

Unofficial Until Approved

Florida Fish and Wildlife Conservation Commission

Minutes of the Commission Meeting

February 2-4, 2005

Panama City Beach

A regular meeting of the Florida Fish and Wildlife Conservation Commission was held at the Edgewater Beach Resort, Panama City Beach, February 2-4, 2005, and called to order at 8:30 a.m., by Chairman Herky Huffman with the following members in attendance:

Mr. David K. Meehan, St. Petersburg

Mr. Rodney Barreto, Miami

Ms. Sandra T. Kaupe, Palm Beach

Mr. Richard A. Corbett, Tampa

Mr. Brian S. Yablonski, Tallahassee

Ms. Kathy Barco, Jacksonville

Staff

Mr. Kenneth D. Haddad

Executive Director

Mr. Victor J. Heller

Assistant Executive Director

Mr. James V. Antista

General Counsel

Colonel Julie L. Jones

Director, Division of Law Enforcement

Mr. Nick Wiley

Director, Division of Hunting and Game Management

Mr. Timothy Breault

Director, Division of Habitat and Species Conservation

Mr. Darrell Scovell

Director, Division of Freshwater Fisheries Management

Mr. Mark S. Robson

Director, Division of Marine Fisheries Management

Mr. Gil McRae

Director, Fish and Wildlife Research Institute

Ms. Jacqueline Fauls

Director, Legislative Affairs Office

Mr. Scott C. Ball

Acting Director, Community Relations Office

Mr. Gregory L. Holder

Director, Southwest Region

Mr. Rolando J. Garcia

Director, North Central Region

Lt. Col. Louie S. Roberson

Director, Northwest Region

Mr. Charles E. Collins

Director, South Region

Mr. Dennis N. David

Director, Northeast Region

Sixty-eight persons registered as guests/speakers for the three-day meeting.

Regional Director Garcia gave the invocation. Commissioner Barco led the assembly in the Pledge of Allegiance to the Flag.

Chairman Huffman welcomed Representative Greg Evers of Milton to the meeting.

Special Presentations and Recognitions

On behalf of staff, Mr. Haddad acknowledged the efforts of 2004 Chairman, Rodney Barreto. He conveyed that Commissioner Barreto was a most gracious chairman, who interacted with staff in an extremely effective manner, and made almost daily contact with him. Mr. Barreto knew the issues and let staff do their jobs. During the hurricane events, he showed not only his concern for those personally suffering through the hurricane but asked the agency to give special consideration to staff directly affected. He went out of his way to acknowledge the FWC men and women who worked tirelessly to provide needed care and supplies to those impacted in the disasters. All of this led to a family approach to our efforts and resulted in a stellar response by FWC. Commissioner Barreto was always reminding agency directors to thank staff and our stakeholders for their kind deeds and actions, and we have copies of many thank you letters signed by him to staff and others.

Mr. Haddad presented a special chairman's plaque to Commissioner Barreto from staff recognizing his effective personal leadership during 2004.

The Executive Director introduced the following regional staff to the Commission: Division of Habitat and Species Conservation—Helen Harden, Arlo Kane, and Phil Manor; Division of Freshwater Fisheries Management—Madeline Fernandez, Bob DeMauro, and Dave Yeager; and Division of Law Enforcement—Joan Lewis, Officer Warren Walsingham, and Officer Dennis Palmer.

Approval of Minutes, Consent Agenda, and Agenda

The Commission Secretary suggested the following corrections or edits to the December 1-3, 2004 Commission meeting minutes: (1) page 3, paragraph 7, add to the floor amendment that it was the Department of Agriculture and Consumer Services who asked the Commission to clarify that people who have live rock and aquaculture permits do not need to possess a marine life endorsement; (2) page 5, paragraph 3, clarify Commissioner Meehan's motion regarding allowing the bycatch endorsement to be placed on an individual or vessel SPL; (3) page 34, paragraph 4, the Defenders of Wildlife has major rather than minor concerns regarding the imperiled species alignment issue; and (4) page 36, paragraph 2, boating in Florida produces \$14 billion rather than million for the economy of the state.

Upon motion of Commissioner Barreto, seconded and carried, the minutes of the December Commission meeting were approved with the four modifications.

Chairman Huffman asked for approval of the Consent Agenda (attached). Upon motion of Commissioner Barreto, seconded and carried, the consent agenda was approved.

Under approval of the agenda, upon motion of Commissioner Barreto, seconded and carried, the agenda was approved.

Executive Director's Report

Mr. Haddad highlighted portions of the Executive Director's Report.

- Community Relations Office (CRO)

>In November, *Florida Wildlife Magazine* issued a Request for Proposals, seeking a contractor to outsource portions of the job of publishing the magazine. Two proposals qualified and have been reviewed by the magazine council. *Florida Wildlife Magazine* intends to publish its first issue in April.

- Division of Freshwater Fisheries Management (FFM)

>An ESPN film crew interviewed four staff members for a new weekly show called "Bass Center," which aired in January. Topics covered included: (1) the effects of hurricanes on Florida's freshwater fisheries resources and associated infrastructure, (2) the Lake Toho extreme drawdown, and (3) the contaminant study associated with the Lake Toho drawdown.

>Tenoroc Hiking Trail—A new 1-½ mile hiking trail was recently dedicated at a ceremony attended by over 100 people. Senator Paula Dockery, Representative John Stargel, county commissioners, Department of Environmental Protection staff, and City of Lakeland officials spoke along with FFM Director Darrell Scovell.

- Division of Habitat Species and Conservation (HSC)

>Staff has formalized a partnership with the USDA Natural Resources Conservation (NRCS) to assist with administration of wildlife-related Farm Bill Conservation Program activities. Through this partnership, NRCS is funding four biological scientist positions, two of which are intended to be located in NRCS offices.

>A partnership has been developed with Tall Timber Research Station, University of Florida, University of Georgia, and NRCS to conduct a research project designed to test the assumptions outlined in the Northern Bobwhite Conservation Initiative.

>In January, FWC staff met with Lee County staff and former members of the Lee County Local Review Committee to provide more detailed information on the rule recommendations that were presented at the December Commission meeting. A public meeting on the proposed rule would be held February 9 in Ft. Myers. Staff intends to bring this rule before the Commission for a final public hearing in April 2005.

- Division of Hunting and Game Management (HGM)

>HGM Public Awareness Staff are conducting a 2005-06 five-year hunting license promotion. Different from previous years that included an incentive package, the promotion offers a sole coupon to test purchase motivation.

>Florida is introducing the National Archery in the Schools Program (NASP). NASP was co-developed by the Kentucky Department of Education and the Kentucky Department of Fish and Wildlife to teach school children Olympic-style archery. As a direct result of this program, Kentucky has seen school attendance improving; student behavior improving; children of all gender, sizes and abilities are having success in sports; students are buying personal archery equipment; and after-school archery clubs are forming. With a \$26,000 grant from the Archery Trade Association, the FWC will sponsor ten schools for NASP training.

>This year at their statewide instructor workshop, Hunter Safety Volunteer instructors were asked to give up at least one Saturday of hunting to teach Hunter Safety class in the fourth quarter. This effort was organized to address the needs of those who do not receive their hunter safety certification prior to the opening of hunting season. The effort has paid off by providing a 39 percent fourth-quarter increase in course offerings over the previous year. This effort helped solve the majority of attendance problems associated with the hurricane events from earlier classes.

>Research shows that the majority of youth approve of legal hunting. However, very few youths are seeing or hearing information at school that helps them learn more about hunting or that increases their interest in hunting. Staff is currently taking steps to address this problem by introducing the Florida Hunter Safety Program. This program teaches young people about hunter safety and the sport of hunting.

- Division of Law Enforcement

>A recent report of the Auditor General's Office found weaknesses in the following issues: (1) various agreements to provide law enforcement services, (2) aviation procedures, (3) and lack of an interim agreement for regional command centers. Colonel Jones is responding to these issues.

>The Florida Boating Improvement Program (FBIP) evaluation committee met in November to discuss and rank the applications for the 2004-05 FBIP grant funding cycle. The Commissioners were provided a list of approved projects.

>The FWC Law Enforcement Officer Academy is scheduled to start February 28, with 45 recruits.

>Officer Alex Alvarez of Orange City was awarded a Bronze Star after spending a year in Afghanistan. He is a member of the Florida Army National Guard Special Forces Group, which is also a part of the Army's elite fighting division of Green Berets.

- Division of Marine Fisheries Management

>The retired aircraft carrier *U.S.S. Oriskany* was moved from Texas and towed to the Port of Pensacola in December. It is anticipated that the *Oriskany* will

be sunk as a large artificial reef 22.5 nautical miles southeast of Pensacola in later this year.

Commissioner Meehan stated that it would be appropriate for the Commissioners to be invited to the sinking of the *U.S.S. Oriskany*.

- Office of the Executive Director

>The Governor's Recommendations for the 2005-06 Legislative Budget Request were received in January. The Governor's recommendations under Other Issues included \$3,000,000 for Law Enforcement aircraft replacement, \$476,734 for Law Enforcement uniform replacement, \$511,505 to co-locate Law Enforcement dispatch centers, \$968,244 for Law Enforcement Seaport Security Patrols, and \$307,619 for building deficiency repairs.

Commissioner Barreto stated he is disappointed that the agency recommendation for biologist pay disparity was not included in the budget and urged staff and the Commission to continue to work for this funding.

Rules

Mr. Nick Wiley presented the following four rules for Commission consideration:

(1) 68A-4.0053, Importation and Possession of Carcasses From Deer, Elk and Other Wildlife Species in the Family of Cervidae--The proposed rule would ban the importation of deer or elk carcasses from areas known to be infected with Chronic Wasting Disease (CWD) and make it illegal to possess a CWD-infected carcass from any area.

(2) 68A-5.005, Quota Hunt Permits and Special-Opportunity Permits Application; Selection; Issuance--The proposed rule would limit the number of regular, special, and spring turkey quota hunt permits an individual may be issued during the third phase of the quota permit issuance process to no more than five permits per hunt. The proposed rule would also establish a new Family Hunt permit application and delete redundant rule language regarding permits for physically disabled persons. The proposed rule would make technical changes to allow application and issuance of quota hunt permits electronically via the FWC Total Licensing System.

(3) 68A-9.008, Permits for Physically Disabled--The proposed rule would make technical changes to move rules currently under rule 68A-5.005 regarding issuance of agency permits for physically disabled persons to this rule section so these rules will be grouped under one rule section. No substantive changes are proposed.

(4) 68A-12.002, General Methods of Taking Game; Prohibitions--The proposed rule would prohibit hunting on that portion of Lake Seminole

(approximately 70 acres) adjacent to the Three Rivers State Park camping area for public safety purposes. Alligator trapping would continue to be allowed.

Public Comment

Barbara Jean Powell (Everglades Coordinating Council) offered the council's support of the four rules.

Commission Discussion

Upon motion of Commissioner Barreto, seconded and carried, rules listed under items (1) through (4) were approved as presented.

Mr. Wiley continued with proposed rules:

(5) 68A-12.010, Regulations Governing the Operation of Private Hunting Preserves--The proposed rule would allow two existing preserves currently engaged in mallard releases to continue limited mallard releases indefinitely at their existing locations and under certain conditions. This change would eliminate the phase-out period currently in the rule, which specifies that existing preserves must cease mallard releases by 2008.

Public Comment

Rex Yates stated that he supports the staff-proposed rule, which will ensure his grandson will be able to inherit his business.

Commissioner Corbett congratulated Mr. Yates on the success of his business, stating that Mr. Yates is a real pioneer in this industry.

Commission Discussion

Upon motion of Commissioner Meehan, seconded and carried, Rule 68A-12.010 was approved.

Mr. Wiley presented the next four rules for Commission consideration:

(6) 68A-13.004, Open Season for Taking and Bag Limits for Non-Migratory Game and Issuance of Antlerless Deer Permits--The proposed rule would allow antlerless deer permits to be issued without a minimum acreage requirement on agricultural lands that have received depredating deer permits to control crop depredation within the previous 12 months. The proposed rule would open a 3-day spring turkey season in Holmes County with a season bag limit of one.

(7) 68A-14.001, Establishment Orders--The proposed rule would allow taking of wild hogs during any open hunting season (except turkey) with no bag or size limit on the following WMAs: Green Swamp, Green Swamp West, Upper Hillsborough, Lake Panasoffkee and Twelve Mile Swamp WMAs.

(8) 68A-15.004, General Regulations Relating to Wildlife Management Areas--The proposed rule would allow the lead managing agency or landowner of a WMA to issue access related permits for vehicles, vessels, camping, horses or other activities not related to the taking of fish and wildlife during non-hunting periods.

(9) 68A-17.004, General Regulations Relating to Wildlife and Environmental Areas--The proposed rule would allow the lead managing agency or landowner of a WEA to issue access related permits for vehicles, vessels, camping, horses or other activities not related to the taking of fish and wildlife during non-hunting periods.

Proposed floor amendments to rules 68A-15.004 and 68A-17.004 would make proposed rule language consistent with Florida Statutes regarding privately owned WMAs in the recreational use permit (User Pay) program, and explain that special use permits for access could only be issued to individuals possessing a recreational use permit for WMAs enrolled in this program.

Upon motion of Commissioner Barco, seconded and carried, rules listed under items (6) through (9) were approved with the amendments to Items (8) and (9).

(10) 68A-15.061, Specific Regulations for Wildlife Management Areas--Southwest Region--Proposed rules would revise or establish specific area regulations on Southwest Region WMAs as follows:

(a) Green Swamp WMA--Allow the water management district to regulate the possession of dogs during nonhunting periods on district property; prohibit horses on the area; and allow camping equipment to remain on the area during the period between the small game and spring turkey hunts.

(b) Green Swamp West WMA--Allow the water management district to regulate the possession of dogs during non-hunting periods on district property; shift special-opportunity archery season from November 6-9 and 25-28 to November 5-8 and 17-20; shift special-opportunity general gun season from December 10-13, 21-24, and January 6-9 to December 15-18, January 9-12 and 19-22; shift special-opportunity hog-still season from February 11-13 to February 3-5; shift special-opportunity hog-dog season from February 23-25 to February 15-18; and shift small game season from January 14-16 and January 28-30 to February 24-26 and March 3-5.

