SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

SPINY LOBSTER COMMITTEE

Holiday Inn Brownstone Hotel
Raleigh, NC

December 5, 2011

SUMMARY MINUTES

Spiny Lobster Committee

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Dr. Theo Brainerd
Dr. Jack McGovern
Jennifer Lee

Other Participants Attached

The Spiny Lobster Committee of the South Atlantic Fishery Management Council convened in the Roosevelt Ballroom of the Holiday Inn Brownstone Hotel, December 5, 2011, and was called to order at 1:30 o'clock p.m. by Chairman Jessica McCawley.

MS. McCAWLEY: We're going to call the Spiny Lobster Committee Meeting to order. First up is our approval of our agenda. Are there any changes or additions to the agenda? Seeing none, the agenda is adopted without objection. Are there any changes to the committee minutes from the last meeting, which was September 13th of this year? Seeing none, the minutes are adopted without objection. Next up on our agenda is a presentation from Jennifer Lee on the process for preparing the biological opinion.

MS. LEE: I know a fair amount of you here, but for those who don't know me I have worked in the Protected Resources Division of SERO for over ten years and the last probably seven or eight years working on particularly fishery interactions and biological opinions on federal fisheries. This is basically an overview of what I'm going to share with you.

Basically, I'm going to quickly review some Section 7 consultation legal mandates. It's important that you understand why we go through this process. Then I'll talk a little bit about when and how a consultation is initiated, what it means to be an informal consultation versus a formal consultation; talk a little bit about biological opinions and their components; and then incidental take statements.

Now, usually when I actually do this as a training class it's two to three hours or there are training classes that are days on this stuff, so I'm not going to make you experts but I'm going to try to point out some key information that is important to you, and by all means just ask me questions if there is information that I missed that you're curious about.

As I said, why do we do Section 7 Consultations; well, the first reason is there is an affirmative conservation mandate, and what that says basically is it requires all federal agencies to use their authorities to carry out their programs for the conservation of endangered and threatened species. Really, basically federal agencies have an obligation to do good things for protected resources. Now, the one you're more familiar about is the duty to avoid jeopardy or destruction or adverse modification.

I'll add the destruction or adverse modification we don't talk about a lot at council meetings. You do have a little bit of designated critical habitat in your area of jurisdiction such as right whale critical habitat, but the focus of this presentation is probably more on the jeopardy side of things because most of your fisheries are looking at listed species more so than designated critical habitat. The duty to avoid jeopardy, basically it requires federal agencies to ensure that any action they authorize, fund or carry out is not likely to jeopardize the continued existence of any listed species or destroy or adversely modify critical habitat.

Also, if the agency is found to be jeoparding endangered or threatened species, the action agency cannot proceed unless NOAA Fisheries provides a reasonable and prudent alternative that would not result in jeopardy, so that is more specific to our agency but that applies for all federal agencies.

We work with the Army Corps Engineers on their projects and lots of other different federal agencies, but I'll try again to be more specific when possible to help with your specific needs. A Section 7 Consultation, really that's just a documented exchange of information about the impacts of a federal action on listed species and critical habit.

The process at which we do a consultation can be either formal or informal. I just wanted to point sort of what our objectives are when a Section 7 Consultation. Really, it's to help federal agencies ensure that any action they authorize for them carry out is not likely to expose listed species to stressors that are likely to cause those species to get closer to extinction or not likely to reduce the value of designated critical habitat for recovery listed species, so just in kind of common terms that's really the goal and also produce consultations that are legally defensible because they are transparent, objective, have conclusions that are logical outcomes of well-reasoned arguments based on the best available science.

When is the process initiated for FMP actions? Well, in the case of informal consultations with the initiation of the scoping process or really any time we start talking about the effects of an action on listed species we're entering that informal consultation phase. The formal consultation is when preferred alternatives have been selected and all the necessary information received.

Obviously, when we're trying to determine what the effects are, we need to have a very good, defined action that we're looking at. As far as the roles, now when we're working on federal fisheries, these are interagency consultations, meaning we are essentially consulting with ourselves.

For the purposes of consultation, the Southeast Regional Office Sustainable Fisheries Division serves as the action agency and requests consultations as well as provides a description of the action and biological assessment. Data and bycatch analyses are often provided by the Science Center. In terms of the consulting action agency, SERO Protected Resources Division conducts the consultation, prepares concurrence memos or the biological opinion. Obviously, we all share in the responsibility and work together.

Informal consultations, we don't talk about those that much at council meetings, but the purpose is to determine really if the agency needs to consult formally. The trigger is a federal action may affect listed species. Initiating documents, essentially SF writes us a letter requesting consultation along with a biological assessment or information indicating what they believe the effects are.

Basically the concluding document is a concurrence or a non-concurrence letter and the standard review is arbitrary and capricious standards of EPA, but ultimately informal consultation is only used either as the beginning of the process to try to figure out what the effects are. If there is no effect, you actually don't need to do anything. We don't even have a concurrence memo though certainly the Sustainable Fisheries would document that decision.

If it's not likely to adversely affect, then there is an informal consultation memo between Sustainable Fisheries and Protected Resources where Protected Resources concurs with the

conclusions. But ultimately the only way that conclusion can be – I'm sorry, that consultation can be concluded informally is if it's found that it's likely to not adversely affect listed species.

In most cases when you're dealing with fisheries and bycatch you're in formal consultation, so we do informal consultation sometimes on exempted fishing permits. You do have some FMPs like your Coral FMP is only an informal consultation, but most of the FMPs that you spend the most time on preparing amendments are through the formal process.

For formal consultation, again, the purpose is to determine if an agency action satisfies the requirements of Section A2. The trigger is any federal action that may affect listed species and really that is likely to adversely affect listed species, because if it wasn't you could have concluded informally.

Initiating documents, requests for consultation and documents required to support the request, that is where I was saying typically SF will wait until you have your action well defined and a Draft EIS with preferred alternatives. The concluding document is a biological opinion, which I'm sure you've all heard about. The standard review is the same as far as the arbitrary and capricious standard.

This is an important slide because really like I said informal consultations, we don't do that many on federal fisheries; and because we are continuing to authorize federal fisheries under FMPs, for the most part these are the factors that we look at when we're trying to figure out whether we need to conduct a consultation.

Reinitiation of formal Section 7 Consultation for ongoing actions is required if one or more of the following; so the first, the amount or the extent of taking specified and incidental take statement is exceeded. New information reveals the effects of the action that may affect listed species or critical habitat in a manner to extent not previously considered.

The identified action is subsequently modified in a manner that causes an affected listed species or critical habitat that was not considered in the biological opinion or a new species is listed or critical habitat designated that may be affected. So you can see that really looking at these factors, there are a lot of reasons that we reinitiate consultations having nothing to do directly with your FMP amendment that you're working on.

A lot of times it can be simply because we have monitoring information that indicates incidental take was exceeded. We have in the Southeast Region had new listed species listed that are triggered. For example, you might remember we had sawfish listed, coral. And then new information, that could be a number of things. It could be related to stock status or some new information where we find that the effects are greater than what we stated.

I just wanted to point out those are the main reasons. Now, if you don't trigger one of these four reasons, then a lot of times people think of it as an informal consultation but essentially we're just documenting to the file or the Sustainable Fisheries will be documenting to the file why there was no need to reinitiate consultation.

In cases where we do consult, one of the end products is a biological opinion. The biological opinion is essentially an analytical document looking at the effects of the federal action on endangered or threatened species. It identifies whether or not the action is likely to jeopardize the continued existence of a listed species or adversely modify critical habitat.

Really, it's the end product when we've examined the bycatch estimates and we've looked at the effects, it all gets written up into this document. These are just the components of a biological opinion, pretty generic. They start off assessing the consultation history, the proposed action – that's where we describe the fishery in detail and look to Sustainable Fisheries and the council to provide the best information on how the fishery is currently operating, the status of the species, environmental baseline.

We're looking at what is the condition of the species that are being impacted by the fisheries and what is their health at the time when we're looking at this new action or considering the future authorization of the fishery. And then getting more into the effects of the action is where we're looking at what are the stressors in the case of it being bycatch.

Primarily looking at how species respond, trying to estimate the number of captures and mortality and things like that, all that is in the effects of the action. And then ultimately we're arriving at that conclusion of whether or not it's likely to jeopardize. Jeopardy analysis is something obviously everyone is curious about and wants to understand better.

Jeopardize the continued existence of; the definition is an action that would be expected directly or indirectly to reduce appreciably the likely of survival and recovery of a listed species in the wild by reducing the reproduction numbers or distribution of that species. So here essentially we're adding the effects of a federal fishery or a federal action on top of the effects of all these other things going on in that same environment and the species status and trends as well as their global status and trying to answer that question.

We're looking at whether there is a reduction in numbers, distribution and reproduction, and then ultimately evaluating whether any such reduction would cause an appreciable reduction in the likelihood and survival of recovery. I have the definitions of survival and recovery there on the screen. We use those definitions heavily when we're considering whether or not something is likely to jeopardize or not.

Reasonable and prudent alternative; I wanted to point out a lot of times people confuse reasonable and prudent alternatives and with reasonable and prudent measures. You only have a reasonable and prudent alternative if we indeed have found that an action is likely to jeopardize or result in adverse modification.

In that case we would recommend a reasonable and prudent alternative, essentially an alternative to the action as proposed that would allow the project to proceed with minor modifications and avoid jeopardy or adverse modifications. Reasonable and prudent alternative, again that's limited to a jeopardy opinion.

Incidental take statement – assuming that we have a jeopardy opinion where we either found that is not likely to jeopardize or there was a reasonable and prudent alternative that was developed to avoid that outcome. Then we have an incidental take statement, and the purpose of an incidental take statement is – there are actually quite a few reasons why we have incidental statements but ultimately they are authorizing that incidental take that we said was not likely to jeopardize; and so long as it's not likely to jeopardize, then we have a legal obligation actually to exempt that take provided that it follows certain specifications.

So, in the incidental take statement we define the amount of the anticipated take in terms of the lethal and non-lethal takes – and take is a very generic term, but in the case of fisheries we're generally talking about captures or entanglements, hookings and things of that nature. So it defines the amount that you anticipate and then it defines reasonable and prudent measures, terms and conditions and conservation recommendations.

I think I just had these reversed, but this is basically what I was saying. Reasonable and prudent measures; so reasonable and prudent measures, you don't need a jeopardy opinion. You always have reasonable and prudent measures in any incidental take statement, and they're very important because you must be in compliance with these reasonable and prudent measures in order to get that take exemption.

So basically they're actions determined to be necessary to minimize the incidental take and including monitoring of take levels. These aren't major modifications to project design. They are basically – a reasonable alternative is more dramatic, but these are still actions that are needed to minimize that incidental take that we're authorizing.

Terms and conditions are the specific actions that need to be taken to implement the reasonable and prudent measures, so these are the details. Basically the reasonable and prudent measure might be we need to be able to monitor take so that we know when take is exceeded or we need to minimize post-release mortality, things like that.

The terms and conditions have the detailed information that basically spells out how you're going to do that. And then lastly conservation recommendations; these are really just suggestions of discretionary measures that could be implemented to further minimize or avoid adverse effects. A lot of these are research oriented. Certainly, when we do biological opinions there is a lot of information we wish we had.

