

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

MARINE RESERVES COMMITTEE

**Cheeca Lodge
Islamorada, Florida
June 15, 2000**

DRAFT SUMMARY OF MINUTES

MARINE RESERVES COMMITTEE

Pete Moffitt, Chariman
John Dean
Bill Cole
Jodie Gay

Russ Nelson
John Sanchez
Louis Daniel

COUNCIL MEMEBERS

Susan Shipman
Dave Cupka
Ebbie LeMaster

Dave Cinille
Jim Weaver

COUNCIL STAFF

Bob Mahood
Roger Pugliese
Kathi Kitner
Kim Iverson

Gregg Waugh
Vishwanie Maharaj
Kerry O'Malley
Deb Buscher

OBSERVERS

Ron Smith
Monica Smit-Brunello
John Merrener
Marianne Cufone
Chuck Hawkins

Casey White
Joe Kimmel
James Fenson
Tom Hobbs
Jim Buhnsack

The Marine Reserves Committee of the South Atlantic Fishery Management Council convened in the Pennekampe Room of the Cheeca Lodge, Islamorada, Florida, on Thursday, June 15, 2000, and was called to order at 9:15 o'clock a.m. by Chairman Pete Moffitt.

Mr. Moffitt: Good morning. I think we have the Committee with maybe one short, and he's in the area so we'll go ahead and convene the meeting of the Marine Reserves Committee.

The first order of business would be the approval of the agenda. Dr. Nelson, do you approve? Dr. Nelson doesn't know; John Dean does. Is there a second to the motion that we approve the agenda? Bill Cole. Any discussion? objection? The agenda is approved.

We'll move now to the approval of the March 7, 2000, Committee minutes. If there are no additions or corrections, may I get a motion to approve those minutes? Dr. Daniel; second, John Dean. Any discussion? Objection? Then we have approved the minutes of the March 7th meeting.

I'd like to move to Item C and turn the meeting over to Kerry O'Malley who has put on a large number of miles travelling up and down the coast to try and inform the public of what some of our thoughts are and hear what theirs are.

Ms. O'Malley: Thank you very much. All right, I'm just going to go over some of the comments we've received. Everyone should have received a package with summary comments from the scoping meetings. As you see, they're a little different. They're not verbatim.

They are a summary, and that's because we did some of the hearings a little bit different this time and so we changed the format of how we present the comments to you. And we'll be willing to take feedback on that if you don't like the style.

We had nine scoping meetings, two in each state with the exception of Florida, in which we had three. We had turnouts from anywhere from four to about thirty-five people, so nothing huge. No one broke down the door to get in at us.

But what we did with these scoping comments is we broke them down at the end of each meeting and talked about alternatives to marine reserves, reasons for not supporting reserves, reasons for supporting reserves and criteria that people thought were important.

And I'm just going to tell you the most common ones throughout the meetings. And I'm sure none of them will be surprises to anyone.

The most common alternatives to marine reserves, the biggest thing was artificial reefs on sand bottom, and close them to fishing was the most common suggestion we heard from our meetings; also, enforcement of current regulations as opposed to starting a reserve.

There was a lot of talk about enforcement at every meeting. Allow more time for existing regulations to work and to limit either sector, depending on who we were talking to. There were calls to limit the recreational sector and the commercial sector.

The most common reasons for not supporting reserves at our meetings, the biggest one was economic loss to an area. Also enforcement was another prevalent thing we heard. People believe that marine reserves cannot be enforced.

People are concerned about a lack of data, not only lack of data that we have for our species but also lack of evidence that marine reserves work. People don't know that they've seen that yet.

And also one thing we heard a lot was if you set up a reserve where fishermen may have to run around it or start fishing farther off, then they felt that that would make their fishing more dangerous to them.

Some of the common reasons for supporting reserves were to protect the habitat and the ecosystem -- we heard that a lot -- and that other management regulations that have been done in the past have failed.

The biggest thing I heard from every meeting was to protect spawning aggregations. There was a lot of support from every sector and every viewpoint for protecting spawning aggregations and also, of course, protecting biodiversity.

And the most common criteria we heard were to implement in a timely manner. People said that that was their number one criteria for marine reserves was to get it in quickly.

Also, again, people wanted to protect spawning aggregations. We should protect the habitat. And I heard many times that they should be small; that that should be a criteria.

So those are the most common comments that I did hear. I forgot to mention that there's not a summary of the meeting in Murrells Inlet because it was never officially opened.

We had one person and one member of the press, and the person is Gilbert Davis, I believe his name is, who is on our Mackerel Advisory Panel. And so Charles never opened the meeting, and we just had an informal discussion and that's why there's no comments from that meeting in there.

And if you have any questions about anything I heard or specific things, I'd be happy to answer them for you.

Dr. Daniel: Kerry, I know in North Carolina we had a lot of people show up. It surprised me, but we had a lot of people show up. And many of them were very upset because they were going back to that proposal of ten years ago.

And everybody was convinced that we were going to go out with a big 25 percent of the bottom off North Carolina and close it down. Was that theme consistent or just there?

Ms. O'Malley: No, that was a North Carolina issue mostly. I didn't really hear that anywhere else. I do have to say at the Charleston meeting, every single person there was in support of marine reserves, which was the only meeting that we had.

It was many members from the aquarium and Coastal Conservation League, every single member. So, I just thought that was very interesting. But, no, Louis, the old throw-back, that was the only place I heard that number.

Mr. Dean: Kerry, I read the comments and the synthesis and went through, and the consistency that does show up is interesting with that reservation.

And I thought it was ironic that we were having this meeting and this morning's Miami paper, which I think we ought to go ahead and enter into the record, when you said that the consistent point was to stay off spawning aggregations; in this morning's paper under "Keys Fishing" by Jim Hardy specifically directs people on how to fish for cubera snapper on the spawning aggregation in the full moon and gives them the sites.

And I'm serious that I think we ought to make a note of this and put it in the record that there is an inconsistency with what the councils and the state agencies are trying to do in resource management, and then what's showing up for the public as a whole.

And what we deal with is a fairly select audience, people that are involved and committed and participate in good faith with the Council process and the media.

Probably the argument is we need to do a better job of educating the media on this. If we want to achieve our objectives, we've got to have better information go out. This is not a good practice.

Mr. Moffitt: Dr. Dean, am I hearing a suggestion that this Committee recommend to Full Council that we draft a letter to the paper explaining our position?

Mr. Dean: There's certainly a communication problem there that we need to address.

Mr. Moffitt: Kerry, if this question puts you too much on the spot, tell me. If you were advising this group with your recommendation as to -- do you want me to finish or just quit there?

Ms. O'Malley: Go ahead.

Mr. Moffitt: What do you think our position ought to be in how we would move forward with it to address the concerns of the public or what do you think the real true summary of all of that is? What would your response be?

Ms. O'Malley: Well, it's unrealistic because I wish we had more time, because I believe that people -- it would be nice to start with things like artificial refugia and prove to people that they work that way and go really, really slow.

And I just think it would take a lot more time to get everyone on board. But that's the way I would start, with something they can see tangible evidence from. And I think that would be in the form of an artificial refugia with hard data.

Mr. Moffitt: Okay, thank you. I know that's not probably a fair question on short notice, but I appreciate your response. Any other questions of Kerry? Okay, Kerry, thank you. How many of the meetings have we had?

Ms. O'Malley: Scoping meetings?

Mr. Moffitt: Scoping meetings?

Ms. O'Malley: Nine scoping meetings.

Mr. Moffitt: Nine.

Ms. O'Malley: And about 25 informal meetings.

Mr. Moffitt: Twenty-five of the informal meetings. Do we have any more planned?

Ms. O'Malley: Not at this time.