(c) Upper Hillsborough WMA--Allow the water management district to regulate the possession of dogs during non-hunting periods on district property.

(d) KICCO WMA--Require a permit from the water management district for camping during periods closed to hunting; allow only tents for camping at designated hunt campsites; and prohibit vehicle access at night (from 1.5 hours after sunset until 1.5 hours before sunrise).

(e) Hickory Hammock WMA--Require a permit from the water management district for camping; require hunters to check all game taken; and change special-opportunity hog hunts to general gun hog hunts.

(f) Lake Marion Creek WMA--Prohibit vehicular access except by persons in possession of a valid quota hunt permit.

(g) Avon Park Air Force Range WMA--Change minimum antler requirements for legal antlered deer from five inches to at least three points on one side at the request of the landowner.

(h) Croom WMA--Allow horseback riding throughout the year only on named and numbered roads or on designated horse trails.

Upon motion of Commissioner Barreto, seconded and carried, Rule 68A-15.061 was approved.

(11) 68A-15.062, Specific Regulations for Wildlife Management Areas-North Central Region--Proposed rules would revise or establish specific area regulations on North Central Region WMAs as follows:

(a) Camp Blanding WMA--The proposed rule provides authority for the Camp Blanding Base Commander to set spring turkey hunt dates and locations in consideration of military training activities, provided at least two 5-day hunts continue to be offered.

(b) Lochloosa WMA--The proposed rule would establish a new 56-day small game season (January 9 through March 5) and allow for nighttime hunting of raccoon and opossum during the general gun and small game seasons.

(c) Jennings Forest WMA--Prohibit unlicensed motorcycles; and prohibit public access at night (from 1.5 hours after sunset until 1.5 hours before sunrise) except at designated campsites.

(d) Flying Eagle WMA--Allow the water management district to regulate the possession of dogs during non-hunting periods on district property.

(e) Potts WMA--Allow the water management district to regulate the possession of dogs during non-hunting periods on district property.

(f) Big Bend WMA-Spring Creek Unit--Prohibit dogs other than bird dogs or retrievers and no longer allow the use of dogs for deer hunting; allow nighttime hunting of raccoon during small game season only; and establish a new three-day muzzleloading gun season (October 28-30) with a hunter quota of 150 (no exemptions) established under rule 68A-15.005.

Public Comment

Barbara Jean Powell ask that staff set a policy of no net loss of deer hunting areas in order to keep the hunting culture alive, and if lands are removed from a hunt area, lands should be sought elsewhere for deer hunting.

Rusty McKeithen (Florida Dog Hunters and Sportsmen's Association) stated that with the loss of the Spring Creek Unit to dog hunting there will be no other WMA in Taylor County for dog hunting. He asked the Commission to consider swapping Spring Creek for the Tide Swamp area, which has more land for dog hunting and a better road system.

Merle Auvil (Eagle Prairie Hunt Club) commented that his hunt club is adjacent to the Spring Creek WMA, where club members have witnessed dogs running across club property every week during the hunting season. He suggested Spring Creek WMA be made a still hunt area to reduce conflicts between still and dog hunters, adding he has the support of other nearby hunt clubs. He added that the Hickory Mound area allows dog hunting.

Billy and Christine Grantham agreed with Mr. Auvil that it is difficult to keep dogs on the Spring Creek WMA because it is too small, mostly swamp, not suitable for catching dogs, and does not meet the FWC's criteria for a dog hunt area. They offered support of the staff recommendation, which they believe will also improve the wildlife population on Spring Creek.

Jessie High offered his support of the staff's recommendation for Spring Creek WMA, but mentioned the need for other options for dog hunters to enjoy their sport. He suggested dog hunting not be expanded in Hickory Mound WMA because the area is experiencing overcrowding during hunting season.

Joey High agreed there is a problem with dog hunting on Spring Creek and offered his support of Mr. McKeithen's proposal to swap Spring Creek for Tide Swamp dog hunting opportunities. He asked the Commission to wait one year before enacting the new rule.

Matt Bender stated that there have been no dog hunting violations in Spring Creek over the past two years. He believes Hickory Mound is too far to travel to dog hunt and asked the Commission to consider Mr. McKeithen's suggestion.

Cheryl Sanders asked that there be a balance and compromise among users of Spring Creek because once the area is closed to dog hunting it will be lost as a dog hunting area forever.

Commission Discussion

Commissioner Barco asked if the proposal to add dog hunting land to Tide Swamp could be considered.

Mr. Wiley responded that the rule proposal could be an item for the next rule review cycle.

Commissioner Kaupe asked Mr. Wiley if there could be a split season on Spring Creek that would allow still hunting only then dog hunting only during the deer season.

Mr. Wiley explained that the Spring Creek property is not well suited for dog hunting and conveyed that staff will review the Tide Swamp option, and other options.

Commissioner Corbett asked staff to evaluate other areas where additional dog hunting might be appropriate, and initiate user conflict resolution where needed.

Mr. Wiley commented that staff continually tries to provide appropriate hunting opportunities, especially when new land becomes available for sport hunting.

Commissioner Yablonski asked if additional law enforcement effort would make a difference on the Spring Creek WMA dog hunt area.

Mr. Wiley responded that no amount of law enforcement would make a difference on the property due to its configuration.

Commissioner Barreto explained that he has talked extensively with Mr. Wiley on the Spring Creek issue and he sees no other alternative at this time; however, he pointed out that the Commission will continue to work with the dog hunters to ensure the sport is well managed for all citizens of Florida. He offered a motion to accept the staff recommendation but asked staff to continue to work on a compromise to find additional dog hunting land in the area. The motion was seconded.

Commissioner Barco asked if the Commission might set a future closure date for dog hunting on Spring Creek to give staff an opportunity to review the Tide Swamp proposal.

Mr. Haddad stated any Commissioner may propose a floor amendment.

Commissioner Yablonski offered an amendment to not close Spring Creek to the use of dogs for one year, which would allow staff and stakeholders the opportunity to find alternative areas or other options for dog hunting. The motion was seconded.

Commissioners Barreto, Meehan, and Corbett stated they would not be in favor of changing the staff recommendation at this time.

Commissioner Barreto stated that in the future when it is necessary to close a dog hunting area that an alternative site be proposed. Commissioner Corbett agreed.

Chairman Huffman called the question on Commissioner Yablonski's proposed amendment. Commissioners Barco and Yablonski voted yes. Commissioners Barreto, Kaupe, Meehan, Corbett, and Huffman voted no. The amendment failed.

The Chairman called the question on the main motion and the motion carried.

(12) 68A-15.063, Specific Regulations for Wildlife Management Areas--Northwest Region--Proposed rules would revise or establish specific area regulations on Northwest Region WMAs as follows:

(a) Eglin Air Force Base WMA--Change minimum antler requirements for legal antlered deer from five inches to three points on a side on portions of the area; allow fishing and frogging in areas and at times specified by the Installation Commander; authorize entry and exit in areas and at times as specified by the Installation Commander; allow only catch and release fishing on Weekly Pond, Upper Memorial Lake, Hurlburt Lake and Jack Lake; establish a daily bag limit of ten panfish (eight inches or greater in length); establish a daily bag limit of one black bass (24 inches or greater in length) on Duck and Indigo ponds; and prohibit the use of outboard motors.

(b) Choctawhatchee WMA--Establish a 3-day spring turkey season in that portion of the area north of the pipeline right-of-way located north of Cedar Log Landing (Walton County) and Billy Lee Landing (Washington County) with a bag limit of one turkey per quota hunt permit and a hunter quota of ten (no exemptions) established under rule 68A-15.005.

(c) Econfina Creek WMA--Allow horses on designated trails only.

(d) Tate's Hell WMA--Allow all terrain vehicles only by permit from Division of Forestry.

(e) Apalachee--No longer allow the hunting of deer with dogs in zone C (813 acres).

(f) Escambia River WMA--Allow raccoon and opossum hunting with dogs at night (one half hour after sunset to one-half hour before sunrise) and no longer allow the use of dogs for deer hunting.

(g) Blackwater WMA, Field Trial Area--Establish two new 4-day quail hunts (February 6-9 and 20-23) with a daily bag limit of 12 per group and a hunter quota of three groups (per hunt) with two hunters per group (no exemptions) established under rule 68A-15.005; prohibit taking quail after 3:00 p.m.; expand the bird dog training season by 17 days (November 14-30); and expand the archery season by 13 days (November 1- 13).

(h) Blackwater WMA--Establish a general gun dog hunt season in the dog hunting area which would reduce the length of the deer dog hunting season from 58 to 30 days with a 13-day hunt during the first 13 days of the general gun season (November 24-27 and December 10-18) and a 17-day hunt during the last 17 days of the general gun season (January 16 through February 1); reduce the size of the dog hunt area by approximately 22,000 acres from approximately 68,000 to 46,000 acres; permit still hunting during the muzzleloading gun and the muzzleloading gun/archery seasons in the dog hunt area; establish a general gun still hunt season in the dog hunt area during the general gun season when hunting with dogs is not allowed; and reduce the size of the fox hunt area from approximately 68,000 to approximately 20,000 acres. The hunter quota for the dog hunting area would be reduced from 775 to 200 permits for each hunting period with no exemptions, and the hunter quota for still hunting seasons would be increased from 1,425 to 1,800 permits under rule 68A-15.005.

Amendments to the proposed rule would (1) shorten the deer dog hunting season from 58 to 44 days rather than 30 days, and split the 44-day season into two quota periods (first 20 days of the general gun season rather than 13 days and last 24 days of the general gun season rather than 17 days); (3) reduce hunter quota for two dog-hunt periods from 775 to 400 for each hunt and allow exempt hunters rather than a hunter quota of 200 for each hunt with no exemptions; and (4) reduce the size of the fox hunting area from approximately 68,000 acres to approximately 26,000 acres rather than 20,000 acres.

Mr. Wiley advised that during the Public Input Process staff received numerous comments both in support of and in opposition to the proposed Blackwater WMA regulations. Results from the Landowner Survey indicated 61 percent favored the proposed rules or wanted dog hunting ended completely in the area, and 39 percent were opposed to the proposed rules and supportive of dog hunting as it currently exists.

Public Comment

Mary Beth Kaminski (Northwest Florida Rural Property Owners Association [NFRPOA]) asked the Commission close all of Blackwater WMA to dog hunting because there are still 100 homeowners within the management area who will be subject to trespassing dogs.

Elbert Wadford asked the Commission to provide an area west of the Yellow River WMA for bobcat hunting with dogs outside deer and turkey seasons. He pointed out the importance of dog hunting to the local economy of the areas where it is permitted.

Larry Roberts expressed that the Hunter Responsibility Rule in the Apalachicola WMA and on Highway 375 is not working; so far this year he has made ten road hunting complaints against dog hunters and has made 33 complaints over the past three years for violations of the Hunter Responsibility Rule. He suggested the buffer area around the still hunt area in the Apalachicola WMA be moved to

provide a larger buffer from the dog hunt area, and asked the Commission to protect people's personal property rights.

Rusty McKeithen stated that the Florida Dog Hunters and Sportsmen's Association has been working on a solution for the Blackwater area for ten years. He expressed that the dog hunters of this area are not well organized, which makes it difficult to effectively deal with the issues, and hoped a stakeholders meeting could be convened soon. Mr. McKeithen suggested the Division of Forestry should make some compromises regarding dog hunting on lands where they are the lead managing agency.

Cheryl Sanders offered her support for the use of all-terrain vehicles (ATVs) on Tate's Hell. She expressed that the quota system can be confusing for some people and she would like to have more than five quota permits in the third phase of the hunting season because they may be transferred to people who could not fill out the application in a timely manner, or find the quota system confusing.

Delton and Jacob Boswell asked the Commission to make some compromises for the dog hunters by not eliminating dog hunting from the Escambia River WMA.

Richard and Tyler Teevan and Phillip and Max Stewart commented that they have hunted the Escambia River WMA with dogs for many years and asked the Commission to extend the season for deer dog hunting by three weeks in January on the area. They know of no landowner complaints for dog trespassing during hunting season from the Escambia River WMA.

The Commissioners asked why the Escambia River WMA proposal included elimination of dog hunting.

Mr. Wiley explained that staff has been trying to be pro-active in addressing areas where they suspect dog hunting will become a problem in the future. The area is a grouping of narrow islands where dogs could easily leave the WMA to adjacent private land. He suggested staff be given the opportunity to re-review this recommendation.

Commissioner Barco commented that if there have been no landowner complaints and no other user conflicts, the area should remain open to dog hunting.

Commissioner Kaupe stated, at the least, the islands could be opened to dog hunting.

Commissioners Meehan, Corbett, and Barreto asked for more information on the Escambia River WMA dog hunting issue before taking any action to eliminate dog hunting.

Raymond Hamlin (Florida Bear Hunters Association) believes the Commissioners and staff have made a grossly flawed assessment of the actual scope and severity of the deer dog hunters/landowners conflict. He is of the opinion that many complaints against deer dog hunters are orchestrated and that

most do not contain evidence to support actual charges against the hunters. He asked the Commission to truly work toward saving dog hunting in Florida.

Johnnie Clopton, who owns land in the Blackwater WMA, stated that dog hunting should be properly managed and regulated, not eliminated. He added that proposals to move still hunters into dog hunting areas will cause additional problems, and suggested additional input from user groups and increased penalties will help solve the deer dog trespassing problems. He strongly supports dog hunting when dog owners control their dogs.

Joe Stromsness mentioned that he lives within the Blackwater WMA and finds that dog trespassing is a problem primarily because the hunters will not come to pick up their dogs when caught on private property. They also cast their dogs out on to his property, block roads, speed down roads, and run dogs through his property where the dogs kill livestock. He offered his support of the staff's original Blackwater rules as drafted.

Edward Schneider stated that dogs can be controlled on the Escambia River WMA, but asked staff to look at the problem of dog hunters running up and down the road east of Hurricane Lake because they are too close to the lake's camping area.

David Youngblood (NFRPOA) stated that other landowners within the Blackwater area remain concerned with the continuance of dog hunting on the area, and were not contacted by Commission employees regarding the continuance of the sport near their property. He asked the Commission to not react to the dog trespass problem with piecemeal steps but to close the entire Blackwater WMA to dog hunting.

