

**SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

**MARINE RESERVE COMMITTEE MEETING**

**Atlantic Beach, NC**

**November 28, 2000**

**MINUTES**

**Marine Reserves Members:**

Dr. John Dean, Chairman  
Fulton Love  
Jodie Gay  
Ebbie LeMaster

Bill Cole  
Wayne Lee  
Tony Iarocci

**Council Members:**

Dr. Louis Daniel  
Glenn Durden  
Dr. Joe Powers

LTCDR Dave Cinalli  
Dr. Roy Williams  
Susan Shipman

**Council Staff:**

Bob Mahood  
Roger Pugliese  
Kim Iverson  
Ashley Gerhardt

Gregg Waugh  
Dr. Kathi Kitner  
Kerry O'Malley  
Deb Buscher

**Presenters:**

Reed Bohne

**Observers/Participants:**

Dr. John Merriner  
Ronald Smith  
Dr. Alexander Stone  
Tracy Dunn  
Robert Cardin  
Kay Williams  
Mike Burton  
Columbus Brown  
Jerry Schill  
Homer Bryson  
Craig Hardy  
Tom Potts  
Robert Cox  
Mike Street  
Bob Dixon

Monica Smit-Brunello  
Dr. Jim Weaver  
Dr. Joe Kimmel  
Terri Gay  
Marianne Cufone  
Dr. Joe Desfosse  
Dr. Theo Brainderd  
Becky Shortland  
Melvin Shepard  
Dr. Doug Vaughan  
Jim Francesconi  
Jeff Govoni  
Robert Purify  
Fritz Rohde  
Dustin Schrimpster

The Marine Reserves Committee of the South Atlantic Fishery Management Council convened in the Pamlico/Hatteras Room at the Sheraton Atlantic Beach Hotel, Atlantic Beach, North Carolina, Tuesday afternoon, November 28, 2000, and was called to order at 1:10 o'clock p.m. by Chairman John M. Dean.

Dr. Dean: I would like to convene the Marine Reserves Committee. The first order of business is the approval of the agenda. Are there any changes in the agenda that any committee member would like to propose?

Mr. Gay: Move approval.

Mr. Cole: I second.

Dr. Dean: I have got it moved and seconded. Any opposition? Seeing none, we will operate off the agenda. The minutes of the September 20th meeting were sent as a separate package. Are there any comments or corrections to the minutes?

Mr. Gay: I move approval.

Mr. Lee: I second.

Dr. Dean: Second by Wayne Lee. Approval of the minutes as distributed, is there any objection? Seeing none, the minutes stand approved.

The next item is the most substantive issue that we have before us, and that is to discuss the development of the criteria for the marine reserves.

This issue, which has been before this Council for several years now, is, of course, also a major national initiative that is out there and there is a lot of attention being paid to it. Of course, there is a committee that has been -- the nominations went in and this Committee and the Council supported two candidates, and then we nominated Tony as a member from this committee.

When those appointments will be made, of course, is sometime in the future, but it shows the attention that the area is getting. In addition, there is a new study out done by the National Academy of Science's Natural Research Council.

That book and that report is available on the net, but it has not been printed yet, but you can see it. The title is "Marine Protected Areas: Tools for Sustaining Ocean Ecosystems." I thought it might be useful for us just to have the opening paragraph of the executive summary because I think it effectively frames the agenda and the premise under which this committee has been operating.

If you will permit me, I am going to read that into the record:

Declining yields in many fisheries and decay of treasured marine habitats, such as coral reefs, has heightened interest in establishing a comprehensive system of marine protected areas in the United States.

MPA's, areas designated for special protection to enhance the management of marine resources, show promise as components of a ecosystem-based approach for conserving the ocean's living assets.

However, MPA proposals often raise significant controversy, especially the provisions for marine reserves zoned within an MPA where removal or disturbance of resources is prohibited and sometimes referred to as closed or no-take areas.

Some of the opposition to MPA's lies in resistance to fencing the sea, reflecting a long tradition of open access. This opposition continues despite compelling empirical evidence and strong theoretical arguments indicating the value of using reserves as a tool to improve fisheries management, to preserve habitat and biodiversity and to enhance the aesthetic and recreational value of marine areas.

The controversy persists because we lack a scientific consensus on the optimal design and use of reserves and we have only limited experience in determining the cost and benefits relative to more conventional management approaches.

The current decline in the health of the ocean's living resources, an indication of the inadequacy of conventional approaches, and the increasing level of threat have made it more urgent to evaluate how MPA's and reserves can be employed in the United States to solve some of the pressing problems of marine management.

Now, we have been using the term "marine reserves", as I understand the history, on a very broad base; that is, to this committee, it is my understanding that marine reserves can be a number of different kinds of management areas and we can use it as a tool on a broad base, not exclusive as a no-take zone. Is that accurate?

I just want to make sure that we understand that that is the framework that we are using. I would like for the Committee to think about perhaps considering our looking at the use of the term "MPA's" as an umbrella, because that is where the rest of the jargon and literature is going; that is, MPA is a broader term and we have been using that synonymously with marine reserves.

I think that is something we want to consider, but not today, however. We still need to move forward today on the issue, and the agenda item of the criteria that we need to put in the scoping document that we take forward for public comment.

We had a distribution of a form that listed items that came out of the AP's and so forth and asked for comment on that. Kerry synthesized that comment in a document that is in the briefing book on Page 4; and as part of the response to that, Wayne Lee was gracious

enough to put even more thought into it and Wayne is going to give us his ideas as a way to move us forward.

I am sorry; I have jumped ahead of myself. We wanted to do the Gray's Reef material first, I apologize. We are going to skip back and do Item 3, and there has been discussion with Gray's Reef. We have the Memorandum of Understanding to come before us, but first of all, there has been some staff interactions and, Reed, would you give us a briefing on that.

Mr. Bohne: As many of you know, Gray's Reef is in the process of revising its management plan. We have distributed recently -- and I hope all of the committee have it -- a document called "The State of the Sanctuary Report".

I have some extra copies here if members are interested in picking one up. As part of our management plan process, we began with initial hearings, and this was at a time when the Council was also considering marine reserves.

This was an issue that was very prominent in our scoping hearings; and as a result of the analysis since that time and the actions that the Council has taken, most recently in September, to continue to move forward with the marine reserve concept, we have had discussions with Council staff about the advisability of combining these processes to bring consideration of any marine reserve status, as it may develop, into the Council Marine Reserve Process.

We feel that that is an appropriate approach rather than going down independent paths, for a number of reasons, from a management perspective because it reduces the duplication of effort. It also is very much in accord with the spirit and the intent of the Memorandum of Understanding that we will discuss shortly.

Also, from a scientific perspective in that any consideration that may be given to the sanctuary would be part of a much broader regional scientific analysis that would be conducted as well as a public process that would be conducted by the Council.

We discussed this with Council staff and also with our own Sanctuary Advisory Council. Our Council has endorsed the concept, and we have also met with the Georgia DNR on this and had positive discussions about the concept of working together through this process.

What we have proposed, and what we ask your input on, are your views on the benefits and any disadvantages that you may see in the Sanctuary and the Council addressing the marine reserve issue jointly.

Again, from our perspective as well, we also believe that the Council has the breadth of scientific and management expertise that will also support any consideration of Gray's Reef that we would not be able to bring to the table, otherwise.

We have proposed this and present it to you now and are very interested in any comments that you may have. We haven't really worked out any sort of nuts and bolts about how this might occur.

Our thoughts are that initially we might, based on your discussions, meet with staff and sort of outline the kinds of things that we might be able to bring to the table to help support your efforts and begin working on that process.

