployments and
19 aquaculture projects, and we want to make sure that we're not
20 obstructing navigation, whether that's navigation corridors or
21 certain depths, and so that's what we're going to be looking at
22 closely. Minimizing user conflicts, I think that's a piece that
23 the council would be very interested in, and we would be
24 interested to hear comments on that, and then, obviously,
25 protecting existing resources, and that's where some of the
26 buffers come in, to make sure that those resources aren't being
27 impacted.

28
29 Then the National Artificial Reef Plan sets forth guidelines for
30 siting and materials and development of these projects. In
31 Florida, the Jacksonville District, we have a fairly robust
32 state program, the Fish and Wildlife Service Conservation
33 Commission, and they have an artificial reef program, and they
34 are very involved with project sponsors, which are mainly
35 counties in our area, and we get very involved in making sure
36 that the materials are right and that the reef plan is being
37 followed.

38
39 Then, as far as the material that you're allowed to have, it
40 needs to have function, and you need to be able to facilitate
41 benthic growth. Compatibility, that's where you're minimizing
42 risks and user conflicts and depths. All that comes into play,
43 and then, for stability, you want to make sure that your reef is
44 staying in place and not migrating, and then some durability, to
45 make sure that it will be lasting.

46
47 We have got some minimum criteria, and the material has to be
48 heavy and not toxic and stable, and then, importantly, designed

1 so that it's not going to be an entrapment hazard, especially to
2 our endangered species.

3
4 Here is some examples of typical reef materials. You've got
5 some manufactured reef balls there on the left and some concrete
6 rubble there on the right, and, oftentimes, it's building
7 demolition materials and bridges. Defunct bridges make pretty
8 good reef material.

9
10 Then scuba divers, certainly, like shipwrecks, and those are
11 also acceptable. If you're going to deploy a shipwreck, it's
12 going to certainly be a more lengthy process, and we're going to
13 be working more with the EPA and the Coast Guard, to make sure
14 that the ship is ready and all the toxins have been removed, et
15 cetera, and your stability goes up from twenty years to fifty
16 years on that, because we don't want the ship moving around.
17 Then we've also got a Rigs to Reef Program, which decommissions
18 oil and gas platforms, and those can make good reefs as well.

19
20 Here is some pretty self-explanatory unacceptable material
21 examples, and, for the aforementioned reasons, these aren't very
22 good, due to they are either toxic or they're going to move
23 around a lot, and certainly old tires are not going to be an
24 acceptable material, and some of these also appear to be
25 entrapment hazards.

26
27 Here is just a quick look. Once we get a project that we can
28 make a favorable decision on, to make sure that it's going to be
29 compliant with all of our responsibilities, we're going to put
30 pretty robust permit conditions on it, and the reporting is
31 pretty robust, with pre and post-deployments, and we basically
32 want to make sure that the deployments are occurring in the area
33 that they are permitted, that they are inside of buffer zones
34 and that kind of thing, and so we do condition them pretty
35 heavily.

36
37 Then, of course, another responsibility of the Endangered
38 Species Act is all of our permits are going to have quite a few
39 species-specific conditions.

40
41 Then our compliance enforcement section in the Jacksonville
42 District, or depending on how the different districts will do
43 their compliance enforcement differently, and some are cradle to
44 the grave, but, essentially, the point here is that we do have
45 recourse to enforce our permits and then to impose penalties, if
46 appropriate, and the whole point of this is to ensure that
47 deployments are within their project boundaries, as permitted.

48

1 Here are basically two -- This is the first of two areas where
2 the council can certainly get involved in stakeholder
3 engagement, and I know the Jacksonville District, with the
4 Florida program, the artificial reef program, it's -- It would
5 be -- Developing contacts there would be helpful as they're
6 designing these projects before the Corps even has a permit
7 application in front of us.

8
9 Also, engaging with DACS, who is issuing the programmatic
10 general permit for shellfish aquaculture, and those are good
11 contacts to have for Florida, as well as your local government
12 contacts. These are going to be usually your counties in
13 Florida. Because of the liability involved with artificial reef
14 deployment, it's usually not individuals that are pursuing these
15 kind of permits.

