SPINY LOBSTER COMMITTEE

Sawgrass Marriott Ponte Vedra Beach, FL

June 12, 2017

SUMMARY MINUTES

Committee Members

Jessica McCawley, Chair Ben Hartig
Chester Brewer Chris Conklin

Dr. Roy Crabtree

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Anna Beckwith
Anna Beckwith
Zack Bowen
Tim Griner

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Cameron Rhodes
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Observers/Participants

Dr. Jack McGovern

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Dr. Bonnie Ponwith

Erika Burgess

Rick DeVictor

Dr. Marcel Reichert

Dewey Hemilright

Other Observers/Participants attached.

The Spiny Lobster Committee of the South Atlantic Fishery Management Council convened at the Sawgrass Marriott, Ponte Vedra Beach, Florida, Monday afternoon, June 12, 2017, and was called to order by Chairman Jessica McCawley.

MS. MCCAWLEY: I will call the Spiny Lobster Committee to order. The members of the committee are myself, Ben Hartig, Chester Brewer, Chris Conklin, and Roy Crabtree, and the Coast Guard representative, but the Coast Guard representative is not here not right now.

The first order of business is Approval of the Agenda. Are there any changes or additions to the agenda? Is there any objection to approval of the agenda? Seeing none, the agenda stands approved. The next order of business is Approval of the March 2017 Spiny Lobster Committee minutes. Any changes or additions to these minutes? Any objection to approval of these minutes? Seeing none, those minutes stand approved. Kari, I am going to turn it over to you for the Status of the Catches versus the ACL.

DR. MACLAUCHLIN: We sent out with your briefing book, Attachment 1, the lobster landings summary, and then we received our updated landings, and these have been posted also under the Spiny Lobster Committee on the briefing book webpage, and they have the same attachment number, Attachment 1, but then it shows the date of June 4.

What we want to focus on are just these last few years, and so this 5.3 million pounds are the landings through June 6, 2017, for the 2016/2017. That's the commercial landings, and then we also have about 1.1 million pounds for the recreational landings, and so, over here, the 2016/2017 total landings are 1,526,174 pounds. I'm sorry. The total landings are in the far-right column, and it's 6,834,531 pounds. I added a little text box in here to remind you of the current overfishing level, the ACL, and the ACT and then what is proposed in Regulatory Amendment 4.

With the landings at 6.8 million pounds for the 2016/2017 fishing year, that does exceed the current annual catch target, but not the current ACL, but that would not exceed the proposed ACT in Regulatory Amendment 4.

MS. MCCAWLEY: Any questions about that? Okay. Then let's move on to Spiny Lobster Regulatory Amendment 4.

DR. MACLAUCHLIN: In your briefing book, you have four attachments under this item. You have the draft amendment, which is 2a, and then 2b is the public comment summary. We didn't receive a lot of comments on there. We did have a public hearing webinar on May 9, and we received three email comments and two verbal comments on the webinar hearing and then a comment on the online comment form. There is now another comment on the online form, if you look at that, but that's from Jim Atack, and we had sent that email with his comments to you all, and we provided these to both councils.

In Action 1-1, there were two commenters that supported the preferred alternative and then a commenter that did not support the preferred alternative and recommended a lower OFL. Then Action 1-2, and that establishes the ACL, we had two commenters support the preferred alternative, and then, again, one that recommended that there be accountability measures if the ACL is exceeded.

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Then Action 2, which is the prohibition of recreational traps in the South Atlantic EEZ, you did have three commenters with support for the preferred alternative, but then we also had two commenters who opposed the preferred alternative and suggested a seasonal closure to address any concerns about whales or any other interaction with recreational traps.

We had forwarded some emails from you, including one from the individual in North Carolina who had contacted the Southeast Regional Office and received information about regulations and gear marking requirements and a specific color, and we got in touch with him, and he has put out a trap, and he also sent you some photos, which are also -- They were emailed to you, some photos of the traps that he used. He had two, and then also, in Attachment 2b, I just added those photos and the emails at the end, and so if you want to look at those again.

If that's it, we will go right into the decision document, which is Attachment 2c. You already had picked the preferreds, and the Gulf Council approved this amendment for formal review at their meeting last week with the preferreds, and so, again, we have an action that's going to update the overfishing level, the ABC and ACL, and the annual catch target, based on recommendations from both of the SSCs. Then you have the action to prohibit recreational traps in the South Atlantic EEZ.

