

**SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

**SPINY LOBSTER COMMITTEE**

**Hilton New Bern Riverfront Hotel  
New Bern, NC**

**December 6, 2010**

**SUMMARY MINUTES**

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LTJG Matthew Lam

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Ben Hartig

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Additional Observers and Participants Attached

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The Spiny Lobster Committee of the South Atlantic Fishery Management Council convened in the Hilton New Bern/Riverfront Hotel, New Bern, North Carolina, December 6, 2010, and was called to order at 1:30 o'clock p.m. by Chairman Mark Robson.

MR. ROBSON: We'll go ahead and convene the Spiny Lobster Committee. The first order of business is the approval of the agenda. If there are no changes or modifications to the agenda, we'll show that as approved. The next order of business is approval of the minutes. Are there any additions, corrections or changes to the minutes? Any objection to the minutes as in the briefing document? If not, show the minutes approved.

We'll move right now into the main part of agenda, which is to talk about the latest results from the Spiny Lobster SEDAR; the review workshop that was just concluded a couple of weeks ago. Gregg, do you want to take over this part of the agenda.

MR. WAUGH: We distributed a document that was Spiny Lobster Committee motions. That's the document that we'll use for recording the motions. The first item on that was an excerpt of the e-mail from the SSC Subcommittee Chair. I've got that and I'll project it and run through the critical parts of it.

Originally the schedule was for the SSC Subcommittee to review the updated assessment and provide us some guidance on ABC. That did not happen. Both the review workshop and the SSC Subcommittee have rejected the assessment. In discussions with the chairman of the committee, it was his decision to defer this agenda item until the June joint committee meeting.

That will have time for both full SSC committees to meet and provide guidance. The e-mail from Doug Gregory as Chair of the SSC Subcommittee talks about – we had told them we wanted a report for this meeting – laid out that would be difficult and impossible to do given the timing, and he points out that as Chair of the Review Workshop, “all I'm comfortable reporting at this time is that the Review Workshop Panel rejected the assessment and concluded the outputs from the models were unreliable and not useful for estimating stock status benchmarks, current levels of mortality, recruitment or spawning stock biomass.”

And then gives two major reasons for that and indicates that there are other issues as well. So where that leaves us is we have no guidance at this stage from our SSCs on what their recommendations for OFL and ABC are. The Gulf's SSC is meeting in December; ours is meeting in April, and we'll have those.

So certainly it won't be helpful to us in time, before we approve a document to public hearing; so when we get to this item in the amendment, we've got some additional alternatives that I'm suggesting that we consider and include, in part based on what our SSC has done on Spanish mackerel. That would allow us to move the document forward and make decisions at least for the public hearing stage.

And then we would have the final SSC recommendations prior to us taking final action in June. And, remember, we have a joint committee meeting scheduled with the Gulf at their June

meeting, which is the week before ours, so the overall intent is to approve the document for formal secretarial review at each of our June meetings.

MR. ROBSON: And, again, Doug Gregory's letter kind of summarizes what happened with the subcommittee and the review, but it's important to note that there is also a written report that we don't have and it hasn't been completed yet. It's also important to note that it was felt that both councils' SSCs would need to take a look at that report and then provide input back to the council prior to us making any detailed – having any detailed discussion at this time about the results of that workshop and the assessment before our SSCs have a chance to look at a written report as full SSCs, so that's why we're not going to get into much discussion about it right now. But it is an important part of our discussion when we get into the amendment particularly in determining how we're going to look at ABC or ACLs. Yes, Ben.

MR. HARTIG: This puts us in awkward position. We went through this same kind of positioning with Spanish mackerel before when we ran through a set of numbers that staff had developed and then the SSC came back and gave us a number significantly lower than that. It's going to be tough for the public to try and comment on something that is going to be different than what comes out of the SSC. What we may provide may be significantly different. It's just an observation.

MR. WAUGH: And when we get to this, you'll see that the range of alternatives your staff is recommending I think will cover any likely range of ABC values we would get from the SSC, but we've got some alternatives. If you want to broaden them some more, we can when we get to them.

MR. ROBSON: So why don't we go ahead and – unless there are any other questions from the committee, it would probably be good for us to go ahead and move into the amendment and start going through the actions and alternatives.

MR. WAUGH: Okay, this is Attachment 3A. It's Draft Spiny Lobster Amendment 10, and this document has been put together by the IPT, the planning team. The document is fairly complete in terms of the level of analyses. I'm going to walk you through Section 2, which lists the alternatives. We begin on PDF Page 31.

The first item deals with species in the management unit. Alternative 1 is no action, which would retain the four species in the management unit for data collection purposes only, but not add them to the fishery management unit. The conclusion is that if they're in the FMP for whatever reasons, we need to have an ACL for them unless they can be considered ecosystem component species.

Alternative 2 would set ACLs and accountability measures using historical landings for Spanish slipper lobster after adding them to the management unit and for ridged slipper lobster currently in the fishery management unit. Alternative 3 is the South Atlantic Council's current preferred alternative, which is to list those four species as ecosystem component species. You'll see in a moment, when I run through the tables, that they don't meet the criteria; all of them don't.

Alternative 4 would remove some of the species from the Spiny Lobster FMP, and the Gulf has added to their preferreds Option C and D to remove the Spanish slipper lobster and the ridged slipper lobster from the FMP. The Gulf's current preferred for the smoothtail spiny lobster and spotted spiny lobster is to have them as ecosystem component species.

You can see, if you scroll into your document, we've got tables that show the commercial effort, landings and value for slipper lobsters, so there is some catch of slipper lobsters. This is Table 2.1.1. And you've got pounds ranging from about 31,000 to about 2,000 in the last year, 2008-2009. Average commercial landings, number of trips and so forth shown in Table 2.1.2 comparing the slipper to spiny, you can see it's a very, very minor component.

Historical bycatch information of those lobsters is also very low as shown in Table 2.1.3. We've got some distribution maps and get over to Table 2.1.4, and this is on PDF Page 37. This shows the ecosystem component criteria for stocks, and you can see that there is zero landings of smoothtail and spotted spiny lobster, but we've got landings of the slipper lobsters, and they're lumped together and not even separated by species.

All of them are non-target. We don't know if they're subject to overfishing or overfished; unknown as far as likely to become overfished or overfishing. And then one of the ecosystem component species criteria is that it's not generally retained for sale or personal use, and that could apply to smoothtail and spotted, but obviously not Spanish since we've got landings' data.

That brings us back to the alternatives. Again, this is on PDF Page 31; and given that the South Atlantic Council's preferred is to adopt all of these as ecosystem component species and the slipper lobsters don't, you may want to consider changing your preferred to adopt under Alternative 3 for listing as ecosystem component species the Gulf's preferred, which would list smoothtail spiny lobster and spotted spiny lobster as ecosystem component species; and then in a separate motion adopt Gulf Preferred Option C and D for Alternative 4, which would remove the slipper lobsters from the Spiny Lobster FMP.

MR. HARTIG: Since some of these are caught primarily by the shrimping industry and if we have an ACL for them, are we going to stop all shrimping when they're caught?

MR. WAUGH: Well, the alternatives we're looking at would not establish ACLs for them. That's what the intent of these alternatives would be.

DR. CRABTREE: And I think if you did have an ACL for them, one ACL is do not have to necessarily mean in-season monitoring, but it could be that we would prohibit retention of them and I don't know that would accomplish anything good for the stock.

MR. ROBSON: So I think what we need is if you want to change our current preferred alternative, as Gregg is describing considering a couple of the – the slipper lobsters may not fit the criteria of an ecosystem component species, then we would modify our current preferred to reflect that, and that would sync up with what the Gulf Council has done.

It would allow for the two minor species to continue as ecosystem components and then the slipper lobsters we would have to consider as something – they wouldn't be part of the ecosystem component group. Gregg, maybe it would help if you could kind of go back through our preferred Alternative 3 and describe what we would need to do again just to modify that preferred.

MR. WAUGH: Okay, our current preferred is to list these four species as ecosystem component species. As we pointed out, slipper lobsters don't meet that criteria; so if you wish to address that, the way to do that would be to adopt as your preferred Options A and B, and this would track the Gulf Council's preferred as well.

MR. ROBSON: Is there a motion to that effect? George.

MR. GEIGER: Yes, Mr. Chairman, I would make that motion, that we adopt Alternative 12 as our preferred – did I say Alternative 12?

MR. ROBSON: Yes.

MR. GEIGER: I even heard myself. I meant Alternative 4 as our preferred; I'm sorry.

MR. HARTIG: Second it.

**MR. ROBSON: All right, so we have a motion and a second and that would be – again, that would be adopt Options A and B in Alternative 3 as our preferred alternative. Is everybody clear on that motion? Any discussion? Any objection to the motion? It carries. All right, we'll move on to the next action.**

MR. WAUGH: And it's the same situation for Alternative 4, which removes species. Right now our previous preferred did not address these; so if you want to now deal with slipper lobster, if we adopted Options C and D in Alternative, that would both track the Gulf Council and address slipper lobsters.

MR. ROBSON: Just to be clear, Gregg, because it says remove species from the joint Spiny Lobster FMP, so they would just not be included in the plan?

MR. WAUGH: That's correct and would fall then to state regulations, which are actually more stringent. We only have federal regulations that address the ridged slipper lobster. The state of Florida has regulations that would prevent the retention of berried slipper lobsters.

MR. ROBSON: All right, the chair would entertain a motion to that effect. This would be regarding Spanish lobsters, slipper lobsters, Spanish or ridged; removing them from the joint Spiny Lobster FMP.

MR. GEIGER: So moved.

MR. ROBSON: Motion by George; is there a second. Second by Ben Hartig. Roy.

DR. CRABTREE: Just a question; I understand why we're removing these, but why are we not removing the other two? We're making them ecosystem species, but why are we doing that rather than removing them?

MR. ROBSON: That's a good question.

MR. WAUGH: I don't know that the committees have had any discussion about that.

MS. SMIT-BRUNELLO: Mark, do you know for those other two what kind of regulations, if any, Florida has in place?

MR. ROBSON: I knew you were going to ask me that. We implemented a regulation, as Gregg said, regarding protection of any berried lobster, and I think it included all of these species and maybe even a couple more besides these four. I can't recall exactly, but that's primary protection they're afforded. I don't know if there is any bag limits or anything associated with them. I don't think there is, but they are protected from – the female berried lobsters are protected from harvest.

DR. CRABTREE: And, Gregg, we have regulations on some of these species to protect berried females; is that correct?

MR. WAUGH: Yes.

DR. CRABTREE: Monica, if Florida had – if we removed these from the FMP, Florida could then apply their regulation on prohibit landing of berried females; correct?

MS. SMIT-BRUNELLO: Yes, to Florida vessels. Well, the landings, I'm not sure, you might even be able to reach further, but I don't know, but definitely for Florida vessels it could.

MR. ROBSON: Well, if it's like everything else we would be able to regulate Florida-registered vessels and then anybody landing in Florida. So the question then is do we need to have any of these in the joint Spiny Lobster FMP? Again, right now the Gulf Council has set it up as we've just described. Gregg.

MR. WAUGH: Roy, we have regulations on the slipper lobster and we don't on the smoothtail spiny and spotted spiny.

DR. CRABTREE: Well, I'm just concerned that we're consistent; and if we're going to keep two in as ecosystem species and then remove two from the FMP, we need to be able to I think explain why we want to keep those two as ecosystem. I think we need some record-building here explaining why we're handling these four species differently.

If we don't have a good reason for why we're handling them differently, then we ought to think about handling them all the same, it seems to me. I don't recall and I don't know if Mr. Gill recalls, but I don't recall why we did that at the Gulf Council right at this point.

MR. ROBSON: And do you recall, Bob?

MR. GILL: No, I don't believe we had that discussion as to whether or not to put the spiny lobster in Alternative 4 or not. I think what we did was we focused first on what made sense in Alternative 3 and we didn't want to go into the argument of why slipper lobster belonged as ecosystem because they don't meet all the criteria. Although we were willing to go there, we felt they're not managed now, there is not much information and why bother, so we moved all four, but that left that question that Dr. Crabtree raises, which is a fair question, but we did not discuss it.

MR. CUPKA: I seem to recall, Bob, that there was discussion on those two as ecosystem components because I know it was pointed out that there were landings on them, and so it was felt like they wouldn't meet the criteria for ecosystem species since there were documented landings on them. That was the only reason I can recall from those discussions, that they were taken out because they meet the requirements.

MR. ROBSON: And that was for the two slipper lobsters. Gregg.

MR. WAUGH: I know there has been concern in the past expressed not necessarily for spiny lobster but in snapper grouper about just the wholesale removal of species from the FMPs, so perhaps it was a feeling to remove the ones that – well, retain the ones that could be considered ecosystem component species and remove the others.

There are no landings or bycatch information documented for smoothtail or spotted spiny lobster species, and they're in the FMP now just for data collection purposes. So if you were to remove them, they would still fall under Florida's regulations, which are more conservative than our lack of regulations. I can't think of any reason not to remove them.

MR. ROBSON: So perhaps an alternative would need to be added that would just say remove all four species from the – it would be basically a modification of Alternative 4.

MR. WAUGH: Yes, if that was your intent, then you would adopt all the options under Alternative 4 as your preferred.

DR. CRABTREE: Well, I guess I have a question for Monica. Smoothtail and spotted are in the FMP for data collection purposes only now, Gregg, and so, Monica, the question I have is it seems to me that category of data collection purposes no longer exists; and if they were only in the FMP for data collection purposes and if that category no longer exists, then I would argue then they're not in the FMP anymore. We never put them in the FMP to manage them. It was strictly for data collection. If we can't do that anymore, then I think you could make the case that they're not even in the FMP anymore.

MS. SMIT-BRUNELLO: Well, that's one way to look at it, and I agree with most of what you said, but I think that a little bit of a twist on that is that National Standard 3 Guidelines said you could have species in your fishery management plan and fishery management unit for data



collection purposes, just like these, so the ones that are considered data collection species are in the FMP for data collection purposes.

Now National Standard 1 has come along and said you have to decide what – you look at everything in your FMPs; and if it's in the fishery, then it's in the FMP; and if you don't want to establish ACLs for it, then it's an ecosystem species. I think this is a perfect time to look at these species and decide why did you have them there in the first place and should you continue to have them exist in whatever fashion in the FMP. If you want them in there, then are they ecosystem species or are they managed species? It's a little complicated because the National Standard 1 Guidelines don't really discuss what happened to these data collection species that were in FMPs under National Standard 3.

MR. ROBSON: So perhaps we need a motion that basically keeps Alternative 4 the way it's written now but then somehow a different one that would make it clear that we prefer all four be removed – all four species be removed. That could be done by a friendly amendment or an amendment to the alternative. We don't have a motion on the floor. Oh, yes, we do, okay.

MR. GEIGER: I'd accept it as a friendly amendment.

MR. ROBSON: You would, okay. I'm not sure what the friendly amendment is. Again, this would remove all four species from the plan instead of dividing them up. Is that amendment okay with the seconder?

**MR. GEIGER: The motion would be to adopt Options A-D in Alternative 4 as the council's preferred alternative.**

**MR. ROBSON: All right, is there any other discussion of the motion? Any objection to the motion? Show that motion passes.**

MR. WAUGH: And by virtue of that motion, that now trumps the previous motion, which was to adopt Options A and B in Alternative 3 as our preferred, right, because we have now removed all of them from the FMP. I just want to make sure that is your intent.

MR. ROBSON: Yes, I think it is. Okay, we're good with that.

MR. WAUGH: All right, then we go to Action 2 on Page 39, which is to modify the current definitions of MSY. This is on PDF Page 39. Currently the two councils have two different definitions of MSY. The Gulf's is based on 20 percent transitional SPR or SSBR and the South Atlantic Council's is based on a 20 percent static SPR.

Alternative 2 would modify the Gulf definition to mirror the South Atlantic's. Alternative 3, which would be more generic – and this is what we've been moving towards in all of our plans and amendments it is that MSY equals the yield produced by fishing mortality at the maximum sustainable yield or a proxy for Fmsy. MSY will be defined by the most recent SEDAR and joint Scientific and Statistical Committee process.

Now, the problem here is it appears that we will not get anything out of this last SEDAR update, so the intent would be – and we'll discuss this some in our SEDAR Committee meeting – we will have to work on a schedule for another SEDAR assessment. The question is do you want to stay with your current definition of MSY or adopt this more generic one under Alternative 3; and it would apply once we get an updated assessment that makes it through the SEDAR process and makes it through the SSC review. That would leave it as unknown at this time versus leaving it where we have it now with our 20 percent static SPR, but again the recommendations are not to use any of the values that come out of the assessment, so it would be unknown under that Alternative 1 as well.