Mr. Moffitt: Okay. Is there a suggestion from the Committee as to how we may move forward to do any more of these or what we want to do?

Mr. Dean: Just a question, Kerry. But, the informal meetings, where you're invited to meet with a group, that goes on forever as long as we're in the game?

Ms. O'Malley: That's up to the Committee's pleasure.

Mr. Dean: I really think that we ought to encourage that and continue on the web site and others to inform people that if they want a briefing, that you're available.

Mr. Moffitt: John, I would concur. As long as we're asked, let's make sure we can get there. Kerry, again, thank you, we appreciate your help. I've been to several of these and thought they were conducted very well. And I thought you have carried forth the intent of the Council in a very proper way.

Moving on now to Section D of the agenda, it's got my name on it, and I'm going to turn it over to our learned attorney. Before I do, though, I want to start with Reed Bohne on the status of the Gray's Reef and then we'll move into the MOU.

While he's coming up here, I would tell you he's come all the way down here from Holden Beach, North Carolina, to do this, and he's on his way back. So we really appreciate your coming. Those of you that may not know, that's where I spent summers from the time I was --

Mr. Bohne: That's why I went there.

Mr. Moffitt: -- six years old until I graduated from college and did some commercial fishing there, Jodie. A license? I don't even think anybody had one in those days. Reed, thank you for coming.

Mr. Bohne: Thank you. It's good to be back with the Committee. I'll give you a brief overview of where we are in our management plan process, and then if we could go into the MOU and the changes that have taken place since our last meeting in Tybee.

Since we last met, we have been working on a state-of-the- reef report. It's a public document, a general overview of the resources of the Sanctuary and the programs that we run.

We're planning on distributing this widely and holding, similar to the informal meetings that the Council holds, holding those kinds of meetings in the region to extend the kinds of interaction that we had during scoping and help build towards the workshops that we're planning in the fall.

The workshops will focus on many of the issues that came up during scoping and the subsequent meetings and will also include scientific and technical workshops to assess the status of the health of the reef and its resources.

Again, we are aiming for spring of 2001 for publication of a draft EIS and draft management plan and anticipate having a final plan and final EIS in the fall of 2001.

An important part of this effort is working closely with the Council. And from the onset, even before we started the management plan process, we met with the Council staff and agreed that a memorandum of understanding would be helpful in ensuring that we coordinate to the maximum extent possible in the development of the management plan and particularly any ideas, any directions that may be taken regarding fishing regulations in the Sanctuary.

Mr. Chairman, if we can go into the MOU, or would you like to entertain questions at this point?

Mr. Moffitt: Reed, let's do have questions if there are any and then we will let you and Monica bring forth the MOU. I think it would be better handled, certainly, by Monica than me trying to stumble through it since I really don't have a copy yet officially. Are there any questions of Reed?

Ms. Shipman: I'm not a Committee member, but, Reed, I was interested in knowing has there been any additional thought or any activities to expand that Advisory Panel that's been -- I think one of the criticisms of the effected fishermen in the Georgia area is they felt that the Advisory Panel perhaps was not as broadly encompassing of their interests as it might need to be. And I didn't know whether y'all have done anything in that regard or not.

Mr. Bohne: Yes. Susan is referring to the Sanctuary Advisory Council, an eight-member Committee that advises our staff on our programs and the directions we're taking with the management plan.

At our last meeting we discussed this and decided that it would be one of the key topics at our July meeting, which I believe is scheduled for July 12th. So our Council agrees that this is an important question, and we are going to be talking about that specifically at that meeting.

And certainly, from the scoping meetings that we conducted, there was a great deal of concern that there need be more representation from the fishing community on our Council.

We have indicated that we felt that part of our efforts to ensure that there's sufficient coverage of fishing interests was and is this MOU. But I think there is interest in adding to our own Council as well in representation on those issues, and we are going to address that at the July meeting.

Mr. Moffitt: Susan, I had heard some of the same thing. And I think it wasn't criticism of those that are on there so much personally as that they really didn't have the background in the areas that they're going to be dealing with as this moves forward.

Secondly, I think it would almost be imperative that this Council be represented with a liaison at least as we were and the Gulf was in Tortugas.

Ms. Shipman: And the members they have on the Advisory Council are excellent. I mean, they're representative of a number of different resource interests. And, you know, I'm certainly not suggesting that they are not good representatives of certain interest groups.

There was just the interest in having the fishery interests broadened and perhaps better represented.

Also, the state is not on the Advisory Council, either. And depending on the outcome of this MOU, it may be appropriate for you all to consider appointing not only someone from the Council but the state to that Advisory Council.

Mr. Bohne: Yes, in fact that was mentioned specifically at our last Council meeting.

Mr. Moffitt: Any other comments before we move on? Okay, what I'd like to do is turn this next section over --although it's got my name beside it, I would be a poor choice for this, so we're going to go to the person who understands it certainly better than I do, and let Monica and Reed discuss this with the Committee.

Ms. Smit-Brunello: Just as kind of a lead in, and then I'll turn it over to Reed, at the last few meetings we've had discussion about a memorandum of understanding between the Council and the Sanctuary, and then also including the Southeast Region of NMFS.

And so based on the last meeting, Ted Beutler from our GC office, who deals with the sanctuary program, redrafted the MOU. He sent it to me. I spoke with Dr. Hogarth and he wanted some inclusion.

At that time NMFS was not put into the MOU. So I spoke with Ted and Ted included NMFS and then I tweaked it somewhat. And as of late last week, we finally got this final draft, I think, although Reed has one good addition to it.

So I'd like you to all look at it. It's been pared down somewhat. Does everyone have a copy of it?

Mr. Moffitt: I don't know that the copies were ever handed out. I got one yesterday, but I do not think the Committee has a copy. They do have it now? Okay, I'm sorry.

Ms. Smit-Brunello: Well, one thing I'd like to note, too, unfortunately, because of the way this was -- everyone's schedules and I wasn't able to discuss this with Gregg or Bob either, I know I e-mailed it to them late on Friday and then I brought these copies, so maybe Reed would like to walk us through it, or however you want to do it and just take a look.

Mr. Bohne: I can highlight the key changes in the document before the Committee. As Monica mentioned, one of the aspects in this revision was to include the National Marine Fisheries Service as a full partner in the agreement. And that has been done throughout where appropriate.

I guess the key text change is Section 5 that identifies the National Marine Fisheries and the Southeast Region and their role in authority as one of the three principle components of the MOU.

As a result of the meeting in Georgia at Tybee, the Committee requested more of a summary and clarification of the relationship between the Council and the Sanctuary regarding fishing regulations.

And Ted Beutler has taken the language from the Sanctuary's statute -- and this is on page 4 -- and summarized it at the top of the section.

As you may recall in the last version of this, it was much more lengthy, but I think Ted has captured the key elements here and has reinforced in the text, in the preface to that, that this is directly from the statute.

There was some confusion at the last meeting as to whether the language was an interpretation or was the direct statutory language. And Ted has taken and summarized that in that one paragraph that you see.

The paragraph below that, just above Section 7, we have also added -- as you may recall, Susan Shipman indicated that the state of Georgia felt it important that there be specific recognition of the expertise and the important role that the state plays in Gray's Reef and waters offshore of the state.

Ted has crafted this paragraph to indicate that the Sanctuary will have specific and detailed consultations with the state of Georgia before proceeding with issuing of final regulations.

Other than those changes and, of course, the addition of the National Marine Fisheries as a signatory, there is not a significant change in what you saw at Tybee.

I had one minor change that I just caught before the meeting and a suggestion that on Page 3, Section 6, Number 6, 3i, that the National Marine Fisheries Service be added to that small element about research and education initiatives, cooperation on research and education initiatives.

