

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **MACKEREL COMMITTEE**

**The Westin  
Hilton Head, SC**

**September 20, 2006**

### **DRAFT MINUTES**

#### **King & Spanish Mackerel Committee Members:**

George Geiger, Chairman	Dr. Roy Crabtree
Dr. Louis Daniel	Frank Gibson
Charles "Duane" Harris	Rita Merritt

#### **Council Members:**

Robert Boyles, Jr.	David Cupka
Benjamin "Mac" Currin	Anthony Iarocci
Lt. Chad Brick	Mark Robson
Susan Shipman	John Wallace

#### **Council Staff:**

Bob Mahood	Gregg Waugh
Mike Collins	Rick DeVictor
Kerry O'Malley	Kate Quigley
Kim Iverson	Julie O'Dell
Rachael Lindsay	

#### **Observers/Participants:**

Monica Smit-Brunello	Dr. Joe Kimmel
Elizabeth Featherston	Tracy Dunn
Hal Robbins	Andy Herndon
Caroline Keicher	Dr. Steve Bransetter
Richen "Dick" Brame	Dr. Jim Berkson
Kelly Schoolcraft	Joseph "Andy" High
Mel Bell	Dr. George Sedberry
Eileen Dougherty	

The Mackerel Committee of the South Atlantic Fishery Management Council convened in the Drayton Room of the Westin Hotel, Hilton Head, South Carolina, Wednesday morning, September 20, 2006, and was called to order at 10:20 o'clock p.m. by Chairman George Geiger.

Mr. Geiger: We're on Tab 1, page 7 and this is the South Atlantic Fishery Mackerel Committee meeting. We have an agenda. Do we have any changes or modifications to the agenda? Any objection to the agenda? Seeing none, so approved. I trust everybody has had an opportunity to read the minutes. Are there any changes or corrections to the minutes? Is there any objection to the minutes? Seeing none, so approved.

I guess what I would like to do and look and make sure that all the committee members understand what we did. We had, I think, a very productive and fruitful meeting with the Gulf Council and these things are getting better each and every time we do one. I would like, however, to take just a moment and make sure each of the committee members understand what we did and see if there are any questions or changes, because they were done in joint committee and this is our committee meeting. We have an opportunity to change or modify as we deem to take to the council.

We had three issues, basically, that we addressed and the first one was concerning the boundary mixing for king mackerel and this was to develop the scoping document to take to the public. Of course, there's the no action. We provided the Dade/Monroe County line as the geographic boundary with the mixing fish being divided at that boundary line.

The Gulf Council suggested and made a motion to include in the scoping document and we concurred to include the geographic boundary at the Dade/Monroe County line and also to have the Science Center develop data from the Dade County line to the Volusia County line based on 50/50 mixing.

Dr. Daniel: I just want to make sure I understand what that means. Based on the discussions that we had with the Gulf, it appears to me that the right thing to do is Number 3, based on the discussions that the Monroe County was 100 percent Gulf. I don't know if that's true or not, but that's what they indicated, that the fish off of Monroe County were Gulf and the fish from Dade to Volusia County were the 50/50 mixing and Gregg is shaking his head that that's not correct.

Mr. Waugh: No, that's not correct. There is mixing in the entire zone from Volusia/Flagler through Dade/Monroe on the Florida west coast. As you get to the extreme north of that, a greater proportion are Atlantic and --

Mr. Geiger: Gregg, it's Monroe/Collier on the west coast.

Mr. Waugh: Right, it's Monroe/Collier on the west coast. At the extreme southern part, a greater portion are Gulf kings, but there is mixing in Monroe. The net effect of Alternative 3 here is that you would be counting 75 percent of the fish in the mixing zone as Gulf fish.

Dr. Daniel: That's what I want to make sure we're clear on and the question is from a stock standpoint -- We've been fighting this fight for however long to make sure that we do it right based on the mixing rates and the biology of the fish and so I guess what I would like to know is what's the best division in terms of allocating the resource between the Gulf and the Atlantic and I think -- I don't know which one is the best and that's what I want to know.

Mr. Geiger: Louis, I think your question is a valid one and in my mind, the best one is the one that the Science Center has already identified as being the best available science and on which we began to submit a framework adjustment based on 50/50 mixing, 80/20 or 80/20 with basically a 50/50 being the result of that.

That's what we went forward, but this is a scoping document and I think what they requested and we requested was we wanted to see the Science Center provide the data and the numbers to see what that outcome was going to be in terms of stock biomass and what it was going to probably do to their TAC.

Dr. Crabtree: I've had some back and forth with the Science Center over this. I think we're pretty close to asking for a new assessment with these requests or at least that seems to be the Center's view on it, which means that this would have to go back to the SEDAR Steering Committee and somehow be scheduled back in.

I don't know that it's -- We can pursue this as a negotiation with the Center, but -- I don't know the details of it, but the question is going to be are we just going to go back and reanalyze these without updating any of the measures in any of the data in the assessment and those kinds of things, but at least the preliminary indication I've gotten from the Center is at this point they would view this as a major workload issue and they're pointing that we need to talk to the Steering Committee about this.

Mr. Geiger: I appreciate that update. That's interesting information and, of course, their request was to see the numbers, to see what the effect had on that biomass. If it turns out that we have to do a new stock assessment to get that, that's an impossibility, because based on comments and conversation at the last Steering Committee where I was in attendance, there was not sufficient data yet to conduct a new SEDAR, which is going to give us an appreciable difference in result, than the one we had in 2004.