16
17 It's going to be your local government entities, and so the
18 various local governments actually have their own little reef
19 programs, usually, and so developing contacts there might be a
20 great way to identify concerns way ahead of the game, and then,
21 of course, we're always open to pre-application meetings as
22 well.

23
24 Then, as stated before, the public notice is really going to be
25 our primary engagement point, and each of the districts that
26 you're going to be working with -- We all have a fairly similar
27 way of basically getting on mailing lists for getting public
28 notices, and so all of those addresses that are up there, and I
29 can certainly forward this presentation to anybody, if you don't
30 already have it. It's basically just sending an email to the
31 webmaster and getting on the list.

32
33 That's what I've got for you this morning. Thanks again for
34 having us, and we've got some other Corps representatives from
35 the districts down here, and, if you have any questions, if I
36 can't answer them, I'm sure they will step in and hopefully help
37 me out.

38
39 **CHAIRMAN BANKS:** Thank you, Mr. Kizlauskas. Are there any
40 questions from the committee? Ms. Bosarge.

41
42 **MS. LEANN BOSARGE:** First, I would just like to compliment your
43 Jacksonville office, and so I'm from the shrimp industry, and
44 your Jacksonville office is very open and has a direct line of
45 communication. Anytime our shrimpers call that office, they
46 take the time to speak with us and listen to any concerns we may
47 have and get back to us, and so we really appreciate that.

48

1 **MR. KIZLAUSKAS:** Thank you.

2
3 **MS. BOSARGE:** Unfortunately though, in the Mobile office, we
4 haven't gotten that reception, and there were some permits that
5 we found out were going through your Mobile office, and we tried
6 to call and say, you know, we have some data we would like you
7 to look at, as far as siting, and it was for an artificial reef
8 offshore, and, essentially, we were kind of just brushed aside
9 and told, well, you probably want to get with the applicant
10 about that.

11
12 Well, we want to talk to you, because you're the one that is
13 supposed to gather all the information and evaluate it and then
14 decide which way is the right way to go and is there a user
15 conflict or not, and so I have a couple of ideas of how to
16 resolve that, from an administrative standpoint.

17
18 I mean, maybe we can develop a better relationship with the
19 Mobile office, but then it's also the onus is on us to try and
20 keep up with every permit that comes through your office and
21 make sure it's not a user conflict, and god bless you all,
22 because you have a lot of permits that come through that office.

23
24 I actually looked at the permit list, and there are just
25 hundreds and hundreds of permits, and so, when we get on that
26 mailing list, our inbox just gets flooded, because every permit
27 that comes through your office comes to us, when, really, we're
28 only interested in the ones that are in the water offshore,
29 something about an artificial reef or something about maybe
30 aquaculture, and so maybe -- The letters that you send to NMFS,
31 to get feedback from NMFS, are pretty specific, and you ask them
32 -- You consult with them and ask them about the essential fish
33 habitat and then about the endangered species, to see if there
34 is going to be any issue with that permit with those two items.

35
36 Maybe you could also send a letter to NMFS and say, hey, do you
37 see any siting issues with this, as far as user conflicts and
38 things like that, because NMFS has all that data on file, all
39 the shrimp effort for the last ten or fifteen years now, and
40 they have that historical data. It's vetted through the Science
41 Center, and so it's good, hard data that you can rely on.

42
43 I would like to see the Corps reach out more to NMFS on siting
44 and try and deal with that issue, so that we as an industry
45 don't feel like we don't matter anymore, and I think that would
46 be the best way to do that, and so I hope you would consider
47 doing that.

1 **MR. KIZLAUSKAS:** Sure. I will take that back.

2
3 **CHAIRMAN BANKS:** Any other questions? Dr. Crabtree.

4
5 **DR. ROY CRABTREE:** Mr. Kizlauskas, I appreciate you being with
6 us this morning, and I'm with the National Marine Fisheries
7 Service, and we see a lot of these things, and I'm also a member
8 of the council, and I think we have made a lot of progress over
9 the last twenty or thirty years on looking at materials and
10 stability of artificial reefs, and I think we've all seen a
11 number of the mistakes made in the past with putting things like
12 tires out and having them all washing up on the beach, and so I
13 think we've done a lot there.