I do have a purpose and need, a few changes in the purpose and need, because the Gulf Council did make a few changes. On page 5 of Attachment 2c, you have the purpose and need that you approved at your last meeting, and then we have the revised purpose and need, and it just removes some of the language of add stock to prevent overfishing, and so I would need a motion from the committee to review and approve this purpose and need.

MS. MCCAWLEY: All right. You know who is on the committee. You know who you are, and would somebody like to make a motion?

MR. HARTIG: Yes, Madam Chair. Thank you. I would move to approve the changes to the purpose and need.

MS. MCCAWLEY: Can I get a second?

MR. BREWER: Second.

MS. MCCAWLEY: The motion, which has been seconded, is to approve the changes to the purpose and need. Any objection to that motion? Seeing none, that motion stands approved.

DR. MACLAUCHLIN: We have Action 1-1. You have a preferred alternative that aligns with the Gulf preferred alternative, which is Alternative 2, and that updates the MSY proxy and MFMT to be equal to the revised OFL, as recommended by the Gulf and South Atlantic Councils' SSCs, using the mean landings from the years 1991/1992 through 2015/2016 plus two standard deviations. Does the committee want to change the preferred alternative?

MS. MCCAWLEY: I am seeing head nods around the table that we are good with the preferred that we have now.

DR. MACLAUCHLIN: All right. Action 1-2 modifies the ACL and the ACT for spiny lobster, and the councils have the same preferred alternative, Alternative 2, which sets the ACL equal to the ABC, as recommended by the Gulf and South Atlantic SSCs, using the mean landings from the years 1991/1992 through 2015/2016 plus 1.5 standard deviations. Then it revises the ACT. It was set at 90 percent of the ACL in Amendment 10, and so it would update that ACT based on the ACL. Do you want to change the preferred alternative?

MS. MCCAWLEY: I see heads shaking no.

DR. MACLAUCHLIN: The last action, Action 2, is prohibiting the use of traps for recreational harvest of spiny lobster in the South Atlantic EEZ, and the councils have the same preferred alternative, Alternative 2, to prohibit the use of traps for recreational harvest of spiny lobster in the South Atlantic EEZ.

You had talked about this at previous meetings, that there is concern about the negative impacts on fish habitat and the use of vertical lines in that area and that these -- The recreational limit is two per person per day, and so they may not be the most effective gear for spiny lobster. We did have a couple of public comments, again, that supported the preferred alternative, and they felt that a prohibition on allowing this commercial gear, a commercial gear type, to be used for recreational harvest could -- If you prohibited that, it would reduce the negative effects of abandoned gear and non-compliance.

Then we also had the two comments that opposed the preferred alternative and suggested just a seasonal closure, or some kind of other limit, if you wanted to put that in place, and that includes an individual in North Carolina who had used the traps for fishing spiny lobster.

Then I also wanted to bring up, in the draft codified text, which is Attachment 2d -- There was some questions about it at the Gulf meeting, and so we just want to be sure, after you guys talk about if you want to change your preferred alternative, but then also, if you do not, if you will clarify the intent, and to be sure of exactly what you want to do with this prohibition, if you want to proceed with it, and I can point that out to you guys when we get to that part.

MR. BREWER: I had a question. There was language, and I saw it in here again, but there was language to the effect of if the landings are below, I think it's 5.2 or 5.3 million pounds in two consecutive years, that some sort of a committee would be appointed. Is that going to be included in this plan, that language, or was that -- It looked like it was just a note, is what my question is.

DR. MACLAUCHLIN: That was recommended by the joint APs at their joint meeting, and it's not a part of an alternative, and it's not going to be a part of the codified text in the CFR, because it doesn't replace an accountability measure, which is what is required, and what we have in place is the accountability measure is triggered when the landings go over, but what this would do, as far as the fishery management plan, is that it writes it in there that when they go -- That will be a council action, to convene a review panel or the APs or something like that when the landings reach some kind of low threshold.