I know that the Council is looking towards the development of a scoping document. We think the sanctuary program, in its experience in the Florida Keys and currently out in California, has developed some tools that may be of interest and may be of use to the Council in looking at the marine reserve question on a broad regional level. We are very interested in working closely with you toward that end. I will just leave that for now, John.

Dr. Dean: Any questions or comments for Reed at this point? Kerry, you were in on those discussions, and would you give us a little bit of staff's perspective?

Ms. O'Malley: Sure. We have hammered this out back and forth and had many conversations, but the way I see it unfolding is that the Council is going to move forward in the process we have laid out.

As we go along, there will be times when Gray's Reef's body of knowledge and body of tools will be able to help us get to where we need to go in that process, but the Council will not deviate from the process we are on and is still in charge of the whole process.

The tools that they have available are amazing, and they could help us very much, and our staff has a great way of working together, so I see us -- in a lot of ways, I see it very informal, as we spoke of this morning, where we call up Reed and Becky and ask if they can help us with this and that sort of situation.

Mr. Bohne: One of the other areas that we also think we would be able to tap is some of the other elements of NOS that might be able to bring some resources to the process as well that may not be readily available, otherwise.

Dr. Dean: Reed, I just want a little clarification. You used the words that we proceed jointly and that may be interpreted differently by other people; and based on what you said this morning and what Kerry said, I think cooperatively would be a better term.

That is that we are independent of one another, but we are going to bring what we need together, but we are not linked on this as we go forward; is that right?

Mr. Bohne: Yes, I think cooperation is the key word. Of course, we operate under our own statutes and maintain our own responsibilities in that regard, but I think that in a collaborative, cooperative way, we can both enhance each other's process.

Dr. Dean: Any comments or questions?

Mr. Love: Kerry, could this lead to a no-take zone if we take this Gray's Reef into marine reserves and the Council has authority to start setting up areas of no take? It is a hot topic in Georgia, and I just want to make sure that we are not headed in that direction at this time.

Dr. Dean: Fulton, I think you probably just demonstrated what I was saying, and that is that we are not taking in Gray's Reef. Gray's Reef is, to me at least, an example of a marine protected area that has special designation.

It has its criteria, as Reed mentioned, and its responsibility. We can look at it as one of a type of management that goes on, but we are going to proceed with the development of reserves, and I suggest maybe a broadening of the reserve term, not limiting reserve -- let me begin again on that.

Marine protected areas can include a number of different kinds of management units under that umbrella. One type of unit might be in some place in the region a no-take zone, but we are not suggesting that all MPA's are no-take zones, nor do I think we have clarification on terminology yet, although in the National Academy report, I suspect there is a glossary, and we need to take a look at that.

If they define marine reserves as specific no-take zones, then we have to move away from that because that is not the only kind of special management area that we have in that concept. Kerry, do you have a comment?

Ms. O'Malley: Just to add to that, one of things we heard throughout our informal meetings and the scoping meetings we had in Georgia from the fishermen were we feel more comfortable with the Council process because we know it.

That was at the time when Gray's Reef was still going through their scoping process and we were going through ours, and they said over and over again, at least to me, that they were comfortable with the Council process, they understood the Council process, and they would rather see the concept of reserves be moved forward through the Council process.

To me, how I interpret this -- and tell me if I am wrong -- is that is what I see happening here. If I am wrong, someone please tell me, because it is an important point to get straight.

Mr. Bohne: Sort of tactically, what we are proposing is to not continue consideration of a marine reserve at Gray's Reef through our management plan process, which is scheduled to be complete in the fall of 2001.

We are sort of taking that out of this analysis and working cooperatively with the Council on their time table for evaluation in a broad regional sense; and then based on how that

evolves, looking again cooperatively at the end of the process as to where Gray's Reef fits in the final analysis.

Ms. Shipman: Thank you, John. I am not a committee member, but we have, as Reed indicated, had a number of discussions, and I very much appreciate their willingness and efforts, both Becky and Reed, to work with the state because, as Fulton noted, it has been quite a hot topic, and I think what they are proposing is a recognition of that and it is the way to go.

It is to work through the Council's process of evaluating marine reserves and Gray's Reef, as I understand it, would be evaluated in the context of the broader concept of marine reserves. We don't even have the criteria identified yet.

Once those are identified, Gray's Reef may or may not fit those criteria that the Council establishes. Then once we go our direction, it may be that they come back under the Sanctuary's Act, under some of their goals and objectives and may want to look further at it.

But for now they are going to -- I don't want to say defer, but they are cooperate with the Council process of looking at marine reserves.

I do think that is the way to go and I think we have to be very sensitive to how it gets communicated to the public, though, the way this arrangement and cooperation is going to work. Otherwise, I think the public is going to say the Council is going to make Gray's Reef a marine reserve.

Mr. Bohne: Right. That is something we did discuss specifically in our meetings with Council staff is whether we should try and craft a press release or some sort of announcement so that we have it as clearly defined as we possibly can about what we are discussing here, so that those kinds of confusions about what this is all about are minimized. We would be happy to do that if the Council approves this concept.

Dr. Dean: Does this Committee recommend that staff work together to develop a release? Heads are nodding concurrence on that. I have got concurrence, okay.

Mr. Gay: I am glad that Susan came and spoke in favor of this, because I didn't know quite what to do because it is delicate. And with Gray's Reef being associated -- I mean, I don't know that their being associated with the marine reserve process is as good as just being associated with the Council in some way, but somebody smarter than me will have to figure that out. If the delegates from Georgia are comfortable with it, I certainly am.

Mr. Cole: I think that this news release needs to be very specific, if you will, Mr. Chairman, as to the relationship with Gray's Reef and the long-standing relationship between this Council and Gray's Reef.

There are quite a few other marine sanctuaries and quite a few of them right around this immediate county, and one of the things that I think that we have to be cognizant of is not to, in any way, shape, form or fashion, let anyone think for one small moment that just because one marine sanctuary might be considered as a marine protected area, et cetera, that all NOS marine sanctuaries would be so included.

I think it is very important that we establish in this news release the long-standing efforts between this Council and Gray's Reef.

Dr. Dean: Okay, understood. Any further comments before we move on? I think this takes us directly to the MOU.

Mr. Iarocci: Yes, Mr. Chairman, I also agree with what they both just said, and also I want to say that working closely with the sanctuary in Florida and looking forward to working with Gray's Reef here, I think it's very important that the Sanctuary does keep going on with the Sanctuary Advisory Council.

I have to compliment you on this report here. It is excellent and I think everybody should look at page two, if you haven't read it, reread it and look at some of the goals and what the Sanctuary is trying to do through their Sanctuary Advisory Council Process.

I think by bringing in the different user groups and get the word out about exactly what they are trying to do and through our process with our AP's -- and we talked earlier today, Reed, about I also think that it is imperative that you do bring in the commercial fishing industry into this as small time as it is.

Every user group needs to be involved because through associations like Jerry's group and different groups in the sport fishing associations, they can get the word out.

And through our Council and the paperwork that Kim puts out, it gets the word out to the locals and that gets the misconceptions and the rumor mongers stopped right off the bat, especially about marine reserves, because we are going to be dealing with them, both of us, together, jointly in the future, I know it.

Dr. Dean: Okay. The MOU has been distributed to the Committee. This is the final draft that has been approved by the players here, so I am going to just call the roll and make sure that this is correct.

Ms. Smit-Brunello: Instead of calling it the final draft, let us call it the latest draft --

Dr. Dean: The latest draft.

Ms. Smit-Brunello: -- that all the parties have agreed to; because after it leaves here, if the Council likes this one or wants to modify it or whatever, then it will go through NOS and through NMFS, but hopefully most of that has all been taken care of.

Dr. Dean: As far as we are today, you say this is what is necessary for you at this moment in time to send forward?