14
15 Leann brings up a concern that we do have about resolving
16 fishery conflicts, essentially, because, obviously, there are
17 some fisheries where an artificial reef pushes up the catch
18 rates, and it seems a great thing, but, if you want to drag a
19 net and shrimp in that area, you're not going to be able to do
20 that, and so there are siting conflicts that we're going to see
21 with artificial reefs, and we've also had experience dealing
22 with aquaculture operations and similar concerns about how they
23 will affect the existing fisheries, and I think the council is
24 particularly well suited to deal with fishermen and evaluate
25 those kind of conflicts, and so I hope you all will seek out the
26 council's help and advice on those, because I think we are going
27 to see more interest in aquaculture in the Gulf of Mexico, and I
28 think we are seeing a lot of interest in artificial reefs,
29 because there is funding available through the restoration
30 grants and those kinds of things.

31
32 The council has fishery management plans, of course, and they
33 are full of a number of our management objectives that we're
34 trying to achieve, and a lot of what we deal with has to do with
35 season lengths and providing access to fisheries, and, in
36 particular, this week, for example, we've been having a
37 discussion about greater amberjack and the fact that the season
38 was shorter than people would like it to be this last year, and
39 so we're looking for ways to try and extend the season.

40
41 That basically gets down to what we spend a large part of our
42 time, which is looking at catch rates, and we put a lot of
43 measures in place in our fisheries to reduce catch rates. If
44 you think about a bag limit, it essentially reduces the number
45 of fish that someone brings in in a day, and size limits
46 oftentimes are there to protect immature fish, but they also
47 have impacts on catch rates, and trip limits and closed seasons
48 and all these things we do.

1
2 I believe that artificial reef programs have a huge impact on
3 catch rates, and so they have a large impact on the fishery
4 management regimes that we're putting in place, yet the council
5 has very little authority over artificial reef deployment and
6 all of these kinds of things, and that is, essentially, the Army
7 Corps' responsibility, but people all have different opinions
8 about artificial reefs, but I don't think that anyone argues
9 that they're not changing the ecosystem when we put them out.

10
11 In some parts of the northern Gulf, there are huge areas that
12 are artificial reefs, mostly in the Panhandle off of Alabama,
13 and we have very large zones, and so, when we put artificial
14 reefs out there, we are essentially pushing the catch rates way
15 up, and that's why they are popular with fishermen. They are
16 great places to fish. Fish are concentrated there, and they're
17 easier to catch there, but the result of having very high catch
18 rates tends to be that the quotas are caught much more quickly.

19
20 We have spent this week talking about amberjack, and lord knows
21 that red snapper has eaten our lunch for decades, and the other
22 species we've had issues with very short seasons are gray
23 triggerfish.

24
25 If you look at those three species, they are very prominent on
26 artificial reefs, and they are very drawn to artificial reefs,
27 and the reefs push up their catch rates on them, and, now, there
28 is a lot in the scientific literature about the impacts of
29 artificial reefs on stock productivity, and there is a fair
30 amount of evidence that they may increase stock productivity, in
31 many cases, but what I am trying to achieve is that there's more
32 thought behind artificial reefs as a fishery management tool and
33 how does it fit into our overall goals with managing our
34 fisheries, and I worry sometimes, because artificial reefs are
35 popular, and there is money available, and we're just putting
36 out artificial reefs out all over the place without thinking
37 about what the net effect of it is, and surely there is some
38 point at which we would think we have enough artificial reefs,
39 and we maybe don't need some more, and that may be contrary to
40 some people, who may take the attitude that you can never have
41 enough artificial reefs.

42
43 I think it's something that merits a lot more consideration, and
44 so I think one of the comments that is going to start coming
45 from the Fisheries Service on your NEPA documents is that the
46 analysis of the impacts on the fishery aren't adequate, and they
47 haven't given adequate consideration to how it's going to affect
48 fishery management plans and catch rates and all of these kinds

1 of things, which is, I think, something that you're going to
2 want to go to your applicants, which in many cases are state
3 agencies and things, and ask them to provide a more detailed
4 consideration of the impacts on fisheries and how all of that
5 pulls together, and so that's an important issue to us that
6 hopefully you will work with us to help address.