Charles Brannen (Franklin County Dog Hunters Association) stated that there was no coordination between the hunters and Commission staff on the Blackwater WMA proposals. He believes passage of the proposed rules will cause a greater conflict among hunters and property owners.

Ken Crawford stated that he uses dogs to chase bobcats and gray foxes. He has control of his dogs, pointing out that "dogs can hear" and if they are trained properly the owner can control them. He thanked Regional Director Roberson for trying to seek the truth about dog hunting in northwest Florida.

Jason Jernigan (Blackwater Foxhunters Association) stated that some people who live within the boundaries of the Blackwater WMA are not opposed to dog hunting in the area. He believes the best solution is increased penalties for violators, not reduced quotas or limited dog hunting opportunities.

Waylon McGowin suggested enactment of a dog stamp to pursue game with hounds in Florida and increased penalties and fines for law violations similar to those imposed by the Federal Government on Eglin Air Force Base hunting areas. He does not believe any more land should be closed to dog hunting and believes the majority of dog hunters will purchase the stamp.

Lane Stephens (Allied Sportsmen Association of Florida) conveyed the hunters' belief that it is Division of Forestry (DOF) policies that are causing loss of hunting lands in Florida, and it is his intention to confront the DOF on the issue of opening lands they manage for hunting, in addition to their purchase of inholdings.

Norman Black mentioned that fencing could be used to control free-running dogs from trespassing in addition to dog tracking collars. He stated that stiffer penalties might be a better deterrent for hunters to take control of their dogs.

Wesley Orso (Blackwater Fox Hunters) offered his support of the staff recommendation for Blackwater if staff is committed to finding more dog hunting land. He would like to see more land added to the fox hunt area, possibly the T.R. Miller property on the west side of the area to add back into the dog-hunt area.

Bill Young conveyed that he lives in an area that will be converted to still hunting. He supports the staff's original recommendation due the number of outlaw hunters in his area, who throw trash on the roads, threatened property owners, speed on roads, and chase people's livestock.

Representative Evers began his comments by thanking all Fish and Wildlife Conservation Commission employees for the aid and assistance they gave to Panhandle residents during the aftermath of Hurricane Ivan. As a farmer and small businessman, who grew up in the middle of the Blackwater area, he mentioned the revenue and income produced by area hunters. He would like everyone to work together as neighbors in a stakeholder group to find workable solutions. Representative Evers mentioned that the Division of Forestry will work with the Commission to open more roads for the hunting public. Additionally, he believes improved fencing will help hunters capture their dogs, protect private property rights, and protect the sport of dog hunting.

Commission Discussion

Commissioner Barreto thanked Representative Evers for his work with the Florida Legislature, and his assistance with the Commission to ensure enactment of agency legislation.

Commissioner Meehan stated that area hunters, landowners, and the Commission have a good friend in Representative Evers.

Mr. Haddad spoke concerning the proposed closing of the Escambia River WMA to dog hunting. He explained that the proposed closing was brought to the Commission by staff due to their pro-active stance that this area may be a cause for concern in the future.

Commissioner Barco stated that the Escambia River WMA offers a different type of specialized dog hunt and suggested that, in the future, WMA dog hunting be looked at individually.

Commissioner Barreto thanked Mr. Wiley and staff for their work on proposed regulations but commented that these are proposed regulations and the Commission can be flexible in their enactment.

Commissioner Meehan suggested the Commission consider removing item 12(f) on Escambia River WMA from Commission action as it relates to eliminating deer dog hunting.

Commissioner Barreto offered a motion to accept the staff recommendations and proposed floor amendments for Rule 68A-15.063, except for the elimination of dog deer hunting on the Escambia River WMA. The motion was seconded.

Commissioner Meehan asked the dog hunters of the Escambia River WMA to police their own ranks to ensure its long-term use for dog hunting.

Chairman Huffman called the question and the motion carried.

Mr. Wiley continued with the proposed rules:

(13) 68A-15.064, Specific Regulations for Wildlife Management Areas-South Region--Proposed rules would revise or establish specific area regulations on South Region WMAs as follows:

Picayune Strand WMA--Prohibit public access at night except for access to the camping area, and allow all terrain vehicles only by permit from Division of Forestry.

A floor amendment is proposed to withdraw the portion of the proposal prohibiting public access at night at the request of the Division of Forestry.

(14) 68A-17.005, Specific Regulations for Wildlife and Environmental Areas--Proposed rules would revise regulations for John C. and Marianna Jones/Hungryland WEA to require persons to enter and exit the area at designated entrances.

Upon motion of Commissioner Barreto, seconded and carried, Rules 68A-15.064 (with amendment) and 68A-17.005 were approved.

(15) 68A-15.065, Specific Regulations for Wildlife Management Areas-Northeast Region--Proposed rules would revise or establish specific area regulations on Northeast Region WMAs as follows:

(a) Richloam WMA-Baird Unit--Reduce the small game season by two days to eliminate the overlap between the small game season on the Baird Unit and the general gun season on the adjacent Richloam WMA.

(b) Half Moon WMA--Allow the water management district (WMD) to regulate the possession of dogs during non-hunting periods on district property.

(c) Lake Panasoffkee WMA--Allow the WMD to regulate the possession of dogs during nonhunting periods on district property; shift the special-opportunity hog-still hunt from February 4-6 to January 13-15; shift the special-opportunity hog-dog hunt from February 16-18 to January 25-27; and shift the small game season from January 21-23 and 28-30 to February 3-5 and 10-12.

(d) Tiger Bay WMA--Increase the hunter quota for spring turkey hunts from 20 to 25 permits under rule 68A-15.005, Florida Administrative Code (F.A.C.) due to increased acreage (3,500 acre addition).

(e) Matanzas WMA--Establish the following new open seasons: (a) archery, September 24 through October 2 and October 3-9; (b) muzzleloading gun, October 28-30; (c) family hunt, November 12-13; (d) general gun, November 14-20; (e) small game, January 9-24; (f) spring turkey, March 18-21 and 22-26; and (g) fishing and frogging throughout the year.

The following hunter quotas would be established under rule 68A-15.005: archery, 30 (each hunt), no exemptions; muzzleloading gun, 30, no exemptions; family hunt, 20, no exemptions; general gun, 30, no exemptions; and spring turkey, 15 (each hunt), no exemptions.

The proposed rule would establish the following as legal to take: all legal game, fish, frogs and furbearers. The proposed rule would establish the bag limit for turkey during the spring turkey season at one gobbler (or bearded turkey) per quota hunt permit.

The proposed rule would: (a) allow camping by permit; (b) prohibit hunting with dogs, except bird dogs and retrievers; (c) permit the operation of vehicles on named or numbered roads only; (d) prohibit airboats, tracked vehicles, unlicensed motorcycles, and all-terrain vehicles; (e) require persons to enter and exit through designated entrances; (f) allow vehicular access by persons in possession of a valid hunt permit, except during small game season a permit is not required; (g) allow for one or two youths (under 16 years of age but not under eight years of age) per hunt permit to hunt while under the supervision of an adult who is over 18 years of age, who may also hunt during the newly created family hunt.

Upon motion of Commissioner Kaupe, seconded and carried, Rule 68A-15.065 was approved.

(16) 68A-15.005, Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits--The proposed rules would revise quotas as follows: Blackwater WMA--general gun dog hunt (quota decreased from 750 to 200, each hunt, first 13 days and last 17 days of the general gun season, no exemptions), general gun still hunt (quota increased from 1,425 to 1,800); Tiger Bay WMA--spring turkey (quota increased from 20-25); Big Bend, Spring Creek Unit WMA (new hunt)--muzzleloading gun (150 by special hunt application, no exemptions); Blackwater WMA (new hunts)--quail (three groups of up to two persons for each of two hunts by regular hunt application, no exemptions); Choctawhatchee WMA (new

hunt)--spring turkey (10 by special hunt application, no exemptions); and Matanzas WMA (new hunts)--archery (30 by special hunt application, each hunt, no exemptions), muzzleloading gun (30 by special hunt application, no exemptions), family hunt (20 by family hunt application, no exemptions), general gun (30 by regular hunt application, no exemptions), and spring turkey (15 by spring turkey hunt application, each hunt, no exemptions).

Mr. Wiley pointed out that the quota list would reference the quota change for Blackwater WMA dog hunting area from 200 to 400 permits for each hunt due floor amendments adopted under specific WMA rule.

Upon motion of Commissioner Barreto, seconded and carried, Rule 68A-15.005 was approved as presented.

Mr. Darrell Scovell presented the remaining proposed regulations:

(17) 68A- 23.005, Bag Limits, Length Limits, Open Season: Freshwater Fish—The proposed rule would eliminate the 12-inch minimum length limit on black crappie on Lake Monroe.

Commissioner Barreto commended staff for taking the initiative to eliminate a rule when it was found not to accomplish the intended result.

Upon motion of Commissioner Barreto, seconded and carried, Rule 68A-23.005 was approved.

(18) 68A-23.009, Sale and Transportation of Freshwater Fish--The proposed rule change requires that the aquaculture certificate of registration number be included in the bill of lading for freshwater game fish shipped as aquaculture products and adds a provision from a rule being repealed that specifies registered aquaculturists may culture and sell game fish, except members of the genus Micropterus (black bass), as food. These are proposed technical changes to consolidate and simplify Commission rules and reduce duplication of regulatory roles between FWC and Department of Agriculture and Consumer Services.

(19) 68A-23.0091, Regulations Governing Establishment and Operation of Game Fish Aquaculture Facilities--The proposed rule repeals rules relating to game fish aquaculture facilities to reduce duplication of regulatory roles between FWC and Department of Agriculture and Consumer Services.

(20) 68A-23.0092, Regulations Governing Game Fish Aquaculture Processing Facilities--The proposed rule repeals rules relating to game fish aquaculture facilities to reduce duplication of regulatory roles between FWC and Department of Agriculture and Consumer Services.

Upon motion of Commissioner Barco, seconded and carried, Rules 68A-23.009, 68A-23.0091 and 68A-23.0092 were approved.

(21) 68A-2.015, Commission Grants Program—The proposed rule would establish specific guidelines for the Fish and Wildlife Research Institute (FWRI) Grant Program and the SWG Program. These detailed guidelines will provide guidance that will assist applicants applying for FWC Grants from these two programs.

Upon motion of Commissioner Barreto, seconded and carried, Rule 68A-2.015 was approved.

Prior to continuing with the agenda, Chairman Huffman welcomed former state Senator Rick Dantzler to the meeting.

Preliminary Report on Deer Dog Hunting Pilot Registration Program

Lt. Colonel Mike Wiwi, Deputy Director of North Operations, Division of Law Enforcement, explained that the report would only cover the period September 1, 2004 through January 24, 2005, which includes 49 of the 72 (68%) open days of general gun season. Program implementation included FWC internal and public education on the program.

Fourteen counties had clubs registered under the program, Escambia and Franklin counties had no registered clubs. Club acreage ranged in size from 40 to 31,000 acres.

LTC Wiwi presented a breakdown of total complaints related to deer hunting with dogs over the past three years: 2002-03 hunting season, 130; 2003-04 hunting season, 137; and 2004-05 hunting season, 72.

As of January 24, 2005, 58 dog hunting clubs on 70 different properties had registered lands, representing approximately 344,003 acres, and four validated complaints were received related to registered properties (Homes and Wakulla counties).

Staff will provide a complete and more comprehensive report covering the entire 2004-05 hunting season at the April Commission meeting.

Public Comment

Jim Austin stated that the agency's dog hunting pilot registration program was a noble effort but is not working to stop all-day dog hunting on private property, where unscrupulous hunters have accosted his family members and neighbors, especially when violations have been called in to law enforcement. He suggested the Commission consider applying Georgia's dog hunting criteria of 1,000-acre contiguous tracts, free from private inholdings, to protect landowner property rights.

Lane Stephens offered that the registration system is working and the legitimate hunter should have nothing to fear from the program. He suggested that

persons harassed by hunters should call the Sheriff's Department to address civil matters.

John Daniel thanked the Commission for the dog registration program, pointing out that there have been fewer dog trespass problems in south Jackson County since the program's implementation. He pointed out the need for the Commission to consider a minimum acreage for dog hunting due to the influx of people into Florida each day.

Mary Beth Kaminski brought to the Commission's attention a flaw in the dog hunt registration program, which allowed a person to obtain a permit to hunt on a person's property by submitting fraudulent documents, when the landowner never gave permission for dog hunting on his land. She does not believe the registration program is working in Jackson County where she lives, due to rogue hunters.

The Executive Director explained that staff are investigating the fraudulent application and will change procedures with the program as needed.

Commissioner Barreto suggested that applications state that filing a fraudulent document may lead to prosecution under Florida state law.

Commissioner Yablonski asked Mrs. Kaminski if she has had any trespass issues so far this hunting season.

Mrs. Kaminski replied that she has not, which is probably due to increased law enforcement around her home.

Penalties for Repeated Dog Hunting Violations

Ms. Jackie Fauls explained that following the December 2004 Commission meeting, when the Commission pointed out that increased penalties was part of the passage of the registration system in July, and that strengthening the penalties associated with dog hunting violations as soon as possible could provide a deterrent for repeat offenders, staff reconvened the stakeholder group to develop a consensus proposal on dog hunting violations to present to the Commission rather than the entire package of penalties for all hunting and fishing violations as previously recommended.

Fourteen stakeholders attended the January meeting and Chairman Huffman attended via video-conference. Four proposals were submitted and considered by the group. All in attendance agree upon the following conceptual proposal at the conclusion of the meeting:

Current Penalties

- 1st conviction - 2nd degree misdemeanor (up to a \$500 fine and up to 60 days in jail)
- 2nd conviction - 1st degree misdemeanor (up to a \$1000 fine and up to one year in jail)

Proposed Increased Penalties for Repeated Convictions

The following penalties would apply specifically to provisions (1) and (2) of Commission Rule 68A-12.007, F.A.C. Provision (1) requires identification (collar or tag with owner name and address) of any dog used for taking or attempting to take wildlife. Provision (2) requires written landowner permission for use of dogs to take or attempt to take wildlife. Proposed penalties would not apply specifically to provision (3) of Commission Rule 68A-12.007, F.A.C., relating to the pilot deer dog registration requirements unless the Commission adopts a rule change to apply this rule provision statewide.