Ms. Smit-Brunello: Sure, that is a fair statement.

Dr. Dean: Reed, you're --

Mr. Bohne: Yes.

Dr. Dean: And, Kerry, for us? All right. Susan.

Ms. Shipman: Yes, and we probably were the biggest sticking point.

Dr. Dean: I wasn't going to put that on the record.

Ms. Shipman: I will put it on the record, and they have really bent over backwards to accommodate and address some of the issues we had raised, and I very much appreciate their perseverance and patience and their help, Ted Beuttler and Monica and Reed and Becky. We are quite satisfied with it at this point.

Mr. Bohne: It is a better document as a result.

Dr. Dean: Are there any comments?

Mr. Cole: Monica, on Page 2, Item 3, Gray's Reef was designated as a marine sanctuary. Who did it? Doesn't it take a congressional designation?

Mr. Bohne: Jimmy Carter did it on January 16, 1981, just before he left office.

Mr. Cole: Maybe I don't want to go there.

Ms. Smit-Brunello: Bill, are you looking at -- just for the future, when we talk about this, are you looking at the marked-up version or the clean copy here?

Mr. Cole: I am looking at this one.

Dr. Dean: You have got the cross-throughs in your copy right, Bill?

Mr. Cole: Yes. Monica, my point here is that one of the questions that we are always going to get, when we take something like this to the public, is who did it and how was it done? Does it take the Congress to designate an area or can a president just sign a piece of paper and do it?

Ms. Smit-Brunello: So, you think it would be helpful if it went something like Gray's Reef was designated by presidential order or something like that?

Mr. Cole: It helps the public, I think, to understand how these things came about.

Mr. Bohne: Okay, but the process has changed since President Carter's day, too, and we want to give them the current process.

Mr. Cole: Yes. Here is where I am coming from; the local people here are going to feel a lot more comfortable that we are not going to turn what is on the other side of the inlet into one of these things just because it is a marine sanctuary, also, if they know that the Congress has to do something.

They are going to be scared to death, for instance, if they think that somebody can just sign a piece of paper and it can happen. My point is to let the public know what it takes to create these reserves, I mean the sanctuaries, okay? This is a very sensitive issue between the federal government and others on the coast of North Carolina.

Dr. Dean: Bill, let me ask you a question. This document is an operational document between all of us. What you are really addressing is something that has to be in all of the public material that goes out, it seems to me, and maybe that is a better place. In fact, it may be in the Gray's Reef report that we all got. I haven't looked at it from that perspective.

Mr. Bohne: I don't recall if we addressed that question in this report.

Dr. Dean: Is it necessary to lay it in this one?

Mr. Cole: To the extent that it clarifies for the public how things occur and how much process an area has to go through to become whatever it becomes, I think it is important. If you don't think it is necessary here, but I do think that -- where I am coming from on this, folks, is very simply this.

You can establish a national wildlife refuge in a whole lot of different ways, but the notion and one of the things that we are getting a tremendous amount of backlash from is the recent Administration's use of the Antiquities Act to just a sign a piece of paper and lock up a tremendous amount of land.

I don't want for us to lose the management potential of marine protected areas, et cetera, by our failure to communicate honestly to the public how these kinds of set asides, however they are done, for whatever reasons they are done, are accomplished in this society.

Dr. Dean: Bill, I agree with you in what we have got to do. Perhaps this is the place where we could use the news release to lay that out. As far as our operational memo of understanding, we know that we are dealing with Gray's Reef and we know how they came about.

**Is that fair enough? Do I have a recommendation that we send this to the Full Council, our report for consideration by Full Council.**

Mr. Lee: I will make a motion.

Mr. Gay: Second.

Dr. Dean: I have got a motion by Wayne Lee and second by Jodie Gay. Is there any opposition? Hearing none, so ordered, we have a memo to move forward. Actually, a lot of what Bill commented on is I think implicit in this issue of what are the criteria that we come to now.

Ms. O'Malley: The white paper.

Dr. Dean: The report on the white paper. The white paper was the vocabulary glossary that we looked at the last time and various persons have made comments, and it came back to the staff and it has been collated and revised and is on Bob Mahood's desk. It is on Bob Mahood's desk, and it will go from Bob back to the National Marine Fisheries Service.

Ms. O'Malley: My last conversation, I guess, over the computer with Jim was that the version of the white paper that you all saw dated 6/16/2000 -- I believe you all saw it at the last meeting -- has not changed.

They opened it up and said they would take the comments from the Council. Whatever comments I received, I have compiled and put in a letter and Bob is reviewing that letter right now to make sure it is okay. Then it will go to them, but the NMFS draft has not changed since you have seen it.

Dr. Dean: In effect, Kerry, I would like to ask if we can hold it until we can look at the glossary that is in the NRC report and see how that matches up.

Ms. O'Malley: It is your choice.

Dr. Dean: Okay, because I would like to see what the NRC uses as definitions and how that matches up with yours, or you can do that, and I am pointing at the National Marine Fisheries Service.

I just think it would be inappropriate for us to develop a glossary that we are operating on that was inconsistent with what that committee had done, or we are going to have to develop a strong rationale. Joe, do you have a feeling on that?

Dr. Powers: I would always argue for consistency. Basically, I think we kind of in an evolving process, so if we can avoid confusion by using some terminology standard, I think we should.

In terms of commenting on the white paper, I guess I am hesitating on which comes first. I don't have a strong feeling one way or the other, but I would argue for consistency.

Dr. Dean: For the minutes, this definition of terms then is a work in progress and our staff will work with the National Marine Fisheries Service staff and will report back at the next meeting.

If you will remember a few minutes ago, I introduced Wayne Lee with his analysis of the criteria, and, Wayne, would you give us the benefit of that now?

Mr. Lee: This is kind of my analysis, and please bear with me.

It is a very simplistic analysis of a very complex issue, and it is being done by a layman who really doesn't know a lot about the issue, but it is kind of trying to focus on this criteria and how we would use the criteria.

The briefing is an attempt to determine how we would prioritize the criteria and then how we would use that criteria to determine if we do need a marine reserve.

My thinking and focus on this was influenced by two articles. One was called "Ecological Advice for the Global Fishery Crisis" by Robert Kallum. Robert Kallum is from the University of York over in the U.K.

And, another article called "Marine Reserves; Can They Work?" by Ken Hinman kind of summarized a number of articles that Ken has written in his bulletins, and he is the president of the National Coalition for Marine Conservation.

Both of these articles and, of course, other articles kind of focus on the fact that marine reserves might be justified when traditional management measures have failed. Also, both of these articles focus on the fact that to protect species or multiple species or critical habitat would also be justification for marine reserves.

That then kind of formed the focus for me and how to look at and prioritize this criteria. If you can read this slide, you will see that there are a number of the criteria -- and this is, by the way, the 26th criteria that is listed in the PID and was also listed in the letter that Kerry sent out to us.

You will see there are some numbers one, two, three, and up to four. Then, beside the other criteria, I have the word "P" which stands for "process" in my mind, or in my little scenario, here.

The one, two, three, four does not indicate a prioritization of that particular criteria. What it indicates is where that criteria fits into this little four-step process that I went through.

In addition to the 26 basic criteria, I added another four criteria on and they are species, periodic review, sunset objective, and gear.

Step one of this process that I went through was there were kind of three rules or three maxims that kind of stood out in the process and they are as follows:

That traditional management has failed or is unsuited to provide protection;

The second one is that there are some types of activities that are ongoing that are causing adverse impacts to a species, to fisheries, to habitat that we have been unable to control with traditional management methods;

And the third thing is that all of our determinations, when we do marine reserves, must be based on the best science.

