

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

SPINY LOBSTER COMMITTEE

**Sea Palms Resort and Conference Center
St. Simons Island, GA**

March 7, 2011

SUMMARY MINUTES

Spiny Lobster Committee

Mark Robson, Chair
George Geiger
LTJG Matthew Lam

Dr. Roy Crabtree
Ben Hartig

Council Members

David Cupka
Robert Boyles
Mac Currin
Doug Haymans
Vince O'Shea
Tom Swatzel

Dr. Brian Chevront
Tom Burgess
Duane Harris
Dr. Wilson Laney
Charlie Phillips

Council Staff:

Bob Mahood
Mike Collins
Dr. Kari MacLauchlin
Kim Iverson

John Carmichael
Roger Pugliese
Andrea Grabman

Observers/Participants:

Dr. Bonnie Ponwith
Dr. Carolyn Belcher
Jessica McCawley

Monica Smit-Brunello
Bob Gill
Bill Kelly

Other Participants Attached

The Spiny Lobster Committee of the South Atlantic Fishery Management Council convened in the Sea Palms Resort and Conference Center, St. Simons Island, Georgia, March 7, 2011, and was called to order at 1:35 o'clock p.m. by Chairman Mark Robson.

MR. ROBSON: We'll go ahead and convene the Spiny Lobster Committee and call the meeting to order. The first order of business is to approve the agenda for today's meeting. Are there any additions or corrections to the agenda? Seeing none, we'll proceed with the agenda as posted. Our next order of business is to approve the minutes.

Are there any additions, correction or deletions to the minutes? Seeing none, the minutes are approved as posted. The next order of business is to go ahead and start working through Spiny Lobster Amendment 10. We have some information that Gregg Waugh will help walk us through that amendment and some of the information coming out of the Gulf Council actions.

MR. WAUGH: The Spiny Lobster Amendment was sent out. It was available in that notice that went out on Friday via e-mail where you could download it. We will also be using – I've got all the actions and we will be projecting them. I will be able to refer you to the PDF page number as we work through. We will be going through Section 4 of that document. Section 4 is on PDF Page 139 where we start with the first action.

DR. CRABTREE: Gregg, when was it sent out and by whom?

MR. WAUGH: Friday there was a notice that went out that you could download I think four or five additional documents. I'll make some remarks while you all are getting that document opened. It's Attachment 2, Draft Spiny Lobster Amendment 10 and DEIS. Let me talk a second about the DEIS aspect of it.

This document has been put together by the IPT. It's undergoing some review in preparation for the DEIS stage. The deadline for finalizing this document, if you choose to meet the congressional deadline, is for us to approve it at the June meeting. We've got scheduled a joint committee meeting with the Gulf Council. The two spiny lobster committees will be meeting, and that takes place on Tuesday, June 7th, from 8:30 to 11:00 a.m.

In between that time we have to do the DEIS review and public hearings. We're not at this stage – given the same people that are putting together this document are the same people that are putting together the other six of seven documents you have us working on concurrently, some of which are under a congressional deadline and some which are not, so we're not looking to add any alternatives or actions here. We're not looking to remove any. Even removing some throws off the pagination and the document parts have to be rewritten. The current timing is for the DEIS to be filed after our actions are incorporated. That's a 45-day comment period.

It takes a while to get filed and so we're going to be right up against the deadline for getting that DEIS period to end before our June meeting and to finalize this. There will be public comment taken at the June council meeting on Thursday afternoon and then there will be a joint council session on Friday where the two councils will be meeting together. That spiny lobster portion will take place 2:00 to 3:00 p.m. on June 10th.

The idea there is we would be finished spiny lobster at the conclusion of the Gulf Council's June meeting, so we won't be discussing spiny lobster at our June meeting. The purpose of reiterating that is that as we go through we would urge extreme caution in how you make any changes. If you add actions or delete actions, we probably won't meet that deadline. Are there any questions?

MR. ROBSON: Just to clarify; there is a full round of public hearings in April and then there will be some additional hearings around the June meeting?

MR. WAUGH: Yes, we are conducting public hearings. Ours will be joint mackerel and spiny lobster. The Gulf portion; they will be taking mackerel out separately. In the Keys we will be doing joint public hearings with the Gulf at Marathon and Key West for spiny lobster. Those public hearings are scheduled April 11 through the 20th. We have an AP meeting in Key West on the 20th.

So you're absolutely right, Mark; the idea here is to not make any changes before we take this document to public hearing and DEIS review, but at that June committee meeting you will be reviewing all the public hearing comments, all the DEIS comments, you will have the AP comments, and then you will be finalizing the document.

