

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **SPINY LOBSTER COMMITTEE**

**Westin Jekyll Island  
Jekyll Island, GA**

**March 6, 2017**

### **SUMMARY MINUTES**

#### **Committee Members:**

Jessica McCawley, Chair  
Chester Brewer  
Dr. Roy Crabtree

Ben Hartig  
Chris Conklin  
Lt. Tara Pray

#### **Council Members:**

Dr. Michelle Duval  
Anna Beckwith  
Zack Bowen  
Tim Griner

Charlie Phillips  
Mel Bell  
Mark Brown  
Doug Haymans

#### **Council Staff:**

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Dr. Brian Chevront  
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Roger Pugliese  
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John Carmichael  
Dr. Chip Collier  
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Kim Iverson  
Kimberly Cole  
Amber Von Harten

#### **Observers/Participants:**

Erica Burgess  
Dr. Marcel Reichert  
Rick DeVictor  
Dr. Bonnie Ponwith  
Dewey Hemilright

Kristin Foss  
Dr. Jack McGovern  
Monica Smit-Brunello  
Leann Bosarge  
Dr. George Sedberry

Other Observers/Participants attached.

The Spiny Lobster Committee of the South Atlantic Fishery Management Council convened at the Westin Jekyll Island, Jekyll Island, Georgia, Monday afternoon, March 6, 2017, and was called to order by Chairperson Jessica McCawley.

MS. MCCAWLEY: I am going to call to order the Spiny Lobster Committee to order. Let me tell you who is on the committee. It's myself, Ben Hartig is the Vice Chair, Chester Brewer, Chris Conklin, Roy Crabtree, and Lieutenant Tara Pray. Our first order of business is Approval of the Agenda. Are there additions to the agenda? I actually would like to add something under Other Business, and so I'm going to add something under Other Business, since I'm the Chair. Any other changes to the agenda? Any objections to approval of the agenda? Seeing none, the modified agenda stands approved.

MR. BREWER: You didn't tell us what the modification was.

MS. MCCAWLEY: The modification is it's an item about bully nets and commercial dive endorsement and some CFR language. The next order of business is Approval of the December 2016 Committee Minutes. Are there any modifications to those minutes? Any objections to approval of those minutes? Seeing none, those minutes stand approved. Now I am going to turn it over to Kari to go over Spiny Lobster Regulatory Amendment 4, and are we going to be using the decision document?

DR. MACLAUHLIN: Yes, and the draft amendment, which is just Chapters 1 and 2 of a Gulf-formatted amendment, is Attachment 1, and so I am going to be working through Attachment 2 under Spiny Lobster, which is the decision document.

This is Spiny Lobster Regulatory Amendment 4, and this is a joint regulatory amendment, because it's a joint plan, with the Gulf Council, and so a little background. In Spiny Lobster Amendment 10, which went into effect on January 12, this set up the overfishing level at 7.9 million pounds and the annual catch limit equal to the ABC, at 7.32 million pounds, and the annual catch target at 6.59 million pounds.

The Amendment 10 also set up the accountability measures, that if landings exceeded the annual catch target, then a review panel would be convened to review the landings and make any necessary recommendations to the council, and so that happened in the 2013/2014 fishing season, and so the Spiny Lobster Review Panel was convened in February of 2015. They did not make any recommendations to change the OFL or the ABC, but then, in the next year, the landings exceeded the ACT and again triggered that accountability measure, and so the review panel convened again in January of 2016. They did approve a motion, even though it was not unanimous, to recommend using the time period of 1991/1992 through 2015/2016 to set the ABC and ACL.

This also went to the Gulf and South Atlantic SSCs, and, after a couple of meetings and some deliberation, the SSCs have also recommended the same time period to be used to set the OFL and the ABC. I have in the box here that shows what the actual pounds would be, based on the SSCs' recommendation, and so the OFL would be set at the 10.46 million pounds. The annual catch limit, if set equal to the ABC, would be 9.6 million pounds, and the annual catch target would be 8.64 million pounds. There is also another action in this regulatory amendment which would prohibit traps for recreational harvest of spiny lobster in the EEZ in the South Atlantic.

We have a table in here that shows the landings, but I also have a graphic, under Action 1, that shows comparing the landings to these proposed ACLs and ACTs, and so we'll just use that Table 1 as a reference, if we have questions and need to come back to it.

On page 3 here, at the bottom, we have the expected timing for this amendment. In December, you reviewed the actions, and then you also made specific recommendations for what alternatives to send over to the Gulf Council for the action to prohibit the recreational traps in the South Atlantic EEZ. The Gulf Council is administrative lead on this, and so they were the first to review the options papers and the draft actions and alternatives at their meeting last month.