That seems kind of redundant in front of an audience like this, because we all know that we use the best science, but in all of the traditional management plans that I have been associated with, the issue that has brought the most public comment and the most concern is that the science that is being used to regulate the fishery or come up with the management measures, that the people don't agree with it.

We have to make sure that the best science is not only being used, but that we set up the communications process so that we are able to communicate this to our constituents or to the public.

After you get through those three little rules there, the four criteria that come out of the 30 criteria we are talking about are species and fisheries.

And, with species and fisheries, an example of what I am talking about is that you have used quotas, you have used bag limits, you have used closed areas, you have used restricted gear, and all of these things, for some reason, have failed to provide you the return or the recovery that you are interested in.

We need then to start focusing on something else to assist with this traditional management, and that then might drive us into the need for a marine reserve.

The second issue that I have there are criteria of spawning areas. That has been done down in the Gulf. They laid out a 220 square mile spawning area for black and gag groupers to protect a specific area, so that is a need that might drive us to focus in to have a marine reserve to do something specific like that.

The third issue is that we might have a need to protect some type of critical habitat or critical biodiversity, a coral head, rock ledges, live bottom, or submerged aquatic vegetation, whatever it might be; but if there is a need and traditional management isn't protecting a particular area, that then would drive us to focus in and maybe have some type of a marine reserve if we needed to do that.

The fourth criteria on there is research needs. There may be some areas that need to be laid out and need to be protected to provide us with certain types of information or certain

types of research. That also would cause us to focus in and say that we need a marine reserve.

Those are the four criteria that would come into play in this determination. Step two of the process is that once you determine that you need a marine reserve, you would have to focus on the issue of where does the problem exist and what are the boundaries, lengths and widths; in other words, location and size of the area which are two of the criteria out of that 26 that would come into play.

I think we want to be very careful as we go through this process, if we have to have marine reserves, that the area of those marine reserves is only necessary to do what is the objective of the marine reserve.

We don't want to just start closing parts of the ocean just to be closing it. In step three -- and this is kind of a very critical process as far as selling the marine reserve to the public. The reason I say that is because this is going to involve an allocation process; allocation from a standpoint that you could have restrictions on gear or you could have restrictions on activities.

An example would be that in the commercial fishery, we might restrict bottom trawls, we might restrict bottom longlines, but we might allow ocean gillnets or ocean trolling, so you could have an allocation there between commercial users.

Another example might be that you would stop all commercial activity and allow recreational activity, so then you would be driven to an allocation issue between recreational and commercial fishermen.

Of course, you have the other area where if you had a complete no- take zone, then you've allocated between all users because you have pushed them out of the area. This is going to be a very messy thing because you are going to have to determine what issues are important to achieve your objective, but you don't want to go beyond that.

We heard very recently, like down in the Gulf where they laid out the marine reserve or protected area for the spawning for the gag and black grouper, and they allowed fishing for highly migratory species, but they did not allow for fishing for coastal pelagic species.

Yet, fishing for coastal pelagic species would not have impacted on the rationale for why they set aside the marine reserve. As a result of that, they lost the support of the public, they lost the support of their constituency, and now they have been sued by the CCA to try to gain authority in there.

We want to make sure our determinations are correct when we say that this activity is allowed and that one is not allowed as we go through or into this process.

Finally, the fourth step of the little determination that I came up with was that you would have to set up the standards to evaluate the progress and to determine success.

That then uses these five additional criteria off of the list, and that is the periodic review, measurable goals, monitoring and time frame to evaluate results. The last issue, the sunset objective, I entered that in because I think that is important.

In my thinking, I think that was an important process to setting up a marine reserve. When you set up a marine reserve or the need for one, I think you need to make a determination on the front end as to what the goal of that marine reserve is.

It may be that you would say that this reserve will be here into perpetuity. In other words, it is always going to be there once it is set up. Again, you may have a different need for another marine reserve where you would say we are trying to supplement traditional management, we are trying to bring back stocks of snapper-grouper or whatever it is that we are trying to protect, and we sit down and focus on what the objective is that we are going to set up this marine reserve for, and hopefully in five years or ten years we would be able to say that we have brought the species back, we have recovered the species, we can declare victory, and then we can do away with the restraints.

If we are able to focus on this and put it in the front part of this determination, I think we would have better communication with our public and with our constituencies in selling them on the need, because they would then be able to see that their sacrifices are going to have return.

Briefly, in the process that I went through in thinking through these 26, or as it turns out, 30 critical criteria, I came up with the fact that 15 of the criteria was what I call critical to the process.

The balance of those would be used in your determinations when you are setting up a marine reserve, but to me they didn't form the focus for why we would need a marine reserve and how we would set that marine reserve up.

Secondly, it was kind of go back to ground zero -- that is kind of a military term -- or the bottom-up process. We must show that our management has failed or is unable to provide protection for whatever reasons; that the determinations would be based on the best science available; and that we would limit the area and nature of the reserve to what is necessary to achieve the goal; and that we would only restrict those activities necessary to achieve the goal; and we would include that process of the sunset provision.

That is kind of what I went through, Mr. Chairman.

Dr. Dean: Thank you, Wayne. I think that this is nice to have a perception and a format out on the table for discussion. I thought it might be useful, as we move forward with discussion of Wayne's and other alternatives and other considerations, to have the original goals in front of us.

When I read through this, it struck me that some of the items listed in here are, in fact, some of the goals, and one of our objectives last time was to try to reduce this list. Wayne went down to 15.

If we accept these as goals, then we don't have to have them as part of the criteria, that is a way we can reduce the list as well.

With that, I would point out, for example, Item 2, fishery sustainability.

That is a given, and that is what I was looking at, was to take some of those out of play right off the bat. With these two items, the floor is open for discussion on what are the criteria that we need to have and shape for the document as we go forward with scoping.

Mr. Love: Wayne, is it a possibility that a marine reserve could be a six-month reserve if you were trying to protect a species of fish that was moving through an area, and it was only in this area say for spawning; and as soon as they left this area, it could be opened back up for the taking of other species of fish that was in this area?

Mr. Lee: If you are asking for my opinion, Fulton, I would say absolutely that could be the goal and objective of a marine reserve. As I pointed out, as I went through this criteria trying to determine how you would use it and what was important, you would have to determine what the goal is and what you want to achieve.

If six months' closure is what is needed and you do that every year for five years, that would form the basis, I would think, for your objective for that particular marine reserve.

Mr. Iarocci: Wayne, I want to first off compliment you on your report. I have the article "Marine Reserves; Can They Work?" here and some other data, and I quoted from a lot of the stuff you had.

I don't want to be redundant and repetitious. You said a lot of the things I was going to bring up.

One thing I want to state -- and this goes along with what we are talking about at the present -- in June President Clinton instructed federal departments to begin developing a national system of marine protected areas, a term that encompasses a range of possible management options, including but not limited to no- take reserves; for example, the scallop fishery in New England.

It is a rotating closure days at sea. We have spawning closures. It is very important, and I think we have to get this through "National Fishermen," "Commercial Fishery News," "Florida Sportsman," "Sport Fishing Magazine."

Every periodical dealing with fisheries right now has articles coming out with marine reserves. It is very hot topic. We have to look at this from the Council standpoint and

working with the Sanctuary program to make sure that we get the right data out that this is not encompassing just marine reserves to close it off to the sea.

We are looking at this from the Council perspective as a management tool to help manage fisheries. You have covered a lot of our goals, criteria, and things in this. I think the process we are going through is great, but let's make sure we get that -- and don't get me wrong, each spot we look at should be its own identity and its own reserve, whether it is going to be a marine protected area with no fishing, or whatever, or a spawning closure or a revolving or a days at sea.