Okay, the first action is in Section 4 on PDF Page 139 and I've got that projected. This deals with the species in the fishery management unit. Both councils have preferred Alternative 4, which is to remove the following species from the joint Spiny Lobster FMP; the smoothtail spiny lobster, spotted spiny lobster and the two slipper lobsters. That is our current preferred so we don't have any action there at all.

Action 2 is to modify our definitions of MSY. Action 2; one, we have the no action; Alternative 2 is to modify the Gulf's; Alternative 3 is our current preferred, which equals the yield produced by fishing mortality at the maximum sustainable yield or the proxy. The MSY will be defined by the most recent SEDAR.

The recent SEDAR review of the spiny lobster assessment points out that for us to get any biomass-based parameters, it needs to be a Caribbean-wide stock assessment, so we don't see SEDAR being able to provide this input certainly anytime in the near future. The Gulf came up with an MSY proxy that would be the OFL recommended by the Gulf of Mexico SSC, and that is 7.9 million pounds. What we should do is change our preferred to track the Gulf preferred. And just to remind you, the Gulf control rule was included – the genesis of it was included in the overview that was sent out.

MR. ROBSON: All right, this would be a change that we need to make to the existing document if we want to change the preferred. Roy.

DR. CRABTREE: I move that we make Alternative 4 our preferred alternative.

MR. ROBSON: Is there a second?

MR. HARTIG: Second.

MR. ROBSON: Second by Ben. Any discussion of the motion? Any objection? The motion passes.

MR. WAUGH: The next item is Action 2-2 dealing with the overfishing threshold, and this is similar in that our current definition was tied to the SEDAR process. There was an alternative in there, Alternative 4, until an OFL is provided by the SSC use the ACL as a measure of overfishing. The Gulf is recommending that Alternative 4 be deleted. They have chosen a new preferred that the overfishing threshold is the OFL defined by the Gulf of Mexico SSC, and that is 7.9 million pounds. We would be looking to delete the old Alternative 4 and make the new Alternative 4 our preferred.

MR. ROBSON: The Chair would entertain a motion to that effect, essentially making a new South Atlantic preferred alternative to define the OFL as defined – or have the overfishing threshold as the OFL defined by the Gulf of Mexico SSC. We need a motion to that effect.

MR. HARTIG: So moved.

MR. ROBSON: Motion by Ben Hartig; second by Roy. Is there any discussion? The motion is to remove the old Alternative 4 in the previous document for the South Atlantic Council Spiny Lobster Amendment and make the new Alternative 4 our preferred alternative. That alternative would be the overfishing threshold is the OFL defined by the Gulf of Mexico SSC. Any discussion? Any objection? That motion carries.

MR. WAUGH: Okay, the overfishing threshold is next and it's the same situation where our preferred was tied to the SEDAR process. The Gulf Council's new preferred is the formula that we've used in the past where the minimum stock size threshold is one minus M times the biomass at MSY.

MR. ROBSON: So we have a motion to adopt the Gulf preferred alternative as our preferred?

DR. CRABTREE: So moved.

MR. ROBSON: Motion by Roy; second by Ben Hartig. Is there any discussion? Any objection to the motion? The motion carries.

MR. WAUGH: Okay, next is Action 3 and this is on Page PDF 152. Our current preferred was Alternative 6, to allocate the spiny lobster 76 percent commercial and 24 percent recreational. When you apply the Gulf control rule, the catch levels are above current catches, and so there is not an expectation that any of these levels will be triggered. What has been done, the Gulf's new preferred is no action, do not establish sector allocations.

We have issues with tracking the recreational catches; no data system in place to track that. The data stream for the commercial is right now not set up to generate to track the landings. There is

not an issue now where the total ACL will be triggered; and so to simplify it and let the fishery continue to be managed the way it has been, the Gulf changed their preferred to not establish sector allocations.

MR. ROBSON: The Chair would entertain a motion if there is a desire to change our preferred to match the Gulf preferred alternative.

MR. HARTIG: Well, I'll make motion and I'd like to have some discussion. I'll move the Gulf Preferred Alternative 1; no action; do not establish sector allocations.

MR. ROBSON: Okay, we have a motion to adopt the no action alternative for setting sector allocations; is there a second to the motion? Second by Roy Crabtree. Ben.

MR. HARTIG: This gives me a little bit of heartburn. Although the way the state does – this isn't like a typical MRFSS way that the recreational fishery is calculated so I guess it's not quite as bad although it's still certainly not an exact science to monitor recreational fishery. I don't know; I'm willing to give this a shot and see how we proceed with it; and then if we run into problems, we'll have to deal with it.

