

1 GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

2
3 SPINY LOBSTER MANAGEMENT COMMITTEE

4
5 Omni Hotel Corpus Christi, Texas

6
7 August 20, 2018

8
9 **VOTING MEMBERS**

10 Martha Guyas (designee for Jessica McCawley).....Florida
11 Doug Boyd.....Texas
12 Dave Donaldson.....GSMFC
13 Phil Dyskow.....Florida
14 John Sanchez.....Florida
15 Andy Strelcheck (designee for Roy Crabtree).....NMFS

16
17 **NON-VOTING MEMBERS**

18 Kevin Anson (designee for Scott Bannon).....Alabama
19 Susan Boggs.....Alabama
20 Leann Bosarge.....Mississippi
21 Dale Diaz.....Mississippi
22 Jonathan Dugas.....Louisiana
23 Tom Frazer.....Florida
24 Paul Mickle (designee for Joe Spraggins).....Mississippi
25 Robin Riechers.....Texas
26 Chris Schieble (designee for Patrick Banks).....Louisiana
27 Greg Stunz.....Texas
28 Lt Mark Zanowicz.....USCG

29
30 **STAFF**

31 Steven Atran.....Acting Deputy Director
32 Zeenatul Basher.....Coral and Habitat Biologist
33 John Froeschke.....Fishery Biologist-Statistician
34 Morgan Kilgour.....Fishery Biologist
35 Mara Levy.....NOAA General Counsel
36 Jessica Matos.....Administrative Assistant
37 Emily Muehlstein.....Public Information Officer
38 Ryan Rindone.....Fishery Biologist & SEDAR Liaison
39 Bernadine Roy.....Office Manager
40 Carrie Simmons.....Executive Director

41
42 **OTHER PARTICIPANTS**

43 Luiz Barbieri.....SSC
44 Anna Beckwith.....SAFMC
45 Eric Brazer.....Shareholders Alliance
46 James Bruce.....Magnolia, MS
47 Nikki Burch.....Magnolia, MS
48 Rick Burris.....MDMR

1 Les Casterline.....TPWD
2 Susan Gerhart.....NMFS
3 Kelsey Gibson.....TX
4 Ken Haddad.....ASA, FL
5 Sepp Hankebo.....EDF
6 Chad Hanson.....Pew
7 Scott Hickman.....Galveston, TX
8 Peter Hood.....NMFS
9 Alison Johnson.....Oceana, FL
10 Lawrence Marino.....LA
11 Laura Picariello.....Texas Sea Grant
12 Clay Porch.....SEFSC
13 Dale Rankin.....Island Moon Newspaper, TX
14 George Schmahl.....Flower Garden Banks National Marine Sanctuary
15 Matt Streich.....TX

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PAGE 10: Motion to approve the Spiny Lobster Amendment 13 and that it be forwarded to the Secretary of Commerce for review and implementation and deem the codified text as necessary and appropriate, giving staff editorial license to make the necessary changes in the document. The Council Chair is given the authority to deem any changes to the codified text as necessary and appropriate. The motion carried on page 10.

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1 The Spiny Lobster Management Committee of the Gulf of Mexico
2 Fishery Management Council convened at the Omni Hotel, Corpus
3 Christi, Texas, Monday afternoon, August 20, 2018, and was
4 called to order by Chairman Martha Guyas.

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

10 **CHAIRMAN MARTHA GUYAS:** Our committee members are John Sanchez,
11 Doug Boyd, Ms. Gerhart, Dave Donaldson, Phil Dyskow, and Bob
12 Shipp is on the committee, but he's not on the phone, and is
13 that right? Okay. We're missing Dr. Shipp.

14
15 All right, and so let's start with our agenda, if you'll take a
16 look at that, and it's K-1. Any additions or changes to the
17 agenda? Seeing none, the agenda is approved. How about the
18 minutes? The minutes are K-2. Any changes to the minutes?
19 Seeing none, the minutes are adopted as written.

20
21 I don't think we need to go through the Action Guide, but I will
22 just tell you that we've got two things in front of us on our
23 agenda, and one is to go through the landings, and then the next
24 would be potential final action on Spiny Lobster Amendment 13,
25 and so let's start with the landings. Who is going to take us
26 through those?

27
28 **SPINY LOBSTER LANDINGS**
29

30 **MS. SUSAN GERHART:** This is K-4. We have 2017/2018 and
31 2016/2017 both up here for you to look at. Both are final, and
32 so these are landings that we get from FWC, and you will notice,
33 in the 2017/2018, that we have commercial landings, but not
34 recreational landings, and that is due to the hurricanes that
35 occurred last summer and fall that prevented them from doing
36 that collection, and so we only have commercial landings.

37
38 However, you can see that the commercial landings are quite a
39 bit below what they were last year, and we were very close to
40 the ACT last year, and so I think we don't really have concerns
41 about exceeding the ACT or the ACL, even without those landings.