We have to look at the whole big picture, and I want not only the public but the Council to look at it that way, too, so we will all be on the same page.

Mr. Gay: Thank you, Mr. Chairman. I, too, want to commend my colleague from North Carolina. He has obviously put a tremendous amount of work into this and I for one appreciate it. Aside from that, Tony basically said what I was going to say.

Dr. Dean: Other comments as we move to the action phase here to get this into a manageable form? Let me pose something, then. If we take what Wayne was doing -- and let me give you some possibilities.

If you look at Page 4, which lists the criteria -- and I am dealing just with the one under marine reserves. The other lists are the synthesis that Kerry did as it came from the AP's; and frankly, as you scan it, you can see that there is some consistency with what is at the top and so forth.

If you will just go with me down this list; and what I am saying is if you look at the goals, which you all have already approved for the Council, the Items 2, 3, 4, and 13 -- 2, 3 and 4 are in the goals, and I would say that we could just take those off our list of consideration for this afternoon.

I am trying to reduce the list. Thirteen, legal mandates, it seems to me is in the PID material that says we do have the legal authority to proceed with our process in this. That is my initial proposition.

Dr. Daniel: Mr. Chairman, I am not on this Committee, but I too went through and did something very similar to that and did something similar to Wayne in that if you look at the criteria under marine reserves, AP, for example, you basically have three categories of issues here, and they include the development of a marine reserve, the sighting criteria for a marine reserve, and the criteria themselves for a marine reserve.

That is very similar to what Wayne has presented. It seems like to me that what we need to do, in terms of your actions, are to look at these different development, sighting and criteria, and sort of separate those out for your scoping document.

I think one of the main issues -- I mean, when I look at this, I see number five, size of area; number eight, allowable activities; and number twenty-one, timing for implementation as being generally the criteria for how these things are going to be set up.

Then you have got the sighting goals, which is basically what was asked of the advisory panels was to look at simply the criteria for sighting a marine reserve. Many of these issues don't really have to do with sighting of marine reserves.

I think that may be one of the reasons why we have such a disparate ranking system among the different AP's. Granted, it was difficult for Kerry to summarize them because everybody seemed to grade them differently, but I find it interesting that only one of the four groups put scientific basis even remotely towards the top of their criteria.

That is a suggestion on how to maybe break that up for your scoping document to clarify some of these things and maybe parse it out to where you don't have this huge laundry list.

Dr. Dean: Okay, so we have this proposition of using development, sighting criteria and criteria for reserves, which is more the implementation step. In fact, Louis, my breakout of the criteria was whether it was a process or implementation and I have got those listed on here. How about somebody else and their observations.

Mr. Gay: I am going back, Mr. Chairman, to when you said two, three, four, and thirteen I think should come out, are you talking about on the marine reserves column of that white page because there are four columns?

Dr. Dean: Yes, I am just using that column.

Mr. Gay: I understand. How can we take legal mandates out?

Dr. Dean: I am arguing that legal mandates, as I understand -- you know, I wasn't part of this, but what I was saying is what legal authority do we have to take this kind of activity? Do we have legal authority to set up marine reserves?

That is not part of the criteria; that is part of the point that Bill was making. This is where you have to be very specific and very careful. Is that right, Bill?

Mr. Cole: Yes.

Dr. Dean: We have got the legal authority; now how do you move forward? We have got to document that that is not part of the criteria that we use, as Louis was saying, the development of a reserve, the sighting criteria, and what I would say, the implementation phase.

Ms. Shipman: On the issue of the legal mandates, I agree, I don't necessarily think it is a criteria. I interpreted it a little bit differently, though. I looked at it more as there is a

legal mandate under the Sustainable Fisheries Act, SFA, to prevent overfishing and rebuild overfished stocks.

In so much as traditional measures have failed, could a marine reserve be the measure that, coupled with your traditional measures, would enable you to recover a stock. I looked at it a little bit differently, rather than we do have the legal authority to do it, certainly.

Dr. Dean: Susan, for the sake of this --

Ms. Shipman: I think it is an overriding principle. I don't think it is a criteria.

Dr. Dean: It is not a criteria.

Ms. Shipman: I just think it is an overriding principle.

Dr. Dean: That is what I am trying to do is --

Ms. Shipman: I think it probably needs to be laid out in the prologue.

Dr. Dean: We are trying to reduce the list.

Ms. Shipman: Yes, whatever you all end up with.

Dr. Dean: I also looked at number one, spawning areas; and number ten: life cycles. We can merge those items and that to me is one of the criteria that we have to deal with.

Louis, let me go back to you. Would you go back to your development items. What do you have as development items, and I want to see how that matches up with Wayne's. Wayne, your item step -- Wayne, help me out here. Louis, I want you to give us yours and then, Wayne, we will see where it fits with you.

Dr. Daniel: The way that I went through these at first was to look at what questions and what criteria do we need to consider before we even put one of these things into existence.

I felt like being able to quantify how they were going to act in terms of fishery sustainability, how they were going to deal with biodiversity and habitat and the scientific basis for their development and the timeframe to evaluate results; I think this all needs to be front end.

For the measurable goals, I think we need to be able to have in the development of these things. We need to be able to have these goals. The legal mandates I really wasn't quite sure.

Education obviously needs to front loaded in the development of these things. The other ones that I had, which included monitoring, urgency and degree of threat, regional considerations, socioeconomic impacts, cost to implement and maintain, social acceptance and enforcement and compliance, I had as both a development criteria as well as sighting criteria.

I don't think you can look at any of those mutually exclusive. I think, for example, when you look at monitoring, that needs to be developed early on in the process on how you are going to monitor these things, but also in sighting your reserve, you may want to use monitoring as a consideration, if you are going to have one that is ninety miles offshore versus twenty miles offshore.

The same thing applies to regional considerations. Obviously, you want to have certain criteria for North Carolina that may be different than Georgia that may be different from Florida. You also need to consider that when you are sighting your reserves as well as with the socioeconomic and that type of thing.

Then with enforcement and compliance, certainly enforcement and compliance is going to have a huge impact on sighting as well as in the development.

I think that is one of the critical aspects of the whole thing is enforcement and compliance. I don't see that those are exclusive, if that answers your question.

Mr. Lee: If I followed Louis all the way through there, I agree with everything except the enforcement thing. I thought a lot about enforcement in terms of enforcement is important. It is important in the process once you determine that you have a need for a marine reserve.

A marine reserve is not going to come about or result from any type of enforcement issues. That is a subsidiary issue to developing the need.

If you develop the need for a marine reserve, if it's to protect the spawning area or to protect a particular habitat, you have to go where that is at; and once you go there and once you determine where that area is and once you determine what the boundaries of the marine reserve are and what the goal is, then enforcement comes into play. That is just another one of those issues that I see as a process issue and not as a critical criteria issue.

Dr. Daniel: In response, I agree with you. Perhaps I was slightly misinterpreted in that. I am saying that we need to set up the enforcement criteria before we move forward with the marine reserve. That is sort of in the development process.

It is not necessarily an important issue that results in a marine reserve. It is essentially setting up the process such as monitoring and that type of thing. That gets me back -- that gets me on my soap box in terms of this whole process, and maybe the fact that we may be slightly one step ahead of the game here in that I feel like we are going to have a very difficult time with enforcement, with measurable goals, with fishery sustainability, and

with many of these criteria in the absence of any hard and fast information South Atlantic-wide that go in and show us specifically what the benefits of these things are.

That is why it seems like to me that the precursor step to all of this is to come up with some criteria, but then set up some experimental marine reserves and some artificial refugia and some small areas that can be monitored by the states, maybe in cooperation with the National Marine Fisheries Service, to determine what kind of measurable goals we are looking for and to determine if these things are enforceable or are we just setting up poaching reserves.