Other than that, I really want to thank Monica and Ted for working on this and providing I think a good bit more clarity and yet simplicity in the agreement. We feel that it's a very strong agreement that is one that we can demonstrate will be used in our decision-making on the management plan and shows clearly the intent of cooperation between the Sanctuary, the Council and the National Marine Fisheries Service. So I will entertain questions at this point.

Mr. Cole: Mr. Chairman, my appreciation to all those that did a lot of hard work on this thing, and it is much improved.

I do have some concerns, however, in follow up to our initiative to try and make sure that Georgia was appropriately included in this.

The paragraph on Page 4, just ahead of the major provision of other provisions, I think can stand a little minor editing and make it a little more responsive to our need to have Georgia deeply involved in this process.

In the last sentence in that paragraph, as part of the consultation, "Gray's Reef National Marine Sanctuary will meet" not just request a meeting. I mean, you can request a meeting. I mean, that doesn't do anything.

But I would suggest that you say "will meet" with representatives from the state of Georgia, not just "to discuss" but "to develop" proposed fishing regulations prior to issuance of final regs. So that sentence would take out "request a meeting" and substitute the word "meet". It would take out the word "discuss" and add the word "develop".

Mr. Moffitt: What paragraph are you in?

Mr. Cole: Page 4, the last sentence.

Mr. Moffitt: I've got Reed's markup here, thank you.

Mr. Bohne: I think those changes are useful. I would like to hear from Susan Shipman if she agrees. That would be helpful; and, of course, Monica, if she sees any problems with that at all.

Ms. Shipman: Thank you. Well, really today is the first that I've seen of this, or yesterday afternoon. And I very much appreciate the efforts to better incorporate and fold the state of Georgia into this process.

I will want to take this back to our Agency. As you know, the interest within our state goes all the way up to the highest levels, to the Legislature and to the Governor, on this.

So, you know, while this looks certainly to be headed in the right direction, you know, the questions I have, what is meant by "consult" in the terms of what is the terminology?

What is the meaning of "consult" here? Is it consultation within the definition under EFH under Magnuson? You know, what is meant by "consult?" And I would like to take it back to the Agency.

And, yes, I don't want to speak today. I'm not prepared to endorse it on behalf of the Agency without having others look at it.

Mr. Moffitt: Susan, thank you. Gray's Reef is not in state waters.

Ms. Shipman: No, it is not in state waters, but I would point out the state of Georgia requested the designation of Gray's Reef. And had it not been for the state's request that Gray's Reef be designated a national marine sanctuary -- and Bob Mahood will remember this because he was in our agency then -- I don't think that sanctuary would be there.

Mr. Moffitt: I appreciate your pointing that out, and I probably misspoke that question. My point is, I think, is I don't disagree with what Bill is saying, but at the same time does the state of Georgia tell any of the agencies that are involved -- and I'm going to try and come to that to define "any" -- that we don't like this, what's going on in federal waters as far as fisheries management is concerned? That's the confusion I have.

Georgia needs to be involved. I have no problem there. What authority, though, would the state of Georgia have in that area of the ocean to develop fishing regulations, as this says, as Bill's suggestion has been to change it?

Ms. Shipman: I don't think there's any authority other than perhaps through Coastal Zone Management, through CZM consistency, whatever those federal activities were going to be, if they were in direct conflict with State Coastal Zone authorities.

But, no, I mean, it's not like Florida when, I guess, the Florida Keys National Marine Sanctuary was set up. And I suppose -- and, Russ, please correct me if I'm wrong, but my understanding is because some of that was in state waters, there were authorities and reservations for the state of Florida written into, I guess, the designating act or something.

Dr. Nelson: The fisheries protocol was written into the management plan for the Sanctuary, but we did have certain other leverage, I guess.

In response to your question, Pete, this Council is a signatory to this document. So I would suggest that the state of Georgia from time to time has been able to exert some influence on this Council. And I think that's where their ability to influence what goes into this document will be manifested.

I'm certainly very interested in seeing their concerns met to the maximum that they can be met under law. And in my vote on accepting this document, as this Council being a signatory, will be to a degree influenced by the concerns of the state of Georgia.

Mr. Moffitt: Russell, that's the way I would see it. As I read that paragraph, when I skip from the first word to the end and say, "Gray's Reef meet with representatives of the state of Georgia to develop fishing regulations;" that's not really going to happen.

It would be through the Council, I suppose. And that's going to be my next question with Georgia's representation in this body.

Ms. Shipman: I do think the Coastal Zone Management, through CZM consistency, there is the opportunity to discuss those fishing regulations and to try to cooperatively develop those to the maximum extent practicable for consistency purposes.

So I think there is that avenue, but that's through Coastal Zone Management, through the CZMA, not necessarily through Magnuson.

Mr. Bohne: Pete, would it be appropriate, then, to indicate in there the authority of the CZMA in this regard to clarify the role of the state in this activity beyond its Council activities and its general interaction with the Sanctuary?

I know that you would like to go and review it with the state in length, but that would clarify it in my mind.

Mr. Cole: Mr. Chairman, I'm going to agree with Russ. However I would vote on this thing is going to be whether Georgia's happy with it or not because we have another Executive Order. It just came out on May 26th.

It is very, very clear that we will involve the states, will consult with them, and will participate with them in any actions that any federal agency takes as related to marine protected areas. So I think that Georgia doesn't need -- while they're not a signatory to the agreement, is certainly a major player that we need to accommodate.

Now if the language that we have in here doesn't accommodate the state of Georgia's concerns, then Georgia needs to tell us that. And I think they will when she has gone back home and checked with her people on it.

But I am very, very concerned that let's don't get into this business of who's got jurisdiction to do what around the table. We all do. And if we don't have it right at our fingertips right now, I'm sure we can go home and find it.

But the point of any MOU has always been to cooperate as co-managers toward an end point. I think we've defined the end point now. We have a mechanism to do it. But we've got a major partner here that we need to accommodate, and that is the state.

So, that's just the only way I know to answer your question. There is authority to include them.

Ms. Shipman: And not to belabor this, and I appreciate that, Bill, and I think certainly to Reed and Gray's Reef's credit, they are trying to involve us. I just need to make sure that our Commissioner, our Board -- this is at the highest policy levels where the interest in Gray's Reef lies right now.

And I need to make sure they've comfortable with this language before I can advise y'all whether this is satisfactory to the state of Georgia.

Mr. Moffitt: You folks have heard me state my concerns about this. I look at it, if I were a member of the general public not involved -- and I'm getting much closer to that status than I am the current one that I'm in, so I'm looking maybe as more as a member of the public -- I read this; I don't know who's managing fish out there.

Maybe it's my stupidity. But when I read that paragraph, Bill, it's addressed to Gray's Reef and you skip down, "will meet with representatives from the state of Georgia to develop proposed fishing regulations." I don't see that happening.

In the paragraph preceding that, it says, "the South Atlantic will have the opportunity to draft." I would want to know, if I'm from the state of Georgia in particular, and I gave a copy of this to Jim Benson to play the role of a private citizen from the state of Georgia -- and Jim has at least average ability to read this type of thing and interpret it -- would he know who the authority to manage fisheries is based on this document.

We had a lot of discussion of this at the Chairmen's Meeting. Every time you turn around, there's another authority popping up. And, Bill, we were informed up there that there's a major legal debate now between the National Marine Fisheries and your agency over Fish and Wildlife's new opinion that they have greater legal authority than they ever had before to go in and do reserves and closed areas.

And they are beginning to rub NMFS the wrong way so that has risen up in there. So we've got more agencies than we can count. Jim, would you know who is going to be the final authority for fisheries regulations, if you read this? Thank you. The answer was no.

Dr. Nelson: Really, all this document does is pull together references to authorities that are currently defined in federal law. There's nothing new in here whatsoever. The Sanctuaries have always basically, since they've been created, the Councils have had the ability to draft regulations for the Sanctuary.