MR. ROBSON: Okay, any other discussion on the motion? **Any objection to the motion? The motion passes.**

MR. WAUGH: The next item is Action 4. This deals with the ABC control rule, ABC levels, ACLs and ACTs and it begins on PDF Page 158. In terms of the ABC control rule, right now we do not have a preferred. We added these three alternatives, 4, 5 and 6, to get some additional alternatives.

In the interim the Gulf SSC completed the review of the spiny lobster assessment, which our SSC will have the opportunity to do in April, and they applied their control rule and the Gulf Council has accepted that control rule. This is a joint FMP, so we're hopeful that our SSC that includes a member from the Gulf SSC will end up at the same place on spiny lobster.

Their review will take place prior to the public hearings and prior to our AP so we'll have the opportunity to present at public hearings what their determinations are. The Gulf adopted Alternative 2B, which is the SSC control rule recommended by the Gulf's SSC, so that is now the Gulf Council's ABC control rule.

DR. CRABTREE: I move we adopt Alternative 2B as the preferred.

MR. ROBSON: A motion to adopt 2B; is there a second? Second by Ben Hartig. Any discussion of the motion? Any objection? The motion passes.

MR. WAUGH: Next, on the same page, are the ACLs, and our preferred and the Gulf's are the same except that ours was based on having the sector allocations; so when you removed the sector allocation, then our ACL recommendations are the same. They equal the OY and equal the ABC so the Gulf's current preferred is Alternative 2A.

DR. CRABTREE: I move we adopt Alternative 2A as the preferred.

MR. ROBSON: Second by Ben. Any discussion of the motion? Any objection? That motion passes.

MR. WAUGH: ACT is next and this is at the bottom of PDF Page 158. In looking at the catch history – and this was shown in the overview – this is Table 1 on Page 2 of the overview. The Gulf SSC filled in the missing year for the recreational landings in 2004 and 2005.

When you look at the overfishing levels that were recommended and the ABC that was recommended, you see that the trigger is not going to be met, and so what the Gulf did was set – their preferred for the ACT is 6 million pounds.

You can see when you compare that to the landings back in time, it hasn't been hit the last three years. It was reached in 2006/2007 and some of the earlier years, but the feeling is there have been significant changes in that fishery and perhaps it won't be triggered. As you'll see when we get to the accountability measures, the trigger, should this be met, is to review the situation and see what needs to be done. So at some time in the future if that level is met, then we will review the information and determine if we need to take action. The ACT is Alternative 2C, which is 6 million pounds.

MR. HARTIG: Do we have any preliminary information about the landings for this year? I've heard from every fisherman I've talked to in the Keys about lobster landings, and they're up significantly over previous years.

MR. ROBSON: I don't have landings' information and I don't know, Bill Kelly, if you have any information from the previous year. Ben, you're asking about the year we're in right now.

MR. KELLY: Bill Kelly, Florida Keys Commercial Fishermen. At this time it looks like we will catch over 5 million pounds. We're on track probably for about 5.2 or 5.3, and that's the commercial numbers.

MR. ROBSON: Ben, did that answer your question? Thank you, Bill. Roy.

DR. CRABTREE: Yes, and part of the rationale for the ACT was that according to the guidelines fisheries without in-season management controls should utilize ACTs that are set below the ACL. What the Gulf Council decided was not to do in-season closures in this fishery, commercial or recreational, so that was the rationale for putting the ACT in place was to comply with the guidelines to avoid that.

MR. ROBSON: And just to clarify what that would actually trigger, Gregg alluded to basically if the ACT is exceeded it doesn't trigger an actual accountability measure. It triggers a review of the fishery and what actions may need to be taken, if any, and I presume that would be done by the council.

MR. WAUGH: Yes, but it would be done as we do other things in conjunction with the state as well.

DR. CRABTREE: I move we adopt Alternative 2C as the preferred.

MR. ROBSON: We have a motion by Roy; second by Ben to adopt 2C as the preferred alternative. Is there any discussion? Any objection? That motion carries.

MR. WAUGH: The next action is accountability measures. This begins on PDF Page 166. Again, our preferred was based on setting up allocations and setting up a commercial ACL and a recreational ACL. Now that that has changed, the Gulf's preferred alternative is to establish the ACT as the accountability measures for Caribbean Spiny Lobster. Again, should landings exceed that level, the accountability would be to look at it and determine if additional action is warranted.

MR. HARTIG: I move the Gulf preferred Alternative 4.

MR. ROBSON: We have a motion; second by Roy. Any discussion? Any objection? The motion passes.

