GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

SUSTAINABLE FISHERIES COMMITTEE

Hyatt Centric French Quarter New Orleans, Louisiana

JANUARY 27, 2020

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The Sustainable Fisheries Committee of the Gulf of Mexico Fishery Management Council convened at the Hyatt Centric French Quarter, New Orleans, Louisiana, Monday afternoon, January 27, 2020, and was called to order by Chairman Dale Diaz.

ADOPTION OF AGENDA
APPROVAL OF MINUTES
ACTION GUIDE AND NEXT STEPS

CHAIRMAN DALE DIAZ: I would like to call the Sustainable Fisheries Committee to order. The members of the committee are myself, Dr. Stunz is Vice Chair, Mr. Schieble, Mr. Anson, Ms. Bosarge, Dr. Crabtree, Mr. Donaldson, Ms. Guyas, Mr. Robinson, Mr. Swindell, and Mr. Williamson.

The first order on the agenda is the Adoption of the Agenda. Are there any changes or additions to the agenda? Seeing none, is there any opposition to adopting the agenda? Seeing none, the agenda is adopted.

The next order of business is Approval of the October 2019 Minutes. Are there any changes to the October 2019 minutes? Is there any opposition to adopting the October 2019 minutes? The minutes are adopted.

Item Number III is the Action Guide and Next Steps, and I would like to go through them as we take them up, one at a time. It's not really applicable to Item Number IV, and I believe that Dr. Simmons is going to introduce Item Number IV. Dr. Simmons.

INTERAGENCY COORDINATION OF AQUACULTURE SCIENCE AND MANAGEMENT

EXECUTIVE DIRECTOR CARRIE SIMMONS: Thank you, Mr. Chairman. The first item we have under Sustainable Fisheries is a presentation from Mr. David O'Brien. He's with the NOAA Office of Aquaculture in D.C., and he's going to give us a presentation on aquaculture updates and discuss an outline, including policy legislation and grant updates, with the goal of improving the efficiency, predictability, and timelines of regulatory requirements for the aquaculture projects.

We received a presentation during the November Council Coordinating Committee, and this is, I think, an update version of some of the Aquaculture Task Force outline work that had been done, and I thought that a lot of this information was pertinent to the Gulf Council, because we had the Army Corps come and give us presentations, and we've been following the EPA comment periods for the Velella Epsilon and Manna Farms, and so I

thought a lot of this work was relevant to what we've been discussing here at the council, and I appreciate him coming. Thank you.

MR. DAVID O'BRIEN: Thank you, Carrie, and thank you to the council for inviting me down here. I greatly appreciate the opportunity to come down and talk to you about aquaculture today. My name is David O'Brien, and I am the Acting Director of the NOAA Fisheries Office of Aquaculture. I am based out of Silver Spring, Maryland.

Just as a little context here, we at NOAA operate as the NOAA Aquaculture Program with the Fisheries Service, where I see, working very closely with the Sea Grant Office, as well as our partners at the Ocean Service. Collectively, what we're trying to do is support the sustainable development of domestic marine aquaculture.

Before I get into the actual slides, I wanted to just take a moment to maybe set the stage. This might be familiar to a lot of you, but I think it's worth just setting the stage for this presentation.

Over the past thirty years or so, there's been increasing interest domestically, and certainly globally, in aquaculture, stemming largely from the fact that wild fisheries, again going back thirty or forty years now, are largely flat, on a global basis anyway, of roughly ninety-million metric tons. Starting in the mid-1980s or so, when that plateau was reached, a lot of other countries starting looking forward and seeing this increasing demand for seafood and this flat sort of available harvest from the wild, at least sustainable harvest from the wild, and said we need to look at aquaculture as a way to fill that gap, both now and in the future.

In general, Asian nations really jumped at that opportunity, and I'm not going to display this graph today, but you may have seen it in other presentations, and it's basically a growing wedge of aquaculture for projecting out seafood supply over time, and that wedge -- Right now it's about half of what we eat, or a little bit more than half of what we eat, actually comes from aquaculture, and, in the U.S., we import somewhere around 85 to 90 percent, is the best estimate we have of our imports. It's a little hard to figure out exactly, given the challenges of the data, but that's about what we import.

There's been growing interest, going back for really thirty years or more in the United States, in how do we develop a more

sustainable and robust aquaculture industry to support working waterfronts, to create jobs, to create more seafood, and to do all of that in a sustainable manner, keeping in mind, at least at NOAA, our essential mandates to protect marine mammals, essential fish habitats, et cetera.

That's the context that we're talking about now, and, really, I've been in NOAA for about fifteen years, or in the Office of Aquaculture for fifteen years, and there's been a slow but steady increase in the interest in aquaculture and the support for aquaculture, and I think that largely mirrors what we're seeing around the nation as well, where there is growing interest in certain communities, in Maine and Alaska and California and the Gulf and elsewhere, where some fishermen, and fishing communities, seafood communities, are looking at aquaculture as a way to diversify and to bring in more jobs, to get more local seafood on the plates and at your local restaurants. There's a whole wide range of reasons to adopt more aquaculture and to do so in a way that really complements our wild fisheries and our seafood sector.

That is where this is all coming from, and that's sort of setting the stage of why I'm here and why the NOAA Office of Aquaculture is set up to help promote -- That's not the right word. Help advance marine aquaculture in the United States. That leads me to my actual slide presentation.

EXECUTIVE DIRECTOR SIMMONS: I think we're having some technical difficulties here. Sorry.

MR. O'BRIEN: No problem. I can say the first couple of slides just verbatim, and you can look at it later if you want, and I'm sure people are seeing it on their screens.

CHAIRMAN DIAZ: If you would, Mr. O'Brien, we've got a question for you, while we're waiting on the presentation to come up. Dr. Frazer.

DR. TOM FRAZER: I just thought I would take this opportunity to give some clarification. When you said that we're importing 85 to 95 or 90 percent of our product, is that specific to aquaculture products, or is that total seafood products?

MR. O'BRIEN: That's total seafood in the United States. We import in that ballpark, and that may be slightly overestimated, because we have a lot of product that is caught in the U.S. and shipped overseas for processing and comes back, and that complicates the math, but, at minimum, it's probably around two-

thirds of our seafood, and up to 90 percent, of our overall seafood consumption in the United States comes from imports, and about half of that is from farmed food.

DR. FRAZER: But, within our own domestic wild stock, what proportion of that harvest is kept in the United States?

MR. O'BRIEN: I don't have that statistic. I'm not sure, but I do know that some goes overseas and comes back, which can only complicate -- Whatever number I did have, it would be a little bit hard to be precise about.

DR. FRAZER: Okay. Thank you.

MR. O'BRIEN: Sure. Going back, again, aquaculture stems back several decades, and, in 1980, the National Aquaculture Act was passed and signed by President Carter, before President Reagan came in, and that act did a number of things, one of which was to establish aquaculture as a national priority, and it charged the Secretaries of Commerce and Agriculture, in particular, with taking steps to promote aquaculture, for all the reasons I just said. I mean, the actual basic reasons have not changed in thirty years. It was to create jobs, reduce the seafood trade deficit, et cetera.

One of the specific things it did was it established a sub-committee on aquaculture, which is an interagency taskforce changed with better coordinating with the management and the science of aquaculture to achieve the goals of this act, again to support the sustainable development of aquaculture.

This sub-committee, the SCA on your screen, has been around since that time, and so since 1980, and its status and its efforts have sort of waxed and waned over the years, but, in this administration, they have really stepped up, and there's been a lot of emphasis from President Trump and Secretary Ross at the Department of Commerce in supporting aquaculture development, and, as part of that emphasis on aquaculture, they have emphasized the sub-committee, and they elevated, and I won't get too wonky on you, but they have elevated it in sort of the hierarchy of the White House offices. Right now, the White House itself, under the Office of Science & Technology policy, is chairing, or co-chairing this effort, which has never happened before in my recollection.

This group is charged with developing a new interagency plan to set the stage for improved interagency efficiency for aquaculture, and there's a companion plan, which I'm not going

to talk about much today, to look at science coordination as well, but, for today, I'm going to focus on the key players on the federal agency side, again, NOAA, EPA, the Army Corps of Engineers, and some others, Fish and Wildlife Service, and how this plan is being drafted to help support our interagency efforts.

Before I move on to the next slide, the third bullet there is a key one. All of the actions in this plan, which I will talk about in just a moment, by definition would be executed within existing statutory authorities and budgetary resources, and so that's the sort of two side boards, and important ones, for this discussion. We are not talking about writing new laws here. We're saying, given what we already have available, in terms of legal mandates, what can we do better.

The regulatory efficiency plan addresses three main things, efficiencies in the aquaculture permitting and written authorization programs, and it addresses aquatic animal health management, and also tools for aquaculture regulatory management.

I am going to mostly about the first one, a little bit about the second, and then I will pause on the third one as well, but the first one is of potential to have a lot of interest in this group, and I want to make sure that you have time to have any discussion as we go along, and, in fact, I should have said from the very beginning, and I'm not sure how these meetings normally go, but, as far as I'm concerned, if there's questions along the way, if you have discussion on any of these topics, we can pause and have that discussion.

This plan, importantly, is not intended to be comprehensive. It's not intended to cover everything that every agency does with respect to aquaculture permitting. The goal was to find those potential efficiencies, both as individual agencies and together, to move the ball forward, in terms of developing a more efficient regulatory process for aquaculture.

The other important context here, before I go on, is that this is very much in draft. I talked to Carrie back at the CCC meeting in November, and we had hoped that the actual draft plan would be out right around now, and I would have an actual concrete draft to show and share and discuss. It's still in the clearance process, and it will probably be a few more weeks, at least, before it comes out, and so this is still -- Nothing is set in stone here, and things could change, and maybe will change, but I want to at least give you a flavor of the

direction that I think we're going and have that discussion, and I'm happy to take any feedback back as we finalize the draft as well.

Under that first priority area, permitting and authority authorization programs, there is sub-areas, five priority areas. One is to expand the range of activities authorized under general permits and through programmatic consultations, and, again, before I even get into this, I will provide yet more context.

One of the key challenges -- I mentioned earlier that the U.S. has not really -- Asia and other countries have really jumped on aquaculture and pursued it aggressively. The United States has not, for a number of reasons. In fact, if we look over the past ten years or so, our production for aquaculture is relatively flat, despite the efforts over the past ten years to improve it.

There's a number of reasons for that, and I won't go into all of them, but certainly one of the chief ones is this inefficient federal regulatory process, and so looking at ways to make that more efficient is really a core element of this part of the plan.

One way we do this, and that's Number 1 here on this slide, is to look at expanding the range of activities authorized under the general permits and through programmatic consultations. This is really targeted at the Army Corps of Engineers and the EPA. Both of them have what are called sort of general permits available, where they can -- Instead of issuing a permit on an individual basis, for an individual farm, they can look at a collection of activities, or a range or type of activities in a certain area, and say are we able to sort of draw a circle around this cluster of interest and do some sort of holistic analysis and say, in this area, given these constraints, given these concerns, let's set the programmatic permit conditions for this type of aquaculture.

The most comprehensive version of this we have right now is under the Army Corps of Engineers, and they have a whole series of nationwide permits, over fifty of them now, and Nationwide 48 addresses shellfish aquaculture, and that is -- Again, it's a nationwide permit that any shellfish grower -- Any state that wants to adopt it can, and they don't have to, but, if they do want to adopt, any state, any individual grower, can come in for a permit application under this nationwide permit, and, as long as they meet certain criteria, it's basically going to have a much easier path forward.

Those nationwide permit is associated with the Endangered Species Act consultations, the NEPA consultation reviews, all those things, but it's all done upfront, or, as much as possible, it's done upfront, to make it easier for each individual applicant.

That general model could be very effective for aquaculture in other parts of the country and other types of species, and there's some challenges with doing that, but that's one area that we're pursuing. Again, nothing is set in stone here, but that's an area that both the Army Corps and the EPA are looking at. An easier one, in a sense, is Number 2, which is just to maintain and update state information.

CHAIRMAN DIAZ: I have a question for you, Mr. O'Brien. Mr. Dyskow.

MR. PHIL DYSKOW: Thank you, Mr. Chairman. Just to kind of set the stage of where we are, our starting point, if you will, how many separate and distinct aquaculture permits have been established for federal waters by NOAA?

MR. O'BRIEN: In federal waters, there is only a single commercial operation operating in federal waters. It's in California. The one in Hawaii is in state waters. There has been some other permits issued. Well, actually, to be clear, there is no permits issued by NOAA, except for some experimental ones in Hawaii, and I don't want to get into the weeds, but there's some exempted fishing permit models, and the Pacific Islands Region has done some permits, but that's not for a commercial operation.

The only commercial operation currently operating in federal waters is not using any NOAA permit at all. It's using just an Army Corps of Engineers permit, but that's it, and then there is consultations under the Endangered Species Act and others. Does that answer your question? Okay.

So, getting back to Number 2 here on the slide, maintaining updated state-by-state information, as I'm sure everyone knows, each state in coastal waters, where the vast majority of aquaculture is occurring, to your point, one of the last questions, each state is responsible for setting its own standards. There are some side boards, especially if they use Nationwide 48, as I mentioned a moment ago, but each state is responsible for its own permitting system, and so it's very complicated, and these things change all the time, and the

points of contacts change all the time.

One thing we've been asked to do by the shellfish industry is just to help keep track of all that, and so we did this once a couple of years ago, and we had a comprehensive list of all these requirements, and we'll continue to maintain that.

That sort of gets to maybe a more general point that I wanted to make, which is, while NOAA is -- We have certain responsibilities in federal waters, but we also have responsibilities in state waters for aquaculture. We don't have any regulatory authority, except through consultations, but, at the Office of Aquaculture, we've taken it upon ourselves, and we've been told by our administration, to assist any way we can, basically, with state programs, to help them get better science, improve their own regulatory systems, if they want our help, but not in a regulatory way, but in assisting them with their own processes.

Continuing this permitting authorization programs, one of the things this plan calls for is to establish regional interagency coordinating groups, and this is based very much on what happened in the Gulf of Mexico, following the Gulf FMP and the subsequent regulations that were issued.

The Gulf of Mexico and this group is really out in front on federal waters management of aquaculture, and one of the -- There's lots of good things that came out of that, and I won't get into where we are on the lawsuit, unless Roy wants to mention something later, except to say that it's still pending, and we're still seeing where this appeal stands, but, regardless of that, what that process did is it helped us to get a better handle on how to work better with the EPA, with the Army Corps, with the Department of Defense, on a wide range of things, and an MOU was established several years ago to sort of codify how these different agencies would work together in the Gulf of Mexico, and there was also subsequent sort of internal guidance on how to actually interpret that MOU.

One of the key things was establishing pre-application meetings, and there's a whole series of other steps as well, but basically what we've said at the national level is that's a really good model, and it could be improved upon, and it was the first time that it was ever done, but let's do something like that around the nation as part of our overall strategy.

That sub-bullet there under Number 3 is something that I wanted to mention, and I won't go through every slide in this much

detail, because I know you have other things to talk about besides aquaculture, and I could stay here all day, but I do want to focus on this piece as well.

Aquaculture management areas is a concept that's been used in other countries with some effect, and it's still something that's being batted around, and I would say nothing, again, is firmly established, but there's some interest, both in Congress as well as in this administration, to use aquaculture management areas as a tool to help facilitate the permitting process, and so what is an aquaculture management area?

Conceptually -- Well, first of all, it's not prescriptive. Sometimes, when you talk about these, people think NOAA is going to say farm here and don't farm there, and that's not the intent. Under this model, anyone can still come in for an individual permit application, just as they could today, but what we are trying to say is, if there are areas, where there is a cluster of interest and a cluster of opportunity from industry, can we look at that area more holistically and look at, within that area, where are the options for sort of higher or lower suitability of aquaculture, based on a whole suite of parameters, including presence of endangered species or sensitive habitats, potential user conflicts, such as the fishing industry others, avoiding things like military bases, and there's a whole series of thing that we put into a siting model, like a GIS-type model, to look at the relative suitability of these areas as a step.

That can then be coupled with a more detailed analysis of -- More akin to a NEPA analysis or an ESA consultation, to say, given the species that are here and the potential risk for those species, how do we establish mitigation measures to bring those risks down to a certain level?