- 1st conviction – 2nd degree misdemeanor (current penalty)
- 2nd conviction within a three-year period – 1st degree misdemeanor with minimum mandatory fine of \$250.
- 3rd conviction within a four-year period – 1st degree misdemeanor with a minimum mandatory fine of \$500 and mandatory suspension of hunting license for one year.
- 4th or subsequent conviction within a five-year period – 1st degree misdemeanor with a mandatory fine of \$1000 and mandatory suspension of hunting license for three years.

Proposed Penalty for Deliberate Casting of Deer Hunting Dogs

Deliberate casting of dogs for the purpose of taking deer without landowner permission - 1st degree misdemeanor with a mandatory \$1,000 fine and mandatory suspension of hunting license for one year.

Hunting with a Suspended or Revoked Hunting License

Current Penalty - \$50 fine plus the cost of a hunting license

Proposed Penalty

- 1st conviction – 1st degree misdemeanor with a minimum mandatory fine of \$500.
- 2nd and subsequent convictions – 1st degree misdemeanor with a mandatory fine of \$1,000.

Ms. Fauls commented that, with Commission approval, these hunting penalties would be presented to the 2005 Legislature, and the remainder of proposed increases for fish and wildlife violations will be prepared for the 2006 Legislature.

Commission Discussion

Commissioner Meehan stated that he wants the hunters to understand increased penalties will benefit the landowners and legitimate dog hunters.

Commissioner Barco asked Ms. Fauls if staff has a plan and schedule for the remaining penalty increases for wildlife and fishing violations, to ensure deer dog hunters they are not being singled out by this proposal.

Ms. Fauls responded that FWC staff is working with Legislative staff members on combining statutes, which will include penalties.

Commissioner Barreto pointed out that the Commission must deal with the issue of outlaw dog hunters in order to save deer dog hunting in Florida because, if landowners begin a procession into the state legislators' offices, he believes dog hunting will be eliminated in Florida by Legislative action.

Regarding a plan for other penalties, Mr. Haddad stated that staff was not intending to take items piecemeal to the Legislature, but would introduce the legislation in a group following extensive stakeholder input.

Commissioner Barco voiced her concern that a large package of fish and wildlife violations might be difficult to get passed in the Legislature.

Commissioner Barreto conveyed that the staff proposal is a good one that he hopes will be strongly considered by the 2005 Legislature. He stated he would support the suggestion of a mandatory \$250 fine for a first conviction and \$500 for a second conviction, which should not affect the legitimate hunter. He also suggested staff produce a schedule for addressing the remaining increased violations and penalties.

Public Comment

John Daniel asked the Commission to give favorable consideration to the proposal to include a mandatory first conviction fine of \$250 and \$500 for the second conviction. He believes a plan for all hunting and fishing violations with increased penalties for repeat violations would be appropriate.

Al Hammond (National Rifle Association) stated that penalties for fish and wildlife violations should be equal and should be handled as a group to ensure dog hunters they are not being singled out. He offered his support of the original staff recommendation to review all wildlife, freshwater fishing and saltwater fishing violations and their penalties in order to provide consistency in penalties among similar violations, to be completed for the 2006 legislative session.

David Youngblood commented that the NFRPOA never agreed to postpone legislation for increased deer dog violation penalties. He suggested the Commission go forward with the legislation in 2005, with the suggested change in the fine for mandatory first conviction to \$250. Mr. Youngblood added that law enforcement has been unable to catch the repeat offenders, therefore, they continue their unlawful actions.

Mary Beth Kaminski stated that increased penalties will be the best way to stop rogue hunters. She offered a suggestion that it would be easier for officers and courts to remember that the first conviction would be a mandatory penalty or a fine of \$250; second conviction within a two-year period, mandatory fine of \$500; and third conviction within a three-year period, \$500 fine and mandatory suspension of hunting license for one year.

Lane Stephens urged the Commission to move forward with the staff recommendation as presented. He pointed out that one penalty against a hunter does not mean the hunter will be a habitual offender.

Cheryl Sanders does not wish to see a sole group singled out with this legislation and mentioned that the stakeholder group had originally formed a consensus to wait until 2006 to present a complete package of increased penalties for fish and wildlife violations to the Legislature.

Jim Casselman (United Hunters of Florida) offered his support of the staff recommendation, and thanked the Commission and staff for their proposed regulations for the Matnazas WMA and initiation of the Family Hunt concept.

Commission Discussion

Commissioner Barreto stated that the Commission must address the rogue hunters and that a number of dog hunters have agreed with the proposed penalties for habitual offenders. He commented that in December staff was directed to go forward with the increased penalties for dog hunting violations, but at the same time staff was to begin a parallel process of reviewing all boating and fish and wildlife violation penalties for Commission review. He asked the Commission to move forward on the issue and allow these penalties to be the first step toward increasing violations and penalties for all boating, and fish and wildlife violations.

Commissioner Corbett suggested a plan be developed for increased penalties for all boating and fish and wildlife violations, and suggested the Commission defer action on the dog hunting violation increased penalties until there is an overall penalty package to be presented to the Legislature.

Commissioner Yablonski commented that the stakeholder consensus was to present the total plan to the Legislature in 2006; however, in December the Commission rejected that plan and suggested a bifurcated plan that singled out the dog hunting penalties. He believes the agency could be successful by waiting one year to introduce the entire package of proposed penalties and fines.

Commissioner Kaupe pointed out that the marine net penalty violations were presented singly and were enacted by the Legislature. She suggested the Commission go forward with the dog penalty violation section.

Commissioner Meehan asked Ms. Fauls if the suggested change in the fine for the first offense could be added to the proposed legislation.

Ms. Fauls responded that if it is the wish of the Commission to make the change it would be added, but that does not mean it would not be amended out by the bill sponsor if it were to become controversial.

Chairman Huffman stated that there was a consensus from the stakeholders at their January meeting for what was presented to the Commission by Ms. Fauls.

Commissioner Barreto asked Colonel Jones if the staff's proposal on dog hunting violations was adequate for law enforcement needs. Colonel Jones responded in the affirmative.

Commissioner Barreto offered a motion to accept the staff recommendation as presented with no modifications. The motion was seconded and carried with Commissioners Yablonski and Corbett voting "no."

Mr. Haddad commented that staff should be prepared to bring a draft of an overall plan to the Commission at the April 2005 Commission meeting.

Commissioner Barco suggested the overall plan be prioritized in groups with the easiest changes first, with the intent of completing the remaining penalty increases in 2006.

Use of Crossbows During Archery and/or Muzzleloading Gun Seasons

Mr. Wiley stated that the question of allowing crossbows during muzzleloading gun season was reviewed at the September 2004 Commission meeting. During that review, staff reported that there was inadequate information regarding the attitudes of Florida hunters on the issue. As a result, the Commission directed staff to complete a survey of Florida hunters to determine their preferences regarding expanded use of crossbows. Mr. Wiley explained the survey and presented results of the survey and other background information on the issue.

Through a telephone survey of 418 licensed hunters the following hunter preferences were received.

On WMAs and Other Public Lands:

- 45% favored change to allow crossbows during archery season
- 44% favored change to allow crossbows during muzzleloading gun season

On Private Lands:

- 51% favored change to allow crossbows during archery season
- 52% favored change to allow crossbows during muzzleloading gun season

Mr. Wiley advised that at least five other states allow crossbows during archery season and that recent reports from three states indicate that success rates are similar for crossbows versus vertical bows. Additionally, states report some increase in deer harvest when crossbows are allowed during archery season; however, it is a small percentage of the overall harvest with minimal, if any, impact on deer herds.

Mr. Wiley warned that Florida must be cautious in applying this information to its deer herds due to differences in deer habitats, populations, seasons, and bag limits, particularly with doe harvest.

Points to Consider:

- Any rule changes allowing crossbows would be permissive or at the hunter's option with no loss of other options.
- On private lands, would give the landowner the option of choosing to use crossbows during archery season as a deer management tool.
- Changes may benefit hunter recruitment and retention; allow younger and older hunters to participate during archery season.
- Use of crossbows during archery season may impact deer herds in some parts of Florida, particularly on certain WMAs.
- Some hunting groups will express strong opposition. Need to determine if opposition is more focused on public lands or private lands.
- Some members of the Florida Legislature support these changes; this support would be needed to change statutes regarding archery and muzzleloading gun permit fees.

Mr. Wiley explained that the staff recommendations are to (1) consider possible changes during the 2005-06 rule development process; (2) work with hunters and other stakeholders to better understand preferences and better identify and address concerns; (3) consider allowing crossbows on private lands as a separate issue from public lands; there may be more support on private lands for giving landowners the option; and (4) consider change on WMS on a case-by-case basis only as the deer herd is evaluated and stakeholder support is determined.

Public Comment

Brian Zielinski (National Wild Turkey Federation) offered his support for the use of crossbows during the archery and muzzleloading gun seasons, primarily because it will increase hunting opportunities.

Barbara Jean Powell supported the staff recommendation especially on private lands. Public lands hunting with crossbows will have to be more closely managed.

Commission Discussion

Commissioner Meehan mentioned that with all the modern technology the compound bow has caught up to the effectiveness of the crossbow.

Following discussion on new technology for both compound bows and crossbows, Commissioner Meehan offered a motion to accept the staff recommendation, particularly for its application on private lands. The motion was seconded and carried.

Presentations by the Public

Rusty McKeithen stated that the future of dog hunting in Florida lies in the hands of the hunters and the Fish and Wildlife Conservation Commission. He

pointed out that over 100,000 acres of dog-hunting land has been lost when the state has purchased private land and established it as still hunting only. He asked the Commission to speak with the Governor and leaders at the Department of Agriculture and Consumer Services about allowing hunting on lands where the Division of Forestry is lead managing agency. Mr. McKeithen suggested investigating where electric fences and shock collar requirements might be enacted to allow dog hunting on lands where it has been prohibited in the past.

Lane Stephens mentioned that with various zone hunting seasons throughout the state, at the end of the hunting season the Apalachicola WMA is overcrowded with hunters. He invited the Commissioners to attend the Allied Sportsmen's Caucus on March 16 at Goodwood Plantation in Tallahassee.

Barbara Jean Powell thanked Nick Wiley and Chuck Collins for working closely with hunting groups on proposed wildlife regulation changes and other issues that affect south Florida hunters. She also congratulated the Executive Director and FWC Webmaster for a most-informative, educational agency website.

Commission Exchange

Commissioners Kaupe and Barco conveyed that the first session of the three-day meeting was very productive.

Commissioner Meehan thanked Commissioner Barreto for his leadership during 2004, and Chairman Huffman for a very successful first day as 2005 Chairman. He stated he was satisfied with the Commission's decision on the mallard release rule, and withdrawal of the section of wildlife management area rules that would disallowed dog hunting on the Escambia River WMA.

Commissioner Barreto commended Chairman Huffman for his role in leading the Commission during its first meeting day of 2005. He thanked Rusty McKeithen and Lane Stephens for working with the Commission and staff on the Blackwater WMA dog hunting rules. Mr. Barreto advised that he would be unable to attend the Friday session due to an important family matter, and asked the other Commissioners to consider two-day meetings when discussing the future direction of Commission meetings on Friday.

Commissioner Yablonski mentioned that he too would support the two-day meeting concept for a smaller, more efficient government. He thanked Ms. Kaminski and Mr. Daniel for their positive comments on impact of the new regulatory options for dog hunting.

Commissioner Corbett congratulated the Chairman for his leadership this day, thanked Nick Wiley for his work on wildlife regulations, and suggested two-day meetings be considered for the future. Regarding the proposed penalties for violations of FWC rules, he asked staff to be cautious regarding how they are presented to the Legislature.

Chairman Huffman thanked the Commission and staff for their work and cooperation. He recessed the meeting at 5:50 PM to reconvene on Thursday, February 3, at 8:30 AM.

The Chairman reconvened the meeting at 8:35 AM, Thursday, February 3.

Imperiled Species Listing Process

Mr. Dan Sullivan, Division of Habitat and Species Conservation, gave a brief history of the imperiled species listing process and stated that, at the December Commission meeting, staff presented a recommendation for modifying the listing process based on input received from and recommended enhancements by stakeholders. The recommendations included:

(1) Adopt the IUCN "Guidelines for Application of IUCN Red List Criteria at Regional Levels Version 3.0, June 2003."

(2) Modify the definitions of listing categories to reflect the changes made pursuant to "IUCN Red List Categories and Criteria, Version 3.1."

(3) Apply, via policy, the use of "Guidelines for Using the IUCN Red List Categories and Criteria, May 2003," and provide for IUCN training to select staff on the use of these guidelines.

(4) Alter the Biological Review Panel (BRP) so it functions similar to an IUCN species specialist group, but require that the BRP chair be an FWC employee.

(5) Alter rules to clarify that a management plan is required for any species being added to, moved within, or removed from the state list.

(6) When possible, include a management plan outline in the Florida Administrative Weekly notice soliciting input on the drafting of the management plan; this could be adopted via policy and would not require a rule change.

(7) Remove the self-imposing listing moratorium and direct staff to proceed with evaluating pending petitions.

(8) Invite members of the LPSP to participate in IUCN training. During this training session, a handful of species should be evaluated to allow the LPSP to see how the "new" process would operate.

(9) Modify rules to specify that other than emergency petitions, petitions only will be evaluated from July 1 through December 31 each year to allow staff to adequately prepare operational plans to handle the implementation of the listing process.

Following this December presentation, the Commission directed staff to move toward implementation of the staff recommendation by presenting the necessary draft rule changes at this meeting. Modifications to rules 68A-1.004 (Definition of Categories) and 68A-27.0012 (Modify the Process for Listing) would be required to move forward with implementation of the staff recommendation to be advertised for a final public hearing at the April 2005 Commission meeting.

Mr. Sullivan explained that if the staff recommendation and these proposed changes are approved, the listing process will remain science-based, it will be quantitative, it will be objective, and defensible. Additionally, it will be Florida-

specific and allow a panel of scientists to recommend a classification that differs from the quantitative assessment only if defensible biological data can be provided.