MR. WAUGH: Action 6 is next dealing with the framework and both councils are in agreement here so there is no action necessary. Action 7 deals with using shorts as attractants. The current South Atlantic preferred is Alternative 3B, to reduce the number of undersized lobsters that could be used as attractants to 35.

The Gulf's preferred is Alternative 4 that tracks state regulations to allow undersized spiny lobster not exceeding 50 per boat and one per trap aboard each boat if used exclusively for luring, decoying or otherwise attracting non-captive spiny lobsters into the trap.

There are additional requirements on live wells and so forth. In part, the issue of shorts may not be as big of an issue given the recent stock assessment that shows that the lobsters in our area don't contribute reproductively to any other population, so there is less of a biological cost, if you will, associated with this practice.

MR. ROBSON: Is there a motion to change the preferred alternative for the number of shorts on board to the Gulf preferred? Ben.

MR. HARTIG: I move the Gulf Preferred Alternative 4.

MR. ROBSON: There is a motion to move Alternative 4 as the Gulf preferred; second by Roy.

DR. CRABTREE: There was actually quite a bit of discussion on this one at the Gulf Council meeting. There had been quite a bit of discussion about whether shorts are bycatch or not. NOAA Office of General Counsel weighed on that and argued that shorts were bycatch under the Magnuson Act. So then there was discussion about the use of live wells and all the things that

have been done to reduce short mortality, and I think there was general agreement that we had done as much as we could to reduce short mortality.

There was also discussion about what would happen in the fishery if shorts were not used or were greatly reduced. A lot of that centered around the fact that traps with undersized lobster as attractants have catch rates that are arguably somewhere between two or two and a half times those without the attractants.

The general thought was that in order to catch the available lobster the traps would simply be in the water much longer if shorts weren't use or if short use was curtailed and that would mean trap effort would go up in order to catch the lobster; and what would happen if trap effort went up was that bycatch of other things – and they do catch other fish, Goliath grouper and an assortment of things – is that bycatch would actually go up. There is kind of a tradeoff here where different policies have different affects on the amount of bycatch in the fishery, and the Gulf Council ultimately came down on this as the preferred.

MR. ROBSON: I would only add the Alternative 4 that's in the draft document is consistent with what the current state regulations are regarding the number of shorts on board a vessel. Is there any discussion on the motion? **Any objection? The motion passes.**

MR. WAUGH: The next action is Action 8, modifying the tailing permit requirements. This begins on PDF Page 186. Both councils are in agreement on both preferreds so there is no action necessary there. Action 9 is next on PDF Page 192, and both councils are in agreement here. Alternative 3A creates 25 large closed areas to protect threatened acropora corals.

Action 10 requiring gear markings, this begins on PDF Page 202. We do not have preferred here. The current Gulf preferred is to require all spiny lobster trap lines in the EEZ off Florida to be a specified color – and that would be determined after the public hearings and before the document is finalized – or have a specified color marking along its entire length. All gear must comply with marking requirements no later than August 2014. This is to comply with ESA, the biological opinion that was written, and to allow – if there any entanglement issues to allow gear to be identified to the fishery.

DR. CRABTREE: Part of the discussion had to do with concerns about the cost of replacing all this rope, and I guess there is a lot of rope involved. When the biological opinion was originally written, it was structured in a way to allow I think it was four to five years to phase in the color requirement, because that's roughly the average lifespan of the rope. The idea was the fishery would phase it in as they had to replace the rope and the cost would be minimal, but because of the timelines of all of this that hasn't worked out very well.

I've asked my staff in Protected Resources to look into the possibility of amending that condition to provide additional time for us to phase the rope requirement and they're working on that. My hope is that we could put in there something to the effect that the requirement would go into place four to five years after the adoption of this amendment.

I don't have a solution for you, but hopefully when we come back in the June meeting and hear comments about the color requirement, we can put in a – I guess, Monica, maybe a delayed effective date to be consistent with the biological opinion which would allow the industry to phase it in over time. The other thing, Mark, is one of the concerns is that we need to work closely with you folks; because if we're going to make this change, it would be good if we could have the same color required in federal and state waters.

The goal is to be able to tell in case of an entanglement did it come from spiny lobster or not; and obviously if we don't have consistency in terms of the requirement, it's not going to going to be fully successful. Hopefully by the next meeting we'll have this resolved, but that is what we're working on now is to get some more time to phase this in.

MR. ROBSON: All right, thank you, Roy. We don't have a preferred right; is there a motion to select that preferred Alternative 2, which is the Gulf preferred? Seeing no motion to select a preferred at this time – George.