By marrying this sort of spatial planning element with some sort of upfront analysis, you could conceivably have a more streamlined approach, so that an individual permit applicant can come in, and hopefully a certain percentage, a large percentage, ideally, of that thinking has already happened, and so it streamlines the process from their standpoint, as well as makes it easier for the federal government, because, instead of doing things on a case-by-case basis, you can do things a little more holistically.

That's the concept of management areas, and, again, there is other models to look at in other parts of the world, and there's a lot of interest, and it's called slightly different things in

different contexts, but I think you will probably hear more about that, one way or another, in the near future.

I am going to move a little more quickly now, and, again, I won't go through all of these, because you have it your slides in front of you, but, looking at the NPDES, which is EPA's Clean Water Act program, and NPDES stands for the National Pollutant Discharge Elimination System.

Anytime you have finfish aquaculture, the effluent coming out of that farm, and it could be excess feed or fish waste, is a pollutant from the EPA standpoint and from the Clean Water Act standpoint, and the EPA monitors that regulates that, as it would any other point source pollution, and so NOAA is working very closely with the EPA, because they don't have much -- They don't have much experience with this at this point, and so our modelers at the Ocean Service are working very closely with the EPA to help put their Clean Water Act authorities into the context of aquaculture in a more efficient way, including providing more outreach and information to growers.

The last one on this slide is just establish a clear and transparent process for the safety of molluscan shellfish. It's just a bit of an aside, in a sense, but, just so people know, it's a whole bunch of rocks that we turn over in the context of aquaculture in federal waters, and you find things you weren't expecting, and one of which came up a couple of years ago.

We realized that all the processes for permitting shellfish, and you've got to make sure that they're clean and safe for human consumption, but they were all based on state-water shellfish, and shipping in a product in from federal waters and landed in say California, there was no clear process there, and so we're working on that, both with California but now on a national level as well.

Aquatic animal health management, I am going to just touch on this, in part because it's very complicated, and, frankly, I don't understand all the pieces to it, and others in NOAA and at the Food and Drug Administration and the USDA could do a better job explaining this, and I will say that it is very complicated, and it's not been very well coordinated, or it could be better coordinated in the future, and we work with the FDA and with the Fish and Wildlife Service and with USDA and NOAA as well on various aspects of aquatic animal aquaculture health.

A key deliverable of this plan is that first one, Bullet 1, and it's to sunset that current National Aquatic Animal Health Plan,

which is an effort we did back in 2008 to pull the agencies together, much like we're doing now, to develop an interagency plan for aquatic animal health. For various reasons, it was not fully implemented, and so one of the key deliverables now is to either redraft or start from scratch, but to develop a new plan and then actually implement it more effectively.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. LEANN BOSARGE: Thank you. On that last slide, and it kind of goes to the slide before that, if you could back up one, and so, as you try and develop this new health plan, will you hopefully build in a good bit of transparency there for the public, because it seems like one difference between land aquaculture and offshore aquaculture, and even farming on land, and you're on private land, and so there's a little bit more privacy that goes into maybe what the animals are being fed and what biologics are there and things of that nature, versus what you're putting into a public resource, so that, when you grow fish offshore, that is an environment that owned by all of us, right, and we are using it.

Will there be some transparency built into that, so that any inspections that you do, any audits or things like that, will be open and transparent to the other users of that resource, the public in general?

MR. O'BRIEN: This plan is just being developed now, or, actually, we're just talking about developing it, and so I can't predict with 100 percent assuredness how it's going to proceed. However, I will say that, throughout this entire process, and this administration in general, we are focusing on being as transparent as possible, and that's one reason that I'm here, and I am trying to reach out to a lot of other audiences and say here's what we're doing.

We're going to put out draft plans, and please give us your comments. We're trying to be as transparent as possible, and so I think there will be an opportunity there, certainly, to provide that input in one way or another, and I can't say exactly how right now.

I should also say, and, if this wasn't clear from the beginning, I apologize, but this plan is not just for federal waters, and not just marine waters, but it's actually all aquaculture, including on land. We're working very closely with the USDA, and they have responsibilities related to catfish aquaculture and trout aquaculture and other freshwater aquaculture. We have

talked about especially this aquatic animal health area, and this is really talking about nationwide land and freshwater and marine and offshore and coastal, and so that's all in there.

I will just touch on Number 3 here, improving efficiency to the drug approvals and licensing of biologics, and this has been a challenge for the aquaculture industry for quite some time, and whether they also apply to the terrestrial farming, I'm not quite sure, but getting new drugs approved through the FDA process is a very onerous, long, tedious task, and it takes a lot of effort to do it and do it right.

There are challenges there, and, because aquaculture is so new -- I think, in the cattle industry, they have the resources to put into doing the research, and it's a little harder if you're a series of, for the most part, mom-and-pop oyster operations, and how do you fund that research to develop new types of biologics, for example, but we do recognize that this is a real need for the sector, and NOAA and the USDA are in active discussions about how we can better work together with FDA to move this process along, and I will skip the rest of those on this slide.

Another important piece of aquatic animal health management is related to international trade, and, in fact, that's the main reason, really, that NOAA is involved. We're responsible, in part, for working on certifications for exports, which has an animal health angle to it, of course, and so we are trying to better clarify and define the federal agency rules. Again, we've done a pretty good job in this, but there's room for us to improve here as well, in terms of who is doing what and in terms of attestations and certifications for both the import and export of aquatic animals and establish those standard operating procedures for industry communication as well.

This comes to the third sort of main theme of this plan. Again, the regulatory efficiency was number one, and the animal health management was number two, and number three being the science to support regulatory management.

This is where NOAA has spent a lot of effort over the years, and I'm going to say more than what's on this slide. Basically, we have two main customers, so to speak, for our science enterprise, and one is the industry itself, to the extent they need help with bringing new species online, with disease management issues, and there's a whole series of questions about hatchery technologies. We work, both in the Fisheries Service, but largely through the Sea Grant Program, to help fund that

research.

The other main customer is our regulators, which is largely our own folks, and we're working on endangered species consultations, doing NEPA reviews, things like that, and how do we give them the information they need to make a more informed decision as efficiently as possible?

We have identified three main steps here, and one is to identify the additional science information that's needed for federal and state permit reviews, consultations, et cetera. Reaching out to those in the regulatory community and asking them what do you need more of, or what do you need in what format, and sometimes the packaging of the information is as important as anything else, to make sure we understand exactly what they need.

Then Number 2 is to develop, refine, and test scientific tools to help fill those data gaps. The one specific example is we know there is questions, as we move deeper offshore, about entanglement risk for marine mammals, for example, and how do we give our endangered species and marine mammal protection biologists the tools they need to say here is some mitigation strategies, for example, on how to reduce that risk, or how do we quantify that risk for different species and in different situations, and so we get away from this sort of qualitative discussion and into a more quantitative one that can help make the current process easier.

Then, lastly, it's to implement coordinated priority actions to develop these tools, and, again, coordinated in this case with the USDA, with the Army Corps of Engineers, et cetera, and that's really the third piece, and I think that might be my last slide. That is the last slide.

I wanted to leave ample time for any questions or discussion, and I'm happy to talk about this plan or anything related to sort of NOAA's involvement in aquaculture that you might want to talk about, but thank you for your attention.

CHAIRMAN DIAZ: Thank you, Mr. O'Brien. Are there questions for Mr. O'Brien? Ms. Guyas.

MS. MARTHA GUYAS: Thank you for your presentation. I had two questions. The first one is on Slide 5, and it's Number 2, on the permitting and authorization programs, and it's maintaining and updating state-by-state information on shellfish farming requirements, and is there a reason why you limited that just to shellfish?

MR. O'BRIEN: The main reason is that's where we were hearing the concerns from the industry, and that's where -- Again, most of the aquaculture in state waters is shellfish, and, as shellfish aquaculture is really growing, especially in the Northeast, and in the Gulf of Mexico as well, there was increasing need that we were hearing over and over again, from the industry standpoint, that it was really hard for them to keep track and keep up with all of the changing requirements and the changing personnel that were involved in different states, and could NOAA help, and so we initially hired a contractor, a couple of years ago, and he finished his work about two years ago, to sort of set the stage, and it's been on our to-do list to actually update that on an annual or semi-annual basis. That's where that came from.

MS. GUYAS: My other question is for the next slide, Number 3, and so, these regional interagency coordinating groups, can you talk about how the states are being involved in these groups and the state CZMA enforceable policies are being incorporated in that?

MR. O'BRIEN: The first one, and I'm pausing now, because we're really basing this in large part on what happened in the Gulf of Mexico, which was specific to federal waters, and so I think, depending on if you're in federal waters or state waters, that rule would change, but, in state waters, it would be really state-water different process entirely, and so I think this is really intended for federal waters, and I think there's room for more coordination in the state waters as well.

MS. GUYAS: Right, but, if it's in federal waters off of a state, then its CZMA policies come into play.

MR. O'BRIEN: Yes, and I'm not sure if actually Roy or Mara have any thoughts, and I'm not sure to what extent states were involved in those processes for the applications in the Gulf of Mexico. I know certainly there is a lot of effort, continuing, ongoing effort, to reach out to various stakeholders in state waters and elsewhere, as those permits were going through the pipeline, and I believe Neil Sims has been here a number of times talking about his project.

I'm not sure if the states were formally part of this committee or not, these coordinating groups, but we certainly made sure, and we continue to make sure, that the states and other stakeholders are involved and at least aware of what's going on and have a chance to weigh-in, but I believe these groups are --

I believe they are really set up for the regulatory side of things, and the states and the federal waters, in general, and I will get to the CZMA in a moment, but, in general, the regulatory authority rests with the federal agencies.

The CZMA though is certainly a piece of -- I will raise it, since you raised it, and that is an area of ripe discussion, mostly in the context of the aquaculture legislation that's going through Congress now about sort of state and federal rights in federal waters, and I'm not an expert in CZMA by any stretch, but I do know that, under the consistency provisions of the CZMA, any state can -- I'm not sure of the exact term, but they can cite concerns with an operation in federal waters in a formal way, and it sparks this sort of official discussion, sort of a way to push back on say an aquaculture operations in federal waters.

CHAIRMAN DIAZ: Ms. Levy.

MS. MARA LEVY: Just if you're asking specifically about CZMA for that one project, and was that your question? Generally, there is different CZMA processes, depending on what's happening. For a federal permit, there's a different process, where the applicant has the burden of doing a CZMA consistency determination and submitting it to the state and such, and it's a little bit different than what we go through with fishery management plans, because that's another federal action, and it's not a permit, and so then the agency, NMFS, is doing the CZMA consistency stuff, to the extent practicable language and all that, and so there should have been, for that project and for any project that is just getting a permit, a federal permit, like an EPA permit in federal waters -- The applicant should be doing the CZMA consistency determination and submitting that to the state clearinghouse.

CHAIRMAN DIAZ: Dr. Frazer.

DR. FRAZER: Thanks, David. I thought the presentation was really good, but, on the same slide, I had a question. You made reference to an MOU that's been established already for the Gulf of Mexico, and my question there is who is involved in the MOU, and when was it established, and where might we be able to look at it or find it?

MR. O'BRIEN: Again, Roy or Mara may have more details on that.

DR. ROY CRABTREE: We did MOUs preparing for the Gulf aquaculture plan permitting process, and so I suspect those have

to be updated and changed now, and I would have to check to see where they are, if they're on our website or if they're available.

MR. O'BRIEN: I believe, last I checked, they were still on the website. There was some question, given the status of the court ruling in the Gulf of Mexico and the ongoing appeal, there was some question if we were able to do those MOUs in the meantime, but they were established several years ago. I forget the exact date, but, several years ago, the MOU was established, and then there was subsequent sort of internal guidance for how to interpret that on a sort of day-to-day basis amongst the staff of the different agencies.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: Thank you. In an effort to -- I see you're trying to streamline and make this a more efficient process, which I completely understand, because it is a somewhat convoluted process for an applicant, because they have to go through so many different entities within the government, federal and state, and I would encourage you though, in your interagency coordination of aquaculture, science, and management, to formally put something in there where the council is looped in early in the process, and we saw this with the one fish farm that's going to be going in here in the Gulf.

Siting was one of the big concerns for the council, and, even after the lawsuit came down, and that kind of took us out of the loop, that particular applicant really tried to continue working with the industry, on when they had to change their siting plan, and I think that did streamline their process, because, once they had that communication with us, and we said, actually, if you could move it just a little bit here, then they didn't have to go through the process and hear public comments saying, no, that's not going to work, and we're going to take your stuff out when we trawl through there, and they were able to clear it up and come to a solution on the frontend, and we've said the same thing to the Corps of Engineers, because that's part of their permitting process.

I know siting is tough, and there's a lot of things out there that you're trying to work around, but I think formally looping in the council and having that discussion before you get to the end of the permitting process would be really helpful, to bring those to us, and it would be sort of like our EFP process. We can't approve those, and those are approved through NMFS, but they are still brought to us for feedback, and we give some

recommendations and try and help them work out some glitches, and so I think that would be good.

MR. O'BRIEN: Could I actually ask you a question back along those lines? Certainly, in Neil Sims' project, and I believe both projects, there was discussion with the councils, and so the effort was there for the applicant to have this conversation. Now, when I think about it, should we change the process? Was the process itself okay? Should it be changed, because we're looking at the best way to do this.

Certainly there's a lot of interest in working with the councils and making sure you are all in the loop and onboard with the siting and other aspects of aquaculture. The best mechanism to do so, I'm not quite sure about that, if this was an effective process or something needs to be adjusted, from your point of view.

MS. BOSARGE: I thought it worked very well, and they came in person to give a presentation on it, and I don't necessarily think that always has to be the case. It could be just something -- Whatever information that NMFS has on that permitting package could be presented to us, and, like I said, siting was really one of the major issues for the council, and I think that that definitely should come before the council at some point before you get too far along in the process.

Obviously, you want to nail down a few things and make sure you have your variables worked out, but it does need to come before the council, and let us give them some feedback, and that would be helpful for us and for them.

MR. O'BRIEN: Thank you.

CHAIRMAN DIAZ: Dr. Frazer.

DR. FRAZER: This is not necessarily for David, but either Roy or Mara, and I was just wondering if we might get an update of where things sit with regard to the courts and everything with regard to this aquaculture situation.

DR. CRABTREE: Are you ready now for that?

CHAIRMAN DIAZ: Yes, and go ahead, Dr. Crabtree.

DR. CRABTREE: All right. I will start with the Velella Epsilon project. Kampachi Farms is the applicant, and they are currently in the process of applying for a federal permit to

site a single-cage pilot project in federal waters of the Gulf, about forty-five miles southwest of Sarasota. The project would culture a single cohort of about 20,000 almaco jacks over one year and produce a maximum annual harvest of 88,000 pounds.

The facility will include a supporting vessel and a single floating cage in a water depth of 130 feet. The applicant has applied for a National Pollutant Discharge Elimination System from the EPA and a Section 10 permit from the Army Corps. The EPA is conducting a public hearing on the draft permit tomorrow at Mote Marine Lab in Sarasota. Should both permits be issued within the next few months, the applicant anticipates deploying the cage this summer and stocking fish several months later.

You may recall that Manna Fish Farms presented their project to the council during the June 2019 meeting, and they are proposing to deploy an eighteen-cage operation in Gulf federal waters, about twenty miles south-southwest of Pensacola, and they are proposing to culture red drum and possibly other native marine species.

Last summer, they surveyed the plan location, and they reviewed that with you at the June meeting, and they are conducting an additional survey in an area to the northeast of that location this week. They have not yet applied for any federal permits, and they continue to consult with the EPA and the Army Corps and the Fisheries Service as they proceed in developing their application. That is the update that I have of those two projects, and I will let Mara update you on where the litigation stands.

MS. LEVY: I think you're aware that there was oral argument in the Fifth Circuit Court of Appeals here in New Orleans on January 6, and so there is a three-judge panel that heard that. There is not really much else to say, other than we just need to wait for their decision.

I wouldn't anticipate a ruling from the appellate court taking as long as it took the trial court ruling. They have one very discreet issue, and so I would hope that we get a decision in the next month or two, and we will certainly let you know when we find that out. The oral arguments are recorded, and so, if anyone is interested in listening to it, you can go to the Fifth Circuit's website and search for oral arguments on that date and listen to the recording.