I think that is another step here, but I think that there is definitely an experimental phase that is being sort of left out of the mix in here that needs to occur before the development of a coastwide, large scale marine reserve system.

Mr. Lee: If I could just comment, I agree with you a hundred percent, Louis, in what you just said about having some kind of a small area for demonstration purposes before you move into the big one.

I would think that would be part of the process that you would use in coming up with that criteria that I listed on the front there: species fisheries protection, spawning area protection, habitat or research protection. That would fit right in there.

You would do some precautionary work first to see if the marine reserve does what you intended it to do, you can actually do. I wholeheartedly support that concept.

Dr. Dean: Let me see if I understand where we are on that. In the original piece, Louis, you talked about development and those criteria necessary to establish a site.

The second step of that is once you have this hypothetical site, then there are these other set of criteria that come into play as part of the analysis, and I go back to what drives it. The first step is identifying what criteria are there that tell -- what I am hearing is what are the criteria that are necessary to make the determination to consider to in fact create a site?

Now, what are those criteria? Is it unique? That was one of them that struck me. Then once you have got that, then you move to the next material, which is a difference in enforcement, if it is ten miles offshore versus ninety miles offshore.

That is another level, is that accurate? How do you monitor? Is there a pre and post -- those to me are second generation or second level. What is absolute and necessary at the first level? If we can't decide on that, we can't move forward.

Mr. Lee: Mr. Chairman, it would appear to me, if I am reading you right, that determination of what is absolutely the first step is the determination of where you have a problem that traditional management has failed.

To me, that need kind of comes from -- that is why I listed that species/fishery or spawning area or habitat because you have got something out there you can't protect with traditional management measures. Something is failing. That to me is the initial step and then you start building from there.

Dr. Dean: I want to go back to Fulton's question about the timeframe. Is it under existing measures identifying that kind of a problem? Could that not be dealt with under existing measures rather than create a marine protected area to do that?

Dr. Daniel: I guess this is my thought on that issue, John, and that is that if you had -- let's use the Hump at Islamorada, for example, as a potential for a seasonal spawning area marine reserve or marine protected area to where there is no fishing over the bag limit, or whatever the case may be, from March through May, or whatever the case is.

That may suffice for South Florida instead of having a complete closure everywhere. If you can close down major spawning areas under the marine protected areas or under marine reserves, then you may be able to offset a seasonal closure everywhere.

That is where I see a lot of the utility of a spawning area. If you have very well-defined, distinct spawning aggregations that protect a large segment of the spawning population, then that protects those fish to the fullest extent possible, but it also doesn't constrain the entire commercial fishery or recreational fishery for an entire market system season. That is just one thought, one idea.

Mr. Cole: Towards that end, Mr. Chairman, there is something that is bothering me here and I am going to try one more time. Marine reserves or marine protected areas, or whatever you want to call these things, are a management tool.

They are not an entity unto themselves. They are a management tool, and that is the reason we take the action. Maybe you are right, we can take the action now. Maybe we don't have to create these things in order to accomplish what we need to accomplish, but we didn't create the National Wildlife Refuge System for a refuge system.

We created it because that was the only way we could manage a migratory stock of birds. It was the best way to do it. Yes, we do have some refuges that are refuges for their name sake only and do probably nothing for migratory birds, but that is an artifact of the system once it got started.

We set out with creating a system for migratory birds that met a management need, and I think we have to keep that in mind. I think Wayne has alluded to it, Louis has just talked about it, Jodie has talked about it, and we don't want the public, or even ourselves, to get caught up in this thing of creating a marine reserve system in the South Atlantic for the sake of it.

We do it for a good management reason. That management reason, once it is met, as Wayne said, could be sunsetted or maybe it needs to continue. That is a decision that has

to be addressed in a situation-by-situation basis. To the extent that we can keep this simple to begin with, I think we are benefiting.

Dr. Dean: I want to make certain, as we develop this record, to speak to that point. That is why I am asking about this. Don't we have a measure in place? Let's go back to this. We can do time and area closures today, can we not?

If that meets our management need, do we need to create a marine protected area to accomplish that? I think we have to make it clear that we are speaking to issues that cannot be dealt with that way.

Dr. Powers: I am not a member of the committee, but that hasn't limited other people, so I can go ahead, I think. This is where we really get bogged down in the terminology, and that was your discussion when you started this thing.

In one sense you could argue that the Texas closure, for example, is a marine protected area because they shut it off for a month. It achieves the management objectives and they restart after that month, but in people's minds a reserve really has a longer time scale.

Basically, in people's minds, you are talking about something longer than six months and probably longer than a year. I would agree that we have to reiterate at every step that we are doing this to achieve some management objective.

And typically for the kinds of closures that we do, they tend to be less than a year. Some close for a season or close when a quota is reached. That is another form of it.

We have to be careful about how we word these things, and I want to reiterate that this is a management tool to achieve certain ends, and it is hard to define specifically the criteria that will be used generically because situations may be different from time to time, too. We have to be careful about that. Thank you.

Mr. Iarocci: Back to the timing of these -- and I am going to go back to New England again on the scallop fishery. When they closed those areas up there, the fishing industry totally opposed any closure or any involvement.

They were going to be completely put out of business and the whole nine yards from the wife -- I heard this morning the wife with the baby, I have been there and done that and saw that whole testimony for years when I lived in New England.

I was talking to a New England council member not too long ago up at Fish Expo, and we talked about the great deal that the scallop fishery has come back now, the management tool to close the area and how it has worked and trying to work those down into our area in the South Atlantic.

He said one thing to please don't forget to do at the beginning was the timing because they did not allow -- when they closed off the scallop grounds up there, they had nothing

in the plan to reopen it, so they had a whole process they had to go through, and it was a lot of time and a lot of meetings and a lot of drawn-out things.

Another thing, while we have our enforcement expert at the table, I would like to go back to the scenario that Louis brought up about the Hump, and we keep talking about enforcement in these marine protected areas or marine reserves or whatever.

I don't care what management tool you use, without enforcement it is null and void. Just to go back to what Louis had stated -- and I am curious about that because we have heard inshore areas and offshore areas; we have talked Tortuga's; we have talked Gray's Reef.

But, David, if there was a partial spawning closure, say, for amberjack, off the Islamorada Hump, do you feel that this would be enforceable with some of the things that you are hearing today at the table, I mean, depending on the size and all that? I would like to hear a little from your perspective on enforcement on these things. Thank you.

Lt. Cmdr. Cinalli: Trying to answer that question, I have two items. One, I feel in developing the marine reserves, you are going to have like two generations, like Dr. Dean had mentioned.

When you are first developing it, you are going to have proposed enforcement and, of course, the locations of these areas are going to require different types of enforcement with offshore platforms, aircraft and a combination of both.

As you get further down the line, I see us refining it. I can give you a good idea of what the primary means and the secondary means of enforcement is going to be if you have a good idea of where you are going to put it just by geographic location and where our resources are located.

As we get further down, to answer the question, I think we are going to have to tighten that up and talk about timeframes, six months versus year round, and that is going to come into play and we have to address that later down the line.

I think there is some value into seasonal closures as well as just taking whole chunks of areas if the science warrants that. Both of those have proven effective. I think they are both in the tool bag. If you have a seabag and you have a bunch of tools in there, I think they both fit into that region.

I do agree with you, you have to look at like the scallop beds. The scallop beds are stacked in New England right now because of those measures, but you do have to look at timeframes of five years and ten years.

You have to have a light at the end of the tunnel and you have to do reevaluations and come back to it. In conclusion, I do see that there is a value to both the seasonal, the long term, and blocking off the areas.