MR. BREWER: I was at that meeting. That was down in Key West, and the concern was, with spiny lobster, the recruitment is not really from our local waters. The recruitment is coming from outside, and it's something that we may not have control over, or the ability to manage, and so

their concern was that, if for some reason those landings, the bottom drops out of the landings, that there be some sort of reaction.

I realize that we're normally dealing with going over, and, in this one, we're talking about going under, and so I thought that the rationale or the plan of what they put forward was a very, very good idea, and I just want to make sure that -- I guess make sure that the corporate memory is there, somehow or another, so that, if we do have a big drop in landings, that there will be a reaction to it, to convene a panel or do whatever.

MS. MCCAWLEY: That's a good point.

DR. CRABTREE: I would like to come back to Action 2. Mr. Dale, I believe George Dale, and I think he's from North Carolina, he did call me up, and he was very unhappy with the action to prohibit the use of recreational traps, and he expressed his concerns about it. He would be happy with limits on number of traps and seasonal prohibitions for whales and all of these kinds of things.

I know we say in here that it's not an effective gear to harvest spiny lobster in those areas, but he certainly didn't agree with that, but maybe a little bit more discussion of that. Jessica, does Florida allow the use of recreational lobster traps?

MS. MCCAWLEY: No, and I was going to bring that up. We do not allow recreational lobster traps. It's not an allowable gear for the State of Florida at all.

DR. CRABTREE: All right. Maybe a little more discussion about the rationale for this would be useful, if this is what we're set on.

DR. DUVAL: I am not on the committee, but I also spoke with Mr. Dale. He called me up and expressed similar concerns, and, at that point, he had not yet deployed the traps. He did not deploy the traps last summer, and he had indicated that, when Kari contacted him last year to inquire as to whether or not he had any success with the traps, he didn't respond because he had not deployed them, and so he also had advocated for, if there were concerns about protected species interactions, to simply impose a seasonal closure and, again, a limit on the number of traps per vessel.

He did also indicate to me that there were a number of people, and twenty was the number that he used, that were also interested in seeing how successful he was with the use of this gear and that they were also interested in trying it. I will say that, from an agency perspective, we do have some concerns, just biologically, I think particularly if there are a number of anglers who are interested in using this type of gear, and the potential for traps to be left out there or lost or unattended.

I think we had some concerns, given that the use of fish traps has been disallowed in the South Atlantic for snapper grouper species, and, given the size of the lobsters that we have up off of North Carolina, and they're larger than what you would find in Florida, and so you had to modify the throat of the trap accordingly, and that it could potentially lead to additional unintended bycatch of finfish species with the use of traps.

I think the other concern that we had is that MRIP is a finfish survey, and it doesn't survey for recreational lobster harvest, and, if this were to expand significantly, there is nothing in place that we could use to track it. Mr. Dale pointed out to me that it is dangerous to go diving for lobsters

recreationally. That is how they are harvested recreationally and commercially up off of North Carolina. There is really only a limited area within which spiny lobsters can be harvested.

My understanding is that Florida does its own recreational survey for landings, but we don't have that in place in any of the other southeastern states, and so I am not on the committee, but I did just want to acknowledge that I had also spoken to Mr. Dale. I had encouraged him to attend the webinar, and I don't believe he attended the webinar. I'm not sure what happened there.

Recreational use of, I guess, commercial gear types is something that we have allowed in North Carolina. You do have to have a special license for it, and there are significant limits on the amount of gear, and so, if you have what we call a recreational commercial gear license, you can't have more than five crab pots that you use. It's a very limited amount of beach seine gillnet and that sort of thing. It's not something that we have disallowed in North Carolina, but the agency does have a number of concerns that hopefully I have outlined for everyone here. Thank you.

MR. HARTIG: Michelle answered the same kind of concern that I had. With the throat size that you're going to have to have to catch these larger lobsters, you are going to have a more significant finfish bycatch. That and the habitat concerns, I don't think this is worth doing and going forward, and it also concerns me that there is possibly more interest if he's successful, and so I think we ought to go ahead and prohibit this right now.

MR. BREWER: I want to echo the same concerns that were voiced by Michelle, but also just to - Philosophically, as a recreational representative, I have a problem with the use of commercial gear in inexperienced recreational hands. I don't think that any kind of fish trap is appropriate for recreational fishermen, period, and particularly these things, and so I am very much in favor of the preferred alternative.