The Sanctuaries generally have just adopted the regular regulations of the Councils. And if the Sanctuary decides that they want to do something extraordinary and the Council disagrees with them, then they can go to the Secretary of Commerce with their suggestions and the Secretary can put those in place.

That's always been the case. There's nothing new. There's nothing in this document that establishes authority, nor do I think that any of the entities involved have the legal standing to create any new authorities.

It basically restates what exists in federal law. And there's some kind of smiley language in here to make the state of Georgia more comfortable. And so, since it's really just feel good language, I think it ought to make them feel as good as possible. But the bottom line is there's nothing new here.

Mr. Moffitt: Well that being the case, let's send a delegation to the Capitol and speak with the Governor for a week or so, or maybe do it in Susan's area. Any other discussion on this document?

Mr. Gay: I had a question of Monica, since this seems to have turned into somewhat of a turf battle in some cases, in looking after the South Atlantic Council's authority as it pertains to this document, if you look on page 4, it says very clearly that the South Atlantic will have the opportunity to draft fishing regulations for Gray's Reef and that regulations drafted by the South Atlantic Council or a determination by the South Atlantic that regulations are not necessary will be accepted and shall be issued as proposed regulations for Gray's Reef unless the Secretary" -- it goes on, but anyway.

But then if you switch back to page 2, III, where it's talking about Gray's Reef it says -- well, maybe it doesn't say what I thought it said. In the second sentence there where it says, "The mission of the National Marine Sanctuary Program is to comprehensively protect and manage marine areas of special significance" -- okay, I think I read that wrong.

My question was going to be if we were comfortable with the words "and manage" being in there, because it seemed to me when I initially read it -- and now I'm reading it different -- that Roman Numeral III represented what Gray's Reef's authorities were in this area and basically you manage fish by drafting regulations.

So that confused me somewhat, and I just want to make sure that you're comfortable with that. After reading it the third time, I'm more comfortable with it than I was.

Ms. Smit-Brunello: Okay, you know, the section that's on page 4, the first full paragraph that you first referenced, "the SAFMC will have the opportunity to draft fishing regulations"; that's basically a restatement of what's exactly in the Sanctuaries Act.

Russ is right. There's nothing new in this MOU on that part. I understand a different MOU protocol was drafted for the Florida Keys National Marine Sanctuary. Again, Reed can speak to that, but that was -- I believe 65 percent of that Sanctuary is in state waters.

There was all kinds of overlapping areas of jurisdiction between NMFS, NOS, state. I mean, there was just a lot to that. Now this isn't structured that way.

I don't think it was ever meant to be structured that way by the Sanctuary Program. Maybe it would be helpful for Reed, again, to state why the Sanctuary thinks it's important to have the MOU in the first place to give the Council members some thinking on that.

Mr. Bohne: Well, we felt in our first discussions with Council staff, that it was important to demonstrate to the public the role of the Council in decision-making in sanctuary management plans.

And we wanted to not just point to a specific part of the law, which basically that one paragraph does, but expand it to encompass the much broader activities of both entities and the National Marine Fisheries Service and to provide a basis for the public to understand that decisions that would be developed for the Sanctuary would be done in the context of a specific document that can show the steps and also the level of involvement of these various parties.

As was mentioned earlier, there already has been some concern that our Advisory Council does not have enough representation in the fishing community. And we felt that we needed to have this available to show that we were going beyond just our own Advisory Council; that there was a very important role that the Council would play in those decisions and in the analysis of the information that would be put together for the management plan.

Mr. Sanchez: If I can just say that ultimately, yes, the Sanctuary Program, through the National Marine Sanctuaries Act, has the authority to do things that they determine to be necessary.

But my experience with the Keys Sanctuary which, you know, it started off being very controversial, they have left fisheries management up to the existing experts, be it federal in this case or state jurisdiction if it's in state waters. And they've tried to work -- they've never exercised this heavy-handed authority that we were afraid of, to date.

Mr. Moffitt: John, my experience is exactly the same. My thought, though, is that people change and if you're going to have a document, protect yourself. And we had a lot of discussion on this at the Chairmen's meeting.

I was going to get into it later, but we have so many agencies in the South Atlantic -- and the Gulf and other Councils are experiencing the same thing. The Western Pacific Council was asking about the President's order that came out.

NOAA General Counsel says if you're going to comment on it, you'd better get up and do it right now. Well, that was about the 23rd of May. This thing came out the 26th. There will be a letter coming from the chairmen, that has not been drafted yet, expressing serious concerns about so many different agencies in Councils' area of jurisdiction that are now proclaiming themselves to have the authority to close or manage areas basically in the name of habitat.

Well, when that happens, you get involved in the fisheries management. There's no other way that you can. And this in my mind is going to get worse, and the general public has got to be confused today. And they're going to be more and more confused.

And as Kerry goes out and I see us dealing with the constituencies in our four states, people will come and listen and participate in our Advisory Panel, work with us, and come to a level of comfort hopefully with the South Atlantic, but then say, "No, I can't work with you because over my right shoulder there is the Coral Reef Initiative. Over my left shoulder is NOS. And here comes Fish and Wildlife with a brand new flag that they've developed. And we're not going to buy into anyone of you because we don't know what the other one is doing."

And I think this is going to be the morass that's going on out there. And it was suggested to me at that Council meeting that this Council and the others absolutely hammer this home to the Secretary of Commerce because there are agencies within Commerce who now have arbitrators between them trying to get them to develop a method in which they can talk with each other.

So, when I look at a document like this, you know, I have no problem with the people that are currently at Gray's Reef and what's going on. But people change and things change, and I'm just trying to figure out how the public is going to ever sit down and work with us, not knowing who else is going to be doing the same thing to them next week.

Dr. Nelson: I think the real value of this document is it does sort of reiterate the cooperative nature of the attempts to work together. And that's all it's going to be. It's cooperative. And I think this does kind of iterate, I mean, kind of lay that out. It doesn't change anything.

But, as John said, we work in Florida with the Sanctuary. We work in Florida with overfishing regulations with the National Parks Service. In many cases they have ultimate legal authority to go beyond what the state wishes to do.

That just generally doesn't happen. It hasn't happened yet, basically, because we're just now entering in Florida into a cooperative agreement to do a fishery management plan for Biscayne National Park.

So I think that there's value to this document and we should go forward with it. But Susan has indicated that she needs to take it back to have a review at a higher level within her agency.

So I would want to wait until I heard Susan's comments and any suggestions she might have for changes or modifications before I was content in being able to take some action in terms of my vote as to whether the Council should sign.

So, I think at this point we understand what it's for. Let's let Susan take it back and at the next meeting see what she has to say.

Mr. Moffitt: Is that the consensus?

Mr. Cole: Yes, Mr. Chairman.

Ms. Shipman: Yes, and again, I'm not on the Committee but I will take this back and immediately begin to get with our Commissioner, our Board of Natural Resources, the state legislators who drafted and sponsored the resolution and get with all the parties concerned.

And, again, I very much appreciate the Council and Gray's Reef's interest in trying to accommodate the state of Georgia's interest in being involved in this process. We very much appreciate that.

Mr. Moffitt: Susan, thank you and I agree. I think the document is much better. There's some words that are not in this one that were in the other one that concerned me. And I understand, Russell, what you're saying, and I don't disagree with that at all.

I still, though, think we need some way to, down the road, find a way in which the public can realize which agency they're dealing with that's going to be involved in fisheries management and the ocean. And I doubt very seriously that it will come.

But we do have a section coming up on the agenda where Dr. Hogarth's representative is going to tell us how clearly NMFS has been able to define this since our last meeting.

