

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

**JOINT SPINY LOBSTER ADVISORY PANEL
AND COMMITTEE**

**Doubletree Grand Key Resort
Key West, FL**

June 13, 2007

SUMMARY MINUTES

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**Jt. Spiny Lobster AP & Committee
Key West, FL
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The Joint Spiny Lobster Committee and AP of the South Atlantic Fishery Management Council convened in the Tortuga Ballroom of the Doubletree Grand Key Resort, Key West, Florida, Wednesday afternoon, June 13, 2007, and was called to order at 1:30 o'clock p.m. by Chairman Tony Iarocci.

Mr. Iarocci: I would like to call to order the Spiny Lobster Committee and Advisory Panel meeting. The first item on the agenda is the approval of the revised agenda. Without objections or additions, so moved. The second item on the agenda is the approval of the minutes in South Carolina from September 17, 2002; Key West on June 17, 2002; and Georgia on March 6, 2001. Without objection, they're approved. The next item on the agenda is an Overview of the Meeting Materials and that will be done by staff member Gregg Waugh.

Mr. Waugh: We've already approved the minutes. What we did was compile the last scoping document that was used and that was done December 2, 2002. We've got the scoping minutes from that process and so as you can undoubtedly tell, it's been a while since we've dealt with spiny lobster, but that shows where we left off and the scoping input on those items and what we've got laid out here for you today is several presentations and discussions just sort of to bring us up to speed on the issues that are present and then some preliminary discussion about how we want to proceed from here out. We'll touch briefly on some new requirements from the Magnuson reauthorization that we will have to deal with as well.

Mr. Iarocci: Before we move on, I want to start, if we could with Bill with a roll call of all members at the table.

Mr. Mansfield: Bill Mansfield, Lobster AP.

Mr. Burton: Bob Burton, Jupiter, Florida, Lobster AP.

Mr. Lessard: Karl Lessard, Lobster AP.

Mr. Whittington: William Whittington, Jessup, Georgia, AP.

Mr. Atack: Jim Atack, AP, North Carolina.

Mr. Irwin: Bruce Irwin, Marathon, Florida, Lobster AP.

Mr. Wallace: John Wallace, council member and committee member on Lobster.

Mr. Geiger: George Geiger, council member, Florida.

Mr. Raymond: Paul Raymond, Office of Enforcement in NOAA.

Mr. Matthews: Tom Matthews, biologist with the Fish and Wildlife Commission.

Mr. Iarocci: Tony Iarocci, South Atlantic Council.

Mr. Hunt: John Hunt, Florida Fish and Wildlife Conservation Commission.

Mr. Teehan: Bill Teehan, Florida Fish and Wildlife Conservation Commission.

Mr. Waugh: Gregg Waugh, council staff.

Mr. Brown: Columbus Brown, Fish and Wildlife Service.

Mr. Robson: Mark Robson, Fish and Wildlife Conservation Commission. Let me apologize in advance. I'm going to need to leave to catch a plane and I'm going to probably leave here about 2:30.

Dr. Crabtree: Roy Crabtree, NOAA Fisheries.

Ms. Smit-Brunello: Monica Smit-Brunello, NOAA General Counsel.

Mr. Steele: Phil Steele, NOAA Fisheries.

Dr. Kimmel: Joe Kimmel, NOAA Fisheries.

Mr. Cupka: David Cupka, council member.

Mr. Currin: Mac Currin, council member from North Carolina.

Mr. Iarocci: Thank you and I just want to thank everybody for being here today. This is basically a round table discussion looking to move forward with recommendations from the advisory panel to get to the committee and talk about -- While we do have state representatives here, in no way are we pushing the gun on anything or saying we want to do anything at this meeting. We're looking for recommendations.

We do know that the commission meeting -- Mark Robson, as he stated earlier, will be leaving to go up to the meeting. In December there's a meeting and so everything we'll be talking about here dealing with the state, we'll be looking to maybe deal with after the commission meeting at

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the start of 2008. With that said, the next item on the agenda will be John Hunt giving an update from the State of Florida.

Mr. Hunt: Committee members and advisory panel members, it's been a long enough time since we've all talked about lobsters that what I'm going to do is give an update of the status of the fishery to you. There's nothing in here about future management recommendations or anything of that nature. It's just simply what is the status of the spiny lobster fishery in Florida at this point in time.

Much of this was taken from one of the first presentations given to our spiny lobster advisory board, which is a group of individuals working with the Fish and Wildlife Commission on lobster management and that's why it says January 9, 2006.

Not much has changed in the fishery itself since that point in time and so I've left some of these slides as outdated, but have updated a couple of them near the end. What I'll do is give you an overview of Florida's lobster fishery to bring everybody back to that kind of basic knowledge base and then we'll talk some about the evolution of the commercial fishery, a little bit about the trap certificate program and then a fair amount on recent trends.

This spiny lobster fishery is undoubtedly one of the state's most valuable fisheries. It has a large commercial fishery and it has a very large recreational fishery. The bulk of the fishery is here in the Florida Keys and there are three methods of harvesting in the commercial fishery: traps, diving, and bully-nets are a very small portion of it.

Primarily, traps in the Florida Keys, although commercial diving has increased, which I'll talk about a little bit towards the end, and once you get north of Dade County, the primary harvest method is from diving.

In 2005, and the numbers are basically the same, there were approximately 700 individuals with a c-number or crawfish endorsement, which allows them to have certificates and pull traps, and approximately 400 individuals who have a new license that the State of Florida has created or new endorsement called the CD-endorsement, which is the commercial dive endorsement.

We've gone through a process to separate those two fisheries using licenses. In the recreational fishery, we sell approximately 130,000 recreational lobster licenses each year. Not all of those people fish, but we still get their two-dollars. It should be five. Where is Mark? There's also a special recreational license that allows a higher bag limit that is slowly being phased out.

This is only a dive fishery or a bully-netting fishery and there are two seasons, the special two-day sport dive season, which is presently the last Wednesday and Thursday in July. It was

established in the 1970s and it has been and is today and will continue to be a source of controversy here in the Florida Keys and then the regular season for the recreational fishery coincides with the commercial season.

As you can see, most of the harvest from the recreational sector is also in the Florida Keys and these are three regions here. This is the southeast coast and then this is essentially the rest of Florida, but mostly along the northeast coast.

Let me go through a little bit on the evolution of the commercial fishery. Of course, it's been around a very long time and kind of the better recorded history starts in the 1950s and, of course, it was not a high-value fishery in the 1950s and 1960s, but as time has come along, it's sort of shifted from a relatively low-value local fishery to a very high-value fishery and beginning in the mid-1970s, trap numbers started getting above 300,000 traps and since the mid to early 1970s, harvest has been above five million pounds from the commercial fishery.

Trap numbers kept on increasing and then got to very high levels in the late 1980s, where the estimates for trap numbers -- Most of these earlier numbers come from the National Marine Fisheries Service general canvass, but got as high as slightly above 900,000 traps and during that time, there was a lot of discussion about overcapitalization in the fishery.

Many of the people in this room participated in those discussions over the years and the fishery elected to move into the lobster trap certificate program. The certificate program was established in 1992.

It started by capping fishing effort in the fishery and established an individual transferable certificate which entitles owners to fish a number of traps equal to the certificates they own and then started a reduction of traps to reduce that overcapitalization and resolve or at least ameliorate other issues such as mortality of sub-legal lobsters used as live attractants in traps, reduce the environmental damage done by placing traps in certain types of habitats, et cetera. It's kind of a combination of an environmental program and an economic program kind of all rolled into one.

Now, in this recent trends category, we're going to start in the 1990s with the trap certificate program and the initial allocation of certificates was 700,000, which of course -- After all the appeals were done and kind of everything calmed down, this, in effect, probably served as an immediate reduction of traps from those estimated numbers.

If we start in 1993 with that 700,000, the initial rules were a 10 percent annual active reduction, which means if you had a hundred trap certificates in year one that the next year you would have ninety and this occurred for a few years and then, after a discussion with industry

representatives, it was suspended for one year to let things calm down.

It was reinstated and then ultimately suspended again and you can see there's a number of years where certificates stayed the same. There were actually a couple of years when we had suspended it when the number of certificates actually increased. You had three years in which to pay all your fees and so some people just paid their fees at the end of the third year and got their certificates at that point in time.

We have shifted to a 4 percent passive active reduction. Passive essentially means if I sell you certificates as part of that transaction that the state gets a share. At the present time, the state gets 25 percent of those certificates and then finally, in 2004, we suspended the reduction program to go through a comprehensive review of the fishery, which has been going on for the past couple or three years, and that review will end at the commission's final public hearing in December here in the Florida Keys at our commission meeting.

Reduction has occurred. It's on hiatus for now. Our rule, if left alone, has the low end of traps at 400,000. The recreational fishery, we tried to get an estimate of the harvest from the recreational fishery. At the time that the spiny lobster stamp was created, it finally allowed the scientific staff the opportunity to be able to contact individual fishers and actually find them somewhere, other than standing at a boat ramp.

We've begun a series of mail surveys and if you take a look at this, this is the change in licensing and these are estimates of harvest from the two-day sport dive season and the regular fishing season.

These lines were drawn in. I don't think they necessarily represent a trend of that nature, but what has happened in our fishery here is in the past few years especially, harvests have been very low, from both the recreational and the commercial sectors relative to their long-term averages and especially relative to the late 1990s.

The ratio -- This is kind of an important area that we've been moving into. The ratio of landings between the commercial sector and the recreational sector had stayed fairly constant for some time at approximately slightly over 20 percent for the recreational sector and slightly below 80 percent for the commercial sector. In the recent years, especially in these low harvest years, it has started to shift more toward the recreational side.

In this figure, you can see that, just looking at it a different way for the commercial sector, that harvests have been very low, down to as low as three million pounds in 2001. Of course, that was a full year with no hurricanes. Hurricane Wilma year is not in here. That was another horrendous fishing season, although it's simply because the fishing season essentially ended,

more or less, for many fishers when Hurricane Wilma came through the Keys.

The other thing that you can see here is that the harvest fluctuations are essentially unrelated to the change in traps and the scientific community essentially has concluded that the amount of harvest in this fishery is really dependent upon the recruitment of the first year class coming into that fishery, much more so than any amount of effort management that we have done thus far.

This looks at the recreational fishery and the different groups and different time periods of the recreational fishery and essentially, what you can conclude from this is that the ratios between what is harvested during the two-day sport dive season and during the regular season has stayed fairly close to constant the entire time, although, again, during the low fishing seasons, the two-day sport dive season tends to have a higher proportion and that, again, is reflective of the nature of the way this fishery works.

The people who are fishing on the first days, effectively fishing on the very first days of the season, are seeing the maximum amount of lobsters out there and if you have a lower recruitment year coming in, they're still getting their fair share. That effect that actually starts to happen is the season moves in farther on.

One of the major changes in the commercial sector that has occurred has been in the commercial dive fishery and this has occurred since the lobster trap certificate program and, quite frankly, it was one of the unintended consequences of the certificate program and it is part of the reasons that some of the goals and objectives for the certificate program have been elusive.

If you take a look at this slide, this is -- Blue is Monroe County and red is the rest of the state and the first thing that happened after the certificate program is the number of individuals showing dive landings increased very, very quickly and the number of trips they took increased very, very quickly and then has leveled off and have actually started to drop down some.

In the rest of the state, essentially the number of people have remained constant and so this change has occurred inside Monroe County and it went undetected by myself and my staff for a while, until we actually noticed a change in the proportion of harvest. That led us to start to do some exploring of the database and what you see is even though the number of people increased fairly quickly, their pounds per trip essentially didn't change very much. They went from approximately fifty pounds per trip to about eighty pounds per trip, but then all of a sudden, in 1999 to 2000, the pounds per trip in the commercial dive sector shot up considerably.

The average pounds per trip shot up considerably, which was a major change in this fishery that started to shift the allocation between the commercial trappers and the commercial divers very dramatically.

Historically, the commercial divers have harvested 3 percent to 5 percent of the total commercial harvest, but because of these changes in the commercial dive sector, that increased to as much as nearly 15 percent, which prompted -- That occurred in 2001 and you can see that commercial dive shift and you can also see it going back.

The reason why it has increased is because the commercial dive sector began to put out in a very major way artificial habitats, casitas. Casitas are fairly common in different Caribbean fisheries, but they have not been part of our fishery and, of course, the use of casitas right now is illegal and constitutes illegal dumping, yet it has increased the efficiency of the commercial dive sector very dramatically.

That shift in allocation, because of the use of this illegal gear, created the situation where the commission has decided to increase the regulation of the commercial divers and so we created a 250 lobster per day daily trip limit for commercial divers and, of course, the commercial dive endorsement.

We also began to add in some minor changes in the recreational fishery, where the boat limit was discontinued, and so now there's just the individual bag limit of six and then in 2004, we added a 250 lobster per day daily limit for bully-netters, not because bully-netters themselves necessarily routinely bring in more than 250 lobsters when they're fishing, but because we began to see increases in harvest in the bully-net folks, which the commission staff interpreted as some of the commercial divers hiding their landings under a different gear type in the trip ticket system.

A variety of mechanisms have occurred there to regulate a fishery, yet it does continue and at our December meeting, our commissioners have directed staff to begin to explore different research options related to the use of casitas and we've begun preliminary discussions with that group of individuals doing that and are in the introductory planning phases for how would we actually just go about doing this kind of research.

Finally, I think what's very, very important to note is that since 2001 and up until even this fishing season, which is not in here, harvest has been very low relative to recent years and in fact, kind of for some considerable time.

Again, one of those two low years, the second one, 2005 and 2006, is Wilma-related. Other years have still been below that long-term average and in some cases, it has had economic consequences. This past fishing season happened to be a season where the price per pound was fairly high and that certainly has ameliorated the low prices, but the question becomes why.

There are kind of two competing -- I shouldn't say competing, but complementary views on that.

One is that it's local issues here in the Florida Keys, of which the biggest local issue is a disease that was discovered in 1999 called the Lobster PA1 Virus. In this case, we have a healthy lobster and when you pull the tail back and you look at the tail meat here, it has that kind of coloration. In a fairly late stage infected lobster, the blood has become very, very milky and you have that kind of an appearance.

This disease occurs throughout the Florida Keys. It's highly contagious and deadly for juveniles. It's less contagious among larger juveniles and adults and by juveniles, I mean those lobsters that are kind of up to about a half-inch or three-quarters of an inch carapace length.

There's no data on the prevalence of this prior to 1999 and so we don't really have a good sense of how much this disease is a change or at what prevalence it was prior, although most of the scientists think that it's probably a little bit of a shift in the prevalence. There's been no change in the prevalence since 1999 for juveniles in the Florida Keys.

We have an annual monitoring program of juveniles that the commission does and we send blood samples to our colleagues at Old Dominion University who are doing the actual disease research and are using the PCR to determine whether an individual has disease or not.

Our colleagues at Old Dominion are guessing that at the current level of disease that it is increasing juvenile mortality between 10 to 25 percent relative to the past and if that's the case, there's an obvious impact on the fishery stock and it could be part of the explanation for why harvest has been low for the past five or six years.

There are also population-wide issues and you'll see later on a slide from Tom on kind of overall Caribbean harvest and in Cuba and Nicaragua and Florida and in general, the western Caribbean. All of these areas have been experiencing low harvest for the past few years. We don't really know much about the disease anywhere except Florida. We have found specimens in St. Croix which do have the disease, juvenile lobsters from St. Croix in Tigre Bay, for those of you that know St. Croix, that have the disease, but we really haven't worked on this issue anywhere else.

It's certainly possible that it's bigger than Florida. There are some people that have theorized that overfishing in the Caribbean could be an issue or maybe this is just a cyclical fluctuation that's outside of our historical experience, but I would suspect that is probably not the case and if you have any questions, feel free to ask, according to whatever Tony wants.

Mr. Iarocci: Thank you very much and for the record, please state your name and if there are any questions from the advisory panel and committee, please ask them now.

Mr. Mansfield: John, does this impact humans at all as far as that disease is concerned?

Mr. Hunt: No, it does not and to give you comfort, we sent samples to the CDC in Atlanta and they ran a series of tests when we first discovered it and they reported back to us that there was no human concern. Remember that we do cook the lobsters.

Mr. Burton: The countries with whom we work in the Caribbean and whose spawn we benefit from, do they have size limits down there, do we know? Can they take pregnant females, for example?

Mr. Hunt: I'm not an expert on all those rules, but virtually all the countries have size limits. Some of them are bigger than ours and I'm not sure on all the details of taking the egg-bearing females and those kinds of things. However, that's going to be a topic of discussion later on today, where there will be a panel that's more tuned in to what's happening there and providing you with information. I would kind of hold that back for that discussion and leave it at that for now.

Mr. Burton: My second question is the commercial diver endorsement, what is the cost of that? Do we know and do they have to provide proof of income to renew it the following year?

Mr. Hunt: In order to have any kind of a lobster license, you have to have in the State of Florida what's called a restricted species license and so those people that have a CD have to have a restricted species license and that's where the proof of income comes in, at whatever that frequency is, which I don't know.

Mr. Teehan: It's \$5,000 a year.

Mr. Hunt: It's \$5,000 and it's a year and it has to be reported every year. I knew it was \$5,000, but I didn't know how often. What was the other part of your CD question? The license cost? It's a hundred dollars.

Mr. Burton: Can anybody go out and get a commercial diver endorsement?

Mr. Hunt: At the present time, there's a moratorium on new licenses and in the commercial dive side.

Mr. Burton: There certainly should be. You said we're phasing out some part of restricted species endorsements or SPLs on selling lobsters?

Mr. Hunt: I'm talking about the special recreational license. At the time that the certificate program was created, there were a large number of individuals -- A large number and I mean 500

or 600 individuals who had a saltwater products license, but were really recreational fishers. The reason why they had that saltwater products license was so that they could come down here and exceed the recreational bag limits.