MR. BELL: I'm not on the committee, but I would echo what Chester and I heard Michelle say. It's a commercial gear, by definition, for us, and I would be concerned about ghost traps, and I would be concerned about numbers, given that this isn't one individual and this isn't twenty. This could potentially be thousands, if they were interested, really, and then multiply that by whatever number you decided to allow, and you could have an awful lot of traps out there. Then consider the issue we just went through with the black sea pot fishery, trying to work through that for a legitimate commercial fishery, and I just don't think that would be a good idea to allow that, myself.

MR. PHILLIPS: I am not on the committee, but I also got a call, and I'm trying to remember exactly, but, when Michelle said something that he had talked about maybe as many twenty people that might want to do it, I do believe that I did tell him that, if there was that many people that were interested, that they needed to send in some support letters, and I don't see them, which tells me a lot.

MR. CONKLIN: I had an extensive conversation with Mr. Dale, George Dale, and we spoke, and I explained the black sea bass pot prohibition, and he argued that -- He had valid points about crab traps, and he brought up bandit gear and how recreational boats could put a bandit on there, and that's a commercial gear that we don't regulate.

I encouraged him to attend the webinar in and put a comment in, which he did put another comment in, and I do feel -- I understand this individual feels slighted, and there was a loophole in the code that allowed for him and for recreational people to be issued color codes for gear like that, and that's something that I think was overlooked when we went through the protected species portion of this.

He said he has spent a considerable amount of money constructing these traps and deploying them, and he said there was no way that he was ever going to go hop in the water and try and harvest the lobster and that that should have a valid point to it, that a lot of people want to get to the lobsters, but they don't want to go swimming for them.

I have some empathy for it, but it's something that we overlooked and that the agency has allowed to happen, but I think it needs to be addressed now, whether we do it or not, and I had extensive conversations with him about exactly what we've already talked about. He did say that he tends his gear and stuff like that, and then he also wanted to know if he was going to be able to keep his color code and stuff like that, and so I don't know if we should respond directly to him, but that's it.

MS. MCCAWLEY: We've had some discussion around the table about this particular action. Is there any willingness to change our preferred alternative? If we did change the preferred, it would delay this amendment. It would have to go back to the Gulf to be approved and then come back here. It doesn't look like we are willing to change the preferred alternative. All right.

DR. MACLAUCHLIN: Before you go to your -- We have a draft motion for you to approve for formal review, but I did want to look at the codified text, which is Attachment 2d. At the Gulf meeting last week, they were reviewing the draft codified text, and there was some concern about some of the language in here, and so we are looking into it, but I just wanted to, on the record, be sure that we have -- That this capturing what you guys want to do with this trap prohibition action. Then we can edit it, and then the Chairs can review that before they give their approval for the amendment to be sent.

I may have Anna or Monica or Roy maybe fill in a little more about it, but, on page 2, there is this one section that says, "possession of traps is prohibited onboard a vessel in the South Atlantic EEZ when spiny lobster subject to the recreational bag and possession limits is also onboard the vessel". That would be your preferred alternative in Action 2.

I guess there was some concern, because we do have our black sea bass pot fishermen, and I don't know how often they are harvesting spiny lobster, but we may want to make some changes to the codified text, if necessary, if that's something that you would want to allow, and so if you guys just want to have that conversation, so that we have it documented.

MS. BECKWITH: We did have this discussion a bit at the Gulf Council over the codified text for this, and I think, at least my understanding of our intent, is that this would not impede commercial harvest, and so this is to be strictly for recreational. If a black sea bass pot fisherman does have pots onboard and does happen to have lobster onboard, our intent is not to stop that from occurring, and so I do think that this language is a bit vague, and it does indicate that that would not be allowed, and so, in my personal opinion, it does need some clarification that this is intended to only impact recreational.

DR. CRABTREE: The concern is that black sea bass traps may take some lobster onboard and that this would then affect them? Is that what I am getting, Kari?

DR. MACLAUCHLIN: I think so, just that it's -- I don't know if that happens.

DR. CRABTREE: It would be easy enough to -- It has "subject to the recreational bag and possession limit", but, if you commercially harvest a lobster up there and bring it in, do we allow that? I guess divers can bring in spiny lobster, and are they subject to the recreational bag limit? You could add language in here that exempts a vessel with a black sea bass pot endorsement from the prohibition, if that is a concern. I have no idea if that's going to become an issue or not.