42
43 Of course, those commercial landings being low, these are
44 substantially lower. However, FWC staff tells me that that's
45 within the range of what we've seen since 2000, and so it's
46 about where we've had lows before, and so these things do
47 fluctuate quite a bit.

1 Also, and part of the reason likely has to do with the
2 hurricanes as well, that that had a huge impact in the Keys,
3 where most of the fishery is conducted, and so there you have
4 it, and, if you have any questions, I will be glad to --
5

6 **CHAIRMAN GUYAS:** All right. Are there questions for Sue on the
7 landings? Okay. Seeing none, let's move on to our amendment,
8 and so we've got a couple of things to cover. One is the public
9 comments, and then we can go through the amendment and the
10 codified text, and so I will turn it over to staff, and I don't
11 know who wants to start. Emily.
12

13 **FINAL ACTION: SPINY LOBSTER AMENDMENT 13: MODIFICATIONS TO THE**
14 **SPINY LOBSTER GEAR REQUIREMENTS AND COOPERATIVE MANAGEMENT**
15 **PROCEDURES**
16 **REVIEW OF PUBLIC COMMENTS RECEIVED**
17

18 **MS. EMILY MUEHLSTEIN:** Thank you, Madam Chair. We hosted a
19 webinar for this amendment to gather public comments, and we had
20 three members of the public attend, and one member of the public
21 submitted comment. That member of the public was Bill Kelly
22 with the Florida Keys Commercial Fishing Association.
23

24 He supported Action 1, Alternative 2, which would make the
25 federal regulations consistent with the state bully net gear
26 regulations. He also expressed support for Action 2,
27 Alternatives 2 and 3. He reasoned that a 250-lobster limit is a
28 generous harvest limit for bully net and dive gear, and,
29 finally, he supported Action 3, Alternative 2, stating that
30 cooperative management procedures should allow Florida to
31 request federal regulation changes through the National Marine
32 Fisheries Service's rulemaking process.
33

34 We also received two written comments on this amendment. The
35 first one supported Action 3, Alternative 2. Enhancing
36 cooperative management between the state and federal bodies is
37 critical to ensure that timely decisions can be made and acted
38 upon. This will ensure the vitality of the species by
39 encouraging appropriate management.
40

41 Then we heard that bully netting should not be open access and
42 that the number of lobster dive permits skyrocketed due to a
43 lack of proper permitting procedures and vetting and that the
44 permits were abused and trappers used their political power to
45 pass stringent laws against commercial divers. This penalized
46 honest harvesters, and bully net permits need a serious vetting
47 process to ensure that part-time fishermen aren't taking
48 advantage of the system. That concludes a report of the public

1 comments we heard on this document.

2
3 **REVIEW OF AMENDMENT**
4

5 **CHAIRMAN GUYAS:** Okay. Are there questions or comments on those
6 from the public? Okay. Seeing none, do we want to flip through
7 that amendment one last time and then look at the codified text?
8 Everybody is kind of not too excited about that. Okay.

9
10 Then it looks like the comments that we received seem to match
11 up with the preferred alternatives that we have in the document,
12 but maybe we do need to look at the codified text, at least,
13 since we have not seen that before.

14
15 **REVIEW OF CODIFIED TEXT**
16

17 **MS. SUSAN GERHART:** Okay, and so, in the codified text, there is
18 three actions, and it's fairly straightforward. We have put
19 codified text in that matches what the state regulations are.
20 What I wanted to point out, more than that, is we've made some
21 additional changes through this particular codified text.

22
23 For the most part, those changes involve incorporation by
24 reference, and we do that with the Florida Administrative Code.
25 We incorporate that by reference and say the federal regulations
26 do what the Florida regulations do, but we refer to a specific
27 date of the Florida regulations, and so that's a little bit old
28 now. Last May, Florida updated a lot of things in their
29 regulations, and so we've updated our incorporation by reference
30 to refer to that May date, to be consistent with them as well.

31
32 There are a few other things that were done. We had some fixes
33 that came from FWC themselves, saying here is some places where
34 there is inconsistency or maybe language that should be changed.
35 For example, we referred to the crawfish endorsement, and they
36 actually call it a license, and so made that change, and we had
37 some spelling errors, and we had a definition of underwater
38 breathing apparatus that they put in that they wanted us to
39 mimic, and so these are not really substantive things, but
40 they're just updates, for the most part, that are in there, and
41 so you will see, when you look at the codified text, that it's
42 quite a bit longer than you might expect, and it has to do with
43 these incorporation by reference and other changes that we did
44 as well. If you would like some more details, I can do that, if
45 you would like.