When we get further into the process, I will give you some ideas on how to make these areas, if you do choose areas, more easily enforceable by using lat and longs and don't use contour lines and things like that, which I think people are familiar with.

Mr. Gay: Mr. Chairman, I am somewhat confused, and I think Joe tried to point it back into that direction. Marine reserve, in my mind at least, is basically a permanent closure of an area or for an extended period.

The marine protected area, to me, is a different animal, at least in the definitions that I have heard of the two described as, they are basically two different animals and would probably need different criteria, perhaps.

I am not sure what direction the Committee is headed here. We are almost back to where we started when we were talking about checkerboards and things of that nature, you know closing an area for five years and then opening it back up and having rotational closures and things.

We were basically told at that point that they were okay, but they weren't marine reserves in the sense that most of the scientific community wanted. I am a little bit confused on where we are headed; and if we are going to be talking about reserves or, in my mind, the protected areas; and if we are talking about protected areas, is that best done in this committee or another committee?

Dr. Dean: Jodie, it is my understanding that this committee used the term, carefully selected, marine reserves, and it was clear that it did not mean a non-fishing area. It was a broader term when it was adopted.

As Bill was saying, this is a management tool; and as Joe was saying, this is a management tool. The term has been co-opted by some groups and that is their agenda, and I am not going to speak to that.

We have to stay on the mark that we are talking about marine protected areas and there is flexibility in the things that can be done under that. As long as we stay coherent with that and we are going to look at what the National Research Council used and those terms, but as I understand, this Council's objective, we have got a menu underneath of different activities that could take place in marine protected areas if we so designate. Does that make it go?

Dr. Daniel: Yes, sir, in the executive order, it defines marine protected areas as any area of the marine environment that has been reserved by federal, state, territorial, tribal or local laws or regulations that provide lasting protection for part or all of the natural and cultural resources therein.

This suggests long term and that type of thing, but then it goes on to say, under that definition, that marine protected areas could include a wide variety of sites established for different purposes.

What you said earlier on in terms of perhaps coining the marine protected areas instead of marine reserves, that marine protected area tends to give us that broad range of opportunities to look at marine reserves, which may be in a future definition a permanent closed area where we are also looking at not only fishery resources, which we tend to focus on by our past, but also in the habitat.

That is one thing we really haven't considered when we talk about artificial refugia and that type of thing. We need to look at -- it's probably going to take permanent closed areas to protect certain habitats; whereas, spawning area closures may have the effect of a wide variety of sites established for different purposes. That seems to be covered under that definition.

Mr. Love: Susan, you were here when we did the Oculina Bank; is that a marine reserve or a protected habitat, or did you all close it just for the protection of coral, or was it also to protect the gag spawning area?

Ms. Shipman: It is, actually, I think -- in the background of the PID, we talk about the Oculina Bank, and it was set up to certainly protect unique habitat. It was designated early on as a habitat area of particular concern before that ever entered the Magnuson-Stevens Act, and it was to protect that.

But there was recognition that there were deep water groupers that had spawned there, and that that was a critical area of assemblage of large adult, deep water groupers. It was both. It was a habitat and it was a recognition of a unique assemblage of an important stock.

Mr. Love: It had a sunset date on it, too, I believe, didn't it?

Ms. Shipman: Yes, it was ten years, I believe, which comes up --

Lt. Cmdr. Cinalli: It expires in 2004, Susan.

Ms. Shipman: 2004, okay. Interestingly, if I might, when Wayne was going through his criteria, the Oculina Bank was just really standing out to me, and what he came up with were many of the things we looked at when we set aside the Oculina Bank for protection.

Dr. Dean: In fact, I want to mention that, that I think we do have some history with these kinds of areas and the vocabulary may have changed. As you point out, in this case HAPC was used. Certainly, I think we ought to be thinking about the problems that we have had with some of those areas.

The Oculina Bank, one of the constant problems there has been Louis' issue of pre and post. It came up with Gray's Reef. It still shows up that there's a pre and post, that we didn't really have a pre-history and that has been an issue there.

I think that one of the opportunities, perhaps, is that by working on this, this is a place, Reed, possibly, where we can watch this cooperative, collaborative relationship develop. You have some history and some resources that we could bring to bear on this as we develop this.

You mentioned the GIS material for the Channel Islands, and our staff is going to meet with the Coastal Services Center and discuss the possible utilization of that in our system, and I think we ought to be alert to opportunities that exist for collaboration on these issues as we go forward.

Mr. LeMaster: Mr. Chairman, this is all fairly new to me, except for what I have read in various magazines in Florida, but I wonder if we are not complicating this issue a little bit. For example, if you take the Islamorada Hump that we have been talking about, the time that amberjacks spawn on the Islamorada Hump is well known to everyone.

If you take the Islamorada Hump and make that a marine protected area and close it down during the spawning period, the entire spawning period, the people that I know that have been arguing against marine reserves would be moot on that point.

They would say, fine, let's do that. Take other areas that are known spawning areas in the South Atlantic and close them down during that spawning period. It is a short period of time, two or three months.

You would have a lot more fish and you would have a lot simpler problem. My friends over here are laughing a little bit and there would be some objection, but the main ones that object to the marine reserve are the people that have a lot of ink, and I don't think they would object to what I am talking about, and just take specific areas, and say that is a known spawning area and close it down during that spawning period.

Dr. Dean: Ebbie, that is part of the questions I was asking earlier that we need to have on the table, and I think if we go back to Item 21, which is called timing for implementation, I am interpreting that broadly, and I am thinking of that in terms of how long it takes, what are the timing steps that put it place and all, so what are the outcomes and how you measure that and determine if you are successful or not.

And then if you build in the sunset provision, if you are not achieving your objectives in that timeframe, then you have an opportunity to move away from it.

I think that these are part of the criteria, and in the analysis you might find -- in the analysis of a proposition, you might well find that you can achieve it better through the short-term closure and not have the MPA.

I think what this speaks to is that we aren't going to know that until we have got a process for doing that analysis. This is, I thought, what we were about, is give us a process that we can make a judgement.

Mr. LeMaster: I am old enough to where I can remember the debate that occurred over Pennekamp Park in the Florida Keys, and I think that Pennekamp Park has been a wonderful area for the United States, but the very arguments that commercial fishermen had about Pennekamp Park when it was studied have come true, that it would forbid all commercial fishing and it would be a very closed area.

These are the same arguments that they had about Everglades National Park when they wanted to originally include the Florida Keys in the Park. The only reason that it doesn't include the Keys today was the arguments that were put forth back there many years ago.

I am just trying to figure out a way we can do this without friends of mine like Carl Wickstrom rising up to chop us down. And I think to take specific areas, I like the marine protected area better than marine reserve, and just say that we are not going to let people fish there because there are a bunch of mamas in there.

I think you would solve 90 percent of the problem. I am just trying to -- I am not trying to be overly simplistic about it, but I think we may be complicating the issue.

Dr. Dean: Okay, I understand.

Mr. Bohne: One of the things in terms of definitions, these definitions are going through a lot of change right now with the advent of this executive order on marine protected areas. There may be a concern, since the Council has gone through scoping on marine reserves, if the additional public meetings change the definition of what we are talking about.

I think there was sufficient confusion about what a marine reserve was at those meetings. I know there certainly was in our scoping meetings. Marine protected areas is a much broader term and encompasses many more alternatives in terms of management objectives.

I wonder in the second round of hearings, I think there will have to be a concerted effort to describe exactly what we are talking about in terms of what a marine protected area is under Magnuson-Stevens Act, clearly distinguished from the other statutes that establish protected areas.

The distinction also has to be made between what we are describing as a marine reserve or protected area that is different from the traditional management practices that the Council has adopted in terms of seasonal closures or gear restrictions.

