

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

SPINY LOBSTER COMMITTEE

Naples Grand Beach Resort Naples, Florida

June 5, 2017

VOTING MEMBERS

- 10 Martha Guyas (designee for Nick Wiley).....Florida
- 11 Doug Boyd.....Texas
- 12 Roy Crabtree.....NMFS, SERO, St. Petersburg, Florida
- 13 Dave Donaldson.....GSMFC
- 14 Campo Matens.....Louisiana
- 15 John Sanchez.....Florida

NON-VOTING MEMBERS

- 18 Kevin Anson.....Alabama
- 19 Patrick Banks.....Louisiana
- 20 Leann Bosarge.....Mississippi
- 21 Glenn Constant.....USFWS
- 22 LCDR Leo Danaher.....USCG
- 23 Dale Diaz.....Mississippi
- 24 Tom Frazer.....Florida
- 25 John Greene.....Alabama
- 26 Paul Mickle.....Mississippi
- 27 Lance Robinson (designee for Robin Riechers).....Texas
- 28 Greg Stunz.....Texas
- 29 Ed Swindell.....Louisiana
- 30 David Walker.....Alabama

STAFF

- 33 Steven Atran.....Senior Fishery Biologist
- 34 Douglas Gregory.....Executive Director
- 35 Morgan Kilgour.....Fishery Biologist
- 36 Ava Lasseter.....Anthropologist
- 37 Mara Levy.....NOAA General Counsel
- 38 Jessica Matos.....Administrative Assistant
- 39 Emily Muehlstein.....Public Information Officer
- 40 Ryan Rindone.....Fishery Biologist/SEDAR Liaison
- 41 Bernadine Roy.....Office Manager
- 42 Carrie Simmons.....Deputy Director

OTHER PARTICIPANTS

- 45 Anna Beckwith.....SAFMC
- 46 Eric Brazer.....Gulf Reef Fish Shareholders Alliance
- 47 J.P. Brooker.....Ocean Conservancy, St. Petersburg, FL
- 48 Traci Floyd.....MDMR

1 Susan Gerhart.....NMFS
2 Chad Hanson.....Pew Charitable Trusts
3 Scott Hickman.....CFA, Galveston, TX
4 Mark Hubbard.....FL
5 Alison Johnson.....Oceana
6 Bill Kelly.....FKCFA
7 Rich Malinowski.....NMFS
8 Bonnie Ponwith.....SEFSC
9 Jessica Stephen.....NMFS
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TABLE OF CONTENTS

1
2
3 Table of Contents.....3
4
5 Table of Motions.....4
6
7 Adoption of Agenda and Approval of Minutes.....5
8
9 Action Guide and Next Steps.....5
10
11 Final Spiny Lobster Regulatory Amendment 4.....5
12 Summary of Public Comments.....5
13 Review of Amendment.....6
14
15 Other Business.....9
16 Update on Bully-Netting Regulations.....9
17
18 Adjournment.....13
19
20 - - -
21

TABLE OF MOTIONS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

PAGE 8: Motion to recommend that the Spiny Lobster Regulatory Amendment 4 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 authority to deem any changes to the codified text as necessary and appropriate. The motion carried on page 8.

PAGE 12: Motion to direct staff to begin work on a plan amendment to address the bully-net issue and reestablish the protocol procedures with the State of Florida. The motion carried on page 13.

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1 The Spiny Lobster Committee of the Gulf of Mexico Fishery
2 Management Council convened at the Naples Grand Beach Resort,
3 Naples, Florida, Monday afternoon, June 5, 2017, and was called
4 to order by Chairman Marth Guyas.

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

10 **CHAIRMAN MARTHA GUYAS:** Our Lobster Committee members are John
11 Sanchez, Doug Boyd, Roy Crabtree, Dave Donaldson, and Camp
12 Matens. The first thing we need to do is I guess see if there's
13 any changes to the agenda. If not, let's have a motion to adopt
14 the agenda.

15
16 **MR. JOHN SANCHEZ:** So moved.

17
18 **CHAIRMAN GUYAS:** All right. Motion from John and second from
19 Dave Donaldson. Any opposition to that motion? Seeing none,
20 the agenda is adopted. How about the minutes? We have minutes
21 from our last meeting in April. Any changes to those minutes?
22

23 **MR. DAVE DONALDSON:** Motion to accept.