DR. CRABTREE: If I could, Tom and Mara, my understanding is that, if we prevail in the appeal on the single issue, which is

is aquaculture fishing under the Magnuson Act, and if the court decided it was, then it would likely be remanded back to the original court to rule on the other aspects of the plaintiffs' charge, and is that correct?

MS. LEVY: Yes, and so there were a lot of claims brought, and one of them was that threshold legal question, and then there were a number of claims about violations of the Magnuson Act and the Endangered Species Act and NEPA. The trial court didn't decide any of those issues, but just the authority issue, and so, if the Fifth Circuit reverses that, the trial court will still have to decide all those other claims.

CHAIRMAN DIAZ: All right. Any other questions for Mr. O'Brien? Ms. Bosarge.

MS. BOSARGE: That last bullet, Number 5 on this page, when you had the project off of California that was in federal waters, and you realized that, as that was coming in for a landing, that there wasn't really a process to ensure the safety of that seafood for consumers, you specifically say they are molluscan shellfish, and is there a process for finfish then, for that safety for human consumption, since we do have finfish aquaculture that will be very soon going into the Gulf of Mexico in federal waters? Do we have a process there for that? Is there any testing of the flesh that happens before it goes into the consumer markers, or how is that going to work?

MR. O'BRIEN: I am less familiar with the finfish side of things on that front, to be honest with you, because shellfish is really where most of the concern is, and there's a whole other layer of -- Beyond the general food safety provisions that apply to lots of food, shellfish in particular have their own standards, because of the nature of them, including they are largely eaten raw, and there's a number of other reasons why the bar is set higher for shellfish.

In the case of California, just to be clear as well, there was this lack of a process, and our Office of Seafood Inspection at NOAA actually stepped in temporarily and provided sort of a band-aid, but now they're working on a national-level approach to establish that process.

Finfish, I'm sure there are, and I don't know exactly what FDA does for finfish, but I think it would be the same for any finfish grown anywhere, tilapia or salmon grown in Maine or in federal waters. That's my understanding, at least, and I can double-check on that and let you know.

CHAIRMAN DIAZ: I am not seeing any more questions. I want to thank you, Mr. O'Brien, for traveling down here from Silver Spring and spending the afternoon with us. We appreciate your presentation, and are you going to be around for the rest of the day?

MR. O'BRIEN: Yes, I will be around. I will be in and out, at least, and so I'm happy to answer any other questions offline and have a conversation.

CHAIRMAN DIAZ: Okay. Thanks again. We appreciate it.

MR. O'BRIEN: Great. Thank you.

CHAIRMAN DIAZ: All right. We're going to move on in the agenda, and so the next item is Item V, Public Hearing Draft of Amendment Reef Fish 48/Red Drum 5: Status Determination Criteria and Optimum Yield for Reef Fish and Red Drum, and that's Tab E, Number 5. Dr. Froeschke.

PUBLIC HEARING DRAFT AMENDMENT REEF FISH 48/RED DRUM 5: STATUS DETERMINATION CRITERIA AND OPTIMUM YIELD FOR REEF FISH AND RED DRUM

DR. JOHN FROESCHKE: Good afternoon. We have a revised draft public hearing document for your review and discussion today. My plan was not to go over the various MSY proxies and all that sort of thing for the various actions, unless you need a refresher, but, as an overview, since last time, we have updated the document based on the council's feedback and the SSC's feedback.

In general, the comments were simplify, simplify, and simplify, and so we tried to make it more condensed, so there are fewer decision points, and the groups could be similar things, so that you didn't have to make repetitive decisions, to the extent that we could, and we worked on the optimum yield action, Number 4, quite a bit.

As I have stated, we have prepared the Chapters 1 through 4 of this document. What I would like to do is review each action, note the changes that we have made and answer questions. If the committee is interested in selecting preferred alternatives at this time, that would be great. If they're interested in changing the structure of the document, that's okay too, and then, depending on where we end up there, if you want to consider approving the document for a public hearing.

In the past, you have all recommended that we just take this out to a webinar public hearing, given the technical nature of the document, and so if there are any questions. Otherwise, I can start with Action 1.

CHAIRMAN DIAZ: Dr. Stunz.

DR. GREG STUNZ: Mr. Chairman, if you would entertain just a quick question or comment, and, John, I appreciate you streamlining this. This is much better, and, in the spirit of moving this document along, so we can get it out to the public hearing phase of this, I have some selections for preferred motions that I am happy to make. John, I don't want to get in front of you as you talk through it, and, Mr. Chairman, I want to follow the will of the committee, but I think we're at a point now where we need to do that, so we can move it along.

I don't know what's most efficient, because it gets -- Even with the simplification, it gets complicated pretty quick, and so maybe if we take it piece-by-piece, and I will make that, if it's the will of the committee to at least get some of those on the drawing board.

CHAIRMAN DIAZ: Sure. That sounds good to me, and, if you take them action-by-action, I think that might -- Will that get us where you want to go with it? All right. Dr. Froeschke.

DR. FROESCHKE: At least, for some of these actions, there is the potential to select multiple preferreds, and so what I would like to do is kind of make sure everyone is up-to-speed on the intent of the action, and then, in the alternatives, some of them have options, and I will kind of give the range of options within that, what stocks it applies to, and then you can make motions, if you feel that's the right time to do that.

I will start on Chapter 2.1, Action 1, maximum sustainable yield proxies. The way this action is structured is there are five alternatives. Alternative 1 is the no action, in which there are a number of stocks where MSY or MSY proxies have not been defined, and this would continue that practice, which is not consistent with the requirements of MSA.

Alternatives 2, 3, and 4 apply to the various stocks that are the subject of this document, and I will explain why they are broken out. Alternative 2 encompasses a number of reef fish stocks and stock complexes that we have discussed previously.

These are stocks -- They're all within the Reef Fish FMP. Some of these are the data-poor stocks, and some of them -- The stocks that are within complexes, the idea is that those complexes would remain and that the MSY proxy would be defined for the complex. The stocks that are individual stocks would remain as individual stocks, and you would be setting it for that. I have a table that summarizes this at the end.

Alternative 3 applies only to goliath grouper. The reason that this is broken out is that there's a widespread understanding that the biology of this stock is different from most of the others, and this has fish has been closed to harvest for a very long time, and so those factors may dictate that a different MSY proxy is appropriate for that, as compared to the stocks in Alternative 2, and so you have that option.

Then Alternative 4, red drum, is also its own individual circumstance, and it's managed in its own FMP, and there's an extensive harvest of this stock in state waters, but it's closed in federal waters, and so there are a couple of options there that we can go through.

Let's take those up. If you go down to Table 2.1.1, and we're going to come back to Alternative 5 at the end, and so this is just a brief summary table of the alternatives in the documents, which is reflected in Column 1. The middle column reflects the complexes, if there is one that applies, and then the column on the far-right is the stocks that are included within the complexes, if applicable, or the individual stocks, for example cubera, lane snapper, mutton, yellowtail, goliath, and red drum. Those are the individual stocks, and you can see the alternative that applies to them. Then we'll come back to Alternative 5 at the end.

Circling back to Alternative 2, there are three options, 2a, 2b, and 2c, and all of these are structured the same, and, essentially, it's specified as a yield when fishing at a pre-defined SPR ratio, and this is typical how we've defined MSY proxies for many of our other stocks, although not all of them, and, based on the historical practices of the council and scientific literature and the recommendations of the SSC, ranges between 20 and 40 percent are sort of in the ballpark of where we've been, and 30 percent is probably the most common recommendation that we've established in the past. Those are the three options that have been presented to you, and the SSC has recommended the F 30 percent SPR in the past.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: If it's okay with you, Mr. Chairman, I will start. I will caveat a couple of things. obviously, we're just selecting preferreds, and so we can still change this, and, I mean, even if we go down this route, and later down the line we get more information and things, we can always come back to this, and so these aren't, I guess, set in stone, so to speak.

Then, also, I am basing my motions primarily off of the SSC recommendations of what they are telling us, and I think there are some cases where they didn't make a recommendation, and, John, you can help me out too, because we're selecting multiple alternatives within an action, and it gets confusing pretty quick, and so I will kind of convey what I'm trying to do, and then, if it's not quite right -- **I move, in Action 1, for Alternative 2 and that we select Option 2b as the preferred alternative.** If I get a second, I will justify why that is.

CHAIRMAN DIAZ: It's seconded by Ms. Bosarge.

DR. STUNZ: The reason being, if you looked at 20 to 40 percent as sort of the standard SPR for a variety of fisheries, 30 percent is right in the middle, and the SSC is recommending that, and it seems like that's a reasonable alternative to put out for the public.

CHAIRMAN DIAZ: If you want, Dr. Stunz, if you have preferreds for Alternatives 3 and 4, if you want to make them now, and we'll take the motion all at one time, or if you would rather do them one at a time.

DR. STUNZ: I think that's easier, if we just want to do that.

CHAIRMAN DIAZ: If you want to do that, that would be fine.

DR. STUNZ: So, adding to that motion then, in Action 1, Alternative 3, select Option 3b as the preferred alternative, and that's 40 percent spawning potential ratio. By this way, this is for goliath grouper. Because of the nuances with that fishery, that's the reason for going up a little bit, but it's still the middle range of what the options were.

By the way, while they're doing that, that would put everything at SPR 30 percent where we don't have these proxies or unassessed stocks, with the exception of goliath grouper, which I just said 40 percent, and we'll deal with red drum in just a minute.

MS. BOSARGE: The seconder agrees.

CHAIRMAN DIAZ: Dr. Froeschke.

DR. FROESCHKE: Just to point out too that the South Atlantic -- It's a single stock for goliath in the Gulf and the South Atlantic, and the South Atlantic has previous defined the MSY proxy as FSPR 40 percent for goliath grouper, which is Option 3b.

CHAIRMAN DIAZ: Dr. Froeschke, does it make sense for us to tackle red drum right now or to wait and do that separately?

DR. FROESCHKE: That's fine with me.

DR. STUNZ: Mr. Chairman, if you want me to move on to red drum, in Action 1, Alternative 4 for red drum, set the MSY proxy with Option 4a, the yield that provides for an escapement rate of juvenile fish equivalent to 30 percent of those that would have escaped had there been no inshore fishery. That is also the SSC recommendation.

MS. BOSARGE: Now you had your second until right there. I mean, maybe if we could tackle those first two that you had up there, and I'm not saying that I may not eventually agree with you, but that one -- I think somebody is going to have to give me some more information and explain it to me.

DR. STUNZ: If I need to remove that bit of the motion, that's fine.

CHAIRMAN DIAZ: Okay, and so we have a motion on the board, and the motion is dealing with Alternative 2 and Alternative 3. Any discussion on the motion?

EXECUTIVE DIRECTOR SIMMONS: Mr. Chairman, did you want Bernie to remove Alternative 4, Option 4a?

CHAIRMAN DIAZ: Yes. Remove Alternative 4, Bernie. That does not have a second at this time. Okay. I will read the motion real quick. **In Action 1, make Alternative 2, Option 2b, and Alternative 3, Option 3b, the preferreds.** Any discussion on the motion? Mr. Swindell.

MR. ED SWINDELL: I just don't understand why, with the goliath grouper, we're going to 40 percent instead of 30 percent, which seems to be the kind of standard that we have been using for most all fishes.

CHAIRMAN DIAZ: Dr. Froeschke.

DR. FROESCHKE: I will take a go at this, but, in general, species that are long-lived and have low rates of natural mortality are more susceptible to fishing pressure, and, in those situations, trying to maintain a larger standing stock biomass and/or SPR tends to be a fairly common approach to that, and that would be the reason for that.

CHAIRMAN DIAZ: Dr. Porch.

DR. CLAY PORCH: Thank you. I just wanted to reinforce what Dr. Froeschke said. If you look in the literature for long-lived grouper species like that, there is an expectation that the SPR that corresponds with MSY is higher, and a lot of people in the scientific community would argue that it should be more like 50 percent SPR.

CHAIRMAN DIAZ: Any further discussion on this motion? **Seeing none, is there any opposition to the motion? The motion carries.** Dr. Froeschke.

DR. FROESCHKE: Let's go back to Alternative 4, and I will try and give you a little background on the two options and why they are structured the way that they are. Red drum, again, is a unique fishery. The way that the stock is currently managed is that there is no federal harvest, there is harvest in the state waters, and it's managed on an escapement rate that was previously set up in Red Drum Amendment 2, I believe.

The idea is that the states would set up a management goal where they would allow 30 percent of the biomass to escape to federal waters and, for example, to become part of the breeding stock, as compared to where there would be no fishery at all, and so, at the time, this was thought to be roughly equivalent to an SPR of about 20 percent.

In general, you need an SPR, and those sorts of calculations come through a stock assessment, and, if you recall, there is no Gulf-wide stock assessment for red drum, and so calculating a yield for F 30 percent SPR -- We don't really have that at this time, but, in general, if you take it on what we think, Option 4a would be approximately equivalent to an F 20 percent SPR, which is slightly more aggressive, as compared to Option 4b, which is the 30 percent.

There is some ambiguity on how you would relate escapement to

SPR, and so there is some unknowns in there. The way the fishery is prosecuted, you're fishing on juveniles, and then the adults are essentially largely immune from fishing mortality, and so it should be a fairly conservative way to fish on the stock, and so, based on what we think we know about the stock, the landings and things have been stable or increasing throughout the Gulf for a long period of time, since we thought they were overfished in the late 1980s, and so it's been a long-standing rebuild, based on what we think is 4a, or similar.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: With that, Mr. Chairman, I would be happy to re-make that motion for discussion, if we need to.

CHAIRMAN DIAZ: Ms. Guyas.

MS. GUYAS: Not to muddy the waters more, but I think it was stated that all the states have a 30 percent escapement goal, and Florida's is actually 40 percent, and so not to muddy the waters more, but --

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: I didn't second that part of your motion, because what concerned me was that -- When I read the text, the discussion, for this particular one, it says one drawback of that Option 4a is that, like we just said, that, while escapement may be a measurable objective, there is no standard way of measuring it, and, in practice, each of the five Gulf states have adopted a different method to estimate escapement, and so it goes on to say that, if we choose that as the preferred, then the next step will be that we'll have to get NMFS and the states to get together and work to develop standard and compatible methods for estimating escapement, and I'm just sitting here as an outsider going, how realistic is it that you would have that working group come together and you would actually come to a consensus?

If each state is measuring it differently now, I'm sure they have very good rationale for the way each one of them is measuring it, and I'm sure it works for them, and so do we really think that all five of the states would come together and say, no, actually, that one is the best, somebody else's way, and have a consensus there, and I'm just worried that we'll put something in place and then we have to go on and try and actually figure out how we measure that, and that never happens. We never come to a consensus, and so that's why I thought that

4b might be a more realistic streamlined option.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: I think Leann makes some good points, and I wonder if this escapement rate -- I mean, a lot of this with red drum has been in the management plan for a long time, and I don't know when we last modified any of this, and I wonder if it's just some holdover from a time ago, and it does seem to be -- One, it's less conservative than 30 percent, that we would normally use, from what John said, but red drum is a fairly long-lived species, and it seems overly complex, to me, to try to do it in that way, and it's just not clear to me why it wouldn't be more straightforward to go with Option 4b. I guess I would like to hear your views, Greg, as to what you see as the difference for these and why you have a preference for 4a.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: To that point, Roy, I don't feel real strongly for either 4a or 4b. I prefer 4a, but, you know, we had a red drum workshop, and I don't remember how long ago that was, where we talked about these escapement rates, and the states seem to be doing just fine with that, and the big problem, whether we choose 4a or 4b, is just simply we don't have a stock assessment for red drum. The nature, obviously, of the fishery is preventing that, and we have very little information about age structure and that kind of thing.

I mean, there is no indication that there is big troubles out there or anything, and so 4a, to me, just seems like a reasonable approach to move forward, and, obviously, this isn't -- If we go down the assessment route or whatever, we have opportunity to adjust that, as necessary.

CHAIRMAN DIAZ: Dr. Frazer.

DR. FRAZER: I think Greg raised the same issue, but I think Dr. Porch is going to address it.