Mr. Dean: Yes, I think that at the last meeting, when we had the public comment period and I expressed my concern at that time of the confusion the public had, and I think this

discussion this morning has really given us a record and shown the boundaries and concerns and this will be very useful as we move forward.

Mr. Gay: Pete, I just wanted to mention one other concern I would have with moving forward with this at this meeting is since Georgia is short one delegate at this meeting, and I would be very uncomfortable in moving forward with any vote that would be against their wishes, especially with them being short a vote.

Ms. Smit-Brunello: I will e-mail a clean copy of this to Susan after the meeting, so she can take it forward to Georgia and then get back with, I guess, the Council and Reed as needed.

Mr. Moffitt: Other discussion on this area? Reed, thank you for coming. It's a long trip down here from Holden Beach when you've got a family back up there in particular, so have a safe trip back.

Mr. Bohne: Thank you. And I really appreciate the work of the Committee on this. And I expect good discussions with the state, and maybe the next meeting we'll be able to put pen to it. Thank you very much.

Mr. Moffitt: Billy Causey, I saw him somewhere. His 15 minutes is fastly slipping away, quickly slipping away.

Well, let's skip down to on the agenda to Item F while Billy is coming back. Dr. Hogarth had this slot to bring us together to tell us what agreements have been reached between the agencies.

Dr. Weaver: Thank you, Mr. Chairman. It's been Bill Hogarth's intention to put forth and develop a white paper on marine protected areas. Bill is very mindful, as we all are, of the increasing public interest in marine protected areas.

And as we very fully heard from Kerry O'Malley reporting on the public meetings, there are various levels of support and stated lack of support for marine protected areas among the public.

And I think Bill's concern, as well, is that there's a lot of potential for misunderstanding within the public as to what constitutes a marine protected area. So Bill had us draft a marine protected area white paper.

And I can review in general with the Committee the content of the draft to date with the full understanding it is still in the draft stage.

But in keeping with what Bill wanted to see developed, he wanted to first have some definitions on paper as to what constitutes a marine protected area. And as we well know, in our fisheries vernacular it comes in various forms.

It may be called a habitat area of particular concern, a marine conservation district, a marine reserves, a marine preserve, a sanctuary, a refuge, and so forth.

And, one of the intents of this document was to standardize the definitions to the extent that that works for the various terms out there for marine protected areas.

The other objective of the marine protected area white paper was to state the legal authorities for the various federal and in certain cases look at state authorities for establishing various forms of marine protected areas.

And where we are to date is the white paper has been drafted, redrafted, and examined at the regional level. And Bill has transmitted the draft white paper to Assistant Administrator Penny Dalton via memo asking for her review of the document.

And concurrent with that, my understanding is it's also within our sister agency, NOS, for further review. And the intent of Bill's memo to Penny was to have her review an understanding of the document.

And at that stage it would then be transmitted to the Council in draft form for further input by the Council on the whole issue. So that's where we stand right now.

The document is in review, internal discussions within the National Marine Fisheries Service and NOS on the content of the document. And as soon as Assistant Administrator Dalton has reviewed the document and given us the go ahead, we will formally transmit it to the Council for Council input.

Mr. Moffitt: Jim, thank you. This is obviously more difficult than a lot of people probably envision as to what's going on. Will this be a document that's signed off on by both NMFS and NOS, or will it be a NMFS document that NOS says, "Aw, go do it if you want to; we don't believe it."

Dr. Weaver: Pete, that question, I think, is yet to be determined. I believe Bill's initial intent was that it be a joint document, basically a NOAA perspective, but being very mindful and reference the authorities of other agencies clearly outside of NOAA or Commerce as far as their existing authorities, of which there are many.

Mr. Moffitt: There seem to be, and there some new ones that seem to be cropping up on a regular basis. It's amazing that a couple years ago nobody mentioned marine protected areas and now everybody wants one. So, we'll see. Okay, any other questions of Jim Weaver? Jim, thank you.

Billy Causey: We all know Billy Causey from Tortugas 2000 and the marine sanctuary programs. Billy, we appreciate you coming. He's going to bring us up to date on what's going on.

Mr. Causey: Absolutely, and I have some documents with me that we'll pass out. And what I want to do is just give you an update on where we are with our draft supplemental environmental impact statement as well as the draft supplemental management plan.

And what I'm going to have to do, I'm going to do this with slides. But first I'll tell you that we're in the process of holding public hearings on the Tortugas Ecological Reserve Proposal.

And we have already held three hearings: one in Homestead, the Florida City area; one in Naples; and one last night in St. Petersburg. So we are moving along with that process, and we are on schedule.

These are joint hearings that we're doing with the Fish and Wildlife Conservation Commission, with the National Marine Fisheries Service, jointly with the Gulf Council and representatives from Florida's Department of Environmental Protection.

And as I was listening to the discussion about the various overlapping jurisdictions, I couldn't help but think of what we're doing with the various jurisdictions here. And it is a complicated issue that comes up from time to time. And certainly, jurisdictions and authorities have to be appreciated and respected and dealt with in these issues, each and every one of these issues.

Very quickly, in July of 1997, when the Florida Keys National Marine Sanctuary and our co-trustee managers, the state of Florida, moved forward with the implementation of the management plan for the Sanctuary, we established a network of zones.

Now not all of these are marine reserves, but three different types: the ecological reserves; sanctuary preservation areas; and special use areas are essentially all no-take areas.

We ended up with one ecological reserve, the Western Sambos Ecological Reserve off of the Boca Chica area. That's nine square nautical miles in size. We made a promise to establish an ecological reserve out in this area after we implemented our management plan.

And we made a commitment to do that within a two-year timeframe. You may recall in the draft management plan, we had a 23 nautical mile area around Kerry's Fort that was proposed.

We had a 110 square nautical mile area proposed for the Tortugas, on the eastern side of the Dry Tortugas National Park. And each of those met with concern from various groups.

In the Upper Keys commercial fishermen, lobster fishing in that area had a lot of concern. The ocean reef community liked it, but they just wanted it moved south a little bit.

The area out here in the Tortugas, shrimpers had a lot of concern because they work this corner. They work this corner. Lobster fishermen out of Key West had concern because it was an area that they heavily operated in. We had too many concerns.

Environmental groups, scientists, different people that know the resources were concerned that we didn't take into account enough of the coral reef resources and the significant resources on the eastern side.

So we just took that out and what we went forward with was the one ecological reserve. And we had 18 sanctuary preservation areas. All of them are no-take except four of them allow catch-and-release fishing by trolling only. And then we have the other zone types. With the commitment to develop an ecological reserve in that area and knowing the jurisdictions, the overlapping jurisdictions as well as the adjoining jurisdictions, it was critical to us that we had to come back and do something a different way than what we had done previously.

So we pulled together a working group that we called the Tortugas 2000 Working Group, and we brought on the most knowledgeable people that we could to help us with this process: commercial hand-line fishers; leaders in the lobster fish industry out of Key West; recreational charter fishing businesses; managers from around the various federal and state agencies.

We brought together conservation groups. We brought together people knowledgeable with the dive industry. We brought together very esteemed managers such as the Chair, and we brought together people we that thought would be the ones that would be hearing

from the community as we moved forward with developing an ecological reserve in the Tortugas.

This was the study area that we laid out. And the charge that we gave the working group up front and early on was to ignore these jurisdictional boundaries. We wanted to do the best thing in that area from an ecological, biological perspective as we could, but ignoring the various boundaries in the area.

And the one thing that's critical, though, is this is the Dry Tortugas National Park. It falls outside the boundary of the Sanctuary. It's also called the "recreational fisherman's fishing hole" by the commercial fishermen that work out of Key West, because commercial fishing has not been allowed in that area since the early 1980s.

Recreational fishing has continued. So that's always been a little bit of a rub with the commercial fishing industry out of Key West.