In order to accommodate that group of people -- Some of them were well connected and let me just say that some of them were well connected and so in order to accommodate that group of people, the state created the special recreational license, which at that time had a boat limit of fifty. That's the license that we are slowly phasing out by reducing the bag limit by five each year and we are at thirty now. In a few years, it essentially won't -- There will be no reason for anybody to get that special RL.

Dr. Crabtree: John, the disease, you don't know if that has really increased in recent years or if it's always been present? Is that correct or do you think it's probably increased in recent years?

Mr. Hunt: I'll give you my opinion and you just have to take it as opinion. It was discovered officially in 1988 or 1989 by one of Mark Butler's students, Don Beranger, who is now at the University of Florida. He was a PhD student and that began the era of doing the research on it. What he did was he asked the question to Mark of what's the deal with these juvenile lobsters that have a whole bunch of seaweed growing on their antennae and I'm seeing a fair number of them.

It turns out that a lobster, once it's in the very late stages of the disease, gets very leaky and that leakiness kind of creates the environment for the algae to grow on the antennae and things. We have seen those kinds of lobsters through the years and just never asked that question of them. My best guess is that this disease has been part of the population for quite a long time and I don't know what that means.

It might be an evolutionary timeframe, but that some change has occurred in the Florida Keys in the mid to late 1990s that is probably increasing that prevalence. What that change is, I don't know, whether it's some broader environmental change or whether it's some change in the lobster population or what have you. That's my personal opinion, that it is an increase.

Dr. Crabtree: Have they, in any of the stock assessment runs, ever run a sensitivity scenario to see what change in outcome, if the natural mortality rate is higher now than it was historically, and what that might mean to the stock?

Mr. Hunt: I don't know if we did that in the SEDAR or not. I don't think we actually played that particular analytical effort in the spiny lobster SEDAR. I guess I should say, relative to the SEDAR, that the net conclusion from that SEDAR is that this fishery is not overfished in the classic sense of the word, but that does reflect the challenge of the larval lifespan of being long

and recruitment coming from elsewhere, the certain types of models that we have to use. That's a very local conclusion and not necessarily a Caribbean-wide conclusion.

Dr. Crabtree: It seems like if the natural mortality rate actually had increased substantially, say 20 percent, that the overall productivity of the stock, given that the recruitment would largely be constant, would be lower and that would account for a pattern like what you're seeing.

Mr. Hunt: I think so and that's why I personally think that this is a change and it's the kind of thing that all we can right now do is monitor the pattern and from 1999 on, we're going to have the prevalence of the disease in these early benthic juveniles.

Mr. Irwin: John, do you think that the recent years, the lower landings, could have something to do with overfishing in countries in the Caribbean, due to that we have a significant recruitment from those countries?

Mr. Hunt: I think it's possible and that's all I can really say and we don't have any kind of multinational assessments or even adequate data from most of these nations to be able to incorporate them into assessments. The only nation that really has good data, other than ourselves, is Cuba and I can say that Cuba has been experiencing a decline.

I can say that they have increased their minimum size from sixty-nine millimeters a few years ago to soon to be seventy-six millimeters, which is three inches. They're increasing their minimum size and their scientists that we interact with, not in the fisheries department but in the university, have started to use the term overfishing there. I hope this fall to be able to meet with a colleague who is in fisheries there and get his perspective outside of the email world.

Mr. Brown: John, are any other species susceptible to this disease, especially other crustaceans?

Mr. Hunt: Mark Butler and John Beranger have actually done that research and they've tried to get the disease into stone crabs in the lab and spider crabs in the lab and have been unsuccessful and so I'm going to say no. Now, I don't know that we have tried to inoculate other closed panulirid species, like the spotted lobster or anything like that, but it's not a concern for stone crabs or spider crabs and those were the two we really focused in on, because they both live here in the Florida Keys and share the same habitat as lobsters and, of course, stone crabs have a large fishery as well.

Mr. Brown: No test on shrimp or crayfish?

Mr. Hunt: I don't think so and shrimp is probably one we should test, but if you're talking about freshwater crayfish, there would be no reason to try to do that test.

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Mr. Iarocci: Thank you, John. At this time, I want to move on with the agenda and any other questions we'll take at a later time. Next, we'll have an Update from the State of Florida and the State Lobster Advisory Board. We'll be dealing with the Lobster Advisory Board Recommendations and State and Federal Consistency Rules. We do have Peter Bacle and George Niles, members of this board, and if you guys could come up to the table, just in case there's something you want to add to this, I would appreciate it. With that said, we can start with Bill Teehan and Bruce Irwin.

Mr. Teehan: I'm not going to give you a high-tech PowerPoint presentation. I'm just going to run through some of the issues and the latest recommendations of our spiny lobster advisory board and Peter and George and Bruce and John -- Since I haven't been to very many of these meetings, if I overlook something or misrepresent something, please feel free to chime in.

In 2004, the Florida Fish and Wildlife Commission decided to start a comprehensive reevaluation of the spiny lobster fishery due to landings that seemed to be lower than normal and that was a two-pronged approach.

The first was to conduct a SEDAR evaluation of the spiny lobster stock assessment and that having been completed, we formed a Spiny Lobster Advisory Board, an ad hoc board, to try to tackle some of the problems that were outlined in the industry and in the recreational fishery and in the environmental aspect of it and try to formulate some recommendations to give to the commission to consider for changes in rule.

This board was made up of sixteen people. We had five commercial trappers, we had three commercial divers, three recreational fishers, two wholesale dealers, an NGO, someone representative from the Keys Sanctuary, and a voting FWC member on the board. This board, as I said, was charged with looking at issues that they saw and also that FWC staff saw with the fishery and try to evaluate these and see whether any changes needed to be done.

We hired a professional facilitator out of Florida State University to run these meetings and he did everything on a consensus kind of a platform, where subjects were brought up or issues were brought up. The members of the board discussed them and where research presentations were required to come to an educated decision, John and his folks presented those sorts of presentations throughout the existence of the board.

Then the board members would vote and it would be a consensus and I believe it was 75 percent consensus of the members in order to continue to develop that issue or to keep that issue on the roster.

Initially, the general topics that were brought up for the initial discussions in the first meeting or two included the lobster trap certificate program, landings allocations, season length, harvestable size limits, fishery effects on the environment, trap specifications, new entrants into the fishery, commercial dive fishery, recreational fishery, commercial bully-net fishery, and then consideration of other lobster species.

What I'm going to do now is just run through real briefly where the board stands now on some of these issues. Some of these issues have dropped by the wayside and I might point out that some of the issues that I'm going to mention cannot be handled through the commission rulemaking process, but they are recommendations from the board to address issues that they've seen in the fishery, enforcement issues, habitat issues and so forth. Let me run through this real briefly and, gentlemen, if I don't accurately portray this, please jump right in and correct me.

The first issue was allocation and basically, John gave you that slide that showed the allocation shifts over a period of time. The board decided to set a baseline allocation at 72 percent for the trap fishery, 22 percent for the recreational fishery, 5 percent for the commercial dive fishery, and 1 percent for the bully-net fishery.

If that allocation shifted outside of that baseline over a two-year period, that would trigger the formation of another board, if you will, to try to address the allocation issues and see what's causing the shift and how to account for that shift.

The board addressed season length and they addressed many different aspects of season length, starting earlier or starting later or shifting the whole shebang from one user group to another. They addressed the two-day sport season. The recommendation that stands now with the board is that they would like to recommend to the commission that the soak period, the commercial trap soak period, start the day after mini season and make that contingent on correlation with federal consistency.

That would essentially move the soak period for the trap fishery up five days or ten days, a variable amount of time. The board addressed harvestable size limits and they voted to maintain the status quo in recreational and commercial size limits.

The board looked at the fishery effects on the environment and natural habitat. They voted unanimously to recommend that a comprehensive Keys Shoreline Clean-Up Plan be developed and implemented. They voted unanimously to recommend that an emergency disaster trap clean-up plan be developed and implemented and that has been developed and is in a draft rule stage now that's going to be presented to the FWC on Thursday at their Melbourne meeting. They voted to allow the sale of plastic traps that are collected during state trap retrieval programs with the funds being used to support the program.

On the topic of other lobster species, Florida rule right now only regulates bulldozers, scalar lobsters, and panulirus argus spiny lobsters. There are several other species of panulirid lobsters out there and scalarids that don't have any regulation, season, egg bearing, size or anything.

The board did look at that and decided that some of the other issues were bigger topics at the time, but they did vote to recommend protection of egg-bearing females of any species of lobster and they shall not be taken.

With respect to the lobster trap certificate program, the board presently recommends to continue the certificate program, as John outlined, issuing certificates for each trap and then you get a tag and you put that tag on the trap. They wanted to reduce the time from three years to two years in which trap certificates need to be paid for. As it stands now, and I think John also alluded to that in response to a question, you can take up to three years now to come up to current status on your payments for trap certificates. The board recommended to reduce that to a two-year period in hopes of trying to reduce some of the latent effort in the fishery.

They voted to remove the 24 percent transfer surcharge, they voted to end trap reductions permanently, and they voted to recommend a buyback program, which would be voluntary, with the provision for buybacks to be sold to new entrants into the fishery and this, of course, would have to be sponsored by some sort of a financed program that would either be legislative on the state level or federal. It's outside of really the purview of the commission; however, it will be reflected in the report.

As far as new entrants, the board was very concerned about the fact that new bodies are not coming into the fishery as fast as people are getting out of the fishery and they wanted to try to get some incentive programs. They wanted to accommodate deckhands by allowing those with trap certificates to pull their own traps from their owner's boat. In other words, a boat that has got a sea number for a set of traps and you've got a deckhand who has got his own sea number and traps to be able to pull from that original boat and does that reflect that pretty well?

With issues regarding the commercial dive fishery, which John pointed out, the annual law enforcement detail during the -- The board asked that the agency commit an annual law enforcement detail during the first two months of the season in areas where use of artificial habitat are concentrated.

They recommended a loss of license, the CD-license, for convictions and stronger penalties for the use of illegal artificial habitat. They recommended a transferability provision be built into the program. As John mentioned, there is a moratorium on dive endorsements at this point and that lasts until 2010. They would like to develop some sort of a program so that people could

start transferring those and getting in and getting out of the fishery.

They recommended a change in the distance that you can be from artificial habitat and no diving for lobster within a fifty-foot radius of illegal artificial habitat and that changes it from ten yards to fifty feet and annual locate and remove effort of artificial lobster habitat, fix the number of commercial dive endorsements at a -- In other words, cap the endorsements and when transferability becomes available, you have to buy one from somebody who wants to get out if you want to get in.

Require owner's commercial dive endorsement number to be displayed on all catch gear for commercial divers and finally, to require commercial divers to use surface buoys with the CD number on a flag on the Gulf side of the Keys.

With regards to the recreational fishery, the biggest issue there, I believe, was the two-day sport season and the board recommended requiring a special endorsement to participate in the special two-day sport season in Monroe County as a means to add enforcement to the daily bag limit. The endorsement would have paper tags attached to it so that it would be separated and kept with each lobster harvested.

You would get six yellow tags for the first day and six blue tags for the next day and each lobster you had in possession would have to have one of those tags attached to it. They also recommended an increase fee on the recreational sector and earmarked the funds for the tags for the two-day season.

For the commercial bully-net fishery, the board recommended status quo, no change to that fishery, and no endorsement or no other rules to be enacted for that user group. Law enforcement, the board recommended that the commission convene an initiative or a task force to examine and assist the enforcement of fisheries regulations, primarily in the lobster fishery. That, I believe, is the majority of the recommendations that the board has put together so far.

These recommendations will be presented to the FWC in Melbourne on Thursday as an information item to give the commissioners a briefing as to where the board stands and any sort of direction that the commissioners may want to give staff to bring back to the board.

I believe we're also going to ask for direction to establish another series of workshops during the summer to gather one final round of public testimony and convene the board again to listen to what sorts of public testimony and also to consider whatever the commission directs staff to do at this meeting on Thursday.

We'll be bringing a draft rule back to the commission at their September meeting and the

schedule shows final public hearing in December, but I'll couch that by saying that is the schedule that we have on our work plan and it doesn't necessarily mean that's exactly the time table that things will proceed at. I will be glad to answer any questions about the advisory board.

As I said, I only attended two out of the eight meetings that they've had so far. Peter and George and Bruce and John have been at all of them and they may be able to clarify some questions you have better than I can.

Mr. Iarocci: Thank you, Bill. At this time, if we could, I would like to hear from the other advisory board members and then take questions. Bruce, if you could add to that.

Mr. Irwin: I think Bill summed it up pretty good. That was our recommendations. The only thing I want to emphasize is the diversity of the board. It consisted of NGO groups, recreational fishermen, commercial divers, and commercial trap fishermen.

Mr. Iarocci: George.

Mr. Niles: I think all of that sums it up pretty good, Tony. The only thing I would like to add to what Bill and Bruce said is I would like to reemphasize that it takes a 75 percent vote from the board to get a recommendation and it's not a majority. Commercial fishermen, both dive and trap, and recreational and conservation people on the board all have to agree, at a 75 percent rate, to pass anything.

Mr. Iarocci: Peter and then Jim Sharp, if you have something to say. I'm sorry, but I forgot that you had been placed on that board. Peter Bacle, please.

Mr. Bacle: Peter Bacle, member of the state advisory board on lobster. I think that Bill pretty accurately summed up the board's recommendations. I would second what George said, that to my own surprise that the board came together real well and saw recreational and commercial really trying to make recommendations that were in the best interests of the entire industry. Of course, there's some in there that I voted against, but on the other hand, I think it was a pretty good set of recommendations.

Mr. Iarocci: Thank you, Peter. Jim, do you have something to add?

Mr. Sharp: Jim Sharp on the lobster advisory board committee. Bill summed it up pretty good. I don't remember the part about the divers being buoyed. That came up several times and it was shot down every time. The board did work together very good. However, the dive was only represented by two and one guy never made the meetings and then they put me on the board and I made as many of them as I could, all but one. Everybody worked together pretty good. It was heavily weighted in the trap industry's favor, with them having the majority on the board.

Mr. Iarocci: Bill, do you have more comments?

Mr. Teehan: I was remiss. I should have started my remarks by thanking the individuals that participated in this board and for their effort in the coming meeting. Everybody took time out from their day and their work. They weren't reimbursed. They were reimbursed for travel and food, but as far as any other stipend, they were pretty much working out of their own pocket and I think they did an exceptional job, as Peter said.

We didn't expect them to come together as quickly as they did. That's why we got a facilitator, to herd the calves, as it were, but they all played very nicely and we would like to thank them for their participation.

Mr. Iarocci: Thank you, Bill.

Mr. Robson: I do have to run, but I want to make sure I make the point of thanking those of you who did serve on the advisory board as well that are here and really everybody on the AP that are interested in lobster issues in Florida. We use these advisory boards and we're going to be using them more and more or workgroups, whatever we want to call them. They have different names, depending on how they may be running or what we expect to work with the boards on.

They're not perfect and particularly in the case like this, where you have a really diverse fishery and not just commercial and recreational and environmental, but within sectors there's a lot of variety, it's hard to get a group of people together and arrive at consensus decisions on some of these issues.

I was not able to attend any of the meetings, but we have great staff. They've reported back to me and also to our commission. We're going to continue to report the activities of this board directly to the commission and we'll try to faithfully let them know everything that the advisory board has recommended or that they've not come to consensus on and we're going to take this advice and consultation with groups like this very seriously.

Like the council, the State of Florida is interested in getting as much good public input as we can and not just from the public at large, but also from the people that are the most knowledgeable about the particular issues or the particular fishery.

That's one of the main reasons why we have these kinds of workgroups or boards and that's why the council uses APs, to get people that are very knowledgeable together and make recommendations. I just want to thank you. I know it's difficult to take time out of your business and your work to do these things and you don't often feel that you're being heard or

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listened to, but you are. I'm speaking now as a state agency representative, but I think also as a council representative, that this kind of input is very valuable to us.

Mr. Iarocci: Thank you, Mark, and I also would like to thank the guys here and other people that aren't here. The time that they put into it -- I started as an advisory panel member and I do know the time that's put in and I see in the future -- I like seeing this kind of a meeting, where you do have representatives of both the AP, the committee, the lobster advisory board, the Gulf Council, the state, and the South Atlantic Council.

I think in the future we're going to be having more meetings like this dealing with lobster and other issues, when you get into this joint managed fishery. With that said, Jim, once we can get rid of Mark, I would like you to come up and we can talk about him when you take your seat later, but also, I would like to open the floor up for questions right now.

Mr. Bacle: I don't really have a question, but there is one more member of our advisory committee that's here, Mimi Stafford. She's in the back and I didn't want her to get not noticed.

Mr. Iarocci: Sorry, Mimi. Would you like to add to any of this? Okay. I would like to open it up for questions.

Mr. Burton: Bill, these are some pretty phenomenal recommendations. We've needed something like this for years and it's greatly overdue and well thought out and I'm proud of you guys and gals. Is there a website that we can go to and look at the list that you just rattled off that you're going to present to the FWC on Thursday night?

Mr. Iarocci: Bob, Bruce right now will be handing out -- We've got copies.

Mr. Irwin: The document I'm going to hand out also has what didn't meet the 75 percent consensus but was talked about and only made between 50 and 74 percent.

Mr. Teehan: There is a website and I'll print it out for you in a little bit. It's basically if you just go to the FWC website and go to the Marine Fish homepage, all of our advisory boards and working groups are listed there and you can just pick out spiny lobster and go to it. It has all the minutes, and I believe they're up to date to the last meeting that we had in March I guess it was.

It has all of the background material that John's people have put together and it's got all the other papers that have been put together and it's got these consensus sheets for each meeting that Jeff Blair prepares for us. If you have trouble getting to it, see me later. I can't get at it right now, but if you go to FWC and go to Marine, you're there.

Mr. Robson: Also, if you just go to myfwc.com and I think on the left you can click on commission agendas or commission meetings and for this meeting tomorrow, you can drill down into that and the actual document that we're presenting to the commissioners is there in the agenda and you can click on it and look at it.