MR. GEIGER: At the last meeting we discussed that this is a public hearing document and we wanted to hear from the public and we would make our decision based on public input.

MR. WAUGH: To me the impression it leaves is you're not sure you're going to require a color, and I think it would be clearer for the public if both councils indicated that they are serious about requiring a color. Of course, if you're not and you're really considering not requiring it, then I think it would be appropriate to not have a preferred.

MR. GEIGER: I make a motion that we select Alternative 2 as our preferred alternative.

MR. HARTIG: Second.

MR. ROBSON: Motion and second to select Alternative 2 as the preferred. Any discussion on the motion? Any objection? That motion carries.

MR. WAUGH: The final action is 11 and this begins on PDF Page 204, and both councils are in agreement to delegate authority to regulate the removal of derelict or abandoned spiny lobster traps occurring in the EEZ off Florida to the Florida Fish and Wildlife Commission. Next we get into approving for public hearing.

We've already approved it for public hearing but we've revised the document extensively and we should approve the Spiny Lobster Amendment 10 and the DEIS for public hearings and DEIS review and give staff editorial license to complete the document because there is still some more to be done.

MR. GEIGER: So moved. The motion is to approve the Spiny Lobster Amendment 10 for public hearing and DEIS review and give staff editorial license to complete the document.

MR. ROBSON: Second by Ben Hartig. Any discussion? Any objection? The motion carries.

MR. WAUGH: And this is just to reiterate the hearing schedule, and again this is in your overview. We start April 11th in New Bern – and we're doing Spiny Lobster Amendment 10 and Coastal Migratory Pelagics Amendment 18 at the same series – one Charleston on the 12th and the 13th in the Savannah/Pooler area; Jacksonville on the 14th; Cape Canaveral on the 18th; the 19th in Marathon; and then the 20th in Key West. Marathon and Key West will be joint. We'll be publicizing the specific locations in the next couple of days. As I mentioned earlier, we will have an AP meeting in Key West on April 20th.

MR. ROBSON: Thank you, Gregg. Is there any other business to be brought before the Lobster Committee? We do have a timing and task motion that we need to adopt.

MR. WAUGH: And these are the items: Item 1 is to make the necessary revisions to Spiny Lobster Amendment 10/DEIS and provide the revised the document to the Gulf Council for use at their April 11-14, 2011, meeting; two, prepare the necessary documents for public hearings and coordinate with Gulf Council for Marathon and Key West; three, prepare the necessary documents for the Spiny Lobster Advisory Panel Meeting Wednesday, April 20th, in Key West, Florida; four, ensure the South Atlantic Council's SSC reviews the SEDAR Update Assessment and SSC's Subcommittee Report and provides guidance to the council prior to the public hearings which begin on April 11, 2011; five, coordinate with the Gulf Council to conduct the joint Spiny Lobster Committee and joint council meeting during the Gulf Council's June 6-9, 2011, meeting in Key West.

The joint committee meets June 7th from 8:30 to 11:30 a.m.; public comment will be taken June 9th in the afternoon and joint council session June 10th from 2:00 to 3:00 p.m. Six, target final approval of Spiny Lobster Amendment 10/DEIS for the joint council session on June 10, 2011, in Key West. Spiny Lobster Amendment 10/DEIS will not be discussed during the South Atlantic Council's June 13-17 meeting in Key West.

MR. GEIGER: And I so move, Mr. Chairman.

MR. ROBSON: Second by Ben. Any discussion? Any objection? The timing and task motion is approved. Thank you, Gregg. This isn't really other business and I don't think any committee action is needed. I just wanted to let folks know we did not have a vice-chair for the Spiny Lobster Committee, and I have asked Ben Hartig if he would be willing to serve in that capacity. With the council chairman's approval, I would like to go ahead and recommend that for a future meeting. If there is no other business for the committee, we stand adjourned.

(Whereupon, the meeting was adjourned at 2:15 o'clock p.m., March 7, 2011.)

Spiny Lobster Committee
St. Simons Island, GA
March 7, 2011

Certified By: _____ Date: _____

Transcribed By:
Graham Transcriptions, Inc.
April 2011

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2010 - 2011 Council Membership

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PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

SPINY LOBSTER COMMITTEE MEETING

March 7, 2011

St. Simons Island, GA

NAME &
ORGANIZATION

AREA CODE &
PHONE NUMBER

P.O. BOX/STREET
CITY, STATE & ZIP

Wolcher GADNR

Fishy Mfg Co. ASF

Sara Bennett DEN

Bre-Kenn KENNA

Mickey Whittaker

Bob Flores

386-290-8443

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305-619-0039

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