MR. GEIGER: Mr. Chairman, I guess I'd look for a recommendation from staff. This is a bit beyond me with regard to making this decision. I don't know what to do.

MR. WAUGH: If it were up to me, I'd adopt Alternative 3 because we're moving towards this generically in all of our plans and amendments, and it would leave it to – once we have an approved stock assessment, then we would use those values that come out. If it's a proxy, then the council will vote on that proxy. Currently it would be listed as unknown.

MR. HARTIG: My comments are similar to George's. The one thing I did want to know; is there any definition of MSY for crustaceans that may be different than for finfish? Is there something in the literature that goes back to other countries managing their crustacean harvest like lobsters? I know in Australia they have a – I guess there is a spiny lobster just about everywhere else in the world. I know they manage theirs quite tightly. I was just wondering if there is any reason to manage crustaceans differently; how they do red crab in New England, I don't know.

MR. ROBSON: I don't know either. I guess either way, either Alternative 1, which is sort of based – this also goes back to what we've been working off of from the previous assessment – or Alternative 3, in either case the results of the latest assessment don't give us any value for MSYs; so Alternative 3 would be there almost as a placeholder, as I understand it, until a new assessment is done that could be accepted or is Caribbean based. Roy.

DR. CRABTREE: I'm not aware of anything different, but there might be some, Ben. It seems to me where we're going to be left is we're going to end up still have to have an ACL, which I assume we're going to use some average catch proxy. I think in the interim you could use an average catch proxy as a proxy for MSY and wrap it in when you come up with your ACL.

The other thing it seems to me – I spoke to some of the scientists with Florida late last week, and they seemed pretty convinced that almost all the recruitment coming into Florida is coming from somewhere else, which means that our management can't affect recruitment, so it seems to me then what you're looking at is maximizing yield per recruit, and that would lead you to some sort of Fmax kind of thing.

But I would think if we're in a position where we're going to have an average landings' proxy that is going for the ACL, that we could just have some discussion in here that in the interim,

until we get a new assessment and recalculate stuff, that's the best proxy we have for MSY, something along those lines.

MR. WAUGH: Just something to consider where we are with this document; we're trying to approve this for public hearings so we're looking at an MSY alternative that's new, that hasn't been analyzed, and is it necessary? We're going forward – under cobia we've got unknown, just saying that it's unknown at this stage. We have to do something for ACL. I'm not sure we have to do something here and is it worth a potential delay to now have other alternatives because that will have to be analyzed, go to the Gulf for their approval, back to us for our approval before we go to public hearing.

DR. CRABTREE: Well, I was thinking more of just something in the discussion and not really an alternative so much; that you could categorize the productivity of the stock as somewhere in this range based on the range of landings we've seen, recruitment appears to all come from other places, but this seems to capture the productivity of the stock and MSY is probably somewhere in that range and not so much making this into a big deal that would be analyzed or anything; just to avoid the difficulty of just saying it's unknown. I mean we do have estimates of what the overall productivity of the stock is over the years and presumably that captures roughly what the range of MSY is likely to be.

MR. WAUGH: And I'm not disagreeing with that approach at all, but right now we've got our current definition of MSY is the harvest strategy that results in at least a 20 percent static SPR. So either we're going to leave that in place or we're going to change. We can certainly add a discussion about what the productivity of the stock is, but –

DR. CRABTREE: So I guess my suggestion would be go ahead with Alternative 3 as the preferred, but in the discussion, when you say it's unknown because the assessment is not there, I think you ought to say but this is the productivity we've observed in the fishery; and based on what we have now, MSY is somewhere in this range.

That way I think we will be a little better – I've been in the issue with the attorneys in the past with saying MSY is unknown, and it's been a bit of a stickler. I think if we do it that way, we cover all of our bases; and then once we get something actually estimated, we're set to go. That's my suggestion.

MS. SMIT-BRUNELLO: I agree with Roy; I think that's a better approach because it is one of the requirements under the Magnuson Act that you have to have for your FMP.

**DR. CRABTREE: I move that Alternative 3 be adopted as the preferred and that staff include some discussion of the range of landings as kind of an interim gauge of where MSY would be.**

MR. GEIGER: Second.

MR. ROBSON: We have a motion and a second, and I'll read the motion, and that would be to adopt Alternative 3 as our preferred alternative for maximum sustainable yield and include discussion in the document about the range of landings as a possible proxy for MSY. Roy.

DR. CRABTREE: Yes, kind of an interim proxy until we get an assessment. And then, Gregg, we've got this sentence that says MSY will be defined by the most recent SEDAR and joint Scientific and Statistical Committee process, but I assume the document is going to make it clear that the SEDAR assessment was rejected, and that's why we're not using it here.

MR. WAUGH: Yes.

MR. ROBSON: All right, that's the motion. Is there any further discussion on the motion? **Any objection? Show the motion passes.**

MR. HARTIG: Could I just ask a question, Mark? It makes a big difference in lobster how far you go back. There is a pretty good break at each of the ten-year intervals of those twenty. There is a pretty good significant drop, so you would use the last ten years, which shows your productivity recently or would you use some of those higher levels in that additional ten years?

MR. WAUGH: My intent would be to use the landings. This is a landing stream and we'll talk about this in a few minutes, but this is a landing stream that is in the document now from '91, '92 through 2009 through 2010. My intent would be to use that whole time series, and you can see this in the graph here. It incorporates a time of higher productivity or higher landings as well as a more recent time period of lower landings, so it would cover that full range of years.

MR. HARTIG: That's why I asked that question.

DR. CRABTREE: Because I guess the big unanswered question with lobster is has there been a regime shift to a lower productivity because of viruses or because of chronic overfishing to the south, and I don't think anybody knows the answer with that.

MR. ROBSON: All right, Gregg, we can move on.

MR. WAUGH: Okay, next is the optimum yield on the bottom of PDF Page 39. Remember we had gotten guidance in snapper grouper that we want to fold OY into the ACL discussion, and so what we've done is the IPT has taken that approach and is applying it to – you'll see this both in spiny lobster and tomorrow in mackerel.

So what the IPT is recommending is OY be folded into the ACL action based on NOAA GC and NMFS Regional Administrative Guidance provided at the September 2010 South Atlantic Council meeting. A similar approach is being taken in the South Atlantic Council's Comprehensive ACL Amendment.

This would move the OY alternative shown below to Appendix A; alternatives considered but eliminated from detailed consideration. And then when we get to the ACL action, you'll see

where we've added the OYs in. If you're in agreement with this, then we would need a motion to either do this or accept the IPT's recommendation, however you want to do it.

MR. ROBSON: So we need a motion. George.

MR. GEIGER: Well, again, I would ask staff is there any disadvantage to doing this, Gregg?

MR. WAUGH: No, this is a point that we surfaced very early in the discussions that once you switch to the ACL, that's going to be your ongoing target and so that then becomes your optimum yield.

**MR. GEIGER: And I'd make a motion that we accept the recommendations of the IPT with regard to OY.**

**MR. ROBSON: We have a motion; is there a second? Second by Ben. Any discussion on the motion? Any objection? That motion passes.**

MR. WAUGH: Continuing on PDF Page 40, you have the overfishing threshold. You have got no action. Alternative 2 would modify the Gulf definition to mirror the South Atlantic Council's. Alternative 3 would specify the maximum fishing mortality threshold as Fmsy or Fmsy proxy. This is basically adopting the same thing that we did for MSY. The same approach is to have this come out of the SEDAR/Scientific and Statistical Committee process. So adopting Alternative 3 would be consistent with what you did under MSY.

**MR. GEIGER: Mr. Chairman, I make a motion that we adopt Alternative 3 as our new preferred for consistency.**

MR. ROBSON: We have a motion; is there a second? Second by Ben Hartig. Any discussion on the motion? Roy.

DR. CRABTREE: Well, just one comment; recall that you did have a disagreement I guess with the SSC on an occasion recently when you chose not to make a change to a proxy that came out of that process, so just bear in mind that when you set it up in this way you're kind of deferring to whatever proxy recommendations the SSC, that they came up to, but that has in the past at least on that occasion led to some issues.

MR. GEIGER: And he is absolutely correct, and it may lead to issues again, but again this is a public hearing document, and the council has changed preferred alternatives before we went final in the end, so it's good advice and we'll keep it in mind.

MS. SMIT-BRUNELLO: Well, I was just looking for it because I knew I read it. Gregg has it highlighted in yellow since this is a proxy value the councils will need to specify the one they feel is appropriate. They're not bound by SEDAR or the SSC for the proxy values and should choose the value they feel best incorporates the existing level of uncertainty, so he added that in there I think to cover that.

MR. ROBSON: I think we'll end up dealing with a proxy of some form based on the assessment. All right, any further discussion? **Any objection to the motion? Show that motion passes.** Go ahead, Roy.

DR. CRABTREE: Just a question about the sentence in here that the council need to specify the proxy value, that will happen I guess, Gregg, at some future date when we finally have an assessment?

MR. WAUGH: Yes, that's the intent.

DR. CRABTREE: In the ACL Guidelines they have – there is a statement in there that councils should choose one of two methods for specifying overfishing. One is to use the maximum fishing mortality threshold level. The other is to use the annual catch limit; and if catches are below the ACL, you're not overfishing; if they're above it, you are overfishing.

It seems like in this case, Gregg, because we can't and don't have a workable estimate of this, that really what we ought to talk about is it would make sense, it seems to me, to choose the other method, which is to base the overfishing determination on the ACL and whether landings are above it. My worry is the way it's written now we don't really have a workable definition of overfishing because we can't put an estimate on it, and I think that's a problem. So would we add an alternative in here to use the ACL as the overfishing definition; do you think, Gregg?

MR. WAUGH: That would certainly cover it, yes. I mean, right now we've been operating under the assumption that we needed to include a maximum fishing mortality threshold; but if it's an either/or whether you're going to use the maximum fishing mortality threshold or your ACL to define overfishing, then we seem to be moving towards, not just here but in all of our species, of using the ACL. So if that removes a need for maximum fishing mortality threshold, then I think, yes, we should do it here and we should do it elsewhere.

DR. CRABTREE: Especially since we don't seem to have a maximum mortality threshold that we can use. The other advantage of that approach, by the way, is we've had binds where we would take action on a stock to end overfishing, but then we couldn't get it off the overfishing list because we didn't do an assessment for six years.

Shifting to basing it on landings gets you around that limit because you can on any year you can tell we're either overfishing or not, so I think it's something we maybe ought to think about for quite a few stocks just to address that. But, we do we need a motion, Gregg? **All right, I would move that we add another alternative to use the ACL as the measure of overfishing.**

MR. ROBSON: All right, we have a motion to add a new alternative for the overfishing thresholds; is there a second? Second by Ben Hartig. Is everybody clear on the intent and purpose for that motion? Any discussion? Gregg.

MR. WAUGH: So, to clarify this would be a new Alternative 4 and it would specify that the overfishing threshold is the ACL, and we will specify that in a few moments, but then the

determination for overfishing would be as Roy laid out. If your landings are below that ACL, then you're not overfishing; if your landings exceed that ACL, then you are overfishing.

MR. ROBSON: And I guess I have a question, Roy, because I'm not familiar with those two different approaches. What I think you just said or what I thought I heard was basically every year you could make a determination as to whether the fishery is overfished or not?

DR. CRABTREE: That's correct, and it has advantages because it's workable. It has the disadvantage that landings could go way up and you could exceed your ACL because there are more fish out there than you thought, and you could find out you weren't really overfishing.

It has pluses and minuses, but one of the pluses is for any year you can say we were or we were not overfishing, and that has a lot of attractive sides to it in terms of us trying to get things off of the overfishing list after we feel like we've done our job properly. But in this particular case I don't see that we much alternative because we don't seem to be able to come up with a workable fishing mortality based estimate now without the stock assessment.

MR. ROBSON: And just as a refresher for everybody, the concern about a stock assessment is that what we need to do is something that goes beyond a Florida or a Continental U.S.-based stock assessment process, and we don't know when we will be able to do that. It's going to have to incorporate other parts of the Caribbean into that assessment, and so it could be a while before we actually have anything new to work off of. Roy.

DR. CRABTREE: And I've got the guidelines here and it actually says catch exceeds the OFL rather than the ACL, and I don't know if we're going to have an OFL for this fishery, but I assume we will use the ACL as the effective proxy for it in that case. I don't know if we're going to have any capability to calculate an OFL. I'm seeing Gregg is shaking his head, so that's something I think, Gregg, that staff needs to explore a little bit.

MR. WAUGH: Okay, and it depends on what we get out of the SSC. They have on occasions I believe for other species said that the OFL – I think they did for wahoo, used some landings to generate what the OFL was. Perhaps they'll do that for spiny.

MR. ROBSON: All right, so we have a motion and it was seconded. The motion is to add a new Alternative 4 to the overfishing threshold actions that would use the ACL as the overfishing threshold. Is there any discussion on the motion? **Any objection? The motion carries.**

MR. WAUGH: Continue on PDF Page 41 with the overfished threshold; currently under no action the Gulf proxy is 15 percent transitional. The South Atlantic Council determined to use the framework procedure to add that once we have the information. Alternative 2 – and we would need to delete the specification the minimum stock size threshold is a poundage or a quantity of eggs because that was put in here based on the stock assessment.

Now we know that the subcommittee and the review panel have recommended not using it. So if you remove that, then Alternative 2 would say the minimum stock size threshold is defined by the most recent SEDAR and joint Scientific and Statistical Committee process. The councils

compare the current spawning stock biomass from the SEDAR and SSC process to a level – that could be rebuilt to level to produce MSY in ten years. This is your standard formula. You'd be putting a formula in place that would be used in the future when we got a stock assessment in order to be able to calculate whether or not the stock is overfished.

DR. CRABTREE: And the formula would be the Bmsy times one minus M?

MR. WAUGH: Yes, unless they come up with a – yes.

DR. CRABTREE: And what the guidelines say about setting MSST is it should be either 50 percent of Bmsy or the stock size that can recover to Bmsy fishing at the maximum fishing mortality threshold level in ten years. I don't know if we can estimate that second one, and I guess the one minus M was a proxy for that sort of estimation that was in the guidelines. Do you know, Gregg, what the estimate of M for spiny lobster is or approximately?

MR. WAUGH: No, I could pull it out of the stock assessment, but they were using two different values; and again with all the conclusions about the stock assessment, I'm not sure where we would end up. There is a table in your overview on Page 3 that's got various values for minimum stock size threshold, and it shows the formula of how they came up with it. I'll pull the natural mortality rate out of the assessment for you.

MR. ROBSON: But again, Gregg, in terms of the two alternatives, using that Alternative 2 with those deletions of these specific references to numbers is kind of the generic way of describing how we would define the MSST?

MR. WAUGH: Yes.

MR. ROBSON: So are you looking for – does staff need a preferred here?

MR. WAUGH: It would be most helpful to complete all the analyses and to take it out to public hearing with preferreds.

MR. ROBSON: The chair would entertain such a motion if there is one. I see no indication of wanting to choose a preferred at this point. Roy.

**DR. CRABTREE: Well, I'll move Alternative 2.**

**MR. ROBSON: Okay, we have a motion to make Alternative 2 the preferred alternative; is there a second?** Second by Ben Hartig. I sense a little bit of maybe confusion or trepidation. Is there discussion or questions about this motion and what it might mean?

DR. CRABTREE: Well, my understanding what we're doing is we're saying that the MSST is going to be one minus M times Bmsy. Now, I think we want to see what that translates to, and I suppose it's not a calculatable number at this time. One of the concerns I have is that we're setting our MSSTs too close to Bmsy, and that's resulting in too many overfished declarations, and a lot of times they're just because of things fluctuating about.



I think we set our minimum stock size thresholds – we may be the only council that is using one minus M. Most other councils have set them at 50 percent of Bmsy for most things. One of the reasons we have a lot of overfished stocks is because of the way we've assigned them. Now, I think the natural mortality rate for spiny lobster is probably 0.3 or 0.4, somewhere in that neighborhood, so it's probably not a concern there. It is something that worries me down the road, but that's my understanding of what we're doing here is we're using one minus M times Bmsy.