Perhaps we need to now go back and have it explained to the Gulf Council that we can't develop those numbers for scoping and see what the result is. The Steering Committee requested the two councils get together in an effort to arbitrate and come up with a decision as to what the mixing rate was going to be. That was direction from the SEDAR Steering Committee to do this.

Of course, that follows on the heels of the request to have the joint SSCs meet and provide their recommendation. The joint SSCs met and they came up with an 80/20 recommendation, which, to paraphrase Nancy, comes out to be best available science 50/50, which she said she would approve if we move forward with a framework adjustment.

We're kind of back to square one. I think it's fine to go out -- If we can't provide data, we can certainly provide those options for the public to comment on, but there's no data on which they're going to be able to comment and so we're kind of at square one, Roy, and I don't know where to go from here, other than to go back and tell the Gulf Council that the Science Center can't provide those numbers without doing a stock assessment, which is now scheduled for 2010, by the way, for king mackerel and 2008 for Spanish.

Dr. Crabtree: I think we need to have some more discussions with the Center about that. The problem is going to be if you just try to take the existing model as it was run and redo it with these different scenarios. Then you're getting I think it was a 2002 F estimate, because I think that's the latest in the model.

The question becomes what does it do to the status of the stock and that's not clear, because the best you're going to get is what it does to the status of the stock four years ago at this point and soon almost five years and then -- It's going to be tough to get out of that box of how do we know what actions need to be taken without updating that and getting a more recent estimate.

It might be possible, if you reran just the model they ran with the 2002 Fs, to get some indication of the directionality of these changes and how it would likely affect the two sides, but all I know to do now is to get these things in writing and have a conference call of some sort with the Science Center and talk about -- Make sure we're clear on what can and can't be done and the pitfalls of all of it and then go from there.

Dr. Daniel: How does that relate to selecting a new TAC based on the 2002 assessment? That throws a whole monkey wrench into that side of the equation as well.

Mr. Geiger: Back in 2004, the advisory panel made a recommendation to the committee to adjust the TAC because it was believed it was artificially high at ten million pounds. We didn't take any action after discussion because there was a SEDAR stock assessment pending and then we decided to wait until the outcome of that 2004 SEDAR stock assessment before we took action.

The SEDAR stock assessment came out and the South Atlantic Council didn't approve it because of the terms of reference in regard to mixing weren't answered, but there were numbers provided that indicated that yes, in fact the TAC is too high and we've got a new ABC range as a result of the SEDAR.

Gregg, stop me if I am incorrect here in this progression. What we did was we held up action pending the results of whether we went forward with a new TAC based on 100 percent mixing or 50/50, because that was an issue that had to be resolved and wasn't resolved as a result of the SEDAR.

The two SSCs met and we resolved, I thought, the issue of the 50/50 mixing rate, based on the recommendation from the joint SEDAR meeting, but it now befalls the two councils to get together and in fact agree to what the SSCs said and that's what we tried to do at this meeting,

but we resulted in the addition of seeing if we could get numbers run for Option 3, which is the Dade/Monroe County geographical line, but in considering the fish between Dade and Volusia as being 50/50 mixing.

Of course, as somebody said, the end result of that would basically result in 75/25 mixing, 75 percent Gulf and 25 percent Atlantic. The whole exercise of moving forward with this regulatory amendment for king mackerel was -- Even though it's not on the Gulf Council's radar, because they have a lot of issues that are really pressing on their council, it's on our radar because of advice from our AP, the fact that we know the TAC is artificially high, or over inflated, and we would like to manage a recovered fishery.

We are not overfished and we're not overfishing, but we're going to, hopefully, properly a recovered stock and that stock can recover further than where it is today if we had the proper mixing rate applied in the mixing region.

Dr. Daniel: I've got to say this. The fact that the ten million pound TAC is artificially high is purely anecdotal information from the AP. We also heard a lot of other anecdotal information from APs that we have accepted not to endorse, but I think the fact remains, from what Roy was saying about the Science Center's concerns about being able to make these correct decisions based on a 2002 assessment, it's of my understanding that the most recent assessment is through 2002.

We're getting ready to lower the TAC by three million pounds, thereabout, for king mackerel based on a 2002 terminal year assessment. I understand all the history behind the changes and the moves and all the mess we've dealt with the Gulf and the mixing rates, but if it's not good enough -- If the 2002 assessment is not good enough to do a simple mixing rate split, why is it satisfactory to set TAC four years later? That's the point I'm trying to make.

Dr. Crabtree: I'm not saying that it's not good enough to do it. I'm saying the question is going to be do you rerun these looking at these scenarios and come up with a 2002 answer and is that going to be acceptable to people or are you going to update all of the catch series and then you're starting to talk about basically a new assessment at that point.

I don't understand that the current TAC is too high is based on anecdotal information. It's based on the most recent stock assessment we have and those ABC recommendations that came out of that stock assessment are the latest and best that we have at this point. I think you're on solid ground to continue on the path you're on and I would advise the Gulf Council that their TAC is too high and they need to make adjustments to it.

I think George is right. They've got a lot of pressing issues on their plate and this one is going to have to fall into that list of priorities sometime, but my statements really come about being specific about what are you looking for here and that's part of the discussion I think we have to have with the Science Center, because if you're just talking taking the last assessment that was run and trying to look at it with these different mixing combinations and generate here's what the

estimate would be without bringing in any additional landings or any additional information, that's one thing.

Then if you want look, particularly in the Gulf Council, what does this do to the status of your stock, that's only going to tell you what it would do to the status of your stock as of 2002 in terms of are you overfishing or not and it's not going to get you out to more recent times on it and that all has to be worked out somehow.