DR. PORCH: Thank you. I mean, regardless of whether we have a stock assessment or not, there is the fundamental issue of what SPR level is most likely to correspond to the MSY, and 20 percent is usually something that's closer to an anchovy-type life history, whereas something like red drum, that lives a little longer, as Roy mentioned, you would expect to have an SPR that corresponds to MSY on the order of 30 percent or so, or at least probably not lower than red snapper, and so I would

advocate more for a proxy of about 30 percent SPR, which probably does correspond to more like a 40 percent escapement rate.

CHAIRMAN DIAZ: In response to that, the unique thing about red drum is we have this larger closure area for adults that can't be taken, commercial or recreational, and I think that's a contributing factor to how it's been managed in the past. Dr. Crabtree.

DR. CRABTREE: I agree that is rather different from how we manage most species, but that's a unique feature of the management and not the biology of the animal, and, since we need to select a proxy for MSY, which is what we're doing here, I'm a little concerned, given Clay's comment, that we may have a hard time justifying 4a as a valid and defensible proxy. I would like to make a substitute motion, if I could.

CHAIRMAN DIAZ: There is no motion on the board right now, Dr. Crabtree.

DR. CRABTREE: All right. Then I can go ahead and make a motion, I suppose?

CHAIRMAN DIAZ: Yes, sir. Go ahead.

DR. CRABTREE: All right. **Then I will make a motion to adopt Alternative 4b as the preferred.**

CHAIRMAN DIAZ: It's seconded by Mr. Swindell. Is there discussion?

MR. SWINDELL: Part of the reason I seconded the motion is because Option 4a reads -- I don't know, but like it's a no-win situation. Would half escape had there been no inshore fishery? There is an inshore fishery, and we've got to recognize -- And it's going to continue. The inshore fishery isn't not going to be there. It's going to always be there, and why in the world would you even have that wording in 4a to start with? I think we should go with 4b. Thank you.

CHAIRMAN DIAZ: Any further discussion? Mr. Anson.

MR. KEVIN ANSON: I am just curious, Dr. Porch, how -- If 4b were to be -- If this motion were to pass and we take the amendment forward, how would red drum be managed then, to that, since there's the comment down here that fishing mortality rate is different to estimate for this stock, because harvest is

prohibited.

We have the issue of not having any fishing mortality rate on those large fish, and we don't have much information on the adult population, and so how would that SPR be effectively determined, based on the data that we currently have and FES estimates that are potentially much higher than what the traditional MRIP estimates have been in the past?

CHAIRMAN DIAZ: Dr. Porch.

DR. PORCH: You can calculate the same as you do for any stock. I mean, if you're calculating escapement, you're still having to figure a rate. It's a fishing mortality rate that you're going to allow that would cause that escapement, and, in this case, you would calculate that fishing mortality rate assuming that it's applied on the juvenile population, and so, I mean, the math can be done, and it's not any more complicated than calculating an escapement, but it's just what is the best proxy for the fishing mortality rate that would achieve the MSY level.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: It seems to me, Kevin, that problem exists for either 4a or 4b, and, as far as I know, all we have now are some states do state-specific assessments, but they can't really give you either an escapement rate or a fishing mortality rate that applies stock-wide, and so I think that problem applies to anything we have here.

CHAIRMAN DIAZ: Okay. Seeing no further discussion, I'm going to ask for a show of hands, and there is a motion on that board. **In Action 1, to make Alternative 4, Option 4b, the preferred. All those in favor, signify by raising your hand, three; all those opposed, like sign. The motion fails.** All right, Dr. Froeschke. I guess we can proceed at this point through the document.

DR. FROESCHKE: Okay. There is one more alternative in Action 1 for your consideration. This is Alternative 5, and this doesn't directly modify or establish an MSY proxy for a stock. What this alternative would do is it would potentially streamline the process of modifying MSY proxies for stocks when future assessments come up, and so a situation that this would be applicable for a particular reef fish stock, or red drum, is you would get an assessment, and the SSC might give a recommendation that says F 30 percent SPR is what we have now, and we think that 35 or 25 or something may be a better scientific basis for

MSY.

They could recommend that, and, if the council agrees, by making use of this, they could simply note that change in a plan amendment, rather than going through a full amendment, as would be required now, and the rationale for that would be that, if you have a recommendation for an MSY proxy that you think is the best, and you agree with the SSC, then it may not make sense to develop alternatives that include things that you would think is not the best.

However, the things that this would not -- That's what it would do, is it could make that process simpler. What it would not do is it would not take the ability of the council from defining what the MSY proxy is, and so, for example, the SSC could make a recommendation for something, and the council could disagree with that, and so they wouldn't be compelled to accept that recommendation, and so it would still remain with the council's purview to make that determination.

The other situation that could arise, as happened with gray snapper, is that the SSC could give recommendations for more than one SPR proxy, which they did for 26 and 30, and, in that case, we would have to continue to go through the amendment process that we typically do, and so that's the general flavor of this. It could be selected concurrently with the other alternatives in this action.

The other caveat to note is, if you go back to the Table 2.1.1, I think it is, whatever that table is, if you scroll all the way down, you will notice, all the way down, you can see Alternative 5. In terms of the stock, this would apply to all reef fish stocks, complexes, and red drum. The other alternatives are limited to the particular stocks that are identified here, and the rationale is that, if this is in fact a streamlining process, it would make sense to extend this to all reef fish stocks and red drum. I will stop there for your discussion.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: With that thought, I will make a motion regarding Alternative 5, but, after we do that, I just wanted to go back to that Alternative 4 for a minute, because I don't feel like -- **We just kind of left that hanging, but, so that we can continue this and not drag this out any longer, I would make a motion in Action 1 to also make Alternative 5 the preferred alternative, and so we'll have one more concurrent preferred.** Do you need me to read what that is?

CHAIRMAN DIAZ: Yes.

DR. STUNZ: Okay. **For future assessments of reef fish stocks and red drum, the MSY proxy equals the yield produced by FMSY or F proxy recommended by the council's SSC and subject to approval by the council through a plan amendment.**

CHAIRMAN DIAZ: All right, and so we have a motion. Is there a second? It's seconded by Mr. Williamson. Any discussion? **Seeing none, is there any opposition to the motion? The motion carries.** All right, Dr. Stunz, if you want to go back to Alternative 4.

DR. STUNZ: I guess I never made the motion, because it was withdrawn from the earlier motion to make that Alternative 4, Option 4a, the preferred alternative, and I guess we voted down Option b, and so I feel like we still need to do something with the preferred there. **I would like to make the motion to do that. In Action 1, in Alternative 4, make Option 4a the preferred alternative. That is the yield that provides an escapement rate of juvenile fish equivalent to 30 percent of those that would have escaped had there been no inshore fishery.** I can give a little more justification if I get a second.

CHAIRMAN DIAZ: All right, and so we have a motion. Is there a second? It's seconded by Mr. Schieble. Go ahead, Dr. Stunz.

DR. STUNZ: Given our discussion -- I mean, in the nature of that whole fishery and the grand scheme of things, I am not seeing this as a big deal, between 4a and 4b, but, obviously, 4b didn't pass. 4a is the SSC recommendation, and maybe, between now and Full Council, we can get some input, because I forget now what the justification was at the SSC for selecting 4a over 4b, but, in my mind, it falls in line with what we're currently doing, and it's just, to me, the obvious way we need to go here with this alternative.

CHAIRMAN DIAZ: All right. Is there further discussion on the motion? **Seeing none, I am going to ask for a show of hands again. All in favor of the motion, signify by raising your hand, six; all opposed, like sign, three. The motion carries six to three.** Dr. Froeschke.

DR. FROESCHKE: Okay. Let's proceed to Action 2.2, maximum fishing mortality threshold. This action is much simpler in structure. MFMT, as it's known, this would establish the maximum fishing mortality. A fishing mortality above the

threshold would be considered overfishing.

There are two alternatives in this action, and what this would do is this would -- These alternatives would apply to the stocks and stock complexes that are reflected in Action 1, and so no action would maintain the current definition, and so this is the one status determination criterion that has actually been defined, and this was defined in the 1999 generic amendment, and I forget what that was called, and the SDC for others were also defined at that time, but they were rejected, and so this is the one that actually was carried forward.

No action, or Alternative 1, would continue this, and, essentially, there are established ones for several stocks, and it would be F 30 percent for all of the other reef fish stocks and red drum.

Alternative 2 is, for stocks where an MSY proxy has not been defined, it would set the MFMT equal to the fishing mortality at the MSY proxy for each stock or stock complex, as determined in Action 1. Essentially, what that would do is you would set the maximum fishing mortality threshold to complement what you've done in Action 1, and so that seems to probably be a reasonable thing to do. Any questions on that?

CHAIRMAN DIAZ: Questions for Dr. Froeschke? Dr. Stunz.

DR. STUNZ: I will make another one here, and so this is in Action 2. **Make Alternative 2 the preferred alternative. That is, for stocks where an MSY proxy has not been defined, set the MFMT equal to the fishing mortality at the MSY proxy for each stock or stock complex, as determined in Action 1.**

CHAIRMAN DIAZ: All right. We have a motion. Is there a second? It's seconded by Mr. Williamson. Any discussion on the motion? **Any opposition to the motion? The motion carries.** Dr. Froeschke.

DR. FROESCHKE: Okay. Action 3 is minimum stock size threshold. Just a quick primer is this is the biomass at below which the stock would be considered overfished. Obviously, the goal would be to maintain the biomass at corresponding to MSY, although we know that, for reasons, for a variety of reasons, the MSY -- The biomass could fall below that level if setting an MSST somewhat below the MSY biomass would allow the stock biomass to vary slightly without entering a requirement to have a rebuilding plan and do that every time, and so it allows the stock some variance.

The way that we used to do this is consistent with what I would call the one minus M approach, or Alternative 2, where, for an individual stock, you would estimate the natural mortality, and you would enter it in that formula and apply that, and so, if M was 0.25, you would go one minus M at 0.25, and so 0.75, and so that would be roughly the same as Alternative 3. Most of our stocks have an M less than 0.25, and so it would typically create a buffer that is smaller between MSY and the MSST.

Alternative 3 would set that as a standard 25 percent below that, and so at 0.75, and Alternative 4 would be at 50 percent, and so the range that this can be set -- You can set it as high as MSY, and you can set it as low as 50 percent of MSY biomass, and so that's Alternative 4, and so, in terms of tradeoffs, setting it near MSY, or slightly below, means that you are not allowing the stock to fall very far below that before you enter a rebuilding plan, and so the upside of that, potentially, is that, if you encountered a problem, you wouldn't be very far below that, and you could develop a rebuilding plan and implement it and be back to MSY hopefully very soon. The downside of that is that you could be bouncing in and out of rebuilding plans quite often.

All the way to Alternative 4, and you would allow the biomass to fall fairly fall below, or as far as you could under the Magnuson, and so you would be less likely to enter rebuilding plans, just based on some sort of variance around the estimate of biomass. However, if you did reach that level, you would have a long rebuilding plan ahead of you, and so the MSST at 0.75 is sort of intermediate in both ways.

I am looking at the SSC recommendation. The SSC has recommended Alternative 3, at 0.75, and so the middle value, and this was -- They discussed the tradeoffs of those, and they also discussed some previous work that the Science Center had done that -- They did some simulation work, and their conclusions were that it was unlikely that the stock would fall below 75 percent of BMSY in the absence of fishing mortality, and so, if it's below that, you would likely have an overfishing problem, rather than just some variability around the stock.

Then Alternative 5 is sort of a separate one, and so there are stocks, four stocks, that are assessed across both the South Atlantic and the Gulf Council's jurisdiction, and so those are goliath, mutton snapper, yellowtail snapper, and black grouper, and then the MSST for these species would use the existing definitions, as defined by the South Atlantic Council. Those

definitions are in Table 2.3.2.

For mutton, yellowtail, and black grouper, it corresponds to 75 percent times SSB. For goliath, it's the one minus M approach, where M is estimated to be 0.12, and so, again, this is a situation where the MSST is not very far below the MSY. I will stop there for comments or discussion.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: Mr. Chairman, I would like to make another motion, based on what John said there, that this is a multi-preferred action here, and we can kill two birds with one stone. I will make the motion, in Action 3, for minimum stock size threshold, to make Alternative 3 the preferred alternative, where the minimum stock size threshold would equal 75 percent of the BMSY proxy, and Alternative 5 the preferred alternative. Alternative 5 is, for stocks assessed across the South Atlantic and Gulf Council jurisdictions (goliath grouper, mutton snapper, yellowtail snapper and black grouper) MSST for these species would use existing definitions of MSST defined by the South Atlantic Council.

CHAIRMAN DIAZ: We have a second by Ms. Bosarge for the motion. Is there discussion? Dr. Crabtree.

DR. CRABTREE: I think you need to -- So we recently changed the MSST, for I think these stocks that are listed above, to 50 percent of BMSY, and so I guess one question is why are we reaching a different conclusion here and going to 75 percent of BMSY?

Then, secondly, for Alternative 5, I have some questions, I guess for Clay, about goliath grouper. One would be is goliath grouper -- Wasn't the last assessment across both the Gulf and the South Atlantic, and was it accepted by everyone, and so do we have an assessment for goliath grouper? I am seeing some heads up there, Clay, if you don't have an answer.

DR. PORCH: The State of Florida did the last couple of assessments, and I believe it was basically the Atlantic and Gulf combined. There is not compelling evidence that they are separate stocks. I don't think it was used, and so I don't remember the conclusion of the SSC.

DR. CRABTREE: So then I guess that's one question, is, if you don't have an assessment that has been judged to be the best available science, is it fair to say it's assessed across both

councils? I guess you could answer that a couple of ways.

Then, secondly, and maybe Clay knows, I'm guessing the natural mortality rate for goliath grouper is very low, and so, if we went with the one minus M times BMSY, which I think is what the South Atlantic did, I suspect that would put us at 93 or 94 percent of BMSY, which -- Mara is telling me that M is 0.12, which seems higher than I would have guessed.

At any rate, my only concern is -- I think we need to be clear in here about some of those things, and we are selecting a proxy that's very close to BMSY, and I don't personally think that's a good practice. I guess the more pressing question, since goliath grouper is more of a theoretical argument, since we don't have an assessment to calculate any of it anyway, is why are you choosing 75 percent here when you chose 50 percent in the last amendment, for a variety of stocks?

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: Well, I guess the better question, to me, would be why did we go with 50 there, when it seems like 75 is what's been chosen in the past, and, if you look at the South Atlantic, some of the stocks that they have, you see that 75 percent, and I think that's been used more widely than the 50, and so why did we decide to take it to the max on those other stocks?

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: The rationale for that decision is in the amendment where we set it, and you can disagree with it, but it is explained there, but I haven't heard any explanation here as to why we're going back to 75, other than I guess, Leann, you're saying it's more widely used, and I don't know that this council has ever used 75 percent, and maybe we have. The South Atlantic, you're right, did choose it, and the only rationale that comes to my mind, John, is I guess there was the Center study that referenced 75 percent, and is that correct?

DR. FROESCHKE: Yes, and that came up during the SSC, and the Science Center, and I believe it was Dr. Calay that summarized the results of that, and, again, she reiterated that, based on their work, it seems unlikely that, based on factors other than fishing, that it would fall below 75 percent.

DR. CRABTREE: So, if that's your rationale, Leann, then I understand.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: The rest of my rationale is -- So I think that there is some value in rebuilding plans, and I understand, yes, they're cumbersome, and it probably makes the council look bad when you have to implement a rebuilding plan, as if maybe you didn't do something right on the frontend, but, when you start a rebuilding plan, it makes you take a step back and actually look at everything that's going on in the stock and really take that 30,000-foot view and figure out what is the best path forward.

If you look at these trajectories that, based on doing X, Y, or Z, this is how long it's going to take you to get to the point that you want to be at, your target, your healthy stock, whatever that may be for that particular species, and I don't like the idea of waiting until you get to that 50 percent threshold to really start looking at different things and taking that big 30,000-foot view. You're really just piecemealing it together when you don't do that.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: Well, where I don't follow you there is the notion that somehow it implies we're going to wait. If you assume that the reason we're dropping is because we're overfishing, we will have to take action to end overfishing immediately, and so there would be no way, and so I just don't follow that logic, and I continue to think that 50 percent MSY is a perfectly reasonable choice.

