

1 GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

2
3 HABITAT PROTECTION/RESTORATION COMMITTEE

4
5 IP Casino & Resort Biloxi, Mississippi

6
7 April 3, 2019

8
9 **VOTING MEMBERS**

- 10 Patrick Banks.....Louisiana
- 11 Doug Boyd.....Texas
- 12 Glenn Constant.....USFWS
- 13 Dale Diaz.....Mississippi
- 14 Phil Dyskow.....Florida
- 15 Paul Mickle (designee for Joe Spraggins).....Mississippi
- 16 Greg Stunz.....Texas
- 17 Ed Swindell.....Louisiana

18
19 **NON-VOTING MEMBERS**

- 20 Kevin Anson (designee for Scott Bannon).....Alabama
- 21 Susan Boggs.....Alabama
- 22 Leann Bosarge.....Mississippi
- 23 Dave Donaldson.....GSMFC
- 24 Jonathan Dugas.....Louisiana
- 25 Roy Crabtree.....NMFS
- 26 Tom Frazer.....Florida
- 27 Martha Guyas (designee for Jessica McCawley).....Florida
- 28 Lance Robinson (designee for Robin Riechers).....Texas
- 29 John Sanchez.....Florida
- 30 Bob Shipp.....Alabama
- 31 Lt. Mark Zanowicz.....USCG

32
33 **STAFF**

- 34 Assane Diagne.....Economist
- 35 Matt Freeman.....Economist
- 36 John Froeschke.....Deputy Director
- 37 Beth Hager.....Administrative Officer
- 38 Karen Hoak.....Administrative & Financial Assistant
- 39 Lisa Hollensead.....Fishery Biologist
- 40 Ava Lasseter.....Anthropologist
- 41 Mara Levy.....NOAA General Counsel
- 42 Emily Muehlstein.....Public Information Officer
- 43 Ryan Rindone.....Fishery Biologist & SEDAR Liaison
- 44 Bernadine Roy.....Office Manager
- 45 Carrie Simmons.....Executive Director

46
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6 Heather Garner.....Orange Beach, AL
7 Susan Gerhart.....NMFS
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9 Tim Griner.....SAFMC
10 Chad Hanson.....Pew Charitable Trusts
11 Scott Hickman.....Galveston, TX
12 Ralph Humphrey, Jr.....Biloxi, MS
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14 Bud Miller.....Destin, FL
15 Jay Mullins.....Apalachicola, FL
16 Lance Robinson.....TX
17 Clarence Seymour.....Biloxi, MS
18 Casey Streeter.....Matlacha, FL
19 Dustin Trochesset.....Biloxi, MS

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21
22

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1 The Habitat Protection/Restoration Committee of the Gulf of
2 Mexico Fishery Management Council convened at the IP Casino &
3 Resort, Biloxi, Mississippi, Wednesday morning, April 3, 2019,
4 and was called to order by Chairman Patrick Banks.

5
6 **ADOPTION OF AGENDA**
7 **APPROVAL OF MINUTES**
8 **ACTION GUIDE AND NEXT STEPS**
9

10 **CHAIRMAN PATRICK BANKS:** This is the Habitat Protection and
11 Restoration Committee, and, just to remind everybody, I will
12 read through the list of members, and, of course, it's myself,
13 and we have Paul Mickle as the Vice Chair, Doug Boyd, Glenn
14 Constant, Dale Diaz, Phil Dyskow, Greg Stunz, and Ed Swindell.

15
16 We will start with the agenda, Tab P, Number 1, and we need to
17 adopt the agenda, and so I would entertain a motion to do so,
18 please. We have a motion by Mr. Diaz and a second by Mr.
19 Swindell. Any opposition to the motion? Seeing none, the
20 agenda is adopted.