Mr. Lessard: Since we're going to be addressing state and federal consistency rules, are we going to be addressing items in this recommendation to the FWC at this present time?

Mr. Teehan: Yes, Karl, we will. If there's anything that the commission goes to rulemaking on that requires consistency to the federal regulations, then I guess that process will begin.

Mr. Lessard: I would think everything that was in here would be needed to be addressed as state and federal consistency things, even though it hasn't passed the FWC. Just from my experience on the Gulf Council in the past, consistency rules are something that all the councils and the state have tried to do, but I'm stuck, since it hasn't passed the FWC, of if we should address it now.

Mr. Iarocci: Karl, we're making recommendations and having, like I stated earlier, a roundtable discussion. We can deal with these things at this time, but then once the state does come to a -- When they finish their meeting in December, when they'll be dealing with a lot of these things, we can move forward and also, we'll be talking about the tailing permit, which is a federal issue, and the fifty short rule, which is a federal issue, later. While we do have the AP and the committee, now is the time to talk about these issues. Is there any more discussion or any follow-up with Karl?

Mr. Lessard: Tony, would you like motions now for items on this for consistency and advisory to the South Atlantic Council?

Mr. Iarocci: At this time, Karl, we're making recommendations.

Mr. Lessard: I would like to make the first recommendation. I would like to recommend that the advisory committee recommend to the council that the baseline figure of 72 percent allocation on trap, 22 percent recreational, 5 percent on dive, and 1 percent on bully-net be presented to the council with the concurrence of the AP.

Mr. Iarocci: Is there any follow-up on that from the AP or the committee?

Mr. Teehan: Karl, I guess I would only caution to say that any of these things -- I think I see where you're going, is to go ahead and get this established in federal rule and then the state would have to be consistent if it didn't go the other way. I'm just saying that I have to caution you that these things have not been approved by the commission yet, other than in concept to go

forward and continue to discuss them.

Mr. Iarocci: In no way do I want anybody to think that we as a group are being assertive to put pressure on the state or to push anything at this meeting. All these are -- This is a recommendation from one of the AP members and I'm just curious. Is there any other support from any of the other AP members on this recommendation?

Mr. Burton: We've got quite a few recommendations to digest, basically, and I think it would be premature at this point.

Dr. Crabtree: Tony, we ought to have some discussion about how to efficiently interact with the State of Florida. There are provisions in the Act that actually went in when the Sustainable Fisheries Act passed that would allow us to delegate some aspects of management to Florida. Florida would still have to be consistent with the FMP, but then you wouldn't have to come ask for compatible regulations. I don't know when you would want to have that discussion. Basically, the Act says --

Mr. Iarocci: Gregg, did you want to address that?

Mr. Waugh: Just to point out that Agenda Item 8 is Other Items for Plan Amendment and we're sort of getting ahead of ourselves. We were to go through the presentations and sort of lay everything on the table and then talk about it under Item 8 and certainly whatever suggestion Roy has would have to be done through a plan amendment and so you might want to wait and sort of put everything on the table and then talk about how we go about doing what when we get to Agenda Item 8.

Mr. Iarocci: Thank you, Gregg. Is that okay with you, Karl?

Mr. Lessard: That works fine. That's why I wanted to know what procedure you wanted to follow, Tony.

Mr. Iarocci: Are there any other questions for the lobster advisory board or for Bill Teehan right now? Okay. Right now, we'll go into Item 6, Council and Advisory Panel Issues. I think, to start off with, the Tailing Permit Issues is first on the agenda.

We've had a lot of discussion in the past, if you did get to look at the minutes, at the last scoping meetings and public hearings we've had. I would like to open tailing permits up. We did have some discussion off the record about the northern dive fishery and the people down here that do fish to the west of the Tortugas that need the permit, but we've also heard a lot about the abuses of the tailing permit and so I would like to open this up for discussion.

Mr. Teehan: I guess it would be helpful if we knew how many permits there were and how many were active. Does anybody have that number?

Mr. Iarocci: Gregg, the current tailing permits?

Mr. Waugh: I don't know. We don't have that information.

Mr. Iarocci: Roy, we had talked about the number of current -- Was it 537 in recreational and sixty-seven dive on the tailing permits?

Dr. Crabtree: I don't know, Tony. I would have to check on that. We can have those by -- I don't know how quickly, but we'll get those. I do have some concerns about tailing permits and have had for some years. I hear reports on and off from various fishermen that tailing permits are basically being abused, in some cases. Lobster are being harvested that are a little below the carapace length and they wring the tail and lobster are being speared in the carapace and wring the tail.

I would be curious to hear what folks think about that and how critical are tailing permits now and to how many people and is that something we ought to take a look at? I do worry that it's maybe being used to get around some of the gear prohibitions and some of the size limit prohibition.

Mr. Mansfield: I compiled some data a number of years back and as we said, it's been a long time since we met. I've got some graphs that I had given to Bob Mahood and we actually presented these at some point. This is a miniscule business, this tailing stuff. There's not a lot of dollars generated from it.

I would say that probably if you were the one impacted, if someone took permits away, it would be important to an individual, but if you're looking at graphs -- I've got these graphs and you guys can come look at them at some point today and it indicates that this is a miniscule side of the lobster business.

I really don't think it's a viable business, because it impacts a lot of other things. We have concerns about lobsters migrating up to North Carolina and if they're all killed by powerheads down here and speared before they have an opportunity to get to us, we're going to be losing our population based upon closing the gate in Jacksonville and some of these things are pretty flagrant.

I've talked to fisheries people from Florida that have been diving with some of the individuals

that do actually abuse these permits and they have no fear. They will blow a head off a lobster and break the tail off right in front of a Florida lobster representative, because he can't stop them.

Mr. Iarocci: Further comment?

Mr. Irwin: Tony, you said Tom had how many permits are being used so we would know how many people it was going to affect? Also, I noticed in the minutes that it was said that Option 3 was preferred in the previous minutes and I don't find anywhere in there what Option 3 is exactly and so if somebody could explain Option 3.

Mr. Matthews: Over the course of the last three years, there's been approximately 200 total trips where lobsters were tailed and that's out of the 19,000 trips that occurred for lobster. There's just under a hundred permits that are actually used in an individual year, where only ten permits actually are used more than ten times each and those ten permits account for about 80 percent of the total landings and so we are talking ten people who actively use these permits, even though there's approximately another ninety that might have one or two trips a year where they use their permit.

Mr. Iarocci: Bruce, Option 3 would maintain the forty-eight-hour requirement and limit the issuance of tailing permits to appropriate licensed commercial fishermen. This is a letter coming from the industry and it addresses the concerns and the desired management measures. This is from industry that desires, but that's the point.

Also, there is a lot of concern, as Roy had stated and I had heard off the record. As chairman of the Spiny Lobster Committee, I think we do need to hear more about this tailing permit issue, because I've been hearing a lot of discrepancy in what's being done and how this permit is being used. While we have this opportunity, now is the time to put it to the table.

Mr. Mansfield: There are a couple of things that I remember from the eight years ago. Enforcement had brought this up as wanting permits taken off the table, because they found it difficult, of course, to determine how the lobster was captured. If they are being abused, there's no proof of it. I do remember -- Gene Proulx was the one that brought that up eight years ago and so we do have some precedent for another agency wanting to have part of this.

I also remember some of the graphs that we produced years ago that there were some very legitimate permits being used, mostly down in the Keys, and remember these things are -- A period greater than forty-eight hours I think is what the permit is for, if I remember correctly. I can also tell you that a lot of people up in the northeast don't have boats big enough to stay out more than forty-eight hours and they're getting permits.

There's something not right with the whole thing, but down in Florida, some of these guys do actually stay out in some very nice weather longer than forty-eight hours and it seems like we came up with some legitimate reason for the boats down in Florida, in the Keys, to have these things, as opposed to the northeast, where it's a much different fishery.

Dr. Crabtree: Someone explain to me -- I guess tailing permits you need -- Obviously it would take less room on the vessel to ice the lobster tails, but is there also a quality issue if you're out multiple days? Does the lobster deteriorate faster if you don't tail it than if you did tail it?

Mr. Iarocci: That is the case, Roy. What I had heard from some fishermen in this area was that if they did make an extended trip and they did get stuck at the Tortugas and they had whole iced lobster and the quality of the tail and the blood started to look -- They would tail the product and having the tails iced properly, as they do on ice boats.

Also, I'm hearing that the same boats in the areas are using the gauge and measuring the tail after they measure short and just tailing the smaller tails, which other fishermen aren't able to do that do have this permit. Peter or George that are familiar to the fishery to the west, is that the scenario with the quality with the tailing or the permits?

Mr. Bacle: I think most of what I've heard here is pretty accurate. I had a hard time in our committee meetings understanding about the recreational need for tailing lobster. Two days on ice for a whole lobster I have never found to be any problem with quality. I don't see why anyone would be concerned about tailing a lobster that had been on ice for two, three, four or five days even, iced properly. We certainly have boats that stay out that length of time.

There's a legitimate tailing license and that's our boats that fish to the west of Key West. Most of these boats we find now are making longer trips. Even the ones that were day boats have turned into two and three-day boats because of the fuel problem, the cost of fuel.

I know my own son, who was strictly day fishing, even as much as forty or fifty miles from Key West, is now spending three or four or five-day trips down there. When you do get stuck by weather, which does happen, or the way the lobster are moving or crawling or going in your traps, whatever reason for extending your trip, it can cause a need to have to tail some lobster to save on space in your ice hold as well as the quality.

I would also point out that there certainly is some amount of tailing lobster. Since it has to have a five-and-a-half-inch tail to be legal, some lobster that have a three-inch carapace that doesn't quite make it will have a five-and-a-half-inch tail and so you certainly do see those mixed in with the boats that have tailing licenses and boats that don't have wouldn't have access to that.

I don't see this, either with recreational or commercial, as a major problem right now that we've got to address this issue or somebody is going to suffer for it. I think the gentleman next to me pointed out how small a part of the fishery this is and I think that's true. I think I would want to go a little carefully about eliminating of all tailing licenses, especially with other factors such as fuel costs that are going up right now with the commercial sector.

I don't see that it would be a major disaster for anyone if there were no tailing permits, but I think that in the very near future they may become a little more important to the commercial trapping sector.

Mr. Iarocci: Thank you, Peter. That was very well stated and I think a lot of people at this table are in agreement with you. A lot of the people I've talked to in the past are.

Mr. Burton: I read the minutes of the 2004 scoping meeting up north and how in the world can a recreational diver be issued a tailing permit? If that still exists, we've got to get rid of it today. There is absolutely no need for that. We had testimony from a couple of commercial divers out of Jacksonville who say they go out more than forty-eight hours and they need spear guns and they need tailing permits.

You're talking two or three guys and I say no way. They should not be issuing tailing permits to commercial divers. The guys that -- Didn't we vote on this seven years ago? We had the same issue and we voted to not issue them to recreational divers and to not issue them to commercial divers who had spear guns at the same time and to approve tailing permits for vessels that fish out of Key West to the Dry Tortugas and that's been seven years and we're talking about the same subject.

Mr. Iarocci: Robert, if you do remember -- That shows you did your homework and you read your minutes and that's stated in probably each one of these minutes when you look at the issues. At the time, we did vote to hold off on doing an amendment or voting on these and we wanted to carry them forth until we did have something with the state that was putting forth too so that we could deal with these things all at one time. That was the case and that was Option 3 and we were talking about that, moving forward with just a recreational fisherman that did have that forty-eight-hour rule and taking permits away and not giving them to the recreational people.

Karl Lessard is next, but also we do have enforcement people here from the state and the feds dealing with some of these issues too and feel free -- If you have something to add to this, please come up to the table.

Mr. Raymond: Paul Raymond, NOAA Enforcement. I'll just make a comment. We're on the

east coast of Florida and I certainly think it's a very effective loophole for some poachers to avoid tickets when they're spearing the heads and tailing them. We've seen it many times. When we do have suspicions and you board these boats, we don't -- We're not usually successful at getting the spearing charge. We tend to get them for staying out less than forty-eight hours and so it's a very technical case and often you'll hear the excuse that they had to come in due to weather or health reasons.

They've got the tailing permit and we suspect they speared. There's no evidence of such, because the heads are gone, and the excuses can be there from bad weather to health reasons, which weakens our enforcement case. I think enforcement would like to see them go.

Mr. Iarocci: State of Florida enforcement, do you have any comments on that?

Mr. Acton: Steve Acton, Fish and Wildlife Commission. Yes, I think we also would support the abolishment of that particular topic. Again, it's an enforcement issue that's big for us right now in that aspect.

Mr. Lessard: Tony, as someone who formerly did have a tailing permit, back in the 1970s, and I used to make seven to ten-day trips and part of the reason we tailed the lobster was so we could dip them in sodium bisulfate, which is a preservative and it kept the meat from turning black. In looking at your minutes from June 17 of 2002, it shows that there's seventy-three commercial permits and 327 recreational permits.

For me, it's hard to believe that if someone is only going to have a lobster on their boat for a week that they need to be dipping them in sodium bisulfate. I would suggest that the State of Florida look at, along with the feds, on how to work out a loophole for that ten persons that are landing 80 percent of all the commercial lobsters that are tailed.

Mr. Mansfield: I can't find on my computer the files I was referring to from seven or eight years ago where we actually had numbers where these permits were operational and where we thought there was some legitimate reason for them to have them down in south Florida. I think we probably ought to keep it on the table that we want to examine the ones that really have the need for that. I can't identify that where I am right now, but I think they were there.

Mr. Iarocci: That's the point I'm trying to make here when we're saying recommendations to move forward. I think we do need to move forward with this tailing permit issue to discuss what's going on and this is great discussion.

We do have a problem with all those recreational permits. When you've got 400 permits and that many permits are recreational and they don't need it, we need to take that away. We're

hearing it loud and clear, but we do need to make sure that if they do need that permit at a later date that we need to keep it. Also, Jim, as a diver, I would like your thoughts on the record, if we could, on this tailing permit.

Dr. Crabtree: I've checked with our office and we have 294 active tailing permits, but refresh my memory. We just issue a tailing permit, basically, but you're talking about recreational tailing permits and I'm not sure what that is.

Mr. Iarocci: I don't work in the licensing, but I do know that the number has diminished from the 400 down to 294 and it's altogether, but I guess when they apply for the permits they're either commercial or recreational or I don't know how they're stated and I don't know how they're issued or maybe Bill does.

Mr. Teehan: No, I certainly don't. There's a federal permit that's not really required in state waters, because you can't wring tails in state waters. You bring them in from federal waters with this permit, but I guess the question would be best answered by determining what the criteria are for getting one of these permits.

Mr. Sharp: I don't see any reason for any diver in south Florida to have a tailing permit, none.

Mr. Iarocci: Jim, that's both recreational and commercial and there is no need, period?

Mr. Sharp: To my knowledge, there's no reason they need it. They can't run far enough to spend that many days out. The water is too deep and the crawfish aren't usually out that deep. They're within two days of port anyway and they can ice them.

Mr. Iarocci: To move on -- I want to keep this discussion open if we need to, but to move on, the tailing permit issue is something that we do want to address and move into the future to deal with at this level, because we've done all the groundwork in the past and we can, with I think a minimum amount of addressing this, we can move forward with it when we have to.

Mr. Mansfield: In closing, I've got the actual permits and fees criteria right here. It's in Section 640.4 and Lord knows what this was. I've got that right here if anybody wants them.

Mr. Iarocci: Could you read it into the record?

Mr. Mansfield: We can hit on parts of it. We've got several paragraphs. We've got 640.4, Permits and Fees, Applicability of Licensing Certificates and Permits, EEZ off Florida and Spiny Lobsters Landed in Florida and the purposes for persons who would be exempt from the daily bag and possession limit specified in 640.23. This is probably going to take longer than you

would like for me to read, but I do have it all.

Mr. Iarocci: We can get into that later, but I think as a group can we all agree that we need as a recommendation from the AP and the committee that we do want to move forward and deal with this tailing permit issue in the future?

Mr. Burton: We've been talking about this for seven years and can we not do something today? Can we not make a recommendation today? At the very least, no diver period will be permitted a tailing permit.

Mr. Iarocci: That's what I'm saying. This will be a recommendation that goes to the Lobster Committee coming from you guys. This is a joint meeting and we will be moving forward in the future with these regulations, yes. That's what we're doing today, making the recommendations to move forward.

Mr. Burton: Should we make a motion now? It sounds like we're in agreement and we can at least cover that piece of territory.

Mr. Iarocci: As I stated earlier, it's pretty much set up to make recommendations to move forward and then we can make the motions at the committee level. If we can get a recommendation from somebody on the record to move forward with this and then we can move on.

Mr. Burton: I formally make a motion to recommend to the lobster panel to recommend to the National Marine Fisheries Service to from this point forward deny tailing permits to commercial divers as well as recreational divers.

Mr. Mansfield: I was going to second it.

Mr. Iarocci: I think we're all in agreement, from the discussion I've heard. Roy, do you have anything else to add to that or are you comfortable with that right now and Gregg for direction to staff on what they want to move forward with on the tailing permit?

Mr. Waugh: Again, I thought we were putting issues on the table and then we're going to talk about how we go about doing that, but yes, I think the direction is clear. That's another recommendation to not issue tailing permits to recreational and commercial divers.

Mr. Atack: If we eliminate the tailing permits, at what point can the lobster be tailed? Is it after they reach the dock or is it once it's been sold to a dealer? Where does it get tailed at that point legally?

Mr. Iarocci: Lieutenant Acton, could you come to the mic and Robert Cardin is here, who is a diver also, and if he would want to address -- He's one of the northern divers that does have a tailing permit in that area and we want to make sure that those people up there are represented when talking about tailing permits.

Mr. Acton: It would have to remain in whole condition until it's landed. At that point, you would be able to tail it.