Conversation measures a lot of times spell out specific things that we think are needed or would supplement and help our consultation down the road, but they are discretionary. That was a little disjointed but hopefully it gives you a broad overview of the process and how it relates to your federal fisheries, but I'd be happy to take questions.

MR. PHILLIPS: I'm not on the spiny committee, but I would like to ask a couple of questions. One, you talked about new action, so if you just leave things status quo – I'm sitting here looking at lobster ropes on the desk here – if you leave things status quo without a significant change in the way the fishery is executed, are there grounds for a consultation there or how does that work?

MS. LEE: Well, I went over the triggers for reinitiation, so as far as the take being exceeded, whether the action is changed or this indicates the effects have changed or a new species listed, those are the general reasons to reinitiate a consultation. So whatever the biological opinion is standing, unless one of those reasons is triggered, you should be able to continue under that biological opinion.

Now, I did note that the incidental take is only exempted if you're meeting the specifications of that incidental take statement. If you're not in compliance with the reasonable and prudent measures and there are things that we know we have not done, then that take wouldn't be exempt and that could be a reason why – if there is good reason you would reinitiate a consultation. But ultimately reasonable and prudent measures and terms and conditions are things that are the out-product of looking at the action in determining what is needed.

DR. LANEY: Madam Chairman, I'm not on your committee either, but, Jennifer, should Atlantic sturgeon be listed, the Federal Register Notice I think said that you all had been requested to designate critical habitat for it as well. Could you speak for us just a minute or two about what the implications would be if you do wind up designating critical habitat for Atlantic sturgeon and also whether a critical habitat designation could extend inland to cover freshwater spawning habitats for that species.

MS. LEE: I can at least answer part of that. If we listed Atlantic sturgeon, that would be one of the triggers – I had noted that a new species, if it may be affected by a proposed action, would trigger a consultation. In cases where you have a federal fishery where there is bycatch of Atlantic sturgeon, then that would result in requiring a consultation.

I can think of probably you might have some bycatch in the shrimp fishery and would be one that would be likely reinitiated. As far as the critical habitat, at this point I don't know what the proposal is for critical habitat so anything I answer to that I think would be very speculative. It's the same case where if critical habitat did overlap with the federal fisheries jurisdiction affect one of the habitat – I can't think of the right word – but if it affected one of the conditions for why that critical habitat was listed, certainly it would require reinitiation.

DR. LANEY: So just not specifically to Atlantic sturgeon but pick any other anadromous species; has NMFS designated inland freshwater spawning areas as critical habitat for other listed species like Pacific salmon on the west coast, for example?

MS. LEE: I don't know about the west coast. I'm familiar with Gulf sturgeon where we have shared jurisdiction with the Fish and Wildlife Service, so NMFS is responsible for looking at the particular recovery units – I'm using the wrong words again, but we only look at basically the estuaries out. I'm sorry, I don't know the answer to that.

MR. CUPKA: Madam Chairman, I'm not a member of your committee either, but I wanted to ask Jennifer a question. A biological opinion as a result of actions taken is spelled out in the Endangered Species Act, correct? The biological opinion is a function of ESA; is that correct?

MS. LEE: Yes, so hopefully – I guess I wasn't that clear, but the biological opinion is the end product of the formal consultation, yes, so the consultation is where you're looking at the information, but ultimately you write it up in some type of findings. If it's informal, it's just a memo documenting why it's not likely to adversely affect. If it's a formal consultation, then you have to prepare a full biological opinion that outlines all the information and answers that question of whether or not it's likely to jeopardize or result in destruction of adverse modification, so, yes, that's the end product.

MR. CUPKA: Well, what I really wanted to ask you is in terms of – and I'm thinking specifically now in the marking requirement on the rope, which we're trying to deal with as a part of the Magnuson Act, correct, even though the opinion came out of the Endangered Species Act, so what would happen – I mean we've already seen the Gulf selected the no action alternative for that.

If it's not dealt under the Magnuson Act, doesn't NOAA Fisheries have the option of dealing with it under the Endangered Species Act, and is it better to deal with it under the Magnuson Act. What are the benefits or the advantages and if the council were to stick with the no action alternative; wouldn't you still be able to deal with it using the provisions of ESA?

MS. LEE: Well, I think it looks like Monica wants to answer that, but I think the agency would have to decide where it wants to move forward if that were the decision. I think there is a lot of merit to doing it through the Magnuson-Stevens Act just because that is where your fishery regulations are and it makes sense to have your regulations in one place.

Certainly, it's not unusual in terms of when we deal with other federal agencies and we have terms and conditions and things. We're providing them with things they must do using their authorities, so it's not odd that here we're recommending that NMFS use its Magnuson-Stevens authority as an outcome of the biological opinion.

DR. CRABTREE: But the bottom line answer is, yes, NMFS could do it unilaterally and could apply it in state waters as well as the EEZ. The disadvantage I would think from this council's perspective is then you would have lost control over making the decision and essentially deferred to the Fisheries Service.

MR. CUPKA: I certainly wasn't espousing a particular position in regard to that issue. I just want it clearly spelled out what some of the alternatives may or may not be and what the impacts may or may not be.

DR. CRABTREE: And I think the key in a situation like that would be what is the council's rationale for not moving forward with it, and that's really what we would look at.

MR. WAUGH: Thanks, Jennifer, that really helps clarify how this process works. You mentioned that the Southeast Fisheries Science Center does bycatch analyses and then that can go into the biological opinion and then the Protected Resources staff prepares the biological opinion. Could you describe the review process from that point forward after you all prepare the biological opinion?

MS. LEE: Yes, it's like any other agency document where it goes through at least several reviews. The initial draft or the opinion is provided to the Section 7 Coordinator who reviews it. Often there is an ESA Branch Chief that reviews it next followed by the Protected Resources Division Branch Chief. Then, of course, it gets our legal review. Just like FMPs, it goes through the Office of General Counsel, and then after that is submitted to our front office; in other words, Roy.

I should add that we do – you know, as far as Science Center input, since you started with that, throughout the process we're in discussion with our Science Center for advice and often depending on the nature of the consultation and the amount of information that we're using from the Science Center, we'll be asking for their review as well.

MR. WAUGH: So just to continue, is it similar to our FMPs that when the biological opinion is finished, that the complete document then goes through a Center Review similar to our FMPs?

MS. LEE: There is not an official process like there is under Magnuson, but we still have a review with them but it's more informal. The Science Center is looking for whether or not we're using the best available science and that we have the information in there. Biological opinions are based on science but they are a policy document and arguments explaining why we are or are not meeting that standard. The Science Center reviews the document for the specific data.

MR. HARTIG: Jennifer, on the question of the species that lobster rope has interactions with, bottlenose dolphin, smalltooth sawfish and loggerhead turtles, was the opinion based on takes or is it based on reasonable and prudent measures to be implemented that would reduce takes in these fisheries?

MS. LEE: Well, the first step is looking at what the impacts are. I should add that as far as interactions, we're only looking at listed species, meaning under the ESA, so marine mammals are dealt with under a list of fisheries and are obviously still a very important issue, but a biological opinion is only looking at listed species.

We're making the determination on the anticipated level of take; and then after concluding whether or not it's likely to jeopardize, at that point you're looking at what can be done to minimize the anticipated take. The determination is made prior and then you're looking at whatever that amount you said was okay, you still have to look at ways to minimize that further, and those are the reasonable and prudent measures.

MR. HARTIG: In the anticipated take how is that formulation started and made?

MS. LEE: We're looking at what date we have available on bycatch. We're looking at a number of sources for fisheries that we have observer programs. For the most part we're looking at that information for CPUEs and with our effort data figuring out what the total bycatch is, again like I said, with the help of our Science Center.

As you know, we don't always have observer programs or data specific to the species. Like sawfish, for example, we look at other sources of information. We look at data bases that just

have like with sawfish there is an encounter data base. With sea turtles we look at strandings. In particular with line entanglements we have strandings that are sea turtles that are found with line, and that is where we're using that to estimate when we don't have other sources of information. It's whatever information is out there. We do an extensive search to find anything that can help explain what that level of interaction is.

MR. PHILLIPS: Jennifer, when you say strandings of sea turtles with line; do they differentiate between whether it's a piece of longline or trap line or recreational fishermen? Do they differentiate that or just call it a stranding and maybe a sub-category of stranding with fishing gear attached or not?

MS. LEE: They do their best to characterize it, but that's where obviously a lot of the time they aren't able with the stranded animal to tell what fishery that line is from. They do their best to characterize the gear.

In some cases the gear is sent to the Southeast Fisheries Science Center, like hooks, for example, to see if they can better estimate what fishery that gear was in and things like that. Certainly, there are detailed notes with stranding events, but many times they're vague and it's too vague or I guess the cause is most frequently left unknown just because they can't tie it to a specific action.

MR. PHILLIPS: I guess my follow-up question, you've got to use a number from somewhere, so is the number you're using just strandings or are you pulling out a number that you really think is associated with a certain sector or gear?

MS. LEE: Well, the fishery consultations are specific to whatever – they're done on an FMP basis primarily. In case of the spiny lobster biological opinion, that biological opinion had to make a determination on what the estimated interactions were with spiny lobster gear, which can be very cumbersome with the amount of information out there.

If you actually look at the biological opinions – they are all on line – and that affects the action section that I pointed out. I know it's not the most fun reading, but biological opinions spell everything out, so you can go through there and basically probably do the math side by side and come up with the same – well, you should definitely come up with the same answer, but my point is that it will spell out the detailed information on where it came from, how it was used, the conclusion. If you want detailed information, if you just flip through to that section, it's pretty well labeled. You should be able to find the specifics.

MR. HARTIG: And where is that located?

MS. LEE: On the Southeast Regional Office Website. Actually, on the Protected Resources Page there is a link to Section 7 Consultations and then there is a frequently requested fishery consultations link.

MR. JOLLEY: This might be better directed at Roy or maybe even you, Jessica, but is there any information available with endangered species like leatherback turtles, for example, and boat

strikes? Is there any comparison of what boat strokes are in some of these things that we're talking about with endangered species versus gear?

MS. LEE: There is information on boat strikes and sea turtles and leatherbacks in particular. I wouldn't say there is a comparison, so to speak, but part of the biological opinion, like I said, it has the status of the species section and an environmental baseline section that is looking at other – in the environmental baseline you're looking at everything else that is affecting a listed species. When we're looking at what the total effects are, we're factoring in these other things that occur, so we do have information on boat strikes. There are some out there. If it's an interest of yours, I would be happy to get you some specific information.

MR. PHILLIPS: Speaking of comparisons, is there a list or report of something that says this is where we are. If you have a fishery you're going to have some kind of interaction, if you've got any kind of significant fishery. Is there a number of where we are, where the drawing line is before major changes have to take place, is that listed anywhere, or how much buffer room there is in between what they may be interacting with and how many they could possibly interact with and not affect the sustainability of the species. Do you know what I'm saying?

MS. LEE: Yes. Well, I think what is hard, particularly I think when you're used to a sustainable fishery and, you know, status determination and all that stuff – I mean with the Endangered Species Act there is Section 7A – there are the two standards, so I think what is hard is every federal agency has the obligation to do the most they can, really, to protect listed species, so you're not managing jeopardy minus one, which a lot of people kind of want.