Mr. Sullivan advised that the listing process is a controversial subject, with complex issues upon which the stakeholders could not reach consensus. After considering the input received through the six panel meetings, staff has drafted a balanced recommendation that would lead to the effective protection of Florida's wildlife. Staff believes this proposal is a significant improvement to a good process. If approved, staff does not believe that there will be an inappropriate shifting of species or a lack of protection for Florida's wildlife. To the contrary, staff believes the recommended upgrades will make Florida's listing process the most effective, science-based, recovery-oriented process in the world.

Commissioner Corbett asked Mr. Sullivan what is the risk of an inappropriate shifting of species under the process. Mr. Sullivan responded that the risk of inappropriate shifting is greatly, if not entirely, reduced.

Commissioner Meehan commented that he is enthusiastic over Mr. Sullivan's comment that Florida will have the most effective, science-based, recovery-oriented process in the world. He asked Mr. Sullivan to elaborate on the "Florida-specific" portion of the rule and the nomenclature.

Mr. Sullivan responded that the reasons for keeping the current nomenclature are that the public have become familiar with the names and they are embedded in a variety of statutes and rules. Changing a name will not provide further protection for a species. Regarding the Florida-specific aspect, it will be developed using regional guidelines. Staff will be evaluating data that is specific to and within the boundaries of Florida when species are evaluated through the criteria.

Chairman Huffman asked if the staff recommendation is approved will some species be shifted up or down the lists.

Mr. Sullivan replied that there would be no inappropriate shifting of species with Florida-specific data.

Public Comment

Barbara Jean Powell stated there should be no change in the current category names. She stated the importance of the listing process being open and transparent with peer review, and added that, in the final analysis, she has more faith in FWC staff than outside parties.

Laurie Macdonald (Defenders of Wildlife) asked the Commission to not go forward with the process and rules as written. She demonstrated to the Commission the alignment of the IUCN threat criteria of critically endangered, endangered, and vulnerable categories that continue to be misaligned with Florida's categories of endangered, threatened, and species of special concern, which the Defenders believe will cause many listed species to be inappropriately downlisted.

Elizabeth Fleming delivered to the Commission a letter from 16 conservation and environmental groups who requested that the species listing criteria be subject to an independent scientific peer review and analysis of legal consequences before the rule is finalized, or applied to further species reclassifications in order to ascertain what impacts the rule may have upon imperiled wildlife protection and recovery in Florida as a whole.

Ted Forsgren stated that he concurs with the majority of statements made by Mr. Sullivan regarding the current rule and amendments. However, if staff is going to include a "risk factor" in the analysis of a species in the listing process model, it should be incorporated within the rule. Regarding the BRP, he believes they should make their recommendations to FWC staff and the BRP should not be able to be subjective in its analysis.

Bonnie Basham agreed with the statements of Mr. Forsgren and submitted written comments.

Dr. Frasier Bingham, Environmental Consultant, commented that the listing process needs a set of criteria for delisting a species, e.g., How many breeding pairs are needed to sustain a species? How well has the species done in the past ten years? Will it suffer any decline in the next ten years? He asked the Commission to begin the process of delisting the Panama City crayfish.

Pat Rose presented a letter to the Commission from the Save the Manatee Club in which a number of concerns regarding the proposed listing process were outlined. He urged the Commission to direct that the species listing criteria be subject to an independent unbiased expert scientific review in order to determine what the likely consequences of fully implementing the existing rule will be prior to the rule being finalized and before it is applied to further species reclassifications. The Club believes such an expert review is necessary in order to ascertain what impacts the rule may have upon imperiled wildlife protection and recovery in Florida as a whole. He also pointed out that the IUCN strongly discourages using portions of its listing process and discarding others.

Doug Rillstone (Florida Home Builders Association) offered his support of the staff recommendation pointing out that the process will offer no major shifting in species. He asked everyone to keep in mind that a petition and review must be submitted and accepted for the process to begin. He is concerned with the reconstitution of the BRP, suggesting the Commission needs its staff to prepare the biological status report, with independent peer review, for transparency in the process.

Brett Paben (Wild Law) voiced his concern that currently listed Species of Special Concern will not receive the protection they deserve under the new process due to the inappropriate alignment. He suggested staff be trained with Florida-specific data and be the group to make final recommendations on species listings to the Commission.

The Chairman asked Mr. Sullivan to respond to some of the issues brought through public comment.

Mr. Sullivan responded that species may change their listing based on scientific evaluation. Species will be run through the process for evaluation and any flaws can be immediately addressed. Regarding the difference between FWC's categories and IUCN's categories, state and local governments have incorporated the "threatened" and "endangered" categories into their comprehensive plans and are, therefore, familiar with these categories; staff does not believe the shifting of categories will lessen any species protection. The BRP must apply the established criteria to species' data to determine the appropriate classification and provide a justification to this Commission if the species level of protection were to be recommended for change.

Commission Discussion

Commissioner Meehan questioned Mr. Haddad regarding the preliminary assessments performed on some currently listed species and the results, which have been questioned by some people.

Mr. Haddad responded that the BRP asked staff to run some species through the current listing process to see where they might be placed. These analyses projected that many species would be reclassified to a lower threat category, some would stay the same and others would move to a higher category. However, these estimates were based on incomplete data and rough assessments and may not be indicative of the outcome of the full process. The proposed rule changes have not been tested and it would be potentially misleading to run rough assessments.

Commissioner Barreto asked Mr. Sullivan to explain the steps of the new procedure for reviewing a species' imperilment classification.

Mr. Sullivan explained that the process would begin when a petition is received from someone asking for FWC to review of a species' classification. Currently, the FWC has five petitions. Staff would review the request to see if it is warranted. For selected petitions, a BRP, including both FWC staff and outside experts, would evaluate the status of a petitioned species. They would apply the established criteria to species' data to determine the appropriate classification. The BRP can either accept the quantitative classification or, if it determines that the quantitative classification is inappropriate due to unique aspects of the species' biology, the BRP can recommend an alternate classification. The BRP's recommendation and management plan would be presented to the Commission at a public meeting, with public comment. The Commission would make the final determination of a species' listing status. He explained that the differences between the previous process and the proposed process are that the previous process was not Florida-specific; there was no document available regarding how to apply the criteria; and there were inefficiencies in the process regarding drafting a product, sending it out for comment, reviewing input from the experts, then possibly redrafting the product to be presented for Commission consideration.

If the Commission moves forward with the new process, the current five petitions would be reactivated and the BRPs selected. At the June Commission meeting, staff would make recommendations to the Commission regarding each petition BRP and seek Commission approval to either move forward or not. Once the biological status report is completed, staff would have to state quantitatively how it is going to fall out (e.g., status quo, higher or lower listing) and staff would have to clearly justify their recommendation. The biological staff report would be presented for Commission action at a public meeting regarding which category is considered appropriate for the species.

Commissioner Yablonski suggested that if the analysis will be prepared by Commission staff and reviewed by the BRP, it be stated clearly in the rule.

Dr. Perran Ross (University of Florida), consultant to the FWC on the Imperiled Species Listing Process, stated that FWC has a very competent staff. He explained that the IUCN does not "endorse" state listing processes; however, IUCN is extremely interested in the outcome of this process review. He stated that the proposed changes in the process will have no effect on protection afforded listed species; and suggested the modeling and recommendations be left to the expert panel. Regarding training of the BRP members, Dr. Ross reported that the IUCN is currently working with staff on a scheduled date to begin the training before April.

Chairman Huffman mentioned that all species management plans will remain in effect even if a species is downlisted, which is the most meaningful part of the process.

Upon motion of Commissioner Barreto, seconded and carried, the Commission accepted the draft rules as presented by staff for final public hearing at the April 2005 Commission Meeting.

State Wildlife Grants/Florida Comprehensive Wildlife Conservation Strategy

Dr. Thomas Eason, Division of Habitat and Species Conservation, stated that game, sportfish, and imperiled species have dedicated funding mechanisms and many other wildlife species are currently in decline or "at risk." These other species have unmet conservation needs. He explained that the State Wildlife Grants (SWG) Program is a federal program that provides funding to every state and territory to support cost-effective conservation aimed at preventing wildlife from becoming imperiled and keeping common species common. The U.S. Congress created the program in 2001 as a result of the Teaming with Wildlife effort. Funds appropriated under the SWG Program are apportioned according to a formula that takes into account each state's size and population. Approximately \$50 to \$80 million in funding has been distributed to states annually since 2001; Florida's share has been about \$2.5 million each year.

The FWC is the designated state agency to receive and manage SWG funds in Florida. Although the allocation comes directly to the Commission, funding is available to other state agencies, local government entities, universities and colleges, organization, and individuals. Funds are to be used in accordance with

congressional intent and federal guidelines for the SWG program. A nonfederal match requirement assures local ownership and leverages funds to support added conservation.

Projects supported by SWG are intended to benefit wildlife populations and their habitat. Comprehensive Wildlife Conservation Strategies, required by the SWG program, are currently being developed by each state and will help ensure that funds are spent wisely and effectively. FWC staff intends to develop a strategy that will help guide future allocation of SWG funds and create a unified vision for proactive, partnership-driven conservation in Florida.

Dr. Eason reviewed the elements of the strategy that will be submitted to the Executive Director in October 2005:

- (1) Information on the distribution and abundance of wildlife;
- (2) Descriptions of locations and condition of key habitats;
- (3) Descriptions of problems and research/survey needs;
- (4) Descriptions of the conservation actions proposed;
- (5) Plans for monitoring species and habitats, and the effectiveness of conservation actions;
- (6) Descriptions of procedures to revise the Strategy within ten years; and
- (7) Plans for coordinating the development, implementation, review, and revision of the Strategy; and
- (8) Procedures for gaining public input.

Dr. Eason explained the steps staff have and will be taking to ensure stakeholders and the public are involved in the strategy.

Staff is seeking Commission direction to proceed with the described approach for completing Florida's Comprehensive Wildlife Conservation Strategy, which will provide a blueprint for Florida's wildlife future.

Commission Discussion

Commissioner Corbett stated that it is an excellent strategy and asked if additional grant money was available would staff be prepared to use it. He asked that the Commission be provided with the formula used to appropriate grant monies.

Dr. Eason commented that the money is always needed but staff would need to evaluate just where it would be spent. The appropriation formula will be forwarded to the Commissioners.

Commissioner Barco asked how the public would provide input on draft proposals because it is critical that the public know this document is available for their review and comments.

Dr. Eason replied that staff will work to get the message out to the public and provide draft proposals to people who would like the opportunity to review and comment.

Public Comment

Barbara Jean Powell stated that she is very enthusiastic at the opportunity for Florida to receive these grants and praised the staff for their outreach for public input. She suggested the process be monitored to ensure there is no race for grant monies for non-governmental organizations and free-lance biologists in academia, and suggested Commission staff be the leaders to ensure this program is beyond reproach.

Laurie Macdonald stated she appreciates the staff's detailed process for implementation of this important program, and the fact that the monies will be going to various agencies involved in wildlife conservation in Florida.

Bonnie Basham asked that the Commission ensure those who receive funds will use the money for science-based wildlife needs, with appropriate public review, e.g., the resource users, for how the funds are distributed and to whom. She offered to FWC staff the opportunity to spread the word on the program through newsletters and websites of various organizations for which she has access.

Commissioner Yablonski suggested staff get with local newspaper reporters to explain the newsworthiness of the State Wildlife Grants Program.

The Commissioners stated the importance of good public relations to ensure the information is disseminated to reporters and newspapers.

Mr. Haddad explained that the information has been forwarded to state newspapers, however, staff could forward the information to stakeholders for consideration of distribution, and staff will continue to work on strategies to ensure public knowledge of the SWG program.

Pat Rose complimented the staff on their excellent work in developing the strategy for SWG funding, and ensuring the public knew about the public meetings.

Upon motion of Commissioner Meehan, seconded and carried, staff was directed to proceed with the described approach for completing Florida's Comprehensive Wildlife Conservation Strategy.

Rules (Marine Fisheries)

Ms. Jessica McCawley, Division of Marine Fisheries Management, presented the following rule for Commission consideration:

(1) 68A-35.003, Pompano, African Pompano and Permit--The proposed rule would implement a two-fish vessel possession limit for permit and pompano larger than 20 inches.

Public comment on the proposed rule since the December Commission meeting indicated a majority of people support the proposed rule of two permit or pompano per vessel larger than 20 inches. However, many suggested more restrictive measures, e.g., one permit per day over 20 inches vessel limit, declare permit a game fish, establish a spawning season closure from April 1 through July 1, and/or institute a tag program similar to the tarpon tag program.

Public Comment

Ted Forsgren offered his support of the staff recommendation, and thanked Commissioner Barreto for taking the lead on the permit issue.

Roy Mattson suggested African pompano should be allowed to grow to at least 24 inches before being harvested.

Ms. McCawley explained that the proposed rule does not apply to African pompano.

Commission Discussion

Commissioner Barreto asked Ms. McCawley to explain the request to make permit a game fish.

Ms. McCawley explained that 85% of the harvest is recreational, however, there is a small commercial hook and line harvest.

Upon motion of Commissioner Barreto, seconded and carried, Rule 68A-35.005 was approved as presented.

(2) Deputy General Counsel Charlie Shelfer presented the next series of rules representing the culmination of a Legislative Interim Project to repeal language in Florida Statutes that regulate fish and wildlife and moves those regulations into the Florida Administrative Code. The replacement rules have the same or substantially similar language as the statutes.

[Rules replacing shrimping statutes expected to be repealed]

(3) 68B-3.008--The proposed rule amendment deletes references to Sections 370.15 and 370.156, Florida Statutes (F.S.), in this rule governing fishing gear allowed in Volusia County.

(4) 68B-25.003--The proposed rule amendment deletes reference to Section 370.15(5), F.S., in this rule specifying allowable shrimping gear in Tampa Bay.

(5) 68B-31.006--The proposed rule amendment deletes reference to Section 370.15(6), F.S., and eliminates obsolete provisions, in this rule defining the term "live bait shrimp producer" for use in Chapter 68B-31, F.A.C.

(6) 68B-31.008--The proposed rule amendment deletes reference to the live bait shrimp production license provisions of Section 370.15, F.S., that have already been repealed, and revises language to recognize the regional license issued for such purposes in Northeast Florida.

(7) 68B-31.009--The proposed rule amendment deletes an obsolete provision and clarifies language to recognize the regional license issued for food shrimp production in Northeast Florida.