Mr. Waugh: It's important to understand what your purpose is. The request, as I understood it, was for scoping what the councils wanted to see was the landings compiled based on these new boundaries and we tried to say that that landings table comparing it to the existing landings table would give you an approximation of what would happen to your ABCs.

What we heard was people were uncomfortable with that. What they wanted to see was the SEDAR-5 assessment rerun with the only change being changing the landings input data and so that would give the councils a chance to present to the public as of the data through SEDAR-5 that here's what the ABCs would be according to these different stock boundary separations. That's one purpose.

The second then is if you start to look at a new stock assessment. You would then get into serious work where you're updating catch per unit effort indices, the length databases. We don't want to change that time frame, because that's scheduled for kings for 2010 and there are ongoing research programs that are answering critical data needs that are a lot more critical than the mixing issue.

Our SSC has pointed this out in great detail. There are bigger uncertainties than mixing that are going to have a bigger effect on stock status and so the last thing we want to do is get the Center off of that 2010 time frame. To me, and this is something to follow up with the Center, just changing the landings that go into the assessment and rerunning the assessment that was done in SEDAR-5 should not be that difficult of a job.

Dr. Daniel: I would just say I agree 100 percent with what Gregg has said. I think it's also important for us to know that all of the information, be it otolith, microchemistry, genetics, tagging, everything, shows that this is a very fluid mixing rate. It changes back and forth and there's not a very precise answer to what this does.

I guess my main concern here, Mr. Chairman, is we've agreed to move forward with this as a minimal action or do we have to accomplish this before we move on and do our regulatory amendment and there's a lot of important stuff in that regulatory amendment, in my opinion, that needs to be done and so this just -- My fear is that this further delays our ability to move forward with some of the proactive stuff that this council wants to do.

If it's going to be delayed based on the alternative from the Gulf, it may be worthwhile to try to talk to the Gulf and explain to them that this alternative is going to slow us down to a significant degree and that's unacceptable to us, if it's unacceptable to the council.

Mr. Geiger: I think I heard that from Dr. Crabtree in the beginning, that this may be, based on his conversation informally with the Center, not doable and he's suggesting that we have a conference call to try and flesh out what needs to be done or how we're going to do it and as a result of that call, we very well may find out that is a problem that delays us to a point that we need to address it with the Gulf.

Dr. Crabtree: I think that's what we've got to look at with the Center and talk to them and it would seem to me that we could certainly get the landings updated, like Gregg was talking about, that may give us some indication of where to go. Let's talk to them about the other part of this when we have some time, because all I've gotten is some email back and forth, and we need to talk in some detail about where this leaves us and what our alternatives are and then go from there.

Mr. Geiger: Any other questions concerning Item 1, the boundary mixing for king mackerel? Under Number 2, we've got the boundary for other species and this basically was approved at our June 2004 meeting and again at the June 2006 meeting. The Gulf came in with a recommendation that king mackerel be removed and that just the other coastal pelagics be included in that boundary for other species issue. Are there any questions about that?

In regard to the third issue, it was a discussion concerning permitting and whether or not the single permit that now applies to both the Gulf and the South Atlantic would either be split into two separate permits or have a grandfathered permit for people who demonstrated a historical landing from both geographic regions.

Of course, the last motion was made by our South Atlantic Committee to scope a joint amendment to create two separate coastal migratory pelagic FMPs based on the three actions with the alternatives that were outlined above and, of course, we'll have to flesh those out in this conference call that hopefully we'll have expeditiously.

The remaining issues there were basically the data request of the Southeast Science Center, which will be handled in that conference call, timing for the scoping and Rick and Gregg were going to work on a letter to the Science Center. I guess that's going to be HIA pending this conference call we have. Perhaps you want to have a draft letter prepared to go and you can modify it based on the conference call. Are there any questions about what we went over jointly?

Ms. Merritt: Just to clarify on the permits, if there was no action taken on the permits, doesn't that automatically just grandfather everybody, since we have a moratorium in place? If the moratorium came off, then I would think that would be the appropriate time to talk about having different permits or changing anything. Am I wrong?

Mr. Geiger: I hate to put words in the Gulf Council's mouth and they're not here to discuss it, but I think one of the concerns that they have is effort from the Atlantic occurring in ports in the Gulf area. I know Florida fishermen go as far as Louisiana to fish and if we are creating this

hard line division and resolving the mixing issue, then that quota is theirs and the Atlantic quota is ours and there might be a mindset to have two separate permits or a way to grandfather people who have historical landings from both geographical regions, just to make it fair.

Ms. Merritt: I guess the concern goes both ways. We probably ought to be more concerned about more Gulf people coming over on our side fishing, but regardless of that, I still see it as a takeaway if you try to change it. What we have in place goes both ways anyway.

Mr. Geiger: I understand and I just say, again, this is for scoping and so everybody gets a chance to talk. This is not our preferred alternative or what we're eventually going to do. It's a scoping document and I think as many options as we can offer and get comment on, it builds the case for what we eventually wind up doing. Right, Monica?

Ms. Smit-Brunello: That's correct.

Mr. Geiger: Any other questions concerning the issues that we addressed in the Gulf and South Atlantic joint committee meeting? Okay. Last night we held a public hearing on the regulatory amendment as we go forward and we identified a bit of a glitch, another speed bump in the road, so to speak. Gregg, if you would tackle this issue. This is going to take some concentration, folks. We're going to have to think about what we're going to do here and talk about alternatives.

Mr. Waugh: If you look in the briefing material, this will be working from the public hearing summary. It's page 1062 of the briefing book document and look at Table 2. The 2003 mackerel stock assessment panel gave us a revised ABC range. The current ABC range is 5.7 to 9.0 million pounds with the best point estimate of 7.04.