They want to know, well, where is that bar, where is that tipping point where suddenly it's likely to jeopardize, and we're okay right up to that point, and it just doesn't really work that way. We're comparing each action against the standards, but we're not sort of independently trying to assess where that line is. Does that make sense?

MR. PHILLIPS: Well, I guess my followup comment – I guess I can try to make it into question – is you're telling me we don't have a goalpost to go to so if want to actually make sure we have no interaction and do everything we can possibly do, then we close the fishery.

MS. LEE: No, I'm not saying that. You're trying to minimize – I mean there is a practicality to it. The first part is whether or not it's likely to jeopardize. Then you're still trying to do the most you can to minimize that impact, but it has to be reasonable and prudent. It's a reasonable and prudent measure, so that's the standard on whether or not something is needed. You're looking at that as the standard.

Things that make it tough – I know I haven't been involved as much and Andy has been coming on this issue, but it really is important to be able to – you know, the more we can try to pinpoint where interactions are coming from the better, and you don't want to be implicating something that you're responsible for.

I think what is really important here is to be able to better document the interactions that you're having and to not – under the ESA we're always erring on the side of the species and in the

absence of information kind of assuming the worse. That's why it's really a good thing to be able to have the line such that you can say that's not our line or that is your line.

MR. HARRIS: Jenny, let's take an example. What I'm getting to is the question of is it likely to jeopardize, and let's look at right whales. Let's say there are 450 North Atlantic right whales left in the area. Is the death of one right whale due to an entanglement a jeopardy?

DR. CRABTREE: That's not a question we're going to answer. We'd have to do a biological opinion and a consultation and figure that out. That's not something we could just answer just off the cuff.

MR. HARRIS: What I'm trying to get at, though, is how do you make the determination that it's a jeopardy situation?

DR. CRABTREE: It's a very difficult process that we go through. Basically what I can tell you is we spend a lot of time consulting with the experts and the attorneys and there is a great deal of case law and court decisions on the ESA, and you have to go through and make your best judgment call as to what do you think is the most defensible situation. I don't know if you want to add something to that, Monica.

MS. SMIT-BRUNELLO: No, I think that's accurate.

DR. CRABTREE: It's not a very clear-cut black-and-white thing sometimes.

MS. McCAWLEY: If there aren't anymore questions for Jennifer, then we could move on to our second presentation. Our next presentation is going to be by Glenn Salvador and it's on gear marking requirements of the Atlantic Large Whale Take Reduction Plan.

MR. SALVADOR: Good afternoon; my name is Glenn Salvador. I work for Protected Resources in the Northeast Region. I work out of a satellite office on the eastern shore of Virginia. My duties are outreach and gear research with the fishing industry. I've spent a lot of time on the docks, spent a lot of time out to sea with guys testing different products and trying new ideas.

I also spend a good deal of time doing workshops with the state marine patrols and the U.S. Coast Guard going over what the regulations are for the various take reduction plans. I think there was a guide for the modification techniques handed out there. On the back of the colored one it talks about the line marking requirements and how to comply with that.

I just have a very brief presentation and then I'd be happy to answer any questions that I can on what our line marking system is and how it works and how it has been working. Line marking requirement is one four-inch long colored mark halfway down the buoy line. This technique was tested for about a year at sea before the final rule was implemented.

We tested three different types of markings. We tested spray painting it, we tested whipping some twine around the line or tucking it through the line and whipping it onto the end of the line,

and we also tested like different colored electrical tapes wound around the line and then another passed down so maybe two layers of electrical tape.

We put that out to sea with inshore lobster boats that work within eight or ten miles to shore that fish anywhere between 40 and 100 fathoms of water. We tested in on offshore lobster boats fishing out on the edge of the canyons that fish down to a thousand or 1,800 feet deep. We tested it on gill net vessels.

We left it out there for a year and brought it in and took a look at it to see whether it worked in anticipation of some kind of a marking system going into effect. In most cases we were still able to see the marks on the line obviously with growth and wear going through the hauler. Depending on how many times the line was hauled, some of the lines were more difficult than others.

We implemented the rule in October 2007. There was a six-month grace period for industry to get in compliance, which was April 2008. We estimated the cost at about a nickel for a mark, and I guess that might vary a little bit if you're using spray paint or a piece of twine or a piece of tape, but that's what the cost estimate was. We also estimated at a time of about five minutes to install. Obviously, there are different types of line.

Bill has brought some line here that is extremely hard laid. I've brought some line here that is similar to what the guys use along the Mid-Atlantic and New England where you can just open up the line and tuck the piece twine through it, open up again and tuck it again. You could cut a piece of different colored bungee cord.

Guys in the Mid-Atlantic and in the northeast could put their line mark in a matter of seconds. The same thing with the spray paint and the tape probably a little bit longer. The outreach efforts, when we implemented the rule, we mailed out the how-to technique guide along with a packet, and I can leave some of these up back that talk about the entire large whale take reduction plan and all the requirements from Maine to Florida.

We did a lot of dock work. Originally there was just myself who worked from Maine to North Carolina and we have two from Virginia north. We have a fellow who works with the southeast region from North Carolina to Florida. We did a tremendous amount of dock work and tried to go to every major port and work with all the fishermen in the port going over what the requirements were and how to comply.

We had booths at all of the major trade shows from New England right on down through the Mid-Atlantic. We also tried to attend all the fishing industry association meetings; and in the case of in the state of Maine where we've got 6,000 lobstermen there, they're split into seven zones, and we try to attend all their zone council meetings. They have zone council meetings each month.

The retrieval results since 2008, we've recovered less than a dozen lines with the mark on it. We often don't retrieve the entire end line. Over that time span we've probably had maybe in the

vicinity of 80 or 90 entanglements that we know about. Most of the time what we get back is just a piece of line that we're unable to attribute to a fishery that line.

Some of them we've got back have been 1,200 feet of 5/8 inch poly. Some of what we've got back is 10 feet of 5/16 sink rope. It's all over the board what we get back. The average length of line that we take off an animal is about 80 feet. We have gotten some lines back with the mark still on it, but most of the time we haven't. Not all of it is buoy line.

One thing that we do when we get a piece of line back, unless we're absolutely positive and able to trace it back to a particular fishery, we consider it just a piece of line. We don't consider it a piece of lobster line, a piece of black sea bass line, a gill net end line. It's a piece of line. Many times we get back a surface system which we're able to trace back to a fisherman and find out where the gear was originally set.

Sometimes we get back a trap or a part of the trap that has a trap tag in it. We're able to go back to the fisherman and find out where it was originally set, how it was set, how deep it was set, when he lost the gear and do kind of an in-depth analysis of where that gear came from.

MS. McCAWLEY: Glenn, Monica has her hand up.

MS. SMIT-BRUNELLO: I'm sorry to interrupt you but when you say "retrieval results", when you're talking about – and I must have missed it in the beginning, but you're talking about gear that has been recovered with animals? What do you mean by –

MR. SALVADOR: Gear that has been taken off entangled animals. We've also tried some new technology other than just the tape, the twine and the paint. We've given out a couple of grants to come up with some radio frequency tags that we could stick into the line and obtain more information right down to the individual fisherman, what type of gear it was, what state it might have been set in, even what port in that state the gear was set from.

Up until now it has been difficult to get any kind of radio frequency tag that will last any length of time. We've tried them where we've weaved one into the layer of the rope. In some cases it lasts three or four months; but eventually after going through the hauler and set over the stern of the boat and down into 600 feet of water or 300 feet of water and dragging across the bottom and then back up and through the hauler, they just don't seem to last.

Some of them lasted four or five months but in most cases even less than that. Recently we did a grant with the University of Arkansas, Sam Walton School of Business that does all the radio frequency work for Wal-Mart. They're probably the leaders in technology for RFID tags. What we thought in the northeast region for an ideal tag would be one that we could visibly see if we were coming up aside the animal that was entangled so we could see whether it was a red mark or a blue mark and be able to tell whether it was maybe lobster gear down below in the water or if it was gill net gear.

We wanted it visible by the eye and we also wanted it to be easily installed on wet or dry line, and we wanted something that would be able to last at least a season, which was a year. In the

case for trap pot gear in New England, it might be something that's hauled 150 times; black sea bass gear in the Mid-Atlantic less.

We were able to come up with what we call a super tape, which was a tape that would tape right back onto itself around the line and had RFID technology that we could put as much information as we wanted in it. They came up with five different types of tape. We brought it out to sea with a fisherman that I work with out Ocean City, Maryland, and we did 25 hauls with it on the same day; just kept resetting it and hauling it, and we had destroyed all of the tags at the end of the day.

It's a difficult task to come up with RFID technology that will last in the commercial fisheries of running through the hauler and going through the riggers that it goes through in that operation everyday. Future plans, obviously to improve the data we get from retrieval of a line, the way we're I guess probably going to be going about that is to increase the line marking.

Right now we require a one four-inch long mark halfway down the buoy line. If that buoy line is 50 feet long you have one mark; if it's 2,000 feet long you have one mark. We just finished up a round of scoping meetings from Maine to Florida in advance of the large whale take reduction team meeting that will be coming in January to address vertical lines, buoy lines and the trap pot and gill net fisheries. I think one of the messages that we heard pretty much everywhere was that the industry wanted a more robust marking system.

In some cases, like the state of Maine, guys even wanted rather than like now where we have a red mark halfway down the buoy line for trap pot in the entire New England coast, the guys in Maine wanted a more specific mark to not only the state but actually to even get down into what zone it came from and also what fisheries.

Other places outside of the state of Maine were more of let's have state color and a fisheries color, but I think throughout the whole region from Florida to Maine what we heard at these meetings was that we want more marks on there to show that our gear isn't the problem. That's pretty much everything I had to talk about with the line marking. I'll be happy to answer any questions that anybody has about this or any of the work that was done with it.

MR. PHILLIPS: How many different fisheries can the ropes and lines come from? We've got stone crab and spiny lobster down in the Keys, so we've got two basically. How many fisheries are you dealing with up there that are potential problems?

MR. SALVADOR: Well, individual trap pot fisheries, we've Jonah crab gear, we've got black sea bass gear, we've got slime eel gear, we've got lobster gear, trap pot gear, we've got gill net gear, conch gear, scup gear. What we do know about large whale entanglements is the gear can come from anywhere.

A lot of people say, "Well, we've never had an entanglement in our gear off of our state." Maybe there hasn't been a documented entanglement in some of the fisheries off some of the states, but we can't just say because we haven't found one that absolutely there hasn't been an entanglement in that gear.

We've gotten gear back from, like I say, lobster gear, slime eel gear, gill net gear, conch gear, a lot of different types of gear; a lot of it Canadian gear, which the Canadian government currently doesn't require their guys to do anything, any kind of gear modifications. In the case of Maine there are Canadian lobstermen fishing across the room from Maine lobstermen.

MR. CURRIN: Glenn, a couple of question; one, did you guys happen to try shrink tubing that is used for electrical connections and all of that would seem to be –

MR. SALVADOR: Yes, we did try that.

MR. CURRIN: And it didn't last very well?

MR. SALVADOR: Well, no, it lasted but it was a little bit labor-intensive. You had to slip that tube over the line and then slide it down. In the case where some of the guys have a 1,000, 1,500, 2000 foot end lines, it was just time consuming to get it down there and then you had to use the hair dryer or some type of heating mechanism to shrink it up. But, no, it worked very well but it was very time consuming.