Putting that aside, putting those concerns aside, we started pulling together the best science, the best information, to look at a proposal. The Sanctuary, this is out at the very tip end of the Sanctuary.

The Tortugas area is an area of very special resources. Some of the best remaining coral reef formations, endangered, threatened species use that area regularly. The heaviest coral cover in the Florida Keys remains in this area.

Forty percent of the reefs in that area -- they have 40 percent living coral cover over some of the formations in that region.

Additionally, it's an area with some of the best water quality remaining in the Keys. And it's an area with some of the best remaining habitats that support sponges and other communities that are important to the coral reef ecosystem.

It's also an area that's been under threat of injury and impact from various sources such as large ship anchors. We were able, within the boundary of the Sanctuary, after this incident, to prohibit ships from dropping their anchors on the living coral reefs.

But this 8-to-10-ton anchor scarified hundreds of square meters of living coral reef because the ship just came in and dropped its anchor. Well, now some of that activity has now moved to other areas outside the Sanctuary boundary.

We've also seen just a continuation in the numbers of recreational boats registered just here in Monroe County. And you can see that this number is just increasing steadily.

The commercial vessels have remained pretty constant over the years, and the headboats have remained pretty constant. But the recreational use throughout the Keys has increased, and particularly in the Dry Tortugas National Park.

Overfishing, anchoring on Riley's Hump, vessel discharges, all of these are things that could be addressed with a well-placed ecological reserve.

We brought before our working group some of the most knowledgeable scientists in coral reef biology. We brought coral reef scientists. We brought lobster biologists, fisheries biologists, a lot of people to present to the Working Group information that they knew about the area. And we brought the most current information possible.

But I think the information that we brought to them that made the biggest difference with everyone, and it gave us all a better understanding, was work by Dr. Tom Lee who looked at the water circulation in the Keys, in the Caribbean.

And he has been studying currents in and around the Caribbean and South Florida for over a decade. As the Florida current moves between us and Cuba, a series of counterclockwise gyres are kicked off as that current goes by.

Well, he's known this from various work that he's done over the years. But as a result of some of our concerns about what's happening with freshwater flows out of South Florida, he has been funded to put in a number of satellite tracking meters that he drops in the water on a periodic basis up at Shark River Slough.

And he's put in over two dozen of these satellite tracking meters. I have here just an example of what we know from his knowledge so far and the information he's gained that the potential of setting up counterclockwise gyres to keep plankton, anything that's spawned and released on Riley's Hump, released into the water column, can be entrained for months in any one of these current patterns that he's developed and documented.

Just to give you an example, these are only three satellite tracking meters. You can look at this one that was put in at Shark River Slough. You can see it came down and it got caught up in the Tortugas Gyre and spent some time drifting around.

Well, we know that a snapper that's only in the plankton about 30 days, in fact, could be distributed not only here in the Keys but it could make its way up here. Susan, we're probably helping you with your fish populations up there.

But further evidence to this, on the full moon, May before last, a scientist went out and he dropped 1,000 little drifter bottles right at Riley's Hump. Do you know what's happening on the full moon in May?

Mutton snapper are spawning. That's the beginning of the mutton snapper spawning season. And you can see from the size of the circles that the majority of the bottles came in to right around this area.

What's real interesting is that in May, June and July other scientists, oceanographers, had determined that's when the net flow of water is going up into Florida Bay, and that's when

the maximum flow into Florida Bay is taking place, at the same time fish are reproducing and spawning out here.

So, the scientists came back and repeated that experiment. He just this May dropped in another 1,000 bottles. In one day, just a couple of weeks ago, one day, 35 bottles were reported to come in to Fort Lauderdale.

One was reported in the gut of a dolphin. I found that pretty interesting. We also put in front of the Working Group socio-economic information. This is just on the lobster catch.

And you can see there's been a lot of activity over in this area, a whole lot of lobster fishing down here. And I would say consistent with what they told us previously, that anything over to this side or to the south in here would have impacted the industry quite a bit.

But they've told us this area, they know there's going to be some impacts. But the leaders have been willing to step up to that.

If you look at the reef fish catch, the handliners, a lot of them fish up here in the northwest section. But you can also see there's some heavy fishing down here and in other areas over here, also up here in this corner.

If you look at spear fishing, there's not that much spear fishing. There's one commercial charter boat that relies -- he takes recreational spear fishers out there. He takes 576 spear fishers out there every year, that one boat.

And this is the area where he works. And the reason he goes out there is that he claims the rest of the Keys are speared out.

The Working Group came up with this proposal. Each one of these are one nautical mile square grids. They proposed an area of 60 nautical miles around Riley's Hump and about 120 square nautical miles up in this area.

And if you notice, it overlaps into the Dry Tortugas National Park. The Dry Tortugas National Park started simultaneously on a planning process to develop a commercial services/visitor use plan.

And rather than just take what was given to them and put in front of them by our Working Group, they wanted to come back and look at the resources in that area, just as we had, in detail, using experts and find out if this was the right location for what was being proposed.

You were talking about the various jurisdictions. This is the Sanctuary boundary line. This is the state of Florida territorial sea limit. So everything inside this loop is inside the state waters. This out here is all in the Gulf waters.

And all this area down here is in your jurisdiction. We also have to work with the Governor and Cabinet as trustees and co-managers in the Sanctuary for anything we do.

So we're working with them and the National Parks Service, so you can imagine the numbers of overlapping jurisdiction in that area.

In our draft plan, our supplemental environmental impact statement and management plan, we have proposed five alternatives, five boundary alternatives.

The first one is a no-action boundary alternative which essentially would leave everything just the same as it is today.

Alternative two is a little more restrictive in that it has an approximate 55 square nautical mile area set up here to the northwest, and everything is contained within the existing Sanctuary boundary.

If you'll notice this very faint line here -- I apologize; it barely shows up, but the Parks Service has put forward a preferred alternative that includes a research and natural area that is about 40 percent, a little over 40 percent of the boundary of the Dry Tortugas National Park.

And they're proposing it for this area in this region. A research and natural area essentially is the same as a reserve with a lot of restrictions on how the area is accessed.

Our preferred alternative is consistent with what our Working Group and our Sanctuary Advisory Council proposed, and that is that there would be two sections, Tortugas North and Tortugas South, and there is included a proposal to extend the Sanctuary boundary to square off this corner for many reasons, primarily to pick up the sensitive resources in this area where we can prohibit anchoring on Sherwood Forest and some of the very sensitive coral formations over here, and to also extend the Sanctuary boundary around the Riley's Hump area.

Now it would be separate from the other Sanctuary boundary, but this area would be a stand-alone part of the Sanctuary. And you can see here from both of those alternatives that there's about 151 square nautical miles of area set aside.

Alternative four is a little more restrictive in the boundary in that you notice here we have dropped it to come down to match up with the National Park's Research and Natural Area.

With the knowledge I have of the Tortugas area, I can tell you that the area that they've encompassed here is some of the best coral reef formations and some of the best shallow sea grass, rubble formations, patch reefs. I couldn't have put better lines.

I would have never dreamed of putting such good lines on the map that they have put in here for their preferred.

And this alternative is more restrictive in that it does come down and extend the amount of the ecological reserve to the north by 23 square nautical miles. Tortugas South remains the same.

In this alternative, alternative five, this is our most restrictive, and here we're proposing to come in, expand the Sanctuary boundary all the way out to the corner and all the way down here.

Instead of having this as a disjunct section, it would cut off a part of the Riley's Hump area, extend the Sanctuary boundary out beyond Tortugas Bank by about 3 nautical miles, and it would expand the Sanctuary ecological reserve to about 190 square nautical miles. So this is the more restrictive, much larger boundary.