Mr. Iarocci: Bobby, do you want to --

Mr. Cardin: My name is Robert Cardin and I'm a commercial fisherman and diver. I also was on the Florida lobster board. This issue with the tailing permit, I view it as a tool. It's just like gutting a grouper. It's processing a product to help it hold up.

Now, off Daytona and Jacksonville, I know there's guys that go out on four and five-day trips and surely it's a tool for them to be able to ice down 30 percent of the weight of the lobster. I personally have always had a tailing permit, due to lobster prices being so high on my daily trip lobsters. They've been worth more to me to sell them whole live than it has been to tail lobsters and I don't think I've tailed lobsters in probably five to six years, because of prices, but I believe that it's a valuable tool that some people in this fishery use.

Mr. Iarocci: While you're on the spot, Bobby, do you see a need for the recreational people, as you heard the discussion, or do you see a need for keeping it just what we've agreed as the AP? You are a member of the lobster advisory board.

Mr. Cardin: I don't understand how a recreational person gets issued it in the first place. It is a 10 percent income requirement. How are -- There's not a 10 percent requirement, 10 percent of your income of over one of two years?

Mr. Iarocci: Monica, would you address that?

Ms. Smit-Brunello: He's right that there is not a 10 percent income requirement for a tailing permit.

Mr. Iarocci: It's three o'clock and I think we've pretty much agreed on the tailing permit. Let's take a break and come back and then we'll get into the fifty short rule.

(Whereupon, a brief recess was taken.)

Mr. Iarocci: If we take our seats, we'll resume the meeting. For clarity, just so we do know, at this time we are taking recommendations and I want Gregg to maybe explain it a little differently. We are looking at these issues and we will be moving forward at the appropriate time.

Mr. Waugh: I apologize if we didn't make this clear enough. We don't want to get people frustrated because they feel like we're dragging our feet, but obviously we haven't met to talk about spiny lobster in quite a number of years and we have an agreement in place within the FMP that between the State of Florida and the council that leaves a lot of the initiation of management changes to the State of Florida.

Under Agenda Item 8 is where we were going to talk about how we go about addressing any potential changes. The thought was to get you all's ideas on the table so that we knew what issues you all were interested in looking at. We also have to talk about an annual catch limit requirement under the Magnuson-Stevens Act now and then how we go about amending the plan and working with the State of Florida to make any changes.

Do we wait for them to put their package together and bring that forward and see if that addresses all the concerns of the AP or do we try and work with them sooner? There's no attempt to prevent you guys from putting information that you all want on the table and to talk about changes, but it's just a matter of how we proceed to deal with those changes.

Our thought was it's the first time we're meeting for a while and let's get everything on the table and talk about it so we know what the whole range of options is and then when we get to Item 8, talk about how do we do this and what's going on with the State of Florida timing-wise and how do we fold into it. I just wanted to try and clear that up and keep everybody's blood pressure down a little bit.

Mr. Iarocci: Thank you, Gregg. The next subject on the agenda will be the fifty short rule.

Mr. Lessard: In keeping with the state and federal consistency and the state following the lead of the State of Florida and the management of the lobster fishery, the state currently states that you can have fifty lobsters in your live well plus one short for each trap that you have. I think the advisory committee should make a recommendation to the council to follow the state's lead in this of the fifty lobsters in your live well plus one lobster for each trap onboard the vessel.

Mr. Teehan: Just to clarify that, the state regulations say fifty lobsters per boat and one per trap onboard and the federal says fifty lobsters per boat or one. That's the consistency difference.

Mr. Iarocci: John, could you add to that? Let's get your opinion on the record, if we could,

because we do have quite a page full in our previous meeting.

Mr. Hunt: The issue of short mortality is not the transportation side of it anymore, now that live wells are used and apparently used effectively. The issue of short mortality is that mortality related to confinement and traps and so my perspective is that the and/or doesn't increase mortality of shorts, because it's not the transportation side. It's on the transportation side.

Mr. Iarocci: Thank you and that was does not.

Dr. Crabtree: John, the issue of disease transmission, is the disease in the size lobster that are used for shorts?

Mr. Hunt: To our knowledge thus far, it is less so and Mark Butler and Don Beranger have a Florida Sea Grant proposal in right now to do that exact study, which -- They would be coming to the commercial industry and maybe they already have, but there are programs to actually do those tests. The incidence of once you get above thirty-five millimeters, it drops off pretty quickly.

Dr. Crabtree: Let me just comment on this, because it seems to me shorts are in the end discards. They can't be landed and so in the end, they either die on you or you toss them over the side and they're gone. National Standard 9 of the Act says conservation and management measures shall, to the extent practicable, minimize bycatch and to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

We have lots of fisheries where we cause the bycatch to occur. Size limits result in regulatory discards and people have to throw the undersized fish back and that causes discards, but normally when we do that, we do that because it's to the benefit of the fishery, because the fish grow more and the yields go up.

I think what you've got to deal with in this case is how have we minimized bycatch to the extent possible in the spiny lobster fishery and how does this short rule play into that. I think we can argue that live wells and all those things reduce bycatch mortality and that's a good thing, but have we reduced bycatch to the extent that we can?

Any amendment we do of this plan -- I don't think we've amended this plan since the Sustainable Fisheries Act passed and the guidelines came out and National Standard 9 went into place or at least I'm not sure that we have. We're going to, in the plan amendment we do, have to have what's caused a bycatch practicability analysis. We're just going to have to go through all of this and look at it and it's going to have to determine have we done all that's practicable here.

There will at least be a perception that allowing more shorts is actually increasing shorts. We argued at one time that trap reduction was reducing bycatch and it would be reducing the number of shorts used, because there would be fewer traps, but I guess at least at this point that Florida is stopping or suspending indefinitely trap reduction. That's really what we've got to deal with and I think that's really, John, what you really need to -- That's the hurdle I see that we've got to get around.

Mr. Iarocci: Thank you, Roy, but one thing that you left out of this equation when we talked about shorts and short mortality in traps and I think every fisherman in the room will attest to this, that when we do move traps and put shorts in the traps and we did have a study and I'm hoping to God someday we can find where it is to get copies.

Shorts do and lobsters do, all lobsters do -- When they want to leave a trap, whether it's because of barometric pressure change or weather change or they just want to go somewhere else or if you move traps from the ocean to the bay and they don't like the bottom they're in or water quality, they get up and they swim out that funnel and they leave. That's got to be part of this equation, because it's not just a lobster gets in that trap and he dies. He doesn't. Some lobsters do leave that trap.

Mr. Lessard: Tony, I've got videos of that that I've given to Florida Keys Commercial Fishermen's Association showing lobsters, shorts and legal lobsters, climbing in and out of the trap. I think part of what makes this trap fishery sustainable is the traps are so inefficient that the lobsters can decide to move.

We've done tagging studies with Dr. Ehrhardt where we've shown lobsters move and I think with what John and his guys have been doing with the microbes on putting them in lobsters that they can show you the movement patterns of them and sometimes they can leave a trap and travel all around and they come back to where they were normally at.

As professional fishermen, when we start seeing our lobsters get weak and their antennas get start getting shorter, we throw them overboard. Your trap is not going to yield as high a yield or your catch per unit of effort is going to be lower if you have unhealthy bait in the trap.

Mr. Atack: The mortality of the ones that are still dying, do we know why? Is it trauma or is it no food? The live wells have helped out, but you're still having a certain percentage of mortality and do we have reasons for that?

Mr. Hunt: I'll respond to that question. The mortality is related to confinement and the length of that confinement. In some cases, it might be a predation event and in some cases, it just might

be long-term confinement and starvation. There is an escape rate. We've measured that escape rate back in the 1980s. We haven't worked on this a long time.

At the SEDAR for the spiny lobster for the southeast and Florida, we had a long extensive discussion about this issue and settled with scientist and fishermen agreement that the applicable mortality rate, and maybe think of it as the bycatch discard rate or however you want to think of it, that we would all accept would be the confinement related mortality that I measured in my studies back in the 1980s, which is 10 percent every four weeks.

That's the number that we're using. That's the number that's in the stock assessment and accepted through the review in Puerto Rico. I think there's the applicable value or information that probably should be used in the analysis that you talked about and, of course, I'm completely unfamiliar with that process and so I kind of go back to the issue at this point in this fishery is reducing the confinement mortality and it's something certainly that the commission staff is aware of that the commission staff still feels is an issue in the fishery that needs to be resolved.

Of course, we've been steadfast in recommendations that trap reduction is one mechanism not to end it, but to reduce it. I really don't think that the transportation issue is a factor. I don't know how that analysis would come out, but --

Dr. Crabtree: All this rule would do would be allow more lobster to be on the vessels when they're moving traps, right, more shorts?

Mr. Hunt: If the person is fishing and has no traps onboard, they right now can have fifty in their live well and for every trap they're carrying onboard in state waters, they can add one lobster. What the change would -- If the councils change the federal language to that, what it would allow is for every trap they have onboard they can have one more than fifty, but they still have to have a live well that is big enough to hold those extra ones and there are live -- There's very specific requirements for the volume of that live well.

Dr. Crabtree: Would putting a compatible regulation in federal waters increase the overall number of shorts that are taken in a given year or the overall mortality in the fishery as a result of shorts?

Mr. Hunt: It would not change the mortality rate, in my opinion, but it would --

Dr. Crabtree: Would it change the overall number of shorts?

Mr. Hunt: That actually die? The only way it would change that would be if it serves to increase the number of sub-legal lobsters that are in the traps and we're talking at that point --

We're talking numbers below which we're going to be able to measure.

Dr. Crabtree: The National Standard that we have to follow, it's not just the mortality. The first part it states is to reduce the discards, period. They would be saying reduce the number of shorts to the extent practicable. I guess my question is to put the mortality aside, because that's secondary. If you can't reduce the numbers of discards, then you're supposed to reduce the mortality of the ones you have and would this have the effect of reducing just the number of short lobster that are involved in the fishery in a year?

Mr. Matthews: The fishermen are doing this so they can bait their traps more efficiently, have more shorts in them. Right now, yes, they will be having more shorts available to put in the traps and so I'm agreeing that it won't necessarily increase mortality, but it will certainly increase the number of lobsters confined in traps.

Mr. Niles: Tony, I think we're making a not too complicated issue very complicated. I totally disagree with Tom Matthews and think that what John said, that it's not going to increase any number of shorts in traps -- This practice is happening right now. We're not asking for more traps and so how can it increase the number of shorts in traps?

John touched on a lot of the points that I wanted to make. I believe you're required three-quarters of a gallon of water for every lobster in your live well and that still applies no matter how many you have on the vessel. It's very specific on how these animals are taken care of and all it does -- I think it will reduce not so much bycatch, but mortality.

Instead of having that lobster sitting in a shrimp box next to the thing in case you see the marine patrol coming where you're going to dump it over, it's going to be in your live well living healthy, because, as we all know, our reef line out here is very dynamic. When you're in South Atlantic waters on that reef line, you drive a mile down it and you're in state waters and you drive another mile and you're back in federal waters and therein lies the problem.

We're moving traps up and down the reef line and you're legal here to do what we want to comply with and you go a hundred yards down the reef and now you're illegal and then you go a little ways further and you're legal again and I think that's our main problem. We want to have all the laws comply with the states so it makes it a lot easier on fishermen and you don't have shorts sitting in a shrimp box in case the marine patrols come and they're dumped over the side.

Mr. Bacle: On this issue of short mortality in the traps, I have seen what I would call a tendency to look at this mortality in the trap issue in a very confined way, so to speak, so that all we talk about is what dies in the trap and what happens to these lobsters.

If we take John's number, which I'm not sure that I agree with it, but for the sake of argument, let's say 10 percent every four weeks. Those 10 percent, if they do die in the trap, it's not like they have been dumped in a landfill somewhere. These things go back into the whole system and something is going to eat them, whether it's a crab or fish or whatever.

We also have to compare that with what happens to these shorts out there in the real world outside of the traps. That's a dangerous place out there for lobster and particularly the shorts. How many of those are going to survive or how much mortality is there going to be outside of the trap? Again, they're going to be eaten by something and it's all going to go into the whole system out there.

Mr. Iarocci: Thank you, Peter. For the record, let me get this, because there is a little confusion about this. This is what was passed in 2002/2003 by the state, by the Fish and Wildlife Conservation Commission, that the fishermen may harvest and possess while on the water, and on the water is key here, undersized spiny lobster not exceeding fifty per boat and one per trap aboard each boat if used exclusively for luring, decoying or otherwise attracting non-captive spiny lobsters into traps.

Such undersized spiny lobster shall be kept alive while in possession and in a shaded continuously circulating live well with pump capacity to totally replace the water at least every eight minutes and large enough to provide at least three-quarters of a gallon of seawater per lobster and all undersized lobster so maintained shall be released to the water alive and unharmed immediately upon leaving the trap lines and prior to one hour after official sunset.

You see this is a very efficient rule. It is something and to expedite and to move on -- I know we have more discussion on this, but it something I think that we need to move forward to the next level and discuss later. With that said, are there further comments, please?

Mr. Irwin: I just wanted to say that I don't think -- As has been said, the mortality is not really the issue with the fifty short rule. It is meeting the new federal standard and so that's what we have to figure out, how to meet the federal standard and still come into compliance with the state.

Mr. Iarocci: Thank you, Bruce. I think everybody at the table, unless there's more comments on this -- This is a subject that we will move forward for further discussion. Is there any more comments on this issue?

Mr. Hunt: I just need to put it on the record that I do agree with what Tom said in terms of the potential for total numbers residing in traps. However, it's a miniscule change from what we're experiencing now and it's below what I think we could ever measure in any kind of analysis and

I think therein lies the challenge.

Mr. Atack: Just one question about the numbers. You're talking about eleven million shorts per year in the traps and is that what this number means? The total baits per year goes up to 2,000 and the average per year is total bait?

Mr. Hunt: I think what you need to look at is go to the spiny lobster SEDAR. There's a table in the SEDAR that has the actual estimate of the number of lobsters that die, down to the nearest one.

Mr. Atack: I guess you're talking it looks like shorts and you've got like eleven million shorts are used every year.

Mr. Hunt: I don't know what you're looking at.

Mr. Atack: I was just trying to order of magnitude -- If it is eleven million per year and you're losing 10 percent or 20 percent of them and your landings is six million, I'm just trying to get a percentage of mortality versus landings and the shorts are really next year's crop or part of it, right? I'm just wondering if you're losing 20 percent of next year's crop or 40 percent of next year's crop.

Mr. Hunt: If you go to the SEDAR, the number of lobsters is on the order of 500,000 lobsters that die each year from the practice of baiting from the confinement portion of using shorts. There's the number. That's not the exact number. I would have to actually go back to the document and find that table, but there is a number.

Mr. Irwin: I think the number of -- I thought I had it in here, but it was about 7 percent. Wasn't that the SEDAR? It was 7 percent, 478,000 lobsters from the SEDAR is what we come up with and that's 7 percent of the average annual lobster landings.

Mr. Hunt: I think the 7 percent is an estimated value perspective. Are you looking for the presentation for tomorrow?

Mr. Irwin: Yes and it says it came from the SEDAR.

Mr. Hunt: Yes, that four-hundred-and-whatever comes from the SEDAR and it's the average of the ten years that we have data and just so you folks know, those data are calculated by using the onboard observer program that we had in the year 2000 and combined that with these mortality rates.

I'm kind of giving you kind of a statement on the value of having some kind of an onboard observer program, because without having that program, we probably would have a much, much higher estimate of number of shorts that die.

Mr. Iarocci: Thank you, John. If there's no further discussion -- Like I said earlier, I think this is an issue that we will move forward in the future and if there's no further discussion, I'll move on to the next item on the agenda.

Mr. Sharp: We were talking about the landings between the trappers and divers and recreational guys and those mortality rates exceed what the commercial divers are catching now.

Mr. Iarocci: Thank you, Jim. The next item on the agenda is the Northern Lobster Rule. If you did read some of the minutes in the past, because of the cutbacks and what's happening up to the north, in the Carolinas and Georgia, a few of the fishermen approached the council and asked for exploring a lobster fishery, a trap fishery, up north.

There's some testimony in the minutes by Danny Hooks and some of the other fishermen looking to put in an experimental lobster fishery up there. Like you said, once again, all these issues are coming to the table right now in front of the council and this is a federal issue. There is no documentation and I do have a paper that Susan Shipman and Henry Ansley did I think back in 1982 and that's how far back we have the paperwork on this.

There is no current research. There's been talk of being some done, but there's no funding, similar to what we're trying to get some funding for some research done in Florida. This is a subject that has to be brought in front of the AP and the committee and so at this time, I'll open it up for members and also the staff here and the AP. With that, I'll open it up for comments.

Mr. Mansfield: I've been beating this up for a number of years and I think we have posters here that demonstrate that the recruitment even in Florida is largely unknown circumstance and it's hard to predict every year where the actual population is going to go, due to eggs hatching and coming into the area and growing up to be viable in the population.

If we're not sure exactly how that phenomenon works down here -- I've got paper after paper here that I'll be glad to share with you and if you go back and read the minutes from the ecosystem document that I believe the council put out -- Gregg might have had something or maybe Roger Pugliese, possibly.

Anyway, there are lots of statements in there indicating that we depend on influx from possibly even foreign countries south of here to give us lobsters in Florida every year and given that and given the spatial relationships we've got and how long they're in the water column, I don't think

we've got any evidence at all that we could predict a population stability in North Carolina that would actually allow us to predict MSY.

If you can't predict MSY, you don't really have a fishery and that's pretty much the -- I've got lots of papers I could bore us all with and we've got a lot of scientists here that wrote some of them and you're sitting next to one of them.

Also, as far as what they bait with, John wrote a paper a number of years ago that basically disproves the fish trap as being a viable lobster catching device. He proved -- I've got your paper right here with me, John. He proved that artificial baits are 300 percent less effective in catching adult lobsters than are shorts, which are not available to the people in North Carolina.