MR. WAUGH: In the assessment document that you have, on Page 8 at the bottom, it states that the data workshop and assessment workshop concluded that the natural mortality rate for spiny lobster should be between 0.3 and 0.4. For consistency with SEDAR 8 and previous assessments, they used 0.34 per year for the natural mortality rate.

MR. ROBSON: All right, any further discussion on selecting Alternative 2 as the preferred? **Is there any objection to the motion? Seeing none, the motion passes.**

MR. WAUGH: Okay, now we get to Action 3, which would establish sector allocations, and there is a spreadsheet, Attachment 3B, that we're going to use for this. This has three tabs. The first tab just lays out a brief overview of what we've got. Here we've got landings' data in Tab 2, and in the third tab are decisions.

These landing data were provided by Bill Sharp. There was no recreational total for 2004-2005 due to the lack of a recreational survey given all the hurricanes that occurred that year. What I did was use recreational landings for the two previous years, used the mean of those two to fill in for that missing year of data. The decisions that need to be made, we need to look at making a decision on the allocation and then the ABC Control Rule and the ABC.

First, if we look at landings' data – and this covers from 1991-1992 fishing season through the 2009-2010 fishing year. We've got commercial totals and the percent commercial; recreational totals in Column D; percent recreational in Column E and then the total in Column F. Again, graphically you can see, as Ben pointed out, in the early ten years you had a much higher productivity. The latter ten years were at a lower level of landings.

There is some indication that this current year is turning out to be a high landing year, so we'll see if we get up above this sort of trend over the more recent. So, again, this 2004-2005 – and please stop me if you have any questions – 2004-2005 were filled in using the mean of the two previous years. So then if you look at what the – well, we're just talking about allocations now, so this shows the range of allocations over that time period.

MR. ROBSON: Gregg, I want to go back to something you – because Ben asked the question and I think you answered it, but I'm not sure it's what I thought it was. When we talked about looking at the range of years – and you know there has been this description of the fishery as basically two tiers of landings' history; that we had one level and then about ten years ago it dropped down and it has been stable at that lower level.

But you said that you were looking at – and you look at the graphic on that spreadsheet, you said it was sort of averaging out all of that 20-year period, but in the graphic and I think in other things we've been talking about we're describing the ABC as equaling the mean of the ten-year period, and I'm assuming that was the most recent ten-year period.

MR. WAUGH: That's correct. We're talking about two different things here. Unless I misunderstood Ben's question, Ben was getting at – when we were talking about what the productivity of the stock is and in the discussion of MSY what sort of years were you going to use. There I think it's appropriate to go back use the entire time series that we have because it includes its earlier period.

When we get to where we start talking about likely ABCs, that's a different discussion for a different set of years. Certainly, you all can make a different recommendation; but when we get to that, that is where we use the last ten years worth of data.

DR. CRABTREE: Well, Gregg, when I look at the discussion below, that comparison, it looks like these alternatives are based on a single year.

MR. WAUGH: What are you talking about?

DR. CRABTREE: The allocation alternatives. For example, look under comparison, it says Alternative 2 is based on the, quote, better year, which is the 1998-1999 fishing season, so does that mean that Alternative 2 is based on one year?

MR. WAUGH: Yes.

DR. CRABTREE: Because I don't recall when we've ever based an allocation on a single year. We've always used longer periods of time. It seems like one year, it's just going to be bouncing around. Is there a reason why they did that?

MR. WAUGH: Yes, I was just getting to where we were starting to talk about the allocations, but I just wanted to finish up with landings. Were there anymore questions on the landings?

MR. HARTIG: No, but I appreciate that explanation and it cleared up a lot of what I was looking at.

MR. WAUGH: So then in terms of decisions, the first decision to be made – and the text on this where Roy was looking is on PDF Page 43 – and then we've got these alternatives up here. Alternative 2 is 80 percent commercial/20 percent recreational. Alternative 3 is 74 percent commercial/26 percent recreational; and Alternative 4 is 78/22.

Now, remember the state of Florida has gone through a long, extensive process with a workgroup to develop a range of alternatives for allocations. We took the bulk of those and put them in the considered but rejected appendix. They also had alternatives that looked at sub-allocating the commercial sector and we also put those in the considered but rejected.

What we're doing now is we're just allocating commercial and recreational. Alternative 2, which is the 80 percent/20 percent, is based on the better year in the time series that the workgroup was looking at, and that is the 1998-1999 fishing year. That was supported by ten of fourteen members on the workgroup.

Alternative 3 was based on the 1993-1994 fishing year. That was supported by three of the fourteen members. The consensus recommendation that came forward from that workgroup was for Alternative 4, which is 78 percent commercial and 22 percent recreational, and that was an average of Alternative 2 and old Alternative 3, which is now in the considered but rejected – eliminated from detailed consideration. That was supported by eleven of fourteen.

So, if you want to look at any of these, but, for instance, if you look at the 78 percent/22 percent, which is the recommendation of the industry group in Florida, you can look at this table and see how that changed over time; percent commercial and percent recreational.

MR. GEIGER: Gregg, this workgroup you're talking about, it occurred in 2006. Didn't our AP meet last March in Georgia? Did they discuss this allocation and come up with a recommendation?

MR. WAUGH: They met with us in June. I can't remember off the top of my head if they gave us a recommendation on this. We're not showing it in the text.

MS. SMIT-BRUNELLO: So, Gregg, when the discussion below talks about the advisory board, that is the Florida Working Group that you're talking about and not either the Gulf or South Atlantic's AP?

MR. WAUGH: That's correct.

MR. GEIGER: Well, the question there would be again, then what was the composition of the working group? The AP did not discuss it in June?

MR. WAUGH: Yes, I'm sure the AP discussed it. I'll pull up their minutes and take a look. The review board – and we went through all of this at our June and September meetings as we moved those alternatives into the considered but rejected appendix. There were recreational fishermen on that and commercial fishermen. I can get the exact composition for you.

MR. GEIGER: Well, I'd also be interested in knowing if we had a recommendation from the AP in June.

MR. HARTIG: Remember towards the end we got rushed so much and I know we did some of the more important things, and I'm almost sure we did this; that we asked the AP to give us a consensus on their –

MR. GEIGER: It would certainly be more current than the 2006 recommendation.

DR. CRABTREE: Mark, this was an advisory board that the FWC put together to provide advice to –

MR. ROBSON: Yes, this was the project that was the three-year kind of evaluation of the lobster fishery, and they put together a Spiny Lobster Advisory Board.

DR. CRABTREE: Well, did the commission do anything with this recommendation with respect to allocation?

MR. ROBSON: No, because we don't address allocation in our management program at the state level; so other than a recommendation that came out of it – and there was no real followup as far as the state of Florida. George.

MR. GEIGER: In other fisheries we went through an exercise where we tried to determine a more equitable way or a better way of determining allocations and we came up with what generally has been referred to in the past as Boyles' Law. Interestingly, why didn't we include an alternative utilizing Boyles' Law as a methodology for determining an allocation in this fishery?

MR. WAUGH: Because you decided to follow the recommendations and the process that Florida used. Since this is entirely – basically it's a commercial side. It's a Florida fishery, so we made the decision to use the process that came – that was used in Florida.

DR. LANEY: Mr. Chairman, I'm not on your committee but the composition of that advisory board is addressed on Page 150 if anybody wants to see it, up at the top of the page. It doesn't name names; it just tells you what the composition was.

DR. CRABTREE: And I think you need to work on the rationale. George is right; we do have a policy of sorts I think on this. Another thing I think you need to explain is why you're basing allocation decisions on a single year rather than an average across some series of years, which is what we have almost always done.

I think without exception/we've always used a series of years, and I can't recall, Gregg, when we've ever made an allocation decision based on a single year. I think you're going to need to provide some explanation for that; and I don't think because we decided to use the Florida group's is good enough. You're going to have to explain why and what they decided is appropriate and is the best way to do it.

MR. ROBSON: And just for clarification, I'm trying to recall now when that Florida Advisory Group talked about allocation, it was really to try to determine if they wanted to set a standard that would trigger any potential review of the fishery if the allocation got significantly out of whack from what they decided was the current or the appropriate allocation to look at. They weren't discussing it based on a requirement in order to set ACLs, for example, because none of that was being discussed at the time.

DR. CRABTREE: Well, I think then that just adds more need to have some solid rationale for these alternatives.

MR. HARTIG: To that point, also, I went back and looked at the two ten-year timeframes; and if you look at the earlier period, it comes out 80/20; and if you look at the more recent, it comes out 76/24. I was trying to figure out where the numbers here came by just figuring out those two timeframes, so there are differences.

MR. WAUGH: With this spreadsheet here, we can look at any range of alternatives, years that you all want to look at. This has been a process and you all have made these choices and whittled down the list of alternatives to these alternatives that are shown here. It is different than we've done in other plans.

We can look at any set of years that you want to look at, but again we've been working on this moving towards getting a document that's ready to approve for public hearing. If you all want to look at averages based on other years, let me know and we can project that. My recollection is we moved a lot of these alternatives that looked at lots of other years to the considered but rejected appendix because they varied by only 1 or 2 percentage points.

I suspect when you start looking at various years, you're not going to change significantly if at all from the percentage allocations that you have here, but that's the utility of having this spreadsheet. We can look at any set of years that you want to look at.

MR. ROBSON: All right, is there an interest in looking at the existing allocation alternatives we have and potentially adding in some additional alternatives or not? Ben.

MR. HARTIG: Mr. Chairman, I just want to make sure what we're looking at in front of us now, those means that we're looking at there are based on those two years, Gregg, 2009 and 2010?

MR. WAUGH: Alternative 2 for the 80 percent/20 percent is based on 1998-1999, and that was based on 1998-1999 catch data that they had available to them at that time. If you look at 1998-1999 in this spreadsheet now, the numbers have changed slightly, so now it's 81/19; 81 percent commercial and 19 percent. Alternative 2 was based on the 1993-1994 fishing year, which those numbers haven't changed significantly, so it's still a 74/26. And then Alternative 4, which was their consensus is 78 percent commercial and 22 percent recreational and was based on the average of the 1998-1999 and the old Alternative 3, which I'd have to look in the appendix and figure out what that is.

DR. CRABTREE: I think it's important to know the old Alternative 3, but what bothers me about it; I mean, what is the rationale for any of this? They used 1993-1994 for one of they; why, why that choice of years; why did they use 1998-1999, what is about that year that makes it appropriate to base an allocation on and why did they use one year and not a broader range of years?

It seems to me what you've got here is pretty shaky in terms of rationale. Now, I agree with Gregg, if you look at this there isn't a lot of fluctuation. It has been pretty stable. I suspect if you took the whole time series or if you broke it down and took a couple of ten-year stretches, it's not going to be all that much different. But I just don't see anything in here that provides any rationale. It just seems like, well, I like the way the numbers came out for this year, so I'll choose this year, but I don't think that's a rationale for it. I think you need to either add some alternatives here, but I think this needs work.

MR. WAUGH: Well, Alternative 2, it says right there that's when the trap fishery had the highest proportion of total landings. That's the rationale for picking that. And, again, part of this is for you all to pick which is your preferred and choose amongst these. And, again, if you want to look at the last ten years, we can look at that.

MR. ROBSON: I think it was George that made the comment about we've used a formula in the past; is it appropriate to add that as an alternative and to see what those numbers come out to in terms of separating commercial and recreational? Roy.

DR. CRABTREE: Yes, and I see it says that, Gregg, when the trap fishery had the highest proportion of total landings, but, okay, so why does that make it the appropriate year to set the allocation? I don't think it is the year when the commercial allocation is the greatest, so why is that significant, that that is it? It's just a statement, but there is no context or basis to decide why that would lead you to choose one versus the other, and that's the problem.

MR. WAUGH: The question earlier about the APs, the South Atlantic AP recommended no action, not to set allocations. Old Alternative 3 was 70 percent commercial, 6 commercial dive, 1 percent, so it would have been 77 percent commercial, 23 percent recreational.

MR. HARTIG: I just fall back to George's, too. I think unless there is another – I would like to do it differently if there is a compelling way to do it, but from Dr. Crabtree's comments – and I don't see it. George has got a good point; why don't we do it the way we've done it for consistency sake like we've done for the rest of our species.

MR. ROBSON: Is there a motion to add some alternatives to allocation choices?

MR. GEIGER: Yes, I'd make a motion that we look at including the formula that the Allocation Committee came up with concerning an average period time. I can't off the top of my head recall exactly what the law is. It was 50 percent of an early period and 50 percent of another period. It seems like it has been a formula that has been used for all of our fisheries, and we think it to be somewhat more fairer than an arbitrary decision as to what we would use in terms of selected years. It gives a wider range and better feel for fairness.

MR. ROBSON: We have a motion and second from Ben. Brian.

DR. CHEUVRONT: Mr. Chairman, I am not a member of this committee, but in answer to the question that George had, Boyles' Law, as we described it, was 50 percent of the allocation was to come from the distribution of the last ten years and 50 was to come from the last three years.

But one of the things I thought we discussed at one of our last meetings is that once it gets headed into one direction, it's pretty hard to stop that train and eventually it could go so far as to shut one sector out or the other as that compounds over time.

DR. CRABTREE: Well, my read on this is that we wouldn't set something that is going to change as time goes on. We'd be setting it based on the data. My suggestion to you, George, would be to add that in as one and then maybe add in – use the entire time series as another one.

MR. GEIGER: And I accept that as a friendly amendment to the motion.

MR. ROBSON: Is that okay with the seconder?

MR. HARTIG: Yes.

MR. ROBSON: All right, so we have a motion to basically add two alternatives to the allocation action. Mac.

MR. CURRIN: Mark, I'm not on your committee, but I did some quick calculations of the average recreational landings in the first ten years on Table '91 to what it was – 2000-2001 – it's 25 percent. If you average the last ten years, it's 24.7 percent so they're both real close. I suspect just to inform you the value is going to be right around 25 percent recreational.

MR. WAUGH: And what I did was just calculate the last ten years and it's 76 percent commercial and 24 percent recreational, so all those alternatives that you're adding are going to be 1 or 2 percentage points off of what is here now, which is why at the last meeting we moved them to the considered but rejected appendix.

Remember now, in the midst of all of these other amendments, this is just one we're trying to get approved to go to public hearing. Certainly, it's up to you all to add alternatives, but every alternative you add is more work for your IPTs across each of these amendments, particularly with spiny lobster and mackerel joint with the Gulf, so please just keep that in mind.

DR. CRABTREE: And I understand they're not going to be much difference, but the problem is having some rationale and some context and basis for the choice. If one of the time series comes out to be the same as one of these others, I'm comfortable with collapsing them into a single alternative that says it is this recommendation by this group, but it also is the number that comes out of this time series. Then you'll have some basis of saying so this represents what has happened in the fishery as whole. I'm not concerned so much about what the percentages are. It's more the rationale that's worrisome to me right now.

MR. ROBSON: All right, we have a motion. George would you like to read the motion.

MR. GEIGER: **The motion is to add two new alternatives using Boyles' Law, 50 percent the last ten years and 50 percent of the last three years in an entire time series to allocate the spiny lobster catch limit.**

MR. ROBSON: All right, is the motion clear or is there further discussion on this motion? This would add essentially two alternatives to the four we have for the allocation action. **Any objection? The motion passes.** What does that mean now in relation to trying to select a preferred? All right, we're going to take a ten-minute break and staff will try to look at these two additional alternatives in terms of numbers they generate.

MR. ROBSON: All right, we're going to go ahead and reconvene. During the break, Gregg had taken a look at the numbers that might generate out of the two additional alternatives for allocation, and, Gregg, do you want to explain that.

MR. WAUGH: What would be now Alternative 4 would be all years, and that's years in this time series that is shown in Attachment 3B, from 1991-1992 through 2009-2010. If you look at that all years, the percent commercial 77 percent and the percent recreational is 23 percent. What would now be Alternative 5 would be Boyles' Law, and that's 50 percent on the last ten years and 50 percent on the last three years. That yields 76 percent commercial and 24 percent recreational. As you move through, these decisions are linked and so it would be very helpful to have a preferred alternative at least for the public hearing stage so that then we complete the analyses of the other alternatives.

MR. ROBSON: And you said it was the new Alternative 4; I just want to be clear because we had four alternatives prior to these –

MR. WAUGH: Sorry, five and six.

MR. ROBSON: Yes, so it's five and six, so we have a total of six alternatives. George/

MR. GEIGER: So the Boyles' Law alternative is Alternative 5?

MR. WAUGH: Six.