7

8 **MR. KIZLAUSKAS:** Absolutely.

9

10 **CHAIRMAN BANKS:** Thank you, Dr. Crabtree. Anybody else?
11 General Spraggins.

12

13 **MR. SPRAGGINS:** Could you, real quick, just kind of give me an
14 idea -- One of the things is we're talking about artificial
15 reefs here a lot, and, when you get a permit that comes in and
16 says I need to do an artificial reef, and this is what I want to
17 do, and I want to permit an area, how long is that normal
18 process? Is it a year or two years or six months?

19

20 **MR. KIZLAUSKAS:** It's going to depend on what kind of issues
21 come up. I would say, typically, it's going to be a year for a
22 typical artificial reef permit, and a lot of that can also stem
23 from additional information that we need from the applicant, for
24 example, and I know we had one that took a very long time
25 because they had to do side-scan sonar surveys for historic
26 properties, and so, depending on what we need and what kind of
27 issues are coming up, that can have a big impact on the length
28 of time it takes.

29

30 **MR. SPRAGGINS:** Thank you. I just -- A lot of times, I look at
31 it in different areas, and it seems like it goes quicker in one
32 area than it does in another, and I've been watching it, and,
33 obviously, like I said, I think Florida does a great deal with
34 what they do, because it seems to pass pretty quick over there,
35 but we do -- I heard her thoughts about Mobile, and we have a
36 few issues sometimes, but the problem is that it may just be the
37 pure fact that we have sturgeons here, and we have to worry
38 about it, and we have to worry about other things, but I was
39 just curious about how long it normally took for --

40

41 **MR. KIZLAUSKAS:** Sure, and we do have a national metric, where
42 we do try to get permit applications out within 120 days of a
43 complete application, but that's really when everything -- That
44 is not just artificial reef, and so that's even inland
45 development and that kind of thing that factors into there, and
46 so I think the year is probably a more accurate reflection of
47 artificial reefs.

48

1 **MR. SPRAGGINS:** Okay. Thank you.

2
3 **MR. KIZLAUSKAS:** Sure. Thank you.

4
5 **CHAIRMAN BANKS:** Dr. Crabtree.

6
7 **DR. CRABTREE:** One of the things, Joe, on the reefs is the
8 Section 7 consultations, and I know we have some applications
9 from Mississippi now that we're working on biological opinions
10 on. In part, how long the biological opinion takes is dependent
11 on the types of materials that are being put out, and, in
12 general, if it is low-relief concrete materials and things like
13 that, it could be an informal consultation, which can be done
14 more quickly, but, if it's derelict vessels and high-relief
15 materials, that raises concerns about impacts on turtle
16 populations that can get entangled in fishing lines that are on
17 them and those kinds of things, and so partly it depends on what
18 you're putting out.

19
20 We are working on, and you mentioned the JaxBO biological
21 opinion, which is a programmatic biological opinion, and it
22 covers thousands of projects that occur in Florida. Where we
23 need to get to is a programmatic biological opinion that looks
24 at artificial reefs and lays out the bounds on what kind of
25 things go out, and, if you meet these criteria, then you fall
26 within the parameters of the programmatic biological opinion and
27 nothing more needs to be done.

28
29 We're working on that now, I believe in North Carolina, but
30 we're talking to the other districts and regions with the Corps
31 and trying to move towards that, and that's going to be -- That
32 will take years for us to get to, but, ultimately, that's the
33 goal, and I think that will streamline the Section 7 process
34 somewhat, but it still will mean you're going to have to meet
35 certain types of criteria, in terms of what you're putting out,
36 in order to be covered by that.

37
38 **CHAIRMAN BANKS:** All right. Mr. Swindell.

39
40 **MR. SWINDELL:** Thank you so much for being here. One of the
41 issues that recently has come to us over the recent time is
42 aquaculture, and one of my biggest concerns of aquaculture is
43 the type of fish resources that they intend to raise within the
44 aquaculture environment, and it's very important for the
45 National Marine Fisheries Service to have the information input,
46 so that the council can review it, to make certain that at least
47 what they're raising is a fish that is a predominant resource or
48 a resource for the Gulf of Mexico that will not come in conflict

1 with other resources within the Gulf.