MS. SMIT-BRUNELLO: I don't know that you need to rework this codified text right here, because we could probably do that before Full Council, and also your Council Chair would be allowed to re-deem it, if necessary, but if we could have some discussion. That's one way to go, is to have some discussion among council members, here on the record, that that is your intent and that this prohibition was not directed black sea bass pot endorsement holders.

DR. CRABTREE: Monica, if that's clearly our intent, and we then put this out in a proposed rule, we could ask for comments as to whether this potentially would impact them and then maybe fix it in the final rule, if we got comments to that effect, or we could just fix it in the proposed rule and re-deem it with the Chairs.

MS. SMIT-BRUNELLO: I am thinking we would fix it in the proposed rule, as long as we heard on the record here of what the council's intent was regarding black sea bass pot endorsement holders.

MR. BREWER: As somebody who had never heard of or seen a black sea bass pot before coming on this council, I can tell you that it never was the intent. In fact, I don't think it even entered into anybody's mind that this thing was going to somehow or another adversely impact the folks that are pot fishing for black sea bass.

Certainly, it was never personally my intent to adversely impact those people. I don't even know if -- From what we're saying here, we don't even know for sure if it is going to impact them at all, because they probably aren't out there lobster fishing at the same time they're running their pots, but I would like to state on the record that it is certainly my thought that we do not want to adversely affect black sea bass pot fishermen.

MS. BECKWITH: I don't know anything about our golden crab fishery, but is there any chance for this to be an issue for them? For the black sea bass pot guys, I can kind of see them having the gear onboard and then also stopping on the way in, and so I think it at least has the potential, but, for the golden crab fishery, I have no idea if that would ever be something that they would interact with.

MS. MCCAWLEY: Okay. We've had some discussion. Kari, do you want to try to edit this with Monica and maybe bring it back at Full Council? Okay. Monica, is it premature to then approve a motion to approve the regulatory amendment, since we're still working on the codified text?

MS. SMIT-BRUNELLO: I don't think that's premature. Then, if you get a slightly tweaked codified text at Full Council, you will approve that, and so I think you will approve the revised text at Full Council.

MS. MCCAWLEY: Okay. Is there someone that would like to make the motion?

MR. BREWER: Madam Chair, I move that we approve the Spiny Lobster Regulatory Amendment 4 for secretarial review and deem the codified text as necessary and appropriate. Give staff editorial license to make any necessary editorial changes to the document/codified text and give the Council Chair authority to approve the revisions and re-deem the codified text.

MS. MCCAWLEY: Is there a second? It's seconded by Ben. Any objection? That will be a roll call vote at Full Council, but any objection to this motion now? Seeing none, that motion stands approved.

MS. BECKWITH: If we eventually allow some version of say a lionfish pot, then would we also have to come back and then clarify this, to allow people with those pots to be able to keep lobster?

DR. CRABTREE: Lionfish traps and pots are something that I intended to bring up under Other Business when we get to Full Council, but most of the lionfish type of traps that I have seen would fall under the general fish trap prohibitions and wouldn't be allowed, but I think it is something that we need to talk about, because I think there are a lot of reasons why we might want to allow the use of some types of traps to collect lionfish, to try and keep that population under control, but I was going to talk more about that at Full Council, under Other Business.

MS. MCCAWLEY: Thanks, Roy.

MS. BECKWITH: To that point, if we do go down that route and begin to allow some traps, I am just curious how that would interact with this motion that we just passed and the verbiage. Pots and traps are not necessarily the same, but I don't know if we would have to come back and then clarify.

MS. MCCAWLEY: Why don't we let Kari and Monica work on this language, and then we can look at it in Full Council and see if it meets our intent. Does that sound good? Okay. The next item on the agenda is something that we talked about a little bit at the last meeting, which would be aligning federal regulations with recent changes to FWC regulations.

We have talked about this before. Basically, what happened is FWC made a number of changes to our bully-net regulations. Also, prior to the bully-net regulation changes, we also made some changes to the commercial dive endorsement, and so a number of changes are needed to match up the federal regulations with what the FWC did, because one of those things that we did was we created a bully-net endorsement. The way that the federal regulations are, it does not recognize that particular endorsement at this time.

