

**CARIBBEAN FISHERY MANAGEMENT COUNCIL  
268 MUÑOZ RIVERA AVENUE, SUITE 1108  
SAN JUAN, PUERTO RICO 00918**

**129<sup>th</sup> REGULAR COUNCIL MEETING**

**MARRIOTT FRENCHMAN'S REEF  
& MORNING STAR HOTEL  
ST. THOMAS, U.S.V.I.  
DECEMBER 9-10, 2008**

**VERBATIM TRANSCRIPTION**

The 129<sup>th</sup> Caribbean Fishery Management Council meeting was called to order on December 9, 2008, at 9:00 a.m., and was adjourned on December 10, 2008, at 5:00 p.m. The Administrative Committee met on December 9, 2008, from 5:15 p.m. to 6:15 p.m., to discuss administrative matters. The meetings were held at the Marriott Frenchman's Reef Hotel in St. Thomas, U.S. Virgin Islands.

The following Council, staff members, and interested persons attended the meeting:

**VOTING COUNCIL MEMBERS**

Viridin C. Brown	St. Croix, U.S.V.I.
Marcos Hanke	Puerto Rico
Eugenio Piñeiro	Puerto Rico
Winston Ledee	St. Thomas, U.S.V.I.
Roy Crabtree	NOAA Fisheries
Ruth Gomez	DFW/DPNR/USVI
Miguel García	DNER/Puerto Rico

**NONVOTING COUNCIL MEMBERS**

Shepherd Grimes	NOAA General Counsel, Southeast Region
Joseph Kimmel	NOAA Fisheries

**STAFF MEMBERS**

Miguel A. Rolón	Executive Director
María de los A. Irizarry	Administrative Assistant to the Executive Director
Graciela García-Moliner	FMP and Habitat Specialist
Diana Martino	Assistant to the E.D. and Executive Secretary
Livia M. Montalvo	Automation Clerk

**OTHER ATTENDEES**

Dunn, Tracy A.	NOAA Fisheries Enforcement Division
Ehrdhart, Nelson	University of Miami
García, Jorge R.	HAP Chair
Gerard, Trika	NOAA Fisheries
Jamir, Tom	NOAA Fisheries/SEFSC

Kojis, Barbara	SSC Chair
Magner, Jimmy	St. Thomas Fishermen's Association
Magras, Julian	St. Thomas Fishermen's Association
Millikin, Mark	NOAA Fisheries
Olsen, David	STFA
Ponwith, Bonnie	NOAA Fisheries/SEFSC
Schuster, Edward	AP, Chair
Radonski, Jeff	NOAA/OLE
Ríos, Lynn	NOAA/OLE
Rosario, Aida	DNER Puerto Rico
Rueter, Jason	NOAA Fisheries
Steele, Phil	NOAA Fisheries
Turbe, Kenneth	AP Member

(List of attendees under Attachment A.)

**December 9, 2008**

### **ADOPTION OF AGENDA**

**Marcos Hanke moved to change the order in the agenda, and to have before the Bajo de Sico presentation, the one given by Dr. Nelson Ehrhart. Seconded by Roy Crabtree. All in favor.**

### **CONSIDERATION OF THE 128<sup>th</sup> COUNCIL MEETING VERBATIM TRANSCRIPTION**

**Marcos Hanke moved to approve the 128<sup>th</sup> CFMC meeting verbatim transcription. Seconded by Winston Ledee. All in favor.**

### **Tape 1(a)**

### **EXECUTIVE DIRECTOR'S REPORT**

Miguel Rolón: Thank you Mr. Chairman. Given the time that we have, I believe the *Acropora palmata* will be covered by the NMFS at some time, and we wanted to also bring to your attention the issue of the budget. As you know, we are at this time in a transition period for the new administration, so what we are going to do it to work with the budget that we have until 2009. December 31<sup>st</sup> is the last day of our five-year budget, and we are going to discuss that more in detail this afternoon at the Administrative Committee meeting. Also, the fishermen of Puerto Rico requested an orientation meeting similar to what we did in the USVI, and we are going to be working with the DNER of Puerto Rico on that recommendation. Also, they requested the possibility of working on a project to start to see limited entry for the deep water snappers, and we met with Dr. García on Friday, at the office, and we started a conversation on that matter, and remember, any limited entry without the cooperation of the fishermen and the local governments is really set to fail. So during 2009, we may be able to meet, and at this meeting we need to have your blessing, and perhaps appoint some members, one or two members from the Council, to start working on limited entry. The CFMC and the Western Pacific Council passed on our proportion of the budget that was going to be allocated to us for limited entries, and we didn't receive anything in 2008, we might receive something on 2009, but we are not sure, it all depends on the meeting that we are going to have on February because the budget situation is not clear at this time. The other is the spiny lobster imports and the ACL regulations. I guess that we can cover that when we have the NMFS

presentation, but we have a conference call with the Washington NMFS personnel, and they told us that they are waiting to see if the ACL rules are going to be approved in December, if not, then we'll have something in the first part of 2009. In 2009, the Marine Recreational Information Program is going to be running, starting on January 1<sup>st</sup>, and we will have a conference call hopefully this week or the other with the steering committee to see where we are, and then we will inform the Council. This is important for the local governments, because as we discussed before we need to establish at the national level a registry of fishers. In some states they would like to use the registry they already have, and they would like to see if that registry could be validated as the federal registry of fishers, and that will be discussed in January or February probably with the local government representatives. In the case of Puerto Rico, the recreational fishing license that was postponed for the last three or four years was going to be used as the proxy for the registry, but that hasn't been able to be implemented yet. Probably by the first half of 2009 we will have a clear picture as to where they are going with this one. In the case of the USVI, they have been working with some projects regarding recreational fishing, and they'll be also working with it in 2009, as soon as we get the word from Washington. The other thing is the two initiatives that we have with the Nassau grouper, but we have that in the agenda, so we can cover the topic when we get there. For the spiny lobster, Roy, do we have anything lately on the spiny lobster import regulation?

Joe Kimmel: We have updates for spiny lobster, and we have a little presentation for Bajo de Sico that we can talk about later on.

Miguel Rolón: Can we do that then before Bajo de Sico, right after Nelson?

Joe Kimmel: Sure.

Nelson Ehrhart: Thank you Mr. Chairman. This report refers to the development of the stock assessment methods appropriate to the queen conch. Is a project that was started in April 2007, and it was extended, with no cost, to November 30<sup>th</sup>, 2008, and the reason given was that the co-author, Monica Valle, had personal problems and had to move to France and Mexico, etc., and she could not comply with the due date at the time. The manual has been completed, and there is an electronic copy in hands of the Council. The basic objective was to develop stock assessment methodologies commensurate with the queen conch biology. It is a difficult species to assess. There are no estimates of fishing mortality and exploitation throughout the Caribbean, and in the year and a half of this project we were able then to develop new methodologies, and they are included in the manual. There were five components in this project, and basically, and the most important one is component one; we tried to standardize some methodologies in the estimation of population density. (Copies of the queen conch manual and the complete presentation can be requested to the CFMC office).

Miguel Rolón: At the workshop that Nelson mentioned that was held in San Andres, Colombia, the countries were pretty much interested in the outcome of this manual, and the NMFS International Office that was represented by Nancy Daves also, they thought it would be a good idea to have a follow up meeting where we can introduce this along with the FAO other manual that was prepared. It is a manual that also deals with the queen conch management. So under the initiative that we have with the Council, the WECAFC group and the Colombia group, and supported probably by, maybe a little bit from us and some from the NMFS international office, we might be able to put together a session with scientists and officers of different countries that are involved in the fishery management of the queen conch and present the manual, probably a hands-on training session on what they need to learn and the manual. And this is a recommendation that came from that group. Also, the OSPESCA, an organization of countries that deal with spiny lobster, queen conch and any fisheries in Central America especially, they were represented at this meeting, and they were also interested in the outcome of this manual. So maybe we can join efforts with OSPESCA, the Office of International Fisheries Affairs, Rebecca Lentz office in Washington, and put together something. But we need to work on it in 2009, and we need to also wait until the new administration comes in and see what their priorities are. In the meantime, we

are going to distribute the CDs and maybe we need to probably discuss a little bit more outside this meeting with Nelson and the University to look for the best way of distributing this manual. This is a technical achievement that we have done, and we have found also that some of the technical approaches to the queen conch may be useful for other fish like groupers that aggregate, because they have the same problem; they are targeted during one particular period of the year they are very ... to that fishing, and by the time you get to know that they are overfished using the classical models of MSY it is too late. Also the group met at the Cartagena meeting with the WECAFC and the Nassau grouper species were also interested in this type of approach.

Eugenio Piñeiro: Thank you Dr. Nelson Ehrhart for his presentation and his work. The next item on the agenda is the Bajo de Sico scoping meetings results.

Jason Reuter: Mr. Chairman, I do not have the results of the scoping meetings, but I have some points to highlight about the Bajo de Sico document. As soon as Graciela has the scoping meeting discussion we'll continue with this, but just a few points about Bajo de Sico, I have three quick slides to generate some discussion among the Council members; what exactly do we want to do with this document and this action? There is a little uncertainty about where we are going with this. So currently we have a three month closure to fishing activities in the Bajo de Sico, and there is some uncertainty about the current proposal, whether we want to maintain that three month closure, plus a year round closure to fishing for just the reef fish species and spiny lobster. Or, do we want to maintain a full closure year round, as it is now, where no fishing activities would be allowed in the area. So this is the main point that the Council needs to discuss. Do we want to maintain the three-month no fishing at all? Do we want to extend that for a full year round? Or do we want to have a three-month no fishing, and a nine-month of no reef fish and no spiny lobster fishing? I am sure I could speak for the law enforcement, they would prefer to see consistency throughout it to make enforcement easier, but it is something that the Council needs to discuss, perhaps with the input of law enforcement. A couple of things to consider during your discussion, your original reason for closing the Bajo de Sico, as we know is that red hind spawning aggregations, which are extremely vulnerable to overfishing, because of these spawning aggregations there's a more or like history trace, which particularly are slow growth, long life, they don't move very much, and a formation of those spawning aggregations that are targeted. A final point about the Bajo de Sico, a study by ... shows that gains in density and biomass, which is assumed to be spawning, stock biomass are of a magnitude that is useful in management, are normally seeing reserves on scales of five to ten years, as opposed to seasonal or short lived closures. What they found was that when you open these closures back up the gains that you did see are quickly removed, and therefore your seasonal and/or short lived protected areas may not be the best leads for protecting spawning aggregations. So those are just some points to think about when the Council discusses this; the direction in which they'd like to go with the Bajo de Sico closed area, as well as what we have from the scoping comments. If you like I could go on to the next slides on the spiny lobster. I can give you a quick update on that, if you like, or we can hold off and allow the discussion to continue.

Graciela García-Moliner: You have the summary minutes of the scoping meetings in the briefing book, under tab C, and they are very short. The Council took the scoping document to scoping meetings during the month of September 2008. Over 2,000 mailings were done with the document, both in English and in Spanish. It has a summary of the managements up to the point for Bajo de Sico. It also included the alternatives as they had been presented to the Council at the August meeting. First, a no action closure to allow for the Bajo de Sico to remain the way it is, a three-month closure for the protection of red hind, and I'll come to that in a second. Extend the closure from three months to six months for Bajo de Sico, and this is the actual wording that went out with the scoping document, and to extend it for three months to a total closure of twelve months for Bajo de Sico. As I said, this is very short. Of over 2,000 mailings and four scoping meetings, we had a total of 19 persons that came to the scoping meetings, of which only 14 had comments to make, and 11 preferred the no action, 14 persons had something to say at the meetings, but that represents 79% of the people present at the

meetings. From a west coast interview survey that was carried out in 2008, Juan Agar interviewed 65 commercial fishermen from the area, this is based on the data from the Fisheries Lab, DNER, and basically everyone who had been interviewed, the results from those interviews stated that they do not want to see any kind of other additional closures in the area because specifically they have three federal seasonal closed areas, they have extended closures from the state government in Desecheo, Mona and Monito, and they do have quite a number of new seasonal closures for different species that were implemented in 2005. So basically this is what your west coast of Puerto Rico look like. You have Bajo de Sico at the top, Tourmaline and Abril la Sierra; these are the seasonal closed areas for red hind. You do have prohibition on bottom tending gear, longline, traps and nets in those areas. You do have a prohibition on the use of nets in federal waters, and you do have a red hind seasonal closure from the shoreline to the 200 nautical miles west of the 66 degrees line. In addition to that, there are a number of compatible regulations for the groupers and snappers of the areas, and they do have seasonal closures that apply for anywhere between two and three months, so one of the issues that they brought up is that they already have all these management strategies in place, and what they don't see is the enforcement and the monitoring of any of these management measures that they already have in place. So that is basically what happened in the month of September, and the issue was also brought up by the fishermen from the USVI that were very vocal about not requiring any further action regarding area closures for the US Caribbean.

Joe Kimmel: And Tourmaline and Abril la Sierra, during those three months that is closed, it is closed to all fishing, and there is no exception right now for highly migratory species or fishing pelagics. So we need to get direction from the Council exactly how you want to proceed, whether you want to allow the highly migratory species to be caught; do you want the pelagic species, like dolphin, wahoo or mackerel to be caught there, and we want to know whether you want to allow things like SCUBA diving and spear fishing in the area? Every time you allow something in a closed area it makes it much more difficult for enforcement to deal with it, so you have to take those things into consideration.

Graciela García-Moliner: There were comments regarding the issue of pelagics, that pelagics should be allowed in any of these seasonally area closures.

### **Tape 1(b)**

Marcos Hanke: ...strategies how to make it easier for the law enforcement agents to deal with the situation. This is a fishery that is done with the boat moving, and you are not anchored, you are not stopping the boat, and I remember that we discussed also maybe an alternative that if you are fishing for pelagics there you shouldn't have any bottom tending gear or any equipment that you can fish red hind or fish on the bottom, just the regular sport fishing trolling gear on board.

Miguel Rolón: We also distributed, this is more information for the Bajo de Sico discussion, is a letter that was sent to us by the Secretary of DNER, Javier Velez Arocho, and the local government also was discussing the possibility of working on Bajo de Sico with us to establish a no-take zone in Bajo de Sico. The other issue that I wanted to mention is the confusion out there. People didn't know that when you closed Bajo de Sico some years ago, during those three months, you are closing it to protect essential fish habitat as well as the fish, and also to make it enforceable, the NMFS recommended, the Council accepted, and the Secretary approved, that it is a defacto no-take zone during those three months; no fishing is allowed in the area. The highly migratory species group went with it. So the status that we have now is that in those three months, and this is, for the records I want any corrections, especially from the lawyers, because that is a question that has been asked to us several times at the meeting with the fishers, the status quo will be three months total closure, highly migratory, coastal pelagics included. Is that what we have at this time?

Shepherd Grimes: Yes. The way the regulation is written is no fishing in this area during this time, so that would be any type of fishing.

Miguel Rolón: So when the Council went to the scoping meetings, the Council had the preferred alternative excluding highly migratory and coastal pelagic species. The question to the Council is, if we are going to change that, and discuss this further with the local government, if you go with the proposal by the local government, at least one alternative for the local government proposal would be to extend those three months closures throughout the year, so you have an additional nine months of total closure. The Bajo de Sico would be a no-take zone to all fishing, highly migratory and coastal pelagics included. If you leave it as is, then you have this three months no-take zone. If you want to change it, then you have to go back to public hearings with a different preferred alternative excluding highly migratory, coastal pelagics, or whatever you want to change there. The preferred alternative by the people who went to the scoping meetings was no change. To leave it as is, or even open it to all fishing, while they recognized that was not going to happen, so the majority, even the people from the USVI, preferred the status quo rather than change it to what we have. So Mr. Chairman, what we have then is we need to go back probably to the presentation by Jason with the three questions, and address the issue and look at it from the point of view of process what is it that you would like to do, and then instruct the staff on how to proceed in 2009 with Bajo de Sico.

Roy Crabtree: Jason did we somewhere in the document defined what pelagics means exactly? I know highly migratory species would be defined by the Highly Migratory Species FMP, but we don't have a coastal pelagics fishery management plan. So did we somewhere identify what species ...?

Jason Reuter: The Council would have to identify those species that they wish to exclude, as pelagics, because we don't have a fishery management unit or a fishery management plan for the coastal migratory pelagics, so you would have to list those species that you wish to exclude. The other thing that we got from the Agar and Tony... study was baitfish, which seems to be extremely important to a lot of the fishermen on the west coast of Puerto Rico. So that is another consideration the Council may want to look at, and then identify what those baitfish are.

Roy Crabtree: How big is this area in terms of square miles?

Jason Reuter: Nine square miles.

Roy Crabtree: Nine square miles. And as I read on a letter from Puerto Rico Department of Natural and Environmental Resources, it looks to me like they have what they refer to as Joint Resolution 307, and it might be that what they are trying to do here is they want to establish a no-take reserve, which means no fishing of any source. About that nine square miles Jason, how much is that, is all of that in federal waters, or is that the whole area, including the part in territorial waters?

Jason Reuter: Nine square miles is the entire Bajo de Sico, and it is fairly close to split down the middle.

Roy Crabtree: It seems to me, if you want to try to be consistent with what Puerto Rico is doing, you want to consider maintaining a no-take reserve, which would mean no fishing. But I think whatever we do it needs to be consistent year round. I don't think you would want to have three months no fishing, and then nine months some fishing. I think that is too confusing. And I think, in the document, if you decide you are going to allow some type of fishing, you need to be a lot more specific in terms of just saying pelagics.