2
3 Right now, we're having trouble with the lionfish, which is not
4 an aquaculture thing that occurred, but it is becoming invasive
5 to the Gulf of Mexico, which has a real problematic -- So you
6 have to always be aware, as you get these applications in, to
7 make certain that it's addressed properly by the National Marine
8 Fisheries Service and the council, to make certain that what is
9 trying to be done is indeed what we would consider safe for the
10 environment or the resources in the Gulf. Thank you.

11
12 **MR. KIZLAUSKAS:** Thank you.

13
14 **CHAIRMAN BANKS:** All right. Ms. Bosarge, I'm going to give you
15 just a little latitude here.

16
17 **MS. BOSARGE:** I forgot to talk to you about aquaculture, but
18 just you know my former comments were on artificial reef, and
19 let me just say, for the record, shrimpers are not opposed to
20 artificial reefs. We have no issues with it, and we just would
21 like to see it not in productive shrimp grounds. Try and put it
22 somewhere that truly is not a productive area.

23
24 As far as the aquaculture, do you have a process in place now
25 where, if you receive an aquaculture application, you will
26 actually contact NMFS for some general feedback? I ask because
27 I know that's sort of in flux, and those used to come before the
28 council, and then there was a recent court decision, and so
29 those don't come before us anymore, but we usually have some
30 good questions, and you can see, in this room, there's a bunch
31 of fishermen.

32
33 There will be a whole lot more after lunch, and there will be a
34 hundred or so fishermen in this room, and they come to all of
35 our meetings, and they listen to what we have to say, and we're
36 here, and we're available, and they talk to us and say, hey,
37 you're going to screw it up, and so the fishermen are here to
38 give feedback. Do you plan on engaging the councils, or at
39 least NMFS, at all on some of your aquaculture applications?

40
41 **MR. KIZLAUSKAS:** Yes, ma'am. We would definitely, on an
42 aquaculture project, engage with both NMFS Protected Resources
43 and Habitat Conservation, and so we would be pretty heavily
44 engaged with NMFS through that permit process.

45
46 **CHAIRMAN BANKS:** Mara.

47
48 **MS. MARA LEVY:** Just to that point, the Fisheries Service is

1 also, at least recently, has been sort of a cooperating agency
2 on the NEPA side, and so both the EPA and the Corps are
3 generally involved in permitting these aquaculture facilities
4 for different reasons, and NMFS has been a part of the team that
5 works on developing the NEPA document and providing input that
6 way as well.

7
8 **CHAIRMAN BANKS:** All right. I'm going to wrap this conversation
9 up, so that we can stay on track for the Chairman here. I
10 appreciate your time, and I appreciate you answering the
11 questions we had, and thank you for being with us.

12
13 **MR. KIZLAUSKAS:** Thanks for having me.

14
15 **CHAIRMAN BANKS:** All right. We're going to move on to the next
16 presentation. Mr. Diaz.

17
18 **MR. DALE DIAZ:** Just, before we completely move off of this, and
19 it's not related to the presentation, per se, but I think, just
20 going around the table and the council talking about wanting to
21 be informed and plugged in, and Leann brought up how much stuff
22 is going on in the Gulf of Mexico and how difficult of a task it
23 is, just -- Somebody might could help me, because historical
24 knowledge, as far back as I'm going, I don't think anybody here,
25 except for Dr. Crabtree, would have been on the council, but we
26 used to contract with Gulf States Marine Fisheries Commission,
27 at one time, for part of Mr. Rester's time, and Mr. Rester was a
28 habitat coordinator that kind of looked out for big projects
29 going on in the Gulf of Mexico, and he helped inform the
30 council.

31
32 Dave, I am guessing that's been maybe seven or eight or nine
33 years ago when that was in place, and so, anyway, my main point
34 is the council has handled habitat differently at different
35 points in time in the council's history, and there may be some
36 different ways to look at it, but the council has to decide how
37 much they want to get involved too, because time for the council
38 now is at a premium, and, depending on how deeply you get
39 involved in habitat, I could see where it would be a -- Not that
40 it's not important, but it would be a time thing, where you
41 would have to budget and manage for it with time and money, but
42 I did just want to mention that it has been handled differently.