Actually, the 7.04 is the maximum the council could have raised the TAC the last time we did it by going 10 percent above the best point estimate of MSY. We have a provision in our mackerel framework that was established in 1983 or 1985, in Amendment 1, and that put in a provision that in setting the TAC it can't exceed the best point estimate of MSY by more than 10 percent.

The values from the 2003 mackerel stock assessment panel report are shown here, 5.28 to 8.4 with a best point estimate of 6.7 and those are the options we took out to the public hearing and it's been analyzed in the document. The council's preferred is the best point estimate.

Last night, Steve Branstetter pointed out to me that we do have that provision and in looking at the values, the best point estimate of MSY from the 2003 mackerel stock assessment panel report is 5.2 million pounds and so the highest we can set the TAC under the framework provisions would be 10 percent above that, which would be 5.72 million pounds.

If you turn to the next page, Table 3, it will show the impacts of this. These are the alternatives, Spanish mackerel on the right hand side, Action 2. We don't have the figures here, but 5.72 million pounds would work out -- The way the allocation is done, it's 55 percent commercial and

45 percent recreational and so the commercial quota -- The highest we could set it would then be 3.146 million pounds.

If you look at the catches shown in Table 5, that shows that we would have exceeded the catches in each of the years 2002 through 2003 through 2005 and 2006. Based on our projections, we would exceed it in 2006 and 2007 as well. On the recreational side, the allocation would be 2.574 million pounds. These are all projected numbers here, based on projecting forward from the data that was in the 2003 mackerel stock assessment panel.

The Center is working on providing updated recreational catch data for both king and Spanish mackerel and so we will be able to look at what these actual numbers are, but based on these numbers here, it shows that on projecting forward the average catches you would be at about 2.074 and so roughly half-a-million pounds below the allocation.

We have to remember we raised the bag limit on Spanish and so we don't have real data to see what the impacts of that are. Also, you may want to give some consideration to in our scoping document we have an option in there to reduce the Spanish mackerel bag limit, because you've got -- On the recreational side, we're using an allocation. We're using bag limits and size limits to approximate that harvest, whereas on the commercial side we close the quota when the quota is met.

We have no limit on the number of recreational fishermen or the number of trips and with a high bag limit, you're really running the risk of exceeding that allocation and so we apologize for not catching that sooner, but the impacts of that are that under the framework the maximum that you could set the Spanish mackerel TAC would be 5.72 million pounds and I would be glad to answer any questions.

Mr. Mahood: Gregg, you may also want to talk a little bit about why the ABC range is so much higher and the midpoint is so much higher from the MSY range and midpoint.

Mr. Waugh: If you look at Table 2, what this is showing you is that right now the biomass of -- As of the data in the 2003 stock assessment, which I believe was through 2001, that the biomass is above MSY. In essence, what you could do, by setting your TAC at 6.7, you would be fishing the stock down to the MSY level and so that's why these numbers, the ABC, is higher than the MSY.

Again, these total catch estimates here incorporate actual commercial data, but projected recreational data and you can see that while all of these are below the council's preferred thus far on TAC, all of them do exceed the best point estimate of MSY.

Dr. Daniel: I think the problem is we don't know how to manage a healthy stock. I guess the one point that jumps out at me though is I can't understand why we don't have recreational landings after 2001. That seems odd to me. We've got the numbers for North Carolina up through 2005 have been certified and they've averaged around 450,000 pounds and have been pretty stable, actually.

If you are using the 2000 numbers, those were the highest we've had in a long time and so just FYI, our average landings from 2001 through 2005 are about 450,000 pounds in North Carolina and I can't imagine that there's not more up-to-date information than 2001 for the South Atlantic.

It seems like to me, Mr. Chairman, we need to figure out -- We've had the allocation issues. It was 50/50 and we went to the 55/45 with the idea that we would go 60/40 ultimately. That's one opportunity that we had to discuss, but there should be a way that we can go in and perhaps change that requirement on the MSY, if your B over BMSY value is at a certain level so that we can take advantage of this.

I recognize that we would be fishing the stock down some and that's a question that this committee needs to discuss, but right now, as I understand it, we're at about 55 percent SPR and we can have the stock at 40 percent and be considered healthy.

Mr. Geiger: It kind of puts us in a box here, because we've got Spanish mixed with king in this regulatory amendment going forward. I guess the question I have and we discussed this on the break, but I never -- This is probably a little bit different, because I didn't discuss it with you, Monica, but if we were to -- Is there any possible way we can move forward with the regulatory amendment addressing the king mackerel issue TAC and take Spanish mackerel out?

The rationale for doing that -- I understand they're linked, but the stock assessment, the mackerel stock assessment that was done in 2004, did not address Spanish mackerel. It only addressed king mackerel. The Spanish mackerel numbers that we have up here were developed pre-SEDAR from the mackerel stock assessment panel.

We're not really acting on a SEDAR and we've got a SEDAR for Spanish, thank God, thanks to Louis, because we pushed this at a previous meeting to get it on the SEDAR schedule. We've got a Spanish mackerel stock assessment scheduled in 2008. I guess the first question is are we in the box that we cannot take Spanish mackerel out of the regulatory amendment and work on this issue and allow the regulatory amendment to move forward for king mackerel in the fishing year option?

Ms. Smit-Brunello: I guess, George, it depends on the record that we've developing in order to do that. First of all, I agree with what Gregg said on how the framework is set out. There's a number of provisions in the framework that probably ought to be cleaned up and brought forward into the present.

It's just old and it was done a long time ago and so I agree with what Gregg told you in terms of setting it no more than 10 percent above the midpoint. I need to hear some more rationale as to why this is okay for king mackerel, why the SEDAR assessment is okay to use for king mackerel in this case but not for Spanish mackerel.