Eugenio Piñeiro: Yes indeed. And besides that brings us to the two big issues; number one, we have been going to the scoping meetings with a paper that says that coastal pelagics and HMS are going to be allowed to be

fished there, either three months of the year, either six months, either nine months, even if it is permanently closed in the bottom this is the idea that this Council has been telling the fishermen at the scoping meetings, and we have to talk more about this issue, because it is completely misleading what we have been telling the people and what we have on the table right now. It is completely misleading. We have been sending them the notion that coastal pelagics and HMS are going to be allowed and that there is a no-take, and still we had a 79% opposition. So if we do that is going to be, if we don't correct, if we don't clarify, if we don't put that in writing is going to be a 100% opposition by the stakeholders, and then we are going to end up with nothing. Let me remind you that we are in tough economic times. The recreational charter industry overall depend heavily this time of the year. I was talking to Shepherd, that is like saying that skiing is not going to be allowed in the ... in the winter time, so we have to be very careful with this. We have to talk about this thoroughly, and we must talk more, because if we want to go to public hearings we cannot go there with a ..., number one; number two, I spoke with Dr. García, there is a new administration incoming to Puerto Rico, and the Governor has asked the representatives of this current administration not to take any decisions that will have any economic impact or implications in that. So we have to talk thoroughly about this issue.

Jorge García: I think that perhaps the reason for closure of the three months for everything, including pelagics, is probably an enforcement consideration, because I don't think there is any really good rationale for closing the reef to pelagics without any real fishery information about the impact that such a fishery might be, subjecting the pelagics, the highly migratory pelagics. So I think it was mostly an enforcement consideration, which I understand, and I think we all do here, you know, about the perhaps increase that difficulties of separating species. But if we are going to consider this initiative of closure for the, a year round closure for the demersal of reef species, we might as well consider opening it year round for the highly migratory species, which is mostly what the Bajo de Sico is relevant in terms of the industry and the economy and socio-economics impact on the region, and maybe that would be a way of actually giving something to do something. In fact, you not only are subtracting the fishermen every time more and more, but rather you are saying, ok, we are looking others, with not really a very good reason to close this area for fisheries of pelagics here, so you can fish pelagics year round, but we want to close it year round for the big groupers and snappers. So I think it would be a matter of perhaps providing a short list of species that, or what if pelagics are defined, you know, and to the fishermen it will be very easy to know them because it is a very well known species, you know, those are the species that are excluded from the fishing closure, and that way I think that we would at least, perhaps improve that 79% opposition, lower it down considerably, and perhaps achieve the goal of making this kind of management strategies more attractive to the fishermen.

Eugenio Piñeiro: I want to point out briefly that the way the Coast Guard has been managing that in the past is they call the ... who go there, if they have an HMS permit they just give them the number and they go. That is one point. The second thing is that NMFS doesn't have an enforcement unit, a maritime enforcement unit. That is done by the US Coast Guard and the DNER, and the big enforcer there is the fishing community, that every time that they spot someone diving or doing something illegal they are the first ones to contact the Coast Guard or NMFS. So the enforcement, it would be much easier just to have it open on the surface, because you have to troll at least seven knots, there is no way you are going to bottom fish in that small area like a sitting duck. So, we have to look, to have the big picture.

Tracy Dunn: I want to just tell everybody that our role here is purely guidance. I mean, we tell you how that to set up a management scheme that would be most enforceable. If you decide to go outside of that you have to understand we are going to have a lot of difficulty, and Geño explained it very well. A boat that is not supposed to be in the area, the community better know that there is a problem there. Now, as soon as you start allowing whatever parameters, you know, highly migratory species or something like that in there, or fishing for those, then the community will have a tougher time in saying there is a problem, and then the Coast Guard, when they board, depending on the quality of the individual there, they don't know that gear as well. So, I mean, there are

some parameters that you have to think about as a Council as far as what you are trying to protect and what the enforcement force can do for you in that area. If you do that you are going to have to say that possession of any demersal species is not allowed in the boat whatsoever, which will cause its own problems, because you have boats transiting. So you know, you try to correct one problem but you create another problem for another community. So just keep those things in mind as you go down this path.

Joe Kimmel: I applaud Reni's attempt to try to get by in by meeting a half way sort of a deal, but you know fishes that spawn, groupers that spawn, they not all can do this, but the larger groupers generally go up in the water column, and if you've seen pictures of spawning aggregations, these aggregations like Nassau groupers would extend from the surface of the reef up maybe forty or fifty feet or more in the water column, and when you are trolling for pelagics and you go through an area like that, you know you catch highly migratory pelagic species, or even maybe one of these groupers, and they'll take the, they are frequently caught by trolling. The activity of catching those fish will disrupt the spawning aggregations, so while you may have not removed the fish, you've disrupted the aggregation. So you don't get the reproductive output from the spawning aggregation that you would, that you want to in the first place. So to me that is a problem, that there is fishing going up in the water column in here disrupting the spawning aggregations by the act of trolling through the areas.

Eugenio Piñeiro: Briefly, most of those fish spawn at night, and they have other things in their mind besides, before eating, they have other activities.

Miguel García: I want to officially recapitulate in the position of the Puerto Rican Government at this time, and we could discuss further at this time technical or points on this argument, but deciding any further, there is a new government elected in Puerto Rico and we are in the transition from the previous to the new one, and I have been instructed that any decision that will impact, potentially impact or have economical implications will have to be delayed until the new positions are fully taken by the new persons.

Roy Crabtree: When about, any decision we make wouldn't be made until at least our next meeting. So that shouldn't be a problem. I guess our next meeting will be in March, and I don't know that we will be ready to make a final decision at that time even.

Miguel Rolón: I just want to make sure that you guys follow the procedures. When we approved this some years ago all these discussions took place; that the Council decided to close this for three months. If you don't do anything it is closed for three months. So what is the change that requires us to change what you already decided about those three months? People all of a sudden decided that they are going after the pelagics on top of the reef, at Bajo de Sico? Can't they go around nine miles from where they are coming to the shoreline. What happened? Or is it that we took a decision and we didn't understand the decision that we took ten years ago? You went to scoping meetings and you wanted to close the entire area, the same way that you closed it during those three months, except for the highly migratory and coastal pelagics. So those are the issues you have to be discussing. In the case of the socio-economic, Dr. Valdés Pizzini told us that we don't know anything about the socio-economy of the people who fish in Bajo de Sico. So we don't even know the contribution that Bajo de Sico are keys to the fishermen who go to Bajo de Sico. From the scoping meetings, there is almost no fisherman who depends for their livelihood to go to Bajo de Sico. And remember, Bajo de Sico looks close when you look at it in the map, but it takes some guts to go there and fish. So the issues that they have, really, is that if you are to change anything, you have to do it between here and December of next year, with the budget that you have, and you have to have a clear mind on what are the questions that you want to address. In the case of the DNER, they are not locked into the no-take. They wanted to have a brainstorm session, as we discussed with Dr. García and Aida Rosario last Friday. So, I want to keep you in track of what you have and what you can do in the next several months, and Bajo de Sico is kind of a romantic thing, but is not the higher priority. You have the ACLs and recreational fishing waiting for you to discuss.



Viridin Brown: Thank you Mr. Chairman, and good morning to everyone. I guess some of what I thought of has been presented, but it should be noted that the letter that was submitted was dated prior to the election, and of course, we know that, it has been postulated here, that a new administration will take office in January, therefore, perhaps a new policy might be set, and perhaps there might be concurrent with what is in Secretary Velez Arocho's letter. As much as possible I know we want to have compatible regulations throughout the zone that we are trying to protect. The reef doesn't stop or begin at the EEZ, and as much as we can be total in our efforts to better manage and protect the resources that will be spawning and utilizing this area then we should do so. I don't know what else we can do other than wait for further discussion with the incoming administration, be sure that we are clear on what we want to do with them or they want to do with us, and then proceed; either proceed without their concurrence on what we have proposed now in our options, or we'll try to work out something that is reasonable, and Miguel indicated that there has been some discussion, but that discussion will have to be ongoing with the incoming administration. Therefore, I am suggesting that we do nothing at this point, because we want to be sure that what we do is in harmony with the Puerto Rican Government, or to the extent that is practical. I also want to point out that in our document, that we are not certain in the options, in a couple of places where, at least in a definitive sense, where the ... season is, or rough waters, we are thinking one instance is in October, two months from October, and another says from November till when, with that not being stated, and I think that needs to be clarified in any subsequent document that we send back out. But I don't see is practical at this point for us to take any further action.

Eugenio Piñeiro: I see progress in the whole thing here. We have to brainstorm a little bit more with what Dr. Reni García said about the give something in exchange for something, and I understand Viridin. And I also understand that the process has to move forward.

Roy Crabtree: My suggestion of what we ought to do at this time is it seems to me we need to clarify what it is we are doing, and so if you look on to page 11 of the scoping document, it has the alternatives under the action, and alternative one is no action, then there is an alternative two that extends the closure from three months to six months, and it has a couple of sub-options, and I am ok with that one, but I think we have to ask staff to restructure alternative three, because it is not clear to me, I don't think we define in alternative three very well what pelagic species are, and we need to be specific or we'll get in trouble. So what I would suggest is that we modify alternative three to be a year-round closure of the Bajo de Sico area, and then it has two sub-alternatives, and sub-alternative A would be a year-round closure to all fishing, and that we would request compatible regulations with HMS; and that alternative B would be a closure to Council managed species, which would mean species in our Reefish Plan, Spiny Lobster Plan, Conch Plan and Coral Plan, and that we would prohibit fishing for and possession of those species, and that we would prohibit bottom tending gear, and anchoring by fishing vessels. And that way staff can go back and analyze those two, and you can come back in at the March meeting and decide if you are satisfied with it, and we can do public hearings and move this thing forward, and you make a decision, you are going to have to decide at some point if you want to close this to all species and all fishing, or do you want to close it just to basically reefish and spiny lobster, and allow people to fish for dolphin and HMS species and other things. I do think though that whatever we do the regulations need to be consistent year round. I don't think we want to have a close to all fishing for three months, and then to most species for nine months, that seems too confusing to me. That would be my suggestion of our charge to staff to work on the document and to bring it back to us at the next meeting.

Eugenio Piñeiro: I think it is pretty reasonable, because first, we don't stall the process, number one; and secondly, we definitely and certainly need clarification on that. We have to move in that direction. We have to listen to what the people want; the stakeholders and the people who fish there. So I think we are making progress here.

Viridin Brown: I think Roy had given a comprehensive view. Before we get into too much discussion, could we just get that as a motion if we are going to act on it?

**Roy Crabtree: I am going to ask Mr. Chairman if you'd like me to make a motion and put it up on the board? I move that we ask staff to modify alternative 3, this is under action 4.1; such that alternative 3 would close the Bajo de Sico area year round to, and then sub alternative A would be, all fishing, and request compatible regulations from NMFS Highly Migratory Species section, and then go down and have a sub alternative B, that would be to fishing for and possession of Council managed species, and prohibit fishing with bottom tending gear, and anchoring by fishing vessels.** And that is my motion. And just as some clarification to staff when I say bottom tending gear I am talking about fish traps, spiny lobster traps, and what other sorts of things that are already listed. And so we just carry that same prohibition forward. And then, we are not making a decision now as to which way we are going to go, but I think for NEPA purposes we have to look at a complete closure as an alternative, and then we all decide when you come back and have the document. And under A that would be to all fishing and possession of fish.

**Viridin Brown: I second.**

Eugenio Piñeiro: I'll start the discussion here. On page 36 of the scoping meeting it says, the third administrative environment affecting the extending decisional closure is that of the industry itself, currently fishers use Bajo de Sico to target species in the HMS group as well as a source of bait, little tunnies and blackfin. Recreational fishermen target species such as dolphin and king mackerel. This action, however, will not affect fishing for pelagics and HMS species, which will continue to be fished around Bajo de Sico. Why don't we include this language in there?

Roy Crabtree: Well, I think that paragraph on 36 will have to be revised, because if the Council chose Alternative 3A, then it would affect all these folks, whereas if you chose Alternative 3B, then it would not affect those folks. 3A is all fishing and possession of fish. If the Council chooses to do that, then you won't be allowed to fish for HMS or baitfish or anything there, and so it would affect these folks. So I think that they'll have to re-write the analysis to reflect the different alternatives. If you chose 3B though, then people would be allowed to fish for HMS species and baitfish and king mackerel and dolphin, and they'd be able to fish for those year round.

Eugenio Piñeiro: Why don't we put that on the paper?

Miguel Rolón: We don't need to do that because the motion is very clear the way it is spelled out for the staff of the Regional office and our staff. The problem is that when we, and everybody, when we went to these scoping meetings there was a mistake, because the no action that we have now has a total closure during three months. So in essence, what you are talking about in number A is to extend that closure that you have now nine more months, so you'll have a twelve month. Then, on 3B, it gives you the flexibility that you wrote, that you took to scoping meetings these past few months. So those are the two alternatives that you have. And then, the staff has to beef up, prepare the rationale, all the questions, etc., so you can have it by the March meeting, and you have to make a decision at that time, as Roy mentioned, at the March meeting.

Roy Crabtree: And then we would I assume go out to public hearings at that time. So what you can do is in March you could come back and chose a preferred alternative, then you'd go out and have public hearings, and then we come back in at our next meeting and you could vote to submit it to the Secretary.

Jason Reuter: Putting those exceptions in there to allow the pelagic species, it gets more difficult to write and to analyze when you are looking at exception after exception, as opposed to just saying what it is you are going to

prohibit. Here is you do Council managed species, we have a clearly defined FMU for each of the management plans, so we know what species we'll be prohibiting, and then therefore everything else is allowed, so it's easier to analyze from that point, and it will be easier on law enforcement to look at a list of, here are the species that they can have onboard, if they have anything else they are fined. So its just, as opposed to making exceptions, prohibiting something is easier to look at.

Graciela García-Moliner: In addition to that, because it is a shared jurisdiction with the Government of Puerto Rico, you are also going to have additional regulations for the dolphin, the wahoo and the mackerels in terms of quotas that are allowed in the state waters, versus none that are set for the federal waters.

Eugenio Piñeiro: But Jason, we have to come up with a very strong and clear language, because I don't think at this time, right now today, if the Council aren't going to vote, we rather leave it the way it is, because we don't want any confusions, we don't want to go out to the fishermen and promise them something that is not going to happen. Any further comments? Then lets vote on the motion.

**Roll call vote: Marcos Hanke, yes; Roy Crabtree, yes; Viridin Brown, yes; Ruth Gomez, yes; Winston Ledee, yes; Miguel García, yes; Eugenio Piñeiro, yes. The motion passes unanimously.**

Marcos Hanke: I have a comment about the, before the break that we had, reacting to what Joe Kimmel said, and that is that in the case of Puerto Rico, his observations that fishing for HMS or coastal pelagic we could catch groupers and snappers and fish from the bottom, in 15 years of doing the activity I never caught them like this, and usually when the people are fishing for those species that we are trying to keep fishing for in the Bajo de Sico, we are fishing over two hundred feet of water during the day which is not the time that they aggregate, and I want to make sure that this is very clear. It is almost impossible, if not impossible, to catch them fishing for marlin, to catch a grouper on the bottom under these circumstances. I want to make it clear as an expert for my industry, and you can ask any fisherman on this room, and I am sure that they will agree with me.

Joe Kimmel: I believe you. I am bringing things that happened in other areas where they are patrolling for species in a closed area and they were trolling for pelagics and they caught things also bottom ones, and this happened in the Gulf of Mexico and that is why I bring it up.

Marcos Hanke: I understand where the comment came from, but in the case of Puerto Rico, that is why the Council was formed, to establish the differences. In this case there is a difference, and that is not happening, is not true for Puerto Rico.

Miguel Rolón: The Nassau Grouper Initiative is something that the Council started some time ago, and the force activity that we held in conjunction with the WECAFC was held in Cartagena, and was attended by the Chairman, myself, Diana, and Yvonne Sadovy, working with the Council staff. This meeting was sponsored by the NMFS, the CFMC, and the local institution in Colombia called ICA, which is the fishery department of the fishery agency that work with fisheries in Colombia. Everybody believes that it was a successful story. We do not have the report because the report is part of the FAO, and that goes to Rome for clearance, but we can tell you some of the products that came out of that report. The first one is that we will have an inventory, a review, of all the fishery data of Nassau grouper throughout the Caribbean. As you know, the Nassau grouper has been overfished in our area for some time now, and the same holds true for some other countries in the Caribbean. The big promise is Bahamas. Bahamas still has a viable population of Nassau groupers, Mexico and some other countries in Central America, such as Belize, but the scientists there are worried, and they would like to collect and get more information for the protection of the Nassau grouper. The spin offs of the workshop are two surveys; one will be in cooperation with Bahamas, and what they are going to do is to collect the information they have, historical information and the present data they have for the management of Nassau grouper. The

importance of this is that at a presentation made by Dr. Sadovy we found that the baseline that some countries use for the status of the fishery of Nassau grouper in comparison to the present may be misled by the lack of information. That baseline that they call the good old days could have been the worst days in the natural history of the Nassau grouper. What the scientists then decided to do was to cooperate among themselves to put together this review of the literature and recommendations from each country that will be put together by Dr. Sadovy, and then we'll be working with the FAO and the NMFS on other projects that will be identified in 2009. The report by Dr. Sadovy will be presented at the next WECAFC meeting that will be held in probably 2010, and the idea is that the countries will be encouraged to do better with the management of the Nassau grouper. Fishermen also were involved in the discussions and they are all in agreement that they have to protect the Nassau grouper. It is a big fishery in Bahamas and in Belize, and to a certain extent in Mexico, so the fishing coops of Belize are all worried about the Nassau grouper, so they are working with the local agencies and international fishery experts to protect the Nassau grouper. There was an interesting presentation by a member of the Colombia delegation, when they introduced the topic of aquaculture. They have a project in which they are using goliath grouper, Nassau grouper and others, and the idea is that they would like to get the proteins they need from the communities from aquaculture rather than from fishing. The expert spent seven years in Asia working with the aquaculture of big groupers, and they have this project. They treat them as cows, almost. They have a ranch, and they have cages where they put the spawners, and then they take the spawners to different areas for feeding and whatever they do to get them healthy, and then when they do spawn, they have a hatchery where they collect what they can, they collect a portion of the eggs...