If they want to put out a fish trap and catch lobsters, that's really kind of where they're headed, but we really don't have any viable statistics that indicate we've got a population of lobsters, nor the recruitment to support that.

Mr. Iarocci: Thank you, Bill. As I stated, it wasn't 1982. The Shipman/Ansley paper is 1983 and there's one of our authors here if anybody has questions for her. Like I said, I have to put this on the table right now, to see if it's something that we do need to move forward or maybe table it at this meeting, but maybe we should hear from John and Tom on this issue. What's your opinion, John? Do you think that it's something that would be a viable and sustainable fishery? I know there isn't any science and we talked about this and I don't want to put you on the spot to say that, because I know you don't have any science to back your opinion on, but we have to address this right now, because it's on the agenda.

Mr. Hunt: When you say a viable, sustainable fishery, do you mean a viable, sustainable commercial fishery?

Mr. Iarocci: Yes.

Mr. Hunt: Off North Carolina? No. It will not be a viable, sustainable commercial fishery and the reason why is recruitment is very limited up there. Certainly there's post larvae up there, but recruitment is very limited and there's very small amount of habitat. The lobsters are found almost exclusively on the tertiary rock outcrops far offshore. That's a very limited habitat.

If you look at the size structure of lobsters once you get that far north, they're all very, very large. That doesn't mean there's not small ones there. It just means that we're not really running into them and so if you move to a situation where you don't have some dramatically limited catch, they'll go to those tertiary rock outcrops and remove the lobsters and it will be the growth time period for a bunch of large new lobsters to come back before they will be there.

Now, is that necessarily bad to the lobster population of the western Atlantic? Probably not, but it's certainly a local lobster abundance issue and so at that point, it's kind of your choice what do you have there, but it won't be a long term sustainable fishery.

Mr. Iarocci: Thank you, John. I appreciate you getting that on the record.

Dr. Kimmel: Tony, this proposed fishery up in the north, what kind of gear would they be using? Traps? If they do plan to use traps, what would happen to the bycatch of say snapper grouper in those traps?

Mr. Iarocci: Joe, we never got that far. They just wanted to explore it and bring it up and propose it to the council to see and this is the time it's being brought up right now and that's why I want to get this on the record for discussion and see if it's something that the AP and committee want to move forward with. You heard from John and I know Bill has more comments about it. It doesn't seem to be something that would be a good thing for the resource.

Mr. Mansfield: What we have up there is recreational interest and the dive shops do in fact run a lot of charters to these areas. If that population were to decrease -- I think we're not really so sure that it hasn't decreased. It's hard to quantify it, but we have no evidence one way or the other.

The point is if that fishery did go away, it would hurt the private sector in a lot of ways, because there are a lot of people going out in their own boats and that would be Lee and that would be Jim and the dive boats that leave the shops up there. They look forward to that and they're excited about that recreational opportunity and if that went away, they would be hurt.

Mr. Iarocci: Further comment? If there's no further --

Mr. Atack: I guess it is commercially available to sell the lobsters. It's just two per person per day. There is an existing commercial season there. It's not like you're -- You're talking about increasing it above what you have now and I would agree that it's probably not sustainable if you increased it much.

Since 1994, and that's when the rule was changed to two per person per day, we don't see as big lobsters as we used to. We still see lobsters and we still see more than our bag limit, but if the average size is dropping or you're seeing eight to ten-pounders versus twelve or fifteen-pounders, that is a difference. At what point -- Like you say, if you were to wipe it out, it would take a long time to get back to what it is now.

Mr. Iarocci: We would like to see that size down here.

Mr. Mansfield: How many fifteen-pound lobsters do you need in a day and how tough are you if you actually wrestle two of those to the ground and live to tell about it? Two per day seems like a reasonable catch, especially if we really don't think that recruitment is predictable or sustainable. I would just like to verify that I do agree, with no data, that the size has decreased since we changed that rule.

Mr. Iarocci: Bill, will you put on the record right now that you do agree, with the data and what you've heard right now, that you do not support expanding this fishery at this time?

Mr. Mansfield: Absolutely.

Mr. Iarocci: The rest of the AP members, is anybody else in concurrence with Bill on this? With no further discussion, then I'm --

Mr. Whittington: As a recreational diver off Georgia, I don't see any way anybody could commercially harvest lobster in the size trap it would take and the habitat destruction would bother me with the size trap you would have to put in and where you would have to place it. The weather there dictates the ability to work those traps and I don't see how you could do it.

Mr. Iarocci: Thank you, Bill. Is there any other discussion on this? Thank you. I think we get that message loud and clear. The next item on the agenda, we're going to be dealing with the -- We're going to have some NOAA input and we're going to be dealing with the importation rule and first on the agenda will be Paul Raymond of the National Marine Fisheries Service.

Mr. Raymond: I'm Paul Raymond and I'm a special agent with NOAA. I'm one of those supervisors. I supervise the South Atlantic agents with NOAA and the vast majority of our work, as you know, is enforcing the Magnuson Act and other U.S. acts, but there is an aspect in our job that has us look at illegal imports, whether it's Patagonian toothfish or queen conch or Asian catfish that's relabeled and marketed as grouper.

I wanted to give you a little peek into this troublesome importation of undersized lobster, because some of us have been working it over the last five years when we can and the numbers can be pretty astounding and I'll give you a couple of quick overviews of some cases and the numbers of shorts that come in from the Caribbean Basin into the U.S. and then a potential solution that some of us are proponents of, which is to initiate a minimum size limit for the possession of Caribbean lobster tails imported into the U.S.

Most of you know that the federal rules only apply to undersized lobsters that are harvested in

the EEZ. The federal size limit rule does not apply to any import from any country into the U.S. As you know, lobster comes into the U.S. in containers primarily. It primarily comes into the ports of New York, Philadelphia and ports, at least the undersized, ports other than Florida.

A lot of the illegal shipments of undersized tails don't come into Miami and Tampa because of one reason and that's because Florida has got a simple possession rule. If they do come into the ports of Miami or Tampa, they're usually in what's called a customs bond, an IT bond, an in-transit bond, which basically means it hasn't cleared customs and the FWC cannot touch a container with undersized shorts in it if it's in an IT bond destined for wherever, Chicago.

It will actually clear customs in Chicago. There's no rule there and then it's dispersed into a cold storage facility and then spread throughout the U.S. Most of the shorts we don't see in the southeast, at least entering. They go into the bigger shipping ports to the north.

They typically come in standard packaging, whether it's Brazil or Honduras or Bahamas. They're palletized in forty-pound masters and ten-pound boxes and all sorted and sized and ready to go. I threw this slide up not because it's recent data, but it's some import data that we threw together years ago. It's old, but just to give you an idea of the primary four importation countries, the big four as we call them. It's Bahamas, Brazil, Nicaragua, and Honduras.

That's going to include even species -- Because it is import data, that will include some non-panulirus argus species that may be from Mexico and Brazil ships in some green lobsters also, but by and large, most of that is all panulirus argus.

We do have a very powerful wildlife law that we use in enforcement called the Lacey Act and my simple definition of the Lacey Act is a person or corporation cannot break a foreign country's fisheries or wildlife laws and sell or import that product into the U.S. It's got felony provisions on it and it has some civil provisions on it.

Again, in a nutshell, it says you can't violate Brazilian wildlife laws and ship that product into the U.S. or for that matter, if you're a business man and behind a desk and you're going to pay for that product and ship it to France, but it's U.S. money, the Lacey Act would allow us to get at them. It's a great law. It's far reaching and very effective.

Some down sides to the Lacey Act is you are totally dependent on foreign underlying law. We have to rely on a Honduran law that may not be promulgated very well and it could be easily impacted by a good defense attorney. They won't attack the Lacey Act and they won't attack the evidence in our case, but they can and will attack that foreign underlying law that may be in a third country and the next you know, that country is influenced, corrupted, whatever, and that law may not be on the books as promulgated in those particular countries and that's happened in

a couple of instances.

We've probably done about twelve criminal case investigations with foreign countries on lobster imports, mostly having to do with size limits. This one here was a Honduran that maybe of you may be aware of named Henson McNabb and three U.S. importers and the two U.S. importers and the Honduran got eight-year criminal sentences, one of the larger environmental crime sentences out there.

What we would like to do is not have to rely on foreign underlying law and not have to rely on a Lacey Act investigation. A Lacey Act investigation can take six months to a year, a good difficult one. We would like to be able to walk into a cold storage facility, whether it's in Chicago or Miami or New York, and inspect those pallets and inspect those tails and if it's panulirus argus and it's below a certain size limit, that science or the regulations say is illegal, we would like to be able to make a pretty quick and dirty case and turn a six-month case into a six-day case and make some significant seizures and call it a day.

To give you an idea of the quantities, on three separate individual cases, if you combined -- One was from Nicaragua that we made and one was from Honduras and we have a current pending one from Brazil, all imports into the U.S. and just three defendant companies. There were 2.5 million pounds of undersized panulirus argus tails in that and so those are typically in the two to three-ounce range and some four ounces. If you do your quick math there, that's about fourteen million tails on three cases.

I would like to say these successes that we've had have stopped the importation of it, but it hasn't. It's basically driven it underground. In some countries, it's improved, but it's relatively easy to avoid us by simply shipping it to ports that there aren't agents or state conservation agents that are savvy to panulirus argus by shipping it to the west coast or by transshipping it through another country that may have a weak law.

Panama, for example, has a two-ounce tail in their regulations and so we saw some of the Hondurans in our case after they were indicted begin to ship product via Panama and so instead of product of Honduras, it's a product of Panama and they air ship to Toronto and drive it across the border and it's now in the U.S. marketplace. Obviously illegal shorts or illegal any imports is going to impact and drive the cost of legal domestic product down.

Another thing that we've seen is corruption. It's relatively easy to pay off officials and inspectors who make virtually nothing in these foreign countries to rubber stamp a product so that those pallets will come in with circles on them all indicating that they're nine-ounce tails, but they might be circled in red which tails the conspiring exporter and the conspiring importer --

That any products circled in red, any boxes circled in red nines, are really three-ounce tails and that will effectively get it past CVP or ICE or us into the ports of entry and then once it gets into the cold storage facilities, there's another communication with that large New York cold storage facility that simply says take those nine-ounce red labeled boxes and convert them back and palletize them like they legitimately are, which are three-ounce tails, and then he'll just simply pick up the phone and the salesman will market those straight out of the cold storage facility and it's that simple.

Now it's in Chicago and they're labeled three-ounce tails and they're surf and turf throughout the entire Pacific cruise line industry. It's illegal, but it's really escaped enforcement by that point in time. In fact, you tend to lose the origin of country once it gets disseminated in the wholesale and retail market.

This is that transshipment. This is a particular case where they were transshipping it through countries of convenience. We're getting complaints now from some Nicaraguan and Honduran officials that some of their illegal product is going through El Salvador, which, of course, has no *panulirus argus* whatsoever.

They're shipping it through El Salvador and then into the U.S. El Salvador doesn't border the Caribbean and it doesn't have *panulirus argus*, but we started seeing *panulirus argus* with origin El Salvador and so we know that's Nicaraguan or other product that's basically trying to avoid laws by transshipping it through countries of convenience.

That's just a reminder slide to tell you what we're trying to do here and that's to get to an import possession law that would allow us to go into cold storage facilities and open boxes and take a quick look at the boxes and see if they're two, three, four-ounce tails, whatever is decided, and begin making seizures and we will have a pretty strong impact in the pocketbook of those companies when we start seizing cold storage facilities full of millions of dollars worth of lobster.

Tom Matthews is going to talk more about other aspects of the biology of the animals and the impacts that they may have, but also about some of the conversions. I know that our laws typically deal with the carapace length and tail length. Law enforcement, on importations, we don't deal with that. We don't deal with lengths. We deal with ounces, because that's what the seafood industry deals with. They market and sell the lobsters by the ounce, two, three, four, twenty-one.

Tom, I know, has got some scientific papers that make the conversions between what a three-inch carapace length or a five-and-a-half-inch tail length is in those particular ounces and enforcement would ask that if this goes forward that there's also a tail weight included, because

that would greatly affect and improve our enforceability of it, because then we can do paper cases and we don't necessarily just have to see the product in the cold storage.

I can serve a search warrant on a large importing company and go through his records and because a two and three-ounce tail is going to market different than a seven-ounce tail, he'll have those records in his facility of what he imported. He'll have records full of two and three-ounce tails and what they sold for.

I can go and use Tom's conversions and go to trial and say every one of these two and three-ounce tails are illegal. I do that now, but I have to do that in violation of Brazilian law and we would like to be able to say it's in violation of this U.S. import law.

If you do something like this, you've got to remember that tail meat -- They import tail meat when they know they can't -- It's usually imported on a lower grade, but it's also imported on undersized animals. They just simply rip the meat out of undersized animals and box it up and call it head meat and it's brought in. This is just a summary real quick of what we're trying to do here.

Mr. Iarocci: Thank you, Paul, for an excellent presentation and I will at this time, before we get into Tom's, if you do have any questions for Paul.

Mr. Irwin: Paul, how would you go about stopping the meat? What would you --

Mr. Raymond: There are countries like Nicaragua and maybe Brazil that have addressed this from their standpoint. They just simply don't allow the exportation of tail meat, period. You can thaw out tail meat and unless they're blending it up and shredding it up. You can thaw out tail meat, what that one slide was showing you, and we'll tell you the difference between head meat and tail meat right there. They're boxing it up as shrimp and everything else and that's a false labeling issue.

If we have a suspicion of it and our U.S. law says there's a size limit that you can't import and you can't import any tail meat in that fashion, then we would simply identify that it's not head meat and it's tail meat and make a case that way.

Mr. Wallace: How much -- What rate of inspection do you have? What we've learned is that the seafood has less than 1 percent inspection in the United States and is it more prevalent in the lobster?

Mr. Raymond: No. No, we rely on CVP to inspect most of those containers, but we've gotten to know the import business pretty well. I think we know who the major players are. We have a

great database as to who is going most of the importation in this country and where it comes in and we've got pretty strong suspicions as to -- We've got pretty good intelligence out there with the foreign companies, the foreign governments.

They don't have the manpower and they don't do any enforcement, or very little, in Brazil or Honduras or Nicaragua, but they pick up the phone and they contact us in order to give us tips as to what containers to inspect. The answer to your question, it's far less than 1 percent.

Mr. Wallace: To that, with the numbers that you're saying that is there, it could be fifty-fold actually coming into the United States.

Mr. Raymond: If I were to estimate our numbers here -- These were just the proverbial tip of the iceberg. We have no concept at all. I think the foreign countries probably have a better idea of it, but we have absolutely no idea of the quantities of shorts that come in.

Mr. Lessard: Tony, this is basically a no-brainer. Why don't we just ask NOAA General Counsel how our recommendations should be worded to the council?

Mr. Iarocci: Karl, I think that's next on the agenda.

Mr. Teehan: Paul, that was an excellent presentation. You've made some cases, probably in conjunction with FWC Enforcement in the State of Florida, on a major grocery store chain haven't you on undersized lobsters?

Mr. Raymond: Yes, recently Winn-Dixie was heavily fined and it was done because a marine patrol officer, FWC patrol officer, I believe in central Florida just went into a Winn-Dixie store and they had undersized lobsters that were originated from Brazil and we kind of worked backwards and pretty much determined that, and this is an active case, that from the importer side -- Basically, Winn-Dixie was obviously the wholesaler, but the product had gone from Brazil to New York and into a cold storage facilities in New Hampshire.

Winn-Dixie bought it and had it trucked down into Florida. We made a simple case in Florida based on the Florida law and so we're still working a case against that importer in the U.S. who brought the product in to begin with and the Brazilian exporters, some of which have been murdered over lobster.

Dr. Kimmel: Paul, there's lots of spiny lobster or rock lobsters, both in this region and outside the Caribbean area, New Zealand and those countries. Are they important in terms of undersized imports to the U.S. as well? Are they mixed in or how should we handle them?

Mr. Raymond: Argus is coming in and it's primarily -- 90 percent of what comes in from the Caribbean Basin, if not much higher, is *panulirus argus*. Brazil does mix in green lobster tail in with their argus and the Brazilians tell us that they're attempting to make a law that says you have to separate that out so they won't be in the same box.

The other part of your question is yes, South Africa and cold water tails and they're shipped in and obviously they're not argus. They're easy to tell. We wouldn't look at imports with Australia in mind if we were to be enforcing this particular possession law, because this would be only for argus and there have been Lacey Act cases made with South Africa on undersized lobster tails, but again, it's because they were violating South African law. You would still always have that option. You would still always have the option of the Lacey Act to enforce foreign underlying laws and so this isn't a catchall for every species.

Mr. Iarocci: Thank you, Paul.

Mr. Brown: Paul, could you elaborate on how you guys have worked with the Fish and Wildlife Service and the port inspectors in a lot of these cases?

Mr. Raymond: On lobster, not that much. Probably we need to do more of it, especially in the northeast, since they have the inspectors there and probably in the airports more, because some of the stuff is air shipped in, too. We tend to work with Fish and Wildlife more with issues like importation of coral and species that they take the lead more on. I think we probably need to do more of it.

Mr. Iarocci: Any further questions for Paul? Once again, Paul, that was a great and very informative presentation. I think everybody is in agreement at the table that we need to deal with this. Tom, if you're ready for the next part of the presentation.

Mr. Matthews: I'll appreciate those comments and Karl's that this is sort of a done deal and so I will go through this a little quicker. Why pan-Caribbean management is important, genetic studies right now suggest there's one population, even though there might be a subspecies in Brazil.

That's not *laevicauda*. That's another *panulirus argus* species. Even those are found in Florida and so even the subspecies does make it to Florida and is a very small part of our population. Ocean studies suggest that larvae can move over 200 kilometers in two months. Given that those larvae probably are six to nine months, that means they are well distributed throughout the Caribbean and lobster harvest is at an all-time high and I'm going to show you a graph in this moment that actually suggests that lobster harvest is declining throughout the Caribbean and so we are probably in an overfishing area, according to some references, on spiny lobsters.