Now, if you choose to be more conservative here, okay, and perhaps your rationale for the 50 percent is, well, those are stocks that we have more information on, and so we were more aggressive to manage, but, here, we're talking about unassessed stocks, and so I guess you could argue that we want to be more conservative, because we have less information, but I don't think the notion that somehow you're going to wait, unless the stock happens to decline because of things other than fishing mortality, in which case I don't know that it makes much difference how you set it, because you may not be able to control what's going on anyway, but, if you're assuming the decline is due to fishing mortality, you're not allowed by the law to wait, and you would have to take action, whether it was below MSST or not below MSST.

CHAIRMAN DIAZ: Any further discussion? Mr. Swindell.

MR. SWINDELL: Where did the BMSY come from? Is this from the

Scientific and Statistical Committee to start with? Did they give us an estimate of what BMSY really is?

CHAIRMAN DIAZ: Dr. Porch.

DR. PORCH: It definitely would come from the assessment, but keep in mind that it typically is not that well determined, because it depends on what long-term recruitment potential is, which we usually don't know very well, but, having said that, I would point out that, whatever that BMSY is, if you fish a stock down to where it's less than half of that, it will take longer to recover, and so that means you would have a more draconian rebuilding plan than if you started the rebuilding when it got below 75 percent of BMSY.

CHAIRMAN DIAZ: To that point, Mr. Swindell?

MR. SWINDELL: But I would think that the SSC would have already viewed all those things, and so, when they came up with their final assessment of the BMSY, wouldn't they have already considered all of those scenarios that could happen? Did they not?

CHAIRMAN DIAZ: Dr. Porch.

DR. PORCH: I'm not sure what you mean by the scenarios, but they would take the best estimate they have for BMSY, and then they would look at where we are relative to that, and so, if it falls below -- In this case, if you adopted 50 percent, we could show that it's very unlikely that it got there through some natural variations and is probably sustained overfishing.

CHAIRMAN DIAZ: To that point, Mr. Swindell?

MR. SWINDELL: So what you're telling me then is we're second-guessing the SSC. We're sitting here as a group and saying, okay, you gave us your best guess of BMSY, and now we're going to adjust it. I don't have the technical knowledge to really do that, and I don't know why we're adjusting their best guess. This is the scientific group that we put together to do this kind of information, and now I'm having to second-guess it again. Thank you.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: We're not doing that, Ed. These alternatives don't change the estimate of BMSY. That remains the same. These alternatives are just based on how much we change the

MSST, which is calculated based on BMSY, and so we wouldn't be overruling the SSC, in that sense, and these are things that are management's responsibility.

CHAIRMAN DIAZ: Okay. We've had a fair amount of discussion on this particular item, and so we're going to go ahead and take a vote. **The motion is, in Action 3, to make Alternative 3 and Alternative 5 the preferred alternatives. I would like to do this by a show of hands, and so all in favor, signify by raising your hand.**

DR. FROESCHKE: Okay. Action 4, or actually Action 4.1, this is optimum yield for reef fish stocks and hogfish, and so I will stop there and just give you a little bit of information about who is playing here.

In general, the reef fish stocks that are included in this action are all the stocks that we have considered in Action 1, and the hogfish is included here because OY has not previously been defined for this. We did have a recent amendment that defined status determination criteria for hogfish, and the OY is not technically an OY, and so it wasn't, for various reasons, included in that amendment, but the aim is that we would include a definition of OY for hogfish in addition to the other stocks.

What I would like to do is go through the action alternatives sort of one at a time, and we have broken out goliath grouper into its own alternative, and then red drum is a little different too, and so it's in its own sub-action. Alternative 1, these stocks do not have a definition of OY, and so this would remain -- They would remain undefined.

Alternative 2, we have four options here, and the first three are a simple scalar approach, in which we take the MSY, or MSY proxy, as defined in Action 1, and then you would simply apply a scalar for that, either 50 percent, 75 percent, or 90 percent. In general, the more aggressive you would be with a fishery, you could pick a larger number, meaning that your optimum yield was closer to the MSY, 50 percent being more conservative, at least biologically conservative.

The SSC made a recommendation that they felt that this wasn't really in their purview, and so their recommendation was that any option within the range of 50 percent to 90 percent for OY was acceptable.

Option 2d is a formulaic approach, and what it does is it looks at the annual catch limits and the overfishing limit for these

stocks, and it computes a ratio, and then you would multiply that by the MSY or the MSY proxy, and you would develop a number between zero and one or a percentage similar to the other ones.

This is a different way of doing it that tries to take advantage of the information that we actually have, things that we've done in the past for these, and there's a table in the document, and it's Table 2.4.2, and it addresses this more for the stocks that are being considered.

You have an OFL and then the ACL, the percentage, and so what you will see here is that most of the stocks are between 50 and 90 percent, and so it's essentially the same range as considered for the Options a through c. The difference is that this would establish a different OY for the various stocks and stock complexes in the action, whereas the Options a through c, whichever ones were selected as preferred, would apply that across the stocks. I will stop there for some questions about that.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: I have a few questions that mostly I guess -- In Option 2d and 3d, it says "or zero if the OFL equals zero", and I don't think that's correct, because that would be a divide by zero, which you can't really divide by zero. It would be zero if the ACL is equal to zero, wouldn't it?

Number two is I don't think an OFL could be set equal to zero, unless you set the MFMT equal to zero, or the species was extinct, but, if the MFMT is some non-zero value, and there are some fish, there must be some amount of fish you could take out that wouldn't cause overfishing, and so I think there needs to be a little tweaking of some of that, perhaps.

Then, later, I see there is a table that says that the OFL for goliath grouper is equal to zero, and I don't really know where that comes from, but I guess I would ask Dr. Porch. Clay, is it possible to have an overfishing level of zero, assuming there is some fish in the water?

DR. PORCH: No, and, technically, it would be the MFMT times the stock biomass.

DR. CRABTREE: Unless we set the MFMT at zero, I don't see how you could have an OFL of zero.

DR. PORCH: Right, but you could have an ABC control rule, or

you could decide to define MFMT so that it actually decreases to zero before the stock goes to zero.

DR. CRABTREE: Yes, and it's just that's not what we did in the MFMT alternative, and so I don't know what the solution is, John, but I think it needs a little bit of maybe some tweaking of the language or cleaning up there, unless I'm missing something.

DR. FROESCHKE: Well, I can just tell you what our thought process was, and then, if we need to modify it, we can. I agree that math is a real pain, and you can't divide by zero, and so the reason that we did it like that is, for black grouper, if you look again at 2.4.2, the OFL is undefined, and then again for goliath, which we have it down as zero, and if it should be something else, but, at any rate, we realize that that's a math problem, and so the logic was, if the math doesn't work, we're just going to call it zero. Maybe we could state that a different way, but we realize that the formula, as written, does not work for those stocks, and so, in those cases, we would just set the OFL, or the value, as zero.

DR. CRABTREE: Well, in the case of goliath grouper, I think the ACL is zero, and so it would be zero, but we have a fishery and a harvest of black grouper going on, and so clearly we don't think either the ACL or the OFL are zero.

DR. FROESCHKE: Correct, but we don't have a definition of OFL, and that's one of the things at the IPT that we have discussed, and that is, in order to operationalize this particular alternative, we would need to find some work-around for black grouper.

DR. CRABTREE: I guess my question is what's the path forward? Can staff kind of try to clean this up a little bit and make sure at least the math makes sense and things?

DR. FROESCHKE: Well, I think there are at least a couple of options. One, we could figure out -- We would need to figure out something for black grouper, and that seems to be more difficult. The goliath, I think we could surely come up with something. Otherwise, we could perhaps just remove the Option 3d.

CHAIRMAN DIAZ: Ms. Levy.

MS. LEVY: A couple of things. When you kept saying black grouper, are you talking shallow-water grouper, like that

complex? We're going to have to think of something to do with that if the council wants to do this Option 2d.

I think, with goliath grouper, the easiest thing to do is to just have an option that is zero percent of MSY. Like, you don't -- Because of the way it's managed, you don't allow harvest right now, and so perhaps the optimum yield right now is zero, and we could have that alternative rather than the formula, but I don't think we can say that we can't set it for shallow-water grouper, meaning, if we need to consider it separately, because we can't use this formula, okay, but I don't think we can say, because OFL is undefined, that we can't have OY, that it's zero, because I think that doesn't make sense. If you're allowing harvest, it can't be zero, your OY.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: I guess my issue with the Option d was a little more fundamental. I saw this as a quantification of both the scientific and management uncertainty, and so we get an ABC from our Scientific and Statistical Committee, and that is quantifying the scientific uncertainty, and so they're buffering down that OFL down to an ABC level, and then we have different formulas for different stocks, and we may buffer that down further, possibly, to an ACL, if we see some management uncertainty, and sometimes ACL is equal to ABC, and it just depends on the stock.

Really, to me, this is quantifying those two uncertainties and saying that equals the OY level, where -- I understand that OY, in the Act, does say that you should take into account some uncertainties, but the meat of the definition of OY is that OY is MSY as reduced for relevant economic, social, or ecological factors, and I just really think that the Option d misses the boat on that account. It really is just a quantification of the scientific and management uncertainty, more than those other things.

CHAIRMAN DIAZ: Any further discussion? Dr. Stunz.

DR. STUNZ: Well, I will make a motion to keep the document going, and I wanted to make a motion for a preferred alternative, but I'm not in favor of keeping d in Alternative 2 or 3, and so should I make a motion first to remove those two? Then I will follow that up with the preferred alternative. **My motion is, in Action 4.1, in Alternative 2, remove Option 2d, and, in and Alternative 3, that we remove Option 3d.**

CHAIRMAN DIAZ: We will wait while this gets put up on the board here. Basically, we have a motion to remove Option 2d and 3d. Is there a second to that motion? It's seconded by Mr. Williamson. Mr. Gregory, would you like to give us some insight? All right, and so we have a motion on the board. **The motion is, in Action 4.1, to remove Options 2d and 3d.** That motion was seconded. Is there any discussion on that motion? Dr. Crabtree.

DR. CRABTREE: Well, if this passes, then I think you're going to have to come back to Alternative 3 for goliath grouper and come up with a new alternative, because currently the fishery is closed, and so we're not allowing any harvest, yet your optimum yield, under any of the alternatives in here, would allow harvest, and so, to me, there's this disparity there, and so I think you could come in and set 3d for Alternative 3, OY as zero, and keep the fishery closed, but I don't -- It seems like you would have to re-address that.

CHAIRMAN DIAZ: Ms. Guyas.

MS. GUYAS: I was just going to say, with goliath, I mean, the take-home, I think from the last assessment, was this was a species where we can't use traditional management targets, and so, I mean, we can set all these things, but we can't really evaluate them. I mean, we can't do a traditional assessment for this species, at least the way that it's been.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: Well, that's essentially true of every species in this document. Outside of an assessment, you can't calculate much of any of these things. I am just, at least from a theoretical perspective -- If you set OY to be some non-zero value, it's hard to reconcile that with setting the ACL at zero and not allowing any harvest, or at least it seems to me to be.

CHAIRMAN DIAZ: Dr. Crabtree, if we move forward with this motion, you could come back and you could add a new Alternative 3d that we could consider, if you want to do that. Did you have something, Dr. Simmons? Dr. Simmons.

EXECUTIVE DIRECTOR SIMMONS: Thank you, Mr. Chairman. I just wanted to mention that the South Atlantic Council, and I think it's at the bottom of Table 2.4.1, has selected an OY for goliath grouper, and they defined it as 50 percent of static SPR, and so that's a jointly-managed stock, and so I thought we would need to set a similar OY, or consider it at least.

I guess, just to speak, while I have the mic, regarding the status determination criteria for goliath, my understanding is that, yes, we don't have assessments for many of these stocks, but the bigger issue with goliath is that it's a catch-free model, and so we don't have the fishing mortality rates, and so I think it's an even bigger issue for goliath than it is for these other stocks, if we were to get an assessment.

CHAIRMAN DIAZ: Dr. Froeschke.

DR. FROESCHKE: I guess, just to follow-up on some of the discussions that we've had in the development of this action, is that we recognize that the harvest of this is zero, and has been, because the ACL is zero, and our understanding is that, regardless of what the OY was established, because the ACL is zero, it would not change that value. The advice that we received is that OY is a long-term value, based on the biology of the stock, whereas the annual catch limit is an annual thing, and so it's not appropriate to set your ACLs and your OYs equal, and so, in the absence of an assessment, that would be okay.

CHAIRMAN DIAZ: Ms. Levy.

MS. LEVY: Thank you. A couple of things. I don't think the advice is that it's never appropriate to set OY equal to ACL. I said I think the advice is you shouldn't automatically be doing that. It shouldn't be automatically ACL equals OY because of the differences, but I do agree that, if your ACL that you have set over the long term is zero, and you're supposed to be achieving optimum yield on a continuing basis, it doesn't make a lot of sense to have an optimum yield that's above zero. Then you're not achieving it, right, and so I think this situation is sort of its own specific animal, and it should be looked at in that regard.

I also think that, unlike status determination criteria that go to the status of the stock, if you have one stock, those should generally be set consistently between the South Atlantic and the Gulf, because, if it's one stock, they should have the same overfishing limit, and they should have the same overfished status determination criteria, but they could have different OYs, because OYs are reduced from the MSY based on those factors that we've talked about, ecological and economic, and those could be different in the different regions, and so I don't think it's necessarily inconsistent to have different OYs for goliath in the South Atlantic and the Gulf.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: I agree with Mara, and I also -- In the footnote, where it says goliath grouper is jointly managed with the South Atlantic, king mackerel is jointly managed with the South Atlantic, because it's a joint plan, and goliath is managed separately, and reef fish and snapper grouper, and so, technically, they're not really jointly managed.

CHAIRMAN DIAZ: Okay, and so we've had a lot of discussion, and let's go ahead and dispense with this motion that's on the board. **The motion is to remove Options 2d and 3d from Action 4.1. Is there any opposition to this motion? Seeing none, the motion carries.** Can we go to Greg next and take care of the preferreds and then come back to you, Dr. Crabtree? Okay. Go ahead, Dr. Crabtree.

DR. CRABTREE: I think, if we're going to add an alternative, we ought to do that before we choose a preferred though.

CHAIRMAN DIAZ: Okay. Mr. Gregory.

MR. DOUGLAS GREGORY: Sorry to interrupt, but this action should be a percentage of the F of MSY and not percentage of MSY, and I wanted to get that on the table before you vote on it. I mean, if you have 50 percent of MSY as your OY, that's the same as your definition of MSST. It should be the 50 percent of the fishing mortality of F of MSY.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: But that would be -- You don't set OY as a fishing mortality rate. OY is a harvest. It's a yield out of the fishery.

MR. GREGORY: But you're estimating it based on F. You are reducing F a certain percentage.

DR. CRABTREE: You can put the yield at some --

MR. GREGORY: Right.

DR. CRABTREE: Well, MSY is defined as the yield at the F, and so it wouldn't be appropriate to take the percentage of it.

MR. GREGORY: The percent. You're reducing F a certain percent to get your optimum yield. You're not reducing MSY. That's the way the SSC voted on it, and that's the way that it was

presented to the SSC. Think about it. It's good to be back.

CHAIRMAN DIAZ: Dr. Porch.

DR. PORCH: You could calculate OY either way. You can calculate it as the 50th percentage of the FMSY, and then actually have to go through projections, or you could just say it's a percentage of the MSY. I mean, either way, it would work. I mean, the big issue there is we didn't have any basis for defining the particular percentages, either way. I mean, that was Ms. Bosarge's point.

CHAIRMAN DIAZ: Dr. Crabtree, did you want to add that alternative?

DR. CRABTREE: Yes. **I would like to make a motion that, in Action 4.1, Alternative 3, we add a new Option 3d, OY equals zero.**

CHAIRMAN DIAZ: Okay. We have a motion. Is there a second? It's seconded by Mr. Anson. Any discussion on the motion? **Is there any opposition to the motion? The motion carries.** Dr. Crabtree.

DR. CRABTREE: I am going back a little bit, but, Clay, we, some years back, in technical guidance, did something that looked at -- I think it was that, if you fished at 75 percent of FMSY, OY would be something on the order of -- Or your harvest would be approximately 90 percent of the maximum sustainable harvest, because the stock would be maintained at a biomass higher than MSY, and do you recall that? Am I remembering that about correct?