**MR. GEIGER: Six; I would move that Alternative 6 be our preferred.**

MR. ROBSON: We have a motion; is there a second?

MR. HARTIG: Second.

MR. ROBSON: Second by Ben Hartig. Any discussion on that motion? Again, this is preferred to provide for analysis and to get ready to go out for public hearing. Any questions? **Any objection to the motion? The motion carries.** Gregg.

MR. WAUGH: I was just wondering if we wanted to build the record any as to why we're choosing that, to give us some justification so that we can fill in the council conclusions.

MR. ROBSON: George, do you want to take a shot at it?



MR. GEIGER: Well, I personally like using a longer time series in an effort to try and come up with the allocation. Basically, I think it's for consistency purposes that we've used this and we have adopted it as the methodology for determining our allocations in other fisheries, and I think for consistency it should be considered and used in this fishery as well. And certainly there was ample rationalization back when we developed this formula to explain why the council selected it, but basically it was because you took a long time series, a shorter time series, divided it by 50 percent and we felt it was much fairer.

MR. ROBSON: And in addition to that we've added the other alternative using the full length of the 20-year landings' history base; and even though that is not the preferred, but that alternative also at least takes a look at sort of two different levels of landings that have occurred in this fishery over long periods of time.

Just as a point of information and just to remind us; again, the Gulf Council – and Bob had talked to me a little bit about this, but you can weigh in, Bob – they may actually look at their allocation a little differently just based on the fact that they have specific policy or guideline that they use to set allocations, and it may include more things than just the landings' histories or these averages or an individual year. I don't know if you want to elaborate, Bob.

MR. GILL: Mr. Chairman, I won't be long, but we haven't made that decision yet, but there has been a decided push within the council to use other criteria in addition to landings. I suspect that it will continue into this alternative and this action. Now, whether the council goes with it or not is a different issue; but if it does, it will certainly gum up the works in terms of public hearing and timeliness of the document.

MR. ROBSON: All right, thank you. Gregg, anything else on allocation?

MR. WAUGH: Okay, Action 4, which is the ABC Control Rule, ABC levels, begins on PDF Page 44. Alternative 1 is no action. Alternative 2 would be to establish ABC based on the South Atlantic Council's data-poor control rule, which our council has rejected. At our previous meeting we suggested that alternative be moved to the appendix.

The Gulf did not agree because additional options may be available in the future. The Gulf added a subalternative, Option B, to adopt the Gulf Council's data-poor control rule. Alternative 3 would be to establish an ABC Control Rule where ABC equals OFL. Alternative 4 would be to establish an ABC Control Rule where ABC equals a percentage of yield at the maximum fishing mortality threshold. Alternative 5 was based on the P-star, which we don't have so the IPT recommending that be removed.

In addition, given that the assessment was rejected by both the SSC Subcommittee and the Review Panel, the South Atlantic staff is suggesting – and this is coming from me and not the IPT. I tried to get the IPT to entertain the discussion of including an alternative based on ten years of landings similar to Spanish mackerel in the event that the assessment was not accepted. At that stage the IPT didn't feel that was appropriate, they didn't agree with that approach and the number that resulted. That was before the SSC Subcommittee rejected the assessment; so once they did that, I'm now suggesting that we add three alternatives. Alternative 6 would be to

adopt the SSC Control Rule, and you have – that verbiage is included as your Attachment 3C. The Gulf SSC Control Rule is included as 3D.

We'll come up against this in mackerel as well as snapper grouper. But it would be to adopt the control rule – and John can come up and explain or answer any questions you have about the SSC's Control Rule, but it would be to adopt the SSC Control Rule for how you go about establishing the ABC.

In this case, anticipating what the SSC might do for spiny lobster similar to what they did with Spanish mackerel, they recommended I believe it was the median of ten years, so we've calculated both the median and an average of ten years. The median of the last ten years of landings would be 5.56 million pounds. The median would be 5.52 million pounds.

Another Alternative 7 would be adopt the SSC Control Rule and set the ABC as the high value over those ten years, which would be 7.52 million pounds; or, Alternative 8 would to adopt the control rule and set at the low of those ten years, 4.09 million pounds. To see what impact that might have on the catches, we've got two years of catches shown.

Here are the last two years and you can see that the total was 4.53 to 5.47 million pounds. So, we're looking for action on whether or not to adopt the – well, whether or not to add these new alternatives or other alternatives you might suggest as well as what to do about the other alternatives in the document now. I'll be glad to answer any questions about those years of data or anything.

MR. CURRIN: Mark, I'm not the committee, but I'm curious, Gregg, what is the Gulf SSC's ABC Control Rule for data-poor stocks?

MR. WAUGH: I'll pull it up, Mac, because this is something that we just got and included for you to consider. I haven't been through it in detail. I don't know if Mr. Gill or I don't know if John can elaborate on what the differences are, but it's Attachment 3D.

MR. GILL: Mac, the point I'd make is I think it's still in a state of formation and the council has not yet accepted it, so the current state is that attachment – and I guess John is going to talk about it, but we are still in the mode of reviewing and sent it back the last time for further modification, so we'll reconsider it again in February.

MR. CARMICHAEL: My understanding in this is based on the discussions at the last SSC and what Luiz Barbieri told us – he's on both SSCs – is what the SSC recommended the last time as of April was very consistent with what the Gulf was doing in terms of those tiers for the unassessed stocks.

I think they're quite consistent in terms of how – you know, there are some slight differences that I think still remain in terms of the assessed stocks and how you evaluate that buffer, but I think they adopted a very similar approach with the DBSRA and DCAC and the evaluation of the different levels.

In fact, a lot of what Luiz had done there is what led to that being adopted here, so I think in that regard the framework is very similar. How it gets interpreted and how the different data streams will be evaluated could be something entirely different and it would probably behoove us to have some sort of group get together, anyway, to do that on behalf of both groups and work it out.

MS. SMIT-BRUNELLO: And I guess for the record, Mark, we're considering this to be a data-poor or an unassessed stock because we have an assessment but the assessment wasn't accepted, so therefore we're kicking it back into a data-poor category?

MR. ROBSON: Well, I think that's an important question that we need to resolve. I don't have the answer. There has been an assessment. There is a previous assessment. It has been assessed, so I don't know that it's not an unassessed stock. I don't know how you would determine whether it's data poor or not. Roy.

DR. CRABTREE: The problem is, yes, we have an assessment, but it was rejected by the review panel and the SSC, so I don't think we can base management on that. Now, there is certainly more data for spiny lobster than there are for a lot of our other data-poor stocks, but it might be on the data rich end of data poor. But if you're categorizing anything that's data poor, I think that's where we're left because I don't think we have an assessment to work off of now.

MR. ROBSON: And when you say that, that's assuming that we don't fall back to the old assessment because there is a previous assessment.

DR. CRABTREE: I think, though, all the problems with update also pertained to the original assessment, so I don't see how we could do that.

MR. ROBSON: That's right; this was an update; this wasn't a benchmark. Ben.

MR. HARTIG: Well, one of the things – and I brought this up before when we talked about Spanish mackerel, but to just look at these landings and just take them as face value off the pages, we have a correction factor for the hurricanes for the recreational landings in there. And, I mean, and not to look at what has impacted lobster landings such as closed areas, hurricanes, economic conditions over the last couple of years where the price was so low, how did those impact the commercial landings? If we don't know those things, the landings aren't going to be very informative about what could have been caught in those specific years.

DR. CRABTREE: I just want to ask John a question. It seems to there are some per-recruit things we could apply to this fishery potentially. If you base it on the recruitment is all coming from somewhere else and so nothing we do has any impact on numbers of recruits, then if you're trying to follow an MSY kind of way of thought here; wouldn't you effectively then simply maximize yield per recruit and go to something like an Fmax strategy?

MR. CARMICHAEL: I would think that would be what you'd want to do. If my recollection is right, that's a lot of what was discussed that was done in the past by Florida and a lot of discussions the last time in this assessment about understanding that you couldn't estimate really the effective spawning biomass, so the idea was to look at essentially Fmax and trying to prevent

the growth overfishing and trying to essentially get as much yield as you could out of whatever amount of recruitment happens to settle within the Florida area.

DR. CRABTREE: Isn't there some way to get at that through Florida without going through the whole assessment process? I mean, yield-per-recruit things aren't that difficult to estimate typically, and I think we have a lot of information on growth and biology of spiny lobster.

MR. CARMICHAEL: I'm certainly no spiny lobster expert, but I seem to have some memory that they made a lot of effort to try and estimate recruitment to get an idea of what was coming into their waters and trying to make the most out of that. I think that type of approach should certainly be feasible within what Florida has done in the past and the information that might be available. It's just much harder to put it in terms of overall optimum productivity when you consider the much bigger stock picture we're dealing with.

MR. ROBSON: And my recollection, too, is I know that there is recruitment data and there is a recruitment data stream for an index that they used, and in fact that showed – characteristically it showed that recruitment is somewhat steady, and so that was something that the assessment group looked at in terms of, well, there doesn't seem to be a real issue there; it's steady. It may be a lower level, but the reality is that the recruitment had been fairly stable. Gregg.

MR. WAUGH: And if you start talking about maximizing yield per recruit, my recollection is that will get us into looking at minimum size limits, and I'm not sure you don't maximize the yield per recruit at a size limit of about 3-1/2 inches when that was looked at in the past.

MR. ROBSON: I had a couple of questions because I'm technically not able to figure all this out. But, when the update was being done and one of the analyses, before they decided to reject the whole assessment, was in calculating an MSY value at the 20 percent SPR, given the new updated information in the assessment, they came up with I think about a 7.9 million pound value.

There was discussion during the subcommittee workshop that there were also – that that tended to also track some other estimates of maximum yield that are generated through some kind of an analysis of the fishery in terms of its capacity. I don't know the details of that, but the only concern I have if we're going to start talking about setting a level, that it be sufficiently high to incorporate those kinds of data that at least were being looked at, even though in the case of the assessment they decided not to use it because they rejected the assessment.

MR. WAUGH: And, certainly, if you add an alternative that looks at setting the ABC at the high of the last ten years of landings, that gets you up to 7.52 million pounds, which is close to that number.

MR. ROBSON: So I guess unless there are questions about the control rule and how that's applying, we do have the possibility of adding some alternatives that are basically landings-based determinations for ABC. Is there a motion to add some of those alternatives for a public workshop? Roy.

**DR. CRABTREE:** Well, I don't see that we have much choice other than that, so I would move that we add some landings-based alternatives as Gregg has laid out.

MR. ROBSON: And he has laid out three specific ones that are all based on the most recent ten-year period. Are you making a motion to adopt those three and add those as alternatives?

DR. CRABTREE: Yes, I think I am because I think it would be difficult to go much further back in the time series because we've had this disparity in landings; and somewhere along the way when we adopt one of these time series, we're going to have to make some sort of argument as to why we think it's sufficient to prevent overfishing. While there might be a rationale for going further back in the time series, it seems to get a little more difficult to me.

MR. ROBSON: All right, so we have a motion to add those three alternatives using the high year, the median and – was it the median and mean or the mean?

MR. WAUGH: We need to pick one and it's only a slight difference. The mean is 5.56 million pounds and the median is 5.52.

DR. CRABTREE: Well, I'd with the mean; that seems more reasonable to me. So then you're going to have the mean and then the high and the low, Gregg; is that correct?

MR. ROBSON: For the most recent ten years; that would be the motion. Second by Ben Hartig. Monica.

MS. SMIT-BRUNELLO: I don't usually speak for or against these kinds of things, but I think this is a good idea because you're in a funny position, anyway, because you don't have the ABC and other things to base the ACL off of; yet you have a statutory time deadline by which you have this document done; so for NEPA purposes and taking out a DEIS, you certainly would want a pretty wide range of alternatives to cover hopefully whatever the final decision would be within that range of wherever you end up. I think it's a good idea.

DR. CRABTREE: I guess the only thing that bothers about it, we're calling these control rule alternatives, but they're really – we're just specifying ABCs which is kind of a responsibility of the SSC to do.

MR. WAUGH: Yes, and these alternatives are two parts. The first part adopts the SSC's Control Rule, and then the second part – and I agree with Roy totally that this is something that the SSC should do, but all we're doing by this action is including these alternatives now to bracket what likely would be a recommendation to come out of the SSC. Once the SSC gives us their recommendation for ABC, that's the value we'll have to use.

DR. CRABTREE: Then I would ask, Gregg, that you caveat these alternatives in the document that these are really for guidance to the public and that ultimately the ABC will be recommended and decided by the SSC, so that it's clear we're not usurping their authority here.

MR. HARTIG: And I just reiterate that, because I remember in Spanish it was hard to try and figure out what all the numbers meant; and if we explain them better than we did there, it will be a real help to the public, at least to me, anyway.

MR. ROBSON: All right, so we have a motion? Is there any further discussion on the motion? **Any objection to the motion? Then that motion carries.** Are there any additional – Gregg.

MR. WAUGH: Yes, when you look at Alternative 4, this would establish an ABC Control Rule where ABC is some percentage of yield at MFMT. Given that we don't have MFMT, we can't calculate any of these, so I wonder if we don't want to remove Alternative 4 and move Alternative 4 to the considered but rejected appendix, and we also need to act on the IPT recommendation for Alternative 5, to move that to Appendix A.

**MR. HARTIG: Well, I would say move but I'll move Alternative 4 and Alternative 5 be moved to the considered but rejected considerations.**

MR. ROBSON: We have a motion to remove Alternative 4 and move Alternative 5 to the considered but rejected. Is there a second; second by George. Discussion? Roy.

DR. CRABTREE: And I guess the rationale is because these aren't reasonable alternatives right now because they can't be calculated.

MR. ROBSON: I guess the only question I have – and again not knowing the process and I know they don't have the number to work with, but is there any likelihood that the SSC could back and make some estimate of MFMT without the assessment?

MR. WAUGH: They certainly could, but I would only offer that the SSC Subcommittee is comprised of the expert scientists from each council's SSC with expertise in spiny lobster, so it would be somewhat surprising for them to do that. I think we'll be lucky to get them to come up with an ABC recommendation. They certainly could come up with some of these values, but for them to accept the MFMT value, that would mean that then they're accepting some portion of the stock assessment that was rejected by both the review panel and the SSC Subcommittee.

MR. ROBSON: Okay, we have a motion and a second. Any discussion on the motion? **Any objection? The motion carries.** Are there any other thoughts about alternatives or ways of looking at bracketing some way of estimating ABC? Gregg, I would just like some explanation for my own purposes as to, again, the subcommittee looking at and coming up with an MSY based on a yield at the F 20 percent because that was the previous – the F 20 percent SPR was something that was used back in the original assessment; and looking at that, then they present here – and you've got it highlighted – the 7.95 millions pounds, and I remember that discussion.

I remember the subcommittee talking about that number and how it seemed to match up well with one of the members of the SSC that had looked at an economic analysis of the fishery and that had come up with a very similar number. I'm just wondering if it would be appropriate at a very – it would be a high-end bracket but it would be something that's based on a number that has been generated and looked at by the subcommittee.

MR. HARTIG: Are you looking for a motion? You could either have a motion to that or you could use that description that you just made to support the highest level that we have on our landings' table.

MR. ROBSON: Well, I was looking for some staff explanation as to – if it's completely out of the realm based on rejection of the assessment, to go ahead and include it based on their analysis that the subcommittee did in coming up with that number.

MR. WAUGH: We could certainly include an alternative in here specifying an ABC of 7.95 million pounds, but we would have to point out that was rejected by the SSC Subcommittee and the review panel. There is not a whole lot of rationale for it; but if you want another alternative included, we can certainly do that.

MR. ROBSON: Well, again, and thinking in terms of the full SSCs evaluating the results of the subcommittee and whether or not they actually want to go back and look at that kind of a number, because it hasn't been determined from either SSC exactly what they're going to recommend. Roy.

DR. CRABTREE: Well, I'd want to wait and see what they recommend then, but I don't think I would put that number in there now because I'm not sure we have any basis for it. If they come forward with a recommendation of that, then we'll react to it I guess when we get it.

MR. WAUGH: Monica, if we were to get a recommendation from the SSC for an ABC that's higher than our highest alternative here; would we have to go back out to public hearings to consider that given that it would liberalize the limitations?

MS. SMIT-BRUNELLO: Well, I'm not so concerned about you having to go back out because I think that you could at June tell the public that's what you're doing. What I would be more concerned about if it was within the range of alternatives considered in the draft environmental impact statement.