MR. CURRIN: Okay, for shorter lines it wouldn't perhaps be quite so time consuming. My other question was regarding your super tape, and I know you said you had problems with it because you had the RFIDs in it, but did the tape itself hold up pretty well?

MR. SALVADOR: No, even the tape itself didn't hold up as well as electrical tape on dry line.

MR. WAUGH: A question for Jennifer along these lines; when you all were putting together the alternatives for this amendment – I know you all helped with that – did your group consider the markings that were used in the northeast and consider those as reasonable alternatives; and since they didn't it in the list, why perhaps they not.

MS. LEE: I can follow up on that. First off, I would just say avoid the words "reasonable and prudent alternatives" when you just mean something different. Again, reasonable and prudent alternatives are specific to jeopardy opinions. They're things you have to do because you're in a jeopardy situation, so it's real important to get terms with the ESA right because they're meanings to everything.

Yes, Andy Herndon has been the lead on this. I know he has certainly been in communication a lot with the northeast region. I can very quickly follow up and find the particulars of what he considered. I know he has a lot of back and forth with the northeast region on what was considered.

MR. CURRIN: One more, Glenn; what is the derivation of the four-inch marking; is that what you just felt like was a reasonable amount of color that you could see from a vessel or remotely in some way?

MR. SALVADOR: I think it was just a product of a consensus recommendation at the take reduction team table of how long a mark we would need. I had some line there with some of the

marks that I had tested, and I think they just happened to be about that long, and I think that's where it came to be. I don't think there was anything scientific behind that four inches long.

MR. CURRIN: And I would assume then that's not some hardwired requirement that a marking has to be four inches long?

MR. SALVADOR: Well, yes, it is.

MR. CURRIN: It is; okay.

MS. LEE: Glenn, I just wanted to ask – Charlie had noted as far as the southeast only having stone crab and spiny lobster and, of course, we have black sea bass, too, but that might get people thinking that we're good, but because of the highly migratory nature and infrequent sighting of whales, I just wanted to check certainly where something was caught or found entangled, unless it has been sighted recently, that entanglement in line could have occurred anywhere within its relative range, right?

MR. SALVADOR: Absolutely.

MS. LEE: I just kind of wanted to make that distinction.

MR. SALVADOR: Yes, we've gotten gear that has come from New England off of right whales off of Florida. In cases where we get a surface system back, a buoy that has maybe – the guy has the buoys numbered or a scan float, a big poly ball where the guy has a particular number on that; most guys keep track of those because they're so expensive and they have it written down in their logbook where that individual gear is set.

We have gone back to guys who have been involved in large whale entanglements with a surface system and they've been able to tell us the actual day they lost the gear and where. In most cases it's difficult to tell. We know where the gear was originally set, but in many cases we don't know where the entanglement actually occurred.

DR. CRABTREE: Glenn, the type of rope that has been laid around, which I guess is what most of these guys use, this really hard kind of line, do you have any recommendations as to what you think might work on this? I guess spray painting is a possibility or tape. It seems like weaving anything into it would be difficult.

MR. SALVADOR: It would be extremely difficult. We don't see this type of line in the Mid-Atlantic or the northeast. The only place I've seen this line used is for the up-and-down lines in the pound net gear in the Chesapeake Bay to keep turtles from getting entangled in it. I would think either spray paint or tape would be the only two things that I think could be done with it.

MR. HARTIG: You shied away from the tracered rope and that was I think something to do with exclusivity as far as being able to identify a certain fishery. I will let you explain it.

MR. SALVADOR: Well, the take reduction team wanted each fishery to have a particular tracer through the line and industry was pretty much against that for a couple of reasons. One is that guys now quite often set over each other and they use different types of line. Sometimes it's easy when they get that pot up to the side of the boat to look down and they've got three or four lines going down each way to be able to grab theirs and see where their line is and cut it and get it out of the mess and tie it back together again.

The other reason is that there is no way to dictate to a rope company that they can't sell that particular piece of line with that particular piece of tracer. Especially poly line is made all over the world now and we just couldn't dictate those terms to every rope manufacturer around the world that they couldn't sell a particular tracer and a particular line to anybody but we'll say a lobster fisherman in Connecticut. That was some of the problems with it, you know, moving forward with having a tracer in a line. It kind of required a guy to buy possibly from one manufacturer, which industry didn't want any part of.

LT. FOOS: I was curious if you received any comments from law enforcement during your scoping meetings in the northeast.

MR. SALVADOR: In reference to the marking system?

LT. FOOS: Yes.

MR. SALVADOR: I didn't all the scoping meetings. I'm thinking of the ones that I did attend in the Mid-Atlantic from North Carolina to New Jersey; I don't recall hearing comments, but there very well could have been. We could look back in the scoping meeting documents there to find that out.

MS. McCAWLEY: Okay, I don't see anymore questions for Glenn. Thank you for coming and giving your presentation. I just wanted to take a moment to ask Bill Kelly to come forward. Bill Kelly brought us these line party favors here and maybe can explain a little bit about what he brought with him.

MR. KELLY: Madam Chair and Members of the Committee, Bill Kelly with Florida Keys Commercial Fishermen's Association. What I brought with me is I brought a 90-foot lobster line here which you can see is spread out on the floor there. As the biological opinion is written it would require a marking every 15 feet unlike the New England area where it's only one mark at the halfway point.

Ninety feet represents the average length of a lobster line in the spiny lobster fishery in South Florida. This line that I used here is actually a soft braid rope; because with the assistance of Tony Iarocci, Karl Lessard and Bruce Irwin we were at risk of losing our fingertips in inserting that four-inch marker that I've passed around, the yellow marker and the hard braid line, which is used by more than 99 percent of our fishermen.

We used the soft braid just to give you an idea of how many times it would have to be marked and what it looked like. On a stopwatch the time to mark this line with five markers was 14

minutes and 20 seconds; so at an average of 2,000 traps per fisherman, we'd be looking at a total of about 500 manhours to make his 2,000 traps and meet this requirement.

The numbers, as Mr. Salvador pointed out, five minutes per marking, almost pretty accurate except that before our fingers wore out we had it to down to about 3 minutes. The hard braid line, this isn't something that I brought just for demonstration. This is the industry standard here. The reason that it's used is it is pre-stressed; and because it is so tight, what it does is it resists barnacle growth and algal growth because of the nature of the line.

In an earlier e-mail that I had asked be passed out to all of you, I don't know if you saw it or not or if you had an opportunity to look at it, when these lines are retrieved they come through across a metal bar that is notched to the diameter of the line. As that is done, a handle is brought down that is also machined on the topside to the diameter of the line.

Any tags, even though we've made a particular effort to insert these in this line that's on the floor there, they're going to get sheared going that line cleaner. The algal growth and the barnacle growth in particular is horrendous especially back in Florida Bay in the late winter and early spring months there.

These traps are getting retrieved every three to five days and they're getting cleaned their entire length on each and every haul. A couple of things I did want to point here, if I may just a moment here, and that is that it's very important to note that this biological opinion does not reach a level of jeopardy. All right, it does not threaten the existence of any of the species that were assessed.

We're talking loggerhead turtles, acropora corals and smalltooth sawfish. And just to further put that in perspective, it was two three-year studies in this biological opinion in which there were two smalltooth sawfish entanglements. This is for half a million traps. Both of those smalltooth sawfish were released alive. In the three-year study of that biological opinion, again on a half a million traps, there were ten turtle entanglements, eight of which were release alive.

The total impact due to abrasion and so forth on acropora corals was a seven by seven square meter area, probably as big as the inside area of these tables here. Again, we had a half a million lobster traps in the water. We also had at any given time perhaps 900,000 stone crab traps in the water. The biological opinion does not delineate nor was it able to specify if they came from one fishery or the other. There has never been a marine mammal documentation entanglement in South Florida or the Florida Keys.

DR. CRABTREE: Bill, what about spray paint or tape as a way to mark it?

MR. KELLY: Dr. Crabtree, we discussed that. We discussed a number of measures. Spray paint was one of the options that we presented, but it lost its visual appearance after only several weeks. In talking with Mr. Salvador, though, I understand when they do have entanglements actually you conduct a forensic analysis on the rope and they are able to ascertain if there was paint on there.

This could be a viable option, but this was not something that was discussed or tested. At my last meeting on November 14th with PRD representatives and council staff, it was said, "Well, we're simply saying no to trap rope marking," and that's not the case. When we discussed the spray paint method, it was suggested by Herndon that we have Florida Wildlife Research Institute conduct a formal study and that is determine and document the type of paint that is used, how many coats are applied to the line, how long was it allowed to cure before it was put in the water, and then retrievals on a periodic period, recorded periods to determine how long this line lasts. That's easier said than done because they would then in turn want grant funding and so forth to carry on any type of a study on that, and then we'd want to carry it on through a broad range of both Florida Bay and on the Atlantic side.

MS. McCAWLEY: Okay, thanks, Bill. With that, the next item that we have on our agenda is Kari is going to go over the Gulf of Mexico Fishery Management Council Report.

DR. MacLAUCHLIN: You were e-mailed a revised copy of this. This is Attachment 2 for Spiny Lobster. I'm not going to read the whole thing, just some of the key parts in here. They met in October and reviewed the document. Like in September Andy Herndon attended the meeting and talked about the workshops with industry that had been held over the summer to work on the proposed closed areas.

Then they reviewed the document, and so in Action 1 they did choose a preferred alternative and a preferred option, which was Alternative 3 that would create the new closed areas in the EEZ off of Florida consisting of the acropora specie colonies with the straight-line boundaries; and then Option A, the closed areas would be – spiny lobster trapping would be prohibited.

They also moved Alternative 4 into the considered but rejected, and Alternative 4 is the alternative closed areas have the 500-foot buffer around them. For Action 2, which is the trap line marking requirement, there was a motion to move Action 2 to the considered but rejected, but the committee was cautioned against that.

The Gulf Council Committee selected Alternative 1, no action, for Action 2 and this also carried at full council. Then they also added some public hearing locations in the Keys, in Marathon and in Key West that they will hold January 23rd and 24th. The Gulf Council's next meeting is January 30th through February 2nd. That's it for the Gulf Council Report, and we can talk about those again when we go through the document.

MS. McCAWLEY: Okay, thanks, Kari. Next on our agenda, Anna is going to go over the Coral AP recommendations.

MS. MARTIN: The Coral Advisory Panel met the latter part of October and they did review a public hearing version or the draft summary of the November version of Spiny Lobster 11. They did have a few recommendations that I wanted to review quickly with you on this version of the document.

I should also note that a couple of the advisory panel members are pretty closely involved in this fishery; one as a trap fisherman and the other holds federal aquaculture permits for several lease

sites for growing staghorn coral. Both have been involved in the redrawing of the proposed closure areas with Protected Resources staff.

I should also note that these recommendations from the Coral AP, the document has been revised since these recommendations surfaced, so some of these are a bit belated. Some of the information is now included in Appendix G of the document. With that in mind, the advisory panel identified several areas of information that they perceived needs to be included in the amendment before they would endorse this as moving forward.