DR. PORCH: It's give or take. I mean, it really depends on the biology of the stock and the natural mortality rate and all that sort of thing, but yes. If you fish at 75 percent of the FMSY level, then, yes, the resulting equilibrium catch would be something higher than 75 percent of the FMSY, and it often is somewhere in that 90 percent range.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: Okay. Ironically, if you all remember a few meetings ago, this section was the even simpler version of -- Anyway.

With that in mind, I move that, in Action 4.1 we make Alternative 2 the preferred alternative. I am really debating

if we select an option there or not, but I will go ahead and do a -- In Alternative 2, Option 2b is the preferred alternative. If we do them all together, I guess here, in Alternative 3, make Alternative 3 the preferred alternative, with the new Option 3d of OY equals zero as the preferred alternative. Hopefully you got all that. I know that was confusing. It's 2b and 3d.

CHAIRMAN DIAZ: Is your motion correct on the board, Dr. Stunz?

DR. STUNZ: Yes, 2b and, in Alternative 3, Option 3d.

CHAIRMAN DIAZ: Okay. Do we have a second for this motion? It's seconded by Mr. Williamson. Any discussion on the motion? Ms. Bosarge.

MS. BOSARGE: Dr. Froeschke, this one is for you. On our other stocks, where we do have a defined OY, is there going to be something in this document that shows us what those OY levels are and then if we're achieving those levels or if we're above those levels or below those levels?

I am kind of hesitant to go 75, and I like 90 percent a little bit better, since it's pretty hard to quantify those relevant economic, social, or ecological factors, a lot of times, and I hate to see that much yield foregone, as an optimum, but I just wondered how we're doing on those other stocks. What are we usually hitting, for the ones we do have it defined for?

DR. FROESCHKE: I don't have that off the top of my head. We can look and kind of try to flesh that out for the next version of the document, before we put it out for public hearing.

CHAIRMAN DIAZ: Mr. Swindell.

MR. SWINDELL: In Alternative 3, if we go to zero, I assume, somewhere along the line, the goliath grouper stock will rebuild, and is that going to affect us being able to apply to open up the fishery again? Right now, we're just to the point that we're not fishing it, we're not allowing it.

I just want to make certain that, if we vote that the OY for goliath grouper, which is Alternative 3, that it will -- The stock rebuilds and we can adjust it, some way or another, and come back to start harvesting it again.

CHAIRMAN DIAZ: Ms. Levy.

MS. LEVY: I assume that that would happen, in the event that

you have an assessment that folks feel comfortable with and that you have the information that would allow you to actually make these decisions, and then, presumably at that time, you would have a plan amendment that actually deals with goliath grouper, and you could reassess what the OY is at that time.

CHAIRMAN DIAZ: All right. We're fixing to vote on this, but I want to make sure -- Did you have something, Ms. Levy? Go ahead, Ms. Levy.

MS. LEVY: I haven't heard much discussion, or maybe I missed it, about what the basis for the 75 percent of MSY is. I mean, I understand that these are all sort of theoretical values, but one of the things that the options that you took was trying to get at is how you're actually managing, meaning, if you look at the OFL, and you look at the ACL, you can see the maximum that you're saying that you're allowed to take to prevent overfishing, and you're looking at what you're actually allowing people to take.

In some instances, that's very close to 75 percent, but, in other instances, it's not. It's as low as fifty-something, or as high as 90, and so there's a little bit, and I get that one is an annual and one is a long-term, but, if you're, for a long period of time, allowing harvest of only 50 percent of what the OFL is, then, at some point, you're saying that's close to the OY, and so I guess I would just encourage, at some point, more discussion about why 75 percent of MSY across the board for all of these stocks, other than goliath grouper, is what you feel is appropriate at this time.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: Well, my worry is that we were a little premature on taking 2d and 3d out, and I think the problem with those alternatives wasn't the concept, but was just the way it was explained and in the document, which had some mathematical inconsistencies that need to be worked out.

I think Mara makes a good point that the difficulty we've gotten ourselves into now is that we're specifying a whole host of things, none of which can actually be calculated for any of these stocks, and so we're effectively now coming in and setting OY as just some theoretical number that's based off a fishing mortality rate that we don't have an estimate of.

The advantage, I think, that 2d and 3d had was you could actually come up with a poundage out of that, and so I don't

want to re-open all of this, but I guess we can think this through before Full Council, but I think we kind of jumped the gun on removing some things, and I don't think we really ought to get ourselves in the position where nothing in this document can actually produce a value that means anything, and I think we would be better off if we came up with some poundage for the optimum yield part of it, which the 3d and 2d did allow you to do, although they needed some work on them.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: I just wanted to reiterate that we are only selecting preferreds, and that's why, when I was making the motions, I was a little skeptical about selecting one of the particular options, for the reasons that Roy brings out, but, I mean, we've already done it, and I feel we need to move forward with this. I mean, if we had very strong, clear justifications for 75 MSY, or whatever percentage we select, we probably wouldn't be discussing this document, because we're trying to define some of the unknown issues that we have here.

I am for moving along with this motion, in general, and then I don't know if it's even between here and Full Council, but, as we go down the line and this goes out for public hearing and that sort of thing, we have time to discuss this further and refine our thoughts, but, right now, I think there's unknowns, in general, that we just have to deal with.

CHAIRMAN DIAZ: Dr. Froeschke.

DR. FROESCHKE: During the development of Options 2d and 3d, the IPT level, the discussions that we had is, if you look at the formula for 2d, for example, ACL divided by OFL, and that part is a straightforward calculation, assuming that you have the numbers, or you could get the numbers.

However, this MSY, or MSY proxy, is more difficult in the absence of an assessment, which is the same problem that you have for 2a, 2b, and 2c, and so I guess some of the discussions we had is, if you could solve that for 2d, you could also calculate a hard poundage for all the other options. I agree that would be a desirable outcome, but, as it stands today, we would have to really think about how we would do that, in the absence of an MSY estimate.

CHAIRMAN DIAZ: Can you put the motion back up on the board, please? -- OY implicitly accounting for relevant, economic, social, and ecological factors would be Option 3d, OY equals

zero. **Is there any opposition to the motion? Seeing no opposition, the motion carries.** Dr. Froeschke.

DR. FROESCHKE: Okay. Let's move to Action 4.2 that deals with red drum. Red drum is a little bit different than the other reef fish stocks, for a couple of reasons. One is red drum does have an OY that was defined in Red Drum Amendment 2, which corresponds to the 30 percent escapement rate, which is also equivalent to the MSY proxy in Action 1, which is allowed.

Alternative 2 is, in structure, similar to the alternatives for the reef fish of the percentage of MSY or MSY proxy, and the reason that we have these two different structures, and the reason we sort of included it this way is, depending on the alternative that was selected in Action 1 for MSY proxy, it may suggest the more reasonable approach for this, and so an SPR approach in Action 1 may correspond itself to Alternative 2, where an escapement-based MSY definition may coincide better with what we already have on the books, and so, in Action 1, we selected the 30 percent escapement rate, and so that would be most compatible with Alternative 1, but it's open for discussion.

CHAIRMAN DIAZ: All right. Any discussion on Action 4.2? Dr. Stunz.

DR. STUNZ: If there is no discussion, I will make a motion, but I'm a little bit concerned, John, and so what you're saying is what we already have on the books -- Does that make this completely irrelevant then, if it's already got it, because I thought the whole premise of this document, way back when Atran was doing this, was to get all of these on the books that we didn't already have, and so, if we already have that in the nature of this red drum fishery, and how it's sort of a special case, is it necessary? If it is necessary to do this, I will make the motion, and it's not a big deal, but, to me, I'm wondering if we already have this one covered.

DR. FROESCHKE: I don't know that I'm the right person to answer this. It does seem thought that, if you were comfortable with Alternative 1, that, whether you selected Alternative 1, no action, as preferred, or just removed this action from the document, it would be equivalent in practice, and I don't know if there are other considerations of why this would need to be retained in there. In the event that you selected an SPR base and MSY, you may want to consider the other one.

CHAIRMAN DIAZ: Dr. Stunz.

DR. STUNZ: Okay. **Well, at least for now, John, hearing that, and we can debate this between now and Full Council, I guess, but I will make a motion that, in Action 4.2, we make Alternative 1 the preferred alternative.** That way, it keeps it in the document and shows that we've addressed it, but it allows us to go with kind of what we've got.

CHAIRMAN DIAZ: All right. We have a motion. Is there a second? It's seconded by Mr. Schieble. Any discussion on the motion? Dr. Crabtree.

DR. CRABTREE: That's fine for me right now, but I would like to ask Mara and staff to talk about why could we not just set an OY specific to the EEZ, and then we could say the optimum yield from the EEZ is zero, which is effectively what we're managing to, and it seems to me that would be the most meaningful thing to do here, but I don't think we've ever done that anywhere else, but I can't think of anything in the guidelines or in the statute that say you can't do it that way.

Mara has pointed out to me that we don't do that anywhere else, and that's true, but I can't think of a single other stock where we have the EEZ effectively closed and the state waters are harvesting. That's not the case with goliath grouper. Goliath grouper is closed in state waters and federal waters, and so that's different. I am not going to make a motion on that, and I don't have any objection to Greg's motion, but I think, unless there's some reason why we shouldn't do it that way, that might be the best way to deal with this one.

CHAIRMAN DIAZ: Is there any further discussion on this motion? **Is there any opposition to the motion? The motion carries.** Dr. Froeschke, do you have anything else for this document?

DR. FROESCHKE: Yes. Just a couple of -- An update and a question. In the development of this document, we were working on an aggressive timeline, and so, that being said, we did produce Chapter 3, the affected environment, and the effects section, Chapter 4, which are typically -- We always produce those prior to going out to public hearing, and we have done that.

However, the IPT has not had a full opportunity to review and comment on those sections, and so my question is do you want us to take this document with the preferreds to public hearing via webinar, after our IPT review and things like that, particularly of those sections? We would not be changing the alternatives,

but we would look at the effects and the descriptive chapters, or do you want to see it again before we present that for your consideration?

CHAIRMAN DIAZ: If the committee has anything they would like to discuss on that now, or we could hold until Full Council, and we could discuss on where to go with this document next, to give us a little bit more time. Let's wait until Full Council to discuss that. Dr. Frazer, did you want to --

DR. FRAZER: I think we're going to take a fifteen-minute break.

(Whereupon, a brief recess was taken.)

CHAIRMAN DIAZ: I would like to call the Sustainable Fisheries Committee back to order. The next item on the agenda is the Framework Action: Modification of Fishing Access in the Eastern Gulf of Mexico Marine Protected Areas, and it's Tab E, Number 6. Mr. Rindone.

FRAMEWORK ACTION: MODIFICATION OF FISHING ACCESS IN THE EASTERN GULF OF MEXICO MARINE PROTECTED AREAS

MR. RYAN RINDONE: Thank you, sir. You guys had staff initiate this framework action at your October meeting, and it proposes management changes to the Reef Fish FMP, which would affect fishing access for the Madison-Swanson and Steamboat Lumps MPAs for reef fish, coastal migratory pelagics, and highly migratory species.

You guys will take a look at the options that we've put together for you and the purpose and need and recommend some changes to us, and our intention anyway is to bring it back for final action at the next meeting.

If we go to the document, to the introduction, the reserves were established in June of 2000, and they cover about just under 220 square nautical miles off of west Florida, and you can see that in Figure 1, and they were put in place to protect spawning gags, and so you guys know that gags change sex, and so the larger individuals tended to hang out -- They are more found hanging out in these areas, and so, by protecting them, the thought was that it would help bolster the stock, since we're protecting some of these larger spawning individuals.

If we scroll on down, you can see that we were doing some reviews periodically, every five years or so, trying to gauge the efficacy of these reserves, and then eventually, in

Amendment 30B, the reserves were made permanent, and so, at its October 2019 meeting, your Reef Fish Advisory Panel discussed some observations that they had seen the illegal harvest of reef fish under the guise of surface trolling within the boundaries of the MPAs.

The Reef Fish AP members were of the opinion that the MPAs were not really a legitimate trolling destination and that it was likely that rampant poaching of reef fish from the MPAs was occurring. An FWC Law Enforcement officer that was present at that meeting remarked that enforcement within the MPAs is difficult, one due to their distance from shore and two because it's very easy to see someone coming when there is nothing but open water around you.

By the time law enforcement is able to interact with a vessel that's in the MPAs, if there was something nefarious going on, it's likely that they could have covered it up by the time that they've been intercepted, and then our Coast Guard representative also said that enforcement out in the MPAs can be difficult.

If you see Figure 1 there, you can get an idea of where the two reserves are, and so Madison-Swanson is in the north, and Steamboat Lumps is in the south, and the Edges is a separate area that we're not discussing in this document that is situated between them. There is about seventy-five or seventy-six miles that divide the reserves.

The purpose of this action is to modify fishing access in the Madison-Swanson and Steamboat Lumps MPAs, and the need is to reduce illegal fishing activities within the MPAs, whose purpose is to protect critical spawning aggregations of large, mature reef fish species. Is there any consternation about the purpose and need? All right. Then we'll cruise right along.

We can go right to Chapter 2 and Action 1. Action 1 is Modification of Surface Trolling Provisions for the MPAs, and so, currently, surface trolling is allowed from May 1 through October 31 within the boundaries of the MPAs, and it's defined as fishing with lines trailing behind the vessel, which is in constant motion in speeds excess of four knots with a visible wake, and it make not involve the use of downriggers, wire lines, planers, or similar devices, and that's straight from the codified federal regulations.

From November 1 through April 30, no fishing is allowed within the MPAs. Alternative 2 would prohibit fishing year-round

within the MPAs, and we talked a little bit with the IPT about the amount of fishing that does occur, and, because of their proximity from shore and how difficult it is for most folks just to get out to it, being able to gauge effort from within the MPAs is going to be exceptionally difficult and uncertain. Is there any questions about Action 1?

MR. PHIL DYSKOW: As I understand it, this is an area where surface trolling wouldn't be the preferred method for taking the species that exist there and that they are using it mainly as a smokescreen?

MR. RINDONE: That was -- Somewhat the way that you said it was what the Reef Fish AP was saying, was that it's not really a great area for surface trolling for pelagic species, be they coastal migratory pelagic species, highly migratory species, whatever they may be, and that a lot of drift fishing may be occurring in that area, fishing with heavy weights to get baits down to the bottom, and, from a distance, it may look like trolling is occurring, but, once you get up towards the vessel, it may be a different activity, and some of the Reef Fish AP members had talked about seeing some of this activity actually occurring, and so like non-surface trolling activity occurring.

CHAIRMAN DIAZ: Mr. Ed Walker is also in the audience. He's the Chair of the Reef Fish AP, and are you interested in saying anything, Mr. Walker?

MR. ED WALKER: I kind of brought this up, and I think I mentioned this to you all before, because we were out there on a research project with FWRI, catching the -- Trying to help out with the male gag grouper reproductive knowledge right now, which is recognized as one of the big holes in the gag assessment, is the status of the males.

They asked me if I could help them find some big male gags, and I somewhat jokingly said, if you get me a pass to fish in the sanctuary, I could probably get you those, and they did, and we went out there, and we caught some, but that's when we realized that there is a legitimate problem with recreational poaching going on out there.

We spent quite a bit of time out there, and we went ten or twelve trips last winter, and it's only in the winter months, and the project is ongoing now. It's not really a legitimate trolling destination, or at least Steamboat Lumps isn't, and I don't know Madison-Swanson as well, but some of the guys up there told me they have similar problems going on up there.

Back in the day, I was one of the guys that said, hey, it's not right to take away trolling access if you're trying to protect bottom fish, but, having been there and seeing what's going on now, I can tell you that they're not going there to troll. There is nothing special, and there's not like some great break or temperature line or anything that makes it an attractive trolling spot.

They are going there poaching, and the enforcement guys -- I have talked to the enforcement guys, and I gave them the coordinates of where all the bottom runs through there and how to catch them, in just hopes that they would catch these guys, and they pretty much can't, and the main thing, and where this came from, to me, was the guy, the FWC officer, told me that, technically, all a guy has to do -- If he sees the boat coming over the horizon, and, out there, that would mean any boat, because it's really far out there, all he's got to do is click the throttle into gear and take some forward motion, and any line that he has hanging down there is now a trolling line.