## **Tape 2(a)**

Miguel Rolón: ... and river runoffs, the fresh water comes into the area where they have the ranch and kills the groupers, and in some areas that were far away from where they can reach the groupers were stolen, so now they have pinpoint those ..., and they are using new strategies to ensure that the groupers will spawn and they will be viable, and they would like to export this technology to other countries that want to do so in the next five or ten years. The group that met in Cartagena were also missing the GCFI, and I'll ask Joe to talk about some issues related to the groupers that took place in GCFI, because the Nassau grouper initiative is not only for the Nassau grouper, but we also were discussing the possibility of including other groupers that are important to the fishery of all countries involved in the Caribbean. The next step for the Nassau grouper will be to have this report done during 2009, and it will be distributed to all countries involved in the Western Central Atlantic region, and the report will include some suggestions made by the scientists as to what will be the best managing practices for protecting the Nassau grouper. In addition, the Bahamas group will put together this report, and it will also be shared with the councils, with some methodologies that will include the interviews with fishers to assess the status of the fishery in the past and develop some historical baseline for the Nassau grouper. We also found that the few people who have seen Nassau grouper spawning, and they spent a whole year waiting, and then in few seconds that is it, they rushed to the surface and they spawned, the eggs are fertilized, and that is it. The other thing that they have is that you need at least, according to the present knowledge a minimum of 1,000 animals in the aggregation to make it viable, and sometimes the aggregation found by the scientists are all males, so when they get together and they see each other, well, we have to take turns now, they change to females and then they come back to the same spot, and this has some implications for fisheries because you may have a viable aggregation, as Dr. Sadovy mentioned, according to experience with the numbers you may call it a viable aggregation, but actually it is not. So the problem is more complex than previously thought. So we hope that with this initiative we might be able within the next three years to provide the tools that the countries need to protect the Nassau groupers, not only the tools for managing, but also the tools to talk to the fishers involved, the government officials with the fishers to a common goal, which is the protection of these groupers, and others that have the same strategy of aggregating for spawning. The WECAFC took interest on these groupers, and they will include that in the agenda, and for those of you who are not familiar with the WECAFC, the FAO meets every two years in this area, and for us to include something in the agenda a country has to bring it up and

they then vote and accept whether it is included or not, so it was an achievement to include in the next WECAFC the issue of the Nassau grouper, and Mr. Chairman, I wanted to give some time so Joe can address the group on some of the interesting developments that were presented at the GCFI meeting that have some relevance to the topic of the Nassau grouper.

Joe Kimmel: While I was there, there were some very good presentations at a session that they had on spawning aggregation of fishes, and many of them were focused on Nassau grouper, because that was the species of concern for them, and so the information that I got from several presentations I think would be valuable for managers to know, it would help them understand how spawning aggregations work, how they function, and I think it would be important in turn to make management recommendations if you are trying to protect such things. This is just an interesting slide that was in one of the presentations, and it shows a female just before spawning. You could see they really get loaded with eggs there. (Dr. Kimmel's slides with presentations from the GCFI meeting are available upon request).

Viridin Brown: That was a very good synopsis of those presentations Joe. In the case of Nemeth, since he said he was not on island and not available right away, I suggest that he make a written report or statement to the Council and to the Southeast Regional Office for his report, and his presentation was fairly graphic in terms of what it provided, and the suggestion was that the boundary coverage should be enlarged, and we went on the basis of being more conservative with what was presented and the information that we had at hand, and he agreed that he, I agree with you, that he would want to present this to the fishermen so that they would have a chance to comment and have a saying or to modify, rectify, or anyway submit their comments on these findings. I think it was instructive for those who heard it and gave us some food for thought. But like anything else we more of ... receive the information with greater detail and be able to really digest it, and I think it is good that he wants to at least have a conversation and feedback with fishermen before he really do a final, I guess you call it, ... that report itself.

Eugenio Piñeiro: Joe, before the March meeting, where we have those three presentations, the last presentation is Dr. Nemeth's. Is it possible that he would be willing to meet with the fishermen from St. Thomas prior to this presentation ...?

Joe Kimmel: Yes. As a matter of fact, when I first approached, after seeing this presentation I approached Dr. Nemeth and asked him if he would be willing to come to the Council and make this presentation and he said he would, but only under one condition, that he give the presentation to the local fishermen first. So that was his idea, and so I think he is going to try to do that. He did tell me that he would be leaving shortly after the GCFI to go visit family, so he is off island right now, so I think that is the reason why he hasn't been available to make the presentation at this point. But I think when he comes back we ought to, I've been e-mailing him and haven't gotten a response yet, but I've been trying to get into giving that presentation to the local fishermen so that they can see it.

Miguel Rolón: That is a good idea. We met with the Fishermen Association in St. Thomas the other day to discuss ACLs and other issues, and the Council might help if you want to do this. We can work with Julian and the group and see if we can meet at their place, and the Chairman, Diana and I can go and help with the logistics and maybe copy on tape the discussion so that you will be having their input for the next meeting in March.

Jimmy Magner: Jimmy Magner, President of the St. Thomas Fishermen Association. It seems that Rick Nemeth and the St. Thomas Fishermen don't really see eye to eye in a lot of situations. I don't see him presenting this to us before March, because we have had a couple of discussions that we tried to work with the college and with him, and it came up to nothing. What I saw here with Joe and this enlargement of the Grammanik Bank, a future enlargement, I don't think so. And it seems like everything is, the Grammanik Bank

was not closed, for the record, was not closed to protect the yellowfin grouper. The Grammanik Bank was closed because they found Nassau groupers thanks to Rick Nemeth. So we have a, that is where we are coming, Rick Nemeth was behind the Grammanik Bank because of the Nassau, and he is not going to come to our Association.

Eugenio Piñeiro: Jimmy, answer me a question. Are you willing to sit with him if and the STFA to see this presentation?

Jimmy Magner: I have extended, when Elizabeth Bahn used to work for them, I had extended myself numerous times to have a meeting with him and it never came up. We had, once he came to, when they came out to... or whatever it is he was there, and again we tried to work with him, it didn't work. I don't really see, unless he changes overnight, I don't really see him working with us. We are willing to sit down with him at any time.

Miguel Rolón: Jimmy that is exactly the kind of reaction that I was seeking. We need to set aside our personal differences with people that have information here, and I believe, I trust that the fishers in St. Thomas, they are always looking for information, and as we discussed the other day we can go there and exchange information. It is the only way. We need to get the fishermen involved in this type of discussions with the fishers. If at the end of the presentation we still hate each other, fine, but at least we have been able to put in the record the information that we have. Personally, and for the record, I don't like to see people going to the Internet with information and pushing for things that, well that is the only avenue they have, and I receive a lot of calls from people all the time, and this is an excellent opportunity for the scientists going to you and give you the information so you will know exactly what is going on, and you don't have to accept, reject, or anything, just hear, and then you will be better prepared for the discussion, if the discussion comes up in 2009 regarding the Grammanik Bank..

Jimmy Magner: I will as you consider it for the record, and make it clear. The St. Thomas Fishermen Association will sit down with any organization and any scientist at any time to discuss any issue that concern the fishery. We have not shied away from anyone. Where we get highly strong and vicious is when things are done behind our back and we are not given a chance to defend ourselves properly, or to work out the situation, which is exactly what you are saying, this is, we were formed in order to protect the fishery and to come up with alternatives or management or whatever it is to keep this fishery operating. So we run from no one. But when they do things behind our back we get very upset about it because they don't want to face us. We are open to anyone at any time.

Miguel Rolón: One last thing. Would it be Ok to have it at the Center, where the fishermen, where we met the last time?

Jimmy Magner: Yes. That would be perfect. We would even go to the college. There is no problem.

Ruth Gomez: Two points. Since Joe brought the three presentations to the Council, and sort of like made the first move to extend an invitation to come to the March meeting, just to set the record straight and make sure that we are clear and we don't end up with any surprises in March, would you make the contact and do the liaison work between the STFA and Rick Nemeth to make sure that this presentation takes place before the March meeting? Because I firmly believe that before he can present we need to make sure that the fishermen see it, or else he is not allowed to present it in March. Therefore, there'd be no surprises.

Miguel Rolón: Joe hasn't paid me for saying this, but that is my job. Don't worry. That is an excellent point, and we'll work together with Julian and Jimmy and make sure that this happens before the March meeting. Also you are invited. Just for the record, the WECAFC, and this is the final thing about Nassau grouper, they

had two working groups composed of different countries, and the first sub-group, and these people are going to meet with scientists from their own governments and scientists from the international agencies or freelancers to focus on the Nassau grouper fisheries and the Nassau grouper biology and the strategy for managing the fishery. The first subgroup are fisheries where Nassau grouper is not currently a target species, but are taken incidentally; and there we will have St. Lucia, Grenada, Guyana, Colombia, Nicaragua, Panama, USA, Antigua and Barbuda, Dominican Republic, St. Kitts and Nevis, etc. The second group will be countries where a fishery is already occurring, countries that have interest in keeping the sustainability of the fishery of Nassau grouper, and these are Bahamas, Belize, Honduras, Turks and Caicos and the Cayman Islands, Cuba and Mexico. These countries will work together for the next three years to develop the best strategy for the managing of the Nassau grouper, and then these inter sectional meetings will be in coordination with the FAO. The CFMC Initiative will coordinate some of these meetings with the Secretariat of the WECAFC and the International Office of Fisheries of NMFS.

Miguel Rolón: In the case of the lionfish you recall that people are worried that this fish is spreading very fast throughout the Caribbean. At the meeting in Cartagena, Colombia, we were able to have a presentation from Bahamas. This fish is there and is very difficult to eradicate, as you recall this fish lives from three to three hundred feet. It is very voracious and it has been accused of killing commercial important species in some areas, and it is very important to keep the fish population either very low or vanish it from the areas that we are in charge of managing. There are two reports in Puerto Rico and one in the USVI of the presence of the lionfish. The one in USVI was recorded from St. Croix a long time ago, and now we have confirmed that they do have the lionfish. In the case of Puerto Rico, people used to confuse the lionfish with the scorpion fish. Now we have even a photograph that shows that the lionfish is here. It has been documented by the personnel of the DNER in Puerto Rico that the lionfish is in our area. One good thing for the Nassau grouper is that they eat the lionfish, but the lionfish eats all the species that we are really worried if, you know, the population can't be, can explode in 20 years, maybe 10, scientists don't know that for sure, but they are calling for countries that have reef fisheries to try to eradicate the lionfish from their fisheries, they are afraid that if you let the population grow they will affect your fisheries in a way that we don't know what the impact will be. If we compare that to other areas, the impact can be great, or significant. In the case of the Bahamas, they are even doing outreach and education to teach people how to eat it, and to identify how to kill it, etc. They believe that they have to declare it a fishery until it is vanished from Bahamas, and so far they are the only ones with a dedicated program to lionfish.

Graciela García-Moliner: There are photographic evidence; one from Blue Beach in Vieques, which is part of the Navy area, and the other one in Frederiksted.

Miguel Rolón: I believe that the Government of Puerto Rico is thinking about, probably with the new administration putting together a workshop to address the issue of the lionfish, and a letter that was put together by the Department, Miguel do you want to expand a little bit about that?

Miguel García: What I know is that there was an original petition to have some discussion locally in Puerto Rico, and at that point our position was that there was not any official record in Puerto Rico waters, and the only record that we know is the one from Blue Beach in Vieques, which is a good picture for sure, but it doesn't say any names, as for the picture, and it is hard to corroborate information when you have no name to support the sighting, but now that take that as an official sighting finally, we should move forward to have an internal local meeting in order to work on maybe a draft for an action plan for this species.

Graciela García-Moliner: The USGS Invasive Species list does confirm the people who sent in the information, so for Blue Beach it has been confirmed. The one from St. Croix has also been confirmed. There are pictures there. The one from St. Croix is already out of the water; is dead. But William Coles is the one who provided

the information. The lionfish was about three inches in total length, so it was fairly small. The questions that they had have to do with the fact that there have been a number of cargo ships coming to Frederiksted, and balance water might be the source of some of this lionfish, because between Vieques and St. Croix there is a fairly deep water between those two areas, but the other thing is that there is a suspicion that people might be putting lionfish in the water to attract divers so that they will take people out swimming to see the lionfish. So that is a concern, both for Puerto Rico and the USVI, because if that is the case, there should be no importation of lionfish whatsoever to the USVI unless there is a permit attached to that. There is no such regulation for Puerto Rico, so anyone can have lionfish in their aquarium and actually dump them in the water. The two reports have been confirmed. There are massive efforts to get people in the water, and flyers from NOAA have been mailed to everyone and anyone to see them. They've been sent to the newspapers and to the TV media, and there have been two proposals written for this coming year regarding the orientation and education to the divers, so that they know how to get the fish out of the water and what information they should collect for the larger database that is available.

Eugenio Piñeiro: I have two questions for Ed Schuster; one is about the information you have about the lionfish, and the second is what are you doing back here? You are supposed to be there.

Edward Schuster: The only thing, information that has been relayed to our AFC is that there have been two sightings reported; one half of the Hand Bluff and one off the Frederiksted drop off where there is a wreck, and people dive there. That is the only report. I don't know what other information from Fish and Wildlife is. That is what was relayed to our FAC.

Ruth Gomez: We've had sightings at Lindquist Beach in St. Thomas, and as far as sightings in St. Thomas that is pretty much it for us. I do want to say that Fish and Wildlife is the agency that issues permits for the importation of animals, and where we don't allow the importation of lionfish on your permit what happens is sort of out of default under, like a huge umbrella when a pet store applies for their annual renewal of mammals, birds, fish, and so forth, when the shipment of fish comes in there is no enforcement, and lionfish is a pretty pricy and hot item for the some more elite aquarium collectors, so they sneak in the big shipments and immediately, you know, the person that has requested the lionfish or the scorpionfish or whatever they get called and it disappears out of the pet store before you can even get in there. So that is a problem that we really need to address.

Aida Rosario: We do have a permit for importations. In 2004, we only prohibited two species of lionfish, then we made an amendment to the regulation to include all the lionfishes, and they are not allowed as an import species. The problem that we are facing is with the ... they are being buy and getting in Puerto Rico by postal services or Fedex or any other type of delivery. They are not allowed in any way, and we have been enforcing this in the airports. So any animal that they are getting in to Puerto Rico is getting in illegally, they are not allowed.

Miguel Rolón: Just for the record we don't need to talk about lionfish anymore until we get a population explosion, I guess, but the local governments are the ones that really have to be working on this and we will be here if you need us, but it is a concern, and probably in the future will be a bigger concern. But at this time maybe what we have is enough.

## **Tape 2(b)**

Eugenio Piñeiro: Next, the presentation on ACLs National Guidelines update by Dr. David Olsen.



Jimmy Magner: With our new Governor we have had numerous meetings with him concerning a lot of things going on in the fishery, and he's more than welcomed the ideas. Now, he likes to be abreast of all the things that are taking place, because it affects all the people of the USVI, not just the fishermen. And we gave him a broad session, and then Dave wrote it up, it was viewed by him and it's got the seal of the USVI on it. So from now on, everything that comes through here the Governor will be notified and informed about all these things go.

David Olsen: Part of the reason why we've had these discussions is because we came away from the ACL group really feeling that there wasn't much receptivity to input from the fishermen of the USVI, and that we needed to concentrate on mobilizing the community, and delegate Christiansen wrote a letter to James Basinger about this position and the Governor has gotten involved at this level, and I believe Senator Hill is going to come by and talk about the Senate's involvement, and we have a petition out on the street with about a thousand signatures on it, and the basic contention is we feel that if we are going to have these limits in our fisheries there needs to be a more active working dialogue between the Fisheries Service and the fishermen. We also feel that the Council is getting steamrolled a little bit and that they need to put their breaks on so that something worthwhile will come out for everybody. The topic of the presentation is what we need to move the ACLs beyond these simple catch averages that were calculated at the ACL Group meeting, and what came out of the ACL Group meeting was kind of a one size fits all, and in fact we don't feel that one size does fit all. (Presentation included under Attachment B).

Eugenio Piñeiro: Thank you David. At this point I would like to acknowledge that we received a letter from Dr. Bonnie Ponwith, she is here with us. Dr. Ponwith, do you wish to make a statement of comment or any observation at this time?

Graciela García-Moliner: Number one, as David mentioned, the SEDAR is going to take place in January 26-29, 2009, in Puerto Rico, and basically the SEFSC, SERO and a number of other people have been looking in detail at the data from the USVI and Puerto Rico, basically brought it up to date and should be available sometime later this month, and everyone should be receiving copies of everything that will be presented at the SEDAR meeting. The SEDAR meeting, we'll get together in one place, we have the fishermen there, we have the recreational fishers, we are going to have REEF there, is a non-profit organization that looks at the surveys in the reefs around Puerto Rico and the USVI, scientists from various universities, not only Puerto Rico and the USVI but also from the states, so it is a time when people look at the data and decide what is good, what is bad and what needs to be reevaluated, and whatever metadata we have in terms of things that have happened in the fishery that might not be a reflection of overfishing but might be because of other issues such as changes in the type of fishing that is being done, the presence of hurricanes over a certain number of years, the die off of the *Diadema* in 82-83, so everything is brought to the table so that people will be aware of what is available.

Viridin Brown: I would like to post a question to David. Based on the presentation of your information of District of St. Croix versus the District of St. Thomas/St. John, would it be reasonable to take away the assumption that there is greater overfishing occurring in St. Croix than in the District of St. Thomas/St. John?

David Olsen: Well, the area fished on St. Croix is approximately one fifth of the area of St. Thomas, and I don't think there is any way to avoid the conclusion that there is some pretty serious imbalance between fishing effort in the resource over there.

Viridin Brown: To follow after that, what would be the implications in your professional view if we separate allocations by the Districts of Puerto Rico, St. Thomas/St. John, St. Croix, for St. Croix in particular, and since we don't have the same analysis for Puerto Rico we probably will need to look at that as well? Could you tell me what your opinion would be?

David Olsen: I think the Council has already voted basically to do that, and I think that one of the benefits of separating it is that it does not punish one district for actions which have taken place in another district. I am not completely clear on whether or not the ACL is going to be the sum of all three, and that is going to be what is ... to performance, or whether the performance is going to be for each district. I am not clear on where that stands.

