

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

PROTECTED RESOURCES COMMITTEE

**Marina Inn at Grande Dunes
Myrtle Beach, SC**

September 15, 2016

SUMMARY MINUTES

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Robert Beal

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Leann Bosarge
Dr. Marcel Reichert

Rick DeVictor
Dr. Jack McGovern
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Dewey Hemilright
Monica Smit-Brunello

Other observers attached

The Protected Resources Committee of the South Atlantic Fishery Management Council convened at the Mariana Inn at Grande Dunes, Myrtle Beach, South Carolina, Thursday afternoon, September 15, 2016, and was called to order by Chairman Wilson Laney.

DR. LANEY: We will go ahead and get started with the Protected Resources Committee meeting. I will just remind everyone who the members are. Ms. McCawley is our Vice Chair and Mr. Brown, Mr. Bowen, Mr. Griner, Dr. Duval, Lieutenant Hockenberry, and Executive Director Beal. Those are our members.

Our first order of business is to Approve the Agenda. Does anyone have any additions to the agenda? Seeing none, is there any opposition to the agenda? Hearing none, the agenda is approved. The next item is to Approve the June 2016 Committee Minutes. Are there any modifications to the minutes? Seeing none, the minutes stand approved as written. We will move to Agenda Item 1, which is the Update on Protected Resources, and I believe Jenny Lee is on the phone for us.

MS. LEE: Hello, everyone. I will just review some of our protected resources actions ongoing or recently completed. The first item is the Caribbean or Lesser Electric Ray Listing Petition, which we found not warranted. On July 22, 2016, NMFS published a twelve-month not warranted finding, in response to an ESA listing petition that was submitted by WildEarth Guardians and Defenders of Wildlife.

For those of you not familiar with the species, I'm providing a little information here. The lesser electric ray is a small, shallow-water ray species found in the Western Atlantic from North Carolina, through the Gulf of Mexico, the Caribbean, the Lesser and Greater Antilles, and the north coast of South America. The species is characterized by a dorsal surface with small, dark, incomplete circles, generally found on sandy bottoms associated with barrier beach surf zones and adjacent passes. The lesser electric ray has ability to emits shocks, typically between fourteen to thirty-seven volts, as a way to stun its prey and for defense.

We completed a comprehensive status review of the species and considered the best scientific and commercial data available. We found that the petition's claims that the populations had declined by up to 98 percent in the Northern Gulf of Mexico since 1972 proved to be based on a misinterpretation of the data rather than the actual status of the species. Based on a complete analysis of all available time-series data, there is no evidence of a decline in the population of the lesser electric ray and no evidence that any of the ESA Section 4(a)(1) factors have contributed to endangerment of the species. If you are just curious about the species, the final status review is posted on our website.

I am going to skip Nassau grouper, because you have that as a separate agenda item, and I will move down to Sea Turtle Conservation and Recovery Actions in Relation to the Southeastern United States Shrimp Fishery. You may recall on March 15, 2016, that NMFS published a Notice of Intent in the Federal Register for preparation of a DEIS to reduce incidental bycatch and mortality of sea turtles in the Southeastern U.S. shrimp fisheries. The associated scoping document and FAQs are posted on our SERO Protected Resources webpage. We held five public scoping meetings back on April 13 through 21, and the comment period closed on April 29, 2016. I think maybe we talked briefly about this last time.

The Draft EIS will evaluate a range of reasonable alternatives, in light of concerns regarding the effectiveness of the existing TEDs. Potential new TED requirements could apply to vessels fishing in state and federal waters. The Draft DEIS and proposed rule -- The briefing book says that should be completed sometime in mid-December 2016. We have reached an agreement in place that the litigation ongoing is on hold, and that is on hold while we work on a potential revised TED rule, and the agreement stipulates that the proposed rule will be completed by December 15. That's all we have there.

You have the Snapper Grouper Bi-Op as a separate action item as well. There's not much to say, but I will skip that for now. I will talk briefly, just to let you know, that we do have a lot of consultations that we are either reinitiating or recently have reinitiated on, reinitiation of Section 7 consultation on several South Atlantic and joint FMPs. You can see Coastal Pelagics, Dolphin Wahoo, Spiny Lobster. That is needed to address newly listed species. We have our green sea turtle North Atlantic and South Atlantic DPSs, and both of those DPSs are in our region. That means we have to look at our analyses separate and as well as our take.

We have Nassau grouper now listed, and so, with the snapper grouper biological opinion nearing completion, we are currently prioritizing completion of these other consultations. We're looking at FMP actions scheduled and other factors, and we will work through a schedule to get through all those consultations. At your next meeting, I will have a better idea of the order in which we'll be working through those.

I guess I will just move on to Marine Mammal Protection Act Actions, which is just one that we have here, which is the Proposed Rule for MMPA List of Fisheries for 2017. That published on August 15. That's the proposed list of fisheries. Just a little background, the MMPA requires that NMFS evaluate U.S. fisheries annually and classify each as Category I, Category II, or Category III, based on the extent of mortality or serious injury of marine mammals caused by each fishery.