They did have some discussion about staghorn coral; more of this specifically than elkhorn coral; that when you draw lines on a map in terms of colony locations, there needs to be a process that allows the lines to be moved. This type of coral is one that fragments, which is how it distributes itself; so for some who study the species, it's tough to draw a line around a proposed closure area for staghorn specifically because in a year from now that colony location may have moved.

The advisory panel discussed a recommendation for including an evaluation component for these sites within the document. Moving on, the AP felt that in reading the document it's not clearly identified how the proposed closure areas were characterized and developed, so specifically the document needs to identify coordinates for the proposed area. Again, the coordinates for these areas are now included in Appendix G.

They also questioned to what minimum mapping unit the maps for the proposed closure areas were created; so unless these areas are groundtruthed, the AP felt that they weren't created to spatial scale and resolution that is needed for this purpose and type of management. They also felt that this was information they'd like to see included within the amendment.

The AP felt that further coordination with law enforcement needed to take place here. There seemed to be some concern that unless each of the area boxes have surface buoys or some aspect to allow law enforcement to visually be able to identify them, this didn't seem to the AP to be an enforceable process.

They also preferred the geometric box descriptions for the protected areas as opposed to the small 500-foot buffer areas. The AP also recommended that a prohibition of harvest within the closure areas apply to both trapping and recreational harvest. They had some discussion of endorsement of Action 1, Alternative 3B, as a preferred. Again, they did not make a specific recommendation for that measure, just discussion of endorsement of that measure.

They also discussed that if the intent here is to protect the resource and so much of these corals are in Florida state waters, they recommend encouraging the state of Florida to follow suit and impose similar protections and measures in state waters. The AP also questioned the biological necessity for requiring all trap fishermen to switch to the white rope. They questioned the justification of this measure and pointed out during the AP meeting that this was information that is currently not included in the document. That's really all the discussion on this specific amendment that the Coral Advisory Panel had.

MS. McCAWLEY: Okay, thank you, Anna, for that report. Now I think Kari is going to go over the SSC recommendations.

DR. MacLAUCHLIN: Okay, this is short and sweet. The SSC reviewed the document in November. For Action 1 they had no comment; and for Action 2 they had one recommendation in that it would be difficult to associate a particular rope to a particular fishery for monitoring and enforcement; also that lobster rope is heavier than other ropes and is identifiable in that way. Perhaps requiring all lobster rope to meet the specifications of the rope currently used by the majority of the fishery is a recommendation to consider.

MS. McCAWLEY: Okay, now we're going to move into the document, if you'll look at the items in Attachment 1.

DR. MacLAUCHLIN: And then I'm going to use the decision document that has the pages that correspond the SEIS for Amendment 11. In the decision document just a little background to remember everybody, these two actions were in Amendment 10 and the South Atlantic and the Gulf Councils selected no action for both of these.

Over the summer Protected Resources staff, Andy Herndon had a workshop with the industry and they selected closed areas and reviewed the maps. There was a lot more industry input this time around. Then for the trap line markings the fishermen were concerned about the costs to replace the trap line. At this point there was an implementation date of 2014.

Since then the biological opinion has been revised, and so the date for implementation for compliance is 2017; so instead of just having a couple of years, now they are back to their five-year phase in. At our last meeting Andy Herndon attended and spoke to the council about the workshop and how the fishermen attended. He had also sent back the new proposed closed areas to the participants and they had to chance to review them.

The specific goal and proposed actions of the amendment are specific to the biological opinion requirements. One is that NMFS in cooperation with the Florida Keys National Marine Sanctuary, Gulf of Mexico and South Atlantic Fishery Management Councils must work to establish the new closed areas or expand the size of existing closed areas and waters under their jurisdiction where acropora is present to prohibit spiny lobster trap fishing. That's Action 1.

Action 2 is to require that all spiny lobster trap rope be a specific color or have easily identifiable patterns or markings not currently in use in other fisheries along its entire length. The general timing for this amendment is the South Atlantic Council review and select preferreds if you want at this meeting and then approve for public hearings also at this meeting today. The Gulf Council public hearings are January 23rd and 24th, and then we have one South Atlantic public hearing in Key Largo, and that's January 30th.

The Gulf Council will review and approve for final review at their January/February meeting, and then the South Atlantic Council will review public hearing comments and approve for final review at our March 2012 meeting and sent to the Secretary of Commerce. That's the plan.

Okay, Action 1 is limit the spiny lobster fishing in certain areas in the EEZ off Florida to protect threatened staghorn and elkhorn corals. This is PDF Page 19.

Alternative 1, no action, do not limit spiny lobster fishing in the EEZ. Alternative 2 is close all known hard bottom in the EEZ off the Florida Keys where acropora species occur in water depths less than 30 meters. There are two options. Option A would prohibit just spiny lobster trap fishing. Option B would prohibit all spiny lobster fishing, so that would include recreational and commercial diving.

Alternative 3 creates the new closed areas out in EEZ off the Florida Keys consisting of identified acropora species colonies with the straight-line boundaries, and this is the Gulf preferred; and then the same options. The Gulf selected as their preferred that in the closed areas spiny lobster trap fishing only would be prohibited.

Then Alternative 4 creates new closed areas in the EEZ off the Florida Keys consisting of identified acropora species colonies with a 500-foot buffer surrounding each colony. You have the same two options. In Attachment 1 are the maps that show the areas specifically. In the document that you received for this meeting there has been some more information added about where the data came from that were used to identify the proposed closed areas.

The baseline data were compiled from the FWC, Fish and Wildlife Research Institute, Nature Conservancy, University of North Carolina at Wilmington, the Mote Marine Lab and the Keys Sanctuary. Six criteria were developed to select the proposed closed areas, and these were also developed with stakeholder input; so abundance of elkhorn, co-occurrence of elkhorn and staghorn, a way to distribute the areas throughout the Florida Keys places where there were elkhorn and staghorn plus other ESA listed coral species, the coral nurseries if possible, and then large colonies with the greatest sexual reproductive potential, the super colonies.

In Alternative 2, that's the one that would close all known hard bottom in the EEZ, and it's about 71 square miles. Alternative 3, those are the straight-line boundaries and would close about 6.7 square miles of which 2.5 square miles would be anticipated to be fishable. Alternative 4 is about 6.6 square miles.

For the straight line, Alternative 3, there are 56 boxes, and there was some discussion at the November 14th meeting about splitting a couple of those into two boxes. It was like a large area and there has been some discussion of splitting that into two. The Keys Sanctuary agreed that if industry requested that and the councils agreed to that, that they thought that would be okay, but then there was also on the flipside that small areas would be difficult to enforce or maybe just so small that it doesn't matter. This was something that the IPT did want me to bring up to the council, that there may be splitting of these areas.

Anna just reviewed the Coral AP recommendations for this one. Some of the information that they felt that the SEIS needed has been added. The Coral AP also recommended that the Spiny Lobster AP and Habitat AP review Amendment 11. The Spiny Lobster AP did review these similar actions in Amendment 10 in April.

The Coral AP recommended using the geometric – the boxes so that would be Alternative 3 and then also recommended an exclusion of all spiny lobster fishing within the areas to be protected, and that would be Option B for these alternatives; and then also that FWC should be encouraged to take a similar approach. The next thing is if the committee would like to select a preferred alternative or option.

Otha had sent out an e-mail to the IPT so we could have law enforcement's point of view on this, and so basically OLE is not in favor of the alternative that would require placing buffers into the regulation, so that would be Alternative 4 with the 500-foot buffers. To the point, buffers serve little regulatory purpose other than to provide a warning of a potential or imminent violation.

Entering into a buffer as a buffer is commonly defined does not constitute a violation, and it's more of an outreach or educational tool that is better served outside of regulations and should provide precise prosecutable language stating what is allowed and what is not. Enforcement is not in favor of the buffering alternative.

MS. SMIT-BRUNELLO: I have a question as to the Gulf's preferred alternative, Option 3A. Do you know why they chose to have as their preferred that only spiny lobster trapping would be prohibited?

DR. MacLAUCHLIN: I was listening to some of it. I am not positive and I could get back to you, but I feel like – oh, David knows.

MR. CUPKA: Well, I don't know that I know but I think one reason may be because the biological opinion just talked about trapping within the EEZ, and that's what they were trying to address even though I think it was recognized that to prohibit all would be somewhat better. Doug, is that your recollection?

MR. BOYD: That's my recollection.

MR. WAUGH: We sat in on a call with the Florida Keys National Marine Sanctuary and they're starting a review of their whole program, one of which will be looking at potential areas to protect these corals. Is there anything in the biological opinion that would preclude the councils from reaching the conclusion that a more efficient approach would be to let the Florida Keys National Marine Sanctuary evaluate this through their process? Is there any deadline? Would we be in violation of any biological opinion requirement if that was the conclusion of the councils?

DR. CRABTREE: Yes, we've talked about this a number of times and the problem is time. The council process they're going to go through is a multi-year process, and they may at some point come in and modify some of this, they may want to pull some of these regulations into the Sanctuary regulations. I think that's really the issue here, and I think we're at a point now where we have pretty good agreement on these closed areas and we ready to move on them and we ought to do that at this point and not wait on that.

MR. WAUGH: So then there is a deadline requirement in the biological opinion for the closed areas similar to the requirement for the pot marking?

DR. CRABTREE: I'm going to look but I don't believe there is a hard timeline on it, but I think that we're at a point where we're ready to move on this and to put it off for several more years to allow some other process to occur, I don't think is what was envisioned in the biological opinion.

MS. SMIT-BRUNELLO: What I see right now is that the hard deadline is specific to the trap line markings.

MS. McCAWLEY: Does someone on the committee want to make a motion? Ben.

MR. HARTIG: Madam Chairman, I'd move Alternative 3, Option A.

MS. McCAWLEY: Seconded by Roy Crabtree. Discussion. Rob.

LT. FOOS: I agree with NOAA OLE's assessment regarding Alternative 4. Between those other alternatives, I think Alternative 3 is the most easily enforced.

DR. CRABTREE: I was just going to say I think we've had a lot of discussion, we've had extensive working with the agencies and biologists with Florida and everyone else, and this is what they've come up. There seems to be general agreement with this. It is a relatively small amount of bottom, but I think it said it would protect something over 6,000 colonies of coral. It seems like to me it's a good thing for corals and has really very little cost to the industry.

MR. HARTIG: I think industry played a big role in this, also, and they came up to the table with even more areas than were originally done. I think we've addressed a number of the problems that industry had initially with this. I think at this time we could move ahead and get these corals protected. I do think it should have gone under the Sanctuary Program initially; but since that is going to deal with the other fishing aspects probably of spiny lobster and corals in the future, I'm not as put off by that now.

MR. WAUGH: So we're going to create this area that has no trapping in it, and so the standing stock of lobsters is going to increase so it's going to be a magnet for divers. Why aren't we concerned about the impacts in these areas from divers that has already been documented? What is our rationale for continuing to allow diving?

MR. HARTIG: Well, I think that's a fair question, Gregg, and I think the answer that I received today alleviates some of that fear that the Sanctuary is going to deal with it. I'd much rather see the Sanctuary deal with that issue than us in a more comprehensive fashion basically than we would. I think what they come out with would probably be better than what we would at this juncture prohibiting diving for spiny lobsters in those areas.

DR. MacLAUCHLIN: Does anyone else have anymore comments about Option A versus Option B?