Miguel Rolón: A couple of things. In tab D you have the letter of Dr. Ponwith based on the decision already made by the Council. We are going to divide the geographical area in three, at least three, and Dr. Ponwith's letter points to the fact that they are going to analyze the data, organize the data based on that organization, and then the opportunity to analyze the ACLs under the light of each area. The ACLs you can see it from the top down, not from the bottom up. So if we do our work right it is supposed to be the same, you know, if you add them up or down you are supposed to come to the same conclusion. That would be better because we can focus on analyzes on St. Thomas/St. John, then you have a number there, and then you have the St. Croix and you have another number and add them up, and that should be your ACL for the area. The same for Puerto Rico, although Puerto Rico may be more complex because we haven't decided yet whether we should divide Puerto Rico or keep it as is, for example, we have Vieques, and I just received a report from the NMFS on Vieques, and they have some twists there on the history of the natural resources of Vieques. The other thing that I was going to ask the Council is that David's presentation has a lot of recommendations there and some of them will be discussed at the SEDAR, ACLG and the SSC. The schedule that we have is that SEDAR will be at the end of January followed by the ACLG, but even at the ACLG because we don't have yet the agenda we can maybe do it both ways, we can have at the general meeting an overall general discussion on the first half day, and then divide the groups, if that can be done, so you can address each one of them in smaller groups. That is one approach. The other thing is that we discussed at the SSC in Honolulu, the National Workshop, we discussed these issues, and to my surprise we are not the only ones with the small data sets or absent data for ACLs. All the eight councils have one fishery or another that have a lack of data for the ACLs. For example, when Alaska complains about not having data, sometimes not having 98% of observers on board, but they also have fisheries like sea urchin and others that don't have any data whatsoever, so they divided the way that they analyze the data in six tears. So when you are in a situation where you have a minimum amount of data what they do is they multiply by .75 the average catch that you have for that area, similar to what we did with the SFA document some years ago. That discussion will be presented by Dr. Kojis tomorrow. Going back to the questions posted by Dr. David Olsen, there's a myriad of recommendations there that we may need some guidance. Probably between here and February we won't have time to solve all of them, but there are some recommendations there like for example looking at the species complex. We would like to hear some reaction on the analysis that he made through the years, you know, six times one fishery going overfishing, is that a problem or not, etc., those are the kind of things that we need to be addressing.

David Olsen: Do you think that you need to make the decisions about whether or not Puerto Rico is going to be subdivided into this before the SEDAR meeting, or not?

Miguel Rolón: Actually, I don't know. I rather prefer to wait until having the next administration. That is something that we discussed with Dr. García, and I believe that SEDAR would be a good opportunity to decide on that one. Some of them are the same issues that we have, the geographic ones, Vieques is different from the other areas, but I think that Vieques doesn't have any federal zone that amount to nothing. The fishery is almost exclusively within the 10.35. And to the west, you have a particular situation of fisheries that are well managed by the fishermen; the deep water snapper groupers, and at the same time you have the close to shore fisheries that are really overfished. So we need to discuss that. The other thing is that Jerry old paper and Richard Appeldoorn's approach to this could be an alternative, even though we haven't discussed it thoroughly. It could be an alternative to the SEDAR process on this area, or something that will enhance the SEDAR process.

SEDAR is kind of slow for what we need to do and achieve ACLs, but is a good system to get everybody together, get the information and get something out of it. But I prefer the discussion to be among the Council members than me, because we need to decide something between here and March on this process. In addition, we have a proposal to consider this afternoon at the Administrative Committee for collecting the data for this area.

### **Tape 3(a)**

Jorge García: ...would you provide, you know, have any information on what the species complex is, or what fish in particular are the ones that would be mostly affected? You know, when you show that 38 or 36 percent reduction, you know, if the ACLs would be taken into effect after they are calculated right now, what are the species that would be mostly affected and then see how we could start looking more into that data in specific.

David Olsen: That, Jason spreadsheet from the ACL, is all contained in there. Certainly conch is one of them, the parrotfish is one of them, but I can't help but believe that every single species group would have to have some level of reduction. The conch would account for almost two hundred thousand pounds. The parrotfish I would guess would be almost another two hundred thousand pounds, so that would bring a million down to six hundred thousand. You know, so that is in that range. But you still haven't addressed the issue of, those are ACLs that are based on landings, and those landings have been increasing almost every single year for the last fourteen years, and some kind of average landing figure doesn't seem to me to fit very well over there.

Roy Crabtree: Miguel, we have a SEDAR meeting in January. And then we have the ACL working group meeting when?

Miguel Rolón: Last week of February.

Roy Crabtree: What about the SSC?

Miguel Rolón: Same week.

Roy Crabtree: So they are going to meet together.

Miguel Rolón: And then, the first three days we will have the ACLG and the SSC. And then the last two days will be for the SSC to debate and discuss and then submit their recommendations to the Council for the March meeting at the end of March.

Roy Crabtree: My only comment on this is that it seems like we are talking like decisions that have already been made on some of this, and in fact the Council hasn't even begun working on ACLs yet. We don't even have a scoping document put together. We are waiting to see what comes out of this ACL working group/SSC process, and that is what we decided a couple of meetings ago based on the advice of our SSC. So I think we are going to have to see what comes out of that, and remember that one of the new provisions in the Act is that the ACLs cannot exceed the overfishing level that comes out of our SSC basically. So that is going to be the constraints that we are under. I don't know what they'll come up with. I expect that we will have multi species ACLs. I felt like that is likely from the beginning. That is certainly how we approached the SFA Amendment. We have had discussions about separate ACLs for St. Croix, and St. Thomas and Puerto Rico, but we haven't decided anything yet. That will be decided when we actually put an amendment and the EIS together to put these things in place. I think there are a lot of reasons why that may make sense, but it is really going to depend on what comes out of the SSC and the working group. You know David, you brought up economic impacts and

things, but we haven't even determined what it is we are doing yet. There will be economic analyses that are done as part of the process, and the EIS, and there will be scoping meetings, and public hearings, and all sorts of opportunities for folks to be involved, but right now what is happening is more of a science process. And I know the Science Center, they have folks working on different ways to look at this process and alternative approaches, and I think for now we are just going to have to see what comes out of the Center, what comes out of SEDAR, and then what comes out of the SSC and the working group meetings, and then we should be in a much better position in March, and hopefully at that time start putting together an amendment, and then I think we talked about scheduling an additional meeting. So we'll probably meet what in June sometime, and again in August to try and finish this process up by the end of the year anyway, but I just think is pretty mature to talk about decisions already having been made because the Council hasn't really decided anything yet at this point.

Edward Schuster: Just to clarify a couple of things for St. Croix. Dave, on your presentation some of the, I mean, I hope we are ..., as for the conch we came to the decision that some of the numbers had been duplicated, and this is at the time when the conch was being exported to Puerto Rico. We set a fifty thousand pound quota and we extended the closed season to six months or five months, and I think we should take a look at more of the recent data instead of the old data, and could say that number would go down, I guess, to a reasonable amount. The next thing is with the parrotfish. Remember that was a main fishery and it was caught by net, and now that is a fishing method that has been banned in St. Croix in territorial waters. So obviously that number is going to go down. As for the red hind, you mentioned that the size being caught has been close to the reproductive stage and not over that. If Gerson was here he would be the one to give his testimony on that. I think that the size has been increased, and we should also take a look at that more recent data that's been caught during the hind season.

Eugenio Piñeiro: At this time first I want to thank David for his presentation. I really believe it was a very accurate description of what we have, of the reality in the field and I think that what Roy said, that we should keep going on with the process, do our SEDAR meeting in January and then go to the meeting of the SSC and ACLG in February, and then divide it, perhaps in general St. Thomas, St. Croix and Puerto Rico, and then we can come up with a decision in March. Does that sound good to the group? We can live with that? Alright, then we'll do so. Aida and Toño, does Puerto Rico have an opinion if you want to divide the ACL at this time?

Aida Rosario: We have discussed this in Puerto Rico and made a presentation at the first meeting that we had here in Puerto Rico regarding the ACL, that we prefer to have separate management measures for the different coasts, and it makes sense regarding the landings that we have for the different coasts, and in regards to the jurisdiction that the Council has, because mainly the jurisdiction of the Council is in the west coast of Puerto Rico. So we are trying to keep separate the management measures for the different coasts. We have not gone into details with the new administration, so we have to present this to the new Secretary when he starts in January, and discuss what are the different approaches that we can do to this, and then decide finally what we are going to present to the Council in the next meeting in the ACLG and also in March.

Miguel Rolón: Aida, you are referring to ACLs and the management measures, or only management measures?

Aida Rosario: I think that we are probably targeting both, since we have some coasts where we do not have much effort such as the north coast, and the landings that we have for that coast are very low compared to all the three coasts, especially to the west coast, and we think that is not fair to impose to everybody the same catch limits, since you can allow some of the species targeted by different coasts to be catch or managed differently to what is done for the west coast of Puerto Rico where the ....put on to the resources.

Miguel Rolón: Do you think that by February the new administration may have some points that you can discuss at the ACLG group?

Aida Rosario: We really don't know. This transition will take a very high level of, I mean, of changes. Besides, the upper... from where Toño sits up, that might disappear, so it will take a little bit of time to establish the new administration and discuss with them what are the issues and what are their views on these issues. So we can't tell you right now if that might be possible to have a final view from them by February.

Miguel Rolón: To the point Mr. Chairman, regardless of whether they have the time or not, the schedule that we have will force us to make a decision during this year, and then it will have to be submitted by 2010 to the Secretary, so anyway, we will keep working with Miguel's office and Aida's Laboratory to help put this together, at least to identify the people who are going to be your members at the ACLG, so everybody will have the same page to discuss.

Aida Rosario: Well, so far I think the persons could be Daniel Matos, since he is the one who collects all the information, most of the information; Craig Lilyestrom might be the other person, since he is the one who collects the recreational information, but if you need somebody else beside those, if you need somebody from the high sphere, we cannot tell you. I won't be available for the next meeting of the ACLG, that conflicts with the next meeting of the Coral Reef Task Force, and so far I think that I am the person that is going to be representing Puerto Rico for that meeting, so I might not be able to attend the meeting of the ACLG. But I will be discussing this matter with Toño and Daniel and Craig, and we are planning to have a meeting to discuss this in depth.

Viridin Brown: I just want to go to a more general concept question of, as we talked about setting ACLs for regions rather than districts. Is it your understanding Mr. Chair, Mr. Executive Director, or anyone here who can answer, that an ACL will be sets for each region, and based on that that will be the allowable catch for that region? Could I get an answer on that part of it?

Roy Crabtree: That gets us back to my comment a minute ago, nothing is decided. That is what we are going to be deciding, and we are going to have to develop alternatives, and analyze them and look at them. I mean, I think it is fair to say that there is a lot of desire to go on that direction. We just have to remember that if you start breaking up the landings too fondly, or the ACLs too fondly, then can your landing's data support that? Can you tell where the fish were caught? Now, I think you can tell if fish were caught from St. Croix versus St. Thomas versus Puerto Rico. I don't know if you go in to Puerto Rico and say this coast versus that coast, whether you can adequately tell where the fish are being caught, but we'll have to go through the whole process of analyzing alternatives and if you remember with the SFA amendment, we had a 400 page document, and I expect we'll have a pretty substantial document with a lot of alternatives that we'll look at over the next few meetings. So we'll just have to figure that out Viridin, but I think the discussions have all made it clear that there is a lot of interest in trying to go in that direction.

Viridin Brown: I just want to say that I have not problem with going in that direction, but I want to raise some flags of caution that we be aware of what we are doing in setting ACLs for each region or district. That resources may be more numerous in one areas than in others, and fishers may go from the east coast of Puerto Rico to the south coast or vice versa, or the south to the west coast of Puerto Rico, or we may just have fishermen travel from St. Croix when the resources are less available to St. Thomas. What I am saying is that allocations are important, but we also want to look at what the resources are in each region, and I think your points were well taken, so I think you were raising the same kind of concerns.

Joe Kimmel: I just wanted to point out something that, the Council has some responsibility for ACLs, and so does the SSC. The SSC has to recommend some of those criteria, and the Council will recommend some of those criteria based on what the SSC says. And in addition to that, whatever the Council submits to NMFS or to

the Secretary for approval has to be blessed, if you will, by the SEFSC. So there are several layers of inspection and agreement that have to be made before the process is complete, and so it is going to take a little bit of time, and like Roy said, we have hardly begun the process. We have expressed our opinion about how we would like to have these things separated for areas and stuff, and all that still has to be approved by all of those groups that I just mentioned.

Bonnie Ponwith: Thank you. This is Bonnie Ponwith, SEFSC. I really look forward to some really very lively and robust conversations at the upcoming meetings dealing with how we implement the revised reauthorized Magnuson Stevens Act, and with respect to ACLs and accountability measures. One of the things that I am concerned, I am hearing a lot of conversation about how areas are different, that the resources are different in different areas, the abundance of those resources, and that fishing pressure and fishing strategies are different in those areas, and that is something that is really valuable to hear. The one thing that I am interested in is making sure that we don't stratify this fishery and the setting of these ACLs beyond what the data can support in terms of being able to monitor those harvests, and so one of the things that I am going to be very interested in is making sure that those meetings dealing with the establishment of ACLs are attentive to the precision that we need to be able to actually monitor harvest rates relative to those targets.

Miguel Rolón: The only rationale that we have so far for dividing these areas indicated that, and this is what the Council approved, is that we have rationale from the point of view of the logistics and the data collection for Puerto Rico, one unit; St. Croix, another unit, and then the St. Thomas/St. John complex. Dividing the five further will be nightmare, especially with the time constraints we have. Probably in the future, after 2010-2011, when we get more data and more information we can divide it further. The other thing that I was going to mention is that the SSC is responsible for overfishing level and ABC. The councils are responsible for ACLs and the target, and at this SSC Workshop, you will see the discussion tomorrow, we went through that, actually all the scientists, especially people from each council and the NMFS. It was amazing to see the different points of view across the nation regarding the same issue; the ACLs and the data collection and everything else. So one thing that came out and is sort of clear is that there is not a single model that could be applied across the nation, so we have to be kind of ingenious here, but also the lawyers are looking at us and we cannot be that ingenious that we deviate from the law and the mandate that we have. I believe that we have to keep the course that we have now with the information that we have, and then wait until the SEDAR. Is like, going back to what Roy said, wait until we get these falling into place, and make sure that we finish the process. So by March we will have a better indication as to where to go. The ACL, I have to confer with the members of that ACL, David and the group, and maybe we can have a general session the first day, discuss that, and maybe look at these points from the ACLG point of view. In addition, I was going to mention to you that at the Hawaii meeting we, the Caribbean component, we were talking about maybe locking some of the stock assessment guys in one room, with David included, but he passed on that one, and then look at the Jerry old paper, Richard Appeldoorn paper, and the information that we have and that will allow us to have more ammunitions at the ACLG. Mike Sissenwine believes it is a good idea. You know he is a member of the SSC, and Richard Appeldoorn, Berkson and the others, and so I believe that by the end of February we'll have a better indication, that we can talk to your scientists, and then we can also need your feedback as to what is possible.

Eugenio Piñeiro: Next is David Berry's, he is going to have a ten minute presentation, and then following Ken Turbe, another ten minute presentation under other business.

David Berry: Good afternoon. I am David Berry, commercial fisher and farmer. I brought a display for you, and my presentation is mostly going to be a display. I was just watching USA, and the sixth Secretary of Agriculture was speaking and they came up with there is more employees with the USDA than there are farmers in America, and my opinion is that farming and fishing should be in one agency; full production, protection and development. I'd like you to be protecting me... (Mr. Berry brought a display of lobster legs and palm trees

and showed some examples of how it would be good for various things. Copy of Mr. Berry's presentation is available upon request.) (Mr. Ken Turbe addressed the Council but his presentation was inaudible due to recording problems).

Eugenio Piñeiro: This concludes today's work.

## **December 10, 2008**

### **Tape 1(a)**

Eugenio Piñeiro: Good morning everyone. Today is December 10, 2008, second day of the 129<sup>th</sup> CFMC meeting (roll call).