Category I and II fisheries are required to register with NMFS to lawfully incidentally take marine mammals, and that registration is automatic, carry observers if requested by NMFS, and may be subject to a take reduction plan. Related to our region, NMFS is proposing to add the Florida Keys stock of bottlenose dolphin to the list of stocks incidentally killed or injured in the Category III Florida spiny lobster trap/pot fishery, based on the location and gear description in a 2013 stranding report, but there are no proposed reclassifications for South Atlantic region fisheries. Again, that's just adding a stock and not changing the actual category. Comments on the proposed rule must be received by September 14, 2016, and those are all the updates I have for you.

DR. LANEY: Thank you, Jenny. Do we have any questions for Jenny on any of the updates that she provided? I see none. Jenny, I did have a couple of questions on the Alabama shad status review, which we can defer. You and I can talk about that offline, although I wondered if Leann might not have some interest in hearing where that one is, and so, if you can say that in a sentence or two, that would be great. Then I did want to hear what the schedule is for responding to all of the Atlantic sturgeon critical habitat comments and when you all anticipate that a final rule might come out on that one.

MS. LEE: Okay. I have a sentence for Alabama shad, which is, per a settlement agreement and extension with the Center for Biological Diversity, our twelve-month finding must be filed at the

Federal Register by mid-January of 2017, and so that gives you an idea of when to keep an eye out for that.

Then, as far as Atlantic sturgeon critical habitat, we are considering all the comments that came in and their merits, and we will respond to significant comments in the final rule, which we anticipate will be out in late May or early June, around that timeframe.

DR. LANEY: Okay. Thank you very much. Anybody else have any questions on either of those? Hearing none, we will move on to Agenda Item 2, which is the Snapper Grouper Fishery Biological Opinion.

MS. LEE: On February 11, SERO Sustainable Fisheries Division requested reinitiation of Section 7 consultation for that fishery. We do have a draft biological opinion that is in review, and we do expect to finalize that opinion over the next two to three weeks, I would say is a reasonable approximate timeframe. That is really, at this point, I think all I can really share with you on that. I don't have any major surprises or particular problems to present to you that relate to it.

DR. LANEY: Thank you, Jenny. Does anyone have any questions on the snapper grouper fishery biological opinion? I see none, and so we will move on to Agenda Item 3, which is the Nassau Grouper Twelve-Month Determination.

MS. LEE: Okay. For this, I do have a written summary in the briefing document that I provided. Since you have it as a separate action item, I will provide you a little additional information. Starting off, on June 29, 2016, NMFS published a Final Rule in the Federal Register listing Nassau grouper as a threatened species under the ESA. That was effective July 29, 2016, listed due to a decline in its population.

I can give you a little more information as far as why we listed it. It was due to the life history characteristics, increased vulnerability to harvest, and population decline, in particular, the fact that it forms spawning aggregations, and its slow-growing and late-maturing life history. There were large declines in the population due to direct harvest. Large declines were evident in the declines in the size and number of spawning aggregations, and we found limited effectiveness of regulations in recovering the population, notably lack of law enforcement in many foreign nations, but I do want to recognize there that foreign nations. We are not referring to the U.S.

We listed it as threatened and not endangered, and so an endangered species is currently at risk of extinction. A threatened species is not in immediate danger of becoming extinct, but it is at risk of becoming endangered over the foreseeable future. Endangered species are afforded higher protections under the Endangered Species Act, including prohibitions on import, export, and take.

After reviewing the best scientific commercial data available, we determined that the Nassau grouper met the definition of a threatened species, because of the dramatic declines in the population, but that it still occupied its historic range and the abundance is stable or increasing in areas with effective regulations.

In terms of impacts, the rule will not result in any changes to Nassau grouper regulations for U.S. fishermen. Harvest and possession of Nassau grouper is and will remain prohibited in the United States, Puerto Rico, and the U.S. Virgin Islands, in both federal and state waters, but, as I

mentioned earlier, we will need to evaluate our federal fishery management plans through the ESA Section 7 process.

Nassau grouper is still targeted in commercial fisheries of some Caribbean countries, some of which may still export Nassau grouper to the U.S. Listing of Nassau grouper as threatened will not immediately impact trade. If we develop an ESA 4(d) rule to adopt conservation measures for Nassau grouper, it could affect imports from foreign nations. If you're not familiar with a 4(d) rule, a 4(d) rule provides regulations necessary for the conservation of any threatened species, and so it may be used to extend any or all of the protections that are automatic for endangered species to a threatened species.

In terms of next steps, as I mentioned, we are looking at our fishery management plans to assess the potential for Nassau grouper bycatch. We are considering whether and where critical habitat should be designated, and that's specific to U.S. waters, and then we will be considering whether a 4(d) rule is needed to increase conservation of Nassau grouper. I think that gives you a brief overview. Does anyone have any specific questions?