MR. WAUGH: And here it would not. I mean the high end of the alternatives that would be included now is 7.52; so if the SSC was to recommend 7.95 million pounds as the ABC, then it would be outside of this range.

DR. CRABTREE: So I guess it's possible we might need to supplement it, although I think I would argue that 7.9 is really not much higher than 7.5, and I don't think the – I don't regard that as particularly significant, but I guess we'll deal with that if and when it happens.

MR. ROBSON: All right, there was no motion to that effect. Is there any other discussion on possible ABC determinations? Okay.

MR. WAUGH: Okay, the next item is setting the ACL. Now that we have an ABC; the alternatives here, this is on PDF Page 46; no action,, do not set ACLs. Alternative 2 is to set an ACL for the entire stock, and this is a little confusing. I apologize for this, but Alternative 2

would set ACL – and here is where we’re folding in the OY – as equal to the ABC, and it doesn’t anticipate any sector allocation.

Alternative 3, since we’ve already decided we’re going to allocate by sectors, this would set the ACL based on those sector allocations. To me it’s a little more straightforward if we look at the spreadsheet, and the first decision that you make is in terms of setting your ACL; do you want to step down from your ABC for management uncertainty? That’s a determination for the council to make.

The ABC will ultimately be recommended by the council. Generally you don’t want to set your ACL equal to the ABC because that’s saying there is no management uncertainty, no risk that we’re going to exceed our ABC. So we’ve got alternatives that would look at stepping down from your ABC by 10 percent or 20 percent.

The first decision for you to make is do you want to set your ACL equal to the ABC or 90 percent of the ABC or 80 percent of the ABC. Then whatever ACL results from that numerically – and we show them here for the mean, the high and the low – then that would automatically just be calculated and allocated based on now the existing allocation alternatives plus the new ones. So the decision to make in terms of your ACL is how do you want to specify your ACL; equal to ABC, stepping down by 10 percent or 20 percent?

MR. GEIGER: Gregg, I see when you drop below that, we have sector ACLs, and, of course, in the past as we’ve discussed, the commercial side we’ve got accurate landings via trip tickets for, but on the recreational side we have very, very – yes, I hate to characterize it but it’s very specious in terms of its accuracy. Is it prudent to set an overall ACL? I mean, what difference would it be? I think the important aspect of it is where we would set the sector ACLs as opposed to the overall ACL. Do you understand what I’m saying?

MR. WAUGH: Yes, because you get into then setting an ACT would accomplish – an annual catch target would accomplish what you’re talking about. The first potential step down is do you think in terms of managing the spiny lobster fishery where you have some management uncertainty, implementation uncertainty even within the commercial sector even though it’s under – we could track the quota. That’s what factors in this first step-down.

Then you would allocate recreational and commercial, and you look on the commercial side do you want to set an ACT because you have difficult tracking the commercial catch? Generally we’re not setting ACTs on the commercial sector because we can track them and close that fishery. We are looking at ACTs on the recreational sector because we recognize there is some uncertainty there. That’s a way of getting at the difference in the ability to monitor the recreational and the commercial.

MR. ROBSON: Why wouldn’t we include an alternative that sets the ACL at the ABC?

MR. GEIGER: Well, we talked about the fact if you – I guess it depends on what we’ve done previously. If you exceed the ACL, then you’re overfished or overfishing, right, Jack.



DR. McGOVERN: Roy was saying if you exceed OFL, you're overfishing.

MR. GEIGER: OFL, okay.

MR. ROBSON: I don't know that we couldn't set the ABC at ACL.

MR. GEIGER: What are the dangers of doing that, Jack?

DR. McGOVERN: Well, we do that for snapper grouper. We have alternatives where ABC is equal to ACL.

MR. GEIGER: What are the dangers of doing that?

DR. McGOVERN: Well, you can account for – you can have other options in there, like Gregg is saying where you can have an ACT and you can account for management uncertainty there. It's less precautionary to set ABC equal to ACL.

MR. WAUGH: Generally it's a little more biologically risky to set your ACL right up against your ABC because you don't want to exceed the ABC. Here we have a situation where the majority if not all of the recruitment is external to the Florida population, so you don't have as much of a biological rationale for lowering your ACL. I think here versus some of our snapper grouper species I think you're on much stronger biological grounds to set your ACL equal to the ABC.

MR. HARTIG: Yes, to that point, also you've got some significantly large closed areas in the Keys where you have some insurance policies built into your management, which would allow you to do this, so I don't see any problem with it for spiny lobsters, anyway.

MS. SMIT-BRUNELLO: I have a question. Since MRFSS tracks finfish and doesn't track this kind of crustacean, how do you keep track of the recreational landings; how does Florida do that?

MR. ROBSON: It's based on an annual survey that's done, and it's not timely, for sure. It basically incorporates the recreational harvest during the first couple of months of the season, three months of the season, and then I think they extrapolate out. Gregg.

MR. WAUGH: And in fact when to accountability measures,, which is Action 5, we're not establishing any in-season accountability measures because there is no data collection program on the recreational sector that provides in-season catch monitoring.

MR. ROBSON: And that's the way of dealing with that inability to track the landings on a real-time basis is to set the accountability in a way that's not punitive. I'm still back to my question. I don't know why we wouldn't include at least an alternative that sets the ACL at ABC. Gregg.

MR. WAUGH: We have alternatives in there. What we're asking now is for you to pick a preferred; and so if you look at Alternative 3, that would set annual catch limits for each sector based on the allocations in Action 3. We've done that in Action 3; we have our allocations and

we have preferred. So if you want to set the annual catch limit equal to ABC without that additional step-down of 10 or 20 percent, then Option A under Alternative 3 is your alternative. That would set the ACL equal to the ABC and then split it by recreational and commercial.

MR. ROBSON: Well, as the chairman I'm not going to make the motion, but I would argue that given what we know about the stock and the way it's being prosecuted and managed and the inability to really do much about the harvest within the state of Florida and the dependence on recruitment from outside, I don't see any reason why we couldn't set the ACL equal to the ABC as least for the preferred alternative. George.

MR. GEIGER: And I would counter that with all the things that you just said, I would argue that is rationale for not setting it equal. If you want to take the conservative viewpoint, exactly what you said is the reason for not setting them equal. But, that again remains to be up for vote if somebody wants to make the motion – I would not support it.

**MR. HARTIG: Well, I'll make the motion then under Alternative 3, Option A as our preferred alternative.**

MR. ROBSON: We have a motion. You said Option A, Alternative 3?

MR. HARTIG: Yes, that was the one that Gregg described where –

MR. WAUGH: Yes, that would set the ACL which is equal to the OY equal to the ABC, and then we would separate it by recreational and commercial by your preferred alternative.

MR. ROBSON: Okay we have a motion; is there a second?

MR. STEELE: Yes, I'll second.

MR. ROBSON: Did I hear a second?

MR. WAUGH: Phil.

MR. ROBSON: Phil, okay. He is Roy's proxy, I guess. All right, we have a motion and a second. The motion is to adopt the ACL Alternative 3A as our preferred alternative, which would set the annual catch limit equal to OY equal to the ABC. Mac.

MR. CURRIN: I'm not going to sit here without saying this, and I'm going to give you two or three nots. One, I'm not on your committee; two, I'm not a lobster biologist and I don't know a whole lot about the life history of those animals, but I've heard a lot of reference to the recruitment, the feeling or knowledge that the recruitment for stock in Florida is coming mostly if not entirely from somewhere else and using that as a basis to consider what some might call somewhat risky management.

I'm not suggesting that we need to back off any of this stuff. My problem is that is an extremely risky approach in the face of a lack of so much knowledge. I had this discussion with one of the biologists who was here at I guess a spiny lobster joint committee meeting or something, one of

the Florida biologists, Mark, about where the recruitment was coming from and furthermore where the larvae from Florida were going.

It can't be a totally open-ended system in that whatever Florida is doing is going away. I guess it could be, but that doesn't seem like it makes a whole lot of sense in the big scheme of things and over evolutionary time. And if you kind of backtrack it and say, okay, Florida is getting their recruits from somewhere else, Cuba, Central America, somewhere; would not that same logic suggest that those countries are also getting their recruitment from somewhere else?

And if there's not a loop in there somewhere, then we've got a failed system. I would argue that – again, I'm not a lobster biologist – the contribution from the standing stock in Florida, from the stock biomass in Florida, I would argue that is an important input somewhere, and it may just be that there is a complete loop and that what is going on in Florida as far as the production of larvae is supplying one of these areas that down the road is going to be supplying Florida.

I think we need to be cautious about taking the attitude that what we do here doesn't really matter a whole lot, what we do as far as harvest because all of our recruits come from somewhere else. You may well be supplying or initiating the train that's creating or carrying your recruits from another area. I think we should use an abundance of caution in that approach.

MR. ROBSON: Well, I appreciate those comments, Mac, but let me respond to at least a couple of things because I asked some similar questions and I'm continuing to ask them. I don't think anybody knows where the larval contribution of Florida's population contributes, and it may not contribute – it may be a sink.

I don't think there is any real information to tell us that our eggs are – I've asked the question is the Florida Keys population contributing significantly to the lower east coast or to the upper east coast and the answer is probably not, that those populations are subject to the same recruitment that the Florida Keys population is coming from.

There are four or five multiple locations in the Caribbean or the Bahamas. Florida's contribution to the Caribbean-wide population is probably pretty low. Certainly the landings are low relative to that. My basis for giving some credence to allowing for a little bit more of an acceptable biological catch is based on what has been a fairly steady state in this fishery at least for the past ten years. There has been a shift in the fishery, a fundamental shift from ten years ago.

There are a number of reasons why that or may not have occurred. It may have to do with this viral issue, but the recruitment has remained fairly stable. The commercial and the recreational landings have remained fairly stable at that level. We generally take into account that we are going to get our recruitment for the Florida fishery from external sources and allowing the harvest to occur at the level that it's occurring has not caused a problem in that fishery in terms of its being overfished or undergoing overfishing. We're maximizing harvest of adults, but we've been able to continue to do that and the primary issue there is that recruitment is coming from external sources.

MR. GEIGER: You know, I heard it differently from the people who were on our AP when they talked about the state of the fishery. They talked about the sport fishery. There appears to be plenty of lobsters, but after that there is a significant drop-off. Once the commercial industry takes over and places their traps and that fishery gears up, there is a significant reduction in the availability of lobsters to the recreational sector.

I mean they talked about it and you hear people talk about it. I can't support the motion. There is no risk aversion to it at all, and I think that setting the allowable catch limit at ABC or ABC at the allowable biological catch limit is a mistake. It's not risk averse in any way, shape or form and I would not support it.

MR. ROBSON: All right, we have a motion and a second. Any further discussion on the motion? Phil.

MR. STEELE: Well, one thing I was thinking about when I supported this motion is that last year or the year before I think this council, the Gulf Council and the Caribbean Council enacted – we enacted regulations that set the minimum size for import into this country.

As you all know, the harvest of undersized lobsters is going on all over the Caribbean. Now it's illegal to import these undersized lobsters into the United States with our hopes being that this is going to improve our spawning stocks Caribbean-wide, so I was kind of putting that into the equation, also.

MR. GEIGER: And I appreciate those comments, Phil, but the operative word in your little discussion is "hope" and you can hope in one hand and you can do a lot of things in the other and you can see which fills up first. Hope is not a very good thing on which to take a very risky, progressive position on managing a stock that we know very little about.

As Mac says, we just don't have a lot of information and there is an argument to be made for being more conservative based on a lack of knowledge and what we don't know about this stock as opposed to some specious information that we have concerning it. The recreational landings, I don't know you put any faith in that sampling model or in the results that it achieves. We don't have any idea what the recreational sector lands with regard to spiny lobster over the course of the season. Again, this way, way too progressive for me; this is not management and I will speak against it and I will not vote for the motion.

MR. ROBSON: All right, is there any other discussion on the motion? We may need to take a vote on this just to be clear. **All in favor of the motion signify by raising your hand; all opposed.** Matthew, you're on the committee and Roy Crabtree, I didn't –

MR. WAUGH: Phil voted.

MR. ROBSON: Phil voted, okay.

MR. WAUGH: **It's two to one.**

MR. ROBSON: You can abstain, so can I vote?

MR. GEIGER: This council is not in the habit of abstaining. We all take an oath of office including our Coast Guard representative. You've listened to the debate and you can decide on whether it's the right thing to do or not the right thing to do. There are tough decisions and you're going to find many tough decisions during the course of your career, young man, and this is an opportunity to step up to the plate and make one right now.

MS. SMIT-BRUNELLO: Well, the other thing is that you don't have to pick a preferred now, and you could go out to public hearings and get more information. I don't know that there is anything – Gregg might feel otherwise but all the alternatives are supposed to be analyzed equally for NEPA purposes.

MR. ROBSON: I understand, but we've had a motion and we've had a vote at this point. David.

MR. CUPKA: You did have a motion and you had vote and I think it passed two to one unless I'm mistaken. Can you vote; yes, if you had to break a tie, but I don't see a tie there, so it looks to me like it passes.

MR. ROBSON: **Yes, the motion passed.** Gregg.

MR. WAUGH: If we just back up to the top of this where the IPT recommended adding OY to all of these alternatives, remember we moved the OY actions to the considered but rejected, so we just need a month. If that's okay with you all, that is a part of the motion you just approved, but we've also added OY to all the other alternatives.

MR. ROBSON: Can we get a motion to that effect?

MR. HARTIG: So moved.

MR. ROBSON: Motion from Ben to add OY to the alternatives as per the changes in the document; is there a second? No, this is an alternative to add the references to OY to the other alternatives.

MR. WAUGH: We already moved OY alternatives to the rejected appendix with the rationale that we're going to add them here. This is already a part of your motion you just approved, so what we're looking for is guidance on the IPT's recommendation to put OY for the other alternatives.

MR. ROBSON: All right, we have a motion and we have not received a second.

MR. WAUGH: So then we won't specify – we won't add it and so we won't have OY addressed.

DR. CHEUVRONT: Again, I'm not on your committee but just bring it up at full council and we'll take care of it there.

MR. WAUGH: Thank you. It gets a little tougher. ACT is on Page 48. The Gulf preferred is no action and not to set ACTs. Alternative 2 would set ACT for the entire stock, and at their last meeting the Gulf Council added the following Subalternative A, which would be to set ACT equal to the ACL. This in essence is the same as no action. Option B would be to set the ACT at some reduction of the ACL.

Alternative 3 would be set annual catch targets for each sector based on the allocations from Action 3. The Gulf Council approved these three subalternatives; annual catch target equals the sector allocations times the ACL, and so this would basically – Alternative 3 would basically set ACTs up for each sector and you would need to give us some guidance if you were to choose that on how much you want to step down from the ACL for the ACT. We currently do not have a preferred alternative.

DR. MCGOVERN: I have a question. It looks like it's stepping down the same percentage from the ACL for both sectors; is that correct? I was just thinking in snapper grouper there is an option for setting the ACT below the ACL for the commercial and the recreational. In the case of snapper grouper they're setting an ACT for the recreational sector because those data are less certain than the commercial, and I didn't know if the committee wanted to have something similar for spiny lobster, but I don't know how recreational data are collected either for spiny lobster.

MR. WAUGH: And Jack is right, that is the approach we've taken in others where we have some in-season recreational data collection stream. Here we don't and we're not having any in-season accountability measures on the recreational sector either. If you were to develop an ACT, I'm not sure what we'd do with it. I think here given the recreational sector is the one where you would have some difficulty tracking, we don't have an in-season data collection program and we're not implementing in-season accountability measures so it seems the prudent thing to do here is to adopt Alternative 1, which is to not set ACTs.

MR. ROBSON: Is there a motion to that effect?

MR. HARTIG: So moved.

**MR. ROBSON: We have a motion to set Alternative 1 as the preferred; is there a second? Second by Phil Steele.** Is there any discussion? George.

MR. GEIGER: Mr. Chairman, again we don't know what the recreational landings are. We are playing with fire here. I understand how you can't sell an ACT for the recreational sector, but it harkens back to what we just did in the previous action. I just think this is really risky, very risky.

MR. ROBSON: Other discussion on the motion? **Is there any objection to the motion? Show one objection; the motion passes.**

MR. WAUGH: Now we're accountability measures, PDF Page 50. The no action alternative is do not set accountability measures. The IPT recommends adding currently there are no management measures in place that could be considered AMs. Remember spiny lobster is not under quota management right now.