Roy Crabtree: I think most of you are aware that about a year ago we listed two species of *Acropora* corals as threatened under the Endangered Species; Staghorn and Elkhorn corals. Both of them are found throughout shallow waters in Puerto Rico and the USVI, I think most of the corals are shallower than 100 meters. We published a final rule on October 29<sup>th</sup> of this year, and it became effective on November 28<sup>th</sup>, and we actually published two rules. The first rule is what is called a 4d rule, and that is because it is done under authority of Section 4d of the Endangered Species Act, and the 4d rule establishes prohibitions on take of these corals. And so effective November 28<sup>th</sup>, it is illegal to take an *Acropora* coral, and take means damage or anything else like that. We also published a critical habitat rule on November 26<sup>th</sup>, and that will become effective on December 26<sup>th</sup>. It lays out a lot of the shallow water areas in the Puerto Rico and the USVI as critical habitat for these corals. But the most important change probably that will affect the Council and the territories is the 4d rule, which makes *Acropora* take a violation of the Endangered Species Act. Now, the Endangered Species Act does allow for incidental take of threatened or endangered species during the course of other types of activities such as fishing, and the two ways to authorized incidental take; one is through a normal Section 7 consultation process, and so that applies to federal actions. So under the fishery management plans that the Council has our Protected Resources Division will write a biological opinion and it will provide for some incidental take in the course of federal fisheries, but that applies to federal fisheries in state water for territory fisheries. Normally what we do is issue a Section 10 permit to the territory, and that then allows for the incidental take of endangered and threatened species in the territorial waters, and so we are going to need to work with both the USVI and Puerto Rico on a Section 10 permit, and part of what we are going to need to put that together is a conservation plan for ways to limit and reduce take of these corals. So in early October of this year we began a new biological opinion on the spiny lobster fishery, and that was done as a part of the import size restriction amendment. We are working on a draft biological opinion now that will work with the impacts of spiny lobster pots mainly on these corals, and we are doing the same thing in the Gulf and South Atlantic, with those councils as well. We do think the traps will take corals, because we have evidence, particularly in the Florida Keys that during storms and things traps move around and drag on the bottom and can cause damage to corals. But the real concern in the Caribbean, and this will apply to fish traps as well, has to do with the lack of effort data, and one thing that we are going to be looking, that we are going to need with the Council and work with the territories in order to give this incidental take allowance is to get some kind of better control of how many fish traps and how many spiny lobster traps there are, and try to look at some ways to control the numbers of traps. In Florida, in the Florida Keys, the fish traps aren't allowed there, the traps that we are concerned about at least for these corals are the spiny lobster traps, and Florida has a trap certificate program, where there is a defined number of people who are allowed to fish these traps, and individuals are given so many trap certificates, and you have to have one for each trap. And what Florida is doing is reducing the number of trap certificates, by around the quarter they are going to reduce the number of traps in the Florida Keys by about 90,000 traps, I think, over the next year. So as we move forward with, possibly with the Bajo de Sico amendment, but certainly with the ACL amendment for reef fish, we'll have to reinitiate consultation on the reef fish portion of

this fishery. And so I think we have to start giving a lot of thought, you now, we talked over the last year or so about putting some sort of trap tag requirement in place for fish traps in federal waters, and maybe we need to do that with spiny lobster traps, but it really looks like to get any kind of trap limitation program in place is going to have to be done cooperatively with the territories, because I don't think we want to just move traps out of the EEZ and into territorial waters. I think that it would probably worsen the situation for these two corals, because they are mostly in shallow waters and a high proportion of that shallow water is in territorial waters. I think in Puerto Rico, in fact, almost all the bottom, less than a hundred feet would be in territorial waters, but in the USVI, I think is sort of 50% in federal waters and 50% in territorial waters. I wanted to make you aware that this is going forward, and particularly to encourage the territories to be in contact with my office and let's start talking about putting together a conservation plan and getting a section 10 permit, because if the fishery continues to go forward for a too longer period of time and you have coral takes in territorial waters, then the territory is vulnerable to potential litigation and other sorts of problems that we need to head off and deal with now. So that is what I wanted to bring to your attention, and we'll continue to keep the Council aware as we develop these biological opinions.

Eugenio Piñero: That means it doesn't matter if it is a federal ... with the traps?

Jason Reuter: Well, now, when the species is listed as threatened is not a violation of the Act to take a threatened species. Then we did the 4d rule, which then made it a violation to take that threatened species of coral. So once this rule is finalized, if someone goes out and sets a trap on it and damages and takes that coral, you are potentially subject to federal prosecution for that act, taking of that coral. The federal, as Dr. Crabtree mentioned, the federal fishery will be subject to a Section 7 consultation, which will then authorize a limited amount of incidental take in federal waters, but because of the distinction in the Magnuson about state and territorial waters and federal waters, that Section 7 consultation will not cover the same activities that would occur in territorial waters, cannot, because the statute is not set up that way, it looks at the federal action under Magnuson. So unless Puerto Rico and the USVI would come in and get that Section 10 permit, which will require as Dr. Crabtree mentioned, the habitat conservation plan, I've actually never worked on issuing one of those permits before, but the statute does list a number of things that would be required for the permit and the plan, but once that is done then when a fisherman in state or territorial waters set their trap down and it has an incidental impact on the coral, it would not be a violation of the ESA. But I would say there are precedents, the state of Massachusetts was suit and prosecuted under the Endangered Species Act because its residents were taking listed species, and they had not come forward and gotten the Section 10 permit, and they weren't covered under another Section 7 Incidental Take Authorization. So it's a big deal.

Eugenio Piñero: The states can go straight to your office and get the Section 10 permit?

Jason Reuter: Yes. That is the way it works.

Aida Rosario: Good morning, Aida Rosario, PR DNER. I am glad that you bring this up, and the permits that we need to have in Puerto Rico, and I would like to ask you, if people are interested in having a scientific permit to take *Acropora*, does the state need to have the permit 10 in order to authorize somebody to take those species?

Jason Reuter: Under the Endangered Species Act, the territories could not authorize anyone to take the listed species, because it would be a violation of federal law. If they were going to get scientific research permits they would also get those under Section 10 of the Endangered Species Act. I believe those are actually issued at the headquarters, but I know the SEFSC has a Section 10 permit that authorizes certain activities related to sea turtles and other endangered and threatened species.



Aida Rosario: That is good to know, because everybody and his family is trying to get a permit from Puerto Rico to get a scientific permit to collect species of *Acropora* to do work with it. So we need to address this, because one of the major problems that we are seeing is that everybody wants to go collect these species and save those pieces to do scientific work. So where are we going to draw the line to stop this taking of this threatened species?

Roy Crabtree: Well, I think when we did the prohibition on take we specifically addressed the research thing. But scientists down here who want to take corals for research purposes need to contact our office and make sure that they have the allowance to let them do that, and obviously that is something that we want to keep an eye on, because we don't want to lose all these corals because scientists have taken so many of them. So we need to keep some control over that. But I would say any researchers that need to take corals as part of their work now need to contact my office.

Aid Rosario: Ok. That is good then, because it is not local people, is people from the United States and from Europe that are trying to get these permits.

Marcos Hanke: This question is to Roy. When you mentioned about the critical habitat, this critical habitat include the state and the federal waters?

Roy Crabtree: Yes.

Marcos Hanke: Is it a federal violation if the Government of Puerto Rico don't get this Section 10 on the state waters to remove *Acropora*, for example?

Roy Crabtree: Yes. We are mostly talking about accidental take, meaning if you threw your anchor down on the bottom and it landed on top or a piece of the coral and you didn't know that piece of coral was there, and you pull your anchor up and up comes a piece of coral, then you just violated the Endangered Species Act. The purpose of the Section 10 permit is to look at those kinds of activities that are taking place in state waters, decide how many takes are likely to occur from that, and then you have to figure, ok, is that number of takes consistent with the recovery of these corals? And then you allow and provide for some of that so that is not a violation, and that is kind of what you are trying to do. But obviously when we look at those kinds of activities; anchors, traps, things like that, we want to make sure that we are limiting the damage that is going to be done as much as possible, but we are not trying to say, we recognize that there are going to be takes of these corals incidental to other kinds of activities, and so that is what the Section 10 permit provides for, but it will mean the territories will have to come up with a conservation plan where they look at the level of activity that is taking place and the likely impacts on the corals, and will have to show that, you know, that the level of impact on the coral is acceptable.

Marcos Hanke: The thing is that I want to see at the same time the Endangered Species Act is willing to protect those corals that need protection, the same interest and effort to create mooring buoys, anchor areas, and to facilitate for us to have this as quick as possible, not to interrupt the standard activities of the constituents in Puerto Rico and the USVI.

Roy Crabtree: And those kinds of things might be appropriate, particularly in areas where we know there are a lot of corals. We may also look at defining areas where there are a lot of corals and prohibit anchoring, prohibit fish traps, prohibit lobster traps in those areas. We've already done that in our FMPs for a lot of places. We talked about it yesterday with Bajo de Sico, that to protect those corals we may need to look at some of these areas, but one of the problems that we have with *Acropora* is that there can be corals in very large areas, and I think there probably are some areas with dense accumulations of it, but by large there can be lots of places, so

you don't want to come and say no one can do anything. So we are just going to have to look at it, but certainly moorings and things like that could be part of the answer to this.

Viridin Brown: Roy I think the understanding generally among fishermen, their general practice is that they don't throw their pots on top of corals, especially the elk and staghorn corals, but I think the greater danger to those corals are developments that might occur along the shoreline, like potential marinas and dredge and fill projects. There are a couple of them in the pipeline right now in the USVI, and what I'd like to know on the first instances, what is the NMFS going to do in the permitting process, in your review process of Army Corps of Engineers permits and hence, CCM permits in the VI? What will be your position on impacts on corals?

Roy Crabtree: Well, if there is for example a development going in and they are going to dredge or something like that, then they are going to have to get an Army Corp. permit to do that, so that is a federal action, and that will be subject to consultation under Section 7, and so we would do a, if we look at the project and decide it is not likely to have any effect on corals then there would just be an informal consultation, but if we review it and say, this project is going to take corals, then we would write and do a biological opinion and allow for some incidental take, or we could say, no, you can't do this, or we could say, you have to modify the project. We do this all the time with literally thousands of permits in the Southeast with probably turtles more than anything else, and we often require changes to the project, changes to the type of dredge you use. We already consult on most of those projects down here anyway because of turtles, and we make them do, you know, dredges kill turtles, so we look at that. Now, with the coral listing we are going to have to look at more things, but any project that requires a federal permit or an Army Corp. project, are going to have to have Section 10 permits. Any sort of beach tree nourishment project will normally require an Army Corp. permit, so we would consult on those.

Viridin Brown: Sometimes in some instances developers are deficient in information, they don't provide sufficient information in their EIS initially for you to get a good assessment, and that is where there is a need for on the ground input review.

Roy Crabtree: You are right. And we often send their assessments back to them and tell them we don't have sufficient information to do the job.

Viridin Brown: That is probably the most significant impact on elkhorn and staghorn corals that are usually fairly close to shore. There is an area on St. John that probably has one of the largest, well it wouldn't be the largest, but a fairly large stand of elkhorn and staghorn, very close together around the east end of St. John, and there is some development going on out there that is beginning to reach into water and that is impacting them, and that is something to look at as well.

Roy Crabtree: We've been in contact with the Army Corp., and they are aware of all this. This new rule just became effective on the 28<sup>th</sup> of November, and the critical habitat rule isn't effective yet, but it becomes effective right after Christmas. The Army Corp. is aware that they need to consult on the corals, but they haven't had to until very recently. So I don't know, Shepherd, if there is a project for example in St. John, but the permits are already issued prior to the effective date of this rule, would they have to come back in now, or would they? I don't know how would that work.

Shepherd Grimes: Yes, I don't know that they, my guess is they probably wouldn't automatically come back in, but if there is new information, you know, a new species that was listed, and they didn't consider the effects of that, then that would be a basis for reinitiating consultation.

Roy Crabtree: Yes. I think there was a permit already issued, but the project was going to take corals that they would have a lot of vulnerability now if they didn't come back in and reinitiate consultation to get coverage on that.

Viridin Brown: And what we are looking, what I am talking about is that these are upland; these are onshore projects that have run off that impact the reef system.

Shepherd Grimes: I think you'll have a little bit of difficulty making the connection if it is a terrestrial project, you know, as a housing development, then they are not going to have an Army Corp of Engineers permit. There is going to be no dredging, there is going to be no federal activity associated with that, therefore, there will be no Section 7 consultation, and we won't consider those effects. I mean, when you consult on the status or the effect of some project on listed species you look at the environmental baseline; the baseline for your analysis, what is the species doing now, what are the effects on that species, and those will consider all those terrestrial effects, you know, run off, these are the threats, this is what's caused if it becomes threatened or endangered in the first place, but that is not part of the action that is really subject to the consultation, and is not something that we would have regulatory authority of. If someone is building or developing a hundred acres somewhere upland and that is going to result in, you know, they are building a golf court and they are going to dump a bunch of fertilizer on it and that is going to run off and that is going to impact the coral, then we could, but they have no federal permit and ...

Roy Crabtree: They have to have an EPA permit under the Clean Water Act.

Shepherd Grimes: Yes. Something like that, then we would get involved, but it would just be the issuance of that.

Viridin Brown: I don't want to be ... with this, but there is the fine line here of threatened species and how you define the take, which is becoming the issue here when we look at what is the impact that would be on fishers. The other side of it is developments. They then can do just as much damage with run offs, and take corals in a way of smothering them than fish traps. So I think you would want to be just as interested in that as well.

Shepherd Grimes: We are definitely interested in it, Viridin, and we want to look at that, but we can't go beyond the authorities that we have under the Endangered Species Act. Now, presumably all of these projects you are talking about are subject to territorial permits and things like that, and there might be a way in putting together a Section 10 permit where the territories would consider the impacts of these kinds of things. So there may be ways to get at that, but some of those projects may be more under the authority of the territories and we have to respect that authority, but we will certainly encourage the territories to do what they can to help protect these corals, because I think it is in everybody's interest. Then you know, if for example, if we have some stands of *Acropora* off of St. John and we probably ought to look at putting a box around that area and prohibiting anchoring and other types of activities over there, but I agree with you, I think by in large fishermen probably aren't throwing their traps down on top of these corals because they are probably not going to get their traps back if they do. So I don't know that some of those area would really impact people that much, but it just makes sense to me that where we know we have some of these corals left we ought to look at those activities that are going to come in and damage them.

Eugenio Piñero: Puerto Rico's Planning Board is requiring mitigation measures, even if the 4d was not in effect, or there was not a federal nexus between the state of a private construction before that, but they will require mitigation measures. So I think we've gone through this point.

Edward Schuster: Just bringing in some important points. St. Croix is on the rise of development, and a couple of months ago some growers had come down to St. Croix, and we had a teleconference call from UVI and St. Croix, and it seems like, again, everybody that attended it, especially fishermen, came out of that meeting with the same concerns as to that they are being targeted. The critical habitats that were found by these, I guess two students, I don't know, it is so ironic that this takes place now, because in our FAC, fishermen, we were asked to ask fishermen to locate where the traps were, and it seems like every place a trap was placed a critical habitat was found, even where when anchored for yellowtail, and most of these critical habitats fishermen know that the development of these small elkhorn and staghorn corals are in shore. And I asked the question, and it seems like it was passed on to an Army or Engineer, or Corp., or whatever it is permit, and it was out of their hands and they couldn't do anything with it. It then became a territorial issue. And I asked a question, I said, fishermen don't go fishing with bulldozers and take axes and all that other stuff, and the developers should be held liable for the damage being done to these critical habitats by on land development that causes sediment run offs, that covers these things with all that stuff, and then they die. And it seems that when this happens then there is another regulation that is going to be put on to fishermen, and then we are going to be extinct, just like all the corals. And I feel that it is unfair; first, that we have to divulge this information, tell you where we fish, place these traps, anchor for yellowtail and other fishing that we do, and then all of a sudden where exactly we pinpointed it on a map surrounding St. Croix this is where a critical habitat has been located. And then now I am hearing here that now you need a Section 10 permit, and I just want to ask the question, where can I find that, so I can research it myself, so I can pass this information on, because Fish and Wildlife Department asked us to, on a map, place an X where we fish for a certain species of fish that require anchoring, and then months later these two students, or whatever they are, they work for you, they come down here and then they tell us, well, this is a critical habitat, that is a critical habitat, and then we are pushed further out again. So just a question to you Roy. Where can I find this Section 10 permit and read on it?

Roy Crabtree: Probably the best way is to contact one of the two ladies who came down. But we can try to get you that kind of information maybe through Miguel, and I can assure you that all over the country, ranchers, developers and all sorts of people feel like they are being singled out by the Endangered Species Act. It is affecting huge numbers of activities. I mean, we have consult on port expansion projects and all kinds of things, is not just fishermen under the Endangered Species Act, but we have to do what the statute requires. Now again, if there are upland development projects, and if we can find some federal permit nexus to those projects, then we'll consult on them. I think it is quite likely that if upland projects are having significant discharge of sediment and things, it seems to me there may be a need to have any VI permit to do that, but we have to look at these specific projects and what they have, but some of those issues, if there is no federal permitting involved are just outside the authority that I see right now, so we have to look at those specific projects, but we can get you more information on the critical habitats and the coral things. Just follow up with it or call me, and I'll make sure you get that. The critical habitat designation down here was based mostly on depth, because just about anywhere down here, in the right depth zone, could have *Acropora* corals. So I think it is a pretty general designation based on depth more than anything else. But we can get you background and information on that.

Edward Schuster: Just one thing to add to this, what it is, just to put some clarity to the picture is that the developers have, there is a loophole, like what Viridin was trying to say, as long as there is no marine activity that requires the Army Corp. of Engineers permit, which there is dredging and other things that take place, then it becomes a territorial issue with CCM, and I think that it needs to be drawn into the sand that these are the things that are of surrounding development which there is a critical habitat, that would prohibit you from doing certain things that would cause sediment run offs.

Roy Crabtree: Again, we can look at it, but I'd have to see the specifics of the project to be able to make a determination on whether we could consult on it or not. So you have to come to me with a specific project and

all the details on it and we'll take a look at it, but I can only act within the authority I have under the Endangered Species Act, and that is a pretty broad authority, but if it is a project that is way up land, as Shepherd said, it gets more difficult to draw that connection, but if there is significant run off, and it is clearly going to have a significant impact, then there may be federal permits required such as the EPA, but I can't tell you without knowing about the specific project.