Mr. Geiger: The SEDAR didn't produce any findings for Spanish mackerel. It covered king mackerel only. The data that we have up here was developed as a result of a pre-SEDAR stock assessment, which was then called the Mackerel Stock Assessment Panel.

Ms. Smit-Brunello: Right and I misspoke. When did you say that Spanish is on for SEDAR?

Mr. Geiger: 2008.

Ms. Smit-Brunello: I'm thinking about it.

Dr. Daniel: The 2003 report of the Mackerel Stock Assessment Panel was with data through when?

Mr. Geiger: 2001.

Mr. Harris: Can we change the allocation between commercial and recreational through framework or not? I can't remember whether that was allowed in the framework actions.

Ms. Smit-Brunello: I believe it says you can adjust user group allocations in response to changes in TACs according to the formula specified in the FMP. That's what it says. Hold on. There could be more in here and so let me look at this. There's some additional language that says the reallocation of Spanish mackerel between recreational and commercial fishermen may be made through the framework after consideration of changes in the social and/or economic characteristics of the fishery. Such allocation adjustments shall not be greater than a 10 percent change in one year to either sector's allocation. Changes may be implemented over several years to reach a desired goal, but must be assessed each year relative to changes in TAC and social and/or economic impacts to either sector of the fishery.

Mr. Harris: What I heard you say is we could do that, as long as we don't change it by more than 10 percent, based on the new information we've received. We used to have acres and acres of Spanish mackerel off the coast of Georgia during the summer months and we don't have that anymore and so I don't know what's happened to the Spanish population off of our coastline. I don't know what it's like off of South Carolina. We don't have any appreciable commercial fishery for Spanish mackerel off the coast of Georgia.

I hate to see us have such an impact on the commercial fishery when we've got a new stock assessment coming up for Spanish mackerel in less than two years. I would be willing, as a member of the Mackerel Committee, to make the change in allocation between commercial and recreational only until such time, however, as the new SEDAR stock assessment for Spanish mackerel is done. It seems to me that that's a reasonable approach at this point in time.

Ms. Merritt: I would tend to agree with Duane in light of the comments that Ben Hartig made last night regarding the Spanish off Florida's coast being affected so tremendously due to various conditions.

Mr. Geiger: The one caution I guess -- I hate to throw a monkey wrench into any of this and correct me if I'm wrong here, Gregg, but the total estimated catches from 2002 to 2006, that 5.28 through 5.65, exceeds the MSY. Here we're exceeding and have been, the best point estimate, all those years and does that mandate that we have to do something? Does allocating a loan of 5 percent of that stock to the commercial industry until the results of the stock assessment are provided, does that solve that problem?

Dr. Crabtree: Remember that yes, you've exceeded the best point estimate of MSY, but that's because the biomass has been high. It doesn't mean you're overfishing. You're just caught by a, at this point, a provision in your framework that says you can't have the TAC be more than 10 percent above. You're not in a position -- I don't think there's anything in any of this to indicate we're overfishing Spanish mackerel.

I think probably the stock biomass is coming down over time. Now if you took the document you have now and made it a plan amendment, you could amend the framework in it, but that would likely mean more time is required for it and I think it would then have to be approved by the Gulf Council if it amended the framework.

In terms of splitting it out, I think it gets a little dicey then to explain why you're going with king, but not with Spanish. I'm not saying you couldn't do that, but it's just sort of a tricky issue that may be difficult to resolve here today.

Mr. Mahood: Remember, the problem we run into is this is an artifact from 1985 when we were rebuilding the stock and if you look at the original wording, you can see that that was the intent, when you set any TAC, it cannot exceed the best point estimate of MSY by more than 10 percent.

Also, when we did that, we were looking at one stock of fish managed between the Gulf and the South Atlantic. We had not split the Spanish mackerel out yet and I think the MSY was twenty-seven million pounds or something like that. In going through this last night, there's a lot of places in our old documents where we have these artifacts that we just haven't had a chance, as Monica said, to go back and clean up.

I think in the next amendment we do to mackerel, the actual plan amendment, we certainly will look at that and if not, maybe in the ecosystem plan when we speak to mackerel we will clean a lot of this up. One of the things that is evident not just in this plan, but in snapper grouper, but we don't have one up-to-date document. It's all a series of amendments to a primary plan.

If you go back and start looking at some of these things, they're very antiquated and they're out of date and actually, Spanish mackerel, we were still looking at SPRs when we did this particular assessment here. It's not a SEDAR assessment looking at the way we look at biomass today in our SEDAR assessments and so we're kind of caught in this thing. How you all work your way out of it, I'm here to watch.

Mr. Geiger: I certainly invite other council members who are not members of this committee to weigh in, as they do so vociferously on other issues in other committees. Please help us if you have an idea.

Mr. Currin: I'm not a member of your committee. I am going to weigh in just with one concern. I wish I had some magic bullet to take care of this problem, because it's very concerning. Just as you discuss this issue and already have addressed the one that I'm going to comment on now and that is the transfer of allocation from the recreational fishery to the commercial fishery.

I think, if I examine my history, I probably would have approved some of that sometime in the past. I just would state today that as a general rule that's extremely troubling to me, just as a general principle. I'll look forward to hearing the discussion from your committee and further discussion at the council if this moves along.

Dr. Daniel: To that point, I agree with Mac and I think that there are circumstances when we've seen unused quota on one side be taken by other sectors of the fishery and that is disturbing and troubling to a lot of folks. As I recall back six years ago or whenever when we were doing this framework issue and we were discussing the framework allocation part of the plan, what we were trying to do was restore the allocation back to the historical level, as I recall.