(8) 68B-31.0136--The proposed new rule establishes an area closed to food shrimp production in Monroe County, which closure is currently mandated by Section 370.15(6), F.S.

(9) 68B-31.0157--The proposed new rule establishes a nine-month annual nighttime closure along Florida's Atlantic Coast to shrimping by trawl, which closure is currently mandated by Section 370.15(2), F.S.

(10) 68B-31.018--The proposed new rule establishes an area closed to food shrimp production in Santa Rosa Sound in Escambia, Santa Rosa, and Okaloosa counties, which closure is currently mandated by Section 370.15(5), F.S.

(11) 68B-31.019--The proposed new rule establishes substantive requirements for issuance of a Tampa Bay food shrimp production license, which requirements are currently mandated by Section 370.1535, F.S.

(12) 68B-38.002--The proposed rule amendment deletes reference to a statewide live bait shrimping license in Section 370.15, F.S., which has already been repealed, and replaces that reference with a correct reference to Rule 68B-31.008, F.A.C.

(13) 68B-38.003--The proposed rule amendment deletes reference to a statewide live bait shrimping license in Section 370.15, F.S., which has already been repealed, and replaces that reference with a correct reference to Rule 68B-31.008, F.A.C.

[Rules replacing statutory provisions relating to trapping that are expected to be repealed]

(14) 68B-4.002--The proposed rule amendment provides a definition of the term "trap" for purposes of Title 68B, F.A.C.

(15) 68B-4.020--The proposed new rule prohibits the use of traps in Florida waters, except for specified blue crab, spiny lobster, stone crab, black sea bass, shrimp, pinfish, or lawful freshwater traps, to replace Section 370.1105, F.S.

(16) 68B-13.006--The proposed rule amendment provides for stone crab depredation permits, currently the subject of Section 370.13(3), F.S., and deletes language made obsolete by Chapter 68B-8, F.A.C.

(17) 68B-14.005--The proposed rule amendment provides specifications for black sea bass traps and allows their use north of 27 degrees Latitude North, as currently provided in Section 370.1105, F.S.

(18) 68B-31.007--The proposed rule amendment provides specifications for shrimp traps, as currently provided in Section 370.1105, F.S.

(19) 68B-38.001--The proposed rule amendment deletes reference to assorted trapping rules and Section 370.1105, F.S., and replaces those references with a single reference to new Rule 68B-4.020 regarding trapping.

(20) 68B-45.004--The proposed rule amendment provides for blue crab depredation permits, currently the subject of Section 370.13(3), F.S.

(21) 68B-55.001--The proposed rule amendment deletes reference to Section 370.1105, F.S., and replaces that reference with one to new Rule 68B-4.020 regarding trapping.

[Rules relating to miscellaneous harvest methods and gear, the subjects of Sections 370.08 and 370.11, F.S.]

(22) 68B-4.0083--The proposed new rule establishes regulations governing saltwater gears (including purse seines), food fish, explosives, drugs, and chemicals, which regulations are currently contained in Sections 370.08 and 370.11, F.S.

(23) 68B-4.012--The proposed rule amendment deletes reference to Section 370.08, F.S.

(24) 68B-4.013--The rule amendment deletes reference to Section 370.08(3), F.S., and replaces it with reference to new Rule 68B-4.0083.

[Rules relating to tarpon]

(25) 68B-32.003--The rule amendment provides substantive requirements for the tarpon tag program, which requirements are currently mandated by Section 372.5704, F.S., and deletes an obsolete reference to Section 370.062, F.S.

(26) 68B-32.004--The rule amendment establishes a tarpon bag and possession limit, which is currently imposed in Section 370.11(2), F.S.

(27) 68B-32.006--The proposed new rule provides substantive regulations prohibiting sale, restricting transport of tarpon, and allowing taxidermy, which regulations currently reside in Section 370.11(2), F.S.

[Rules relating to the Special Recreational Crawfish License]

(28) 68B-24.0035--The proposed new rule provides substantive requirements for the Special Recreational Crawfish License, which requirements are currently mandated by Section 370.063, F.S.

(29) 68B-24.004--The proposed rule amendment deletes reference to Section 370.063, F.S., and replaces it with reference to new Rule 68B-24.0035.

[Rules relating to bonefish]

(30) 68B-34.002--The proposed rule amendment provides a new definition of the term "harvest for commercial purposes" made necessary by the repeal of Section 370.1121, F.S., and the adoption of amendments to Rule 68B-34.003, F.A.C., and deletes an obsolete definition of the term "spearing."

(31) 68B-34.003--The proposed rule amendment prohibits harvest of bonefish for commercial purposes and deletes an obsolete reference to "spearing" and replaces it with a requirement that bonefish be taken by hook and line gear only. This rule amendment replaces Section 370.1121, F.S.

[Rules relating to miscellaneous statutory repeals]

(32) 68-1.005--The proposed new rule reserves to the Fish and Wildlife Conservation Commission the power to regulate the taking or possession of marine life, with an exception stated for local governments prohibiting fishing from real property owned by that local government. This rule replaces Section 370.102, F.S.

(33) 68A-25.001--The proposed new rule prohibits feeding of wild alligators and crocodiles, which prohibitions are currently contained in Section 372.667, F.S.

(34) 68B-3.006--The proposed new rule provides regulations on the use of nets in St. Johns County, which regulations are currently contained in Section 370.0821, F.S.

(35) 68B-28.0035--The proposed rule amendment deletes an archaic reference to Section 370.17(3), F.S., and imposes a five-inch hook requirement for sponge harvest, which requirement is currently contained in Section 370.17(2), F.S.

Public Comment

Roy Mattson commented that he is both a recreational and commercial fishermen and he would like a statewide live bait permit so he may use a cast net to harvest live bait in any county. He would also like to use traps for mud minnows.

Mr. Mattson was directed to speak with staff of the Division of Marine Fisheries Management for a response to his requests.

Commission Discussion

Upon motion of Commissioner Meehan, seconded and carried, Items listed as (3) through (35) on the agenda were approved as presented.

(36) Net Issues

(a) Review and discussion of net gear specifications rule and history-- As a result of the questions raised during public workshops on proposed changes to the gear specifications rule (68B-4.0081), this item will provide a review and explanation of the net gear rule and its evolution before and after the Net Limitation Amendment to the Florida Constitution, with an emphasis on litigation and the practical limitations created by the amendment.

Colonel Julie Jones presented a brief history of the establishment of the former Marine Fisheries Commission, its net rule-making and litigation, a summary of the Net Limitation Amendment of the Florida Constitution, FWC rule-making and litigation, and current status of net use as follows:

- 1991 Stock Assessment and Survey
 - 1992 MFC Rule Making: 2" seines with wings and 3" gill nets
 - July 1995 Net Limitation Amendment effective
 - November 1996 Rule Making: 2" seines with wings until January 1, 1998; afterward, 2" throughout seine. Rule was immediately challenged and stayed.
 - February 1998: Favorable ruling to rule challenge and 2" throughout net upheld.
 - March 1999: 1st District Court of Appeals (DCA) upholds 2" and commercial viability cannot override legality of net.
 - February 2002: Wakulla Circuit Court invalidates 2" gear rule and mullet rule.
 - February 2003: 1st DCA reversed the Wakulla Circuit court ruling
 - March 2003: Fishers filed a request for declaratory statement in response to 1st DCA ruling.
 - June 2003: FWC declaratory statement found the petitioners hybrid net to be a gill or entangling net.
 - October 2004: 1st DCA unanimously upheld the declaratory statement without opinion.
 - Rule, 2" maximum stretches mesh for seines remains in effect.

Regarding allowing another mesh size, Colonel Jones explained:

- The Constitution prevents the Commission from allowing a gear that uses gill or entanglement as its primary means of harvest.
- 2" mesh was selected based on historic seine and gill/entangle net usage.
- Mesh sizes greater than 2" increase the likelihood that the net will be used to gill or entangle.

- Courts have upheld arguments that 2" is a reasonable place to draw a line between gill/entangling and non-entangling.
- The industry's desire for commercially viable nets can not override the Constitutional prohibition of entangling gear and the many judicial decisions and court rulings.

Colonel Jones explained that the Commission has the authority to change the rule. The Constitutional amendment was a public and not science-based decision. The MFC rule establishing the two-inch stretched mesh for nets in Florida waters was a reaction to the amendment, not a change in the fisheries or the associated science.

The MFC chose a two-inch seine traditionally used to encircle and concentrate fish rather than entangle as its standard. The MFC held public hearings, collected studies, and applied its staff's expertise. It gave considerable weight to historical functions of nets so as to draw a distinction between gill or entangling and seine nets, and to preclude seine nets from being modified or adapted to become entangling or gill nets.

The First DCA's approval of the Commission's Declaratory Statement once again supports the two-inch standard and discounts consideration of viability for a net found to be an entangling or gill net. It is a conundrum—The fishers request a gill net to make a living, but gill nets are illegal by the Florida Constitution in Florida waters. Staff believes it has looked at every aspect of the litigation, court rulings, and the Constitutional requirements. Though staff is sympathetic to the desire of fishers to have a commercially viable net, staff believes the Constitutional amendment and subsequent court cases preclude the Commission from establishing such a rule.

Public Comment

Jerry Sansom commented that he was disturbed by the presentation because it left out much of the history and details of the net rules and litigation, and was geared to support a particular conclusion. He stated that the Organized Fishermen of Florida (OFF) did not support the two-inch mesh rule in 1991 because, historically, net wings were used with larger mesh sizes than were in the pockets. Mr. Sansom stated that he was of the impression that staff and net fishers were going to work together to allow meshes larger than two inches, and the presentation described any mesh larger than two inches constitutes a gill or entangling net. He does not believe a three-inch mesh size is a gill or entangling net, and asked the Commission to look at other nets that can be constructed to not gill or entangle. Mr. Sansom asked the Commission to not take a position that any net with meshes larger than two inches is a gill or entangling net.

Ronald Fred Crum (Fishing for Freedom) delivered to the Commission a 1982 Saltwater Fisheries Study and Advisory Council final report, which stated that fisheries resources were to be managed in such a manner as to provide for

optimum sustained benefits and use to all people of the State for present and future generations, other documents relative to court cases, and a document entitled "Florida Seine Net Fishing Survey." He stated that two-inch mesh nets kill juvenile fish and that Florida Statute 370.025 should be considered during FWC rule-making. Mr. Crum stated that the Commission is entrapping commercial fishermen by selling them a commercial fishing license but not allowing them to use a net that is commercially viable. He asked that everyone quit fighting over the mesh size issue and work together to give the net fishermen a viable fishing net.

Ted Forsgren stated that the courts have clearly ruled that the two-inch maximum mesh size for seine nets was historically based, rational and practical, and that commercial viability does not apply to gill or entanglement nets. He believes the commercial fishing industry's concern over killing juvenile fish with a small mesh size is just another ploy to get a large mesh size to gill adult fish.

Jim Roberson (International Game Fish Association) asked the Commission to uphold the Constitutional amendment that limits a legal net to 500 square feet.

Commission Discussion

Commissioner Yablonski stated that it is his understanding that the Constitutional amendment states no gill or entangling nets; and the courts have said that the FWC has the authority to determine what is an entangling net and implement rules regarding mesh size of a gill or entangling net; and, based on historical data, the Commission determined that anything over the two-inch mesh is a gill or entangling net.

Colonel Jones mentioned fact #44 in the Judge Davis finding, Mr. Crum referred to, stated "Agency staff advocated drafting the proposed rule more stringently so as to reduce the permissible stretched mesh to 1½ inch, but in formulating the proposed rule under challenge, the Marine Fisheries Commission ultimately proposed two-inch stretched mesh rule based on its review of historical mesh sizes which were already in legal use. This decision was reasonable and may serve to lessen the impact of the rule change on commercial fishermen." Under finding #46, "There is a direct conflict between petitioners and MFC experts, most notably, Messrs. Rudloe and Winner, on whether or not juvenile mullet or fish generally run with schools of adult fish. After consideration, Mr. Winner's opinion that juvenile mullet typically do not run with their elders, at least in roe season, is acceptable." Judge Davis went on to say in #47, "...the greater weight of the credible evidence is that all types of fish small enough to be entangled in a two-inch mesh would not generally be found with adult mullet. In #50, Judge Davis wrote, "Upon the testimony of MFC's experts, Mr. Winner and Dr. Nelson, and upon testimony by various commercial fishermen, it is found that fishermen can target adult mullet based on the way adult mullet move, jump, and make waves." Number 54, "In 1993, the two-inch mesh for the seine panel/pouch was created by rule, and has remained in effect since then."

Colonel Jones stated that if you use a seine as a seine, and you do not target small fish, typically you would not gill small fish.

Colonel Jones went on to explain when you read the first District Court of Appeals ruling that reviewed Judge Davis' ruling, there was not a dissenting judge, but a judge on this panel that spoke to specifically concur, and stated "I can not agree that competent substantial evidence supports these administrative law findings that the net restrictions of the proposed rules are commercially viable for use and the fishing industry is acknowledged on focused rules."

Colonel Jones explained that Mr. Crum said Dr. Nelson offered gear that they thought would be commercially viable and that gear question was "Is it possible for two fishers to work together to deploy two separate 500-square foot, two-inch mesh nets to capture and corral mullet and use a cast net simultaneously?" The judge responded, "There is no evidence that the speculative theoretical Rube Goldberg-type method of fishing is at all viable or practical...I nonetheless affirm competent, substantial evidence does support the finding that the Pringle-Crum net and other mullet nets can take mullet in a commercially viable manner only when used as a gill or entangling net."

Colonel Jones stated that staff has testified and believes that a net greater than two-inch stretched mesh is going to gill or entangle.

Commissioner Corbett pointed out that law enforcement officers need a clear and concise rule to follow and enforce.