David Olsen: The CCR data contained a number of trap holes for each year since, I think about 1995, and you can get that out of there. During the bycatch survey that we just completed we kept records of the depths and I used our ... to determine where are those that are located on the shelf and then put the territorial sea on it and Jason helped me do something I had forgotten to do which is calculate how much of it was in the federal zone and how much are in the territorial zone, and it is about 60% in the territorial zone. The depth ranges were from 70 to 120 feet, so we have about 28 feet that are in the critical habitat, and I personally think that what you are looking at is the extreme range, and that there is very little *Acropora* within the range of the trap fishery. Now, I think it would be fairly easy for us to get some of our members to record on a daily basis how many pieces of coral they've brought up, and I actually don't think there is going to be much of it at all, and we'll do that. One of the things that Julian has been working on is reducing the number of traps, and the trap fisherman, Winston, has been part of it. They have all gotten together, and I don't know the methodology that they've proposed, but they've apparently decided on a way to bring down the number of traps, and I think it would be helpful if the Council could write a letter to the Fishermen's Association just kind of detailing this discussion in that it would be really useful to reduce the number of traps out there. You know, if you could give us a letter on Council stationary that Julian could take to that meeting and use it as another reason to justify bringing down the number of traps. You ask for specific development. Coastal Zone Management this past year permitted a massive development on ... Key, and everybody who's gone out and dived along ... Key says is the most *Acropora* that they've seen in the USVI, you know, the entire island is lying on the south side with massive *Acropora Servicornis* and *Palmata* colonies, and the key itself is all more than 30% slope, and there is no way they are going to be able to do anything without enormous, you know, they make claims that they are going to treat it with some kind of ..., treat the road cuts with some kind of ... that'll restrict the runoffs, but there is going to be huge amounts of sediment coming right on top of probably the richest collection of *Acropora* colonies in the St. Thomas area. Now, that is a terrestrial development, but they have to have a marina to get access, and that marina will be going, the permit has been issued by Coastal Zone, but it has not been approved by the Legislature. They went to the Legislature but there wasn't a quorum there, so it will have to come back after the habitat comes into effect, and it would be extremely useful and I think practical to try to make some kind of draw, some kind of line in the sand here about what you can get away with, because this is a development that is really going to, there is no way that it can just not decimate these corals, and I think, you keep referring to the responsibilities lying in the territory, but our territorial Coastal Zone Management Committees are very subject to political pressures. We have a Governor who is basically, you know, he has stated that he is pro-development and so we do not have the independent determination here within our government to try and restrict these things. Now, the Coastal Zone Commission in the past year I think has been relatively courageous, it has denied one, two, three proposals on the Keys, but it has permitted this one, and there is a huge project scheduled for St. Croix, where they are going to excavate a marina on the west end, that again we'll have that nexus for dealing with it and it'll be very useful for the fisheries to come in a try to make some of those stands and encourage the local government to make those stands, because I don't think naturally that they are going to make those stands.

Roy Crabtree: Well again, I don't know any details about these projects and what types of permits they have. You might start with the Army Corps, if there is a marina, and find out what is the status of it and what are they doing with it. They are the permitting agency, not us. We are the consulting agency. It is their responsibility to come to us and consult, because they ultimately issue the permit, so they are the starting point, and they have people locally in offices you can talk to. If the project is already permitted, before the coral listing and

prohibitions went in place, we can look at it, but I don't know what we do in that situation. If they have not yet been permitted by the Army Corp., then they will have to come in and consult with us on the marina because there'll be dredging taking place there. They'll have to consult based on turtles and corals and all the rest of it, and we'll look at the impacts of the project.

David Olsen: But will you look at the impacts of not just the marina projects, but the attached terrestrial development?

Roy Crabtree: David, as I've said multiple times here, I can't tell you that without the specifics of it. I will look at what the statute allows us and requires that we look at, but I can't exceed the authority that I have. I don't know.

David Olsen: But will you see the terrestrial, or just the marina?

Roy Crabtree: It depends on whether there is a federal permit or not.

David Olsen: Well, there will be a federal permit.

Roy Crabtree: If there is a federal permit, we will consult on it.

David Olsen: But will you see the terrestrial side of that project?

Roy Crabtree: I'll answer it one more time, it depends on if a federal permit is involved. We consult on federal actions. I can only do what the statute requires.

Viridin Brown: If you let me. This is a permit that is in progress. It is going to the Corp. of Engineers, and since you have now published your 4d rule, most certainly there will have to be a consultation with the Corp. on this issue, both, not only your unit, but Fish and Wildlife and EPA and other agencies. But this is one, because of the nature and size of it, that will certainly require consultation, but I guess you'll have to look at the specifics. But all of those things will have to be taken into consideration. Certainly it will be.

Roy Crabtree: I will say this one more time. That is not what I am saying David. It depends on what kind of federal action is, and it depends on the scope of the project. I will look at everything the statute allows us to look at. We are not going to solve this right now, and I can't give you any answers to this right now. It is very complicated. I don't know if I can look at all the stuff that you want me to look at because I don't know if there is a federal connection that allows me to look at it. I can't just come in and overrule. I mean, you have apparently disagreements with territorial permitting agencies and things, but I can't exceed my authority on that. I will look at it to the extent that the Endangered Species Act allows me to. And that is all I have to say about this. I don't think we are getting anywhere with this.

David Olsen: Well, Viridin raised it, and Ed raised it, and I raised it, is that the biggest threat to these corals is from terrestrial development, and yet this action does not address that.

Marcos Hanke: I think that the fishermen are going to be directly impacted with this. In the case of my area fishing grounds in Fajardo there is huge runoff on the Fajardo river that never stopped since the beginning, and still there is a lot of areas causing a lot of sedimentation, and that is a concern we've had for many years and nothing is done. Now in the Fajardo river there is a big construction there to avoid flood on the south and allow of that area that is also a big area of sediment that is being discharged to the Fajardo bay which is an area with Acropora and many other corals and marine life, and nothing is being made to protect the runoff, and this is

made by the agencies, is not just by the developers, the agencies are not doing anything to protect the environment in my point of view, and as a fisherman, and as a Council member this is a question to the Chair, is there anyway we can ask for a letter to all those agencies that issued permits and construction of land that will affect, the runoff or whatever, the procedures, the status, or what they are going to do with the new Endangered Species Act implication?

Miguel Rolón: The Council has the authority to extend a letter to the Government of Puerto Rico and the Government of the USVI, raising any issue that will affect the essential fish habitat. That is as far as we can go. Remember that the Council is not the action agency. However, we can raise this point as we have done it before. If you look at every plan that we have, we have a section at the end of the plan that have all the applicable laws and regulations and have also recommendations to the local governments. Because what we are discussing here we have laws and regulations up to the roof to protect the marine environment from runoffs. I mean, you go to Culebra for example, you are going to see those nice containers, plastic things that nobody pay attention to, and the enforcement is not that great. The connection between the mountain all the way to the shoreline is there by EPA and all kind of agencies, and I believe we are mixing apples and oranges here. The only thing that the Council can do is send a letter, as we mentioned before, and then you should concentrate with the local government Section 10, that is really where the action is for the Council for the fishers, is Section 10. All the other issues are shots to the moon because the DNER in PR and the one in USVI are the ones who are supposed to be interacting with the federal agencies. What Roy has been trying to say for the last ten minutes is that his authority stops somewhere. His is one of the agencies that have to be consulted by the Corp. of Engineers whenever an action is required through the permit review program. So Mr. Chairman, I believe that it is in order to just send a letter to the two local governments, their two members represented here and they know what we are talking about, just a reminder, and then also to ask if they can help us with the amendment, because we need to have some language when we get to the amendment regarding these projects, and usually what we have is the local governments tell us in the consultation what they are doing, and then we'll include that in the discussion section of the FMPs that we have.

### **Tape 1(b)**

Miguel Rolón: ...I am sure that Miguel and whoever replace you will take that up to the proper authorities and keep the ball rolling with this one. That is what we have in the Habitat Advisory Panel. They had these concerns discussed before. The last thing I was going to say is that we have an office in Cabo Rojo, there is a lady there who is always protecting corals, and I am sure that, and she works for Roy, so any action here that would be affecting these corals will be considered by this agency. The Department of Interior also has something to say regarding this, and they also send their two cents worth of information to us and to the Corp. of Engineers.

Jorge García: I just wanted to comment that permits under Section 7 consultation, that process is engaged right now in Puerto Rico, I have a personal knowledge about projects that have potential runoff impacts on shoreline coral developments that are being requested as part of this consultation process, at least for territorial waters. Is not to say that there is not many impacts of previous projects or other projects or even a natural impact on sedimentation and changes in the water shed that are affecting these coastal systems, but there is recently in place a process in which projects that are potentially impacting the coastline by sedimentation are immediately inherent to this permitting process, and is what, actually has directly to do with this coral protection. So I have direct knowledge of that process that is taking place right now.

Trika Gerard: Good morning. I want to thank the Council for inviting me to present this work that we are doing here in the region. This work is entitled the USVI Larval Distribution and Supply Study, and just as a little background, I was born and raised in St. Thomas, and for professional and personal reasons I have always

kept up with the fisheries issues, and so I designed this project to look at larval distribution in the area in hopes that we would generate quantifiable and defensible data that managers in the region can use, and it is funded by NOAA Coral Reef Conservation Program. (Ms. Gerard's presentation is included under Attachment C).

Aida Rosario: We are conducting right now a fisheries independent sampling of the spiny lobster larval recruitment. We are using the ... collectors, and I am aware that there are a lot of fish that are associated with those collectors. If there is any opportunity that we can collect some of the species, the fish species I'll make them available to you so that you can identify those species. The other thing is, do you have in mind or funding to conduct the same type of study in Puerto Rico?

Trika Gerard: This is funded by the Coral Reef Conservation, and it was actually a pilot study, and so we are bringing it to the Council because if you deem it is fit to continue this type of research for this part of the region, Puerto Rico, USVI, looking at some of the Leeward Islands and see how they are connected to the region that's managed, then I would say yes. And back to the lobster, we got a lot of lobster samples as well in our ichthyoplankton samplings, so we are not looking at them, we just take them, but we have them.

Aida Rosario: We have the results, and we are going to publish them next year.

Marcos Hanke: Thank you for your presentation, it was very interesting. The two collections that you guys made on the two different years, were they in the same months?

Trika Gerard: Yes. One was early in March, and one was later in March and went over into April. So in 2007, I think we left on the 25<sup>th</sup> of March to the 10<sup>th</sup> of April, and in 2008 we went from the 8<sup>th</sup> of March to the 22<sup>nd</sup>, if I am not mistaken. And for 2009, it is still open as to where we are going to go because we are still waiting on ship time, but we've been cut down to 8 days from 14 days, so we still don't have any dates yet. We are hoping that it is within, on a time range that we can catch our snappers and groupers. But for now they are talking May, and we'll probably miss the groupers.

Marcos Hanke: Another question is, the big quantity of bone fish larvae that you collected was on the 2008 collection?

Trika Gerard: Yes. That was in April, and it was during that weather system. So we are not sure the collection was related to the weather system, or if they are just found more on the eastern end of the island. We are not sure.

Aida Rosario: The RV Oregon is going to be in the Caribbean from March to the beginning of April. It is going to be targeting Puerto Rico and the USVI. You can probably talk to, his name is Crest Glengio, I think that is his name, and see the availability of space. It is a fishery ship. They are going to be performing some fish trap, video fish traps, and I think that they are also interested in something on plankton and that kind of stuff.

Jorge García: I have a few questions on your work, which I find very interesting. What is the mesh size that you were using on those nets?

Trika Gerard: For the ... nets, one meter.

Jorge Garcia: The mesh size. I mean, the mesh diameter, the mesh of the net.

Trika Gerard: I can't remember. I would have to get back to you.



Jorge García: Ok. Because what I saw you were showing was mostly post larvae, you know, big guys.

Trika Gerard: Which ones, for the poster?

Jorge García: Yes.

Trika Gerard: They are very small. They are all pigmented though. They are not very clear. Some of them are.

Jorge García: Right. But there are mainly two stages, but what I saw mostly was post ... larvae. So that suggests me that you were collecting with a big mesh gear. Also, I would like to ask you whether you have found larvae of butterfly fishes and of angel fishes?

Trika Gerard: Yes.

Jorge García: And in what kind of abundance have you found them, and mostly where were they distributed.

Trika Gerard: We are still working on that, because we just targeted snappers and groupers first. We are still working on 2007, it takes a long time to sort and identify the fish. So we are still working on generating a data sheet that has all the families, because we identified them down to families, and we have all the families and where we caught them. So we are still working on it. We just have snappers and groupers so far.

Jorge García: I am asking you because those fish are quite abundant and common in our reefs, but you seldom see the larvae anywhere. So that is my, I've done some icktioplankton sampling, I also have a publication up from the southwest coast of Puerto Rico, and we were not really successful sampling that kind of larvae, so I always kept in my mind why. The other question I wanted to ask you was, what is your opinion about the consistency of the dispersal patterns? Because ...you sample twice, and on the two times the outcome of the dispersal would have been completely different. So what is your overall opinion about this connectivity issue?

Trika Gerard: We haven't gotten there yet, because we've only worked on the 2007 samples. We haven't gotten to 2008 to make the connection of compare the dispersal from 07 to 09. We only have the physical oceanographic data, so we know during that time frame it was different as far as movement or transport of the larvae. ADCPs, we would like to generate something with the university. They have ADCPs, and we actually want to put a transect between St. Thomas and St. Croix, because there is a guy in the University of Miami who is doing some modeling and showing that at one fine window ocean currents, also St. Croix is connected to St. Thomas/St. John, one small window, and so we are still kind of sorting out the data and looking at it, so we haven't really assessed yet the connectivity of on 2007, 2008, 2009, because we are just looking at 2007 right now, we haven't even finished those samples yet.

Jorge García: The relevance of the question is that you were sampling about up to 75 meters? Ok two hundred meters. So the idea of it would have to be a whole mounted ADCP, because in many instances what you have is a counter current, so you know, we have seen this in Mona Passage, where down to about a hundred meters you have another current coming in the opposite direction.

Trika Gerard: It should have a whole mounted ADCP, so we have that data as well.

Jorge García: Oh ok, so you will be able to make an assessment of that?

Trika Gerard: Yes. We actually have the graph. So we have the ADCP data for 07 and 08 already, so I can send you those graphs, I just don't have it here.

Jorge García: I am very much interested, particularly in the areas around Puerto Rico and the USVI.

Trika Gerard: And in 07 we did Mona Passage. So I have that as well.

Jorge García: What do you think happens with the larvae that are not really where the current shows that they are going out to the north, Atlantic or up in the middle of the Mona Passage.

Trika Gerard: I think that they're distributed as far up through the Bahamas, if you will. Some of ... they are still going way up north, you know Europe, way going up north. So we know that there is large distribution, and there is a variety of the distribution, and so we are just trying to focus on, for now, the importance of Grammanik Bank and red hind bank for supplying larvae to the area, and then we'll move out to look at the distribution elsewhere. But like I said, 07 everything went north, and 08 everything went west. We also did some analysis on yellowtail, trying to connect, if you will, the Yucatan peninsula to some of the samples that we got in the USVI, and so we are still working that out. We connected the Yucatan to Dry Tortugas, Florida. We found fish in Dry Tortugas that have signature of the Yucatan. So we are moving fully along geographically, but we are making those connections.

Barbara Kojis: Do you have any reports from this work, from the 2007 work?

Trika Gerard: Just the cruise report, but we are still working on, like I said, on all fish from 07, and then we'll generate a report, because we have to do it for the Coral Reef Program anyway. So we'll do one for 07, 08 and for 09.

Barbara Kojis: Because I think it may be important for the Council to look at the report to see what actual information is available from these in order to determine what their recommendation would be and whether they would want to support this and how it would fit in with the issues that we are coming before the Council right now. That is a very interesting work. One of the questions is, it indicates that everything went west one time and north another time, but if there are, you also indicated that you have ADCP information that you will pick up the counter currents and so on. So west and north is kind of a simplified assessment of where the currents are going, in relation to the larvae? Because every information at different developmental stages of the larvae at different depths and so that they may go north if they are on the surface, but come back as they get older into the area, and are you going to be analyzing that sort of information?

Trika Gerard: We are going to be looking at that, but for the drifters we are looking at those fish recently spawned that will be in the plankton, and then once they get to about forty to fifty days old they are able to swim, so they are able to be recruited somewhere. So we are trying to put that out as well. We'll have our report on that.

Aida Rosario: Joe Kimmel mentioned three presentations that were made at the GCFI, and one of them was using drifters that were released after the spawning aggregation of some groupers, I can't remember if it was in Cayman or Bahamas, and the drifters started moving to the south basin of the Caribbean, and after a while they moved back to the point of origin. Have you been able to find any of those drifters coming back from the north?

Trika Gerard: None have circled back, and if something of that sort happened we are assuming they kept some sort of physical feature, whether is a ... or eddy or something that would entrain the larvae as well, and that is

how you get local retention, close population, that type of things. In our research we haven't seen that, except for the one that circled around and went south to the Saba Bank. We have a website where you can log on and see where they are going.

Eugenio Piñeiro: Dr. Gerard, before you go. I noticed that in both graphs, 2007 and 2008, the larvae dispersion goes to west, so in both occasions both, the USVI and Puerto Rico have been the beneficiaries of that larvae dispersion. That is a good point that this Council keep that international presence that we have in the greater Caribbean, and I know that Miguel has always been very available and willing to help our neighbors and as we see that, and all the Council members can see that is in our benefit, not only biological but monetary interest for all. I wish to express our thanks for your presentation, and whenever you have something new please come back. You are very welcome.