The historical level was a higher level of landings attributed to the commercial fishery versus the recreational fishery, as I recall. I think the historical allocation was, I think, 60/40 commercial and I may be wrong. Susan is here and David is here, but what we were trying to do was get that back and we were going to do it in baby steps rather than all at once.

That would be the only reason I would support changing the allocation back to our historical reason of getting it back to the levels that it was in the past. Another issue that we can consider, just to try to throw ideas out on the table, is we've had these concerns about the fifteen fish bag limit anyway and so this may give us an opportunity to go ahead and move forward and address that issue as well, but then the message that sends to the recreational fishery, I don't know if that's good or not. Staff, weigh in, please, or Susan or whomever, about the historical allocation and what our intent was back when we started this whole thing.

Mr. Geiger: In regard to the fifteen fish bag limit, I think that's already been discussed via the AP and in committee in previous meetings and I don't know that there's any objection. As a matter of a fact, we've had recommendations to lower that bag limit, virtually from every quarter.

Ms. Shipman: The only other thing I would add is some of it was prompted by the net ban in Florida and the whole shift down there and what was going on and we were having to set TACs so high, actually above the ABC point estimates, in order to allow different sectors to take a certain amount of fish.

The apportionment was out of whack between commercial and recreational and so in order not to go that other artificial route of letting sectors catch what they were capable of catching and we

recognized the stock was healthy, we then starting shifting that apportionment, as I recall, in 5 percent increments, because we didn't want to do it in one fell swoop. Some of that on Spanish and, David, help me out, but I think a good deal of that was prompted by the gillnet ban and just the whole shift and I think that's why the language is in the CFR the way it is, talking about socioeconomics and cultural changes, because there was a huge change in that fishery.

Mr. Geiger: Monica, again, if we go back to this chart and we talk about the difference between SEDAR and the Mackerel Stock Assessment Panel, we've heard on numerous occasions from representatives of the Science Center and the people who were participating in the process the benefit of SEDAR in regard to the process and the better stock assessment information we're receiving via that process.

They even compare it to the old process in regard to how bad the old process was and the quality of the new stock assessment. If we don't have a SEDAR-based stock assessment from which to operate and we're working off this Mackerel Stock Assessment Panel, which has been testified to on numerous occasions to being a less than satisfactory way to assess the stocks, couldn't we just hold Spanish in abeyance and not take any action on Spanish mackerel and utilize the SEDAR-approved stock assessment as the basis to move forward with the TAC action on king mackerel and changing the fishing year, which doesn't have anything to do with any SEDAR?

Ms. Smit-Brunello: What you have in front of you is the best scientific information that's available and this hasn't been assessed by SEDAR, that's true, but what you're getting out of your mackerel stock assessment plan is that it's too high for Spanish now. I don't know -- You can try it and try it the best you can.

Mr. Geiger: Was best available data even a concept in anybody's mind when we did the Mackerel Stock Assessment Panel and did our SSC certify that, in today's language, as the best available science? I understand that's the basis under which we have to operate and I'm wondering now, does the best available science moniker carry over to data that is five or six years old, pre-SEDAR, and questionable?

Ms. Smit-Brunello: Gregg, did the council's SSC look at this 2003 mackerel stock assessment report?

Mr. Waugh: I believe they did, yes.

Ms. Smit-Brunello: Do you recall whether they said that they disagreed with it?

Mr. Waugh: No, I don't believe they disagreed with.

Ms. Smit-Brunello: They agreed with it?

Mr. Waugh: Yes.

Dr. Daniel: I'm going to maybe make my last chairman statement. It's a good idea, but it's a very slippery slope. There is a lot of actions in place right now that aren't based on SEDAR stock assessments that are very controversial that are very concerning to a lot of folks and if we go back and say we don't have a SEDAR assessment -- We don't have one on speckled hind, we don't have one on warsaws, and we don't one on a lot of things. I would caution us going that route.

Mr. Geiger: That's good advice.

Dr. Crabtree: Louis has a good point on that. We were prepared to move on this as best available and now we find there's a 10 percent provision in our framework, but I don't know that the existence of that 10 percent provision in the framework has anything to do about what's best available. It either is or it isn't.

Mr. Geiger: I understand. I'm just casting, casting about. It seems like we have an option and only one option and that's to delay any action on the framework until we resolve this issue and we're going to have to take time and see what we can do. If we can resolve it between now and the December meeting, I think we can have -- We have to change the numbers and the best point estimate. Bob, we may have to have another public hearing down in Florida and we can have another public hearing up in North Carolina and address it at the December meeting.

Mr. Mahood: I think that's only fair to the public, because what we presented to the public was not the true picture, because we didn't realize the limitations of the 10 percent until after the public hearings. I think we certainly need to give the public an opportunity to comment on that again.

Mr. Geiger: This is not an entirely bad story. I think we can put some lipstick on this a bit by saying that -- We can pretty it up a bit. We have a process of checks and balances and the process works. We caught this and we're going to correct it and we're going to move forward and do what's right for the stock. I think that's a win/win situation for everybody.

Ms. Smit-Brunello: I apologize for not catching this at the June meeting too and not bringing this to your attention and so we are where we are.

Mr. Geiger: It's not like you don't have anything else to do, Monica. We understand. Do we need a motion, Gregg, to do anything with this?

Mr. Waugh: Yes, we would, because right now, the council -- If you look at Table 3, which is on page 1063 of the briefing book document, the council's preferred alternative is 6.7 million pounds. If I understand your intent, you would be instructing us to -- You would need to make a motion on a new preferred alternative and if you're living within the constraints of the framework, that would be 5.72 million pounds.