It would be really hard to catch them, and, to devote that much resources to go 130 miles offshore, to try and get that guy in that little tiny moment where he might be bottom fishing, is extremely difficult, to the point where I don't even think it's really worth their while, and so I thought this would help them out.

The other thing that is not really discussed here is, in the research trips we did out there, we figured out pretty quick that anchoring is not the best way to fish it, and so what we do, and it worked really well, is we power drifted. We would get over the spot, and I would hold the boat in position, and we dropped these what they call a butterfly jig down there, and it's like an eight-ounce steel jig, and it goes down really fast, and you jig it, and the fish grab onto it, and so you're not anchored. You are in motion the whole time, and you're effectively bottom fishing without being anchored.

It's not really trolling, but, if the law showed up on the horizon and I pushed it into gear, then I would be trolling four lines, and he couldn't do anything about it, and so that's what I wanted to bring to the council and let you guys know that the conservation goals, that at least the Steamboat Lumps sanctuary was set up for, are, at best, threatened right now, because it has become a very popular destination with the recreational weekend fishing crowd. Any questions?

CHAIRMAN DIAZ: Mr. Anson.

MR. ANSON: Thanks, Ed, for talking. I have a couple of questions. The first is I know it stretches a long distance north-south there, but approximately what are the depth ranges within the two zones?

MR. WALKER: Steamboat Lumps is about 220 on the east side and 400 or so on the very southwest corner. There's a little dip right there, where it drops off kind of quick, and the corner of it kind of gets close to what's a very gradual slope. In fact, we found virtually no fishing spots out there on that side, which I thought we would, because it slopes really gradually, and there's not a big break there, which would make it a more appealing spot.

Madison-Swanson, like I said, I don't know as well, and I'm not as experienced with that, but I have heard from my other charter guys that run up that way that they also have a big problem up there. There will be a guy that comes into the marina that's got twice the fish all the other guys have, and they all know what he does.

Also, and I mentioned this before, some of the fish that we tagged in there -- We released all the fish that we caught, except for the gags that they needed to take back to the lab, which was tons and tons of red grouper and red snapper, and some of our tags were returned pretty soon after we released them into the sanctuary, and red grouper is what it was, and those aren't moving much, and so there's very little question that, two weeks after we let it go inside the sanctuary, somebody caught it somewhere else.

CHAIRMAN DIAZ: Mr. Anson.

MR. ANSON: It's good to hear that you got some returned fish from those depths. The next comment or question would be was there much -- To help with enforcement, since it's kind of way out there, and it's difficult to access and difficult to sneak up on people, was there much discussion during this meeting, or prior meetings, relative to prohibition of bottom fish or reef fish species within the zone?

MR. WALKER: Prohibition for fishing for reef fish?

MR. ANSON: Prohibition of fish retention, having no fish, reef fish, in --

MR. WALKER: Yes, and I think that's in one of your alternatives here now. It's in this document.

MR. ANSON: It's Action 2.

MR. WALKER: But yes. Anything you can do to give law enforcement a hand is going to ultimately help the old male gag population, which is ultimately going to help everybody here. That's why I really have taken it on, and we're catching gags now, commercial fishing, closer to shore, and I bring in some of my catch ungutted, so the biologists can go in and see what reproductive state they're in during the spawning season.

In three years of doing that, and, now, this is inside 100 feet, we have never caught a male, out of hundreds of gags, which may not be unusual, because they say that they live out there in the deep water, but, for a gag to get that old nowadays, with all this fishing pressure, to me, seems nearly impossible, and so I have really become a supporter of leaving some of those big gags out there in the deep water alone, and we'll all have better fishing because of it, and that's my take on it.

CHAIRMAN DIAZ: Okay. Any other questions for Mr. Walker? Thank you for taking time out of your schedule, Mr. Walker, to be with us. All right. Any other comments on Action 1? Dr. Crabtree.

DR. CRABTREE: Just sort of a little bit on the history of this. Originally, when this was put in place, Madison-Swanson and Steamboat Lumps, they were closed to all fishing for council-managed species. There was a lawsuit, and there was a study done where they went out and trolled slowly and with weights, and they caught a lot of reef fish species, and then there were challenges to the study, and, ultimately, there was a settlement, and the council changed it and put some of these provisions that allowed trolling in place.

I have always -- I went along with it, and I have always regretted that, because I felt like it was a mistake, and I recall, at the time, in 2003, the special agent in charge got up and said we can't enforce these provisions, because what's in the regulation right now talks about surface trolling defined as fishing with lines trailing behind a vessel which is in constant motion at speeds in excess of four knots with a visible wake, and they basically said we can't enforce that.

Well, at the time, there were concerns about, well, can we really enforce much of this, but, over the years, we've made a

lot of progress in that, and we have VMS in the reef fish fishery, and we're putting the geo-positioning devices in charter boats and things, and so our ability to enforce some of these things has improved a lot, but I have always felt like that was a mistake, and we should have just left the no-fishing provision in place, and I appreciate Ed bringing this to everyone's attention, so hopefully we can come in and change this.

CHAIRMAN DIAZ: All right. Any further discussion? Mr. Rindone.

MR. RINDONE: Thank you, sir. I will cruise on down to Action 2. Action 2 is a modification of prohibitions on possession of fish in the MPAs, and currently, possession of Gulf reef fish, or any other species of fish, from November through April, is prohibited within the MPAs, except on a vessel in transit with fishing gear stowed, and this does not apply to highly migratory species.

Alternative 2 says that the possession of any species of fish, other than HMS species, is prohibited year-round within the Madison-Swanson and Steamboat Lumps MPAs, and so this essentially removes that transit provision at the same time, and basically meaning that, if you are a vessel, and you are in the MPA, then you ought not to have any species of council-managed fish onboard, and so it would simplify enforcement, to some effect.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: Ryan, I would suggest that we keep the transit language from Alternative 1 in Alternative 2. That's a pretty long closed area right there, and I think, as long as your fishing gear is appropriately stowed -- I mean, that's been our precedent with other areas, and I agree that it would make it an easier case for law enforcement if you say you can't have any possession of that, but I think we have to understand that there are reasons that we would transit across there.

We certainly don't shrimp in there, but, when we cut the corner, as we call it, when we're leaving Mississippi and we're trying to make it wherever down in south Florida, we're going to cut the corner, and there's times when we're going to be transiting across that area, and so we may have shrimp onboard, and now we're going to be in violation, and we certainly weren't in any way actively fishing in there. That's a long expanse of closed area. If somebody was offshore there and trying to come in,

they're going to have to go around it, if they've been fishing, recreationally or otherwise, and I think the transit provision should stay.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: Thank you. I am looking at the figure that I guess is what Leann is looking at, Figure 1, and that does look like a long area, but I think that's because it includes the Edges, and I don't think these trolling provisions apply to the Edges. When we talk about modifying the transit provision, I think we would just be modifying it for Steamboat Lumps and Madison-Swanson and not for the Edges, and is that correct?

CHAIRMAN DIAZ: Mr. Rindone.

MR. RINDONE: That's correct, and so we're not talking about the Edges, and so you could still cut through the Edges. We're talking about that top square, where it says "Madison-Swanson sites".

DR. CRABTREE: Right.

MR. RINDONE: Then, in the northwest, and then in the southeast, the Steamboat Lumps square, and so both of these MPAs are essentially squares, and so they're approximately ten nautical miles by ten nautical miles each.

DR. CRABTREE: So I don't think it is as big of an inconvenience for people to go around them, and I don't think there's any reef fishing seaward of either one of these places, and, if a shrimp boat was traveling -- It doesn't seem like kind of going around them would be all that big of an imposition or big of an ask, or at least it's not near as bad as the inclusion of the Edges makes it appear.

CHAIRMAN DIAZ: Go ahead, Ms. Bosarge.

MS. BOSARGE: Even in our really small HAPC areas that we just designated, we have a transit provision for all of them, and I don't think we really want -- Especially for those of us whose fishery covers the entire Gulf of Mexico, we don't want to bob and weave through the Gulf of Mexico when we're not doing anything wrong.

As long as we're transiting, and our gear is properly stowed, we shouldn't be in violation of anything. Yes, this says fish onboard, and I don't know if you're going to qualify shrimp as a

fish or not, but I think we ought to have a transit provision. That's been our precedent, and I think it ought to be there, especially considering that our vessels have VMS onboard a lot of them, and what I have seen now is that we'll have a case opened on us from land, and nobody ever boards us to see what we have onboard or not, and there is a VMS onboard.

If they saw us in an area where we're not allowed, they open a case on us, and then we have to prove that we weren't doing anything wrong, because I have had it happen before, and even the shrimp fleet has VMS, in some cases.

CHAIRMAN DIAZ: Dr. Crabtree.

DR. CRABTREE: Well, I would argue that you're right about HAPCs and things like that, but these are among the few actually marine protected areas that we have, and so they are different, but you might consider that we add an alternative in here that says possession of reef fish species is prohibited and tailors this more to that, and maybe that's a compromise solution here.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: I will make a motion, or, first, let's have some discussion. Do you want an extra alternative in here, or do you just want me to change Alternative 2 so that it includes a transit provision?

DR. CRABTREE: I would Ms. Levy to show us the --

CHAIRMAN DIAZ: Ms. Levy.

MS. LEVY: Thank you. I didn't catch this before, reading the document, but I think that the no action alternative is not necessarily inclusive of the total no action, meaning, right now, in those places November through April, there is a -- All fishing is prohibited, and possession of any fish species is prohibited, except a vessel transiting through, but there's also another provision of the regulations that says, within these two areas, possession of Gulf reef fish is prohibited, except on a vessel transiting through, and so possession of Gulf reef fish in these areas is prohibited year-round, which isn't really reflected in that alternative, unless you're in transit, and then this is a different thing about fishing and then prohibiting all fish species except when transiting.

If you're trying to get at protecting reef fish and enforcement of having no reef fish fishing there, then you could just change

the general prohibition of the possession of reef fish, while excepting transit, and get rid of the transit provision, meaning, if you narrow it down to just no reef fish, can't transit with reef fish, then you would still allow, potentially, other vessels to transit with their gear stowed, but it just wouldn't apply to reef fish. I know that was kind of convoluted. The regulations have these separate provisions that deal with different things, and that's not all reflected in the no action alternative.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: I will make a motion that we add an alternative to 2.2, Action 2, and then copy Alternative 1, and let's paste that into the motion, and then I will tell you what to change. Where it says, "from November through April", take that out and put "year-round". Then put a comma "after fish", "or any other species of fish, year-round, is prohibited in the Magnuson-Swanson and Steamboat Lumps MPAs, except on a vessel in transit with fishing gear stowed, because I want the transit provision in there. Roy, were you going to ask me about the "or any other species of fish"?

DR. CRABTREE: Well, I'm going to make a suggestion that you modify your motion, because I don't think we want any vessel transiting through to be allowed to have reef fish onboard, and so I would suggest that you just add an alternative that says the possession of any species of Gulf reef fish is prohibited year-round in the Madison-Swanson and Steamboat Lumps MPAs.

MS. BOSARGE: Okay, and that would essentially accomplish that, or if you take out the "or any other species of fish". Then you're prohibiting possession of reef fish year-round, but you allow for a transit provision.

DR. CRABTREE: Well, but what you're doing is allowing vessels in transit to possess reef fish, and that's what we don't want to do, I believe, right?

MS. BOSARGE: I don't have a problem with a vessel in possession of reef fish transiting through there, personally. As long as you don't have gear in the water, you're not fishing. That's my take on it.

CHAIRMAN DIAZ: Dr. Crabtree, to that point, and then Mr. Sanchez.

DR. CRABTREE: That would be -- You've got one that prohibits

possession of any reef fish, and you're adding one that doesn't allow transit with reef fish, and we're not picking which one, but I'm just trying to cover our alternatives, and it seems to me that a reasonable alternative is to prohibit the possession of Gulf reef fish, period, and you can't transit if you have reef fish onboard. If you want to have an alternative that allows you to transit with them, okay, and I won't support that, probably, but -- Mara is telling me that's already in the regs.

CHAIRMAN DIAZ: Mr. Sanchez.

MR. SANCHEZ: Would you address this problem if you require, if they're going to transit with reef fish, that they also have to have VMS?

MS. BOSARGE: Roy, all I'm trying to accomplish is that first alternative, and the only thing we changed is prohibited year-round, and we still have a transit provision, but what was prohibited only November through April is now prohibited year-round.

CHAIRMAN DIAZ: Did we get a second on this?

MS. BOSARGE: No.

CHAIRMAN DIAZ: All right. We have a motion on the board, and it does not currently have a second. Is there a second for the motion on the board? The motion fails for lack of a second. Dr. Crabtree.

DR. CRABTREE: I would like to make a motion to add an Alternative 3 to Action 2, and that would be the possession of any species of Gulf reef fish is prohibited year-round in the Madison-Swanson and Steamboat Lumps MPAs.

CHAIRMAN DIAZ: All right, and so we have a motion. **The motion is possession of any species of Gulf reef fish is prohibited year-round in the Madison-Swanson and Steamboat Lumps MPAs.** Is there a second to that motion? It's seconded by Dr. Shipp. Is there discussion? Dr. Crabtree.

DR. CRABTREE: What I think -- Because Mara believes that the Alternative 1, the no action, needs to be tweaked some, and I think the no action now allows transit of vessels, even if they have reef fish onboard, and is that correct, Mara?

MS. LEVY: Yes.

DR. CRABTREE: So, if that's what you want, Leann, I think that's -- My understanding is I think that will turn out to be no action, and then we have one that prohibits possession of any species, and then, if we add this, we would have an alternative that prohibits possession of Gulf reef fish, and it seems like that covers the range of what we might consider, and recall this is just adding an action in here, and we're not making a final decision.

CHAIRMAN DIAZ: Any further discussion? **Is there any opposition to the motion? The motion carries.** Do you have anything else on this document, Mr. Rindone?

MR. RINDONE: I do not, sir, but I will just note that the current regulations are listed at the end of it, if you guys want to review that see the coordinates and everything else as it relates to the MPAs and the actual codified regulations. That's it.

CHAIRMAN DIAZ: Okay. All right. We are going to go ahead and move into the next agenda item, and so the next item is Discussion of Section 102: Fishery Management Measures of the Modernizing Recreational Fisheries Management Act of 2018, and Mr. Russ Dunn is going to lead us through that. Mr. Dunn.

DISCUSSION OF SECTION 102: FISHERY MANAGEMENT MEASURES OF THE MODERNIZING RECREATIONAL FISHERIES MANAGEMENT ACT OF 2018

MR. RUSS DUNN: For those of you who I may not know, my name is Russ Dunn, and I am the National Policy Advisor for Recreational Fisheries up in Headquarters, and I want to thank the Chair and the committee for the opportunity to update you on a recent discussion at the Council Coordinating Committee meeting that took place in November. Carrie asked if I would summarize the discussion that was held on Section 102 of the Modernizing Recreational Fisheries Act, also known as the Modern Fish Act, and so that's what I'm going to do.

To set the stage, we have heard a lot of enthusiasm from the recreational community about the MFA and its application and the provisions particularly of Section 102, which authorizes a number of management approaches, and, along with that provision came a lot of questions that are still ongoing, and the intent of the CCC session was to discuss the management approaches that are out there and discuss innovation, which is ongoing at the councils, and in an attempt to more clearly get a handle on the tools that are authorized and how they might be implemented to better facilitate recreational fisheries.

In a nutshell, the Modern Fish Act, as you may all recall, was signed at the very close of 2018, and its purpose is to expand recreational fishing opportunities through conservation and management, and it serves a number of additional purposes.

It includes a number of new requirements for reports and studies, and it offers guidance on fisheries management and science, and it authorizes a variety of management measures, which I will touch on in a minute, and it also reaffirms existing Magnuson Act requirements, such as annual catch limits and rebuilding requirements, and it includes provisions focused on improving state registries and data collection programs, inclusion of additional state and non-governmental data.

This slide is just -- It provides a very cursory overview of the provisions of the bill, and, as I mentioned, the CCC discussion focused on Section 102, and so that's what I'm going to cover here, are the management measures discussed in that bill and some of the discussion that was had.

What's it say? Well, in short, it says that the councils have the authority to use those measures that are underlined there, extraction rates, fishing mortality rates, harvest control rules, and others in recreational fisheries or the recreational component of a mixed-use fishery, and it also clearly states that, as I mentioned, existing MSA provisions continue to apply, such as ACLs and the National Standards and accountability measures, et cetera.