24
25 **CHAIRMAN GUYAS:** We have a motion from Dave. Is there a second?
26 Second from John Sanchez. Any opposition to the motion? Seeing
27 none, the minutes are approved. Let's jump right into the Final
28 Spiny Lobster Regulatory Amendment 4, and Morgan is going to
29 walk us through that amendment.
30

31 **FINAL SPINY LOBSTER REGULATORY AMENDMENT 4**
32

33 **DR. MORGAN KILGOUR:** Would you like Emily to go over the single
34 public comment first, or would you like me to go through the
35 amendment first? Whichever you prefer.
36

37 **CHAIRMAN GUYAS:** Sure. We can go through the comment. That's
38 easy enough.
39

40 **SUMMARY OF PUBLIC COMMENTS**
41

42 **MS. EMILY MUEHLSTEIN:** Okay. Thank you, guys. I will go ahead
43 and go over -- We only had one comment received on this
44 amendment, and it wasn't about the annual catch limits for spiny
45 lobster. It focused on the spiny lobster recreational trap
46 closure.
47

48 Specifically, it states that there is no reason to ban spiny

1 lobster recreational trap fishing in federal waters of the South
2 Atlantic. It's not a frequently-used harvest method, and
3 seasonal closures would be more appropriate, to avoid
4 interactions with migrating whales, and that concludes my
5 report.

6
7 **CHAIRMAN GUYAS:** Anna.

8
9 **MS. ANNA BECKWITH:** I can speak to this gentleman. He contacted
10 us individually. He is from North Carolina. He had gone
11 through quite a bit of effort to get the appropriate gear setup
12 and colors and all the things that he needed to do, and then, as
13 the council moved forward with this, he was surprised that we
14 were moving towards banning the use of recreational pots.

15
16 We had tried to contact this individual much earlier in the
17 process. He did not respond to our attempts to contact him
18 during the earlier preparation of this amendment, and so I just
19 wanted to bring that to your attention. It seems to me that the
20 South Atlantic Council is not intending on changing our current
21 preferred. We understand how that would slow down the
22 amendment. We will discuss it next week, but my suspicion is
23 that we will be moving forward as is.

24
25 **CHAIRMAN GUYAS:** Thanks, Anna. Morgan, do you want to take us
26 through the actions real quick?

27
28 **REVIEW OF AMENDMENT**

29
30 **DR. KILGOUR:** Absolutely. Thank you. The first action is
31 modifying the current definitions of management benchmarks, and
32 Action 1.1 is the maximum sustainable yield and overfishing
33 threshold.

34
35 The council's current preferred Alternative 2 would have the MSY
36 proxy and MFMT be equal to the revised OFL, as recommended by
37 the Gulf and South Atlantic SSCs, using the mean landings from
38 the years 1991/1992 to 2015/2016, plus two standard deviations,
39 and that equates to 10.46 million pounds.

40
41 **CHAIRMAN GUYAS:** Is everybody comfortable where we are? Any
42 questions or discussion on this action? I am seeing some
43 thumbs-up, and so I think let's keep moving.

44
45 **DR. KILGOUR:** Okay. Action 1.2 would modify the annual catch
46 limit and the annual catch target for spiny lobster, and the
47 Preferred Alternative 2 is the ACL is equal to the ABC, as
48 recommended by the Gulf and South Atlantic Councils SSCs, using

1 the mean landings from the years 1991/1992 through 2015/2016
2 plus 1.5 standard deviations, which is 9.6 million pounds. The
3 ACT would be 90 percent of the new ACL, which would equal 8.64
4 million pounds.

5
6 I should note that there is a review panel should be convened if
7 there are two consecutive years of low landings or the landings
8 are below 5.3 million pounds, and that would not replace the
9 existing accountability measure of a review panel being convened
10 if the ACT is exceeded, and so it would be in addition to that.

11
12 **CHAIRMAN GUYAS:** Thanks, Morgan. Any questions or comments on
13 this one? Okay. I guess let's move on then.

14
15 **DR. KILGOUR:** Okay. The last action in this document is
16 prohibit the use of traps for recreational harvest of spiny
17 lobster in the South Atlantic EEZ. The council's current
18 preferred alternative is Alternative 2, which would prohibit the
19 use of traps for recreational harvest of spiny lobster in the
20 South Atlantic EEZ.

21
22 **CHAIRMAN GUYAS:** Okay. Any questions or comments on this, given
23 the testimony that Emily gave to us and then also Anna's
24 explanation? Doug.