The Chairman asked Major Bruce Buckson to present the net gear rule. Major Buckson discussed the reasoning behind the rule, history of the Commission's actions on the draft rule, results from public workshops, and presented the proposed final rule for Commission consideration:

(b) 68B-4.0081, Statewide Net Gear Specifications; Soaking Requirements; Definitions; Cast Net Specifications—The proposed rule changes would codify, within Commission rules, portions of Section 370.093, F.S., a statute implementing the prohibitions of Article X, Section 16, of the Florida Constitution, and establish net measurement procedures and net construction specifications. Specifically, the proposed rule would: (1) incorporate provisions of F.S. 370.093 in rule which would define "net" or "netting" as all manner or combination of mesh or webbing or any solid or semi-solid fabric or other material used to comprise a device used to take marine life; (2) incorporate provisions of 370.093 which prohibit the use of gill or entangling nets; (3) incorporate provisions of 370.093 which identify types of netting material that are prohibited; (4) incorporate provisions of Article X, Section 16, Florida Constitution, which limited the size of nets in nearshore and inshore waters to 500 square feet; (5) incorporate and consolidate language which limits mesh size to a maximum of two-inch stretch; (6) exempt gear which is allowed by other rules outside nearshore and inshore waters; (7) substitute rule references to "seine" with "net" to clarify that the net specifications in the rule apply to all nets other than cast nets, dip nets, shrimp trawls, purse seines, jellyfish paired trawls, or calico scallop otter trawls; (8) specify that a net with a mesh size larger than two inches stretched mesh is considered an entangling net; (9) clarify that soak times do not apply to shrimp trawls, purse

seines, jellyfish paired trawls, or calico scallop otter trawls; (10) establish measurement procedures for determining the mesh area of a rectangular-shaped net that is constructed consistently throughout; (11) clarify the prohibition regarding the connection of nets; (12) establish the maximum number of meshes allowed per foot of corkline in a rectangular-shaped net; (13) establish the method for measuring a rectangular-shaped net; and (14) establish that nets constructed with more meshes per foot of corkline than allowed are entangling nets.

Major Buckson stated that the staff recommendation is to adopt the proposed rule with an effective date of July 1, 2005.

Public Comment

Jerry Sansom stated his belief that by inclusion of section (3)(e) in the rule, which defines the number of meshes attached per foot of corkline or leadline shall be considered an entangling net, that the Commission is overstepping its jurisdiction because the State Constitution defines what is a gillnet or entangling net and the Commission can not change the definition for its convenience. This would also apply to section (2)d where it states "Any such net, with a mesh size greater than two inches stretched mesh shall be considered an entangling net for purposes of paragraph (a)." He believes this is arbitrary and would make this a major violation under Commission rules.

Commissioner Barco said that her interpretation of what Mr. Sansom is pointing out is that he objects to the two-inch mesh size, in principle; however, if the FWC defines a seine net as one that is no larger than a two-inch mesh size and leaves out the that it is automatically considered an entangling net, then, if someone is caught in violation of FWC rule, not the Florida Constitution, the violation would not be a major violation. A similar situation would occur regarding the number of meshes attached per foot of corkline or leadline.

Mr. Sansom stated it would also allow commercial fishers, through science and experimentation, to show the Commission that there may be another mesh size or attached meshes that would not be unconstitutional but viable gear for the fishermen.

Commissioner Yablonski conveyed to Mr. Sansom that if OFF or any other commercial fishing organization can come to the Commission and display a different mesh size and a different net that they believe does not gill, FWC staff would review the net to determine if it gills. He pointed out that the Commission has the authority to make the final decision on the appropriateness of a net.

Colonel Jones stated that Division of Marine Fisheries Management staff remains available to test any alternative net or special gear that OFF believes complies with the intent of the law. Mr. Sansom would need is a Special Activity License, and FWC staff would either test, supervise or assist in net deployment.

Mr. Haddad replied that staff will review Mr. Sansom's concerns.

General Counsel Antista explained that with enactment of this rule the Commission will be implementing the Constitutional amendment under Commission rule, which is the action requested by the courts and prosecutors in net cases in order to clarify (1) what is an entangling net, and (2) that the FWC two-inch mesh standard is the "bright line" between what is a seine and what is an unlawful gill or entangling net. Regarding the mesh standard, the Constitution states that there are two types of nets that must be considered (1) nets that entangle fish by gilling, and (2) nets that entangle because of net structure. Both are prohibited under the Constitution. Therefore, the mesh-per-foot portion of the proposed rule is designed to prevent the "shower curtain" net.

Regarding Mr. Crum asking for declaratory statement about a specific piece of gear called a "hybrid" net, a net with variable mesh sizes, the court upheld FWC's opinion that the net was in violation of the Constitution and Commission rules. However, that does not preclude OFF's asking for a declaratory statement on another type of gear.

Mr. Crum stated that it is his desire to use a mesh net of appropriate size to target a specific fish, and enactment of the proposed rule will not allow this type fishing. He stated that when asking for his declaratory statement he wanted to use a "biological" net that would protect the environment, people, and the economy.

Ted Forsgren asked the Commission to consider adding to the proposed rule under 2(d) "Any such net, with a mesh size greater than two inches stretched mesh shall be considered 'a gill or' entangling net..." He believes 14 meshes per foot of corkline or leadline should be the standard formula to measure the legality of a net. Jim Roberson concurred with Mr. Forsgren's statements.

Mark Moore asked the Commission to appoint a net advisory committee of commercial fishermen to work with the Commission and staff to obtain first-hand knowledge of the net fishing industry, pointing out that such a committee has worked to save the blue crab fishery.

Roger Nichols, Jonas Porter and Keith Ward stated that a two-inch mesh net will not work as a viable fishing net for commercial fishers, is not required by the Constitution, and is detrimental to juvenile fish.

Commissioner Barreto asked what effect removing rule language as suggested by Mr. Sansom will have on law enforcement.

Colonel Jones responded that the proposed rule was developed to close a loophole in enforcement of the rule as discussed by General Counsel Antista.

Commissioners Barreto and Corbett stated that it is important that the Commission have a clear enforceable rule to eliminate confusion, which is what the Division of Law Enforcement and Legal staffs have brought to the Commission with this rule.

Chairman Huffman stated that the rule has been through public workshops and suggested the Commission go forward with the proposed rule, but suggested staff form a net working group to determine if there is a viable solution to the net dilemma.

Upon motion of Commissioner Corbett, seconded and carried, Rule 68B-4.0081 was approved. Additionally, staff was directed to form a net working group with commercial fishermen to explore emerging and innovative gear options to add to existing net gear regulations.

Black Sea Bass Trap Marking and Endorsement Concepts

Ms, Jessica McCawley, Division of Marine Fisheries Management, presented a brief history of black sea bass and trap marking requirements. In July 2003, the Commission approved a rule regulating retrieval of derelict traps and trap debris from coastal waters. The rule provides definitions for fishable traps, trap debris, and derelict traps. For a trap to be considered fishable it must contain two of the following elements: buoy, line, current trap tag or identification, and a current license. Because no marking requirements are currently required for black sea bass traps, these traps could be misidentified as derelict traps. Requiring the marking of traps would resolve the problem of legal black sea bass traps being misidentified and removed during coastal cleanup events. Industry and Law Enforcement have expressed support for black sea bass trap marking requirements, believing it will help limit the use of illegal fish traps and assist with enforcement of existing traps.

Management options being considered by staff include:

- (1) Trap marking without an endorsement. Fishermen mark traps and buoys with "B" and SPL#.
- (2) Trap marking with a No-Cost endorsement. Solves marking but does not give staff any information about the fishery.
- (3) Trap marking with a cost endorsement. Would require a trap-tag program.

Ms. McCawley stated that the staff recommendation is to return to workshops with the new black sea bass trap marking concept and present a draft rule at the April Commission meeting; and, survey black sea bass fishers statewide to determine who uses black sea bass traps and how many they use.

Public Comment

Ted Forsgren stated that the Coastal Conservation Association does not support establishment of a fish trap fishery for black sea bass. CCA believes the trap fishery should be phased out due to the number of "ghost" traps that kill nontargeted species. Mr. Forsgren brought to the Commission's attention that the federal zone snapper/grouper traps will be phased out in 2007 and asked if the Commission was going to allow black sea bass trappers to bring in snapper and grouper? Or will fishers only be allowed to land the recreational bag limit as in the stone crab trap fishery?

Jerry Sansom explained that the black sea bass trap fishery is a well established small fishery that has existed for many years. He stated that the traps are small, actively fished, and can not bring in snapper or grouper. He asked the Commission to go forward with the staff recommendation.

Commission Discussion

Upon motion of Commissioner Barreto, seconded and carried, the staff recommendation was approved as presented.

Apalachicola Bay Oyster Fishery

Mr. Bill Sharp, Division of Marine Fisheries Management, presented a brief history of the Apalachicola Bay oyster fishery, and explained that the Franklin County Seafood Workers Association, the Apalachicola Bay Oyster Dealers Association, and the Southeast Fisheries Association have requested that the Commission address the oyster harvesting season in Apalachicola Bay. Industry requests that the harvesting seasons be changed to better correspond to product availability. They request the present winter season be changed from October 1 through June 30 to September 1 through May 31, and that the summer season be changed from July 1 through September 30 to June 1 through August 31.

Staff held workshops in January to gather public input on the requested season changes. All who attended supported the season changes, including the Department of Agriculture and Consumer Services which manages the oyster fishery as it relates to public health concerns.

Mr. Sharp stated that staff recommends the Commission approve the change in the oyster harvesting season and proceed to a final public hearing at the April Commission meeting.

Upon motion of Commissioner Barreto, seconded and carried, the staff recommendation was accepted.

Blue Crab Effort Management Program

Mr. Sharp stated that the draft rule was developed by staff based upon the Blue Crab Advisory Board's recommendations. He reviewed the draft rule for the Commission. Key elements include:

- Establish a hard crab endorsement and a soft crab endorsement, which may be associated with either an individual or vessel saltwater products license.
- Establish qualifying and re-qualifying criteria.
- Require trap tags with an annual fee of 50 cents per tag, and establish tag ordering criteria and a replacement tag program.
- Establish an appeals board and criteria by which nonqualifying blue crab fishers could be allocated traps.

- Establish the Blue Crab Advisory Board by rule and set criteria for appointment to the board.
- Prohibit the leasing or renting of endorsements, tags, or traps, and establish endorsement holder responsibilities.
- Development an apprentice program.

Staff will hold public workshops around the state during February prior to the March BCAB meeting where public input will be considered.

The staff recommendation is to approve the draft rule and proceed to a final public hearing in April 2005.

Commissioner Yablonski asked is someone wishing to enter the fishery must buy the endorsement and trap tags as a package from someone leaving the fishery, or buy up to a certain number of trap tags.

Mr. Sharp stated that the language will be edited to clarify that the purchaser may buy up to a certain number of trap tags.

Commissioner Yablonski asked staff if they know the number of people who will be left out of the blue crab fishery due to the minimum qualifying criteria.

Mr. Sharp responded that there are approximately 160 fishers who will not qualify.

Public Comment

Sarah Young (Blue Bay Enterprises) stated her discontent with the make up of the current Blue Crab Advisory Board, who she believes are inexperienced in the industry and do not have the trust of the blue crab fishermen. She commented that the commercial fishing industry in Florida is dying, and there are not enough law enforcement officers to ensure all the rules and regulations are followed.

Russell Stewart, a member of the BCAB, commented that he is the only member of the advisory board who is not a full-time crabber.

David Capo, a member of the BCAB and life-long blue crab fisherman, stated that the proposed rules were well reviewed and were developed for the long-term protection of the blue crab fishery. He pointed out the need to reduce the number of traps currently being used because of their adverse effect on the fishery.

Ron Francis (Blue Bay Enterprises) commented that the 50 cents/tag fee is too high when compared to money they receive per crab when sold at the market. He believes current regulations are not enforced, which is causing the problem in the fishery.

Patrick McFarland voiced his concern that because the way the draft rule is proposed he would not qualify for an endorsement under the eligibility

requirements. He asked that the qualifying years include 2003-04 to ensure he will not be excluded from the fishery.

Mr. Sharp stated that Mr. McFarland could testify before the BCAB for a remedy regarding his issue.

Jerry Sansom responded that usually the appeals board will allow a fisher into the fishery if he can show legitimate landings; however, the qualifying dates were set prior to going public for a reason.

Commissioner Barreto offered a motion to accept the staff recommendation on the Blue Crab Effort Management Program rule. The motion was seconded.

Commissioner Yablonski asked for an explanation regarding whether or not a person could sell part of his traps.

Mr. Sansom explained that the BCAB reviewed this suggestion and selling part of one's operation was not the type configuration that fit this small fishery.

The Commissioners thanked the BCAB for the work they have done on this effort management plan.

Following an explanation for capping the number of traps at 600, the Chairman called the question and the motion carried.

Marine Fish Measurement

Ms. McCawley explained that Commission rules express size limits of marine fish in either fork length or total. However, the correct way to measure total length has been subject to individual interpretation. Measurement procedures are confounded by the various types of caudal fins (tails) of marine fish making it difficult to obtain these measurements. A consistent method for measuring fork length and total length needs to be specified. Once determined, this method should be conveyed to law enforcement and the general public.

Currently, for marine fish, the current designations of total length and fork length for all species, except gray trigger fish, are appropriately assigned to the respective species.

Total Length Measurement can be measured as total length maximum (squeezed tail) or total length relaxed (natural state or unsqueezed tail). The Division of Freshwater Fisheries Management allows total length to be measured as the maximum length of the fish with mouth closed and tail fin pinched together. Federal regulations allow total length with or without squeezed tail and with mouth open or closed. The Division of Marine Fisheries and the Fish and Wildlife Research Institute recommend using total length maximum in instances where total length is specified.

FWC rules do not address how to measure total length and do not specify whether mouth should be open or closed. Slot limits require squeezed tail at both ends of slot. Species with tail filaments also pose problems when trying to determine an appropriate measure and measurement technique.

The staff recommendation for the short term is that total length be measured as total length maximum. For the long term, staff requests the opportunity to work with stakeholders and FWRI to reach a consensus on the issue, with a draft rule brought before the Commission at its April meeting for consideration and final public hearing at the June Commission meeting.

Upon motion of Commissioner Barreto, seconded and carried, the Commission approved the staff recommendation for measurement of fish.

Federal Issues

Mr. Robson reported that the South Atlantic Fishery Management Council continues to work on a draft amendment to the fishery management plan for snapper/grouper species. This is a complex amendment but it is moving toward public review and final action in the next year.

Commissioner Barreto asked staff to forward a copy of the goliath grouper restructure program to each Commissioner. He stated that he has heard many complaints that goliath grouper are making a comeback and are eating an abundance of crawfish.