Then you guys are going to review the actions and alternatives, and you maybe want to select preferred alternatives. We don't have detailed analysis in there yet, but the IPT is working on that, and we will have that ready for -- I think ready for the Gulf Council meeting in April. It's a regulatory amendment, and the Gulf Council, as administrative lead, is going to set up some videos and take public comment, via their web-based format.

We were talking about maybe doing a webinar on our end, just so everybody has an opportunity to comment, if they want to. These are all just two-alternative actions, but we do want to let everybody know, especially about the trap prohibition, just, if there is someone in Georgia, South Carolina, or North Carolina that wanted to give some comment on that, but it would give them the opportunity to do that.

Right now, we are not planning on doing any in-person hearings for this. We were just going to propose a webinar hearing on our end, and I've been in touch with our Spiny Lobster Advisory Panel, sending them updates and letting them know that we're not going to have hearings, but that they will have an opportunity to comment via a webinar or a public comment form, if they don't come to one of the council meetings. That is our plan. Then we are planning for both councils to approve for formal review in June.

First, I would like to review the draft purpose and need and then the committee to review it and make some edits, if you feel, or approve the language in the purpose and need. The purpose of this amendment to modify the maximum sustainable yield, status determination criteria, and catch levels for spiny lobster, based on updated information and revised scientific recommendations, and to consider restrictions on the use of traps for recreational harvest.

The need for this amendment is to ensure that the maximum sustainable yield, status determination criteria, and catch levels for spiny lobster are based on the best scientific information available and to ensure overfishing does not occur, and to minimize negative effects of recreational traps in the South Atlantic. The proposed actions will contribute to increased social, economic, and biological benefits, through sustainable and profitable harvest in accordance with provisions set forth in the Magnuson-Stevens Fishery Conservation and Management Act.

MS. MCCAWLEY: All right. Any discussion of that purpose and need? Any concerns about it? I would love to see a motion to approve that purpose and need. Ben.

MR. HARTIG: **I move that we approve the purpose and need.**

MR. BREWER: Second.

MS. MCCAWLEY: All right. Motion by Ben, and seconded by Chester. It's under discussion. Is there any discussion? **Any objection to that motion? Seeing none, that motion stands approved.**

DR. MACLAUHLIN: Moving on to Action 1, Action 1 is split into two sub-actions. It's to modify the current definitions of the management benchmarks, and so that includes the MSY, the overfishing definitions, and also the ABC and ACL and ACT. In Action 1-1, which is the maximum sustainable yield and the overfishing threshold, which is defined in the FMP as the maximum fishing mortality threshold.

Alternative 1 is no action. That would keep that MSY proxy and MFMT equal to the previous overfishing limit, OFL, as set by the Gulf and South Atlantic SSCs, using the mean landings from the years 2001/2002 through 2009/2010 plus two standard deviations, which is set it at 7.9 million pounds.

The Gulf selected Alternative 2 as their preferred at their last meeting, and that would revise the MSY proxy and MFMT to be equal to the revised OFL, as recommended by the Gulf and South Atlantic SSCs, using the mean landings from the years 1991/1992 through 2015/2016 plus two standard deviations, setting it at 10.46 million pounds. The use of the time period with the different standard deviations, that's based on the Tier 3A in the Gulf ABC control rule, which was set in Spiny Lobster Amendment 10.

MS. MCCAWLEY: All right. Is there discussion? Ben.

MR. HARTIG: **Madam Chairman, I would move that, under Action 1-1, that we approve the language in Alternative 1 and Alternative 2.**

MS. MCCAWLEY: We have a motion. Is there a second? It's seconded by Chester. Any discussion of that motion? This is a motion to approve the language in Action 1-1, Alternative 1 and 2. **Any objection to that motion? Seeing none, that motion stands approved.** Ben.

MR. HARTIG: **Madam Chairman, I would also, under Action 1-1, have Alternative 2 as our preferred.**

MS. MCCAWLEY: Motion by Ben and second by Chester. This motion is to select Alternative 2 as the preferred. Is there discussion of this motion? Ben.

MR. HARTIG: I mean, both SSCs have looked at that, and this is the same recommendations that came out of our AP, and the workgroup as well, and so I think it's been well vetted, and, even though we haven't seen all the examples of what this does, I think we have enough information to choose a preferred.