21
22 The next item of business will be Tab P, Number 2, Approval of
23 the October 2017 Minutes, which was the last time the committee
24 met, and I will give you a second, if you want to take a look at
25 those minutes. I would expect that you read every word of the
26 fifty-two pages, please. I would entertain a motion to adopt
27 those minutes, if we have no changes. Motion by Dr. Stunz, and
28 it's seconded by Mr. Diaz. Any opposition to approving the
29 October 2017 minutes. Seeing none, the minutes are hereby
30 approved. The next item of business is Tab P, Number 3, Action
31 Guide and Next Steps, and I will turn it over to Dr. Froeschke.

32
33 **DR. JOHN FROESCHKE:** Good morning, everyone. The objective
34 today is, if you recall, the council is required to do a review
35 of our EFH information and the science that informs that
36 information every five years, and we last completed this and
37 submitted it to the Southeast Regional Office in January of
38 2017, and they provided us some feedback last summer, and that's
39 the letter and the presentation in your briefing materials.

40
41 Part of the recommendations in there is that we should consider
42 updating our EFH amendment, or information, when possible, and
43 so that will kind of be your task, is to look at the information
44 and decide if you think that's something we should do in the
45 timeline and priority prioritization of that.

46
47 **CHAIRMAN BANKS:** Thank you, Dr. Froeschke. Any comments or
48 discussion? All right. Then we'll move on. The next item of

1 business is to hear some information about the results of the
2 council's five-year EFH review, and we have a presentation by
3 Mr. Dale of National Marine Fisheries Service, and it's at Tab
4 P, Number 4(a).

5
6 **RESULTS OF THE COUNCIL'S FIVE-YEAR ESSENTIAL FISH HABITAT REVIEW**

7
8 **MR. DAVID DALE:** Thank you, Chairman Banks. Good morning. My
9 name is David Dale, and I work in the Habitat Conservation
10 Division of the Southeast Regional Office, and one of my roles
11 here is the Essential Fish Habitat Coordinator. Unfortunately,
12 I was not able to justify the trip to Biloxi to provide this
13 presentation, and so hopefully we get through this okay.

14
15 For those of you that are not familiar with the Habitat
16 Conservation Division, at any given time, there is about twenty-
17 five of us onboard, and that includes some contract employees,
18 and, unlike other divisions in the Southeast Regional Office,
19 most of our employees are located in offices scattered
20 throughout the region.

21
22 Staff in St. Petersburg, here at the Regional Office, consist of
23 our Assistant Regional Administrator for Habitat Conservation,
24 Virginia Fay, and her administrative assistant, two branch field
25 staff for the Gulf of Mexico Branch, myself, and a contractor
26 assisting me with the EFH program.

27
28 The strategic goal of having our staffs decentralized is so that
29 we're able to meet and interact with our customers in the course
30 of carrying out our duties, and those duties primarily being
31 conducting consultations under the Magnuson-Stevens Act and
32 other various authorities, including the Federal Power Act for
33 hydroelectric facilities licensed by the federal Energy
34 Regulatory Commission, NEPA, the National Environmental Policy
35 Act, the Clean Water Act and the Rivers and Harbors Act, more
36 commonly known as Section 10 and Section 404 permits issued by
37 the U.S. Army Corps of Engineers. The Corps is, by far, our
38 biggest customer here in the Southeast Region.

39
40 The goal of these consultations is to avoid or minimize adverse
41 impacts to habitats necessary for living marine resources to
42 live, grow, and reproduce and support sustainable populations of
43 those fishery resources.

44
45 Other activities the division participates in are habitat
46 restoration, such as rebuilding wetlands in Louisiana under the
47 Coastal Wetlands Planning, Protection, and Restoration Act, and
48 another focus area of ours is participating in local

1 partnerships, an example being like EPA's National Estuary
2 Programs, such as those in Galveston, Mobile, and Tampa Bays.

3
4 What we're really here to talk about today is essential fish
5 habitat, or EFH, and this slide highlights some of the statutory
6 and regulatory foundations for EFH. The top three bullets are
7 from the 1996 amendments to the Magnuson Act, which gives us a
8 statutory definition of EFH, directs the National Marine
9 Fisheries Service and the councils to identify and describe EFH,
10 as well as minimize the adverse effects of fishing activities on
11 EFH, and it also directs federal agencies whose actions may
12 adversely impact EFH to consult with us to protect and conserve
13 EFH.