Given that that's the maximum, then our suggestion would be the current preferred and Alternative 4 would both go into an appendix as unreasonable alternatives, given that they don't meet the framework.

Then we would have the status quo, the current Alternative 3 of 5.2, and then, should you choose to do it, a preferred at 5.72 and then we would redo the analyses and in our discussions thus far with the economists in the region, if any of these alternatives would likely result in impacts on the fishery, then we would have to do a higher level of analysis. There will be a higher level of analysis necessary.

In addition, we've gotten some comments from the region on the framework and so we would address those as well, but to come back to your question, yes, we would need a motion to change your preferred and guidance on moving Alternatives 2 and 4 to the appendix.

Ms. Smit-Brunello: I heard discussion before from Duane about shifting 10 percent of the allocation from recreational to commercial. Is that also a viable alternative that you want to put in here?

Dr. Daniel: If we can go above by 10 percent, to the 5.72, and we have -- If we moved it 10 percent, that would be 65 commercial and 35 recreational and I don't know what that -- It's currently 55/45 and we could move it to 60/40, I guess, or what's the maximum?

Mr. Waugh: The framework allows you to move 10 percent. We've got the numbers if you went to 60/40. The commercial allocation would be 3.432, which would have been exceeded in all but 2002 and 2003. The recreational allocation would be 2.288, which is like 200,000 pounds above our projected harvest shown in Table 5. We'll have the figures if you want to look at 65/35. You could do 65/35, because you can shift it by 10 percent in the framework.

Mr. Mahood: We'll work with the region to possibly get some more definite numbers on the recreational catch side from some of those earlier years.

Mr. Geiger: When Duane discussed this earlier, this was a loan until the stock assessment is done.

Dr. Daniel: It seems like to me that that sort of allows us to maintain very close to status quo until we get the assessment and determine what's the most appropriate allocation and TAC.

Dr. Crabtree: Your rationale for this would be that the recreational fishery is not catching it and so you're going to move some over to the commercial fishery on a temporary basis and it doesn't require more constraints on the recreational fishery, because they weren't catching it anyway, and so you would do this to mitigate economic impacts on the commercial sector and you feel it would have no impact on the recreational sector. That's kind of what I'm hearing.

Dr. Daniel: Somewhere in the record is a discussion where our ultimate goal with that allowance to change the percentage -- Somewhere in the record is a discussion that we wanted to ultimately get to 60/40, because that was the historical split. That's in the record somewhere.

Dr. Crabtree: That will need to be in the document and reflect that. Then the other thing that is key, and Bob just came to it, is this is going to make it critical that we get the updated recreational landings for Spanish. We don't want to do this and then find out their catch has gone way up and then we're going to have another problem.

Mr. Geiger: Correct me if I'm wrong here, but this is going to go into a public hearing document and we're going to get a chance for people in Florida and North Carolina to address shifting that recreational allocation by 5 percent or whatever that number comes out to be.

Dr. Crabtree: I expect that will get a lot of interest.

Mr. Geiger: I suspect you're right.

Ms. Smit-Brunello: George, there's no need to bring it out in South Carolina or Georgia?

Mr. Geiger: Good question.

Mr. Mahood: I think that's up to the council members in South Carolina and Georgia, whether they would like to have this taken out there also.

Mr. Geiger: Can we hear from the state directors your druthers?

Ms. Shipman: We only had three at our MPA meeting and none of them were fishermen and I'm not even sure we have commercial mackerel permit holders now. I would have to look. We would have to look at that, but I don't think we have many. Duane and I were just talking and our Spanish catch is down so much. I don't think it will be an issue for us to hold a hearing, quite honestly. I think our folks, as long as they had an opportunity to comment in writing, that would be sufficient.

Mr. Boyles: Unlike Georgia, we did have a number of folks at our MPA public hearing. I think probably to be on the safe side, it probably is worth considering at least one in South Carolina, perhaps Charleston.

Mr. Geiger: I see a key recreational player in the back. Dick, do you have anything that you can contribute in regard to the needs for public input?

Mr. Brame: I think you'll get a lot of public input, wherever you hold a hearing, especially if the perception is you've dropped the bag limit from fifteen to ten so you could shift 10 percent or 5 percent to the commercial fishery, which is exactly what I -- It's not your rationale, but that's how it's going to be played.

Plus, the value in the recreational fishery is in fish in the water. It's not carcasses on the dock and so we would prefer to fish under our allocation, in most cases, in order to have a more abundant stock and you heard Duane talk about not seeing fish in Georgia. The recreational fishery is dependent upon abundance.

We would, I think, be very, very opposed to this kind of shift. There's also a history with bluefish, and you all may not know that, where it was 83 percent recreational and 17 percent commercial, but they could shift I can't remember how many millions of pounds and it ended up being 50/50. We could have had a recovered stock and abundant bluefish, but we continued to shift allocation.

Mr. Geiger: What I'm hearing you say then, Dick, is public hearings and opportunities for people to speak in all four states.

Mr. Brame: I think you'll have a lot of folks.

Mr. Waugh: The question was at 65/35 the recreational allocation would then be 2.002 million pounds, which would have been exceeded in all the years, based on our projected catches.

Mr. Geiger: The recreational catches would have exceeded that?

Mr. Waugh: Correct, if you went with a 65/35.

Ms. Merritt: Do we need a motion to make this happen? Can you give me the words, Gregg, and I'll make the motion? To go forward with the public hearings to readdress the allocations, is that what we're looking for?

Mr. Waugh: I'm going to respectfully pass here.