25
26 **MR. DOUG BOYD:** Just a question. What is the reason behind
27 prohibiting those traps over there? Is it the size of the stock
28 or is the difficulty in obtaining it in the water it's in or --

29
30 **CHAIRMAN GUYAS:** Anna, can you speak to that?

31
32 **MS. BECKWITH:** Certainly. We have had quite a bit of effort
33 involved in managing black sea bass pots, due to right whale
34 harvest, and the council's current opinion is that trap gear is
35 a commercial gear, and we're not looking for additional vertical
36 lines in areas that might interact with right whales.

37
38 **MR. BOYD:** Thank you.

39
40 **CHAIRMAN GUYAS:** Okay. I think that's our last action. Is that
41 right, Morgan?

42
43 **DR. KILGOUR:** That is correct.

44
45 **CHAIRMAN GUYAS:** Okay, and this is our last stop for this
46 amendment, and so now would be the time, unless there is other
47 questions or comments, for a motion to potentially ask the
48 council to consider taking final action on this. Doug.

1
2 **MR. BOYD:** I would move that we take final action and submit to
3 the council for approval.
4
5 **CHAIRMAN GUYAS:** John seconds. I know we have some boilerplate
6 language here that we can use for the motion, if we can get that
7 on the board. **Our motion is to recommend that the Spiny Lobster**
8 **Regulatory Amendment 4 be forwarded to the Secretary of Commerce**
9 **for review and implementation and deem the codified text as**
10 **necessary and appropriate, giving staff editorial license to**
11 **make the necessary changes in the document. The Council Chair**
12 **is given authority to deem any changes to the codified text as**
13 **necessary and appropriate.** Good, Doug?
14
15 **MR. BOYD:** That's it. I can't read it from here.
16
17 **CHAIRMAN GUYAS:** Yes, I thought I would help you out. Is there
18 a second real quick, before I get these hands? Second from
19 John. Okay. I will go Mara and then over to Morgan.
20
21 **MS. MARA LEVY:** Just to address the codified text that's in your
22 briefing book, there is the provision in there that is related
23 to the South Atlantic's action to prohibit the recreational
24 traps.
25
26 NMFS has written it in a way to prohibit traps on a vessel that
27 has spiny lobster, subject to the bag and possession limits, to
28 try and get at that, and so I think that NMFS was just going to
29 check with folks on the South Atlantic Council whether that kind
30 of language is going to impact black sea bass pot holders, just
31 to double-check that the way the regulations are written aren't
32 going to do something unintentional, and the only reason I'm
33 raising that is, if there is an issue, it might get tweaked, and
34 so then it would go back to the Chair for re-deeming, and I just
35 wanted to let you know that.
36
37 **CHAIRMAN GUYAS:** Morgan.
38
39 **DR. KILGOUR:** I was actually just going to bring up that there
40 is codified text to look at, and so we're all good.
41
42 **CHAIRMAN GUYAS:** Any other questions or comments? Okay. **Is**
43 **there any opposition to this motion? Seeing none, the motion**
44 **carries.**
45
46 That will take us to our next item, which is Other Business. We
47 have an update on bully-netting regulations, and somebody from
48 NOAA Fisheries is giving this update, although I can probably

1 help.

2
3 **OTHER BUSINESS**
4 **UPDATE ON BULLY-NETTING REGULATIONS**
5

6 **MS. LEVY:** I guess it's not clear to me exactly what this agenda
7 item was supposed to be addressing. If you want to talk about
8 the protocol and the procedure and the implications of that, I
9 can do that, but maybe Morgan knows more about what is supposed
10 to be happening under this agenda item.

11
12 **DR. KILGOUR:** I had sent you an email and asked for some
13 clarification on whether or not there had been a decision, and
14 so perhaps you can just let us know where we are on the decision
15 for bully-netting, if we have to do a full amendment or if this
16 can be procedural, and I know that that hasn't been decided, but
17 that's what this was for. I don't know what -- Do we need to
18 move on with a full amendment, or is this going to be something
19 that is decided between NMFS and FWC? That's all.

20
21 **MS. LEVY:** So, from what I have looked at, there was the
22 protocol and the procedure that went with that protocol that got
23 established in Amendment 2, and I think tweaked in Amendment 3,
24 and they went together, and so there was a protocol that said
25 that basically Florida is going to take the lead and can propose
26 regulations directly to NMFS, and then there was a procedure
27 that went with that protocol and said what you could do with
28 respect to that.