From the U.S. perspective, the U.S. is the primary market for small lobsters and so the U.S., being the biggest market around, is the problem in this issue. Even if countries would like to have their larger size limit, the U.S. is still a major output for those small, illegally landed issue and so this is an area where the U.S. is a big part of the problem in the undersized lobster industry.

Looking at some approximate differences in size, the eighty-five-millimeter lobster, they're to the far left on both pictures, is approximately the typical average size lobster in Florida. Very often, animals as small as sixty, or those two-ounce tails, are the ones Paul is seeing in these importation cases.

The row we're talking about, and I'll have some numbers later, is really it would allow a 4.5-ounce tail to be imported into this country and so when we say a five-ounce tail, it's really a box of five-ounce tails and it would be 5.5 ounces to 4.5 ounces. Simply by looking at the size of those animals, you can see their weights increasing by almost threefold and really, in the marketing world, no one wants those little lobsters. I'm going to show you a document shortly that shows how much industry, including the marketing industry, is in support of these rules.

We've done some work on general equations and so males and females, of course, grow at a slightly different rate, but the size animal we're talking about, that general equation works pretty well. That U.S. three-inch law can easily be converted to tail length with a very, very narrow range and that can easily be converted to a tail weight and so these are pretty tight relationships.

If we're talking about that five-ounce tail, the carapace length of that animal is really about 80.3 millimeters. At that size, about 50 percent of those animals would be capable of reproduction and so this isn't just a size limit issue, but it's where that source of larvae. If we're dependent on egg production in the Caribbean or even our own egg production, with that current five-ounce tail weight rule, about half the population, which is the general area you aim for in fisheries management, a spawning percentage ratio of about 50 percent.

Certainly if you go higher, to a six-ounce tail, there would be a greater chance of reproduction, with more eggs per clutch that far number there and so the number of eggs per clutch very rapidly increases, but you can see as soon as you go to a four or three-ounce tail -- In the case of a four-ounce tail, only one out of five of those lobsters would be reproductively mature and so below that five-ounce size that is being proposed for the U.S. rule, there is very little reproduction coming from those animals and so this is really a minimum request for the size to maintain reproduction in the panulirus argus population.

The conversions for these, that three-inch carapace length is 76.2 millimeters. That corresponds

to a 142-millimeter tail or a 5.57-inch tail and so currently -- That three-inch shell, as someone mentioned earlier, there is a little risk of taking that tail off an undersized carapace length and having a legal sized tail.

As far as the rule goes for ounces, it's actually a little bit the opposite. You can have that 5.5-inch tail and a very, very small fraction of those lobsters will not fit into that five-ounce shipping category, which goes down to 4.5 ounces. The industry is very well aware of this and they're very willing to accept that little rule and so this is a rule that would include basically all legal sized lobsters in that five-ounce tail category.

Distribution of fisheries, Paul showed a graph earlier showing where the landings come from. You can basically see the coast of Mexico, Nicaragua, Honduras, and to the far bottom right, Brazil are the major fishing areas.

The major producing countries, and this is the percent of the total landings, Cuba is just over 25 percent of the landings, Brazil at just over 20, Bahamas at 12, Honduras and Nicaragua and Florida are all in the 7 to 12 percent range. You can see we are talking a handful of countries that are contributing to the landings in this fishery.

Mr. Brown: Is any of the Cuban product ending up in the U.S.?

Mr. Matthews: It is not supposed to be and I don't say that tongue-in-cheek. I am totally unaware of any Cuban product making it into the U.S. This is the total landings of spiny lobster and we go to these countries and some have good regulations and some don't, but Nelson Ehrhardt has a paper he put out a few years ago showing that up until the 1990s, as in many fisheries as they developed, landings increased rapidly as the fishing effort increases and as new stocks are exploited.

Then they go into a period of stabilization, where fisheries are basically -- You're starting to land in every area of where the lobster population is and then in the recent decade, the population starts to decline and that is when overfishing starts to occur. We're fishing on smaller stocks.

You're going from lobsters that might have lived in an area for ten or twenty years to now you're starting to reduce the size of them and fish on the annual stock and so we're in a fairly rapid area of decline in the fishery right now and in fact, there are some meetings going on within the industry right now talking about the imperative in the lobster industry, that landings are literally crashing in areas like Nicaragua.

There was a question earlier about minimum size regulations. Florida here on the end is seventy-six millimeters for your reference. This line is what we think is that eighty-one

millimeter size at first maturity. I believe all of these are still accurate, where Cuba recently has increased up to seventy-four millimeters and is soon going to seventy-six, again in a response to those declining landings.

By far, most of the areas in the Caribbean already have a three-inch or greater size limit, especially the countries that are importing to us, which Cuba would not fall into. This regulation is consistent with most countries in the Caribbean. The exception to that is Panama, which they have a native population which is harvesting lobsters at a much smaller size limit, but again, those native peoples aren't doing it for export. They're doing it for personal consumption.

Two slides are going to show the example in Nicaragua. There are some questions about exactly how many undersized lobsters are we talking about and in Nicaragua, up to 40 percent of the lobsters they're harvesting are undersized. That's probably the leading thing causing the decline in Nicaraguan lobsters. They're simply harvesting them when they're one-third smaller than they should be.

The best thing you can do to cut your harvest is to lower your minimum size and harvest those lobsters before they grow to legal size and really, when we talk about growth in spiny lobsters, we're talking a matter of months. That lobster would go from sixty millimeters, or approximately a two-ounce tail, to a legal lobster in much less than a year. The weight of that tail will actually triple in the latter half of that animal's size range.

A little bit of a complicated graph. These 30 to 50 percent are that spawning production and so what size and what fishing level do they have to be to have 50 percent spawning mass? On this tail is the minimum tail size, four, six, eight, ten ounces, and here are the rates of fishing.

Florida currently operates at a very high fishing level, at about eight. This is an example for Nicaragua, again. They, again, operate at a fishing mortality value of an eight. This red line would be 30 percent spawning mass and so they're far below productivity. Probably below 10 percent of their lobsters are actually spawning and producing eggs into the fishery. You can see Nicaragua has a major problem contributing to their own landings and their egg production that will hopefully contribute to their own and downstream areas like Florida.

Spiny lobster is a great thing to manage. They are very resilient. Lobster populations appear very forgiving to poor fishing and management processes. If you do very minimum management, that is an increase in one regulation like a size limit, a closed season, the population is likely to respond very quickly.

Fishing conservation can result in quick yields and good fishing practices allow greater landings and more valuable landings. Something I didn't get into a little bit is when we meet with the

industries -- We recently had a meeting in San Andreas with the top importers to the U.S. from both Nicaragua, Honduras, Brazil and the Bahamas and none of them want lobsters less than five-ounce tail boxes. They simply can't sell them for the same dollar amount.

They would much rather have the high value five-ounce tail that they can ship anywhere in the country and get top dollar for, where those two and three-ounce tails -- They're not difficult for them to get rid of, but they certainly have one-third the value of that tail -- By weight, one-third the value per individual tail and that works out to be about one-sixth of the value of that larger, better product. That wraps it up.

Mr. Iarocci: Thank you, Tom. That was an excellent presentation. Are there any questions for Tom at this time?

Mr. Sharp: Are we considering going to the eighty-millimeter?

Mr. Matthews: The Spiny Lobster Advisory Board did not recommend any changes to the size limit.

Mr. Iarocci: I can also add, for the record, that I think that paper and that chart you showed from Nicaragua was 2002 or the timing on that -- At the last couple of meetings we went to, there has been a lot being done about the taking of short lobsters. All the fish houses and the top producers there now are monitoring the boats when they come in and a lot of the villagers are -- As they come into the docks, they're making sure they're not doing it.

Thanks to Tom and a lot of the stuff I did get from the council that I was able to distribute down there, they're starting to see the difference and it's not rocket science. When you do take your recruitment species, your smaller lobsters, you have localized depletion and you're destroying the fishery and that's what this is all about and with the enforcement issue with that. Are there any other questions?

Mr. Raymond: Tom, I purposely didn't mention the breeding stock off of Nicaragua potentially being the parental stock of the Florida Keys lobsters, because I don't know anything about it. Is that a large controversy? Is it something that the scientists can't distinctively say?

Mr. Matthews: We're in the middle of a genetic study right now where we're hoping to nail that down. The best work done so far suggests that it is one pan-Caribbean population. There was an isolated group of lobsters found in Brazil, which we did find a couple of members of that sub-population in Florida, which clearly shows that the Brazilian lobsters can make it to the U.S. We don't have any direct evidence, but it is highly likely that Nicaraguan lobsters make it to Florida and that the population does circulate.

Mr. Iarocci: Thank you, Tom. Are there any further questions? Without ado, Monica, if you could add to this?

Ms. Smit-Brunello: What would you like me to add, Tony?

Mr. Iarocci: Monica, being NOAA GC here and you've heard the testimonies and you know what we're dealing with here and I've had conversations off the record with Dr. Crabtree about how to move forward with this. I think Doug Gregory told me they tried to do this I don't know how many years back and this has been on the record and I know I've talked to Paul about this for numerous years now and I've been to meetings with him in Columbia and Nicaragua and different places and I do have a voluntary agreement signed by myself, people from Brazil, Columbia, Honduras, Nicaragua, and signed by George Williams, who represents Darden Seafood, which is a part of a red lobster, as part of a proposal to get this pushed.

What we need from you, Monica, and I know we've talked about this in the past, is how do we move forward with this? There was talk about turning this over to the Caribbean Council to take the lead in this. I know Paul has tried numerous ways or we've dealt with different ways to do this and how can we do this right now or how can we move forward?

Ms. Smit-Brunello: The most recent discussion I've heard involves the Caribbean Council taking lead, if it's all right with the South Atlantic Council and the Gulf Council, to work on an amendment that would amend both the Caribbean spiny lobster plan and the joint plan that this council shares with the Gulf.

I believe we've determined that that's fine. I think it would be fine for the Caribbean to take the lead on it, at least legally under the Magnuson Act. It would be up to this council to decide whether they in fact wanted that to happen and Roy can probably speak as to what has happened at the last Gulf Council meeting.

Mr. Iarocci: Thank you, Monica, because if that is -- I would like to hear the reasons, I think, and also I would like to bring this point in front of the full council at full council session, because we need to discuss this as a full council. Roy, I would like to hear the reasons.

Mr. Crabtree: Last week, the Gulf Council concurred with having the Caribbean Council be lead on amending it. The reason to do that is there are two lobster plans. There's a Caribbean lobster plan and there's the Gulf and South Atlantic lobster plan, but we're talking one national size limit on imports, which would include Puerto Rico and the U.S. Virgin Islands. We want to do this one time.

What we have to do is prepare an environmental impact statement and then an amendment to both plans and then it would come back to all three councils and they would have to vote yes or no on it and then it would be submitted to the Secretary and it would amend both plans.

I would like to keep this just essentially a one subject amendment, because I don't know how many complexities we'll run into with the State Department and other treaties and those kinds of things. I think it ought to move separately from whatever else you guys want to do. What we need to know is -- Tony, you should bring this up as the chairman, but does the South Atlantic Council concur with us appointing the Caribbean Council as lead council to do this one amendment and if you tell me you do, then we will send a letter to the Caribbean Council appointing them as lead on this and we'll start working with them to put these documents together.

They have a meeting in August and we'll see how much progress we can make. They usually also have a meeting, I believe, in December. We might be able to come back before the Gulf and South Atlantic Councils early next year some time, but we would come to you with a public hearing draft and all of those kinds of things.

That's a question we need to think about. Where do we need to do public hearings? This is something that affects folks nationally and so we would have to give some thought to where we want to do those kinds of things, but that's basically how we would try and proceed and the Gulf did approve going down this path last week.

Mr. Iarocci: Thank you, Roy. As chairman of the Spiny Lobster Committee, I think if that's the quickest and easiest way, because once we do get wrapped up with the South Atlantic, the Gulf and the state dealing with our issues, it's going to take time. If we can push this through with a one-shot deal, but before we do move this forward and I do bring it to the council, I would like to get what the recommendations and some input from the AP and the committee here.

Mr. Waugh: I have just a question for Monica. I know in the past we have tried to implement measures that address imports and have been told that we don't have the authority to do that. Has something changed legally or are we just making another attempt at it and seeing if it will work this time?

Ms. Smit-Brunello: I think we would have to see the document, the amendment that came forward out of the three councils, and obviously you would have NOAA GC at those meetings advising you along the way and see what was the actual action that comes out and the rationale that supports it.

You're right that there are concerns with some international trade agreements and other kinds of

agreements and I'm no international law expert and so I'll stop right there, but I know there have been those concerns before. I think the question was asked of us as to whether it would be all right to have the Caribbean be administrative lead and that was fine and we okayed that and go ahead with that. As to what the document contains, we'll have to work with you on that to try to look at those international hurdles or whatever else comes in the way to work that out.

Dr. Crabtree: I think the point from the agency's perspective is I've discussed this with Bill Hogarth and he's discussed this with folks in the Caribbean and other countries and he believes this is a problem that needs to be addressed and so we think -- We want to go down the path and try to do this. I don't know what hurdles we'll run into.

That's why I don't want to link it with anything else, but we think it's important enough to go ahead and do it and see how far we can go and hopefully we'll get all the way to the end and achieve it. I believe, Monica, there have been some things with American lobster and Canada where we have some similar types of restrictions.

Ms. Smit-Brunello: There have been some American lobster issues. Some of those were addressed by Congress right in the Magnuson Act and they wrote in specific things relating to American lobster. We don't have that benefit with our spiny lobster, but we'll certainly look at all of it.

Dr. Crabtree: It's not a black and white legal call. I think the only way we find out for sure is to do it and see what comes of it.

Mr. Iarocci: Thank you, Roy. I totally agree.

Mr. Teehan: As acting vice chair of this committee, I agree with what Roy said and at the Gulf Council meeting last week, we did move to go down that path for the Caribbean Council and having said that, I guess, Gregg, if we get around to setting up any sort of public hearings, John Hunt and I would like to go on the record as going to Yellowstone National Park.

Mr. Hunt: I definitely agree that we'll do the Yellowstone Park hearing and the Grand Teton hearing as well, but I want to reiterate what Roy just said in terms of importance. I think this is a very important issue. Landings have been declining in Caribbean fisheries and this is one part of trying to address that issue in a potential for overfishing on a Caribbean-wide population level.

I think this is an extremely important issue to go down that affects that fishery here in Florida from a state perspective as well as from the broader national perspective. I encourage you all to be relentless.

Mr. Iarocci: Any other comments on this issue? I think, as Karl Lessard had stated earlier, I think this is a no brainer, but how to get this forward is going to be the trick and maybe it is -- I think, Roy, that we should bring this up at full council and I think this is the way to do it. Are there any other comments or I'll move on to the next item on the agenda?

Mr. Waugh: When we get to the next agenda item, that's going to be things for a plan amendment and Roy's request was to deal with this import rule as a separate issue and so you may want to entertain a committee motion, if you want to, to deal with the imports. Once we get over to this other item, that's for a different amendment.

Mr. Iarocci: At the table, any committee members, I'm open for a motion to move this forward and so at this time I'll take motions.

Mr. Teehan: **So moved, Mr. Chairman.**

Mr. Iarocci: Could you state the motion for the record?

Mr. Teehan: **I move that we move forward with this issue and request that the Caribbean Council take the lead on the issue.**

Mr. Iarocci: Is there a second?

Mr. Geiger: Based on Mr. Teehan eventually determining what the motion is, I second it.

Mr. Iarocci: Any further discussion on the motion? **The motion passes.** Now we can move on to the next item on the agenda. I think, Karl, you said you wanted to address this to start with, talking about annual catch limit and how we could deal with it.

Mr. Lessard: In my view of the former Sustainable Fisheries Act and the new Sustainable Fisheries Act, the only conclusion that I could come up with in the way of writing this would be that -- I wrote this as commercial and it could be modified to include the recreational sector also, but an annual catch limit for the commercial quota of 7.9 million pounds to a low of 3.5 million pounds based on a three-inch carapace, excluding any weather anomaly.

If landings decline below 3.5 million pounds for any two-year period, an increase in carapace size would be called for to prevent overfishing and I think, from my reading of the new Sustainable Fisheries Act, that should meet the qualifications.

Mr. Iarocci: Is there discussion? I think everybody does realize we have to come up with an annual catch limit on all of our species and since spiny lobster is not --

Mr. Teehan: I didn't mean to interrupt you, but isn't the process for establishing ACLs going to be getting some sort of recommendation from the SSC?

Mr. Iarocci: I do believe so, but at this time, while we do have this group together, I thought it would be a -- You know how fast it's going to go, by 2011. We have this group and we have state and we have both councils and we have the fishermen here and just to get this on the table to discuss some of the options -- We've talked off the record and come up with just set the quota at eight million pounds and then we have to figure out the allocation issue.

This can be done, I think, in the right way, if we do start like this. I think we're going to have to come up with alternatives and proposals and I think this is a great start with what Karl has got on the table and I think we need to talk about this alternative and some other ways to move forward.

Before we know it, we're going to have to be dealing with annual catch limits on more than lobster and as chairman of the Spiny Lobster Committee, I would like to be dealing with these issues now.

Mr. Teehan: That's fine, Mr. Chairman. It was just a question and it wasn't a challenge.

Mr. Iarocci: I didn't -- I know it is getting late, but I do want to address that while we can.

Mr. Gregg: Just by way of sort of some additional comments here, we have a current process for working with the State of Florida that's outdated and so that needs to be addressed. The other requirement is the annual catch limits. The Gulf Council is administrative lead for the spiny lobster FMP and so it would be up to the Gulf Council to initiate this action.

Also, we've got various national activities coming up with guidance for annual catch limits and certainly any recommendations you all have here we will put into the hopper, but we don't have clear guidance as to exactly what annual catch limits mean.