Alternative 2 would establish in-season accountability measure; a quota closure similar to what we do in other fisheries. The IPT is recommending changing Option A to read "close the commercial fishery when the ACL or ACT is projected to be met", and we're not specifying an ACT so it would be the ACL. Option B would be to implement a commercial trip limit when 75 percent of the commercial ACL or ACT is projected to be met.

So, we're establishing in-season accountability measures on the commercial sector only. Post-season accountability measures on the commercial side; Suboption I is an ACL payback in the fishing season following the previous year's ACL overage; so if you go over by a hundred thousand pounds, it comes off the following year.

The second suboption is to adjust the length of the fishing season following an ACL overage. Option 3 would be to implement a trip limit to try to slow down the harvest. On the recreational side Suboption 1 would have an ACL payback in the fishing season following an ACL overage. To estimate the overage, you compare the recreational ACL with recreational landings over a range of years for 2011.

We'll use 2011 only; for 2012 we'll use the average of the two; for 2013 onwards, we'd use the most recent three-year running average. That would reduce your ACL in the following year by the amount of the overage. The second suboption would adjust the length of the recreational fishing season the following year. Alternative 3 would adjust the bag limit for the fishing season for the following year.

C would be to have recreational and commercial combined accountability measures where you would adjust the season length for recreational and commercial. Suboption 2 under Option C would have a recreational and commercial ACL payback if the combined ACL is chosen. We haven't chosen a combined ACL, so it's not really applicable. First we've got a couple of IPT recommendations; one to add some discussion; and, two, to change the wording of Suboption A under Alternative 2, and then hopefully you'd pick a preferred for us on accountability measures.

MR. ROBSON: Do we need to go ahead and talk about management measures in place?

MR. WAUGH: We're not proposing to change them.

MR. ROBSON: Do we need to take up the preferred before we talk about the –

MR. WAUGH: Right, first we could act on the –

**MR. HARTIG: For Alternative 2, I would move to close the commercial fishery when the ACL is met or projected to be met, I should say.**

MR. ROBSON: That would modify the language for Option A and that would be to close the fishery when the ACL or ACT is projected to be met. Is there a second?

MR. STEELE: Second for discussion.

MR. ROBSON: Yes, second for discussion, Phil Steele.

MR. STEELE: My question is can you monitor these close enough to have in-season quota closures in the state of Florida?

MR. ROBSON: This is commercial. We're using trip ticket information.

MR. STEELE: Which comes in every three to six months or is it better than that now, so would this be timely enough to be able to do the in-season quota closure?

MR. ROBSON: It may not be. The data is considered preliminary for probably a couple of months at least. Ben.

MR. HARTIG: Is there a way to set up some kind of a dealer reporting system similar to what we have for other finfish species for spiny lobster; is that a possibility? I certainly don't want to see the commercial fishery get into a situation where they go and have the potential to, after we see the landings for this year, go considerably over an ACL that we set and then sit at home next year. That would not be very tenable for the commercial industry.

MR. WAUGH: There is an ACCSP Quota Monitoring Program that is in effect in the states of North Carolina north. Now we're not using that in any of our fisheries North Carolina south, but certainly that's based on dealer reports. That's one avenue.

MR. GEIGER: Bonnie, are we going to receive a report on ACCSP at this meeting? I think we talked about at the last meeting.

DR. PONWITH: If you're talking about progress on the electronic reporting, we can talk with you about that, yes. The bottom line is we're working on establishing electronic dealer reporting right now. I'm double-checking right now to make sure spiny lobster is included in that. I can't think of a reason why it wouldn't be, but before I land on that I want to make sure that is incorporated in it. But once the electronic dealer reporting is fully implemented, it will be reliable and timely to the extent that we have compliance.

MR. GEIGER: So is that going to be a system parallel to ACCSP or are we using ACCSP as the basis for developing our electronic reporting system?

DR. PONWITH: It is being done in conjunction with ACCSP. The two of them are linked. They're not parallel efforts.



MR. ROBSON: We have a motion and a second. It may be somewhat problematic to do the kind of real-time monitoring at the commercial level. I don't know enough about what we can do to modify the data collection to account for that to be able to do an in-season accountability.

MR. WAUGH: Well, there is a big incentive here. Unfortunately, the people collecting the data aren't the ones that pay the price; but if you go over, the post-season accountability measures makes the fishermen pay the price the following year. I guess what happens is if it does go over, the fishermen pay the price.

They will feel that economic pain, cause enough heat to generate the data collection program to track it the following year. We are going to have post-season accountability measures here; so if they go over by 25 percent, then that 25 percent comes off of the quota the following year. It's the same accountability measure on the commercial side that we're putting in across the board. If the data system isn't timely when that gets implemented, then the fishermen are going to be paying the price for the landing systems not keeping up in a timely fashion.

DR. PONWITH: And, again, I think the key word in the alternative is "projections" because even though we're going electronic to make those data as readily available and as timely as possible, it will still rely on using the current burn rates in projecting out to be able to anticipate when you're going to cross that line, so two things influence overages in this new system.

One is compliance. If a dealer holds back information at the risk of whatever sanctions are put in place for that, that information isn't incorporated in the projections and causes one problem. The second one is if you do a projection and the burn rate through the ACL changes between when that projection is made and when you actually close. Under the modified electronic reporting, those are the two things that would contribute to overages or underages.

MR. ROBSON: All right, we've got a motion and the motion is to make this our preferred alternative for commercial in-season accountability. The motion is to basically adopt the wording that was suggested by the team to read "to close the commercial fishery when the ACL or the ACT is projected to be met, and the motion is to make that our preferred alternative – adopt the IPT wording for Alternative 2A and make it our preferred. Phil.

MR. STEELE: Well, I would be interested to hear a little bit of discussion before we go down this route about Option B and this trip limit – we use trip limits in a number of other fisheries – and how applicable it would be here as kind of a forewarning in the situation that is coming. I would like to hear some discussion on it from some of the other committee members.

MR. HARTIG: Phil, I specifically didn't include that in the motion. I want to hear what the public has to say about a trip limit. This fishery is so diverse with the number of size vessels that I think you would substantially change the fishery by implementing a smaller trip limit for the larger vessels, and there are a number of larger vessels in this fishery. I was going to wait and see what the public had to say about any kind of trip limit before we made it our preferred.

MR. ROBSON: All right, any other discussion on the motion? **Is there any objection to the motion? The motion carries.** Now, Gregg, do you want us to look at preferred for – we've got that for in-season; do we need to do that for post-season as well?

MR. WAUGH: Yes.

MR. ROBSON: All right, under Alternative 3, this would be for post-season accountability measures. Is there a motion to select a preferred?

MR. WAUGH: And, again, Option A, those subalternatives deal with the commercial; B, the recreational; and C if we had a combined ACL, and we haven't chosen that, so really it's two steps; one to determine how you want to handle post-season accountability measures on the commercial side, whether you want an ACL payback, adjust the length of the season or a trip limit. Then we can we deal with the recreational.

MR. ROBSON: Any motion to select preferreds? George.

MR. GEIGER: To me the range of alternatives is satisfactory, and I think here we could hear from the public in this particular instance and take guidance from the input we receive instead of going with a preferred.

MR. WAUGH: And that's certainly fine. If we stay on our current schedule, which we'll talk about in a few minutes, we'll be having public hearings in April, we'll meet jointly with the Gulf in June to finalize it; so if you're interested in any trip limit, there certainly isn't going to be any time to analyze that and get additional input and meet our timeline. Just to point that out so you know that going in.

MR. ROBSON: So I don't see any desire right now to select a preferred alternative and I think we'll move on.

MR. WAUGH: And that applies for the recreational as well? We were just talking about commercial; you don't want to pick a preferred on the recreational either?

MR. GEIGER: I'm sorry, I was talking about recreational.

MR. WAUGH: And so no interest on a commercial preferred for in-season accountability?

MR. HARTIG: From a number of discussions we've had with the public on other things, it seems to me that the discussions we've had about adjusting bag limits or seasons were that, first, we should adjust the bag limit before we start messing around with how long the season is. I would move preferred Suboption 3 under Option B for the recreational as a preferred; adjust the bag limit for the fishing season following the previous season's ACL overage.

MR. HARTIG: All right, so we do have a motion to select a preferred for recreational accountability measures, Suboption 2. Is there a second to that motion? I'm sorry, Suboption 3; adjust the bag limit for the fishing season following the previous season's ACL overage. I'm not

hearing a second. The motion dies. We do not have a preferred for the recreational AMs. Is there any desire to look at selecting one of the options for commercial accountability measures as a preferred? That would be Option A. I'm not hearing any motion for a preferred; I think we move on.

MR. WAUGH: Okay, Action 6 is on Page 53. This deals with the framework procedures and protocol. Remember we have a protocol with the state of Florida that allows them to make management changes, but that protocol is outdated. Alternative 2 would update the protocol, and that deals with updating new organizations' names and so forth. That would be Alternative 2, to update the current protocol for enhanced cooperative management.

Alternative 3 would be to update the current regulatory amendment procedures to develop a framework procedure to modify ACLs and AMs. Alternative 4 would be to revise the current regulatory amendment procedures to create an expanded framework. The Spiny Lobster Plan includes both a protocol for Florida to manage and make management changes; it also includes a framework procedure so that we can do a regulatory amendment to change items that are outside the scope of that protocol.

The Gulf currently is preferred on Alternative 2 which updates the protocol, which we need to do. Alternative 4, we're updating and adopting and expanding regulatory amendment procedures. Option 1 would be to adopt the base framework procedure. The highlighted options in the alternatives are what is recommended by the IPT.

The IPT recommends that we adopt the Gulf preferred Alternative 2; we also adopt Alternative 4, Option 1. Alternative 2 updates the protocol process; Alternative 4 updates the regulatory amendment framework and adopts the base framework procedure. There are other two alternatives; one that is more narrow and one that is more broad, but the IPT is recommending Option 1, the base framework. That verbiage is included beginning on PDF Page 54 for the updated protocol and on PDF Page 56 for the framework wording.

MR. ROBSON: Gregg, I'm trying to make I understand; do we need a preferred – do you want a preferred of any one of these or is the staff recommendation to look at Alternative 4 and Option as a preferred?

MR. WAUGH: Yes, I would recommend that you adopt the IPT recommendations and we adopt both Alternative 2 and Alternative 4-1. Both of those are necessary.

**MR. GEIGER: Mr. Chairman, I make a motion that we adopt Alternative 2 and Alternative 4, Option 1, as our preferred alternatives.**

**MR. ROBSON: Is there a second? Second by Ben. We have a motion and a second. Is there discussion of the motion? Is everybody clear; two different items, both preferreds? Any objection to the motion? The motion carries.**

MR. WAUGH: Action 7 begins on PDF Page 67. This deals with modifying regulations regarding possession and handling of shorts as undersized attractants. The no action alternative

is what is currently in place. It would allow the possession of no more than 50 undersized Caribbean spiny lobsters or one per trap aboard the vessel, whichever is greater.

Alternative 2 would prohibit the possession and use of undersized shorts. Alternative 3 would allow undersized lobsters but modify the number to 50 undersized or 35 in Options A and B. Alternative 4, which is the Gulf's current preferred, would track Florida regulations and 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. As shown on PDF Page 67, there is currently regulatory language that requires a live well and how these short lobsters are to be handled to minimize handling mortality.

**MR. GEIGER: Mr. Chairman, I would like to make a motion that our preferred alternative be Alternative 2, to prohibit the possession and use of undersized Caribbean spiny lobsters as attractants.**

MR. ROBSON: I have a motion; is there a second?

LTJG LAM: I'll second.

MR. ROBSON: Second by Matthew Lam. Is there discussion? Ben.

MR. HARTIG: Isn't there some verbiage in the assessment about some changes in the amount of mortality on shorts in the most recent years? In the history hasn't it declined to some degree from what I remember reading in the assessment? Do you remember that, Mark?

MR. WAUGH: I think the current estimate that is used is about 10 percent mortality.

MR. GEIGER: And to that point, why would you allow any mortality or consider any mortality for an undersized species? I mean if we've got size limits, the size limits should be applied across the board. I don't understand allowing undersized as an exception. They're already trapped, so why don't we just utilize traps as the methodology for taking these animals?

I just can't morally see allowing the use of undersized animals as an attractant. Who knows whether they get eaten, they escape, whether Goliath grouper crawl under the traps that we're hearing about and eat them. We don't know and I'm not sure that I can believe that 10 percent mortality figure, anyway.

LTJG LAM: It also takes a lot of ease from the boarding officer's perspective. If you allow a certain amount of undersized lobsters, they have to go through the entire catch and then counting takes a lot of time, and it could be overly cumbersome. Having either you can have them or you can't seems to be easier.

MR. ROBSON: Well, I will tell you from the state of Florida's perspective we have adopted regulations which allow the use of shorts and provide for mechanisms to minimize the mortality of those shorts. There is mortality that is associated with this fishery that is associated with a lot of fisheries, so I wouldn't be in favor of the motion. Is there any other discussion?

I think we'll need a hand vote. Again, let me read the motion. The motion would be to adopt Alternative 2 as our preferred, which would prohibit the possession and use of undersized Caribbean spiny lobsters as attractants. **All in favor of the motion signify by raising your hand, two votes; all opposed. I raised my hand because I think I have to break the tie. The motion fails.** George.

**MR. GEIGER: Mr. Chairman, I'd like to propose a motion that Alternative 3, Option B, be our preferred alternative and that motion would be to allow undersized Caribbean spiny lobsters but modify the number of allowable undersized lobster regardless of the number of traps fished to be 35 undersized lobsters.**

MR. ROBSON: We have a motion for Alternative 3, Option B, to be the preferred; is there a second?

MR. HARTIG: I'll second it.

MR. ROBSON: Second by Ben Hartig. Is there any discussion? Ben/

MR. HARTIG: Just what this would do, George, under this one you would only allow to have 35 undersized lobsters on the vessel at any time?

MR. GEIGER: Yes, instead of 50 they'd have 35, which is a compromise.

MR. ROBSON: Any discussion on the motion? I think we'll need a hand vote. The motion, again, is to adopt Alternative 3B as our preferred, which allow undersized lobsters but it would modify the number allowing 35 undersized lobster. George.

MR. GEIGER: Just as a point of encouragement to our friend on the Coast Guard, it's easier to count 35 than it is 50.

MR. ROBSON: Any discussion on the motion? **All in favor of the motion raise your hand, 2 votes for; all opposed to the motion, 1. The motion carries,** so Alternative 3B will be identified as the preferred alternative. Okay, Gregg.

MR. WAUGH: The next item is Action 8, and this begins on PDF Page 69. It deals with modifying the tailing permit requirements. Alternative 1 is no change. Alternative 2 would eliminate the tail separation permit for all vessels fishing for Caribbean spiny lobster in Gulf and South Atlantic waters. Both councils have preferreds, Alternative 3 and Alternative 4. I don't know if there is any interest in revisiting that or we just move on.

MR. ROBSON: I'm not seeing any interest in changing or revisiting.

MR. WAUGH: Okay, Action 9 is on PDF Page 71. This deals with limiting spiny lobster fishing in certain areas in the EEZ off Florida to address Endangered Species Act concerns, and we've got a couple of items here. The IPT recommends changing Action 9 to read "limit spiny

lobster fishing in certain areas in the EEZ off Florida to protect threatened staghorn and elkhorn corals, acropora”, so it would be to change the wording of the action.

In addition, if you look down on the bottom of PDF Page 71, the IPT is recommending replacing Alternatives 2 through 4 with some modified wording. Remember at the last meeting you all directed us to go back and look at coming up with some specific areas, and that is what is done, so the IPT has new Alternatives 2 through 4.

Alternative 2 would prohibit spiny lobster trapping on all known hard bottom in the EEZ off Florida in water depths less than 30 meters. Alternative 3 would expand the existing and/or create new closed areas to prohibit spiny lobster trapping in the EEZ off Florida, so Alternative 3 just prohibits spiny lobster trapping. Alternative 4 prohibits all spiny lobster fishing. So we’ve got within Alternatives 3 and 4 Option A creating 25 large closed areas; Option B, 37 medium closed areas; Option C, 52 small closed areas. There are charts beginning on PDF Page 75 that show the areas that are up for consideration.

MR. ROBSON: And recall at the September meeting we discussed this and the need to try to identify more specific areas and also have the mapping to go with them, and that’s what the staff has done here in these replacement Alternatives two through four.