29
30 From what I can tell, when the council did Amendment 10, they
31 tweaked the protocol to update some language, but then got rid
32 of the procedure that went with it and adopted the framework,
33 and the framework provision replaced the prior protocol, but I
34 don't know that -- It's hard for me to go back and history and
35 figure out whether, when that decision was made, it was
36 understood that now we have a disjointed protocol that
37 anticipates that Florida would propose regulations directly to
38 NMFS and a framework procedure that requires the council meeting
39 and council involvement and actually implementing the management
40 measures.

41
42 Prior, it sort of took council action out of the process, other
43 than the council kind of having a veto and saying that, no, we
44 don't think this is consistent, but now all we have is the
45 framework procedure, and that framework procedure allows for
46 adjustment of management measures and things like that, but it's
47 through a council framework. We don't have the other procedure
48 that went with the protocol.

1
2 I think the council might need to decide if you want to go back
3 and do a plan amendment and reincorporate, maybe with
4 adjustments, the procedure that went with the protocol, so you
5 can do that NMFS/Florida direct sort of implementation, or do
6 you just want to look at what Florida is doing and then adopt
7 consistent regulations or whatever under a normal framework
8 procedure, and we can go back and look at whether the bully-
9 netting requirements would fall under that framework.

10
11 I suspect they would, because it's a gear requirement, although,
12 if we're banning it, it might require a plan amendment. We
13 would have to look at that, but there is, as far as I can tell,
14 no procedure to go with the protocol, and so, whatever happens,
15 it's got to go through the council.

16
17 **CHAIRMAN GUYAS:** Okay. Interesting. I can fill in, I think, a
18 couple of things. Our staff recently made some changes to
19 bully-netting regulations for state waters. In addition to
20 that, our staff has gone through FWC spiny lobster rules and a
21 lot of the existing CFR language, and found some housekeeping
22 issues that need to be, I think, fixed and some inconsistencies.

23
24 We were operating, I think, under the assumption that I think
25 the protocol still exists, and we have some -- I guess, when the
26 South Atlantic discusses this next week, they have a document
27 talks about the protocol, which seems like, if it still is
28 something in play, it would need to be updated, because it
29 references our old process under the Marine Fisheries
30 Commission, which was the predecessor of FWC, and how our rules
31 would have to go through the Governor and cabinet, which doesn't
32 happen anymore. Anyway, that's a whole other thing.

33
34 We think we have an idea of what might fall under this protocol
35 and what might not that we can certainly share with NOAA staff,
36 and we can go from there, but I don't know if there is any
37 opinions or discussion about whether the Gulf Council wants to
38 be involved in this process as we're revising lobster
39 regulations, or do people feel like FWC and NOAA can just figure
40 it out and show the council the final product, and is that kind
41 of how it worked under the protocol before?

42
43 **MS. LEVY:** Honestly, I'm not sure how it worked under the
44 protocol, but, when you look at what was in Spiny Lobster 3,
45 there is the protocol and the procedure, and the procedure then
46 outlines what is covered, and so the protocol is more general
47 and says they're going to work together and FWC is going to do
48 this and NMFS is going to do that, but then the procedure is

1 supposed to sort of then flesh out more, I think, of the
2 process, and it specifically says what changes are appropriate,
3 and that's the part that we replaced.

4
5 Again, it's do the councils want to go back and sort of
6 reinstate some sort of procedure that can actually -- That the
7 protocol can use, or are we just going to get rid of the
8 protocol and just go through the council framework process to
9 make things consistent, to the extent the council wants to do
10 that, and I think that's your decision.

11
12 **CHAIRMAN GUYAS:** Let me ask a question. If we went back to
13 protocol versus framework, what would the council need to do for
14 that to happen? Do we need to actually go through an amendment
15 to do that? Oh, good times. So we're looking at an amendment
16 no matter what. Great. Go ahead, Leann.

17
18 **MS. LEANN BOSARGE:** It sounds like our options are a framework
19 to implement what you want to implement or amendment to get our
20 procedures and protocols back on the books, and so I guess my
21 question would be do you think this is sort of a once-in-a-blue-
22 moon occurrence or if this going to be more frequent, and then
23 it would seem to be obvious that we might need to go the
24 amendment route. I say obvious, but people may have other
25 opinions.

26
27 **CHAIRMAN GUYAS:** At this point in time, it's kind of a once-in-
28 a-blue-moon thing, but who knows in the future? We may be
29 working on lobster more frequently. Mara.