MS. MCCAWLEY: Thank you. Yes, I feel like we have had significant discussion about this over time. Both the SSCs have discussed it, and so, once again, the motion is to select Alternative 2 under Action 1-1 as the preferred. Is there any more discussion of this motion? **Is there any objection to this motion? Seeing none, this motion stands approved.**

DR. MACLAUHLIN: Moving on to Action 1-2, which modifies the annual catch limit and annual catch target for spiny lobster, Alternative 1 is no action. The current ACL is equal to the ABC recommended by the Gulf and South Atlantic SSCs, using the mean landings from the years 2001/2002 through 2009/2010 plus 1.5 standard deviations, and so that sets it at 7.32 million pounds. Then the ACT is 90 percent of the ACL, at 6.59 million pounds.

Alternative 2, which the Gulf Council selected as their preferred at their last meeting, would update the ACL to be equal to that ABC recommended by the Gulf and South Atlantic SSCs, using mean landings from the years 1991/1992 through 2015/2016 plus 1.5 standard deviations, and so that would be 9.6 million pounds. Then the ACT would be 90 percent of the ACL, and that would be 8.64 million pounds.

We also have a note in here, and the Gulf Council had added this language. It was based on recommendations that came from the APs, at their joint AP meeting last spring, in which a review panel would be convened if there are two consecutive years of low landings. They had set that at 5.32 million pounds, and so they wanted to -- Instead of a review panel being triggered by high landings, the APs felt that low landings actually would be more of an indicator that there may be a concern that a review panel would want to talk about.

MS. SMIT-BRUNELLO: Is that an accountability measure?

DR. MACLAUHLIN: The APs had recommended it as an accountability measure, but our understanding, the staff, when we were putting this together, is that the current accountability measure, where exceeding the ACT and convening a review panel, would be the accountability measure. This is just more of direction, I guess, to staff to convene a review panel if the landings were too low.

DR. MCGOVERN: It sounds like an accountability measure, and so I'm wondering if it's sort of just a recommendation, and so maybe this should be a review panel should be convened, or something like that, to make it more conditional, rather than something that sounds like it's going to be codified.

MS. MCCAWLEY: Good point. We are adding that in as we speak. Any more discussion or questions?

MR. DEVICTOR: Kari, I just had a question. I was looking back at Amendment 10, and there are alternatives or options for 90 percent of the ABC and then 80 percent of the ABC for ACL, and I was just wondering if the IPT discussed why those weren't reasonable alternatives, having not just ABC equals ACL.

DR. MACLAUHLIN: The IPT maybe did discuss that at an IPT meeting earlier. If that is something that the council wants to include alternatives for, you can do that, and we will get them added into the analysis. However, the council may just be interested in updating it based on the new recommendations from the SSC.

MS. MCCAWLEY: I guess I would look to NOAA, to Monica. Do you think that just these two are a reasonable range here of alternatives or are you thinking that we need to add another one?

MS. SMIT-BRUNELLO: It seems like there are more reasonable alternatives that you could add. I mean, I know you wouldn't want to exceed this, but you could certainly have some alternatives that would be less than this, kind of along the lines of what Rick was saying. It just seems, for NEPA purposes, there is more than -- There is no action or action, and you've got some other options that would be reasonable to consider.

MS. MCCAWLEY: Based on that, would somebody on the committee maybe want to talk about adding a couple of additional alternatives here? It sounded like there was a discussion of either 90 percent or 80 percent or both. Ben.

MR. HARTIG: I would just ask Rick. Do you want 80 percent? I mean, is that the only one you want, or 90 percent?

MR. DEVICTOR: I think that that would follow suit with Amendment 10, and so I think that's a pretty good way to go, where there was an option for 90 percent of the ABC and then there's another option for 80 percent of the ABC.

MR. HARTIG: Okay. Yes, I would make a motion that, under Action 1-2, that we add Alternatives 3 and 4 that would cover 80 percent and 90 percent as a --

MR. BREWER: You've already got 90. You just need to add 80.

MR. HARTIG: We just need 80?

MR. BREWER: Yes.

MR. HARTIG: Okay. Have you got a motion up there?

DR. MACLAUHLIN: The ACT is equal to 90 percent of ACL.

MS. MCCAWLEY: Okay. Do you agree with that motion that you made, Ben?

MR. HARTIG: Madam Chairman, if you could read that for me, since I don't have my glasses, I would be very happy about that.