MR. WAUGH: Just to clarify, Andy Herndon is the one who took the lead on this within the regional office, and he did an awful lot of work. He got with members of the industry to get their input as well.

MR. ROBSON: So I think what we’re looking for is a motion to essentially replace the existing alternatives with these Alternatives 2 through 4 and the wording of the action.

MR. STEELE: Well, I’d like to have a little discussion on this. I mean, I like the idea here with these large areas and so forth, but I’m a little worried about enforcement measures here. We don’t have VMS on these vessels. We wouldn’t know if they’re coming or going in these closed areas. The same things as we do in the other fisheries that involve VMSs; did we ever consider this as part of these actions to keep these vessels out as an enforcement tool using VMS?

MR. GEIGER: Phil, I had some of those same concerns reference enforceability, but I’ll tell you this. I think within that fishery that the people who are prosecuting it understand the importance of bottom habitat and have done some self-monitoring and are making an honest attempt to stay away from that bottom.

I think that the council in past has put measures in place that we felt were clearly unenforceable, but we were looking for voluntary compliance. And it’s an issue that if it’s out there, you might have people complying more readily than if there is nothing identified as a closed area over the top of hard bottom.

Sure, you’re certainly still going to have scofflaws and you’re not going to have positive enforcement of it. You’re not going to have a cop on the corner of every one of these closed areas, but they do exist. The other issue that comes to mind that could be a problem is dragging

traps from an unclosed area and having somebody's trap wind up in the closed area as a result of it being driven by a storm or dragged into that area.

But, there, again, I think this is a good move. I think that it's supported by industry. And Bill Kelly is here, I think he might be able to address any opposition to it, but I haven't heard any opposition, and certainly in my conversations with a prior council member who is engaged in that fishery supports it. I would speak in favor of enacting these closed areas. It's not a good thing to call them closed areas; what do we call them, restricted areas for trapping?

MR. WAUGH: And the biological opinion is included as an appendix here, too, so we do have some fairly strong need to take regulatory action to address the threatened staghorn and elkhorn coral. There is some heat associated with this.

MR. GEIGER: Mr. Chairman, I'd like to make a motion that we include Action 9 to limit spiny lobster fishing in areas designated in the charts included in the areas of the EEZ off Florida to protect threatened staghorn and elkhorn corals. I also wanted to add to that –

MR. WAUGH: You're accepting the IPT recommendations?

MR. GEIGER: Yes.

MR. ROBSON: For the action itself. Is there a second; second by Phil Steele. Any discussion on that? That basically is a modification of the language of Action 9 per the IPT recommendation. George, why don't you read it.

MR. GEIGER: The motion is to limit spiny lobster fishing in – I think, Gregg, I said the specified areas identified in the charts or the maps included in the document. Is that not a good thing to say?

MR. WAUGH: I think it would be cleaner if we just – the action itself is limiting certain areas, and they we've got various alternatives, because then we'll need to adopt an alternative.

MR. GEIGER: **Okay, I understand, so the motion is to limit spiny lobster fishing in certain areas in the EEZ off Florida to protect threatened staghorn and elkhorn corals.**

MR. ROBSON: And we had a second. **Is there any discussion on that motion? Any objection? The motion carries.** So now we have the recommended changes to the Alternatives 2 through 4 that have been brought forward to us to be more specific on describing the closed areas. I think the staff is looking for – we need a motion to incorporate those into the document. These would replace the ones that are existing.

MR. WAUGH: And all this does is just replace the wording that's vague in terms of the areas that you directed us to address the last time; replace them with these new Alternatives 2 through 4, and then we'll need to come back and look and see if you want to pick a preferred.

MR. ROBSON: In reality Alternative 2 isn't really changed, I don't believe, from the original.

MR. GEIGER: All right, do we need a motion? **I make a motion that we accept the IPT recommendation for Alternatives 2 through 4.**

MR. ROBSON: All right, we have a motion; is there a second? Second by Ben Hartig. Discussion? Ben.

MR. HARTIG: Gregg, on all known hard bottom on Alternative 2; how do we define hard bottom? I mean, is it coral and algae; can that be hard bottom?

MR. WAUGH: We do have a definition for that; and if you remember you made a motion at the last meeting to try to get that put in the alternatives considered but rejected, but it was not. So, yes, we have a definition.

MR. ROBSON: Other discussion or questions? Everybody clear on what we're doing? Okay, again, the motion is to accept the IPT recommendation for Alternatives 2 through 4. **Any objection to the motion? The motion carries.** Do we have any interest in trying to select a preferred out of these alternatives? George.

**MR. GEIGER: Yes, Mr. Chairman, I'd make a motion that we make Alternative 2, 3 and 4 our preferred alternative.**

MR. ROBSON: Okay, a motion to make Alternatives 2, 3 and 4 preferred alternatives; is there a second? Second by Ben Hartig. Discussion? Gregg.

MR. WAUGH: The only different between Alternatives 3 and 4 is that 3 would prohibit spiny lobster trapping only in those areas, and Alternative 4 would prohibit all spiny lobster fishing in those areas. If your intent is to implement all three of these, then you accomplish Alternative 3 with Alternative 4.

MR. GEIGER: Okay, I take that as a friendly amendment and Alternatives 2 and 4 as our preferred alternatives.

MR. ROBSON: Is that amendment acceptable to the seconder?

MR. GEIGER: And that makes it applicable to both the recreational and the commercial sector, Ben. Those are applicable to everybody.

MR. HARTIG: And these are just specific to the areas under that alternative? Okay.

MR. ROBSON: But you said Alternative 2 and 4 would be your selected preferreds, so it would be all those areas in water depths less than 30 meters in the EEZ and then also those existing areas under the options that are described.

MR. GEIGER: Again, this is a public hearing document and we're going to hear from the public on it.



MR. ROBSON: Is there any further discussion on the motion? Is everybody clear on the motion? **Is there any objection to the motion? The motion carries.**

MR. WAUGH: PDF Page 80 is Action 10, gear markings. Alternative 1 would be no action, not require any gear-marking measures. Alternative 2, require all spiny lobster traps in the EEZ off Florida to be a specific color not currently in use in other fisheries. Alternative 3, require spiny lobster lines to have easily identified patterns; Alternative 4, to have a specific color and patterns. All of those have that verbiage “not currently in use”.

The Gulf Council had requested that be deleted. The South Atlantic Council did not delete that. The IPT is recommending replacing Alternatives 2 through 4 with some different verbiage. Remember we were directed by the council to go back and look at what is being done in other fisheries. Significant progress has been made on this.

We don't have specific colors to recommend yet, but we've got some examples of what is done in other areas. We've got examples of what could be done here. There is some concern about picking a color that loggerhead turtles are not attracted to because they do damage traps. Limited research has not yet identified any particular color that would be less likely to attract sea turtles.

However, anecdotal evidence from sea turtle rehabilitation suggests that bright colors such as pinks, yellows and bright greens can capture their attention, so those would be colors that we would want to stay away from. This may be one that if you accept the IPT-recommended changes, that we get some input from the public as to what specific colors might work. Again, this is recommendations coming out of the biological opinion.

MR. ROBSON: I did see Bill Kelly in the – did you raise your hand; do you have some input from industry as far as – do you want to come forward?

MR. KELLY: Bill Kelly, Florida Keys Commercial Fishermen. We've been working rather diligently on this with Andy Herndon and with Sue Gerhart on identifying these specific trap lines, especially in the stone crab fishery and the spiny lobster. We have found considerable evidence and three reports – and I didn't bring my paperwork with me – that loggerhead turtles are most prone to entanglement in trap lines, and they have a high level of visual acuity.

They are especially fond, as are Kemp's Ridley, one of the more endangered turtles, to the color red; and in foods that were dyed red, they approached eagerly, and that was the first color they would go to. Dark blues are very much a turnoff for them. We're in the process of identifying colors. We don't have a high rate of mammal entanglement in the Florida Keys.

I do know of one case of a loggerhead turtle that was entangled just about two months ago, but that's the first incident in about four years. We're also working very closely with Richard Moretti in the turtle hospital in Marathon, which is probably one of the most accredited private institutions working with turtle behavior or turtle recovery and treatment.

We're anxious to comply with the rule. We feel that we can most certainly do that by 2014. We can see the need for it based on interactions with octocorals and interactions with a reef as in mangrove areas, more so than an issue that would address mammal entanglement. We have no incidences of dolphin or porpoise entanglements in the Keys for ions.

MR. ROBSON: Thank you, Bill, for your input. **All right, we have a recommendation to replace Alternatives 2 through 4 with the IPT-recommended language. Is there a motion to do so? Ben, motion; second by Roy. Any discussion? That motion carries.**

MR. WAUGH: Just one clarification; and in doing that we just want to make sure it's your intent that we also delete Alternative 4; because in rewording the previous Alternative 4, it became obvious that all Alternative 4 says is you'll either do Alternative 2 or 3. It's redundant and so the recommendation is to delete that. I just wanted to make sure you all were clear on that.

MR. ROBSON: Yes, I think we were. All right, do we want to select a preferred? It seems like there are a lot of unknowns and we're going to need to get more guidance on marking and so forth. I don't see a desire to select a preferred at this time. Gregg.

MR. WAUGH: Okay, the final action is Action 11. This begins on PDF Page 84. It deals with allowing the public to remove trap lines, buoys. The IPT is recommending changing this wording to read "allow the public to remove derelict or abandoned spiny lobster traps found in the EEZ off of Florida".

The IPT is also recommending changing the Alternatives 1 through 6 as shown beginning on the bottom of PDF Page 84. We were asked with the state of Florida and clarify this. Andy has done this. Previously the Gulf's preferred alternative was to delegate regulations to Florida, and we presume that would carry over to the slightly changed wording of new Alternative 6; delegate authority to regulate the removal.

The South Atlantic Council's previous preferred alternative was no action; do not allow the public to remove any spiny lobster traps found in the EEZ. So two things; we've got new wording for the action, slightly reworked wording on the alternatives, and we need just clarification on those two and how you want to handle your preferred.

**MR. GEIGER: Mr. Chairman, I'd like to make a motion that we adopt the wording for the alternatives as proposed by the IPT and that we select the new Alternative 5 to allow the public to remove spiny lobster traps, lines, buoys, and/or floats, but otherwise leave in place, any trap found in the EEZ off Florida during the closed seasons for both spiny lobster and stone crab, May 20<sup>th</sup> to July 31<sup>st</sup>.**

MR. ROBSON: Okay, we have a motion; is there a second? No second?

MR. HARTIG: I'll second for discussion. I'd like to hear from Bill, if we could, again on what is the industry's perspective on this.

MR. KELLY: Bill Kelly, Florida Keys Commercial Fishermen. I addressed that in writing to both councils actually back on September 7, 2010. We do have some issues here. One, we have statutes in place that it is a felony to molest trap buoys, lines or the trap itself. Even in the closed season, if we open a window here for individuals to go and approach this trap or in any way molest it, we're giving them an opportunity to possibly rob that trap; and then if a law enforcement officer would come along, then they're simply going to say that they were being a good Samaritan and they were letting any lobsters that were in there out.

The other thing is if they get into the act of dismantling a trap and rendering it unfishable, they're creating additional debris that's in the water and could cause even further damage, plus they're destroying a trap that's of value to someone. It's identifiable and it has a \$35 value on it. We would encourage an educational program with the public throughout Monroe County, and this could be done in public service announcements or posters or educational systems where they can contact us on our websites and we could then get the latitude and longitude of the locations of those sites and we could go out and retrieve them ourselves.

Then because each trap is personal property, is real property, if someone gets down there and they decide that they're going to disable this trap and then they engage in pulling it apart, what happens if they get a scratch with a rusty nail or puncture themselves or something like that, then we could have a liability issue on our hands as well. Thank you.

MR. GEIGER: Mr. Chairman, if only we could have a liability issue for the trappers leaving their traps in place after the close of the season, and this would all be taken care of if the industry would take care of these traps and remove them. It's not difficult to see a trap float especially after the season when the tens of thousands that are out there are generally taken in.

I just think it's unconscionable that a trap that is \$35 is left to remain on the bottom. If it's so important to a lobster fisherman, why don't they pick it up when the season closes? It's not difficult to go down there and find traps everywhere. It not be economically feasible for somebody to go out and get one trap; and if they're not going to go out on their own and pick one \$35 trap up, if somebody calls them I doubt if they're going to go out when they get a call that there is one out there. I just think it's time that this stuff, this junk that's left in the water and is no longer considered feasible fishing gear because it's after the season should be in fact eliminated.

MR. CUPKA: Mr. Chairman, I'm not a member of your committee, but I was going to suggest that this move ahead a little better if you were to split this motion into two and go with the wording of the IPT separately from trying to pick a preferred.

MR. GEIGER: I'll for moving ahead.

MR. ROBSON: So are you willing to separate the motion. **Your first motion would be to adopt the language as recommended by the IPT?**

MR. GEIGER: **Yes, thank you.**

**MR. ROBSON: Is that amendment to the motion acceptable to the seconder? Yes, okay. Is there any discussion on that motion? Any objection? That motion carries. George, go ahead.**

MR. GEIGER: And one further note reference trap removal and failure to remove traps, after the last big hurricanes, you know, the industry that's so interested in a \$35 trap were paid to go out and clean up the traps that were blown around and rendered unserviceable after the hurricanes. So they didn't even go out and pick their own traps; they got paid to go out and pick up that stuff. I mean, there is responsibility here on the part of industry to pick the stuff up and it's not being done, and it's time we take advantage of it. I'm not in favor of relegating it to the FWC. The EEZ belongs to us and we should be responsible for what occurs in the EEZ.

MR. ROBSON: And just to clarify, the Trap Retrieval Program that the FWC employs every year is based on revenue that's received from the various trap fishery endorsements or in this case the lobster endorsement, and a portion of that fee is specifically earmarked for the Trap Retrieval Program, and those are the monies that are used to contract after the season closes to go remove the traps.

In addition to that we do have Trap Retrieval Programs and they do occur in both state and federal waters. I think there was some question about that at the least meeting, but our Trap Retrieval Program, which is using fees collected as a portion of the endorsement, those trap retrieval efforts do occur in the EEZ as well as in state waters. I think we're still at a point of is there a desire to select a preferred alternative.

MR. WAUGH: You split the motion; so as I understand it, you dealt with one part of the motion so now you have a motion on the floor to adopt new Alternative 5 as your preferred.

MR. ROBSON: Yes, so that is the second part of the motion, so we're now discussing that. **George, your motion was still to adopt Alternative 5 as the preferred.** Is there any discussion? We need a vote on that. I'm going to vote against that selection of the preferred.

DR. CRABTREE: Can you explain why to us?

MR. ROBSON: Yes, I think that we have programs in place. We're willing to continue those programs. I'm not sure that because of the concerns about the property issues and felony issues that it's necessary to do that. George.

MR. GEIGER: And I understand it's a felony to molest fishing gear, commercial gear in Florida, primarily put in place for a crab fishery that takes place in inshore waters and occurs year-round. It's a year-round fishery with no closure. In this particular instance we have a seasonal fishery where there is a substantial period of time in which the fishery is not prosecuted.

During the period of time that the fishery is not prosecuted, those traps are ghost fishing, they continue to fish unmonitored and unmolested by the public. With all due respect to the Florida Trap Recovery Program, let's just say it could be better. It's time that either industry takes by

this by horns and does something about it or we allow the public to do something about it. I'm going to support my own motion, naturally.

MR. ROBSON: Well, we have a motion. Roy, go ahead.

DR. CRABTREE: George, what would we expect the public to do with these traps? I mean, they put it on their boat, they've got to do something with it.

MR. GEIGER: Well, they can retrieve the lines and the buoy markings and if they find the traps on the bottom or they choose to pull them up – I don't know who is going to pull a damned trap from over 30 meters, anyway, but if they're diving they could disable them and they could take the trap doors off. They could render them inoperable and they would eventually decompose just like they would normally, but at least the doors would be off of them and the line would be out of the water, preventing interactions with protected species, and we'd have all that Styrofoam to boot out of the environment.

MR. CUPKA: I was just going to point out the Gulf chose Alternative 6 as their preferred for the very reasons that you enumerated, Mark, earlier, and that's why they chose Alternative 6 as their preferred.

MR. GEIGER: To that point, thank you, Mr. Cupka, but if you go in the Keys there are a lot of traps. I can't characterize it in numbers, but it's not a rare occurrence to see a ghost trap or an abandoned trap and float in the water.