30
31 **MS. LEVY:** Well, I mean, you could potentially do them together.
32 You could do a plan amendment that implements whatever changes
33 you want to make with respect to bully-netting or whatever else,
34 and then you could also, in that amendment, we could address the
35 lack of the procedures to go with the protocol, and so if you
36 want to keep -- I mean, framework or amendment, they're a little
37 bit different, but they're not substantially different when it
38 comes to what you have to have.

39
40 **MS. BOSARGE:** I guess I was thinking about, if we did a full
41 amendment and we got into those procedures and protocols, I can
42 see where that may be more time-consuming and get in-depth
43 pretty quickly, versus the framework to implement what you want
44 to implement and get it on the books and go about your business,
45 but it's totally -- Whatever the council wants to do.

46
47 **CHAIRMAN GUYAS:** Doug.

48

1 **EXECUTIVE DIRECTOR DOUGLAS GREGORY:** My impression is that
2 there's a lot of shallow water in federal waters on the Atlantic
3 side of the Keys, so that that could be a loophole, and so it is
4 possible that we could do a framework to address the bully-net
5 issue and do it quickly and simultaneously do an amendment to
6 change the protocol or go back to the protocol if the council
7 wants and if the FWC wants to reestablish a protocol, and so
8 that would be the quickest way to get it all done, I think, with
9 two different documents.

10
11 **CHAIRMAN GUYAS:** It seems like that would make sense. That
12 would make sense to me, I think, but we'll also have to work
13 with the South Atlantic on all of this as well, and so that's
14 another fun component of this. Committee, where are you on
15 this? Any opinions? Not much excitement.

16
17 I think we're looking at some kind of changes for lobster no
18 matter what. Like I said, there are some changes in addition to
19 the bully-net changes that we've identified that we probably
20 need to think about, and we can talk to NOAA staff more about
21 those, but --

22
23 **DR. ROY CRABTREE:** It seems to me that we ought to just do this
24 all in one amendment, although I am trying to think, because
25 I've been around a long time now, and I don't recall when we
26 ever used the protocol, but, if we want to fix it, that's fine,
27 and it seems to me that let's do it all at once. There is not
28 any burning urgency. Whatever bully-netting is going on in the
29 EEZ, it must be fairly minimal.

30
31 **CHAIRMAN GUYAS:** Is there any opposition to the approach that
32 Dr. Crabtree just described? Seeing nods to no. Okay. Do you
33 need a motion to get this started?

34
35 **DR. KILGOUR:** Just for clarification, I think I would need a
36 motion to start a framework to address the bully-netting issue,
37 and I would probably need another motion if you wanted to fix
38 the procedure to go with the protocol, and so, yes, I would need
39 a motion for both of those things.

40
41 **DR. CRABTREE:** I was thinking we would do both of them in one
42 amendment and do it all at once, unless somebody objects to that
43 approach. I guess I am deferring to you guys, Martha.

44
45 **CHAIRMAN GUYAS:** It seems okay to me. I mean, if we're going to
46 be working on lobster --

47
48 **DR. CRABTREE:** All right. Then I will make a motion to direct

1 staff to begin work on a plan amendment to address the bully-net
2 issue and reestablish the protocol procedures with the State of
3 Florida.

4
5 **CHAIRMAN GUYAS:** Is there a second for this motion? Second from
6 John Sanchez. Does everybody understand where we are? Any
7 other questions or discussion? Doug.

8
9 **EXECUTIVE DIRECTOR GREGORY:** My only concern is there's a lot of
10 shallow water along the reef line that's in federal waters, and
11 people do bully-net along the reef line and in between the reefs
12 that come to the surface, with the seagrass beds and the sand
13 areas. There is a lot of undercuts in the grass beds, and
14 lobsters go under there, and they come out at night, and so I am
15 concerned that a plan amendment for the bully-net thing might
16 leave a loophole for too long of a period of time. I am not
17 certain, but I just have that concern.

18
19 **CHAIRMAN GUYAS:** Well, we won't have anything done by the time
20 the fishery opens for this year, and so I think we're stuck no
21 matter what, and so it may not be that big of an issue, or at
22 least an issue that we can avoid, given that the fishery opens
23 in a few months, or a few weeks. Anything else on this motion?
24 **Any opposition to this motion? Seeing none, the motion carries.**

25
26 Is there any other business to come before this committee?
27 Seeing none, we are adjourned.

28
29 (Whereupon, the meeting adjourned on June 5, 2017.)

30
31 - - -