A full environmental and socio-economic impact analysis has been conducted. We brought in economists that the fishermen were familiar with, with a number of people. We went through a very detailed analysis.

We do know that the -- and we've assessed that the environmental impacts are going to be positive. And some of those are likely to be restoration of ecosystem structure; restoration of ecosystem function such as predator-prey relationships, get larger grouper again to help with some of the smaller species that start taking over when you don't have your predators.

And it will certainly help us with restoration of the ecological integrity of the area. We know in the short term there are going to be some impacts. I just showed you three economic sides, but there are a variety of different uses in the area, and there will be some short-term losses for some of the commercial fishers such as handline fishermen and lobster trappers.

We also heard last night from some shrimpers up in St. Pete that are still concerned about a couple of those areas real close to the reef. And they couldn't explain to me why they couldn't catch those shrimp before they got to that point, but still they had some concerns.

And I started to throw back the old thing that I hear all the time, "Well, that's why God gave those shrimp tails is so they could move right on through so you can catch them on the other side." But I didn't do that.

But, anyway, the long-term impacts are going to be positive. We know from what I showed you of the oceanography with the spillover, that in fact the replenishment will be great.

The spillover will be positive. The adult biomass will increase. The fish will get larger. The lobster will get larger. There will be more eggs produced. All of this will have a positive benefit through export of larvae to other areas.

Recreational use, again the short-term impacts will exist. There will be some recreational impacts on spear fishing charters and other recreational fishing activities. We heard from a club up in Homestead/Florida City at our hearings the other night.

And it's a club of about 75 people. They spend about 600-plus people days in the Tortugas in their club. And while they were concerned that their economics were not included in the socio-economic draft plan, they did express positive interest and that they felt this would not impact their club all that much.

We also developed a series of regulatory alternatives to match up with the boundary alternatives. Now the two are pretty much stand-alone when people are commenting. They can comment on any one of the boundary alternatives or any one of the regulatory alternatives.

We immediately threw out two alternatives; the no-action which essentially would not allow us to do what we should be doing to protect resources in that area.

Additionally, we threw out the more restrictive, which is a no-access alternative and would require only permitted and educational activities in the two ecological reserve sections.

We have four regulatory alternatives that we've put forward. One is Alternative A where all the existing Sanctuary regulations would apply that currently exists throughout the Sanctuary.

The existing ecological reserve regulations for the Western Sambos Ecological Reserve would apply. Additionally, that the regulations would express that the existing ecological reserve regulations in the Sanctuary Act would reflect that fishing is prohibited to the extent authorized by the Magnuson-Stevens Act.

Everything is the same in Alternative B all the way down to this point, except what we have proposed here is that Tortugas South, we would prohibit anchoring and require the use of mooring buoys; that we would prohibit the mooring of vessels greater than 100 feet in length to our mooring buoys; and that we would have controlled access to the area by a no-paperwork call-in type of permit.

This is pretty consistent with what the Park is doing to where if any divers went into that area, they would have to contact us and let us know they're going in there. That would help us with the enforcement issues that have been raised.

Alternative C is our preferred alternative. And everything is the same except we would include Tortugas North in that proposal, and that in both Tortugas North and South we would prohibit anchoring; require the use of mooring buoys by all vessels.

We would prohibit mooring by vessels of greater than 100 feet in length; and we would have controlled access via a permit -- again, no-paperwork, call-in type of registration; we are going in there, this is what you need to know.

Alternative D, I guess if you look at the regulatory alternatives, this would be probably the more restrictive in that everything is the same all the way down for Tortugas North, but Tortugas South would restrict access to permitted, research and educational activities only.

This part is consistent with what we've heard from the Gulf Council in a resolution that they would like to see diving activities restricted from the ecological reserve. The majority of their area of jurisdiction is within Tortugas South.

And this would be consistent with what they've requested at least for that particular area. This is the proposed action. You can see the action. Everything is the same in the north. You can see how it butts up against the Everglades National Park Research and Natural Area.

And everything would be the same here. The Sanctuary boundary would be in place in each of those locations. What we have as our preferred are Boundary Alternative 3 and Regulatory Alternative C.

Everything that I've presented, everything that we've been doing is on the web. We have a web page here. You don't have to take that down. I have some handouts here that will have it. And this is my phone number, how you can reach me if you have any other questions.

And with that, that concludes my briefing. I'll be glad to take any questions if you have time, Mr. Chairman.

Mr. Gay: When a boat travels down here, say a guy comes down and puts his boat in on a trailer, tourist, doesn't have a lot of local knowledge, takes off to go fishing, how does he know when he's reached -- do you have buoys, some kind of notification when you're entering one of these closed areas?

Mr. Causey: Yes, we do have buoys. And the way we try to do that -- that's a constant challenge to us. We do have a lot of people doing that. We don't have a gate that people come through. They come from all over.

So, we have not only buoys on site, 30-inch diameter yellow buoys that mark it very clearly, but additionally we have a program called "Team Ocean" where we have a group

that goes out and they get literature in all the dive shops, the marinas, the bait and tackle stores.

And we blanket the area with literature, and most people some way stumble across that or get it. And then word of mouth, local knowledge is the best tool that we've had.

Peer pressure, the more we enforce, the better response we get from everyone, not because of it's enforcement but it's fair and even. So we're trying hard constantly. The average boater should know that they're out there, but you'll still run into people that don't.

Mr. Gay: One other question, and this is just for personal knowledge as much as anything which is kind of an ongoing debate we seem to have here at the Council, but the area you called the "recreational fishing hole" where no commercial fishing is allowed --

Mr. Causey: Right.

Mr. Gay: -- are the charter --

Mr. Causey: I said a few quotes that I've heard over the years. That's a quote coming from commercial guys.

Mr. Gay: Okay, but are charter boats allowed in that area that sell their catch?

Mr. Causey: No. The Park Service has changed the way they operate there over the years. They've reduced the number of people on the charter vessels. It's only six-pack operations currently.

And so the large headboats cannot operate within the Dry Tortugas National Park. They've restricted that already. What they're looking at now would be that closed area to all fishing activities. And they're going to have a permitting system, and they're also going to have an entrance fee proposed.

Mr. Moffitt: Other questions? Seeing none, Billy, thank you for coming up and bringing us up to date. This has been a long process, but I think you're certainly closing in on it.

And there's been a lot of work go in it by a lot of people. And we appreciate very much your taking your time to come up here again. It's good to see you and I've found we have a good mutual friend in Sam Wampler so tell him hello when you see him.

Mr. Mahood: Well, I think you've talked about them and we've touched on a number of things that are going on and maybe a little bit about what occurred at the Chairmen's Meeting, but obviously right now protecting coral reefs is really in vogue because everybody is wanting to get in on a piece of the action.

There's a number of things going on. I think what you might be most familiar with, it's been in process of some time, has been the operation of the Coral Reef Task Force, which is basically a very elite group of people that's chaired by Secretary Babbitt and Secretary Daley and is made up of the various Cabinet Secretaries of the Executive branch of the government.

The Coral Reef Task Force basically is looking at setting up a program to protect coral reefs. To what degree there will be more bureaucracy added to that or what existing agencies and entities such as the Council will be involved with that, that's still to be determined.

Presently there's a bipartisan bill being developed called the Coral Reef Conservation and Restoration Partnership Act of 2000 in Don Young's Committee. And the Council is working very diligently to make sure that the language in that bill make it clear that the Councils, NMFS and the processes that are in place remain in place to deal with coral reefs.

How successful we'll be, I don't know. We've got a Coral Reef Task Force meeting coming up in August of this year. That's where we're going to deal with some of these things.

As we know, we feel very strongly that the Councils should maintain their involvement, and somehow all this needs to be tied together.