DR. CRABTREE: I'd be fine with Option A, but based on the discussion at the Gulf Council people just weren't prepared to go there, and particularly there were reservations I believe, Jessica, with the representative from the Fish and Wildlife Commission. If you guys want to go with B and close this down to all spiny lobster fishing, that's fine. I guess then we'd have a Gulf preferred and a South Atlantic preferred. Would we go out with an amendment that had different preferreds for the two councils or would we have to reconcile that before we went out?

MS. SMIT-BRUNELLO: You could go out with two different preferreds and get public comment on it and then make your decision. I don't know what kind of message that would send to the public.

DR. CRABTREE: And I think one of the problems at the Gulf meeting was there is a lot information on lobster traps and how much they migrate and a lot of work done by the commission on that, but it wasn't as clear what the impact of divers was in these areas.

MS. McCAWLEY: Okay, it looks like we're ready for a vote. **All those in favor signify by raising your right hand; all those opposed; abstain. The motion passes.** Yes.

DR. CRABTREE: Just one other comment I think that we talked about at the Gulf Council meeting; there has been a lot of talk about marking these areas, but I think the general feeling was for the trap fishery those guys know exactly where they are. I think with the recreational fishery there was a feeling that you would need some kind of marking in order to do that. It seems like that was part of the discussion.

DR. MacLAUCHLIN: Okay, moving on to Action 2, require gear markings for spiny lobster trap lines in the EEZ off Florida. This is PDF Page 41. Alternative 1 is no action, do not require markings for the spiny lobster trap lines, and this is the Gulf preferred. Alternative 2, require all spiny lobster trap lines to have a white marking along its entire length such as an all-while line or a white tracer throughout the line.

The marking must be visible at all time when traps are in use and all gear must comply with marking requirements no later than August 6, 2017. Alternative 3, require all spiny lobster trap lines to have a permanently affixed white marking at least four inches wide spaced at least every 15 feet along the trap line or at the midpoint if the line is less than 15 feet.

The marking must be visible at all times when traps are in use. All gear must comply with marking requirements no later than August 6, 2017. I added a couple of the biological effects which would be the interactions with the coral. There would be greater accuracy in identifying if it came from the spiny lobster fishery or not.

And then economic effects, so Chuck Adams from the University of Florida did an economic analysis and some of this was included in the SEIS; and so based on the data from Chuck's analysis in deducting the estimated annual cost of trap line replacement under Alternative 1. The economic impact of Alternative 2 would be $265,580. If the current line in use can be marked under Alternative 3, then there would be relatively small economic impact.

We had some public input before with some letters, et cetera, that some participants would prefer white line if black was not an option. Also, Bill Kelly had sent in saying that the white line is the second most preferable color to black because of a similar life expectancy and availability. However, because white lines are frequently used for sub-surface application, similar life expectancies may be a result of less UV exposure.

The Coral AP recommendations were that the councils seek to review and assess the need, effect and appropriateness of the trap marking as defined in the NMFS biological opinion. And then the SSC recommendations were to consider requiring all lobster work to meet the specifications of the rope currently used by a majority of the fishery.

And then just from the Spiny Lobster AP recommendations in April that they recommended no action but would accept Alternative 2 if the color is black. And then the OLE input is that enforcement sees the utility of having marked lines to help determine which individual or fishing group or gear is causing damage to a particular resource of concern.

But that said, enforcement's issue with requiring marked or identified lines for buoy trap gear is realizing the effort required to make reasonably sure every float encountered in the South Atlantic or specified zone does in fact have a marked line beneath it. If so, the at-sea officer and/or agent will need to pull the entire length of the line to determine if the line marked actually matches the gear trap at the other end.

Enforcing line markings requires a significant amount of enforcement resources. Enforcement currently is not in favor of supporting the alternative. Otha is here if anyone has any specific questions about that. The committee actually needs to select a preferred alternative

MS. SMIT-BRUNELLO: I have a question on the AP's decision. They said they would accept Alternative 2 if the color is black, so does that mean where it says white in that alternative you just put in black?

DR. MacLAUCHLIN: Yes, with this one they're talking about like the entire length of the rope, that alternative.

MS. SMIT-BRUNELLO: So in essence you'd be mandating that they use black rope?

DR. MacLAUCHLIN: Yes.

DR. CRABTREE: Can I ask Bill Kelly a question? Bill, if we required black line, which is what you use now, and the stone crab fishery would continue using the same black line, then we wouldn't be able to distinguish between the two fisheries, right?

MR. KELLY: No, you would not, but they both occur at the same time essentially by the same fishermen in the same area.

DR. CRABTREE: Right, but if we required white line in the spiny lobster fishery, will a substantial amount of the stone crab – I mean, it's the same guys in both fisheries, so would a

substantial number of people start using white line in the stone crab fishery as well and then we'd basically be in the same boat that we really weren't sure who was using what?

MR. KELLY: Black line is the preferred color in both fisheries. The white line has a similar life expectancy as was pointed out by Dr. MacLauchlin, but only because it is used in sub-surface applications. Nobody is using white line in a vertical fishery.

DR. CRABTREE: Right, but if we required them to use white line in the spiny lobster fishery, my question is would some of these guys then use it in stone crab as well because that's what they'd buy and that's what they'd have?

MR. KELLY: The answer is yes.

MS. SMIT-BRUNELLO: I have a question for anybody who knows the answer. What is the size of the spiny lobster fishery roughly and what is the size I guess maybe in terms of number of fishermen and number of trips? I'm not sure how you want to define that, but what is the stone crab fishery?

We keep talking about a number of the spiny lobster fishermen I guess also fish for stone crab, but relatively I don't know that they all fish for stone crab. Is there any way to give me an idea or anyone an idea of how many stone crabbers there are or how many traps compared to spiny lobster traps that all have line?

MR. KELLY: Yes, there are approximately 650 active spiny lobster fishermen and 485,000 traps being deployed annually. In the stone crab fishery we are looking at about 950 active fishermen deploying approximately 900,000 traps.

MR. PHILLIPS: Bill, just to follow up and make sure I'm perfectly clear; so a lot of the fishermen that do both fisheries, it's common for them to take the lines off of their stone crab traps and put them on their lobster traps if they need to or vice versa? Is that what I heard you say that they do that commonly?

MR. KELLY: They could do that. I would think that most of them, when they store their traps, the routine wouldn't be that they're transferring lines, no. The normal routine would be that when they retire one trap, they coil the line, the buoy is placed inside the trap and stored.

MR. PHILLIPS: Then I guess a followup to that because from you tell me, this hard braid line is pretty much exclusive as far as you know to the stone crab and the spiny lobster fisheries; and if you just kept the black and there was an entanglement with this line, you'd know it came from one of these two fisheries. You just wouldn't know which unless you did something like – found out if you could spray paint the line, which I'm thinking would be fairly easy and not too expensive, but that would take some research to see how well it worked.

MR. KELLY: That's correct, the hard braid is indigenous to both fisheries. It's the common preferred line. I think that spray paint may have some merit in terms of line demarcation, but

especially in light of what Mr. Salvador said that when there is an entanglement, that the line goes through a rather extensive forensic analysis.

DR. MacLAUCHLIN: Just to point out some conversations with lobster fishermen and then even one of the Coral AP members was talking about that the guys who fish lobster and stone crab, you know, some of them have said, "Well, if I have to buy one color for this, I'll buy it for all of them because I do it all at the same time," kind of thing. One thing the IPT has kind of discussed in a friendly way that just because it's not in use I guess now it doesn't mean it won't be in use.

At first I guess some of the not currently in use in another fishery language meant the Atlantic Large Whale Take Reduction Plan color requirements but it kind of seems to have moved to not currently in use in the stone crab fishery in the Keys; and without having I guess a specific color for them, then in five years they may just all have the same color, anyway, with white, and so that's what we've kind of been talking about with the IPT as far as the guys fishing both fisheries.

MR. HARRIS: This is a question for Bill again. I heard discussion earlier that this particular line and not just black line is the line that's used in the lobster and stone crab industry predominantly. The majority of the fishermen use it. If we accepted Alternative 2 but we didn't specify this hard-laid black line, it doesn't require that this line be used so we'd lose the ability to determine that if there was an entanglement that it did come from one of those two fisheries; is that correct? Is that too long a question?

MR. KELLY: I'm not sure I understood all that.

MR. HARRIS: Well, Alternative 2 says if we went with black line and changed the language in there to black line, we're not saying this kind of black line. My question is I guess is this kind of black line used in any other fisheries? If it's not, then we do have the ability to determine that it came from at least one of those two fisheries if there is an entanglement and if we went with black line and everybody was using this hard-laid black line, right?

MR. KELLY: Right, I think that could work in South Florida and Florida Keys because in those areas there is almost exclusive use of black line. That was ruled out in the biological opinion because black line is used in a fishery in the Mid-Atlantic states.

MR. HARRIS: But is it this kind of black line; is it the hard-braid black line?

MR. KELLY: If it was a hard-braid black line, then I think that would be peculiar to those two fisheries. Yes, that would identify the spiny lobster and stone crab fishery.

MR. HARRIS: Does anybody else know the answer to that question? Well, if we did decide to go with Alternative 2 and changed it to black line, we'd need to be specific with respect to what kind of black line, right? Okay.

DR. CRABTREE: Jessica, it's my understanding this came up at the last Fish and Wildlife Commission meeting; could you tell us what the official position of the commission is if there is such a thing?

MS. McCAWLEY: The official position of the commission was to go with the Gulf Council's preferred of no action.

DR. CRABTREE: And so can we take that as a strong indication that if the council does require marking, that Florida is unlikely to put in place a similar requirement for state waters?

MS. McCAWLEY: At this time, yes, although it seems like if we're maybe moving towards this black line, this particular type, maybe there could be another discussion, because that wasn't really discussed at the commission meeting. From what was discussed, they felt pretty strongly about the no action alternative.

DR. CRABTREE: I don't really understand what the black line does because then we're just requiring what is already being done. That was the problem because they were unable to tell what rope was what and separate these fisheries, so I don't know that requiring the black now really does anything for us.

I guess I'm willing to try and better understand where that gets us, but I think what they were trying to do in part was to be able to distinguish spiny lobster trap line from stone crab trap line. It seems like there are a whole host of issues that we've run into trying to do this. Frankly, from a Magnuson perspective unless we can get the Fish and Wildlife Commission to buy into making the same requirement, it doesn't seem like it would be effective at least from a Magnuson perspective at that stage.

DR. MacLAUCHLIN: Okay, the reference in the – I think it's in the SEIS or maybe in the biological opinion, but Miller, who does the surveys and the quick-look reports for the acropora in Keys, in the 2007 report it specifies that it's lobster gear that they find. I mean, the surveyors can tell or feel like they can tell the difference with the black rope. I did want to ask again what are the consequences of taking no action on this, because I think that's a really important thing to get on the table.

DR. CRABTREE: Well, I'm not sure what the consequences are. I'm not prepared to say that it's inconceivable that the agency will put in place a rule and require something in state and federal waters under the Endangered Species Act. The question it seems to me is do we have enough here to make us think that perhaps this is not a reasonable measure to put in place.