14
15 The agency issued an interim rule in 1998, and, after learning
16 what we did right and what we did wrong, we went back and issued
17 final rules in 2002. Those regulations are contained in two
18 sub-parts of 50 CFR Part 600, and Sub-Part J are the guidelines
19 to fishery management councils for identifying and describing
20 EFH in fishery management plans, and we'll get into more detail
21 of that sub-part in upcoming slides, and Sub-Part K is the
22 procedures and requirements for other federal agencies to
23 consult with the National Marine Fisheries Service.

24
25 Sub-Part J, Section 600.815 of Sub-Part J, outlines what must be
26 provided in fishery management plans with regard to EFH. This
27 is the real meaty part of the EFH regulation, so to speak,
28 particularly Sections 1 and 2, Section 1 being the guidance to
29 councils and fisheries on identifying, describing, and mapping
30 EFH, and Section 2 being the guidance on evaluating adverse
31 effects of fishing activities on EFH, as well as developing
32 measures in fishery management plans to minimize, to the extent
33 practicable, those effects from fishing.

34
35 The remaining eight sections are guidance on identifying fishing
36 activities that are not managed under the Magnuson Act, and so
37 those fishing activities occurring in state waters, as well as
38 non-fishing activities, and that would be coastal and offshore
39 development activities that may adversely affect EFH.

40
41 Plans should also analyze how the cumulative impacts of both
42 fishing and non-fishing activities influence the function of
43 EFH. Plans need to identify conservation and enhancement
44 actions, list major prey species for managed species, identify
45 habitat areas of particular concerns, and those are areas that
46 have important ecological function, are sensitive to
47 degradation, are under stress from development, or are
48 considered rare.

1
2 Plans should also identify EFH research and information needs,
3 and Number 10 is the part of the regulations that tells the
4 agency and the councils to periodically review their EFH
5 information, and that review should occur not less than every
6 five years.

7
8 The message on this slide is that the EFH information that we
9 are currently operating under were identified and described in a
10 2004 EIS and a 2005 generic amendment to the Gulf Council's
11 fishery management plans. This satisfied the first five-year
12 review required by the regulations of the original designations
13 made in 1998. The council undertook a five-year in 2010, which
14 was conducted in-house, and that review was reviewed by the
15 Habitat Advisory Panel and the SSC, but it did not result in any
16 changes to the EFH information in the council's fishery
17 management plans.

18
19 Other than rescinding the Stone Crab Fishery Management Plan and
20 removing some species from the Spiny Lobster and Reef Fish
21 Fishery Management Units, the only other actions the Gulf
22 Council has taken with respect to EFH is recently Coral
23 Amendment 9, which will designate additional HAPCs for areas
24 supporting deepwater corals.

25
26 In 2015, the Southeast Region was able to provide some financial
27 support, through the Office of Habitat Protection, to the Gulf
28 Council to conduct the next five-year review, which was
29 completed in a report authored by Claire Roberts dated December
30 of 2016, mentioned by John Froeschke.

31
32 During the council's 2016 review, an extensive literature review
33 was conducted to determine if any new EFH information was
34 available. Existing habitat associations from the 2004 EIS were
35 revised, to make them more readable and incorporate new
36 information from the literature review.

37
38 This update served three primary purposes: to make the tables
39 more user-friendly, to improve formatting, so the tables can
40 easily transition from a text document to internet resources,
41 and to assign habitat designation information that can be
42 georeferenced for the creation of map descriptions of EFH by
43 species and life stage.

44
45 Talking about the habitat association tables, reformatting the
46 habitat association tables was a big deal for us. Here is an
47 existing EFH description from the 2005 amendment, and all of the
48 EFH descriptions begin with: "EFH consists of areas of high

1 species density, based on the NOAA Atlas and functional
2 relationships analysis."