Again, we will be working with the Gulf Council. This will up to the Gulf Council to take lead on this amendment and the two main items would be updating the agreement with the State of Florida for how we deal with management in the State of Florida and annual catch limits. There's been some discussion, potentially, about changes to the management relationship between Florida and the councils and we might want to have some discussion about that as well.

Mr. Iarocci: Before we do that, Gregg -- Karl, if you could restate that for clarity, so people get the numbers straight.

Mr. Lessard: This is based on the commercial landings and I did not include the recreational landings in this, but from everything that I've read on the new Sustainable Fisheries Act and the former Sustainable Fisheries Act, we have to have annual catch limits. This would be the commercial quota of 7.9 million pounds to a low of 3.5 million pounds based on a three-inch carapace length and excluding any weather anomaly. If landings decline below 3.5 inches for any two-year period, an increase in carapace size would be called for to prevent overfishing.

Mr. Burton: That sounds good and well thought out. I would love to see you guys catch over seven million pounds again, but the recreational take is about 25 percent of the total take and we've got to factor that in to present our recommendation to the Gulf Council.

We had some percentages mentioned this morning and what the heck was it? 72 percent of the take is from traps and 22 percent from recreational, 5 percent commercial diver and 1 percent bully-net. That's the state proposal. I can live with that and I think most recreational divers can live with that. Maybe we just have to get out our calculator and percentage it against the upper and lower limits.

Mr. Irwin: I heard Gregg say that it's not clear -- That we're not quite clear on the annual catch limits, the definition of them and things, and so I would hate to put numbers out there yet. I would like to get clarity on what actually we're supposed to do before we put actual numbers out there. Karl's numbers do sound pretty good, but I would like to get clarity on that before we throw numbers out there.

Dr. Crabtree: It would be difficult to really figure anything out right now, because the Act says that the catch limits cannot exceed the fishing level recommendation of the SSC or the peer review process, which would be SEDAR. Until you have a number that comes out of the SSC or the peer review for the fishing level recommendation, it's really hard to know where you would set the annual catch limit. I don't know what they would come up with, because I don't think there's really been any discussions of that.

Mr. Lessard: Roy, I got most of these figures from attending the last stock assessment.

Mr. Wallace: Thinking of kind of what we did with shrimp, do you really want to make it automatic to increase carapace length or do you want to call for a review panel to see if there's some other circumstances involved there before you strictly say we're going to go to an increase in size?

Mr. Lessard: By increasing the carapace length, that's the only way that you could prevent overfishing in the lobster fishery.

Mr. Wallace: I know you put in the weather anomaly in there, if we got weather conditions that may have caused it to go under three million pounds, but I'm just trying to be a little extra cautious here. If you go through this review panel and still you see that it is truly a reduction in the animal, then yes, you're going to the increasing size, but there may be other conditions that change that.

Mr. Lessard: To that point, that's why I suggested that there be a two-year period after the first year and if you see a decline in the species for two years, then you definitely have to take a management measure, of which the number one way to stop overfishing would be to increase the size limit. That would leave more fish in the fishery.

Mr. Teehan: I just wanted, for the record, to point out that the 72, 22, 5, and 1 percent allocations per user group is not necessarily a state recommendation at this time. It is just the lobster board's recommendation.

Mr. Iarocci: Thank you, Bill. Is there further discussion on this topic?

Mr. Irwin: I would like to agree with this gentleman about the review. I would like to know more about what we are mandated to do. If we set this in stone, if we set a low in stone, what would happen if the review is possible? There's always many factors that go into lack of production and I like that idea.

Mr. Iarocci: Thank you, Bruce. Like I said, at this time, we really do -- We are setting the stage, because we do have to do this eventually and we are just getting food for thought here.

Dr. Crabtree: I think the intent of annual catch limits is to put a limit on the catch and that means what do you do if you go over it and you're really talking about what happens if the catches fall. That may be a problem as well that you need to address, but I think when you read what was done in the Act -- Certainly all the discussions have been the accountability mechanisms were focused on what happens if the catches are too high and then you've got to make some adjustment to ensure that they come down and maybe even to correct for having gone over one.

Mr. Hunt: That's how I understood it. We don't really manage lobsters in the same way we manage fish and in fact, we're trying to find ways to maximize harvest while minimizing the environmental impact and so that makes that high side, at least under current state philosophy anyway, kind of a bit of a conundrum, in my mind. How do you get around that?

Dr. Crabtree: I don't have an answer for that, John. In most of these fisheries, we've been looking at something at the level of MSY as the overfishing limit and then the catch limit is somewhere around the optimum yield level, which is usually reduced below that. I don't know

if we have -- I guess we have estimates of MSY for lobster, but I don't know what they are. I'm a long way from having a good feel for how we want to handle this.

Mr. Hunt: The minimum size concept that Karl is talking about is not really a part of the Act or the minimum harvest, I should say.

Dr. Crabtree: I don't think it's inherent in catch limits, but I don't know. I really never thought about that part of it until Karl brought it up, but I think the intent of the Act was to set a limit and if you go over it, then you've got to correct. That's a problem for spiny lobsters and I think it's going to be a tough one for stone crabs, where you're just harvesting claws. I don't have answers to that.

Mr. Hunt: One other question is in terms of a recreational harvest, that is an estimate for mail surveys and obviously we're going to have to incorporate that. I assume that an estimate from mail surveys can be used.

Dr. Crabtree: All of our estimates of recreational harvest are estimates from surveys of some sort and if it's the only data we have, I wouldn't see any alternative other than to use it.

Mr. Lessard: Tony, I put these figures out just as random figures. We all know the council process and we're going to have to go through the SSC and all the scientific committees, as well as the advisory committees, but I think at least you have a rough idea of a starting point and an idea to present to your different committees. None of these numbers are going to be written in stone and with the council process -- Lord knows nobody knows the will of the council and the SSC and -- Both your scientific committees are going to have a major impact, as well as NOAA's interpretation of the law.

Mr. Iarocci: That's right, Karl, and like I stated earlier, this is food for thought and we all know and now we are dealing with this and that's one proposal or an alternative, so to say, or discussion to start dealing with this. It is time to start dealing with this, like I said earlier.

Is there any other further questions on this or discussion? Gregg, if we could, because it is getting late. I think we did get some good input from the AP and the committee on how to move forward on some issues, but this update agreement between the State of Florida and the councils and the timing issues, if you want to deal with that.

Mr. Waugh: Again, given that the Gulf is administrative lead, it would be up to them to factor this into their workload and I don't know if they've discussed it any, but those are the two issues that would have to be done and, again, the deadline for completing that is 2011 and I think that's to have the catch limits in place by 2011. From our perspective -- I haven't heard any interest in

us trying to sort of get into this process other than waiting to hear from the Gulf Council and participating in joint development.

Mr. Iarocci: You're right that they do have the lead on this and when we look at the timing -- Like you said, we've pretty much dealt with this and I think everybody is in agreement and as I stated earlier, it is getting late. We do need to move forward with some of these issues and I think -- I'm hoping that everybody and we get consensus on this.

The issues and the topics that we did talk about today and we all came into agreement on that we should wait, Gregg, I think until after the commission meeting in December and then maybe bring the AP back together or the committee or I would like to see maybe a joint Spiny Lobster AP from the Gulf and South Atlantic and can we do something like that?

I think that would really bring this together and maybe with some of the Florida people and deal with all these issues at one table like we're doing today and follow suit with this process, because I think that's going to be the quickest and easiest way to do this. Is there anybody else? Is everybody in agreement with that?

Mr. Teehan: I think that's a good idea. This has not been broached, as far as the technical changes in the agreement, with the State of Florida. It has not been broached, to my knowledge, to the Gulf Council and we likely will have to convene our spiny lobster. We'll have to convene and the Gulf Council will have to convene those bodies in order to consider actions that the State of Florida may take and so I think that's very appropriate.

Mr. Waugh: Presumably, if the import issue is moved forward and there's a joint tri-council plan amendment, there may be some cost savings there that when the South Atlantic and Gulf Spiny Lobster Committees have to meet to do that that it may be prudent to look at some joint committee meetings, to where you could address the import rule and perhaps talk about these other issues as well.

Mr. Iarocci: Thank you, Gregg. Roy, are you okay with this, if this is what we're talking about our timeframe in moving forward?

Dr. Crabtree: I don't have any reason not to be, I don't think. There's a lot of things to be done that are going to be, I think, complicated and have a real impact on the fishery and how long it's going to take us to resolve those things, I don't have a feel for it. I would like to talk about the state/federal and how we interact with Florida. I think we do need to talk about that before we finish up here, Tony.

I want to talk about what's in the Act. We've, in the past, had this protocol where Florida comes

in and asks us to do something that they've done and then we go through all this rulemaking. There's a portion of the Act now that would allow a state -- The issue is if the spiny lobster plan did not exist, then Florida could still manage the fishery and it could manage the fishery in the EEZ, but it could only manage vessels that were registered to the State of Florida in the EEZ.

If a boat from Alabama came down off the Keys into federal waters and strung traps out there, they wouldn't be subject to Florida management if they took the lobster back home and landed them in Alabama. That's partly how the spiny lobster plan came to be. There were worries about that.

There's a provision in the Act that allows the state to regulate any vessel that's fishing out there if the council delegates to that state management authority of the fishery and to do that, the council has to pass a three-quarters majority vote and they could essentially then amend the plan to delegate management of the fishery to the State of Florida.

I think they could delegate management only of the fishery in waters off the EEZ of Florida and I think we could probably just delegate certain aspects of management of the plan to Florida, but the thing is that Florida's rules -- Then Florida could pass a rule and it would apply in the EEZ and you wouldn't even have to come back to the council and ask for compatible regulations. Those would be the rules.

The rules Florida passed would have to be consistent with the fishery management. If the fishery management plan said this is going to be the size limit, then Florida couldn't change that. If the fishery management plan said this is the allocation between the recreational and commercial sector, then Florida couldn't change that in the EEZ, but if the fishery management plan had a broad range of what are acceptable size limits, then as long as Florida stayed within that range, they could come in and change it.

I think it would be a quicker way to proceed, because it wouldn't involve coming to the council. That section of the Act does require, I think, that the Secretary, and, of course, we would want to do that in working with the councils, review the rules Florida has to determine if they're consistent with the FMP.

If the Secretary determined that the rule was not consistent with the FMP, then I think the Secretary would be required to take action to deal with that. That is a way to do this. We have never done that in the Southeast, but it has been done in Alaska and I suspect that's partly where some of this language came from. That's another way to go about doing this that might be more efficient than the old protocol. I think that's something that we need to look into.

There may be pitfalls that I haven't realized yet in doing this, but I wanted to bring it up, because

I want you guys to think about some of that. If we really are looking to Florida to be a lead on this stuff, that's one way to get around needing compatible regulations, but it's important for you guys to understand that Florida would only be able to operate, in federal waters at least -- They can still do what they want in state waters, but in federal waters, they would still be bound by the provisions of the fishery management plan.

They wouldn't be able to go outside of those provisions without the council amending the plans and the council could come in and change something in the plan and then Florida would have to respond to that somehow. I lay that out on the table as one way of looking at this.

Mr. Teehan: Roy, with your proposal there, does there come an extra funding for staff to do NEPA and things like that for the State of Florida?

Dr. Crabtree: If you can get the legislator of Florida to give you extra funding, there would be extra funding for it, but not that I'm aware of. I'm not saying this is my proposal, but I'm just telling you that the Act allows you to do this. Whether you want to do it or not, I don't know.

Mr. Teehan: On a serious note, I presume this would take two-thirds or three-quarters vote from both councils, correct?

Dr. Crabtree: Yes, it would take a three-quarters vote from both councils.

Mr. Lessard: In the year 2000, when I was vice-chairman of the Gulf of Mexico Fishery Management Council, Rolly Schmitten wanted to turn over the management of the lobster fishery entirely to the State of Florida.

Mr. Iarocci: Karl, we've had that discussion -- I think every year that comes up at either a board meeting or the dock or stuff like that. It's stated on the record so many times and I know a lot of people, and I'm looking at them in the back of the room right now, are scared to death to turn management over to the --

This goes back with history, like we stated earlier, between the Gulf and the South Atlantic Council, but some of the old commission, and myself included, I would be scared to death to put my future in the certificate program to some of the commissioners we had in the past. Still, my thoughts are out about doing this, but it's something we need to look at in the future and talk about.

Dr. Crabtree: Let me be clear that's not what I'm talking about. What you're talking about, Karl, was withdrawing the plan and it's gone. I'm not talking about that. That plan remains. All this is a way to not have to go through all these hoops to get a consistent regulation.

The fishery management plan would still exist and the provisions in the fishery management plan would still be the requirements. This is just a way that the rulemaking might be done more efficiently, but the ultimate decisions about what is allowed in the EEZ would be made by the councils.

Mr. Lessard: Roy, I think I understand what you're saying. Roy, what I think you're trying to say is on the federal plan we leave a broad scope of a range for the carapace size for the total landings and we let the state address their management plans. As long as the state's qualifications fall in this broad range, then it would meet the Act?

Dr. Crabtree: Let's say the council were to say the allocations have to be somewhere in this range and the size limits have to be somewhere in this range and the season has to be somewhere in this range and allowance for shorts has to be somewhere in this range, those kinds of things. Florida could make changes within that kind of range.

I don't know if it really gets us anywhere. It kind of depends on the extent of the changes that we're talking about making, but if we're looking at those kinds of things, it might make sense to do it. I understand there are other things that -- Trap construction specifications right now are different in state waters. Federal waters allows some wire construction and state waters don't.

Florida couldn't come in under this arrangement and say we're going to prohibit the wire traps in the EEZ, because the plan says you can use them. That wouldn't be consistent with the plan. That's along the lines of what I'm thinking. I'm not saying it's a good idea or not, but I'm just saying the Act allows it and it's a way that might be worth looking at.

Mr. Teehan: Roy, this conversation has been going on for years and I think Tony is right that there are some people that are not excited about it, but the question I have to you is when you're saying that NOAA Fisheries or the councils would set the bracket of size limits or let's say the season, they would basically be using State of Florida science to determine that, wouldn't they?

Dr. Crabtree: They wouldn't necessarily. If there was other science to be used, we would look at it, but the majority of the science and the assessment came out of SEDAR, but Florida was the lead on it.

Mr. Mahood: Karl, I remember those days you're talking about with Rolly and really what's changed is in 1996 the Act was amended to allow us to give authority to the state to do things, but it really doesn't change the protocol that we had before too much, because before, the state could develop regulations and go to Roy and before Roy implemented them under the plan, he would have to get concurrence from both councils. I think what it does is it just cuts out that last

step if the State of Florida was in compliance with the plan. It really kind of simplifies things a little bit and our council supported the language that went into the 1996 act to be able to give a state that authority to do that.

When Rolly tried to withdraw the plan, it still put us back to the problem with other state vessels coming into the EEZ off of Florida and, as Roy said, that's the reason for the plan in the first place. I guess probably the fishermen like us doing it, because we haven't done anything to them in seven years.

Dr. Crabtree: That's pretty much it, Bob. In this case, Florida would just do a rule and then we would look at the rule and if we thought it wasn't consistent with the plan, then we would go to Florida and say you're out of compliance with the plan and you can't do this. If we reviewed it and said yes, it's consistent -- We talk regularly and so we would give them our opinion on that before they took action on it and try to work these things out, but then the rule would go in place and we wouldn't have to go through all these other kinds of hoops.

Mr. Iarocci: Any further discussion on this? Just for the record -- Gregg, we have had some really good discussion here and I think dealing with the timing of the amendment and development and the completion of this and everybody knows the timeframe with the commission and what's going on and I've said that over and over again, but we are in no hurry. Anything we're talking about here has to go through this process and this is to start bringing the parties to the table for this discussion. With that said, Gregg, we do have a lot of direction and I think we can work out recommendations to take to full council on this and I know it is getting late. Unless there's any further discussion on this, I'll open it up to Other Business.

Mr. Teehan: Just one point of clarification for me. Roy, in what we're talking about here with the state taking the lead, would that require us to have to do NEPA or since you all would still have a plan, does that mean that the federal government would do the NEPA paperwork on this?

Dr. Crabtree: I think that's one of the issues we would have to work out.

Mr. Iarocci: Is there any other business?

Mr. Burton: I'm heavily involved in the lobster fishery as a recreational diver, both off my home waters of Jupiter and several extended trips to the Keys during the regular lobster season. The amount of poaching going on by recreational divers is astounding. Certainly for the first couple of weeks and into Labor Day, you can take your boat out to Sawyer Key and you'll see a hundred boats diving out there. At 7:30 in the morning, fifty of them are running in and the same boats are running out an hour later. It goes on all day long.

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I eagerly anticipate a stop by a marine patrol, a Fish and Wildlife officer, just to chat with them and get some pretty good fishing advice from them, but you rarely see law enforcement down in the lower Keys. All they have to do is sit right there in the channel and collect these boats as they run in and run out and I think we could put a pretty good dent into the poaching aspect, but I'm here to tell you on the good that we do, on days like this it gets wiped out by not a few bad apples, but quite a few bad apples, many, if not most, of which live in the Keys. The onus is always on the people to come down here for a couple of days and want to rape the place and that may be true as well, but we have a serious problem and whether we can do anything council-wise or not, I don't know. It's more, obviously, a legislative issue as far as increased penalties, but I would certainly like to see an increased penalty in lobster poaching and I wanted to see what your reaction is to it.

Mr. Iarocci: Bob, my personal reaction is I'm 100 percent behind what you stated and it's both the people that do come down and the locals. They both break the law and we've been addressing that for a long time down here and we do need better enforcement and I think everybody is hearing it at the state loud and clear.

Mr. Irwin: I just wanted to say that the lobster board looked at that and the main violators are probably on the two-day season. I know you said it goes on more and more, but the lobster board did look at that and -- We didn't go over this, but one of the recommendations is an increased fee on the recreational sector and earmark funds for tags for the two-day season, to help alleviate some of that problem.