MS. MCCAWLEY: **It says to add Alternatives 3 and 4 with ACL equal to 90 percent ABC and ACL equal to 80 percent ABC.**

MR. HARTIG: **That is my motion.**

MS. MCCAWLEY: All right. Excellent. It's seconded by Chester, and it's under discussion. We have already had some discussion on this. Any more discussion? **Any objections to this motion? Seeing none, that motion stands approved.** Would the committee like to pick a preferred? Monica.

MS. SMIT-BRUNELLO: Just a question on the motion. I don't seen ACTs in there, but they would just also be reduced proportionally, right, along the lines of what is done in Alternative 2?

MS. MCCAWLEY: Yes, and I think that that's what we want. Is that what you want, Ben?

MR. HARTIG: Yes.

MS. MCCAWLEY: Okay. Then we will make some notes on that, and so give Kari a second to get that up there. All right. Would the committee like to pick a preferred? Ben.

MR. HARTIG: **Madam Chair, under Action 1-2, I would move that we select Alternative 2 as our preferred.**

MS. MCCAWLEY: All right. We have a motion. It's seconded by Chester. Let's wait until we get it on the board. Go Team Florida. All right. The motion is, under Action 1-2, select Alternative 2 as the preferred. Any discussion on that motion? Once again, this is the same preferred that the Gulf chose, and this is based on multiple discussions by the AP and the SSC. **Any objections to this motion? Seeing none, that motion stands approved.**

DR. MACLAUHLIN: Moving on to Action 2, this prohibits the use of traps for recreational harvest of spiny lobster in the South Atlantic EEZ. Currently, traps are prohibited gear for recreational harvest of spiny lobster in the EEZ off of Florida, but are not prohibited for recreational harvest of the species in other parts of the South Atlantic EEZ. The traps must comply with the requirements for vessel and gear identification, trap construction, and harvest limits, as specified in the CFR. Then Alternative 2 would prohibit the use of traps for recreational harvest of spiny lobster in the South Atlantic EEZ.

You had a discussion at a past couple of meetings about we had an individual from North Carolina who was interested in using traps for recreational harvest. Now, the possession limit is two lobsters for commercial and recreational outside of Florida waters, and so that would still apply, and there was some concern about more traps in the water and some negative impacts on habitat or protected resources.

I did try to contact the individual who was interested from North Carolina, but I never heard back, and so I don't know if he was successful in that. However, he did have to have vessel and gear identification. He had a special color for his gear, identification for him, and then, of course, he had to adhere to all the other requirements, but we don't know what happened with that. You guys had discussed last time about being interested in, for enforcement and just across the board, prohibiting recreational traps.

MS. MCCAWLEY: Thanks, Kari. Is there discussion of Action 2? Ben.

MR. HARTIG: **Madam Chair, I would move that, under Action 2, that we approve the wording in Alternative 1 and Alternative 2.**

MS. MCCAWLEY: All right. It's seconded by Chester. Let's get that motion on the board first. All right. The motion is to approve the wording in Alternatives 1 and 2. Any discussion? **Any objection to that motion? Seeing none, that motion stands approved.** Would the committee like to pick a preferred? Ben.

MR. HARTIG: **Madam Chairman, under Action 2, I move that we select Alternative 2 as our preferred alternative.**

MS. MCCAWLEY: Seconded by Chester. All right. Let's get that on the board. The motion is, under Action 2, select Alternative 2 as the preferred. Any discussion on this motion? Chester.

MR. BREWER: Traps are not recreational gear. They are just not, and so I am very much in favor of what Ben has put forward, and I think most everybody has looked at it has put forward, and so that's all I had to say.

MS. MCCAWLEY: All right. Any other discussion? Michelle.

DR. DUVAL: Thank you, Madam Chair. I'm not on your committee, but I mean I certainly support this motion. It was a surprise to me that someone in North Carolina, as we have discussed earlier, would want to actually use traps to catch species recreationally, and, to me, it just opens up a whole can of worms that we really don't want to get into, and so I fully support this. I just think that we need to try to make contact with that individual, and I know, Kari, that you've tried, but it's just that I think that this person needs to be informed of what is happening.

MS. MCCAWLEY: All right. Any more discussion? **Any objection to this motion? Seeing none, that motion stands approved.**

DR. MACLAUHLIN: I do just want to -- If anybody has any different suggestion for how we're going to get public comment with the webinar hearing, if you have different suggestions or something else you would recommend, then please let me know.

DR. DUVAL: Again, just in terms of doing our due diligence and making sure that this individual knows that this public hearing is going on, I guess if we could -- Since we have contact information for him, if we could just please make sure that he knows about this. Thank you.