3

4 What that functional relationship analysis really means is the
5 2004 EIS contained life history information presented in a
6 series of separate habitat association tables, which provided
7 information on presence and absence, or relative density
8 information, of species across the Gulf of Mexico. A separate
9 table provided habitat utilization, which was linked back to the
10 ecological function provided by the statutory definition of EFH,
11 and that definition is: Habitats necessary for spawning,
12 feeding, breeding, and growth to maturity. Another table
13 provided depth preferences, and another provided a habitat
14 utilization summary.

15

16 In order to determine if a parcel of habitat in the Gulf of
17 Mexico was EFH for say juvenile red drum, you had to cross-
18 reference at least four different tables to determine if it was
19 EFH for the species or that species life stages.

20

21 In the background slides, I included the tables for red drum,
22 and I usually use red drum in my examples because it is a
23 single-species plan, and so, other than the tables are not
24 grouped by fishery management plan, cross-referencing those
25 tables for red drum isn't too bad, but, if you wanted to
26 determine if all the species and species life stages that had
27 that type of habitat identified as EFH, you would have to cross-
28 reference each of those four tables within each plan for each
29 species and each life stage, and you can just imagine what an
30 undertaking that would be just to get through the Reef Fish
31 Fishery Management Plan.

32

33 One of the real major benefits of what was done during the 2016
34 review was to bring all of that information together and back
35 into a single table for each species.

36

37 By species, the review was able to create -- By creating the
38 species-specific habitat association tables, it facilitated the
39 generation of species profiles, and these species profiles
40 include a brief synopsis of pertinent literature obtained during
41 the review, a description of habitat information by species and
42 life stage, graphs of growth by age and recent fishing effort,
43 and a brief history of the fishery.

44

45 The tables also facilitate a creation of composite maps of
46 benthic habitat use by life stages for each of the managed
47 species. This was also another very big improvement over our
48 current EFH maps, which depict the composite geographic of the

1 extent of EFH at the fishery management plan level, and so we
2 had seven maps that depicted the overall geographic extent of
3 EFH at the plan level. Now there is maps available by species
4 and the species life stage.

5
6 The review also took all of this information and put it online.
7 The resources available online include searchable references,
8 interactive maps, and the species profiles. Again, this is
9 another big improvement, because all the EFH information for a
10 managed species can now be found in essentially one place.

11
12 We reviewed the council's five-year review and provided comments
13 and recommendations back to the council, and, as John mentioned,
14 that letter is included in the briefing book as Number 4(b) in
15 Tab P. It provides a cover letter, which states many of the
16 things that I have already said, and it also includes a table,
17 which provides our comments and recommendations, and it
18 includes, for reference, a summary of the regulatory language
19 for each of the ten required components of FMPs with regard to
20 EFH.

21
22 Shown here in green are those areas where the Southeast Region
23 had no comments or recommendations to provide regarding the
24 findings of the council's review. In yellow were what I would
25 consider relatively minor recommendations. Regarding
26 conservation and enhancement, we recommended that the council
27 update their 2002 habitat policy.

28
29 Regarding HAPCs, our old EFH data and maps could only tell us if
30 a spot on a map are designated EFH for one or some combination
31 of the seven FMPs in effect at that time. Because of the effort
32 made during this review, and reformatting the EFH habitat
33 association tables and creating species-specific maps, we can
34 now identify what areas serve as EFH for multiple species and
35 species life stages. This could be a method used by the council
36 to expand EFH designations, which are currently limited to coral
37 and hard-bottom areas.

38
39 We also recommended that research and information needs be
40 periodically identified and prioritized, but specific to
41 essential fish habitat, and so those were the three areas that
42 are identified in yellow.

43
44 Now we're left with the two sections that are in black, and, in
45 those two sections, we provided some comments that probably are
46 not considered minor in nature. Regarding Number 10, the
47 regulations encourage councils to outline procedures that will
48 be used not only to review, but also update EFH information, and

1 we included that as a recommendation in our cover letter.