I think that is really what this comes down to is if we have learned enough through the public hearings and all this process as to whether this is something that is going to get where we want to be or not. I think it is important to be able to distinguish between all of these different trap fisheries, but obviously in this case we've run into a lot of concerns.

We don't have buy-in from the industry on how to do this yet. We don't have buy-in from the state of Florida on this yet. I'm not prepared to say I know exactly what to do with this now. I

don't want to come in and try to unilaterally force things on people. I think maybe this is something that we need to continue to work on a little bit, but it seems to me if we're going to do this through the council process it's essential to have the Fish and Wildlife Commission buy into it; and it seems in order to get that we've got to get a little more buy-in from the industry on this.

Maybe some additional research on some of these marking techniques is something we can look at. Maybe, Bill, we talk about a cooperative research project to look at ways to do this, something along those lines. I don't know right now where this is going to go. We have I think until 2017 when this is supposed to be in effect, so it's not like we go out of compliance on the biological opinion right off the bat, but the problem is the longer we take to figure out what to do with this, the shorter the phase-in period because for the fishermen.

MS. McCAWLEY: I just wanted to point out that Bill Teehan, my counterpart from the FWC on the Gulf Council, wrote an e-mail that the reason that they went with no action was that they felt like that at this point that it doesn't seem like a reasonable or effective option at this point. Kari wanted to follow up.

DR. MacLAUCHLIN: Would black be out of compliance? What would be worse, no action or black?

DR. CRABTREE: It's already black and I don't think that does anything. If someone can explain to me how that resolves the issue and how that will allow you to distinguish between these fisheries, that's fine, but if it's just a requirement for the sake of checking the box but it doesn't meet the purpose of what checking the box is required, then it doesn't get you anywhere.

I don't think there is any sense in requiring black unless you can make a pretty reasoned argument as to how that solves the problem. Now, you're not out of compliance. We have until 2017 to get something done on this. But again, the problem is the longer we take potentially the greater the costs on the industry are. If someone can explain to me how requiring black rope gets us there, then I'm all ears.

DR. LANEY: Well, here is another idea for how to mark line, and in this case it doesn't make any difference what color the line is. How about if you put coded wire tags inside the line itself? Those are highly magnetized, very, very tiny little tags that we use for marking all sorts of fishes, including very small American eels.

They don't cost very much individually and they're highly detectable using a metal detector similar to what the TSA guys use in airports. We used a wand for detecting them in striped bass when we were using them on the east coast. That's something that would avoid you having to change line colors or anything else if they would work.

I don't know whether they would work or not, but they certainly stay in fish when we put them in fish, so they would probably stay in especially this hard black line, Bill, I would imagine. I don't know whether you'd have to work out some sort of arrangement with the manufacturer probably to go ahead and have your line manufactured with coded wire tags in it or you could probably just inject them into existing line, I don't know, but it's worth a shot.

It wouldn't be very expensive, I don't think, and you could insert them at whatever interval you wanted to and in any kind of line you wanted to use. That might be something if it was unique to the lobster fishery, I don't know of any other fishery that's putting coded wire tags in their line. We used it also in shellfish on the west coast for a law enforcement operation that we did a number of years ago and just sticking them in the ligaments of bivalves, so I know they work in at least those two different types of animals.

MR. KELLY: There are a number of methods that have yet to be examined in terms of trap line marking. What I think is important for the industry is, one, the user service life of all-black line because it's the most resistant to UV rays and UV degradation. The second thing is when we look at this, the way the biological opinion is written it requires a marking of every 15 feet unlike what we have in New England and the Mid-Atlantic where it's one mark at the midway point, so we're talking something now that is very labor-intensive and very costly to the industry. And then looking back at it, we're not in a position of jeopardy on this. This is supposed to be a reasonable and prudent measure, and the industry is distraught over here trying to figure out how this is reasonable and prudent and what is it going to achieve in the long haul here.

MR. CURRIN: I'm not on your committee, Jessica, but Roy raises a very good point and we're not going to solve this problem from the way I see it until someone has the ability to require marking in the stone crab fishery. We do not. We've got 900,000, roughly, stone crab traps out there, roughly a half a million lobster traps all operating in the same area at the same time, more or less, using the same lines.

If we require the marking on the lobster traps, we're going to have to do that, so we're going to have to separate those two fisheries somehow; and if we don't keep those two lines separate – we had a discussion earlier about, well, if we required white line for lobsters, that would be great until the stone crab fishermen; i.e., some of the same people, decided to put white lines on their stone crab traps, and then we've still got the same problem.

We've got to be able to separate those fisheries or we're not making any headway. We've got a bigger problem potentially with the stone crab trap fishermen because there are almost twice as many pots in the same areas. I don't know what the solution is but we've got to be able to separate those fisheries and cooperation with Florida would seem to be about the only way we can get that done.

MR. HARTIG: Roy, everything you said and looking at the APs and everything else, there isn't much support anywhere for any of this. Another problem I have, though, to follow up on what Mac said, is there is another fishery. There is the blue crab fishery that could have potential interactions and I don't know if the size of the rope is significantly different in the blue crab fishery where you could identify it by the size of the rope. There are a lot of blue crab traps.

There are a lot of loggerhead turtles that live inside the estuaries and there could be potential interactions with that gear as well. I see this as an integrated system of everything, not just singling spiny lobsters out, but have an integrated – and if it has to go through ESA to do it, fine, but an integrated system to deal with all the trap lines in Florida to try and identify different problems and the different gears.

I don't see a big difference between spiny lobster and I don't see the yank on spiny lobster and stone crabs. They're fished generally in the same areas although the crab fishery does go more to the north, so there is a little bit of a different geographic contribution, but it's the same people, more or less, at least in the Keys fishing the same gear.

To me I don't see the utility in separating out the gear types and interactions they may have. I don't think we're ready quite yet for this. I do think we could go farther along. I think the idea that Wilson had is a good one to maybe look at that type of a situation where you could hide that wire tag. I don't know if you could do it in this hard rope or not, but maybe not. I am familiar with this rope because I use it in the cast net fishery. I'm not ready to go forward with this yet and I think we have a ways before we go there.

MR. JOLLEY: I'll hazard my summary of what I've heard here. I think most of us can agree that this project gives us more questions than answers on a trap line marking. I don't think there is any justifiable cost basis on this. There is not enough buy-in and there is not enough research on this aspect in Florida waters. There is just not enough research on it for me to come to a conclusion that we need to mark these things. I appreciate Laney's comment but I'm real skeptical about the line industry being able to do something with cost efficiency.

MS. McCAWLEY: Are we ready for a motion?

MR. HARTIG: Well, let me ask you question before that. Would the motion be better entertained as a continuing study of this situation or would it be to deal with the no action alternative at this time for this amendment?

MS. McCAWLEY: Okay, I'm being told that we can go out without selecting a preferred. Monica.

MS. SMIT-BRUNELLO: You can go out without selecting a preferred.

MR. HARTIG: Well, I think we're farther ahead than not selecting a preferred. I think we're farther ahead in that maybe this isn't ready to go to the public right now basically. I think what John said with more research and what Wilson said with the wire tag possibly something we could use, but additional ways to mark rope, studying possibly spray paint in the Florida environment. The other thing is I think some of this was brought by the agency itself by asking to mark the line in 15-foot intervals. I think if you would have had a longer requirement between intervals you might not have got such a response to this line marking, but that may or may not be true.

DR. CRABTREE: Well, I don't know if that's true or not, Ben, it might be. I think some of the concern is we often get shorter lengths of rope and then you can't tell what it is so that was the reluctance to go there. All of these things seem to me are a balance between finding something the industry can live with and something that meets your purpose, and it's never clear exactly where you strike that balance.

I recognize there is a lot of – well, obviously, the Gulf Council has chosen a preferred of no action on this, and I don't know where we're going to wind up with this one. I would not want to see the closed areas held up waiting on research because research may take a year or more to get done and come back to us.

Whether you want to choose a preferred here or don't choose a preferred, Monica may correct me, but in my view choosing the no action as the preferred or not choosing any preferred is functionally about the same. I'd suggest you do what you do, but I think we ought to go ahead and go on out to the public hearings on this document.

I'd like to see us at least move forward on the closed areas and get that part of this taken care of; and then if there is no resolution that we can come to on the rope marking requirement, we'll have to figure out a way to see how we can move forward with that. I agree with you, Ben, it's at least a blue crab, stone crab, spiny lobster issue. We no longer manage stone crabs federally. That plan was withdrawn so we've got two fisheries that are managed by the FWC and one that is co-managed by the councils and the FWC, and we need to try and work out some sort of solution to that, and we haven't been able to get there yet.

MS. McCAWLEY: I would like to see us pick a preferred because I think that the Gulf picked a preferred for some of the similar reasons that we're encountering here, so that's kind of why I'd like to see us pick the preferred and then explain at the public hearing why that is our preferred.

MR. HARTIG: Well, Madam Chairman, I will move Alternative 1, no action, do not require –

MR. CURRIN: You're out of order. (Laughter)

MS. McCAWLEY: Mac and then Ben.

MR. CURRIN: And I'm not on your committee so I'm not going to make your motion for you, Ben. I made the comments about the stone crab fishery and the lobster fishery, and they do need to be separated. That's not to say that we're in a hopeless situation because we've got to find a way out of this box or otherwise you are the guys that are going to pay for it.

If we can't separate the lobster fishery from the stone crab fishery and the stone crab fishery starts wrapping up corals or turtles eating whatever and getting tangled up in anything that they shouldn't be, the lobster fishermen are the ones that are going to the blame for it. The state of Florida and the fishermen and us with regards to the lobster fishery are going to have to ultimately figure this whole thing out or you guys, the lobster fishermen, Bill, are the ones that end up having all the problems anytime if and when an interaction occurs.

DR. LANEY: To that point, Madam Chairman, you can get differently marked coded wire tags, so you could put differently marked coded wire tags in the stone crab rope and in the lobster rope if you wanted to.

MS. McCAWLEY: Thanks for the research, Wilson. Ben.

MR. HARTIG: I'll move Alternative 1, no action, do not require markings for spiny lobster trap lines.

MR. JOLLEY: I'll second.

MS. McCAWLEY: Under discussion. Ben.

MR. HARTIG: Well, we've had a discussion a length, but I think it's an ongoing problem. I think we should continue to do research. I think industry has been willing to look at this in depth and try and find a way to mark the kind of gear they use in a fashion that will be effective. I think if we continue to follow down that path we can meet the biological opinion date of August 6, 2017.

MS. McCAWLEY**: Okay, all those in favor signify by raising your right hand; all those opposed same sign; abstain. The motion passes.** Roy.

DR. CRABTREE: I'd like to back up to one I think we should have done on Action 1, if I could, Jessica. **I would like to move that under Action 1 that we move Alternative 4 to the considered but rejected, and that would be consistent with the Gulf Council's action.**

MS. McCAWLEY: Are you on Action 1?

DR. CRABTREE: Yes, I've backed up to Action 1 if that's okay. I'm correct, Kari, that was an action the Gulf Council took?

DR. MacLAUCHLIN: Yes, this is the one where the closed areas have the 500-foot buffers.

DR. CRABTREE: If I get a second, I'll –

MR. HARTIG: Second by Ben Hartig.

DR. CRABTREE: And I believe law enforcement commented that was unenforceable and we had a discussion of that at the Gulf Council and came to the same conclusion, so I think we ought to follow their lead and remove this one.

