

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

PROTECTED RESOURCES COMMITTEE

Savannah Hilton DeSoto

Savannah, Georgia

March 4, 2014

SUMMARY MINUTES

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Dr. Jack McGovern

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Tracy Dunn

Karen Antrim Raine

Additional Observers Attached

The Protected Resources Committee of the South Atlantic Fishery Management Council convened in the Madison Ballroom of the Savannah Hilton DeSoto, March 4, 2014, and was called to order at 9:55 o'clock a.m. by Chairman David Cupka.

MR. CUPKA: I'd like to go ahead and convene the Protected Resources Committee Meeting. The first order of business is approval of the agenda. Are there any changes to the agenda? Seeing none; then our agenda is approved. Next is the approval of our December 2013 Committee Meeting Minutes. Are there any changes or corrections to the minutes? Seeing none; then our minutes are approved. That brings us down to our next agenda item, which is an update on ongoing consultations, and I believe Andy is standing by on the line to provide that.

MR. HERNDON: Good morning, everyone. I'm going to give you guys a quick update on our two consultations that are outstanding right now. The first one is the Shrimp Biological Opinion. We've made some great progress on that. It is actually in our round of internal review right now; and we're shooting for completion with that at the end of March. We'll let you guys know once that is finished and ready for public consumption.

The other one is also one I mentioned the last time we spoke, which is the Coastal Migratory Pelagics. We've basically collected most the data we need to do the analysis, which is really the bulk of the Biological Opinion itself. We going to start in on that analysis soon. We anticipate there will probably some kind of extraneous data requests out there to get little bits and pieces to actually finish it all off. We hope to start that analysis soon and hopefully we will have that also ready for you guys sooner rather than later. Unless anybody has any questions, that concludes my report.

MR. CUPKA: Thank you, Andy, we appreciate those updates and we look forward to seeing those documents when they're ready. Are there any questions for Andy on the consultations? I don't see any, Andy, so again thank you for your update; and we will look forward to getting those when they're available. Our next agenda item is a report on the Endangered Species Act Working Group; and I think, Kari, you're going to update us on that.

DR. MacLAUHLIN: This was just finalized in December. I put together a PowerPoint so we can see it a little better; but it is just basically taking a really short recap of what is in the report, which is your Attachment 1. Just to let everybody know what is going on, this is Attachment 1 and it goes into more details about the ESA Working Group.

We talked about this a little bit before just to give you guys an update on what is going on. It was a joint working group. It was made up of four council members from the CCC and then four MAFAC members and three NFMS. They were put together to make recommendations to increase transparency and improve the confidence in the ESA consultations on fishery management plans. It was just finalized in December. In that Attachment 1, the official name is "Recommendations for ESA Section 7 Consultations on MSA Fishery Management Actions". There were two priority areas of work that the working group identified. One was to improve collaboration and communication among the councils and the Regional Office's Sustainable Fisheries and Protected Resources staff regarding FMPs, with an emphasis on early informal

collaboration; and then also improve the transparency of data and the scientific basis for the biological opinion.

This is a lot of text, but the working group recommending that NMFS recognize that the councils have a unique relationship with NMFS as a result of the authorities and responsibilities under the MSA; and then all the range of authorities under Section 7 of the Endangered Species Act, NEPA and the other laws.

The authorities under all the laws provide the opportunities for the councils to be involved by advising the action agency throughout the ESA Section 7 Consultation Process; to help prepare biological assessments or evaluations or other Section 7 Consultation Documents; or assist with preparation or review.

Then councils, during a formal ESA Section Consultation, review and comment upon a Draft Biological Opinion. The recommendations from the working group; they recommended that NMFS issue a memo to the councils and the regional administrators providing guidance for councils seeking involvement in the Section 7 Consultations.

It should outline a process by which the councils may request involvement either on an action-specific basis or just through an overarching agreement. It is what we have right now where we have Protected Resources staff give us updates at the Protected Resource Committee Meetings about any ongoing consultations.

In Attachment 1 there is a draft memo for how a council and Regional Office Sustainable Fisheries Division could work out a process for them to integrate their ESA and MSA processes. The working group kind of outlined some general guidelines for however this agreement between the regional office and councils could be set up.

This would be flexible and allow for NMFS and the council to decide the involvement that would be appropriate by the council; and then how the councils could request involvement in the process; and how the council could provide technical assistance to a consultation. I'm not going to go into all of this, but the draft memo also basically lays out an agreement between the council and the regional office and how the council can be involved.