46
47 **CHAIRMAN GUYAS:** Mara.
48

1 **MS. MARA LEVY:** Just a note, maybe for staff. Particularly with
2 this one, and sometimes it doesn't matter so much, but this
3 particular codified that got sent over had a lot of comments in
4 it from NMFS, basically trying to delineate that this is what
5 we're doing and why, and, when it gets translated to PDF,
6 sometimes we lose those comments, and so, in the version you
7 have in the briefing book, sort of the explanations and telling
8 you what comes from the amendment versus what these
9 administrative fixes are get lost. Particularly when we have
10 this kind of mix, it would be helpful to make sure that those
11 comment boxes get in there, so that, in case you all have any
12 questions, you can see what was done.

13
14 **CHAIRMAN GUYAS:** Would it be possible to send that around so
15 that at least we can look at it before Full Council, in case
16 anybody has any concerns? I am seeing head-nods yes. Okay.
17 Excellent. That's coming around. Mr. Anson.

18
19 **MR. KEVIN ANSON:** Thank you, Madam Chair. I'm not on your
20 committee, but I had a question for Sue. Sue, just a
21 clarification. On this version now of the codified text, you
22 are not referring to a date certain Florida regulation or you
23 are referring to a date certain?

24
25 **MS. GERHART:** We are, and we're required to. We can't just say
26 whatever it happens to be at the time, and so we have to refer
27 to a date, and so we're just updating that date to May something
28 of 2017, which was the last time those portions of the
29 regulations were changed by Florida.

30
31 **MR. ANSON:** Thank you.

32
33 **CHAIRMAN GUYAS:** Dr. Kilgour.

34
35 **DR. MORGAN KILGOUR:** Just as a note, all of these changes are
36 referenced in the appendix, and I think it's Appendix D, but I
37 will go back and double-check, because now I have too many
38 things open, but we did highlight all of these, and codified
39 text changes that were specifically addressed in this amendment
40 are listed as "yes", and so, if you scroll down, it's Appendix
41 F, maybe? No? I can't see. I have my glasses on, and I can't
42 see. It's Appendix B. There we go.

43
44 Anything that was included in the amendment specifically, like
45 anything with bully netting, is addressed in this, and, if it's
46 not included in this amendment as an action item and has an "N"
47 for no, and then, if you scroll down a little bit farther, so
48 that -- There are a couple of things that are not addressed in

1 the codified text, because they were not appropriate, and so
2 like one of the things was change "loading" to "landing", and it
3 was determined that "loading" was the appropriate term.

4
5 The definition of "fish" should be -- It should say "species"
6 instead of "fish", and, if you look at the definition of "fish"
7 in the CFRs, it encompasses spiny lobster, and so those types of
8 things were not included, but all of the things that should be
9 in the codified text that you are seeing are incorporated in
10 this appendix, so that you know why they were or were not
11 included.

12
13 **CHAIRMAN GUYAS:** To get back to the incorporating 622, or the
14 Florida lobster rules, and let's just say it that way, but the
15 date with those, and I know Bill Kelly would ask this if he was
16 here, because FWC is making some changes to the soak dates and
17 then how long traps can be left in the water at the end of the
18 season before they are picked up, and those changes are pending
19 right now.

20
21 Our commission will be considering them in September, and so
22 we're getting the question of whether those changes can be
23 incorporated in this change when this document gets finalized
24 after both the Gulf Council and South Atlantic Council take
25 action, so that those could be maybe in place for next year's
26 season. Sue, can you address that?

27
28 **MS. GERHART:** It has to do with the timing. Because this still
29 has to go before the South Atlantic Council for approval at
30 their September meeting, depending on when the Florida
31 regulations go into place, we may be able to easily incorporate
32 that into this codified as well, and, again, it would just be
33 changing the date of the incorporation by reference to be
34 whatever the date is that those new regulations went into place.

35
36 If we can't, if it doesn't happen in time for us to do it in the
37 proposed rule, there's a possibility that we could add it in or
38 put it in the proposed rule that we expect this to happen and
39 then have it in the final rule, and then, in the worst-case
40 scenario, if we can't get it in there at all, this rulemaking is
41 putting in a procedure so that we can do it a whole lot easier
42 in the future, and so I would say that's how we would do it
43 then.

44
45 **CHAIRMAN GUYAS:** Okay. Great. I think that's helpful. All
46 right. Are there other questions or comments on either the
47 codified text or this amendment in general? If not, would
48 anybody be willing to make a motion to move this forward? John

1 Sanchez.

2

3 **MR. JOHN SANCHEZ: So moved.**

4

5 **MR. PHIL DYSKOW: Second.**

6

7 **CHAIRMAN GUYAS:** I think what we're doing here is recommending
8 that the council will take final action on Spiny Lobster
9 Amendment 13 and approve the codified text later in the week, on
10 Thursday. Okay, and so that motion is going up on the board
11 now. Okay. Any discussion on this motion? **Seeing none, any**
12 **opposition to this motion? Seeing none, the motion carries.**

13

14 With that, we are on to Other Business, and I don't think we
15 have any, and so, Madam Chair, I will turn it back over to you.

16

17 (Whereupon, the meeting adjourned on August 20, 2018.)

18

19

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