Mr. Haddad commented that the latest federal stock assessment indicated goliath grouper continue to be overfished; however, assessments are made every three to four years.

Commissioner Meehan agreed that he too is concerned about the expanding population of goliath grouper and asked who was performing the research on the goliath grouper.

Mr. Roy Williams, Division of Marine Fisheries Management, responded that Florida State University is doing research on goliath grouper. He explained that the stock assessment is weak but continues to indicate goliath grouper are still overfished. Researchers need samples of age distribution of population to calculate mortality rate. Mr. Williams conveyed that random sampling of age distribution would be a tremendous benefit for this fishery.

Division of Marine Fisheries Management staff will contact Dr. Roy Crabtree of the National Marine Fisheries Services regarding goliath grouper and report back to the Commission.

Mr. Haddad suggested Mr. Robson meet with Dr. Crabtree and explain that this Commission has a strong interest in looking at goliath grouper populations within a reasonable timeframe. This approach might suggest they discuss alternatives Florida could begin reviewing for this fish.

Mr. Williams gave a report on the January Gulf of Mexico Fishery Management Council meeting, summarizing principal issues being considered, e.g., Congressional buyout of a portion of the Gulf reef fish longline fleet, extension of the Reef Fish and King Mackerel permit moratoria, and Essential Fish Habitat Amendment 3.

The Council was advised by Regional Director Crabtree that the greater amberjack stock in the Gulf was undergoing overfishing. The Council now has one year to develop a program to end overfishing. National Marine Fisheries Services' analysis indicates that harvest exceeds total allowable catch by 53 percent.

At the next Gulf Council meeting, the Council will work on red snapper Individual Transferable Quotas which are likely to occur in the Gulf fishery.

Uniform Waterway Markers in Florida Waters

Captain Paul Ouelette, Division of Law Enforcement, explained that staff is requesting Commission authorization to conduct public workshops around the state to receive public input regarding proposed changes to the Uniform Waterway Marker Rule, 68D-23, FAC. The final public hearing on proposed rule changes would occur at the June 2005 Commission meeting.

Proposed changes to rules include:

- Correct and update statutory cross-references that have been changed since the current rule was promulgated in 2001.
- Improve clarity and consistency of language and definitions
- Remove or revise obsolete provisions and cross references
- Respond to requests for revisions received from governmental entities and other stakeholders.

The anticipated effects of these changes include the relaxation of certain reporting requirements and other reductions of the regulatory burden on permittees where possible. Other anticipated effects include the provision to applicants of greater flexibility in the size of and messages displayed on waterway regulatory and information markers. Staff anticipates these changes to be without fiscal impact.

Upon motion of Commissioner Barco, seconded and carried, staff was directed to go forward with its recommendation regarding uniform waterway markers.

Presentations by the Public

Dr. Frasier O. Bingham (Environmental Consultant) spoke regarding petitions to delist and uplist the Panama City crayfish. He asked the Commission to refrain from its efforts to uplist the species because 750 additional wetland locations for the Panama City crayfish have been found on St. Joe land since the initial petition was sent to the Commission, and the species is thriving in the canals and roadside ditches of Panama City. He believes statements made by Commission staff

regarding the Panama City crayfish are biased and prejudiced because no data exist to indicate that the species is in decline or will decline in the next ten years. He asked that the species be delisted. Dr. Bingham asked the Commission to not support the U.S. Fish and Wildlife Service in its efforts to institute in a program called "Candidate Conservation Agreements with Assurances" (CCAA) in Panama City, or sign a Memorandum of Understanding supporting the program, because the program infringes upon people's personal property rights.

Larry Hawks (Bay County Public Works) mentioned the need for Bay County to keep its ditches maintained to reduce flooding. He pointed out that even with periodic ditch maintenance over the past 90 years, the Panama City crayfish is thriving. Mr. Hawks asked the Commission to support the petition to delist the Panama City crayfish.

Robert Turpin (Escambia County Marine Resources Division) thanked FWC law enforcement officers for their presence and response during Hurricane Ivan and its aftermath. He asked the Commission to support a FEMA assessment of damage to artificial reefs off the coasts of Escambia, Okaloosa and Santa Rosa counties caused by the hurricane. Escambia County will make a formal request to Mr. Haddad for this assistance. Mr. Turpin thanked staff of the Division of Marine Fisheries Management for their assistance with artificial reef siting and management.

Commission Exchange

Commissioners Corbett and Kaupe commended staff for their excellent presentations on imperiled species and the commercial fishing net issue.

Commissioner Yablonski mentioned a recent episode of the television news show "20/20" that promoted Individual Fishing Quotas.

Chairman Huffman thanked staff for their work and the Florida State University film crew for covering the Commission meeting. He thanked the Commission for trying to do the right thing for the resource and users.

The Chairman recessed the meeting at 5:45 PM to reconvene on Friday, February 4, at 8:30 AM.

The Chairman reconvened the meeting on Friday, February 4, at 8:35 AM.

Commission Planning Session

Mr. Vic Heller presented a proposal for enhancing the productivity of the Commission and its meetings, which was developed in concert with Chairman Huffman.

Goals:

- Devote more Commission meeting time to being proactive and less to being reactive.

- Devote less Commission meeting time to issues that have minimal resource benefit.
- Use Commissioners' time more efficiently by adjusting Commission meeting agenda.
- Use Commissioners' time more efficiently by establishing a process for determining how issues make it to a Commission meeting agenda.

To reach these goals the Commission must focus on important issues, change Commission meeting agendas to make time for important issues, and make process improvements.

Proposal: Focus on Important Issues

- Annually identify Commissioners' areas of emphasis
- Determine how Commissioners' areas of emphasis will be addressed at future Commission meetings.

Proposal: Adjust Commission Meeting Agendas Using the Following Measures

- Eliminate informational reports
- Delegate more administrative matters to the Executive Director, e.g., adding or deleting acreages in WMAs, modifying Executive Orders such as road closures.
- Expand use of the Consent Agenda
- Strive to discuss and resolve rule-related issues in two meetings
- Attempt to group non-controversial final rules on an agenda, hear public comment and pass the rules with one motion.
- When there is no public comment on rules recommended for final adoption, vote on the rule with minimal Commission discussion.

Proposal: Process Improvement

- Develop process for determining how issues are placed on agenda
- Develop conflict resolution process for dealing with user conflicts
- Increase stakeholder coordination and issue resolution on rules prior to placing on a Commission meeting agenda.
- Do more proactive coordination with stakeholders that emphasizes influencing and management approaches as a preferred alternative to rule making.
- Improve the process for briefing Commissioners on agenda items
- Appoint Commissioners to be lead on issues requiring special attention

2005 Areas of Emphasis:

- Exotic species in Florida
- Individual Transferable Quotas
- Vision for the future of hunting, saltwater fishing and freshwater fishing
- Increased penalties
- Fees

Commission Discussion

The Commissioners mentioned they would like Informational Reports sent to them either via a power point presentation or printed materials.

Commissioner Meehan stated that Informational Reports are often enlightening and break up controversial issues on the agenda. He asked staff to select some for Commission meetings when time permits.

Commissioner Yablonski asked that staff forward to the Commission a history of any issue taken to public workshops, synopsis of stakeholders' meetings, and how staff attempted to address the public's issues or needs, particularly on issues where attendees feel disenfranchised.

Chairman Huffman stated that he has spoken with the Commissioner of Agriculture, Charles Bronson; and Secretary of the Department of Environmental Protection, Colleen Castille, regarding exotic species in Florida. He is aware that leaders in the U.S. Fish and Wildlife Service are concerned with the development of exotic flora and fauna in Florida also, and he is ready for the Commission to discuss the issue.

Commissioner Meehan commented that since 1999 this Commission has worked a disproportionate number of hours on issues that should have been worked out with stakeholders prior to being brought before the Commission. He asked that in the future, especially with user conflicts, that options for settling conflicts be prepared and forwarded to the Commission before such items are placed on a meeting agenda for Commission consideration. Mr. Meehan suggested formation of an Executive Committee of the Chairman and Executive Director, to discuss issues to be placed on the Commission agenda, and the use of Commission subcommittees to tackle the more time-consuming complex issues, with mediation when necessary. He asked the Chairman to remain flexible for 2005.

Commissioner Yablonski stated that the Commission should be a dynamic body open to thought-provoking conversations on new and innovative ideas from experts.

Chairman Huffman stated that it is his hope this proposed meeting process will minimize Commission involvement but ensure public are involved in the process.

Federal Appropriations Requests for Fiscal Year 2006

Mr. Haddad brought to the Commission's attention the following FWC federal appropriations requests:

Fish and Wildlife Research Institute:

- Necropsy Facility to Support/State/Federal Manatee Recovery Efforts (\$1.5 million for building construction).
- Florida Manatee Rescue and Necropsy Program (\$275,000)
- Recreational Boating Characterization (\$400,000 per year for five years)

Division of Law Enforcement:

- Vessel Replacement (\$3 million)
- Joint federal appropriations requests include.

Fish and Wildlife Research Institute:

- Cooperative Reef Fish Research and Monitoring—Gulf of Mexico Initiative (\$1 million per year for three years for eastern Gulf of Mexico pilot study).
- Southeast Aquatic Resources Partnership Funding Initiative (\$31 million total, \$2 million Florida share).

Division of Hunting and Game Management:

- Southeastern Cooperative Wildlife Disease Study (\$250,000 increase)

Division of Law Enforcement:

- Federal-State Partnership for Maritime Security (\$40 million coastal states, \$1 million Florida share).

Mr. Haddad advised that Commission legislative staff is currently looking at appropriate dates to go to Washington DC to speak with Florida's Congressional Delegation on financial issues, which are being coordinated with the Governor's office.

Commissioner Meehan commented that there should be two trips to Washington DC by staff and Commissioners annually.

Commissioner Yablonski asked if there are non-appropriation federal issues the Commission might wish to engage in discussions with the Florida's Congressional Delegation.

Mr. Haddad asked the Commission to notify him if there are particular issues they wish to be discussed with the Congressional Delegation.

Wildlife Foundation of Florida Update

Mr. Haddad brought the Commission up to date on activities for the future success of the Wildlife Foundation of Florida (WFF).

The WFF's five-year goals include:

- Bridging the gap between user groups and environmental groups on high-priority conservation-related issues.
- Creating a "friends" base in excess of 50,000 card-carrying donors
- Providing funding for critical habitat needs

- Building an innovative \$30 million endowment that creates a \$3 million funding stream within five years.
- Sustaining broad-ranging participation in the outdoors
- Funding priority research initiatives that provide a clearer understanding of habitat and species.

Current Fund-raising Efforts Include:

- Affinity card mailed to 700,000 Florida residents, with telephone bank follow-up.
- 30,000 targeted mailouts of Friends of the Foundation materials
- 500 Wealthy Donors Campaign through Board members and Merrill-Lynch (Endowment).
- Public Service Announcements and web-based Friends of the Foundation program launched via 50 radio stations.

Mr. Haddad mentioned that the WFF is seeking additional board members and asked for Commission assistance in this endeavor. He provided to each Commissioner a list of Board Member expectations.

Commission Discussion

Chairman Huffman commented that he supports using the WFF to bridge the gap between the various user groups and the Commission. He pointed out the need for the WFF to hire a permanent Executive Director, as soon as the funding base is sufficient for a full-time employee, and asked the Commissioners to be supportive of the Endowment Fund.

Commissioner Meehan stated that he would like to see Florida's foundation receive support from the federal government similar to that received by the National Fish and Wildlife Foundation.

Commissioner Yablonski suggested the WFF seek corporate sponsors to align with the WFF.

Commissioner Meehan suggested a WFF board member (regionally) be invited to attend Commission meetings, and Commissioner Yablonski suggested a board member attend the Commission's July Budget/Legislative meeting.

Commissioner Corbett suggested Board Member Daphne Wood be invited to attend the April Commission Meeting in Tallahassee. He said that he would work with Mrs. Wood to secure new members. He asked that the board look at national entities to support the Wildlife Foundation of Florida.

Mr. Haddad stated that he is confident in the team currently working with the WFF to move the organization forward.

Presentations by the Public

Barbara Jean Powell, commenting on the Commission meeting process, stated that the Everglades Coordinating Council (ECC) has always tried to work out issues with its constituents prior to bring them before the Commission, and that there is a goal to try to get a larger number of groups under one umbrella group. The ECC is willing to work with the Commission, Defenders of Wildlife, and other organizations for the control of exotic species in Florida. She said that if the Commission was going to reduce or eliminate informational reports, she would like to see them posted on the FWC website.

Commission Exchange

Chairman Huffman thanked Commission staff members, Tim Donovan, Louie Roberson, Stan Kirkland, Monia French, and Toni Brannon for their work to ensure a smooth-running Commission meeting. He asked staff to forward talking points to Commissioners on important issues, which are useful when discussing certain items with the public and reporters.

Commissioner Barco stated that the meeting was productive. She asked staff and other Commissioners to ensure that Commission meetings do not become so streamlined that public participation in the process is reduced.

Commissioner Meehan thanked the Chairman for a good meeting, and added that he hoped the Commission could look at increasing bobwhite quail hunting on public land.

Commissioner Yablonski thanked the Chairman and staff for a great meeting, and thanked Speaker of the House Allan Bense for visiting with the Commissioners the previous evening.

Commissioner Corbett stated that the Commission accomplished a full agenda of issues during the past three days, and he looks forward to initiating the new Commission meeting process.

Administrative Matters

The next Commission meeting will be held in Tallahassee on April 14 and 15, 2005, at the Ramada Inn and Conference Center, 2900 North Monroe Street.

There being no further business, the Chairman adjourned the meeting at 10:15 AM.

H.A. "Herky" Huffman
Chairman

Kenneth D. Haddad
Executive Director

Respectfully submitted:

Commission Secretary

/tm
Minutes/February 2005

Establishment Orders

(1) WMA 04-20, Tiger Bay WMA — The proposed order reestablishes the Tiger Bay WMA in Volusia County adding approximately 3883 acres, including approximately 347 acres to the Tiger Bay Rima Ridge Unit.

(2) WMA 04-21, Matanzas WMA — The proposed order establishes the Matanzas WMA in St. Johns County comprising approximately 4,688 acres.