43
44 I used to be the Chair of Habitat, and, when I was the chair, I
45 asked the Habitat Committee if they wanted to look at going back
46 and doing things different, and, at that time, nobody came
47 forward, but this is a different point in time, and there is a
48 lot of stuff going on in the Gulf now, and some people's views

1 might have changed. Thank you, Mr. Chair.

2
3 **CHAIRMAN BANKS:** Thank you, Dale. All right. Let's move on to
4 the next presentation, Item Number V on the agenda, and it's an
5 EFH outline presentation by Dr. Hollensead.

6
7 **ESSENTIAL FISH HABITAT OUTLINE**

8
9 **DR. LISA HOLLENSAID:** Thank you, Mr. Chair. The purpose of this
10 presentation is just to touch base with the committee and give
11 you sort of an idea of what council staff and SERO partners have
12 sort of envisioned for a timeline and what to do, moving
13 forward, with some EFH policy.

14
15 Just a real quick general background is Magnuson-Stevens
16 requires scheduled reviews for EFH portions of FMPs, along with
17 a five-year review in between, and this five-year review is to
18 incorporate updates for the best scientific information
19 available, and, generally, this is going to be in research or
20 management analysis, along with any sort of discoveries and new
21 ecological relationships between species and their habitats and
22 that sort of thing, and so it allows for those updates.

23
24 The last EFH the council did was in 2016, and it was reviewed by
25 NOAA, and those recommendations were given to us, and this is
26 sort of the NOAA review recommendations, just an overview, and
27 some of the things that they would have liked to have seen was
28 to make the habitat association tables a little bit more user-
29 friendly and amend the formatting to easily transition between
30 text and internet sources, and so streamline the document a
31 little bit more. If people wanted more information, they could
32 go seek that out in other places, as well as assign habitat
33 designation information that could be georeferenced, and so,
34 obviously, maps and EFH are -- Visualizations is important.

35
36 Those three things, we have worked towards doing, and there is
37 still some room for improvement, but we have sort of addressed
38 those from the review. That last bullet was sort of to develop
39 -- In the letter, it's written as an abbreviated framework
40 procedure, although, consulting with counsel a little bit,
41 that's probably not what it's going to be, the policy document,
42 and so that's one of the things that we're going to move forward
43 with what kind of document would that actually be and make sure
44 that it's within NEPA regulations and that sort of thing, but is
45 there some flexibility to maybe allow a streamlined process with
46 which EFH updates can be integrated into the FMP, and so that's
47 sort of the idea for that.

1 Of course, this is going to take a little bit of meeting with
2 folks and getting everybody at the table to figure out how we
3 want to best approach this, and so, for the fall, our goal is to
4 convene the IPT, to get some direction on what we should do, for
5 example, in drafting the purpose and need, identify any data
6 needs that we have, or data gaps, and where to get that
7 information to help update those things, as well as draft some
8 actions, and so what would it look like in an action and
9 alternative framework, and we're hoping that we could bring sort
10 of a better, fleshed-out document to the council by January and
11 then spend the next course of the year working through that.

12
13 Then, just as a note for me, right after this meeting, I will be
14 going to the Council Coordination Committee Habitat Sub-
15 Committee workshop in Portland, Oregon, and so we'll have
16 partners there from all of the other regions and Science Centers
17 and Regional Offices and councils to try to get an idea of
18 coming to the table and sort of maybe even standardizing some of
19 the things that we do, in terms of data collection, our methods
20 for modeling some of the spatial data, and just to get some
21 feedback from those groups as well, and so, at the end of that
22 workshop, we will have a larger document that we will be
23 publishing from that workshop, to sort of help integrate EFH
24 policy into what we do here in fisheries, and so that's all I
25 had, and, like I said, it's a brief overview, but I appreciate
26 it as just a touching-base point with the committee of what
27 we're thinking of moving forward.

28
29 **CHAIRMAN BANKS:** Thank you, Dr. Hollensead. Any questions about
30 this? I just have one. When the IPT is meeting, is that
31 something that the council members -- Can we be involved in
32 those discussions?