There was a protocol and procedure, at least we thought, in place to make these types of changes, but it seems like, with Amendment 10, that maybe now that protocol and procedure is outdated, and I can definitely see that there are some items in here that are referencing the old Marine

Fisheries Commission, and that definitely needs to be fixed, and so I guess one of my questions for Monica is can we start a new amendment and update this procedure at the same time, or do we need to have an updated procedure and then follow that up with an amendment to make these changes? I am just confused about the order of operations here.

MS. SMIT-BRUNELLO: That's a great question. I think you could do it in the same amendment. I think the protocol still exists, but the protocol, when it came into being, which I think was Spiny Lobster 3, there was also procedures to implement the protocol. What happened, I think, in Spiny Lobster Amendment 10, is that we updated the protocol some, but it appears that we replaced the procedures that were specific to the protocol with a really kind of more expansive framework process, but I think that's a bit out of whack with the protocol. I think that we could go forward with one amendment and fix all of these changes, including updating the protocol.

MS. MCCAWLEY: Okay. It sounded like, at the Gulf Council meeting last week, that they had a discussion about this, especially regarding bully-netting, and they felt like bully-netting was occurring in federal waters, and it's not covered now under the federal regulations, since we have created a special bully-net endorsement, and so I believe that the Gulf Council made a motion. Kari, do you want to talk about that a little bit?

DR. MACLAUCHLIN: Sure. I have it up here on the screen. They had sent over the committee report at the end of last week, and so the council had approved -- The Gulf Council approved to direct staff to begin work on a plan amendment to address the bully-net issue, which is the bully-net FWC regulations aligning those, and reestablish the protocol procedures with the State of Florida.

At the meeting, it seemed like everybody was onboard with one amendment and doing that at the same time. The Gulf Council, I don't know if they will start -- If they will have an options paper at their next meeting. It may be their October meeting, but they would be administrative lead on the amendment, and so they would get a crack at it first, before it was sent back over here.

MS. MCCAWLEY: Okay. Is this something that we would like to do as well? I presume that it would be, and maybe we need a similar motion from the committee to do that here, on our council, so that we can get onboard with this joint amendment.

Even though this motion is specific to bully-nets, I'm assuming that this means all the changes that have been identified, and so this would be changes relative to bully-netting as well as changes to the commercial dive endorsement. We would come back with a list of these changes for the committee to review, but I just want to point out that they're not all specific to bully-netting, because there were some other changes made that pre-dated bully-netting that hadn't been fixed either.

MR. BREWER: Madam Chair, I have a question, and then I would like to make a motion.

MS. MCCAWLEY: Excellent.

MR. BREWER: Do you think that it might be a good idea to work in conjunction with the Gulf Council in doing this, from the initial stages, and maybe that is something that could be worked into a motion that I intend to make?

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DR. MACLAUCHLIN: Yes, we will be working -- Since spiny lobster is always a joint amendment, and so I would be working with the Gulf staff, and we would have our IPT with our Southeast Regional Office staff and everybody on there, and it's just that the Gulf Council -- We would probably do something for the Gulf Council first, before you saw it again, and so I'm thinking that it's probably going to be December before you see anything, like a draft amendment or actions and alternatives, but we will be working with them, yes.

MS. MCCAWLEY: They are the administrative lead.

MR. BREWER: I just want to work with them from the get-go.

MS. MCCAWLEY: Yes, and so they're the administrative lead and not the South Atlantic. The Gulf is

MR. BREWER: Madam Chair, I would like to make a motion.

MS. MCCAWLEY: Go ahead.

MR. BREWER: Madam Chair, I move that we direct staff to start work on a plan amendment to address the bully-net issues and update the procedure and protocol with the State of Florida.

MS. MCCAWLEY: It's seconded by Ben. Any discussion? Any additional discussion on this? **Any objection? Seeing none, that motion stands approved.**

Is there any other business to come before the Spiny Lobster Committee? Seeing none, our committee stands adjourned.

(Whereupon, the meeting adjourned on June 12, 2017.)

Certified By:	Date:	
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Transcribed By: Amanda Thomas July 19, 2017

2017 COMMITTEES (continued)

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