DR. LANEY: Thank you, Jenny. Does anyone have any questions for Jenny with regard to Nassau grouper?

MR. HARTIG: It's not a question, but I'm just looking forward to their review of the FMPs and what comes out of that.

DR. LANEY: Thank you, Ben. Any other questions or comments? All right. Hearing none, we will move to Agenda Item 4a, which is the Atlantic Sturgeon Stock Assessment Update from Executive Director Bob Beal.

MR. BEAL: Thank you, Dr. Laney. I will be relatively brief. The bottom line is that the sturgeon stock assessment is on track for completion in the summer of 2017, and so a little less than a year from now. The tech folks have pulled together the datasets from states and the federal government and from academic sources, and they've got a pretty comprehensive dataset. I think they have been able to put their hands on all the data that they know that exist. They have gone through some hurdles, and some folks were reluctant to provide the data, but they've been able to get it, and so the data collection is essentially done. Now they're modeling. They developed a custom-built acoustic tagging model for use in this assessment. It's so new that it doesn't even have a catching acronym yet, and so we'll keep working on that part of it.

The assessment is going to take place at essentially three levels. One will be coast-wide, the next will be the five distinct population segments, and then, if there is any river systems that have enough data, we're going to try to conduct some assessment work on those individual river systems as well, and, given that the assessment is not going to be done until about a year from now, the tech folks have agreed to move up the terminal year to 2015. Initially, it was 2014, and so we'll roll in one more year's worth of data, and so I think that will be good news, and it will be more current.

The next step in the process really is the modelers and the stock assessment subcommittee will go home for a few months and continue working on those models at those three levels that I mentioned earlier, and they're going to get back together in early February of 2017 to compare notes and see

where they are with all the models, and hopefully, at that meeting, finalize all the modeling work and come up with stock conditions and try to project stock status up and down the coast at those three levels. That is the update. The good news is everything is still on track. The bad news is it's just a cumbersome project that takes a lot of time to do, and it's going along as quick as it can, and so I don't think it's bad news. It's just realistic news. That's all I have, Dr. Laney, and I am happy to answer any questions.

DR. LANEY: Thank you, Bob. Any questions for Bob with regard to the Atlantic sturgeon stock assessment progress?

DR. DUVAL: Not so much a question -- Well, maybe it is a question, but the scheduling for the stock assessment, how would that play into any consideration of the listing status of sturgeon? I know that the river herring assessment that's going to be coming up is kind of -- The scheduling of that is sort of part and parcel of the status review, and so I'm wondering how this plays into that status.

MR. BEAL: Michelle, my understanding is that once the listing occurred that there is the five-year review that has to take place, and that five-year review, a lot of it will be based on this assessment that comes out of the ASMFC process, and so I think the timing works out, hopefully, just right and we can get this assessment rolled into that review that the federal government will conduct, and so the outcome of that obviously is unknown, since the outcome of the assessment is unknown, but hopefully there is a comprehensive look at the population or populations to fuel that review in 2017.

DR. LANEY: Any other questions for Bob? Okay. Seeing none, we will go to Item 4b, which is an Update from the Fish and Wildlife Service on the Red Knot Critical Habitat, and here is my update. September 2017 is our target for publishing a proposed critical habitat designation for the red knot. We hope that will be done sooner.

We have received two Notice of Intents, and the target date may be revised if the potential litigates follow through, based on subsequent negotiations, and so the bottom line is it's still in progress. I believe that completes our agenda, except if there is any other business. Is there any other business from anyone? Seeing none, I yield the vast majority of our time, and deserve credit for that in some way, I'm sure, back to the Chair.

(Whereupon, the meeting adjourned on September 15, 2016.)

Certified By: _____ Date: _____

Transcribed By:
Amanda Thomas
October 2016

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9/15/2016 8:03:19	Rusty Hudson	DSF2009@aol.com	on file	Fisheries Consultant
9/15/2016 8:03:57	Lora Clarke	lclarke@pewtrusts.org	on file	Non-Governmental Organization
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9/15/2016 10:02:32	Russell Dunn	Russell.Dunn@noaa.gov	on file	NOAA Fisheries
9/15/2016 10:29:07	david westfall		3904 A Flagg St Murrells Inlet SC 29576	Commercial Fisherman
9/15/2016 17:05:42	Leda Dunmire		on file	Non-Governmental Organization
9/15/2016 17:05:59	Dick Brame		on file	Non-Governmental Organization
9/15/2016 17:06:13	Allison Johnson		on file	Non-Governmental Organization
9/15/2016 17:06:33	Rusty Hudson		on file	Commercial Fisherman, DSF
9/15/2016 17:06:53	Bill Gorham		on file	Charter/Headboat/For-hire
9/15/2016 17:08:09	Trip		on file	Non-Governmental Organization
9/15/2016 17:08:27	Dean Foster		on file	Non-Governmental Organization