MS. MCCAWLEY: All right. Monica.

MS. SMIT-BRUNELLO: Just a question, I guess for me and then for the record, but there is definitely going to be a webinar hearing? I mean, I strongly suggest that we do hold one.

DR. MACLAUHLIN: Yes, we have been working on the date, and I think it's -- I can let you guys know the date that we had picked, so everybody has it on their calendar, ahead of even the Federal Register notice and everything, but it's in April or May, just an evening. It's our normal webinar, where we have a video and you can speak on the record, but then we'll also have the public comment form set up, so that people can also watch a video and then just type it in.

MS. MCCAWLEY: All right. That brings us to the item under Other Business, and so the item that I would like to bring up is that the FWC recently took final action on a number of items relative to the spiny lobster bully net fishery, and so staff had gone through the CFR and looked for things in the CFR that needed to be changed as a result of these changes for bully nets.

It actually turned out that we made some changes, maybe a year or so ago, for the commercial dive endorsement as well, and so it appeared that both the commercial dive endorsement and the new



commercial bully net endorsement, that there were a number of items that needed to be fixed in the CFR, and so I am not sure how we could handle that.

I am thinking that this has to be an amendment, and I would actually like to see it in a separate amendment, because I don't want to slow down the amendment that we have with the ACLs, and I guess I am looking over to the NOAA folks. I think that you guys had identified some changes that were needed in the CFR as well, and I see crickets over there. Monica.

MS. SMIT-BRUNELLO: I haven't, but I do note that you could at least change gear restrictions and those sort of things via a framework amendment, and so you can use that sort of vehicle, depending on what all the other changes are that you found in the CFR or that NOAA has found. I am not sure. We would have to reevaluate, but, as far as gear changes, we could do that there with a framework.

MS. MCCAWLEY: I am wondering if maybe we need some direction to staff to look at the changes and make a determination about what type of amendment would be needed to make these changes. I saw that Chris had his hand up.

MR. CONKLIN: In the last meeting, the presentation that I think you gave was good. It presented the bully netting as done like out of a boat, and would that be executed in the EEZ? Would we need to change the federal regulations for that?

MS. MCCAWLEY: Let me try to explain. Good question. Bully netting would typically be done in shallow water at night. However, the CFR almost mirrors exactly what the Florida rule is, and so, now that we've modified the Florida rule multiple times, we need to modify the CFR to match it, and so it's partly an enforcement issue, but now definitions and stuff -- Definitions of "commercial harvester" and the way that the bag and the possession limits are worded do not match up, because this bully net endorsement did not exist before, and so there is no references to it, and so we would want to make sure that there were references to that and based on the modifications to commercial dive. Those changes are needed as well.

I am looking to the committee. Kari put an item on the board for direction to staff to look at the list of needed changes to the CFR and determine what type of an amendment to make these changes. Is that something that the committee is amenable to? Michelle.

DR. DUVAL: Yes, and I guess just a question for Monica and Jack and Rick, but I mean do you all not have license to do like a technical amendment to make technical changes? Would this fall under something like that or is it -- I am just trying to think of a faster vehicle, so that we don't have to suck up staff time, I guess.

MS. SMIT-BRUNELLO: I haven't looked at this at all, but I would be happy if you sent us a list of what you thought should be changed, and then we could look at how this was set up in the FMP, to make those kinds of changes consistent with what Florida did for their waters, and I understand, because the federal plan mirrors a lot of what Florida does, and so we can take a look at that and see what kind of vehicle is the quickest way to get those changes done.

MS. MCCAWLEY: So are you thinking that you would have that answer say at Full Council or for the next council meeting? I am not trying to rush you, but just, in all seriousness, would you

like to do that between now and the next council meeting and then have that answer for the June meeting?

MS. SMIT-BRUNELLO: If you were to send it to me, I would be happy to take a look at it now, at this meeting, and see if I could get you answer by Full Council. At least by Full Council, if I couldn't get you an answer, I could tell you that I can't get you an answer here and it would have to be the next meeting, and so I guess, if you get it to me, and to the Service, then we can start taking a look at it.

MS. MCCAWLEY: Okay. That sounds great. Is there more discussion on this item? All right. I don't see any other hands up. Is there any other business to come before the Spiny Lobster Committee? Seeing none, we will adjourn the Spiny Lobster Committee.

(Whereupon, the meeting adjourned on March 6, 2017.)

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

Transcribed By:  
Amanda Thomas  
April 4, 2017

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL  
**2017 COMMITTEES (continued)**

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**(Continued)**

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