Barbara Kojis: I am giving a report on some of the things that occurred at the SSC workshop in Honolulu that was in November. Miguel Rolón, Jim Berkson and me attended the SSC workshop. The purpose of the workshop was to really look at two main topics; operating procedures of the Scientific and Statistical Committees, and how to go about establishing ACLs. Each council SSC representatives gave presentations on each of these topics, explaining how they conducted their, what their operating procedures were, and also indicating how they do their stock assessments to establish ACLs, they did that. The West Pacific Council is preparing a report on this meeting, which should be out soon, and it will include all the written summaries prepared by each council's SSC, as well as all the attached materials and everything else, and some of the summary information from the discussions, and some recommendations. Regarding operating procedures, just for your benefit, to put things in context, the US Caribbean has the smallest SSC, with just 9 members. All the other councils have more members, ranging from twelve, with plans to increase to eighteen in the case of one council, and most of them have 16 or 17 members. Obviously in the US Caribbean we are a small council, and there are budgetary constraints that derive the small size of the US Caribbean SSC, but this also means that the US Caribbean SSC does not have the wide range of expertise about their SSC, where people with specific expertise on specific species, etc., ... are often on these SSCs. Some of the SSCs designate specific seats for specific agencies, such as the local state agencies and so on, and permit the appointment of permanent alternates to make sure that there is representation from those agencies. Most SSCs meet four to five times a year for two to three days, often in conjunction with the council meetings, just before a council meeting, sometimes meet, some of them meet several weeks in advance of council meetings. So there is a variety of ways to doing things. Several of the SSCs have subcommittees made up of a subset of SSC members that target certain issues. The Gulf on the other hand has special SSCs, where the members of those SSCs are different from the main SSC, and they target various species for stock assessments and recommendations. SSCs usually make their decisions by consensus. However, the Gulf, which is one of the SSCs that the Council and the SSC have a sort of adversarial relationship vote on motions, for the most part. A number of SSCs deliberately don't record their meetings. Their rationale is the written statements presented to the council, they are adequate, as long as there is enough rationale, and giving the reasons for the recommendations that they are making, and this should be sufficient. The SSCs fear that comments made in the heat of a scientific debate during an SSC meeting will be taken out of context, and used to undermine the recommendations of the SSC. So those particular SSCs do not record their meetings. There were recommendations that for filling vacancies for the SSC, that the SSCs make recommendations to the councils, assist the councils in recommending people that might be able to fill the positions as well as play a role in reviewing qualifications of SSC members, to ensure that they are qualified for the SSC. There was a discussion of the role of the SSC in the review of stock assessments, and in the Caribbean we have SEDAR; should the SSC be involved or not, or review those SEDAR recommendations, but I'll address this a little bit later when we discuss the other aspects or the other part of this meeting. Also, some of the people recommended and do develop a multi year research priorities that are needed in order for the SSC, well for NMFS for the most part or maybe other agencies to do stock assessments, and so the SSC makes recommendations and research priorities that then the universities as well as NOAA/NMFS and other agencies

may move to obtain funding to carry out these researches. One of the other things discussed was SSC members participation. The Western councils SSCs don't seem to have many issues with membership, participation by SSC members as many of the east and south SSCs do. This is especially true in Alaska, which seems to have a fair number of participation, a lot of participation, by their SSC members. On the other hand, the Gulf and some of the eastern SSCs have difficulties in getting people to volunteer to be SSC members, and then to actually show up and participate and spend the amount of time that is needed to effectively participate. That gives you some of the ideas of the topics that are discussed. There will be a report out that will give a lot of more information and summarize what was discussed at the meeting with respect to this and recommendations that were made by the SSC workshop. The development of ACLs, I'd like to just mention that we often talked about the development of ACLs, but I there were, I think it is important to clarify where responsibilities lie with respect to this. The SSC is responsible for developing and this all depends upon the final guidance as to what terms are being used and how things will go. The OFLs, the overfishing limits, and the ABC, the allowable biological catch, while the Council is really responsible for the annual catch limits and the annual catch targets, whether there will be an annual catch target is always a question because sometimes people, some discussions occurred as to whether you need both of them, but the ACL is the limit, whereas the ACT is the target, and so if you are using the terms limit and target it is maybe best to include both...

## **Tape 2(a)**

Barbara Kojis: ...the ACL would have to have a buffer and maybe be below ABC, based on what sort of management uncertainty is there. How well can you determine what is happening as far as the catches, or however you are going to be managing or coming up with limits or ACLs? What is the management uncertainty with respect to this so that you are getting all the data that you need, are you sure that the information that you are gathering is accurate so if the management uncertainty is really high, then the ACL will be below the ABC, and the ACT maybe will be below the ACL? So, one of the other things to just clarify is that the SSC is not involved in determining allocation. This was discussed at the meeting. The allocation is a responsibility of the Council; allocating the commercial fisheries, the recreational fisheries, or whatever other group of allocation is out there. But the SSC, it was discussed, could advice the Council on the implications of various allocations that they might be interested in making, so they might provide the scientific information on what the implications might be. Remember, the SSC includes not only scientists that are biological and ecological scientists; the fishery scientists, but also economists and social scientists. So there is a broad range of what the SSC can provide advice on. At the meeting there was a presentation from Rick Methel from NMFS, on the guidance being developed for determination of ACLs, and each council's SSC presented information on how they have been determining ACLs, quotas, etc. And one of the things that I'd just like to point out is that, probably most of you are aware of, but is obvious that they revised the Magnuson Stevens Act, the model for the new regulations was the Northern Pacific FMC Alaska, which has a lot of data on their fish stocks, and for each of their stocks they assigned the stock to one of six levels based on the data available, and they have recommendations on each of those levels on how the data would be analyzed based on, if there is a lot of data then you can do a formal stock assessment, if there is less data then you are down at level six, and you look at the data in a little bit different way. Jim Berkson's comments, after hearing the information from Alaska, was that looking at Alaska's available data, and they are at six levels, the US Caribbean, based on their data would be at level 99, you know, a very data poor situation. So these are some of the things that will be needed, will need to be done by NOAA/NMFS to determine how can you go about, and the SSC as well, how do we go about coming up with some indication of the status of stocks in the US Caribbean with the data that we have at this stage, and then what data is needed in the future so that we can improve the situation with respect to data in the determination of the status of stocks. There were a lot of other discussions in there about the various ways that people do stock assessments or determine status of stocks. One of the things that was brought up was the importance of including recreational fish harvest along with commercial fish harvest, and having good data on recreational catch, because it is very important in most regions of the US and its territories, and this data that is

needed, including not just total catch, but the species caught and the size of the species caught and where the catch is occurring, because the recreational catch may be quite different from the commercial catch and so you need that data on both. You need some information once the stock assessments are done, and in the US Caribbean the Southeast Data Assessment Review is used to come up with stock assessments. To date, the SEDAR has not been able to successfully do a stock assessment on any of the species here, because of the fact that there is just not enough data, but if they are done, some of the SSCs are involved in either annual, you know, once a stock assessment has been completed and unless there is some big change, they will often times be involved in just an update every year to determine the annual quota, or once every two years in some cases they may have a few more years. So once the data is available, there is a fair amount of, ... and once the stock assessment is done, life can become a little bit easier with respect to coming up with quotas. Anyway, that gives you, I think, enough background on what happened in there, and Miguel may want to elaborate on some of the things that are currently going on or an update of what might have come out of that meeting.

Miguel Rolón: We have a report, is not for distribution yet because the group wants to give a chance to the members that attended the workshop to review what they said and what is included, but David Wither, one of the leaders of the group, actually the one who put together this idea, sent us a copy of the draft of the report, and I will read for the record four general consensus of the several topics that were discussed. The first one is that all the participants agreed that actual catch data needs to be collected for all fisheries across the country, and that it may be impossible to develop catch limits as required in the National Standard 1 Guideline without accurate catch data, and this is a very strong feeling they have, and they were wondering whether scientists can say, no way Jose we cannot do this, to a lawyer, and they were referring to the new guidelines that are coming out and how they can answer that question. Particular catch data are lacking for many fisheries in the Western Pacific and the Caribbean region, we all know that, however, they also said that in the six other council regions they also have fisheries that they lack the data that they need to provide for ACLs and what have you. Participants agree that increases in SSC responsibilities necessitates increases in council funding, and requires additional funding for data collection and assessment, part of the same thing but this ... to the issue of stipends, and also the moneys available for meetings; if you require the SSC to do more, they have to meet more often probably, or they have to increase the length of the meetings. Participants also agreed that the SSC should be the final arbiters regarding what constitutes the best available scientific information used by councils for fishery management decisions, and this is something that is to be considered because the Centers are the ones. So that is something to decide who is the decider. Lastly, participants agreed that the second workshop should be convened before 2010, which is the dateline for annual catch limits to be set for all fisheries in the federal waters that are experiencing overfishing or are overfished. The next meeting should focus on more technical aspects of establishing appropriate catch limits. Actually the spinout of the meeting was that at least for this area we want to review Jerry and Richard Appeldoorn's papers, and I've been corresponding with Mike Sissenwine, actually all are members of the SSC, and the three of them will try to see if they can sit down before the ACLs somehow, or do it through email to present to the next ACL meeting an option for data collection and analysis, mostly an option on the models that can be used for this. In addition, they encouraged each council to go back and try to do their best to collect the data that is needed, and also to assess the way that we can collect the data on a practical manner, because in the case of the Western Pacific they have several islands where they have the community of fishers where you'll have the data that you need to establish the OFLs and the ABCs and the others. The next meeting probably will be in Alaska, they don't know. They were kidding about coming here, but my idea is that we need to go now to areas where they have real data to measure this, and they are thinking of probably going to either the New England area or Alaska. They haven't decided that yet. They are encouraging also, in the report they will be encouraging the NMFS to speed up the process to determine the way in which the SSC will operate, meaning the National Standard guidelines that will be out probably in January or February of next year, and they would like to have also an opportunity to discuss with each council the way that they should operate, recognizing that each council is a little bit different. The other two aspects that they mentioned are that we are focusing too much on the biology of the animals and we are

leaving out the socio-economy, and the socio-economy is present, and they were thinking that we always think about collecting the data from the biology standpoint of view, but we do not prioritize enough for the socio-economic, and even the social scientist who was there also believes that we are lacking that data too. The report will be out probably at the end of the year, or next year, so we will send a copy to each Council member or to anyone who wants a copy, and of course all the SSC. And the last point is that we all recognized that in each SSC we do not have, all of them are not stock assessment, so we also need to discuss and probably give orientation to the other members of the SSC as to the stock assessments nitty gritty when we discuss ACLs, and that is something that even Dr. Rothchild believe is something that should be pursued at each council level within each SSC.

Shepherd Grimes: I just wanted to tell you the same thing I told the Gulf Council at their last meeting, and that is, I think that with the shift in more to focus on establishing ABC and OFL by the SSC that has put more of a burden on them and it has also created more of a need for record keeping with regards to the SSC. I've heard part of that report, and is kind of shocking to me that SSCs don't all keep minutes, because the Magnuson Act requires them to, and they are required to have a record, and what I've told the Gulf is, that I think they are going to move more towards verbatim transcripts of the discussions at the SSC meetings, because we need to have the records and the basis for establishing the ABC, and it is going to become more controversial at the council level, so we need to have a better understanding of what their discussions were, and I think that is something that you'll probably see most councils deal with and move towards as we start to implement those new provisions.

Miguel Rolón: That is a very important point. In our case what we are going to do is that, and we have done it before, but anyway, we used to have just a summary of the SSC, but now what we are going to have is a CD with the transcript or the actual taping of the meetings. So for each SSC you'll have the summary minutes, but also you'll have the CD that will have all the discussion. That has triggered some reactions from some of the SSC members. In some councils the SSC members are quitting, and in others what they decided is that they'll send a letter, I think is the South Atlantic that sent a letter to everybody saying, these are your new responsibilities, are you willing to continue? Some of them said yes, others decided no, and for the people that were sitting around the table in Honolulu, almost everybody sent the top people they had in each SSC to that meeting, and they were all concerned about it, but they have this new responsibility, so the public needs to know, and the lawyers need to be happy with the records, because otherwise they won't be able to defend whatever we put together.

Viridin Brown: Since there is going to be a greater mandate for more from the SSC, was there any, I know you mentioned stipends, but was there any kind of focus on making recommendations of a uniform stipend or compensation for SSC members to the councils or to NMFS?

Miguel Rolón: No. They just, well, it was discussed because in some cases the people accepted one dollar a year, and that is good enough. Others, they would have to have a thousand dollars a day plus expenses, and NMFS, as you know, is going to be discussing this at the next SSC meeting in February and probably at the next one in May, because one point that the group was discussing is that you may have a conflict of interest imbedded in the system if you do the stipend thing in the wrong way. So it is still an open question. Roy, do you have any idea?

Roy Crabtree: I think the Fisheries Service at some point will put out guidelines about compensation and I think it would be standard, it would be applied nationally, because we've discussed, you don't want councils outbidding each other for SSC members, but at this point there is no money appropriated to pay stipends, so I am not sure that there would be any payment of stipends until such time that there is some money that has been appropriated and identified by Congress as to go to stipends.

Miguel Rolón: And the other point is that the members were discussing whether the SSC members will be paid that stipend while at a meeting versus at a meeting or preparing for a meeting.

Roy Crabtree: I think the guidance will need to address these things.

Miguel Rolón: Roy, do you think that the guidance will be around 2009?

Roy Crabtree: The guidance will be around, I hope sometime in 2009, but more specific than that is hard to say.

Aida Rosario: Both Barbara and Miguel mentioned that the SSC is concerned with the type of data that is being collected. Did they make any specific recommendations? And if they did, when is it going to be available for the local governments? Because the local governments make the data collection, and how would it affect our programs?

Barbara Kojis: I believe there is a data workshop that is coming up in January with SEDAR that is going to be looking at what data is available, and then possibly making recommendations. I am sure they'll be making recommendations, and the SSC will be interested in looking at that, and again, also looking at what data they have and coming up with their own recommendations or confirming the recommendations from the SEDAR group. I can speak more of the USVI, but I think Puerto Rico has a bigger data set and more specific information, but certainly in the USVI there are a lot of issues with data and its usefulness for stock assessments in the amount of data, especially when it comes to the TIP data, the port sampling data, how much data is really needed with respect to that.

Aida Rosario: We have serious concerns with the SEDAR process. At least Aida Rosario has a serious concern, because every time they make a stock assessment we provide all the information that we have and it is never good to make a stock assessment. So when is it going to be finally a good model and give us finally what are the data needs that we can provide and not come to the next SEDAR meeting and then we have to go jump another ... to try to provide the information, because is like the never ending story.

Miguel Rolón: I guess you are barking at the wrong tree. Is not ...SEDAR, and yesterday we said that the system or the schedule that we have is we will have SEDAR, ACLG, and SSC, and then in March we will go back and decide what we are going to do. In addition, the Council approved yesterday to have a project that will look at these data needs and the way to collect the data before, but what Roy mentioned yesterday is what the Council is going to do. We will allow SEDAR to continue, decide at this SEDAR what things we can use, what we cannot use, go through the process of the February meeting, and then at the March meeting you will have a better clear picture of what can we do. In addition, at the March meeting we are supposed to have the National Guidelines out there, for people to be looking at and use as appropriate.

Aida Rosario: I don't think I am barking at the wrong tree. I am just, it was mentioned that at the next meeting in SEDAR they are going to be making some recommendations for the ACLs that the SSC group is going to be seeing and deciding that this need. The thing is that everything is just if, you know, probably we will have a National Guideline, probably we will have and ACLs guideline, probably we will have some recommendations on what kind of data we'll need. So I don't see how we are going to comply with the 2010 dateline with all the uncertainty that is prior to this decision.

Jorge García: I am not sure if I am going to be participating in the SEDAR meeting, or part of the SSC either, so just a recommendation regarding this data analysis and presumably collection process to provide the best information for the ACLs. I think because one of the main issues here is that we lack data on MSY, so we are

using the annual catch to estimate as a proxy MSY. Apparently that would work in the case of the actual status of the fisheries of Puerto Rico, for many species, because of their reducing effort, which is not really seen in the data for most species, but there is an implicit because of the reduction in the number of fishermen, the total annual catch has been reduced and also because of the closures. The annual catch is being affected by that. So in the actual analysis of the annual catch, what I am recommending is that because the annual catch will be affected by the closures, because of the decline in effort, and the decline in the effort during the most productive part of the seasons, that perhaps that reductions in catches that are being affected by the closures and will introduce variability, which is also being considered as one of the methods to provide estimates that in one way or another will be affecting the calculation of the annual catch, that would be considered in the cases where there be a significant reduction of the, or the annual catch would be considerably lower than the most recent years of the catch, and that became pretty evident yesterday when the data for St. Croix was being presented. So in those cases where you have either an increasing fisheries, or a developing fisheries, perhaps like in the case of conch, or instances where the fisheries has been affected in terms of, the annual catch statistics have been affected by management practices, such as seasonal closures, or the banning of several fisheries methods like nets and stuff like that, which appears to be the case of the parrotfish for example in St. Croix, that those things could be taken into account, and perhaps some kind of normalization of the data be introduced to account for those reductions in the annual catch, so that the annual catch limits be somehow normalized taking those data into account.

Miguel Rolón: The point is that this is a discussion for the SEDAR meeting, the ACLG and the SSC. Tape it and use it in March, because that is when you have to make a decision. And also, the Council doesn't have the authority to change SEDAR or anything. We go to SEDAR, we take what we can from SEDAR, and then there are also other professional people giving us advice as to what to do with SEDAR or not to do, but the point is that the Council will have to follow this procedure, and then in March we will discuss it, and it is a complex situation where you don't have any data in some of the fisheries that you have, so all those concerns will be taken at that level at that meeting and then at the March meeting, and I hope that you can attend the March meeting.

Jorge García: Yes, I just wanted to have this for the record, because I think that I have advanced some of these ideas in the ACL meeting. Is the March meeting a SEDAR meeting, or?

Miguel Rolón: The SEDAR meeting will be the last week of January. The ACLG will be on the last week of February. The SSC will be on the last week of February, and in March the last week we will have the Council meeting followed probably by another meeting in June and our regular meeting in August, so we will have ample time to discuss this, and you are right, we have to develop the record, but we have to do it on time and follow the procedures that we have. Regarding the guidelines, we have been told, all councils have been told by NMFS, that the intend is that we will continue working as we are, talking in consideration all these levels, and the National Guidelines will be giving us better focus on what we need to do. But we need to continue doing this to establish what we need to, our responsibility is to set those ACLs or what have you by 2010 period, and then submit it to the Secretary. So all of this is being considered as we speak, and SEDAR will be probably the key baseline, this meeting in January could be a turning point for the way that we collect the data and the way that we analyze the data.

Viridin Brown: We are back in session. For the record, the Chairman is off on a conference call and has asked me to carry on the session. Let's start with the enforcement report.

Tracy Dunn: I submitted our quarterly report electronically, unfortunately as is always with this Council, it is that the last quarter report was just finishing up this quarters, it details a lot of our activity and successful cases. I don't really speak too much about the ongoing cases. But you'll notice there are a couple of good examples



there from the Puerto Rican agents. They unfortunately are spending a lot of their time on turtle poaching and import issues, which does take them away from some of the closed area issues. But we kind of depend on the Coast Guard to provide the oversight for those areas since they have all the big boats. My Coast Guard counterpart wrote me today and said he was unable to make it, so I can't really speak for him, or to him, but I am willing to take some questions if anybody has any. I've heard a lot about no enforcement, but...

Jorge García: Just a little bit related to what we were talking about yesterday, what would it entail if we go further with distinctions between capture of pelagics versus demersal fishes at areas that are not take for certain species and not generalized, no-take areas in other words. Let's take for example the case of Bajo de Sico where we were discussing yesterday the possibilities of maybe considering a year round closure on demersal species, but a year-round open fishery for pelagic. What, in terms of enforcement would that entail?