2
3 Currently, the only way to update EFH information is to undergo
4 an FMP amendment, and generic amendments are a pretty heavy
5 lift, and so, if there was a way to use an abbreviated process
6 to make simple updates or correct errors to EFH information,
7 that would be helpful. As an example, the existing EFH
8 designation for red drum includes offshore seagrasses as EFH for
9 spawning adults, and those spawning adults occur in depths that
10 are too great to support seagrasses, and so this appears to be
11 an error in the original habitat association tables and one that
12 has never been corrected.

13
14 Regarding the identification, description, and mapping of EFH,
15 we did make a recommendation to the council that they consider
16 amending their FMPs at an opportunity as other council
17 priorities and resources allow. This amendment would be
18 necessary for us to incorporate the new habitat life history
19 functional relationships into existing EFH identifications and
20 descriptions, in order for us to use this new information for
21 consulting on projects affecting EFH.

22
23 As I have mentioned before, we have recognized -- In the review,
24 we recognized the new life history habitat association tables
25 and species profiles are a vast improvement from the 2004 EIS.
26 However, we also identified some shortcomings to the information
27 that could be improved.

28
29 It remains difficult to discern what level of information the
30 EFH identifications and descriptions are based on, in accordance
31 with the final rule, which tells us to use the best available
32 science based on four levels, number one being distribution,
33 essentially presence or absence, and the second level is
34 habitat-related densities, the third level being growth,
35 reproduction, or survival rates within habitats, and number four
36 is production rates by habitat.

37
38 We know that most of the information we have is Level 1 and
39 Level 2, and we believe the level of information used in the EFH
40 identification and description should be explicitly stated, not
41 only to better inform the regulated public who are affected by
42 EFH consultations and the recommendations that we make during
43 the EFH consultations, but we also believe that knowing what
44 level of information we have will identify information gaps and
45 guide future research needs to refine the EFH identification and
46 descriptions for species managed by the council.

47
48 The 2004 tables detailed presence, absence, and relative density

1 information for each species life stage, and that was used as
2 the first criteria to determine if EFH should even be identified
3 or described for that species or life stage. That level of
4 detail is either not included or not apparent in the tables in
5 the 2016 review.

6
7 The council's review identified that the inland boundary of EFH
8 is ambiguous, and it identified that as an issue to be resolved,
9 but it did not offer any real solution. The analysis in the
10 2004 EIS relied on National Wetland Inventory Maps available at
11 the time to provide that inland boundary, and so, both during
12 our 2010 and 2016 reviews, we recommended that future EFH
13 identifications and descriptions and associated maps include
14 static boundaries, which could be things such as latitude and
15 longitude or political boundaries, such as county lines or other
16 static features, such as highways, to provide more certainty to
17 the regulated public and federal agencies of where they can
18 expect to encounter EFH and, therefore, may be required to
19 consult under the Magnuson-Stevens Act.

20
21 Right now, at the Habitat Conservation Division, we are
22 initiating a project with the Southeast Fisheries Science Center
23 to develop a consultation tool to assist in determining where
24 consultations may be required. We haven't initiated that, but,
25 based on our discussions so far, while this is intended to
26 support consultations, we believe this may be able to inform how
27 inland boundaries for EFH are identified and described in
28 fishery management plans as well.

29
30 Another issue that was raised during the review was the offshore
31 boundary for EFH, and so, except for royal red shrimp, which has
32 EFH going out to 325 fathoms, all other EFH descriptions stop at
33 100 fathoms, but the Gulf Council utilized the NOAA Fisheries
34 statistical grids to separate the Gulf into five what they
35 called ecoregions to refine how EFH designations were applied
36 across the Gulf of Mexico.

37
38 For example, habitats utilized by goliath grouper are only
39 designated as EFH in the ecoregion off of South Florida, instead
40 of Gulf-wide, but, if you extend the boundaries used from the
41 statistical grids offshore, they do not really lend themselves
42 well to describing those offshore areas consistent with the
43 ecoregions that the council identified.

44
45 While the new information suggests that EFH identification and
46 description may need to be extended beyond that hundred-fathom
47 contour, sub-dividing the Gulf of Mexico utilizing the
48 statistical grids may need to be refined.