This was a general recommendation is all the councils and their regional offices be able to work out something that would be tailored for that region and the staff involved and the councils involved and their level of involvement in the consultations. This is Figure 3. You can't really see it on the board, but it is Figure 3 in Attachment 1.

It is a suggested timing for how the councils could be involved when you're developing an FMP or an amendment to an FMP; so at what point there is an ESA determination and there is a request for an informal or formal consultation and then kind of how the processes are going to move together when there is a consultation occurring and then the council is also developing an amendment.

The second priority area of work would be to improve transparency of data and the scientific basis for the biological opinions. The working group recommended that NMFS develop a national policy on application of best scientific information available standards for ESA Section 7 Consultations.

The working group anticipated that some kind of national policy like that would lead to more discussion about how the agency ensured that the biological opinions were using the best scientific information available; and then also that an important goal of the policy would be to increase the transparency of the agency's considerations of what constitutes best scientific information available.

The group also identified some key factors for determining the best scientific information available for consultations, relevance and timeliness of the activity and transparency, verification and validation, certainty and then sources of information. Overall they concluded that improving collaboration and communication between the councils and the regional offices and Protected Resources would increase confidence in the process; and then improving transparency of the data and the scientific basis for biological opinions would increase confidence in the science.

What is next is that there will be some guidance from headquarters and then the Protected Resources Division and Sustainable Fisheries Division and the councils will work together to come up with a plan as best possible. We will just keep you informed. This is all very new and a little too soon to see how this develops; but these are the recommendations from the working group.

MR. CUPKA: So the working group has completed its task and the next step would be up NMFS Headquarters to send out some type of memo and try and implement some of these recommendations, I guess. The CCC has already signed off on the workgroup's product; is that correct?

DR. MacLAUHLIN: That's my understanding; but would come from headquarters would be guidance for each region and the councils to develop some kind of agreement that is tailored for that region and makes sense with issues that they're dealing with and the process.

MR. CUPKA: Are there any questions for Kari? Wilson.

DR. LANEY: Kari, I noticed in the document that you provided there was a reference to the U.S. Fish and Wildlife Service and the fact that it also has Section 7 authority. Do you know if there is any plan at all for similar sorts of discussion with FWS with regard to those – I know there aren't nearly as many cases where species under our jurisdiction overlap with council responsibilities, but there are some.

I just wondered if there were any plans for further discussions with FWS or whether or not you all had had any discussions with any FWS representatives from the Endangered Species Section in headquarters.

DR. MacLAUCHLIN: Well, I can say the council has not. It just was finalized. The CCC just signed off on it a couple of weeks ago. I think it's too soon to talk about how everybody is going to work together and really just waiting on the guidance from headquarters on that. I think that's a great recommendation, Wilson.

MR. CUPKA: Are there other questions or comments? Seeing none; then we will move ahead on our agenda. The next item is the American Eel Status Review. Wilson, you're going to bring us up to date on that?

DR. LANEY: Let me first ask you a question, Mr. Chairman. If it is okay with you, in the interest of efficiency I'll just zip through these next four items, which are four updates from yours truly here and then take questions at the end, if that is okay with you.

MR. CUPKA: That will be fine and maybe we can get back on schedule. I guess they're really just updates and don't require any specific action at this point; so let's proceed along those lines.

DR. LANEY: Unless anybody has any questions, these will go very fast. Everyone should have the document that I transmitted earlier this morning. For the American Eel Status Review, it is still ongoing. The core team met – I actually missed the last call, but I'm advised by the lead staff folks in the northeast region; that they aren't planning to have workshops the way they did with the last status review.

Unless it turns out that we get additional information with regard to the climate change and American eel data that we need to pull a small meeting together, they will do that. We're still accepting new information on that and you can provide it to Krista and Steve. I would note that there is going to be an American Eel Symposium at the AFS Annual Meeting coming up in Quebec City, Quebec, later this year. Some folks are wanting to hold their data until they have an opportunity to present at that meeting; so we anticipate they'll present it to us after that.

With regard to the Atlantic Sturgeon Stock Assessment, the most significant action I guess that has occurred since the last time we discussed it is that the terms of reference were presented to the Sturgeon Management Board at the ASMFC Winter Meeting. Those were approved. I don't have the final version yet, but I have asked staff to provide those to me. I can circulate those to the council and staff if they're interested.