33
34 Is it helpful, or is it not helpful? I guess what I'm a little
35 concerned about is, when you all bring us the draft document, we
36 may -- I mean, that will be the first time we're seeing some of
37 these things, and I think it would be helpful, at least for me,
38 to see it a little bit ahead of the draft document, maybe even
39 review some of the things that come out of the IPT, and so I
40 would request that, just as the Habitat Chair, please. Maybe
41 not necessarily to be part of the IPT, but just at least review
42 some of the discussions that come out of that. Thank you.

43
44 **DR. HOLLENSEAD:** Yes, sir. We can do that.

45
46 **OTHER BUSINESS**

47
48 **CHAIRMAN BANKS:** Anything else? All right. Thank you, Dr.

1 Hollensead. I appreciate it. All right. We will move on to
2 Item Number VI, Other Business. Does anybody have any other
3 business, or do we want to discuss a little bit of the idea that
4 Dale brought up just a second ago?

5
6 I just want to say that I'm glad you brought that point up, and
7 I've written it down as a question to try to address before the
8 next time we have this committee meeting, just to try to figure
9 out a way that the council can help be more involved in the
10 process.

11
12 Now, maybe it's incumbent upon the state directors to bring
13 these issues to the council. For instance, in Louisiana, we
14 have a large coastal restoration program that's going on that
15 sometimes impacts habitat in federal waters, mainly things like
16 mining of sand resources to try to rebuild our barrier islands,
17 and so maybe the way that the council can be more involved in
18 these issues is just for folks like myself to bring these issues
19 to the council when we know of them, and I see that as a failure
20 on my part to bring those kinds of issues to you guys, because
21 it's certainly something that I think you all would be
22 interested in, from a habitat standpoint, to know that at least
23 my state needs those habitat resources from offshore to try to
24 protect our coast, and it may be happening in Florida too, and I
25 don't know, when you all rebuild beaches and things, and so I
26 will try to do a better job, and maybe that's the way to get us
27 all more aware of that's going on.

28
29 I do know that our artificial reef program does a really good
30 job, before we go even to the Corps with an application, of
31 sitting down with the shrimping community and going through
32 where we want to put these reefs, and we use that shrimp effort
33 data as one of our very early checks on where we situate
34 artificial reefs, and so I feel like we're pretty heavily
35 engaged in user group conflict issues already and work those
36 things out before we go to the Corps, but, aside from that,
37 there are other projects that impact habitat offshore, and so I
38 will try to do a better job, from my standpoint. Any other
39 comments? Mr. Swindell.

40
41 **MR. SWINDELL:** Well, one of the things that I have been thinking
42 about, since the Corps person is not at the podium right now,
43 but I am concerned about the overall stability of an artificial
44 reef system.

45
46 We don't have the expertise, I think, within this council
47 purview of doing all the engineering work that's necessary to
48 understand, to make certain that the safety of the artificial

1 reef containment area for aquaculture is indeed a good, solid
2 system that the Corps can approve that is going to withstand the
3 storms, and they have done what they can to keep vessels from
4 running into it, et cetera, et cetera, so that we don't ever
5 have a problem with the damage or escape of the fishery
6 resources they are harvesting, and so I think it's a very
7 important point that we need to make to the Corps, that we're
8 relying on them to make darned certain that all of these things
9 are taken care of. Thank you.

10
11 **CHAIRMAN BANKS:** Thank you, Mr. Swindell. Any other comments?
12 Mr. Diaz.

13
14 **MR. DIAZ:** Just to Mr. Swindell's point, and I think the Gulf
15 States Marine Fisheries Commission has some artificial reef
16 guidelines that all of the states worked on putting those
17 together, and I know the State of Mississippi has guidelines
18 too, and those guidelines are specifically in place to try to
19 address your concern, Mr. Swindell.

20
21 I know, from the State of Mississippi, to try to make sure, on
22 the frontend, that they are taking into consideration as many of
23 those things that are like best management practices type things
24 to address those concerns, and so thank you.

25
26 **CHAIRMAN BANKS:** Anything else? Seeing none, I am going to turn
27 it back over to you, Mr. Chairman, with six minutes to spare.

28
29 (Whereupon, the meeting adjourned on August 14, 2019.)

30
31

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