1
2 A couple of other benefits that would occur if we had updated
3 EFH identification and descriptions are we continue to get
4 consultations with EFH assessments for effects on stone crab and
5 other species no longer managed by the council, and this is a
6 function of the 2004 EIS and 2005 Generic Amendment being our
7 source document for EFH information for all other species still
8 managed by the council.

9
10 We believe that the effort that Claire undertook to reformat the
11 habitat association tables and consolidate the information into
12 species profiles will make future reviews of EFH much easier,
13 and, with that said, recognizing that generic amendments are a
14 heavy lift, and, to a lesser extent, so are five-year reviews,
15 the council might consider where we are in the current review
16 cycle and the time it takes to complete an amendment and that
17 taking action now, or in the near future, could serve to satisfy
18 the next five-year review requirement, in addition to updating
19 our information.

20
21 I will close with that, other than to mention that John
22 Froeschke may want to provide some brief comments on a project
23 that we funded him to look at how other councils have designated
24 EFH and how that might inform future decisions by the council.

25
26 **CHAIRMAN BANKS:** All right. Thank you, Mr. Dale. Are there any
27 questions for Mr. Dale, before we move on? Paul.

28
29 **DR. PAUL MICKLE:** Hi, David. This is Paul Mickle from
30 Mississippi. I appreciate your presentation, and it was very
31 informative. I was wondering, how does Gulf sturgeon fit into
32 that EFH overall plan? I applaud you for picking red drum for
33 your examples, because, again, it's a federally-managed species,
34 and it's in the council purview, and Gulf sturgeon is not, but
35 this is my chance to ask these questions, and so I'm going to go
36 ahead and fire away.

37
38 It is a threatened species, and I assume that it's, I guess,
39 treated a little bit differently, as far as the requirements of
40 the EFH designation and certain permitting protocols within the
41 Corps, and then, of course, the NOAA review of those, and so my
42 question is, if you don't mind, just for the group, because four
43 out of the five Gulf states here do have the Gulf sturgeon off
44 of their coast and deal with this species, as far as, presently,
45 a lot of the restoration that's going on in the Gulf from the BP
46 oil spill. Thank you.

47
48 **MR. DALE:** Well, as you mentioned, Gulf sturgeon is not managed

1 under the Magnuson Act, and our requirement to designate
2 essential fish habitat is limited to those species managed under
3 the Magnuson-Stevens Act, and so, in the course of doing our
4 consultations under the Magnuson Act, and recognizing that Gulf
5 sturgeon is listed under the Endangered Species Act and has
6 critical habitat, that just requires us to have close
7 coordination with our Protected Resources Division, who
8 undertake those Endangered Species Act consultations. I hope
9 that answered your question.

10
11 **DR. MICKLE:** Yes, that answers the question. Also, are you
12 familiar with the European Community's Support Action at all,
13 the way that Europe does EFH?

14
15 **MR. DALE:** No, I am not.

16
17 **DR. MICKLE:** Okay. That's why, when you say you have a five-
18 year review of literature, I just wonder -- I guess you're doing
19 species-specific literature or a new literature review that
20 comes up for those species that fall under EFH for that
21 designation and those policy approval protocols.

22
23 It's very interesting to see what actually other countries do,
24 and maybe they're actually doing it -- I know that they're doing
25 it quite differently, and there is actually a manuscript out
26 that talks about this process and how it actually can be much
27 more effective than the American standard protocols.

28
29 The paper is actually authored by Vannes et al. 2008, and I can
30 send that to you. It's a really interesting read, but you also
31 mentioned a consulting tool that you're developing, and I would
32 really like to request a call with you and your staff, and maybe
33 Stephania Bolden with NOAA, who is working with the Gulf
34 sturgeon, with the critical habitat part of you all's division,
35 and maybe we could discuss certain ways to look at the
36 efficiencies of some of these habitat designations and how the
37 new literature bubbles up.

38
39 There's been a lot of new literature that has popped up in the
40 last six years on Gulf sturgeon in Mississippi, based in
41 Mississippi, and it would be nice to see how that has not
42 affected or may potentially affect EFH for that species.