With regard to the red knot listing proposal, I've given you links for most of these things to additional information if you want to really dig into the details. The red knot listing proposal has generated quite a few comments. I think at last count there were about 563 of them. We are going through the review of those.

We anticipate that the proposed critical habitat for the species is going to be published sometime in late spring or early summer; and the final listing rule needs to publish by September 30th. Again, the northeast region has the lead for that species. We do have a new southeast regional lead person, Stefanie Blahogdie is the way she pronounces her last name. She will be coming on board March 24th. In the meantime our branch chief for the Division of Conservation and Classification in Atlanta, Rob Tawes is the guy you should direct questions to.

Then finally for the sea turtle critical habitat; again I have provided links there to a plethora of additional information if you want to really dig into the details. That one has also generated quite a few comments and those are undergoing review and something in the way of final critical habitat should be published around July 1, 2014. Those are my updates, Mr. Chairman.

I will say one other thing. For those you who are hanging on the edge of your seats waiting to hear the latest eel updates for the Roanoke Rapids Eel Way – I think I may have already reported this, but if I didn't, the final number didn't break a million. It stopped short at like 882,000 estimated eels passed for 2013; so maybe in 2014; we'll see. Thank you, Mr. Chairman.

MR. CUPKA: Thank you for those updates, Wilson. Anna.

MS. BECKWITH: Wilson, can you go through in a little bit more detail on the critical habitat for loggerhead. It is pretty extensive and I'm curious if you can give me some insight on potential impacts to recreational fisheries or commercial fisheries and what should we be expecting out of this.

DR. LANEY: That question would have to be posed to our endangered species folks. I have asked the question them; and they have assured me that they don't anticipate any significant impacts to fishing activity. Most of the measures that they are concerned about I think deal more with things like beach nourishment projects or construction, hardening of the shoreline, things that could directly impact sea turtle nesting activities.

I know there has been concern expressed by a number of municipal governments, county governments and so forth and so on. If there are specific questions, I would suggest those be directed to Rob Tawes and/or the person that I listed there as our – we actually did have a National Sea Turtle Coordinator, but that position is not going to be filled so our new regional coordinator is Ann-Marie Larson, who is in our North Florida Office.

I would suggest that specific questions be directed to Ann-Marie. Also, there is a bunch of Q&As I think on the link that I provided, that first link there in that sea turtle critical habitat paragraph. I'm sorry I can't be more specific, but they assure me that there shouldn't be any significant impacts on fishing activity, at least recreational fishing activity. As a reminder, the Service only handles the terrestrial part of it. The National Marine Fisheries Service has the aquatic part, the marine part of the critical habitat.

MR. CUPKA: Are there other questions for Wilson? If not, thank you, Wilson, and we'll look to see what develops further on these. If at any point you need input from this committee on any of these issues, please let us know. At the present time it doesn't look like there is anything required. Is there any other business to come before the committee? Kari.

DR. MacLAUHLIN: I just wanted to clarify the question about the working group's recommendations and then developing an agreement with the councils and regional office for consultations, the working group only focused on NMFS and council interactions, but it is something that we could consider.

MR. CUPKA: Is there any other business? Seeing none; then this committee is adjourned.

(Whereupon, the meeting was adjourned at 10:15 o'clock a.m., March 4, 2014.)

Certified By: _____ Date: _____

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Graham Transcriptions, Inc.
March 29, 2014

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South Atlantic Fishery Management Council March 2014 Meeting – Savannah, GA

Protected Resources Committee Meeting: Tuesday, March 4, 2014

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71	holiman, stephen	stephen.holiman@noaa.gov	118 min
70	Gore, Karla	karla.gore@noaa.gov	80 min
70	Merrifield, Mike	mikem@wildoceanmarket.com...	115 min
36	Hudson, Rusty	rst2009@aol.com	110 min
32	DeVictor, Rick	rick.devictor@noaa.gov	185 min
31	Michie, Kate	kate.michie@noaa.gov	118 min
31	Eich, A	ahnemarie.eich@noaa.gov	195 min
31	sandorf, scott.san...	scott.sandorf@noaa.gov	195 min
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24	., fishernation.c...	bhfishernatio@gmail.com	30 min
23	Helies, Frank	fhelies@verizon.net	108 min
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