Mr. Geiger: Rita, I think what we need to do is to --

Dr. Crabtree: Why don't you do two motions and do one that addresses the preferred and what the TAC is going to be and then do a separate motion to add something in here to look at the allocation thing? That would seem cleaner, to me, than trying to lump all this into one.

Mr. Geiger: I agree. What I would like to do is take a five-minute break and so at 11:35 we'll be back at the table.

(Whereupon, a brief recess was taken.)

Mr. Geiger: The Mackerel Committee is back in session. Committee, what is the recommendation for proceeding forward?

Dr. Daniel: I think we have a glitch in our framework that is going to create some significant problems and we need to fix that glitch in the framework. We can't fix the framework through

framework and so we're going to have to do a plan amendment to fix this problem. **I would make a motion that we cease any move forward with the regulatory amendment and develop a plan amendment to bring the framework up to date with the recovered stock.**

Mr. Geiger: Rita Merritt seconds. Any discussion?

Dr. Crabtree: I have a question. This would be a separate stand-alone amendment that would modify the framework and would this same amendment go ahead and specify the TACs and the things in it based on the amended framework? You would be taking all the things in the regulatory amendment and making it a plan amendment and then modifying the framework in that?

Dr. Daniel: Yes, that would be my intent, would be that we clarify the framework provisions for a recovered fishery, that we set the TACs with the new framework action, and send the whole thing forward as a plan amendment.

Ms. Smit-Brunello: There's a number of things that need to be changed in the framework. It shouldn't be just this particular item, but we should go through it and change what needs to be changed and update it. I guess Bob and Gregg ought to talk about the timing of all that, perhaps.

Mr. Geiger: That is the intent and, Louis, I think you're right. That's probably the cleanest way to go, is to just stop what we're doing rather than force the issue and rush through this. We're not under any pressure to really do anything. We're trying to manage a recovered fishery and I just think that probably this is the smartest thing to do. It's a slow down and do it properly and move forward, but we do need to hear about the timing issues, Gregg, please.

Mr. Waugh: What we would be doing is keeping the same actions, the same preferred, for the three actions we have in here. We would be adding a fourth action that would make changes to the framework. We would work with the region to make sure that -- There is a marked-up version of the framework with some changes, but I know the region has changes that need to be made and the Gulf probably has some stuff they want to change.

They would have to -- We would get with both the region and the Gulf and get any changes they want to make. We need just a little bit more guidance from you all on what changes you want to see, but I would suggest that we bring the complete document to you at the December meeting for you to look at. I'm not sure right now what the Gulf Council's meeting schedule is to get input from them, but there are other requirements to be met in doing a plan amendment versus a regulatory amendment.

We can bring you as complete a document as possible at the December meeting and then you would be approving it, hopefully, for public hearing at the December meeting. We would need things like a determination that an EA is still feasible for this, which I would think it would be, but then we would need concurrence from the Gulf to go out to public hearings. They would hold public hearings and we would hold public hearings. You won't make your March 2007 fishing year start. We would hopefully have it done by March of 2008.

Ms. Smit-Brunello: The Gulf meets approximately the second week in November and then the second week in January. Also, do you want this to precede the divorce amendment?

Mr. Geiger: I can't speak for the motion maker, but do you want to address that, Louis?

Ms. Smit-Brunello: Do you want this to move along before or after the divorce amendment or it could move concurrently, I guess.

Dr. Daniel: I would say concurrently.

Mr. Geiger: The answer is concurrently.

Ms. Smit-Brunello: To the staff's ability to work on it -- It may run into snags here and there and I'm not certain and I guess you can deal with that as they arise.

Mr. Waugh: We would be finishing this plan amendment and I hate to point this out, but we would be finishing this right as we were getting results from the Spanish mackerel SEDAR in 2008, just to factor into your consideration.

Mr. Geiger: You're going to have to make changes to the framework anyway when you have results from the new Spanish mackerel SEDAR and so it would be much easier to have a new framework up to date to move forward with those SEDAR results.

Dr. Daniel: We can come back with a new TAC range that gives us ten million pounds and we would still be stuck at the 5.2 and so I think we've got to continue to move forward with this. Otherwise, it's just going to be a band-aid until we do this.

Ms. Shipman: I'm not on your committee and so thanks for entertaining my comments. I also think because of the SEDAR assessment that it's really important that the divorce amendment move along, because the outcome of that will be influenced -- How that's dealt with will be influenced by whether it's still a joint plan or not and so I definitely think we need to be moving along on that.

Mr. Brown: I was just going to tell you the date for the Gulf Council meeting is the week of November 13<sup>th</sup> in Galveston and the following one is the week of January 22<sup>nd</sup> in Point Clear, Alabama.

Mr. Geiger: Just to be clear now -- Frank brought this up during our caucus on the break. For the members of the public that are here, there will be no public hearings conducted between now and the December meeting and we will not be taking any action on this at the December meeting, just so that's clear. Any other issues? **Is there any opposition to the motion that's currently on the floor, to cease moving forward on the regulatory amendment and develop a plan amendment to bring the framework up to date? Is there any opposition? Seeing none, the motion carries.**

Mr. Cupka: Does that mean we don't have to wait until 4:30 tomorrow for the public comments on the regulatory amendment?

Mr. Geiger: That's a good point. I'll be here. I'll be here to inform the public what we're doing. Any other business? Seeing no other business, that concludes the Mackerel Committee and we stand adjourned.

(Whereupon, the meeting adjourned at 11:50 o'clock a.m., September 20, 2006.)

Certified by: \_\_\_\_\_ Date: \_\_\_\_\_

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Graham Transcription  
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