MR. HARTIG: To give some support for this, the industry has gone out and looked at the electronics and shown that they can be within a matter of tens of feet instead of hundreds of feet as far as where they know they are when they're deploying their gear. I think we took care of the 500 feet based on the electronic work that the industry did.

MS. McCAWLEY: Okay, I think we're ready for a vote. **All those in favor of the motion on the board signify by raising your right hand; opposed; abstain. The motion passes.**

DR. MacLAUCHLIN: The last committee action would be to approve for public hearing.

MS. McCAWLEY: In the spiny lobster overview you'll see two options at the bottom, and one of those is in addition to approving this for public hearing we could make a request that a National Marine Fisheries Service staff member that was involved in writing the biological opinion and working on this to be at the public hearings in order to help answer questions. That could be part of our motion as well. That might be helpful to the public.

MR. HARTIG: I would move to recommend that council approve Amendment 11 as modified for public hearings and request that a National Marine Fisheries Service staff member involved in writing the biological opinion and working with the public in developing the management alternatives attend the hearings to answer questions.

MS. McCAWLEY: Seconded by John Jolley. Discussion? Roy.

DR. CRABTREE: Well, we'll do the best we can to accommodate that. I would ask that before staff schedules the public hearings that you consult with my Protected Resources Division and see if we can find times when they're able to be there, and we'll do the best we can given the workload constraints we're under.

DR. MacLAUCHLIN: I think for this amendment it's just January 30th in Key Largo.

MS. McCAWLEY: Okay, I think we're ready for a vote. **All those in favor please raise your right hand; any opposed; any abstentions. The motion passes.** Do we have any other business to come before the Spiny Lobster Committee? Ben.

MR. HARTIG: Yes, I would like to mention Bill Mansfield called me on several occasions and he is still concerned with the tailing permits north of Cape Canaveral, Florida, from the dive industry, divers using that permit and you being able to use spearguns to harvest lobsters illegally. We're not going to deal with it here, but just to bring it up and something in the next amendment that we could consider.

MS. McCAWLEY: Seeing no other business, then the Spiny Lobster Committee is adjourned.

(Whereupon, the meeting was adjourned at 4:00 o'clock p.m., December 5, 2011.)

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PLEASE SIGN IN

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

SPINY LOBSTER COMMITTEE MEETING
December 5, 2011
Raleigh, NC 27605

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Dick Brame	910-599-5245		CCA

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

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South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
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Gear Modification Techniques for Complying with the Atlantic Large Whale Take Reduction Plan (ALWTRP)

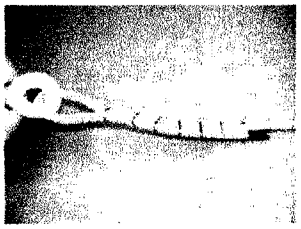
(**Effective April 5, 2008**)

WEAK LINKS FOR BUOY, FLOTATION OR WEIGHTED DEVICES

The intent of the weak link requirement is to allow the release of the buoy, flotation or weighted device from the line in a way that when they release, the remaining line (that was connected to these devices) will not have a knot on its end. An eye left on the line made by splicing, tucking or hog rings is acceptable. Splices are not considered to be knots. Note: Weak links must be placed as close as operationally feasible to each individual buoy, flotation or weighted device.

Hog Rings

Hog rings can be used to form an eye in the end of a line that will function as a weak link. Up to 7 may be used to create a 600 pound weak link and up to 5 for a 500 pound weak link. No significant variation was noted between wet and dry tests. Also, the length over which the hog rings were distributed (from 6" to 12") did not significantly affect the strength.

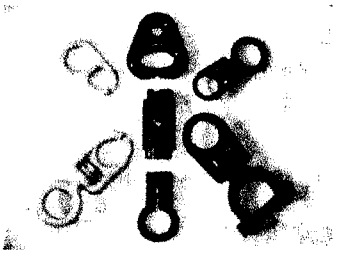


A variation of this technique, shown at the right, is to fashion a weak link from a short length of line. The line is formed into a loop with its ends overlapped and hog ringed to each other. Five hog rings form a suitable 600 pound link while 4 are sufficient for a 500 pound weak link. **For this weak link to function properly, the loop must move freely where it attaches to both the buoy, flotation, or weighted device and the line.**

A line may also be passed through a plastic swivel two times, **not forming a knot**, and hog ringed back on itself with up to 3 hog rings.

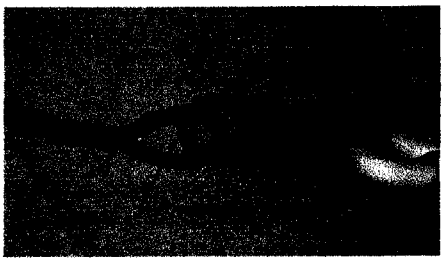
Off the Shelf Weak Links

Off the shelf weak links are available in a variety of styles and configurations to meet different strength requirements. The strong end of the weak link goes toward the buoy, flotation, or weighted device.



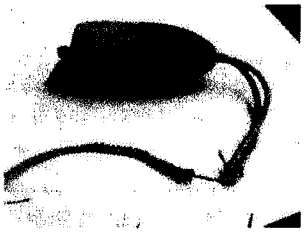
Modified Swivels

Some swivels can be modified to conform to the weak link requirement by compromising their strength where the line attaches. However, they must be tested by the NMFS Gear Research Team to ensure that they will release in the proper fashion and within the required limits. Lukian swivels with a 9/32" diameter hole and SeaSide swivels with a 3/16" diameter hole satisfy the 600 pound requirement.



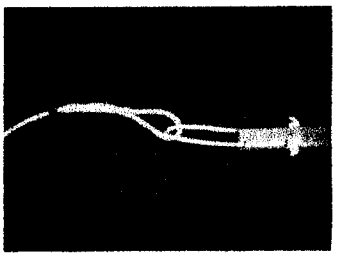
Rope of Appropriate Breaking Strength

Another weak link technique utilizes Rope Of Appropriate Breaking Strength (ROABS). A jumper is selected based on breaking strength data from the manufacturer. A length of rope or jumper of appropriate breaking strength may be tied into the buoy, flotation, or weighted device, thus creating a weak link, as long as the failure results in a knotless bitter end on the line. Testing by the NMFS Gear Research Team can make this determination.



Stapling to a Buoy Stick

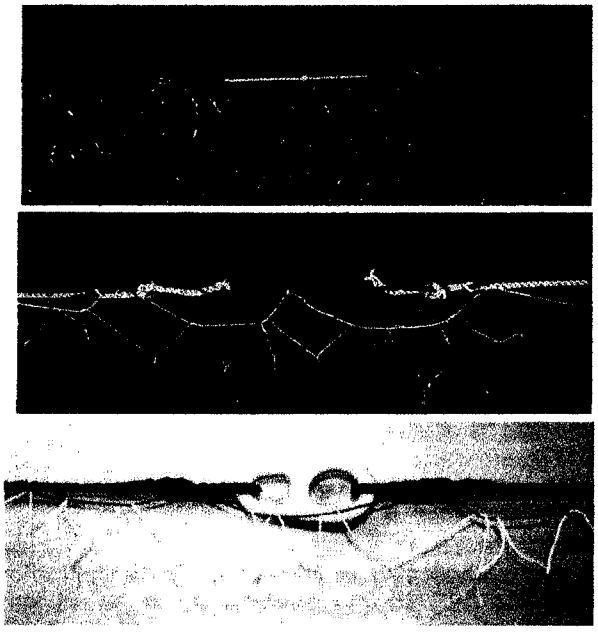
Another type of weak link can be created by stapling a rope to a wooden buoy stick to form an eye for the buoy line attachment. However, these must be tested by the NMFS Gear Research Team to ensure that they will release in the proper fashion and within the required limits. When using this method, the buoy line can only be attached by passing the end of it through the eye on the buoy stick once and bringing it back and splicing, tucking or hog ringing to form an eye.



Please note that this is not a substitute for the regulations. For more information, including a supplemental document with specific examples of the weak link techniques and the ALWTRP regulations, contact the NMFS Gear Research Team: John Higgins 207-677-2316, John Kenney 401-294-0443, or Glenn Salvador 757-414-0128 or go to http://www.nero.noaa.gov/whaletrp/.

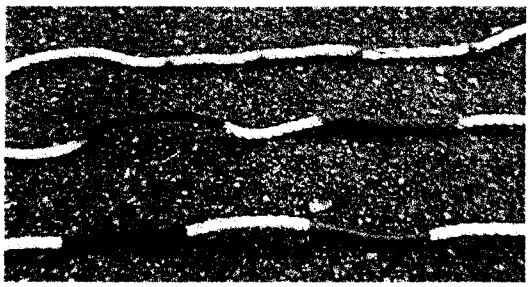
WEAK LINKS FOR GILLNET FLOATLINE

Shown at the right are several methods of incorporating weak links into a gillnet floatline. The first two methods create a weak link by utilizing Rope of Appropriate Breaking Strength (ROABS). The top picture shows a weak link jumper spliced into the floatline. The overhand knot in the jumper reduces its strength to about 60% of its original strength. For example, putting an overhand knot in a piece of 5/16" polypropylene that has an original tensile strength of 1710 pounds will make the rope fail with a load of about 1025 pounds. The second picture shows a weak link (ROABS) tied into the float rope with the fisherman's knots. These knots also reduce the strength of the rope to about 60% of its original strength. Another alternative, illustrated in the bottom picture, shows an off the shelf weak link rigged into the floatline.



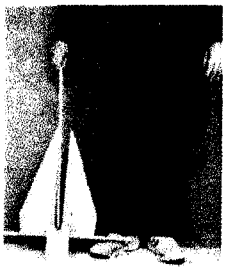
TECHNIQUES FOR MARKING LINES

The 4" colored mark required by the ALWTRP can be accomplished in a variety of ways. Shown are three simple methods that were tested and found to work satisfactorily under normal conditions. At the top, colored twine is seized around the line and woven between the strands. In the center, the line was spray-painted; this method requires that the rope be dry. At the bottom, colored electrical tape was wrapped in one direction and then back over itself to form two layers. See the ALWTRP for information on appropriate color codes and placement of marks.



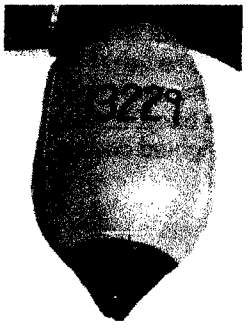
GILLNET ANCHORING TECHNIQUES

At the right is an example of a burying anchor (designed to hold to the ocean bottom through the use of a fluke, spade, plow or pick) that meets the requirement of the holding power of a 22-pound Danforth–style anchor. Note, **dead weights do not meet the requirements for burying anchors.**



REQUIREMENTS FOR MARKING SURFACE BUOYS

When marking is not already required by state or federal regulations as described in the ALWTRP, surface buoys should be marked to identify the vessel or fishery with one of the following: the owner's motorboat registration number, or U.S. vessel documentation number, the federal commercial fishing permit number, or whatever positive identification marking is required by the vessel's home-port state. The letters and numbers used to mark the gear must be at least 1 inch (2.5cm) in height, block letters or Arabic numbers, and in a color that contrasts with the color of the buoy.



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