Tracy Dunn: You know, we always provide guidance and when a new regulation comes up and is being developed we always take a pretty hard stand on what would be the easiest thing to enforce, and of course, a closed area that is completely closed is by far the easiest. Of course, there are a lot of different parameters that go into that, so if the Council decides that they would allow HMS we would advise that then there be a prohibition on possession of any of the fish they are trying to protect. But that would mean a no transit zone, and that is something you would have to think about there, because it really makes it a lot more difficult the more that you allow in that area, maybe that if they are steaming or making way they can possess those species it just gets more and more complicated. The strictly closed areas are good because then other fishermen fishing in the area clearly know that is a completely closed area, and the reports we get on a boat fishing the area mean more to us versus they see a boat in the area that could be fishing for HMS, you can start to see how difficult it gets. Enforcing the laws on the high seas is very difficult, there are no trees to hide behind, you can't hide behind a bush and shoot a radar gun, so the easier the regulations are to enforce when we are able to get a boat out there just makes more sense.

David Olsen: In the last month or so St. Thomas enforcement arrested a guy that was selling conch that were too small in St. Thomas, and the regulations that were signed about a year ago by the Commissioner had a prohibition of possession aspect to it, and when Tapia got the guy to the Court, and I am relaying this on a second had from Tapia, the judge threw it out and said that while Tapia could arrest people who were fishing and possessing undersized conch, he couldn't do it to someone who was selling it. This guy had bought the conch from St. Croix. Is it possible to get some kind of information on how to structure a regulation, or whether it needs to be in the law or can be in the regulation on possession issues, because that is something that the Fishery Advisory Committee is in the process of doing and thought they had already done with the matter of conch.

Tracy Dunn: Possession rules are tricky in themselves. I'd have to read that one to see why that didn't work, but possession is usually possession. We've ran into trouble, or at least my state counterparts have ran into trouble in possession laws where it clearly violates commerce laws, or people caught in some other area legally ...embodied of the state. I am not sure how that applies to your situation, I would have to get more facts on that.

David Olsen: This would be St. Croix conch that was sold to a seller in St. Thomas, and I've driven by him and seen the bags of conch he is selling, and he is selling an awful lot of very small conch.

Tracy Dunn: I really couldn't answer that until I get more details and see what the judge's opinion was.

David Olsen: Could you supply any kind of information that I could give to Tapia and the Fishery Advisory Committees on this issue? Some background on how you would structure to guarantee that something would stand up?

Tracy Dunn: I would have to work with the General Counsel on that, because they are the ones that would have to prosecute it, not..., but our prosecutors to see how they would want to see something like that structured to better make it prosecutable.

David Olsen: Well basically the Fishery Advisory Committee regulations are coming out, and there is going to be trying to prohibit possession of things that are out of season, things that are undersized, you know, there's a lot of possession issues to come out in the revised regulations, and this first attempt with the conch regulation clearly didn't work.

Viridin Brown: I have a question on that. What did the VI Attorney General's Office say about this issue and the case?

David Olsen: I just ran into Tapia and I don't really know the details of it, but I was talking to him because we thought we'd resolved this issue when Commissioner Mathes signed the new conch regulation, but Tapia confiscated his truck and arrested him and everything else, and he told me he was even going to have to give him back the conch.

Viridin Brown: I think you probably should follow it up with the AG's office as well for a really more clear and concise constructive information.

David Olsen: Yes, but I know the Fisheries Advisory Committee is trying to get revised the Act 3330 and the regulations, and I got the impression in talking to Tapia that it needed to be in the law, not as a regulation.

Aida Rosario: Although we do not have a whole list of interventions with violations to the fisheries law, we had a couple of cases that had been high profile; one of those was for the conch fisheries during the closed season, and that was also a violation to having the conch with the shell on board. That was in the Fajardo area. The fisherman caught I think three hundred pounds and they didn't have the license, didn't have the permit, had more than the quota that was allowed to them, and a whole series of violations with the conch fisheries. Then, we had two cases regarding the silk snapper. The last one was two weeks ago. Both these interventions had been by the Puerto Rico Ranges, and they impounded over three hundred pounds of silk snapper during the closed season in Mayaguez, and they are submitting this case through the Department and we will see the case sometime next year. There was also another case involving silk snapper that was caught by the Coast Guard, and I understand that it was some foreign fishermen from the Dominican Republic that were in the Puerto Rico waters, and they passed this violation to the Department so it is going to be seen, not necessarily seen through the Department, but it was processed through the rangers and all the impounded catch was disposed of. It was something like over five hundred pounds of silk snapper, groupers, and other species. That is what I have to report for now.

Viridin Brown: That was the report from Puerto Rico. There is no one from VI-DPNR Enforcement here, and I think Ruth has not been advised on giving any information to present for the enforcement report, and the Coast Guard representative is unable to be with us also. So that completes the enforcement reports. We'll now move to issues related to the Administrative Committee recommendations, some that we have to take some actions on, so Mr. Executive Director, would you enumerate those items?

Miguel Rolón: Thank you Mr. Chairman. We have four items for consideration of the Council; the first one is to invite the AP members to the February ACLG meeting, and at that time ask the members if they are interested in remaining in the Advisory Panel. This is not for a motion, but just to let you know that the Administrative Committee is actively seeking effective members participation in the AP, and they believe that this is a good idea to invite all the AP members to participate at the ACLG, and then at that time they will receive input from the different participants as to what are the issues related to ACL, OFL and all the new requirements, and at that time also we'll ask them if they would like to continue as members of the AP. The next three will require a motion to approve what the Administrative Committee is recommending. The first one is to give a cash award to Ms. Iris Oliveras for her excellent performance as a staff member of the CFMC during 2008.

Viridin Brown: The Administrative Committee approved this recommendation, so I would like to entertain a motion to adopt.

**Marcos Hanke: I so move.**

**Winston Ledee: Second.**

**Viridin Brown: Are there any objections? There are six of us present. The Chairman is absent. Any objections? Hearing none then so ordered, the motion carries, six in favor with one absent.**

Miguel Rolón: The next one is that the Administrative Committee is recommending to fund the proposal submitted by the Virginia Tech University for a graduate student to review the information from SEDAR, and to develop in consultation with local fishers and scientists the best possible strategy to collect and analyze local fishery data to establish OFLs, ACLs, etc. The total cost of the project will be borne by the VTU, the NMFS and the CFMC. The participation from the Council will not exceed twenty thousand dollars in 2009, and it will be subject to availability and approval of funds, not to exceed ten thousand in 2010.

**Marcos Hanke: I so move.**

**Winston Ledee: Second.**

**Viridin Brown: Discussion? Hearing none, are there any objections? With six members present, hearing no objections then the motion is adopted, six in favor, one absent.**

Miguel Rolón: The last one is to approve the promotion of Maria Irizarry to Fiscal Officer, and that adjustments in the applicable salary be made to Ms. Irizarry and Ms. Diana Martino to effectuate the two steps increase for the new responsibilities that Ms. Martino will be charged with to work with Ms. Irizarry from now on, starting in 2009, January 1<sup>st</sup>.

**Marcos Hanke: I so move.**

**Winston Ledee: Second.**

**Viridin Brown: Discussion? Hearing no discussion, are there any objections? With six members present, the Chairman absent, I hear no objections, then it is adopted. Six in favor, one absent.**

Viridin Brown: So we've covered the items on the Administrative Committee. Thank you.

## Tape 2(b)

Viridin Brown: ... attendance at meetings we have the list...

Miguel Rolón: The list of meetings that was pending from the last meeting has been covered already in topic or the other, and the list you have it in tab F. For those of you who also keep asking me why we do this is because it is a requirement. When you travel under a travel order you have to present a report in writing or for the record. So we covered the Highly Migratory Species Advisory Panel, and then we have the MAFAC, and he did that too. Then we have the Operations Meeting attended by Mr. Brown, Mr. Rolón and Graciela García-Moliner.

Viridin Brown: Graciela gave a presentation of facts and figures from the council, so we gave that information already.

Miguel Rolón: And we did the same with the CCC meeting. And then the Nassau grouper meeting was the meeting to organize the workshop and we already did that. The ICRI Symposium that was attended by Eugenio Piñeiro, Miguel Rolón and Diana Martino was also discussed a little bit. But we received a lot of requests from different countries to send them materials that we prepared. The Coral reef poster that we have has been a success. It has been used by Panama;, people from the Caribbean, and even people from Australia who came to the meeting in Ft. Lauderdale that requested a copy. The queen conch conference attended by me, we mentioned it before when Nelson gave us the presentation. The queen conch conference was put together by the Government of Colombia, in coordination with the NMFS International Office and the CFMC, and it was a successful meeting. They discussed ways in which the countries can participate and share the data, share the scientific knowledge that they have, and they all were here to get the final manual report that Nelson presented to us because they are going to implement in each country a new way of collecting the data, and hopefully a new way, a new strategy for managing the fishery. They have enormous problems with the countries, you know, fishermen from one country fish on the other country and vice versa. They have problems identifying the fishing areas, and also problems identifying what is the appropriate density for the sustainability of the fishery, and it goes from 25 to 200, and you saw yesterday that Nelson Ehrhart pointed out that in most countries the 200 animals per hectare is the best or the optimize numbers that they would like to see, but if you compare that to our area is almost impossible. The spin up of this conference is that they have also the enforcement meeting with some key countries and Colombia, and again, this was a meeting that was supported by NMFS International Office. The key player there is Ms. Nancy Daves, and they are expecting now to have a follow up in 2009, which is the presentation and probably a training session with the scientists from each participant country to look at the manual that Nelson prepared, and also the manual that the FAO is going to be using from now on to manage the queen conch. On the second list, the first one Mr. Chairman, is IAC attended by Eugenio Piñeiro, and he is not here anyway. He attended the other one, the HMS, and these meetings are in preparation for the ICCAT meeting in November. They rotate the representation of each council in the Atlantic coast, and Eugenio also participated with Dr. Hogarth as an advisor to him for several years, but now we will be representing the councils in 2009. It is expected that Geño will be, if he becomes the Chairman again, he will be representing the other four councils ant the Caribbean Council at the meeting in November. The next meeting was attended by Graciela García-Moliner at the SEFSC, and this is a meeting where they were looking at the data sets that we have and trying to develop a way of cleaning the data. I believe Graciela, Stacey also participated in that, and Stacey will be the graduate student that will be working with us for the next year and a half to help us develop a strategy for using the best way possible of collecting and analyzing the data that we have. Anything else Graciela that you want to add?

Graciela García-Moliner: The only other thing is that the SEFSC is doing the best they can with the old data that we've had in the computer for a long time, so they are using as many fields as possible, including distance from

shore, depth, any information that is within the records provided by the USVI and PR to the Science Center. So it has been a massive effort just to get it to the point where everything will be available for the SEDAR meeting in January.

Miguel Rolón: The other meeting is the Chairs and Executive Director's meeting that was held in May. This meeting was a success story. We have some heroes behind curtains; Virdin Brown was one and probably the key one, he took the guys out, you fed them, and it was a meeting to remember. Not only every council member from the other councils were happy with the agenda, the way it was set up, but also with the extracurricular meetings. We were able also to go and have a chat with the Governor of the USVI, and he graciously gave a cocktail party, and we also had a chance to meet with him personally; Virdin, Geño, Roy and me, and he was able to exchange for a couple of minutes some ideas about fishery management and the way that the local government would like to keep working with the federal government; in a two way street, as he called it, he would like to see in the federal zone some implementation of the initiatives of the local government and the local government also will participate with the federal government in whatever is appropriate.

Viridin Brown: Outside of the usual things we discussed in the CCC meeting itself, I also want to thank the St. Thomas Fishermen Association for their participation and hosting the Council members at the French Town Community Center, they did an outstanding job, and I think their lobster salad was great, everybody enjoyed that, and the Governor also showed up there.

Miguel Rolón: One comment I received from different people was that when they met with the fishers they really enjoyed it, not only because of the nice food, but also because they had the chance to talk eye to eye with the fishers, and it is amazing to see people from Alaska, the Pacific, talking the same language of the local fishers in our area, which is very good. The next one is the WECAFC meeting, and we can take these two, the Nassau Grouper and the WECAFC meeting because they were held in conjunction. I already gave you a briefing of what happened there, and in the case of the WECAFC group, they adopted the Nassau grouper initiative report, and they will be sending copies to all of us and I'll be distributing that on the report and the adoption of the different strategies that they decided to adopt. The WECAFC group meets every two years, and the US delegation was pushing for strengthening the WECAFC group and making it more efficient in this area. So that was accepted and we are going to be working more closely with the local countries in enhancing the capacity to manage their fisheries. The second pre-ICCAT meeting was attended by Eugenio, and then we go to the GCFI Conference that was attended by Graciela, Aida Rosario and Viridin Brown.

Viridin Brown: Joe gave the highlight of what was really the heart of what this Council is concerned. I just have one other thing, and that is that the board of GCFI has decided, because of the size and volume of the published documents, it is decided to go to a disk CD publication and distribution process, and anyone who want a copy of a written document can make a request, because it is becoming prohibitively expensive to mail them out to each and every person, and so that was approved by the board and then the membership also agreed, but the copies will be available in print.

Aida Rosario: I was approached by the members of the board of GCFI, and they were interested in seeing if Puerto Rico is interested in hosting the meeting in 2010. I talked to Miguel García and some people in the Department, and we are very interested, and we need to present this idea to the new administration when it takes possession, but we are very interested in having this meeting in Puerto Rico, and we would like to see if the Council is going to be a partner in this venture of hosting this meeting in Puerto Rico in 2010.

Viridin Brown: Well, I think that we feel positive about seeing it coming. I guess that is something that we'll take to discuss in the coming ones.

Miguel Rolón: We are already partners with the GCFI, for which we provide part of the translation costs and certainly we'll do it if they come to Puerto Rico, so we can help. The important thing is that Puerto Rico has to look for 35 to 50 dollars, and the last time they were coming here at the last minute Puerto Rico turned down the offer because they didn't have the money, and Aida and I were the ones who faced these people, and it is kind of embarrassing. So please be sure that by 2009 the new administration will have something in concrete. The last time that we had the meeting here was a very successful meeting. We had the assistance of the local university, the Council and the local government, and it was very good not only for the scientists and the group that usually meets, but also for tourism, and that is something that always is good to go to the authority or Tourism, they understand this, and I know that whenever these people go back home they talk to everybody they know and they come back to Puerto Rico, and that is good for the economy, and that is the selling point, that usually the GCFI is good to everybody.

Aida Rosario: I just want to take the opportunity to announce that Puerto Rico is going to be hosting the next Coral Reef Task Force in Puerto Rico in 2009, so we are trying to seek some partnership with the Council to be hosting this meeting in Puerto Rico.

Miguel Rolón: Again, if I may, we've discussed that before and we'll be able to participate and use some liaison funds for that.

Viridin Brown: The SSC National Workshop, we entertained that discussion already presented by Barbara and supplemented by Miguel, and likewise the OFL/ACL discussion that is summarized in the briefing book and we've had discussions on that.

Miguel Rolón: The last one is the orientation meeting that we held with the local fishers, and it is interesting because people assume that fishers are not interested in these things because of jargon, but they are. I was able to go to St. Thomas and Ledee was there, and we had a good group of fishers, and we had an exchange of questions and answers, and we also did the same thing in St. Croix, presided by Viridin Brown. In the case of St. Thomas/St. John, the big issue is that most people are in agreement that this is very difficult, but that the fishermen need to have more information so they can be more effective, and that is why we have these orientation meetings. One thing that they asked us is that we keep working with them as much as possible so that when the guidelines come out we can go back again and tell them about it, and they also requested to have other meetings with them, the orientation type of meetings, so we are planning another one in January, maybe with the participation of some of the people from NMFS to discuss the Section 10 and what are the implications, and then we will have Dr. Nemeth to give them a presentation on the groupers. I believe that we are doing the right thing by having these orientation meetings, and we need to do the same thing in Puerto Rico. We have the treasurer of the "Defensores del Mar Association", Miguel Ortiz, who sent me a letter and I wrote back to him saying that the Council will be working with the local government to have a workshop with them; orientation meetings, and we will do so during the first quarter of 2009.

Viridin Brown: At this point we are supposed to have public comment from anyone present from the public.

Aida Rosario: I just want to take the opportunity to talk about another invitation that was made to Puerto Rico by the IUCN group, and they are interested in having a meeting in Puerto Rico to go and check the list of marine species that might be of concern in our waters, so we are in touch with these people, not only from the US but also from Venezuela, Dr. Juan Posada. We are talking to see when we are going to, if we are able to, come up with a meeting in Puerto Rico. We will let you know, and as well request your participation as partners in this venture.

Viridin Brown: Anyone in the public that would like to make any comments? Hearing none we bring the public comment period to a close. Anything else under other business, anyone has anything that we need to cover? Seeing no hands and nothing else on the agenda, then it is done. Next Council meeting Mr. Executive Director?

Miguel Rolón: The next Council meeting will be on the last week of March, and it will be held in St. Croix, probably at the Bucaneer or the Carambola hotel. Then the meeting in June is going to be held probably here, but that has to be coordinated after we have the meeting in March so we will know what the agenda will be and the topics, etc. That meeting, remember, will be mostly on the issue of ACLs. As Dr. Crabtree said yesterday, we are under pressure to meet the dateline. So after the March meeting we can set an extraordinary meeting, even if it is only for one day, it all depends on what happens between here and March, then, this will be followed by the August meeting, but we are too far away from August. The August meeting is easier to tell you because it is set by the SOPPs, the date, the week that has the 15<sup>th</sup> of August.

Viridin Brown: We have completed the agenda, and I want to thank all of you for your participation, and I know the Chairman would likewise, and I am sure you appreciate the fact that you've completed the meeting before he got back here. So with that said, I want to wish each of you a very merry Christmas and a happy new year, and maybe see each other again in the early part of next year, whatever date that might be. This meeting is adjourned.