I think it is very important that this term, whatever it is, be consistent, be clearly stated and be used in all forums as we go through this process on marine reserves.

One of the other things that I would like to add, too, is that on the criteria -- and this has sort of been alluded to -- that there needs to be at the start of the process an assessment of

the adequacy of information on this broad geographic area that is being considered of the Council's region.

I think an element of that should be what is the status of existing -- are there existing areas that tend to fulfill the marine reserve or marine protected area criteria already, and what other areas have been identified by the Council, such as EFH areas, that should be recognized as people start to apply criteria.

There needs to be a good base level of what our information base is now, and then people begin to address criteria against existing knowledge. This is where I think the GIS programs can be of enormous help as everybody gets involved in trying to look at marine protected areas in this broad region.

Dr. Dean: Thanks, Reed. Louis, isn't that exactly what you were arguing earlier as part of the scientific base, what Reed was just speaking to?

Dr. Daniel: Yes. And I think it is important, in going back out to the public, that we recognize that in a sense marine protected areas is sort of a less restrictive and more palatable series of things than marine reserves because that does suggest complete closure all the time.

I think that we can go out and give the public some comfort, perhaps, that a marine protected area may not be just a total prohibition all the time.

I think it is important for the scoping document -- and I just thought of this and Kerry may have already thought of it, but we may need to come up with the types of marine protected areas and have subsets in here so we can talk about here are spawning sanctuaries and habitat closures and then permanent closures like an artificial refugia.

That I would probably not want to see a sunset clause on. That would probably be something we would want to keep closed all the time since they were developed specifically for that purpose, and then we can go back to something that was -- I can't remember when they proposed it, but I remember Reefkeeper or CMC or one of those groups made some proposals on spawning area closures and had identified some spawning aggregations and that type of thing.

We have got some of that coastwide information available, and we need to look more into military protected areas and some of these other things and be able to go in and see what the impacts and benefits of those areas are as well.

Dr. Dean: I think that is exactly what I was saying. Reed laid that out and I think I agree with that perspective. Tony and then Bill, and then we are going to wrap this up.

Mr. Iarocci: Thank you, Mr. Chairman. I am in total agreement with what I have just heard from Louis and Reed, but I think we have got to get back to the criteria, number one, and what Jodie was saying earlier, too.

A lot of people -- and I don't want to take this away from this table -- we are confused on the definition of a marine reserve and a marine protected area. If we are confused, by the time this gets to the general public, they are going to be totally befuddled.

I think number one on the criteria that we are going to be dealing with, when we look at an area, is it a marine reserve or is it a marine protected area, and then we go forth from there. Then there is no confusion to what we are talking about.

If we do look back, we are also looking at the Endangered Species Act, the Coral Reef Task Force, Essential Fish Habitat, Full Ecosystem Management, and we have got a lot of other things that are going to come into play in the future, and I also think that what Louis was saying about Alex's group, Reefkeeper, there are some definite spawning areas, and as Ebbie said earlier, we should look at those right off the bat as the number one criteria to look at.

We do have documented data not only from Reefkeeper, but from other organizations and our group itself and some fishermen have put some areas in and we should look at those and make it very important and a number one priority.

Mr. Cole: Mr. Chairman, to reinforce that, one of the things that occurs to me -- and we have had to do this at least with migratory birds -- is that we have got one thing called marine reserves. I just played with some definitions and don't hold me to them.

A marine reserve is probably the more extreme case; and as Dr. Powers pointed out, a marine protected area has a lot more permanence to it, but it probably can allow some sort of limited use.

One of the things that we have come up with in waterfowl -- and I will translate it -- is a marine management area. That is a very short-term, time-seasonal type thing.

I mean, we can play with these sort of words, but I do think that we need to agree on some differentiated levels of these things before we go out to the public so that we are all speaking in the same language.

Right now, all it is going to take is for a newspaper reporter to go out and mix up what they all think we have talked about for definitions around this table this afternoon and we won't go anywhere fast.

Mr. LeMaster: I am even starting to understand this thing now. I really like what Louis said, that if we say we are going to have a marine protected area on the Islamorada Hump for the purpose of protecting spawning amberjack or we are going to have a marine protected area off the Tortugas to protect some type of coral, people understand that, and have specific areas, marine protected areas, and we don't try to protect everything.

There has got to be some one reason that we are doing that, and I think at least people in Florida will understand it, I would hope.

Dr. Dean: I am going to wrap this up because we have run our time, and we have some work to do before we go forward. I want to read the definition that was used in the public information document to come back to closure on this:

What are marine reserves? Now, this is the term that was used by this Council. Marine reserves are specific areas of marine environment managed for the primary purpose of aiding in the recovery of overfished stocks and to ensure the persistence of healthy fish stocks, fisheries and habitats.

It doesn't say, and it carefully, as I understand it, specifically doesn't say that it is an area closed to fishing. Now, if the term "marine reserves" has been co-opted, which is my understanding from reading the magazines and newspapers and so forth, then we have to be flexible enough to then work with a term that has a broader umbrella definition, which is what I hear you all saying.

What I would like to propose is this. We have a lot of good discussion comment-specific. What I would like to do is work with Kerry and develop a synthesis of this, not try to do wordsmithing here, and bring that back as we move forward to the Full Council with a recommendation on how we proceed on our initiative on the potential use of marine protected areas in the South Atlantic.

It also speaks to the issue of the White Paper. It shows how critical definition of terms are, which is what stimulated Bill to ask for that, I believe. I think we do need to get that and then look at the NRC report and see how they match up and make sure that we have the right vocabulary that we can go forward, so that we don't have red flags shooting up all over the place, as Ebbie pointed out.

Dr. Powers: One other thing, too. When we got into this discussion, or the committee got into this discussion in terms of prioritizing these particular criteria, it seems to me that the criteria themselves are all good for certain purposes.

It is hard to throw out one, so my suggestion is to try to group criteria into terms of these criteria relate to defining the management objectives, these criteria relate to defining sighting criteria, and other ones relate to implementation processes. That would probably be a better way to proceed, I think, in terms of these kinds of discussions.

Dr. Dean: Thank you, Joe, and that is consistent with what I have been hearing around the table as well. My proposal is we will develop a synthesis out of this discussion and take that to the Full Council.

Do I have concurrence and consensus on that? Thank you, very much. We will move forward, accordingly.

Ms. O'Malley: Just briefly for the record -- and this is a little bit related to the red flag issue -- we just received in our office last week two strong letters from Carl Wickstrom and one from Jimmy Harker on reserves and we just received them.

They have not been mailed out to the Council, but we just wanted to let you know that we did get them and the next mail out you will get them.

Dr. Dean: Harker sent them to everybody.

Ms. O'Malley: Okay, well, you have gotten that one, and I will send you Carl's next week, but just so that's in the record.

Dr. Dean: Monica, do we have an update on the closed area lawsuit in the Gulf?

Ms. Smit-Brunello: There is not too much to report. There has been a complaint filed. The defendants filed the answer along with the administrative record, and the court hasn't given them a briefing schedule as yet. There will probably be something more to report at the next meeting, but not anything more at this one.

Dr. Dean: Any other business for the good of the order?

Dr. Daniel: I am just making sure that everyone is aware of the Freedom to Fish Act in this committee because it does have some potential ramifications, and I just want to make sure everyone is aware.

Dr. Dean: Yes, that is part of the public issue. Is there anyone who hasn't received some notification on the Freedom to Fish Act that has been done by Breaux and Hutchinson?

If you haven't got that, let us know and we will make sure you get a copy of the information. Anything more? We stand adjourned.

The meeting was adjourned at 2:55 o'clock p.m., November 28, 2000.

Number of tapes used (2)

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