Mr. Sharp: Bruce is right on that. We looked at that on the board and Gordie Sharp, who has been a marine patrol officer down here for twenty-plus years, came to us and as well as the Fish and Wildlife Commission and offered a paper tag system, very similar to what you see in the hunting industry in regulations. Unfortunately, our board voted to just do it on the two-day, which is, in my opinion, going to roll everybody over to the first week or two of the season, but they're going to try it and see how it does on the two-day.

Mr. Burton: I have one more comment. We stay at Palmer's Place at Mile Marker 29 every year for ten days at opening of the regular season. The same boat has been there running four limits a day starting opening season. I got sick and tired of it last year and after talking with a guy, I called the marine patrol, the Fish and Wildlife in Key West. I told her what was going on and I told her where their apartment was and I told her what the FL numbers was and she said, I'm sorry, sir, but we can't help you. I asked what she meant and you have a major violation here and we can't help you. We don't have the manpower.

What do you mean? This is two blocks off U.S. 1 and send a guy on his way home to stop here and make this bust and do us all a favor and I'm sorry, sir, but I can't help you. This is the kind

of stuff we're dealing with and it's frustrating as heck, to, again, to do all this good we do today and have our own law enforcement not, quote, being able to help us.

Mr. Teehan: I understand what you're saying and our problem is, and it's not an excuse, but it's reality, is we don't have enough officers to cover the State of Florida for anything at this point. The agency, FWC, does try to move more officers into the area during the two-day season and during the opening of the lobster season and special details are certainly set up for other fisheries and not just lobster, but the problem is that we don't have enough officers and we don't have enough money and I suggest you harangue your legislature up in Tallahassee and tell them it's a major problem. We're very aware of it. We hear it in every fishery we deal with.

Mr. Burton: We harangued our legislature pretty heavily as far as increasing our fishing license fees and getting shore-bound anglers to buy licenses and they did not -- They raised our fees all right, they didn't listen to us.

Mr. Geiger: I've got to chime in on this, because I've heard the same thing, ad nauseam, for a number of years about the recreational poaching going on in the Keys, especially during the mini season. Bill, I truly understand the fact that we don't have enough and we can't have a cop on every corner. One of the things that I can tell you that's extremely aggravating to the public, and I think you sensed it in Bob's voice, is that when the public has identified a violator and they call the law enforcement people and they provide a boat FL number and they provide an apartment address -- The only excuse for the FWC not investigating that particular case, in my opinion, is that they've got more of those same type of information, informants, than they can possibly address.

If you've got people out there, what they ought to be doing is responding to informants and not wasting their time just making random stops if you have known violators and people that are making those informed reports on people they know are violating. It's a problem and I know we don't have enough officers, but to tell somebody that we can't help you I think is an unsatisfactory answer from law enforcement.

Mr. Teehan: George, I agree. These kinds of incidents turn out one of two ways, the way that the gentleman portrayed and the way that sometimes the bust actually occurs. I will take his comments back to Tallahassee and discuss it with law enforcement. It is an issue. This isn't the first time I've heard this, that I've given you the FL number and I've sent you pictures and why aren't you doing something about it. I will bring those comments back and I would suggest that if we have a public hearing in your area, FWC, that there's an open comment period and it doesn't even have to be a lobster issue that's being addressed by the commission at that particular meeting. There's an open comment period where you can come and make those comments to the commissioners themselves and that does have some effect.

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Mr. Iarocci: Thank you, Bill. At this time, is there any other discussion or any further business? There's one thing. Kim would like to get a picture of the advisory panel after we do break, but I would just like at this time to thank everybody for being here and give Mimi Stafford, who has been sitting in the back -- If she had something she wanted to say on the record or Robert to finish up and you guys weren't at the table. I want to thank everybody for taking the time, because it was a long afternoon and we did cover a lot of issues. Everybody does at this table understand where we're at with this with the timing right now and the priorities that we do have to move forward with both the states and the feds right now and I want to thank Paul Raymond in particular for traveling and taking the time for a great presentation and both John and Tom also and above all, Gregg, who has gone through this and revised the agenda with me and made the copies and had them to me early so I could hand them out to the fishermen and deal with these guys and thank you, Gregg.

Mr. Geiger: Thank you, Mr. Chairman. You did an outstanding job this afternoon and again, I would like to reiterate Tony's comments and thank the AP members for their attendance here at this very important meeting this afternoon. I would like to thank Madam Chairman Rita Merritt from the LAPP Committee, who sacrificed her committee meeting this afternoon to allow this committee to continue on until all the business was completed. Having this group in the room, I think it was important to conclude the business, rather than just have a set time period. Thank you, Rita, for doing that and we'll get back on schedule.

The council will meet tomorrow morning and we'll begin with Joint Habitat and Ecosystem-Based Management and then we'll fit LAPP in as the second committee meeting in the morning. I would also like to thank for the hospitality last night Mr. Ronnie Day, President of OFF, and also George Niles, President of the Florida Keys Commercial Fishermen's Association, for their great hospitality last evening. Thank you guys very much. The council really appreciates it.

You'll have to excuse me. I'm having a tough time and I know OFF means the Organized Fishermen of Florida, but it wasn't on the tip of my tongue at that moment. It was a tough day. What we're going to do, council, is we're going to break until 6:30, at which time we're going to take public comment. You have an opportunity for an hour and fifteen minutes to recharge your batteries.

(Whereupon, the meeting adjourned at 5:20 o'clock p.m., June 13, 2007.)

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June 13, 2007

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Staff Meeting Attendance

Meeting Location: Key West, FL

Date: June 13, 2007

Meeting: Joint Spiny Lobster AP & Committee

Staff:

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Waugh



Brouwer



Buscher



Carmichael



Chaya



Collins



DeVictor



Iverson



Lindsay



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Robert Boyles
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Louis Daniel
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Staff contact: Bob Mahood

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X Mark Robson, Vice Chair
X George Geiger
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* The Ecosystem-Based Management Committee consists of the chairs of the species committees plus the chairs of the Habitat, Protected Resources, MPA and EIS/NEPA Committees.

** Members will be appointed to the Bluefish, Calico Scallop, and Dolphin/Wahoo Committees, if these committees need to meet during the year.

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PLEASE SIGN IN

So that we may 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.

Joint Spiny Lobster Committee and AP Meeting

Key West, FL

Wednesday, June 13, 2007

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FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

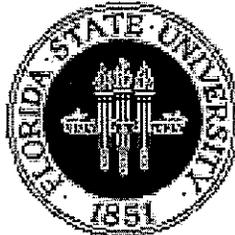


SPINY LOBSTER AD HOC ADVISORY BOARD CONSENSUS RECOMMENDATIONS (Including All Options Evaluated)

MAY 2007

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

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LOBSTER ADVISORY BOARD CONSENSUS RECOMMENDATIONS

(Adopted Unanimously May 15, 2007)

CONSENSUS DRAFT RECOMMENDATIONS BY ISSUE

(Options with a 75% or greater level of support)

ALLOCATION

Allocation Baseline by User Groups:

Trap Fishery: 72%; Recreational Fishery: 22%; Commercial Dive Fishery: 5%; Bully Net 1%.

Allocation Criteria/Parameters/Triggers for Response:

A review is triggered when an allocation share falls outside (above or below) normal parameters of the baseline for two consecutive years. Following are the parameters:

	Trap	Recreational	C. Dive	Bully Net
High	77	26	8	3
Baseline	72	22	5	1
Low	67	18	3	0.1

Response When an Allocations Falls Outside Normal Parameters:

Triggers reconvening of a stakeholder group to meet with FWC staff to review the situation and develop recommendations as/if needed.

The reconvening will happen quickly (soon after baseline parameter are exceeded).

SEASON LENGTH

Set trap in water the day after mini-season ends. Contingent on correlation with federal requirements.

HARVESTABLE SIZE LIMITS

Maintain Status quo. No changes to the current requirements.

FISHERY EFFECTS ON THE ENVIRONMENT (NATURAL HABITAT)

The Board voted unanimously to recommend that a "comprehensive Keys shore clean-up plan" be developed and implemented.

The Board voted unanimously to recommend that an "emergency disaster trap clean-up plan" be developed and implemented.

Allow the sale of plastic traps collected during the State's trap retrieval program, funds to be used to support the program.

The Board voted unanimously to support draft rule language for Rule 68B-55.004, Retrieval of Derelict Traps Located in Closed Areas, and Rule 68B-55.005, Recovery of Traps in Area of Major Natural Disaster.

OTHER LOBSTER SPECIES

Status quo. In general, the Board believes this issue is not a priority at this time.

Egg-bearing females of any species of lobster shall not be taken.

LOBSTER TRAP CERTIFICATE PROGRAM

Continue the certificate program.

Reduce the time from 3 years to 2 years in which trap certificates that have not had all of their associated fees paid for will revert to the State.

Remove 25% transfer surcharge when "A" certificates are sold.

End trap reductions permanently.

Buy back program, voluntary government with a provision for buybacks to be sold to new entrants into fishery, sponsored (state or Federal).

TRAP SPECIFICATIONS

Continue to allow trawls.

Continue to allow all-plastic lobster traps (status quo).

NEW ENTRANTS

Accommodate deck hands by allowing those with trap certificates to pull their own traps from owners' boats.

Develop an incentive program (to facilitate new entrants).

ISSUES REGARDING THE COMMERCIAL DIVE FISHERY

Annual law enforcement details during first two months of the season in the areas where the use of artificial habitat are concentrated.

Loss of license for convictions (stronger penalties) for use of illegal artificial habitat.

Develop an input control effort management program (e.g. endorsement transferability). The Board recommends that the Commission convene a process to review input control effort management program options for the commercial dive fishery, including transferability, developing a comprehensive strategy using the control date for qualifying landing up until March 31st 2007 as the threshold.

No diving for lobster (harvesting and possession) within 50' of illegal artificial habitat (change current rule from 10 yards to 50 feet).

Annual locate and removal efforts of artificial lobster habitat.

Fixed number of commercial dive endorsements (status quo).

Require owner's commercial dive endorsement number (CD) to be displayed on all catch gear for commercial divers.

Require commercial divers to use surface buoys with CD-number on flag, on the Gulf side of Keys.

ISSUES REGARDING THE RECREATIONAL FISHERY

Require a special endorsement to participate in the Special Two-Day Sport Season in Monroe County as a means to aid enforcement of the daily bag limit. The endorsement will have paper tags attached to it that would be separated and kept with each lobster harvested.

Clarifications on the two-day endorsement recommendation:

- Require lobster tags to enforce bag limits and multiple daily trips for the two-day season.
- The endorsement (tags) should be “possession tags”, a paper based system.
- The tag program should only be for the two-day mini-season.
- The program only applies to Monroe County.
- All participants are required to have the endorsements for the two-day season; however, those participants who qualify for licensure exemptions can apply for a free endorsement.
- Endorsements (tags) should be available by all of the existing methods: location-based printers, by mail, and through the FWC website.

Increase fee on recreational sector and earmark funds for tags (for the two-day season).

ISSUES REGARDING THE COMMERCIAL BULLY NET FISHERY

The Status quo. No changes to current regulations.

LAW ENFORCEMENT

The Board recommends that the Commission convene an initiative (i.e., a task force) to examine and assist the enforcement of fishery regulations (primarily regarding the lobster fishery).

**MAJORITY DRAFT OPTIONS EVALUATED BY THE BOARD BY ISSUE
(Options with a between 50% and 74% level of support)**

ALLOCATION

Overview of Other Baseline Allocation Proposals Evaluated by the Board

Better year: Trap 75%, Rec. 20%, Com Dive 4%, Bully Net 1%.

10 year average: Trap 70%, rec. 23%, com diver 6%, bully net 1%

Average of best year, 10 year average, and first year: trap 72%, rec. 23%, com dive 4%, bully net 1 %.

1st year baseline allocations (1993-94) 70% trap, 26% rec., 3%, com dive, 1% bully net.

Overview of Other Criteria for Triggering an Evaluation Proposals Evaluated by the Board

*Drastic change in 1 year or a progressive change over 3 years would trigger review
Drastic = 10% change in pie in 1 year; progressive = 5% shift from baseline allocation over 3 years.*

Any user group increase/decrease 5% of total pie, for 3 years in a row (adjusted for Bully).

	Trap	Rec.	C. Dive	Bully
Top	77	27	10	3
Baseline	72	22	5	1 (0.5 actual)
Bottom	67	17	1	0

Any user group increase/decrease 25% of their share, 2 years in a row (percentage of percent of their share).

Overview of other Response(s) When an Allocations Falls Outside Normal Parameters Proposals Evaluated by the Board

Board will re-convene in 3 years to re-assess percentages of allocations for user groups (this would be instead of a proactive allocation scenario being implemented at this time).

SEASON LENGTH

None in this category.

HARVESTABLE SIZE LIMITS

None in this category.

FISHERY EFFECTS ON THE ENVIRONMENT (NATURAL HABITAT):

None in this category.

OTHER LOBSTER SPECIES

None in this category.

ISSUES REGARDING THE COMMERCIAL TRAP FISHERY

Buy back program, voluntary government sponsored (state or Federal).

Passive reduction with 10% instead of 25% trap reduction (eliminate active reduction component, for transactions only).

TRAP SPECIFICATIONS

None in this category.

NEW ENTRANTS

None in this category.

ISSUES REGARDING THE COMMERCIAL DIVE FISHERY

Marking commercial divers with surface buoys with C-number on flag for Miami-Dade County waters.

ISSUES REGARDING THE RECREATIONAL FISHERY

None in this category.

ISSUES REGARDING THE COMMERCIAL BULLY NET FISHERY

None in this category.

ADDITIONAL OPTIONS EVALUATED BY THE BOARD BY ISSUE (Options with less than a 50% level of support)

ALLOCATION

Status quo - Continued reactive responses to shifts in landings allocations.

Close areas to prevent poaching by eliminating lobster diving.

Eliminate particular user groups.

Quota system – poundage, licenses, etc.

Close certain areas.

SEASON LENGTH

Start season earlier (July 21st traps in the water, pull Aug 1st), increase penalties for egg-bearing females; contingent on correlation with Federal season; 3 year sunset provision unless reinstated by Commission.

End season sooner.

No closed season.

Different regional seasons based upon specific criteria.

Shorten the season.

Start season later.

Traps set the day after mini season, soak 10 days, then the season opens for everyone. The start date of the season will change.

Soak period begin Aug 1st, season begins Aug 10th for all.

HARVESTABLE SIZE LIMITS

Establish a 'slot limit'.

Establish a regional slot limit.

Increase minimum size.

Decrease minimum size.

FISHERY EFFECTS ON THE ENVIRONMENT (NATURAL HABITAT)

Establish an allowable-only gear list (if the gear is not listed than it is not allowed).

Reduce the number of traps.

Establish areal closures to protect certain habitats at certain times.

Evaluate and consider whether to prohibit certain additional gear types.

Shorten the season.

Split season.

OTHER LOBSTER SPECIES

Develop management for some or all of these species.

Prohibit harvest of some or all of these species.

ISSUES REGARDING THE COMMERCIAL TRAP FISHERY

Passive reduction with 10% instead of 25%.

Buy back program , voluntary government (or other entity) sponsored (state or Federal).

Continue passive reduction only (25%); eliminate active reduction component.

Switch to alternate trap management regime (IFQ, tiered license, etc.).

Status quo (Stop reducing the number of certificates at 400,000).

Continue the trap reduction component of the trap certificate program.

Continue with no minimum number of certificates per individual (reduce to zero).

Buy back program, voluntary government sponsored (state or Federal) with a percent of buy backs being used to compensate for any allocation shifts in the trap fishery, so active trappers don't have to give back traps they are using.

Continue active reduction.

Individual Fish Quota (IFQ).

TRAP SPECIFICATIONS

Require escape gaps.

Require weight on buoy lines.

Allow wire traps in state waters.

No floats on trawls.

NEW ENTRANTS

Require a proficiency course for new entrants (i.e., rules and regulations).

Require an apprenticeship (training) program for new entrants.

Create a voluntary apprenticeship program for new entrants.

ISSUES REGARDING THE COMMERCIAL DIVE FISHERY

Adjust trip limits to manage allocation.

Allow the use of permitted artificial habitat.

Closing specific area to divers and recreational users.

Establish an output control effort management program (i.e. IFQ).

Dive Endorsement Transferability Program: less than 100 lbs. of landings endorsement is nontransferable, 100 lbs. or more of landings endorsement is transferable; control date for qualifying = 2005-06 and 2006-07.

Dive Endorsement Transferability Program: less than 500 lbs. of landings endorsement is nontransferable, 500 lbs or more of landings endorsement is transferable; control date for qualifying = 2005-06 and 2006-07.

ISSUES REGARDING THE RECREATIONAL FISHERY

Abolish the two-day sport divers season.

*Limit the issuance of recreational crawfish endorsements.
(Fixed number of recreational endorsements)*

Establish an effort limitation program on the recreational fishery.

*Implement an annual bag limit with tags. (Still maintains the 6 per day limit)
Status quo.*

Bag limit applies to harvesters only.

Conduct straw the poll on the two-day season after 3 years, and once the lobster tag program is in effect.

FWC recommends in a Memo, that Monroe Co conduct a straw poll regarding whether to abolish the 2 day season in Monroe County, language to be developed by staff and Board, results forward to Commission for their consideration.

Reinstate the 24-vessel limit.

Require a lobster tag for each day of the recreational season.

Change the recreational harvesting season.

Establish a recreational limited entry program.

Change the bag limit.

Establish the same regulations for all recreational fishers.

Different management for two-day season.

ISSUES REGARDING THE COMMERCIAL BULLY NET FISHERY

Commercial divers cannot be commercial bully netters.

Establish a commercial bully net endorsement.

Develop an input control effort management program.

Establish and adjust trip limits to manage allocation.

Establish an output control effort management program (i.e. IFQ).

FREE MARKET REGULATION OF FISHERY

This issue was discussed at the January and March 2007 meetings, and there was no support for the concept by the Board.