It also has a provision, and it's listed here, that requires NOAA to submit a report to Congress describing council actions in response to this, and, just to head off the questions later, that report is still in the clearance process. It was due basically a year ago, but it has been in clearance for an extended period.

At the CCC, there were four presenters, and then there was some open follow-on discussion. Chris Horton from the Congressional Sportsmen's Foundation provided a perspective from the stakeholders, from recreational fishermen. Julia Beaty from the Mid-Atlantic Council discussed the Mid-Atlantic Council's recreational reform initiative, Toni Kearns from the Atlantic States Commission discussed management of cobia, and Mike Burner from the Pacific Council discussed some management and rebuilding strategies for Pacific rockfish.

I am going to just give a very brief one-slider on each

presentation, and, obviously, there's a lot that is not included, but just the highlights, and so Chris Horton highlighted the importance of access, opportunity, and encounters, or encounter rate, to fishermen, and he urged recognition of ACLs as a limit on recreational mortality in some form, but he emphasized that ACLs should not only be viewed as hard poundage or quotas or numbers of fish, and he indicated the need, in his opinion, for more contemporary estimates of what's happening with the population, which, obviously, translates into more and/or more timely data. He also highlighted the need to work with stakeholders in moving forward to implement the provisions of the law.

Julia Beaty from the Mid-Atlantic Council discussed their recreational reform initiative, and, essentially, what they are trying to do is bring some stability and predictability to the big four fisheries, which are summer flounder, scup, black sea bass, and bluefish, and the way they are trying to do that is essentially smooth out some of the data that is coming in.

They are looking at revising the annual timeframe for evaluating fishery performance, and so, in other words, pushing their decision-making schedules up, and so moving from December decision-making to August, so that it allows more time for say for-hire operators to understand what's going to happen and advertise.

They are looking at setting recreational specs on a multi-year process, and, essentially, they are looking at a two-year approach, where the regulations would remain unchanged unless some substantial problem, like overfishing, was identified.

That should allow more predictability, and they also are seeking to establish guidelines for maintaining status quo regs, which kind of made me chuckle, and, essentially, what is happening there is something akin to what happened with red snapper here, where they are catching more fish, because there are more fish, and so they are sort of chasing what they call the RHL, the recreational harvest limit, and they are trying to develop an approach that, under certain circumstances, even if the RHL were exceeded, within certain bounds and under certain circumstances, they would not necessarily have to react, and so they would essentially set those two-year regs and move on and come back and revisit at the end of two years. They are still working through the details.

Toni Kearns from the Atlantic States Commission spoke to Atlantic cobia, and they are looking at something somewhat

similar to that. As you all probably recall, the management of cobia, for northern cobia, and so Florida/Georgia border north, was ceded to the Atlantic States Commission.

The commission is trying to balance sustainability along with availability among the states during a pretty short almost pulse fishery, as they move up the coast, and, at the same time, create more of a stable environment. Also, it's important to remember that the commission is not bound by the same Magnuson conservation mandates that other federal fisheries are.

What they are looking at is essentially a three-year set of specs, where they will establish an overall quota, as well as state-specific allocations, and they will establish vessel and individual possession limits, and they will then -- They will also establish minimum sizes, but then they will evaluate their landings on a three-year average against their catch target, and so, every three years, they will average out their landings and see if they have hit their catch targets, and then they will adjust in year-four, and so they're essentially looking at letting it ride for three years, because they are not bound by the ACL, like everybody else.

Then they also, for the commercial fishery, which is I think only about 8 percent of the fishery, there is a simple trigger, which we close it if that trigger were met.

The Pacific Council has a substantially different approach than everybody else, and so Mike Burner talked about they are essentially rebuilding, and now management of rebuilt stocks, and they successfully rebuilt nine stocks over about the last ten years.

They did so using harvest control rules that were established for rebuilding stocks as well as, now that they are rebuilt, those are in place, and, essentially, what they did is they established a harvest control rule that specified an ACL in terms of SPR, but, because the current guidelines mandate that an ACL has to be in pounds or numbers of fish, they then converted that into pounds, and so they actually manage based on pounds, and so that's where you see the third full bullet there, that in-season management was applied, and they went further and said it was absolutely essential.

They also have the advantage out there of being able to monitor pretty continuously, and they felt fairly accurately, because of the geography. There are just a handful of access points from the coast out to the ocean, and so it's fairly easy for them,

and it’s sort of akin to Mississippi, where there’s a fairly limited number of access points.

They can monitor well, and the council then has their groundfish team that monitors it constantly, and then the council reviews it at every council meeting. They review the status, and they can make an adjustment in-season, as needed.

The take-aways from the CCC discussion is first that the Modern Fish Act authorizes some approaches, which have been discussed a number of times, and there have been some questions about whether or not they could be applied, and the Modern Fish Act clarified that. There were some common themes that emerged from all the presentations about stability, predictability, opportunity, and those were important across-the-board.

It was clear that multiple approaches are being explored to suit the fishery needs, and it’s really pretty clear that every fishery is different. Fishermen within a given fishery have different interests, and so there’s -- To overuse a phrase, there is no silver bullet that is going to one-size-fits-all fix everything.

There was a lot of interest among the stakeholders in rate-based approaches, and so I think we’re going to continue to see that interest. It was also clear that, given the range of approaches that were discussed, that there is flexibility out there, both within the Magnuson and now under the Modern Fish Act, but there is still substantial uncertainty as how best to move forward, and so it’s going to be a slow, careful advance toward these new approaches.

I saw the CCC, really, discussion as one step in trying to better understand this, as opposed to it resolved all the uncertainty among the councils, and, that said, there was a suggestion during the discussion from the South Atlantic Council to the Gulf Council of potentially forming a working group, and I understand that a letter has been received from the South Atlantic Council to this effect, and there was, during the discussion, some interest in exploring a pilot project.

There was no discussion of where, when, what fishery, but essentially trying to find a fishery where it might be viable to apply this, or one of these new management approaches. With that, if I may, I will turn it back to the Chair, and, Tom, I believe you were there. If you or, with your discretion, Roy or anyone who was there wants to clarify or add or correct anything I had to say, please feel free.

CHAIRMAN DIAZ: Dr. Frazer.

DR. FRAZER: No, that was a good representation of what was said.

CHAIRMAN DIAZ: Any questions for Mr. Dunn? Any comments about the process? All right. Thank you, Mr. Dunn. We appreciate you taking your time to be with us today.

MR. DUNN: I will be here for the next couple of days, and so, if anything comes up, let me know.

CHAIRMAN DIAZ: Dr. Frazer.

DR. FRAZER: I realize that the report is still in review, but do you have an expected delivery date for that?

MR. DUNN: I don't. Now we're closer is the phrase often used, but, really, it has been in clearance for an extended period of time, and so we just don't know when it's going to pop out.

CHAIRMAN DIAZ: I believe Dr. Froeschke was going to talk to us about the letter from the South Atlantic. Dr. Froeschke.

DR. FROESCHKE: Yes, sir. I'm sure you're not tired of hearing from me today. On January 13, the council received a letter from the South Atlantic Council notifying the council about the discussion that occurred at the CCC that Russ just summarized, and the idea is the South Atlantic and Gulf of Mexico Councils convene a working group that would meet, I'm assuming through a series of publicly-noticed sorts of meetings, to address the Modern Fish Act recommendations, et cetera.

At the South Atlantic December 2019 meeting, their council reviewed these recommendations and was supportive of the idea, and they appointed five council representatives to serve on this working group: Jessica McCawley, Mel Bell, Spud Woodward, Steve Poland, and Chester Brewer. This letter is Tab E-7(b), if you want to follow along.

They identified four topics: review of the working group; Section 102 of the Modernizing Recreational Fisheries Act; then the review of this GAO report when it becomes available; and then develop a list of potential topics and develop a timeline and plan for the workgroup.

That was sort of the initial charge of this working group, and

they propose that the first meeting occur between April and June 20, depending on the availability of participants, if the council elects to go down this route, and so the South Atlantic Council has suggested a request that we review this letter and discuss it, if the council was interested in appointing representatives to serve on this working group. They could appoint them, and then we could help with the logistics and timing, et cetera. That's what I have. Any questions?

CHAIRMAN DIAZ: Okay. Thank you, Dr. Froeschke. I guess there's a couple of things. The first thing we should look at is to see if the council is interested in us participating with the South Atlantic and working in this working group. I would like to let you know that, out of the five people -- The way they did it is they threw the idea out there, and they asked for volunteers, and these five folks are folks that volunteered.

Of the five people, three of those five are actually representatives of the state agencies, and so Jessica is with the State of Florida, and Mel Bell is with South Carolina, and Steve Poland is with North Carolina. Spud Woodward is a retired director from the State of Georgia that's now an at-large member, and then Chester Brewer is here with us, and he's a recreational rep that's on the South Atlantic Council. I would throw that question out to the group. Are we interested in participating with the South Atlantic Council? Mr. Williamson.

MR. WILLIAMSON: Mr. Chairman, I believe that we should have significant interest in this, and this is a new portion of the Magnuson-Stevens Act that's just been implemented, and I don't know why we wouldn't have interest in it.

CHAIRMAN DIAZ: Mr. Schieble.

MR. SCHIEBLE: Thank you, Mr. Chair. I concur with Mr. Williamson, and I think that we've seen examples as we've gone through, over the course of time here, where cobia, for example, comes to mind, where it's a stock that is shared between us, and, if one management agency is making decisions, the other ones should be informed, at least, or discuss it before those things happened, and I think it would have been smoother, when we were dealing with cobia, had we been able to work together as an example, and so perhaps we need to have some people on a committee that can discuss this at the same time.

CHAIRMAN DIAZ: Thank you. Mr. Brewer.

MR. BREWER: Thank you, Mr. Diaz. Many times, when you've got

something that is new, and it's going to be perhaps complicated, rather than taking up council time with it, a working group is formed to take a look and then bring options or thoughts back to the council or councils, and I think this is a very good example of something that would fall within that parameter or framework, because you're going to be talking about a lot of different options here and different ways to manage recreational fisheries.

There are many fisheries that are co-managed between the South Atlantic and Gulf of Mexico Councils, and so it just made sense to us that we would form this working group and have representatives from both the Gulf Council and the South Atlantic Council on it, and I would, on behalf of the South Atlantic Council, I would urge the Gulf Council to give it serious consideration.

CHAIRMAN DIAZ: Thank you, Mr. Brewer. Is there anybody else that wants to comment on this? Ms. Bosarge.

MS. BOSARGE: Just a question. On the agenda, it said Section 102, but the letter says Section 201.

CHAIRMAN DIAZ: That's a typo.

MS. BOSARGE: Just a typo? Okay. Then, if you're focused on that Section 102, it gets pretty deep pretty fast, and it's pretty scientific, I think, when you start looking at extraction rates and fishing mortality targets and harvest control rules, and so I would suggest that you consider having someone with some stock assessment background involved in that conversation, so that, as you're going through this process and throwing these ideas out to see what sticks, they can say, all right, I like that, and, logistically, this is how that would play out and what we would have to do, because they're still going to have to tell us what --

The SSC is going to have to give us some limit, right, and set it, and so I would suggest that you bring those people in on the frontend, rather than bring back a bunch of stuff, and they're like, well, then you're still going to get these pounds and that's it, and I have worked through the kinks in it, because I think that's where some of the headwinds have been, and I think that would be great.

I think this has been out there, and there's these options, but I just haven't heard much about, well, how would it work, and so I like that idea. I have an issue though when we start getting

into other things besides trying to work through those harvest control rules and extraction rates when we start talking about reviewing allocations.

Well, then, to me, this group needs to be expanded, and it needs to be more diverse, and it shouldn't be so much of a state and recreational representative focus. You're going to need some other groups in there, if you're going to start giving recommendations on allocation, and so I guess my suggestion would be to stick to that 102 and not expand that purview too much.

CHAIRMAN DIAZ: Mr. Brewer.

MR. BREWER: I agree with you. I don't think that you want just recreational folks giving recommendations with regard to allocation criteria. I could not agree more. Personally, and this is not me speaking for the council -- The first statement was not me speaking for the council, and this statement is not me speaking for the council, and I wish I had never heard the word "allocation" or "reallocation".

Personally, what I saw this as is, for years, we've had headwinds on alternative management methods in recreational fishing. We have seen repeated in-season closures on data that we weren't that sure about, particularly with regard to some of the infrequently-encountered species, where you have one intercept that would shut down a fishery.

You also had the situation that Roy has spoken about, in which you've got a good thing happening in the fishery, and there are a lot more fish of a particular species out there, and people start catching more of them, and, rather than that being a good thing, all of a sudden you've gone over the TAC, or whatever your quota is, and the fishery either gets closed down, or you've got accountability measures coming into effect the next year, and so you've turned a good thing into a bad thing.

There are a lot of examples of things where we have tried to manage recreational fisheries, and they're different, and you need different management techniques, and so, personally, I view this as a very good way to start exploring those different management techniques, and, again, me personally, I don't want to see this group get into allocations, because it's going to have plenty to do with just talking about different management techniques, and that's me personally.

CHAIRMAN DIAZ: Okay, and so we've had three Gulf Council

members that have spoken positively about the letter and us participating, and, as far as the Number 2, reviewing the GAO report on allocations, I think Dr. Simmons had told me this morning that we have some other folks that's actually looking at that for our council, and so there's really probably not a big -- There's not a need to necessarily do that, if we wanted to just participate to the level of the other things mentioned.

I would like to ask, similar to the way that the South Atlantic did it, for volunteers for people that would like to be on this working group, and so I would open that up to the floor to anybody that would be willing to volunteer. Ms. Levy.

MS. LEVY: I just wanted to say that I know the letter doesn't spell this out, but I view this as a joint council committee, and so it's going to be a committee that includes both South Atlantic and Gulf Council members that will operate like a council committee, and so webinars are fine, but they're going to be noticed and open to the public and that sort of thing, and, whatever report happens or recommendations would come back to the councils, it's the same way that any committee would operate.

CHAIRMAN DIAZ: Thank you, Ms. Levy. Me and Dr. Simmons had talked about this some this morning, and surely there will be some staff people that will be in addition to the council folks that are working in conjunction with the commission, and maybe they can provide some of that expertise that Leann asked about earlier. With that, Ms. Boggs.

MS. SUSAN BOGGS: Thank you, Mr. Chairman. I'm not on your committee, but I do think what Leann suggested is a good idea, and so, if there's some way that we could offer that to the SSC members, if they would like to be a part of this working group, and I don't know how that works, Carrie.

CHAIRMAN DIAZ: Dr. Simmons.

EXECUTIVE DIRECTOR SIMMONS: Thank you, Mr. Chairman. Just a couple of things. I did originally have some concerns about the number of people on this working group. Getting ten council members together from each region, plus two staff members, may present logistics, but, as long as staff is allowed to move forward if we don't have everyone there for that webinar, if we have a large number of people that can attend, I think we're fine with that.

We did meet with Mr. Dunn, staff did, and, unfortunately, I

haven't had a chance to really talk to John Carmichael much about this letter, but I think our thinking was we would certainly need to get other members involved, agency staff, Science Center staff, SSC members, but I think the idea was this is just brainstorming, is my understanding, and maybe Dale and Chester could speak more to that, but just get this group together and meet at least twice and have some brainstorming ideas, and then we take those ideas, and maybe we pare them down, maybe the councils pare them down, and then we develop them and flesh them out, and that was kind of my larger understanding of this effort, and so that's another way we could go about this, if you like that idea.

CHAIRMAN DIAZ: Mr. Brewer.

MR. BREWER: Dr. Simmons is quite correct.

CHAIRMAN DIAZ: Is there any further discussion on this topic? Seeing none, the last agenda item is a Committee Discussion on Allocation, and that's going to be led by Dr. Frazer.

COMMITTEE DISCUSSION ON ALLOCATION ISSUES

DR. FRAZER: This is a standing agenda item until we get a GAO report, and so we don't have one yet, and so it will be on there next council meeting as well.

CHAIRMAN DIAZ: Okay. Is there any other business to come before the Sustainable Fisheries Committee? Seeing none, the committee is adjourned.

(Whereupon, the meeting adjourned on January 27, 2020.)

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