MR. CUPKA: I wasn't speaking in favor of or against it. I was just pointing out that was the reason why the Gulf Council chose that particular alternative as their preferred, but I didn't intend to speak for or against the motion.

MR. ROBSON: Okay, we have a motion on the floor to adopt the new Alternative 5, the language that was put forward by the IPT that we have adopted, to select Alternative 5 as our preferred alternative for this document. Is there any further discussion? **All in favor of the motion raise your hand, 1. The motion fails.** Roy.

**DR. CRABTREE: I'd move that we make Alternative 6 our preferred.**

MR. ROBSON: We have a motion to make Alternative 6 the preferred; is there a second? Second by Ben Hartig. George.

MR. GEIGER: And I would support that motion if we could get an assurance from the FWC that they're going to do a better job than they have been in removing the traps after the season closes.

MR. ROBSON: I'm not going to respond. We are always trying to continue to improve that process of trap retrieval, and also there is a debris removal program that is separate from the trap retrieval program that's post season, which does allow individuals, groups, fishing organization,

anybody under a permitted-type situation to make sure that there is not any issue with private property, to remove debris, and that also could occur in state or federal waters.

We have two different programs and we're constantly working to improve those. We have a motion and we've got a second to make Alternative 6 the preferred. Is there any further discussion? **All in favor of the motion signify by raising your hand, 2 votes; all opposed, 1. The motion passes.** Gregg.

MR. WAUGH: That's all the items in Amendment 10.

MR. SMIT-BRUNELLO: Back on Action 6, I just want to talk a little bit about this proposed language for the updated protocol. I think that what this updated protocol did was – as the description says, it updates the language to be consistent with changes in agency names and terminology since it was originally put in in 1989. I'll work with staff and we'll figure out whether anything else needs to be done.

The Magnuson Act has changed since then. I'm not anticipating any big changes, but I do notice, for example, like on Paragraph Number 7, "The rules will apply to the EEZ for the management area of North Carolina through Texas unless the regional administrator determines those rules may adversely impact other state and federal fisheries. In that event the RA may limit the application of the rule as necessary to address the problem."

That's pretty open-ended to me and maybe what that means is – by limiting the application that just means limiting the locations of where the rule go into effect. I don't know, but I think we need a little bit more terminology or description, excuse me, and then the council, when it sees it again, can think about that a little further. That's all.

MR. ROBSON: Okay, you can work with staff on that. Gregg.

MR. WAUGH: The next item is to approve this document for public hearing. We've just put some selected options together for you to consider. One, obviously, is not to approve it until after the SSC review and action. That would not meet our statutory deadlines. Option 2 would be to approve Spiny Lobster Amendment 10 for public hearing and DEIS – and I have added this over the version that you were distributed – "and approve any additional alternatives and modifications suggested by the Gulf Council".

When you have joint plans, if we approve it for public hearing and they make changes, we don't want to have to wait for it to come back. They certainly wouldn't make any changes that would change any of our preferreds. Those would stay the same, but they may select additional alternatives, they may make additional changes. This would just allow us to go forward to public hearings, and then we'll talk about the locations and dates.

**MR. GEIGER: I make a motion that we approve Spiny Lobster Amendment 10 for public hearing and DEIS review and approve any additional alternatives suggested by the Gulf Council.**

MR. ROBSON: We have a motion; is their a second? Second by Ben. Any discussion on the motion? And, again, I think the understanding is that additional alternatives or modifications suggested by the Gulf Council would have to somewhat limited in order – I mean, they can't go in and change – there has got to be some way of limiting that.

MR. WAUGH: Right, they would not change any of our preferred alternatives, but they'd be free to include any alternatives. We've done this before when we've taken joint documents out to public hearings. The councils can each take whatever they want to out to public hearing. Now, in June we have to resolve those differences, and we've got a joint committee scheduled to do that.

MS. SMIT-BRUNELLO: So, Gregg, just in terms of timing, the DEIS should be filed ideally after the Gulf Council meets but before the June meetings where the councils and committees will be looking at taking final action, or at least the councils will.

MR. WAUGH: That's correct.

MR. ROBSON: And we will have had public input that we would be looking at, too. All right, is there any other discussion? Are you clear on the motion? **Is there any objection to the motion? Seeing none, the motion passes.**

MR. WAUGH: The next item is guidance on public hearing locations and dates. Option 1, not until after SSC review, we've dispensed with that. The Gulf Council has already approved holding one spiny lobster public hearing in Marathon. The dates are all draft. I've discussed those some with Rick Laird, but those are still draft awaiting your guidance here.

We also, at the same time, presumably will be taking mackerel, another joint amendment, out to public hearing at the same time. If you look in the overview, we've got an attachment that shows both spiny lobster and mackerel hearing locations. The Gulf Council has already approved the series of mackerel public hearing locations, which we will talk about tomorrow.

But if we were to do sort of our standard round of public hearings for mackerel, more importantly, although there is interest in spiny lobster in North Carolina, and then add a Marathon and Key West public hearing for spiny lobster where we would also do mackerel, we're looking at something like this schedule.

The tentative dates work around – the Gulf Council is meeting here, but the dates here for the Marathon and Key West are after their meeting; and when we finish this, we also want your guidance on whether or not we have an advisory panel meeting. The thought is that we want to have another advisory panel meeting, and this is included in the draft activities schedule, prior to finalizing the amendment. We thought since so many of them are present in the Keys, to hold that advisory panel meeting down in Key West and have that Key West public hearing that evening.

MR. GEIGER: Gregg, in your mind, what would the AP provide just prior to final? It would be their recommendations on what we had selected as preferred versus new preferreds; is that what you're planning?

MR. WAUGH: Yes, they would have an opportunity to see the complete document, all the analyses and your preferreds to the extent that we have selected them, and then they would give you your final input to be considered at our June joint meeting.

MR. ROBSON: I think we need a motion to approve this schedule. George.

MR. GEIGER: I make a motion we approve the schedule as presented by staff, including the conduct of the AP meeting.

MR. WAUGH: We also just need to have guidance that we can coordinate with the Gulf on scheduling these hearings.

MR. GEIGER: Okay, yes, so the motion is to approve the Spiny Lobster Amendment 10 public hearings locations and dates with the understanding that they will be coordinated with the Gulf Council.

MR. ROBSON: And did that capture the AP?

MR. WAUGH: No.

MR. ROBSON: Did you want to address the meeting of the AP or do you want to do that separately?

**MR. GEIGER: And I'll make a motion that we have that AP meeting, so this is an amendment to the motion, so we're going to approve the Spiny Lobster Amendment 10 public hearing locations and dates with the understanding that they will be coordinated with the Gulf Council, and schedule a South Atlantic Spiny Lobster AP meeting on April 20<sup>th</sup> in Key West.**

**MR. ROBSON: Okay, we have a motion; is there a second? Second by Ben Hartig. Any discussion? Any opposition to the motion? The motion passes.** All right, is there any other business to be brought before the committee? Seeing none, the last item we have is the timing and task motion.

MR. WAUGH: And here what we've done is try to anticipate what would come out of this; and if there any additions that we need to add to this, please let us know. One would be make the necessary revisions to the amendment and provide the revised document to the Gulf for their February 2011 meeting; make the necessary arrangements for public hearings; coordinate with the Gulf Council; make the necessary arrangements for the AP; ensure the South Atlantic Council SSC reviews the SEDAR Update Assessment and SSC Subcommittee Report and provide guidance to the council prior to the public hearings, which should begin on April 11.



I think this is critical. They meet in early April and we need their final report before the public hearings start. Five, coordinate with the Gulf to schedule the Joint Spiny Lobster Committee Meeting during June 6-9 – and that’s ongoing – and then target final approval of the spiny lobster for our June 13-17 meeting in Key West. Was there anything else?

MR. ROBSON: I don’t believe so. Okay, we need a motion to accept the timing and tasks. I’m looking for a motion to direct staff on timing and tasks.

**MR. GEIGER: I make a motion that we adopt the timing and task motions one through six as direction to staff.**

**MR. ROBSON: Is there a second? Second by Roy. Any discussion on the timing and task motion? Any objection? The motion carries.** All right, that completes the agenda for the Spiny Lobster Committee. Mr. Chairman, we will adjourn the committee.

(Whereupon, the meeting was adjourned at 5:34 o’clock p.m., December 6, 2010.)

Certified By: \_\_\_\_\_ Date: \_\_\_\_\_

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January 31, 2011

## **INDEX OF MOTIONS**

PAGE 6: Motion to adopt Alternative 3, Options A and B, as the preferred. Motion carried on Page 6.

PAGE 9: Motion to adopt Options A-D in Alternative 4 as the council's preferred alternative. Motion carried on Page 9.

PAGE 11: Motion that Alternative 3 be adopted as the preferred and that staff include some discussion of the range of landings as kind of an interim gauge of where MSY would be. Motion carried on Page 12.

PAGE 13: Motion to accept the recommendations of the IPT with regard to OY. Motion carried on Page 13.

PAGE 13: Motion to adopt Alternative 3 as the new preferred. Motion carried on Page 14.

PAGE 14: Motion to add a new Alternative 4 to the overfishing threshold actions that would use the ACL as the overfishing threshold. Motion carried on Page 15.

PAGE 16: Motion to make Alternative 2 the preferred alternative. Motion carried on Page 17.

PAGE 23: Motion to add two new alternatives using Boyles' Law, 50 percent the last ten years and 50 percent of the last three years in an entire time series to allocate the spiny lobster catch limit. Motion carried on Page 24.

PAGE 24: Motion that Alternative 6 be the preferred. Motion carried on Page 24.

PAGE 29: Motion to add ABC Alternatives 6-8. Motion carried on Page 30.

PAGE 30: Motion to move Alternative 4 and Alternative 5 to the considered but rejected appendix. Motion carried on Page 30.

PAGE 34: Motion to adopt the ACL Alternative 3A as the preferred alternative, which would set the annual catch limit equal to OY equal to the ABC. Motion carried on Page 36.

PAGE 38: Motion to select Alternative 1 as the preferred. Motion carried on Page 38

PAGE 39: Motion to adopt the IPT wording for Alternative 2A, to close the commercial fishery when the ACL is projected to be met, as the preferred. Motion carried on Page 41.

PAGE 43: Motion to adopt Alternative 2 and Alternative 4, Option 1, as the preferred alternatives. Motion carried on Page 43.

PAGE 44: Motion that the preferred alternative be Alternative 2, to prohibit the possession and use of undersized Caribbean spiny lobsters as attractants. Motion defeated on Page 45.

PAGE 45: Motion that Alternative 3, Option B, be the preferred alternative, to allow undersized Caribbean spiny lobsters but modify the number of allowable undersized lobster regardless of the number of traps fished to be 35 undersized lobsters. Motion carried on Page 45.

PAGE 47: Motion to limit spiny lobster fishing in certain areas in the EEZ off Florida to protect threatened staghorn and elkhorn corals. Motion carried on Page 47.

PAGE 47: Motion to accept the IPT recommendation for Alternatives 2 through 4. Motion carried on Page 48.

PAGE 48: Motion to make Alternatives 2 and 4 the preferred alternatives. Motion carried on Page 48.

PAGE 50: Motion to replace Alternatives 2 through 4 with the IPT-recommended language. Motion carried on Page 50.

PAGE 50: Motion to adopt the wording for the alternatives as proposed by the IPT and that we select the new Alternative 5 as the preferred alternative. (SEPARATED INTO TWO MOTIONS ON PAGE 51.)

PAGE 51: Motion to adopt the wording for the alternatives as proposed by the IPT. Motion carried on Page 51.

PAGE 52: Motion to select the new Alternative 5 as the preferred alternative. Motion defeated on Page 53.

PAGE 53: Motion to make Alternative 6 the preferred. Motion carried on Page 54.

PAGE 54: Motion to approve Spiny Lobster Amendment 10 for public hearing and DEIS review and approve any additional alternatives suggested by the Gulf Council. Motion carried on Page 55.

PAGE 56: Motion to approve the Spiny Lobster Amendment 10 public hearing locations and dates with the understanding that they will be coordinated with the Gulf Council, and schedule a South Atlantic Spiny Lobster AP meeting on April 20<sup>th</sup> in Key West. Motion carried on Page 56.

PAGE 57: Motion to adopt the timing and task motions one through six as direction to staff.  
Motion carried on Page 57.

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**AREA CODE &  
PHONE NUMBER**

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Bill Kelly FKQFA

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33050

South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
North Charleston, SC 29405  
843-571-4366 or Toll Free 866/SAFMC-10

*Keys Fisheries, Inc.*

3390 Gulfview Avenue  
Marathon, Florida 33050-2388

Telephone (305) 743-6727  
(305) 743-3473  
FAX (305) 743-3562

To: The Spiny Lobster Committee  
S.A.F.M.C. Council Members  
R.A. Dr Roy Crabtree

Subject: Spiny Lobster Management

With the reauthorization of the Magnuson Act all Federally managed Fisheries must have an A.C.L. ( Annual Catch Limit) by the end of 2011.

The Fishing Industry has been at the table throughout the management process and has grave concerns about an A.C.L. for the Spiny Lobster Fishery.

Since new data proves that recruitment comes from the Caribbean (external recruitment) and the Fishery extends from Florida to Brazil. An annual catch limit will not work locally.

If there are no exemptions under Magnuson to address this, we the undersigned are requesting an exemption to an A.C.L. for the Spiny Lobster Fishery.

Looking forward to addressing this issue in the future.

Sincerely,



Gary G. Graves  
V. President

4041 N.W. 28 Street  
Miami, FL 33142

# Carlos Seafood Inc.

Producers and Packers of  
Florida Lobster

Phone (305) 871-4653  
Fax (305) 871-7229

3<sup>rd</sup> December 2010

South Atlantic Council  
4055 Faber Place Drive  
Suite 201  
North Charleston, South Carolina 29405

**RECEIVED**

DEC 6 2010

South Atlantic  
Fishery Mgmt Council

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S.A.F.M.C Council Members  
R.A. Dr. Roy Crabtree  
Subject: Spiny Lobster Management

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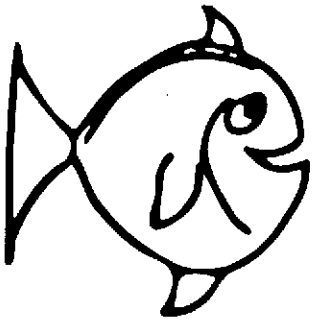
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Respectfully,

  
Liliam Berdeal





*Key Largo*

**FISHERIES  
INC.**

*Seafood & Bait*

Key Largo (305) 451-3782  
Miami (305) 248-5221  
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Florida (800) 432-4358

email: kifish333@aol.com  
www.keylargofisheries.com

1313 Ocean Bay Drive - P.O. Box 273  
Key Largo, Florida 33037

To: The Spiny Lobster Committee  
S.A.F.M.C. Council Members  
R.A. Dr Roy Crabtree

Subject: Spiny Lobster Management

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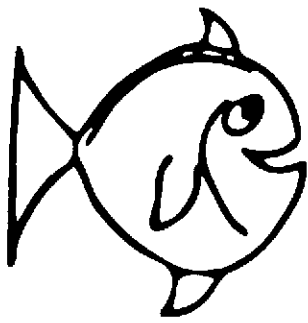
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*Thomas Hill*  
DEC 3, 2010



*Key Largo* **FISHERIES**  
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1313 Ocean Bay Drive - P.O. Box 273  
Key Largo, Florida 33037

Dear Dr Crabtree.

The council is going to review the Lobster stock assessment this week and I would like to remind you and the council that according to John Hunt, marine biologist that the spiny lobster recruitment comes from other countries in the Caribbean Basin and that Florida, US territories play an insignificant role in their reproductive cycle and if we caught every lobster during the lobster season Aug 6 though March,31 it would not effect the stock. The second issue that rarely gets talked about is the reporting process of catches. I know for a fact that not all the lobster being produced in the state of Florida are recorded as there are trucks coming from Miami and now the Chinese buying directly off the boat with NO PAPER WORK giving the state and you incorrect numbers of the production of lobster. Law enforcement has and is working on this but a large number are still not reported giving the state and the council incorrect numbers on landings. This will of course skew the numbers of overall production. With that being said we are asking the council to NOT put an ACL on lobster but an exemption as over the years the industry has already governed itself with trap reduction, escape gaps, a season as well as the economy reducing commercial pressures by natural attrition.

Respectfully Submitted

Tom Hill  
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Dec 3<sup>rd</sup> 2010