43
44 **MR. DALE:** Okay.

45
46 **DR. MICKLE:** Great. Thank you, and so I'm going to reach out to
47 you. Sorry. If you were in person, I would do this on the
48 side, but you're not, and so I'm doing it in front of everybody,

1 and I'm going to send you an email with this manuscript and a
2 friendly request for a call. Thank you.

3
4 **CHAIRMAN BANKS:** Dr. Crabtree.

5
6 **DR. ROY CRABTREE:** Just remember, Paul, that Gulf sturgeon is
7 critical habitat, and that's not under David Dale's area or the
8 habitat. That's done under our Office of Protected Resources,
9 and so, if you want to request something, it would probably be
10 best if you send it to me, and I will get it to our Protected
11 Resources folks.

12
13 **CHAIRMAN BANKS:** Thank you, Dr. Crabtree. Any other questions?
14 Mr. Swindell.

15
16 **MR. ED SWINDELL:** Hi, David. This is Ed Swindell from
17 Louisiana. The last couple of items that you have on your
18 comments and recommendations is to eliminate EFH descriptions
19 for species no longer under management, and what do you mean by
20 eliminate? To me, I don't -- I mean, the descriptions are to
21 always be somewhere that people can go to see just what has
22 happened to that species before. I assume you don't want to
23 eliminate it from the whole system of information, and is that
24 correct?

25
26 **MR. DALE:** Maybe "eliminate" was a poor choice of words for that
27 slide. The problem that we have is, because the fishery
28 management plan process -- A fishery management plan is not a
29 single document that, when it gets updated, you take the one
30 three-ring binder off the shelf and put up a new three-ring
31 binder and it has all the latest and greatest.

32
33 It's a series of documents that creates an overall living
34 document, and so, when people search for EFH information,
35 especially that source information contained in the 2004 EIS and
36 2005 amendment, they are finding EFH designations for stone
37 crab, which was repealed, and, for other species of spiny
38 lobster, which we removed from the fishery management unit, and
39 certain species of reef fish that were removed from the fishery
40 management unit, and so it creates more work, and it confuses
41 the public, because that information is still out there, and
42 there is no real easy way to tell them that that no longer
43 applies to them in the EFH consultation world or those
44 requirements set forth by the Magnuson Act.

45
46 **MR. SWINDELL:** It just seems, to me, like I wouldn't like to see
47 them completely lost out of the system. It seems to me like
48 these ought to be available somewhere. Now, if you and your

1 staff are having to work with it, as people ask questions about
2 it, that is a problem, but, to totally eliminate them from the
3 system, I guess I don't really agree with doing that.

4
5 Making future reviews and updates to essential fish habitat
6 information easier, sure, and, I mean, I would love for that to
7 be done, but I just don't know how to do it, and something else,
8 as I read, again, the comments and recommendations, is to the
9 inland and offshore boundaries of the resource.

10
11 There is never really a great recommendation or identification
12 of just what the boundaries may be, but I think some reasonable
13 explanation is all that anybody can ever expect to see. To say
14 an inland boundary is ambiguous, I don't know, and I have seen
15 some fish way up in freshwater rivers that I never expected to
16 see, that I have seen as being a saltwater fish, but how can you
17 say that it won't ever enter that area? To say it's a boundary
18 -- It's not necessarily a boundary, but I do think to describe a
19 fishery that reasonably -- To where you would find these fish
20 and reasonably where you would find these fish offshore. Thank
21 you.

22
23 **MR. DALE:** I guess the point there to stress is essential fish
24 habitat is defined as those habitats that are necessary, and
25 necessary is further defined in the regulation, to the species
26 for spawning, breeding, feeding, and growth to maturity. EFH is
27 not intended to be just to cover the entire range of a species,
28 and so, unless it triggers that necessary life function, we
29 really should be focusing our EFH designations to those areas,
30 because that triggers the consultation requirement on the
31 regulated public.