At the same time the Coral Reef Task Force is moving forward, you now have a Presidential Executive Order which really kind of establishes a new bureaucracy to deal with the protection of coral reefs and other habitat types.

They're looking at developing a series of marine protected areas starting primarily -- the emphasis seems to be starting in the Northwest Hawaiian islands, which very much affects the activities of the Western Pacific Fishery Management Council, which is in the process or near the end of a process of developing a plan for that area that deals with not only fisheries but protection of habitats and corals.

It's interesting. I think in your handout you have copies of both the President's Executive Order -- I don't know if you've had time to read that or at least a brief summary of it -- and also Representative Don Young's response to that, which is kind of very pointed that Congress does not appreciate the President working at odds with them.

And if you get a chance to read that, it's a news release. It just basically says President Clinton should work with Congress to protect marine life and habitat -- Chairman Don Young.

And it's a pretty strong news release indicating the congressional thoughts on what the President has done with his Executive Order.

We had hoped to have had Ellen Athis, who is the Deputy General Counsel of CEQ, Council for Environmental Quality, who is very much involved with this Presidential Executive Order at our Chairmen's meeting.

She didn't show up, couldn't show up. And we found out why, because the Executive Order came out the next day after the Chairmen's meeting was over with. And as Pete said, we were told if we wanted to comment, we needed to do it in a hurry, but they didn't say like "that day."

So, we didn't get a chance to comment on that too much.

Also, along with this, the Department of Interior has evidently stepped forward with the determination that they can at any point in time, under the rules or statutes they operate under, go into any marine environment and create a refuge administratively without any type of public input or anything or any restraints relative to criteria and this type of thing.

I'm sure they must have something, but basically that's the impetus between the Northwest Hawaiian Islands Refuge, supposedly, which will prohibit all fishing and give total protection of the corals, even though all the fisheries are very limited out there and in very good shape. So there is some concern about that.

The other thing I think that's interesting -- and we haven't had a chance to distribute this because we just got this before we left. Some of you might have seen a copy of it, but there's a staff working draft for a Senate bill to reauthorize and amend the Magnuson Act.

I thought it was very interesting. This gets into coral. And there's a section in the Senate bill, Title 3, it's "Coral and Coral Products", so that's a very interesting title. The subtitle is "Coral Reef Conservation."

Then you go over under, I think it's Section 351 of the bill, "Purposes"; one of the purposes is to assist in the development and implementation of plans for sustainable harvest of live coral and wild live rock that are essential components of reef habitat.

So they're actually putting a purpose to go -- now I guarantee you that came out of our Sargassum Plan, because as you recall part of our rationale for protecting sargassum, we used the fact that we had to protect the hard corals and live rock.

So somebody who wrote this language I think must have had the sargassum plan or some of our other plans right there in front of them. So if this type of a bill went through, then I guess we would have to develop a plan for harvesting live rock as opposed to no harvest of live rock.

These are the types of things that are going on right now. There's a lot of activity. We're going to try to -- I'm personally involved in trying to keep track of all this. The Councils are working very closely together, all the Councils.

And it's really drawn in all the Councils, even though they don't have coral reef resources because just the fact, the thought that some other agency under some other authority can go out there and just start putting up refuges or closed areas, this type of thing.

And Pete is right. It's really confusing the public of who has the authority to do what. And I think it's at cross purposes. If you read Congressman Young's news release, you'll see it's even at very cross purposes at the Washington level.

With that, Mr. Chairman, I'll leave it there unless somebody has some questions. I know Jim may even have some more thoughts on this issue. I know he's probably involved in the middle of it.

He's kind of known as the expert in the southeast in this area, probably nationally in this area. I'm anxious to hear what he has to say out in San Diego about this, marine protected areas or marine reserve.

Mr. Moffitt: Bob, thank you. Are there any questions for Bob? Marine reserves is almost like a fashion statement today.

Mr. Cole: Bob, the area in the Pacific that was of some concern, isn't this part of the -- well, there's a word for it. We don't have any in the Gulf or the Atlantic or the Caribbean area, but what it is, it's territorial properties, et cetera, that are owned by the federal government and under the jurisdiction of the Department of Interior.

Micronesia and some of those properties I think are those. And, yes, the Secretary therein, since he is the designated property manager, could probably do those withdrawals.

But any withdrawals on the Atlantic, Gulf or Caribbean area have to be done under the National Wildlife Refuge Act. That Act is very specific in requiring the Governor's concurrence for establishment thereof.

So I'm not sure -- I mean, I'm going to have to go look, but I think that that situation that has occurred in the Pacific is unique to that area. And I'm not going to say it won't happen again, but frankly, I can't see worrying about it too much over here.

I know that our leadership on this side in both the northeast region and the southeast region and in the southwest region, which makes up Texas, I mean it would -- I'll be blunt. It's the kiss of death to do something without the state's blessing in some way. I mean, it certainly is as far as our agency is concerned.

Mr. Mahood: Are you saying, then, the Department of the Interior can bully our territorial areas, then?

Mr. Cole: I guess they can.

Mr. Mahood: No, Bill, I think in the case of the Northwest Hawaiian islands that is not -- that's off the coast and within the EEZ of the Hawaiian Islands/North Pacific Fishery Management Council jurisdiction.

I can tell you one thing. There was a lady, one of the vice-chairmen from the Western Pacific Council, that was there from Guam. And she's the past police chief of Guam. And she's an esteemed professor at one of the universities.

And she made one of the most impassioned pleas relative to the Councils trying to get them out from under the iron thumb of the Department of Interior I've ever heard in my life.

I don't think you'd want to go to Guam and be in a bar one night bragging about being an employee of the Department of Interior, because there are some very, very ill feelings out there towards the government and how these peoples have been treated out there.

Mr. Moffitt: Bob is right. The Western Pacific Council was heated, to say the least, over this issue. And the lady from Guam was quite interesting. She's from University of Guam.

I wondered where they get students. I asked her and they come from all over the world. It's a rather large, small university.

Mr. Mahood: Pete, I would say one other thing. Under the Presidential Executive Order, it's very all inclusive. I mean, it says "marine protected areas mean any area of a marine environment that has been preserved by federal" and it goes on and on.

"Marine environment means those areas of coastal and ocean waters, the Great Lakes and their connecting waters and submerged lands thereunder over which the United States exercises jurisdiction."

So under this Executive Order, and this just kind of plays in with what the Department of Interior has determined it can do, so it's not going to be this limited. If this takes off, it's certainly going to be in our business unless we're very much included in it.

Mr. Moffitt: Any other thoughts or comments? We're down to that ominous part of the agenda called "Other Business." Kerry, is there any?

Ms. O'Malley: I just want to make sure everyone knew that we were having an Advisory Panel meeting July 26th and 27th from the Marine Reserves AP. You should have received a memo, but I wanted to bring that up and let you know that we're going to be presenting them with a scoping package as well, and asking them for some more direction as far as where they think we should go at this point. So I wanted to make you aware of that.

Mr. Moffitt: Any other business?

Mr. Gay: Yes, I just wanted to clarify that I understand that correctly. That is the AP only?

Ms. O'Malley: Yes.

Mr. Moffitt: Yes. Okay, there being no further business at this point for the Marine Reserves Committee, we may stand adjourned.

(Whereupon, the meeting was adjourned at 10:50 o'clock, a.m., June 15, 2000.)

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TAPE OF PROCEEDINGS ON FILE (2)

Certified by: _____ **Date:** _____

**SUMMARY OF APPROVED MOTIONS
SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
ISLAMORADA, FLORIDA
JUNE 15-16, 2000**

MARINE RESERVES AP >> APPOINTED BEN HARTIG; AND ADDED A STATE DESIGNEE POSITION TO THE MARINE RESERVES AP AND APPOINTED MEL BELL TO THE NEW STATE DESIGNEE POSITION.