32
33 **CHAIRMAN BANKS:** Leann.

34
35 **MS. LEANN BOSARGE:** Thank you for your presentation. This is
36 Leann Bosarge from Mississippi. I just wanted to echo what Mr.
37 Swindell said, that maybe you put some of this information to
38 the side for species that we no longer manage, but I think I
39 would still make it readily accessible.

40
41 For example, we have an exempted fishing permit right now that
42 we've been looking at for golden crab. Well, we don't currently
43 manage golden crab, but that would certainly be very useful
44 information to us as we go into the development of a plan for
45 something like that, if that fishery does develop, and I would
46 think that it would be information that you would need too, and
47 so I would say to please don't discard that type of information,
48 if you have it. Then my other question was did I hear you

1 correctly? Did you say that our EFH designations stop at 600
2 feet of water depth? Is that what you said?

3
4 **MR. DALE:** The EFH identification description made by the Gulf
5 Council all stop at 100 fathoms, except for royal red shrimp,
6 which has an area off the mouth of the Mississippi River that
7 goes up to 325 fathoms, and so, again, that is the Gulf Council
8 EFH designations.

9
10 Now, early in my slides, and I didn't hit on it, but the Highly
11 Migratory Species Division also has the requirement to identify
12 and describe EFH for those species of sharks and tuna and
13 billfish that they manage, and those designations occur
14 throughout the Gulf of Mexico in deeper waters, but, yes, for
15 the Gulf-Council-managed species, they all stop at 100 fathoms,
16 except for royal red shrimp.

17
18 **CHAIRMAN BANKS:** Ms. Bosarge.

19
20 **MS. BOSARGE:** Thank you. I appreciate that. Well, maybe that's
21 a project that we can look at in the future, because we've had a
22 lot of public testimony from different types of fishermen that
23 are fishing deeper than that for reef fish, fairly often at this
24 point, both on the for-hire side and the commercial side, and so
25 maybe that's something we might want to look into in the future.
26 Thanks.

27
28 **CHAIRMAN BANKS:** Thank you, Ms. Bosarge. Any other comments or
29 discussion? I am going to try to move us ahead here. Dr.
30 Simmons.

31
32 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** Thank you, Mr. Chair. I was
33 excited to hear that, if we move forward with putting these
34 updates into an FMP that Claire has worked really hard on, and
35 updating this information, that that could serve, potentially,
36 as our review, which our next five year review is due in 2021,
37 and so, if the council did want to move forward with this work,
38 it sounds to me like that information would work well together,
39 and we could meet our next review cycle, and we could update
40 this in a generic amendment and have some time to do it
41 appropriately, and that sounds like a great plan to me, and do
42 you see that as working, based on your comments earlier?

43
44 **MR. DALE:** That is the very reason why I threw it out there.
45 Yes, the 2004/2005 review, while it was driven by a lawsuit, the
46 guidance put out by the agency was that process was undertaking
47 a review, and I see no reason why it wouldn't satisfy that
48 requirement again.

1
2 **CHAIRMAN BANKS:** Thank you, Mr. Dale. In the interest of time,
3 I'm going to try to move us on, but I do think that we need to
4 have a little bit more discussion on that, as to whether legally
5 that would serve the purpose, but if we can just hold that off.

6
7 There is definitely several recommendations that came to us. If
8 you want to look at those recommendations more in-depth, you can
9 read the letter from NOAA at Tab P, Number 4(b). I think that
10 we need to give some thought to those recommendations and decide
11 what we want to do as a committee and as a council, but, in the
12 interest of time, I think I'm going to move us along today
13 towards the end, but be thinking on these recommendations and
14 how we may address them at the next meeting, maybe through a
15 generic amendment that covers all of our fishery management
16 plans or whether we want to go into each fishery management plan
17 and address these EFH updates, and so just be thinking on that
18 for our next meeting.

19
20 Is there any other business to come before the committee?
21 Seeing none, I am going to turn it back over to you, Mr.
22 Chairman.

23
24 (Whereupon, the meeting adjourned on April 3, 2019.)

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