



November 22, 2009

Mr. Duane Harris
Chairman
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405

RE: Amendment 17A to the Snapper Grouper Fishery Management Plan

Dear Chairman Harris,

On behalf of the Pew Environment Group's Ending Overfishing in the Southeast campaign, we are writing to provide comments on Amendment 17A to the South Atlantic Fishery Management Council's (Council) Snapper Grouper Fishery Management Plan (FMP). We continue to urge the Council to follow the advice of its scientists and to set precautionary limits that account for scientific and management uncertainty.

We join with coastal businesses¹, thousands of private citizens², and other demonstrations of public support³ in supporting the approval of Amendment 17A at the Council's December meeting. Although we realize that some stakeholders will be adversely impacted by these regulations, we strongly believe that approval of the Amendment is critical to end decades of overfishing and restore the red snapper population to healthy, sustainable levels.

Red snapper have been overfished for the last 40 years, and have been reduced to 3% of 1945 levels⁴. The stock assessment found that an 87% reduction in red snapper mortality is necessary to end overfishing as required by law. Unfortunately, a moratorium on red snapper fishing will not yield the required 87% mortality reduction because red snapper are often caught accidentally while fishing for other species⁵. Thus, it is necessary to close bottom fishing in areas deemed to be red snapper hotspots to address this accidental catch.

¹ See Attachment 1.

² See Attachment 2.

³ See Attachments 3 & 4.

⁴ SEDAR 15

⁵ Ibid.

Several recent years of unusually high reproduction in the red snapper population have caused an increase in the number of legal-sized fish. These young but sometimes quite large fish have convinced some fishermen that the population has recovered. However, the recent otolith sampling⁶ confirms the stock assessment results: although red snapper can live to be more than 50 years old, the vast majority of the population are just five years old or younger. These strong year classes of four and five year old fish have the potential to help the population rebuild very quickly, but only if fishing pressure on these young fish is reduced, and they are given time to reach their best reproductive years.

Fishing rates are eight times the level that scientists consider to be sustainable⁷. In addition, the most recent recreational landings data indicates that fishermen are catching red snapper in record numbers. The rebuilding plan projections are predicated, in part, upon the reproductive capacity of these few good year classes⁸. The longer the Council waits to act, the more fishing pressure these year classes will endure, potentially jeopardizing the rebuilding plan. Thus, we urge the Council to act quickly and to finalize this document in December.

We recognize the difficult decisions that you and the Council must make to ensure that overfishing is ended and fish populations in the region are rebuilt, and we appreciate your hard work and commitment to conserving the region's valuable marine resources. However, as currently drafted, Amendment 17A falls short of complete compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Specifically, an annual catch target (ACT) along with additional accountability measures (AMs) should be employed to account for management uncertainty as required in the MSA.⁹

However, the timeline for ending overfishing of red snapper has passed, and it is important to move these regulations onto the water. Therefore, we fully support the adoption of this amendment at the December meeting with the inclusion of new accountability measures as detailed below. The remaining shortfalls in the document, such as the adoption of an allowable biological catch (ABC) control rule, can be remedied in the Comprehensive Annual Catch Limit (ACL) Amendment which is now in development.

Maximum Sustainable Yield (MSY) for Red Snapper

We strongly support Alternative 2, the Council's preferred alternative. The Southeast Data Assessment and Review (SEDAR) 15 review panel and the Council's Science and Statistical Committee (SSC) have recommended the use of a 40% spawning potential ratio (SPR) as a proxy for maximum sustainable yield (MSY). The designation of a proxy for MSY involves some policy considerations, but is largely a scientific determination.¹⁰ National Standard 1

⁶ Potts, Jennifer. Age Structure of U.S. South Atlantic Red Snapper, *Lutjanus campechanus*, Landed In June, July and August 2009, SEDAR

⁷ SEDAR 15

⁸ Amendment 17A public hearing draft, SAFMC

⁹ Section 600 MSA 109-479(15)

¹⁰ Goodyear, C. (1990). *Spawning Stock Biomass per Recruit: The Biological Basis for a Fisheries Management Tool*. ICCAT.

(NS1), NOAA's guidance to the regional fishery management councils on the new law, states that:

*“When data are insufficient to estimate MSY directly, Councils should adopt other measures of reproductive potential, based on the **best scientific information available**,”¹¹ [emphasis added]*

The use of a 30% SPR, as has been discussed, would not comply with the law's mandate to manage within the recommendations of the SSC. The Council's chosen designation of MSY (or in this case, a proxy for MSY) exemplifies the kind of precautionary and science-based decision that the Council must make in order to comply with the MSA.

Red Snapper Rebuilding Schedule

We recommend that the Council choose Alternative 3 (using T_{mid}) in the red snapper rebuilding schedule, which is consistent with the Council's preferred alternative in the next section of the document. The chosen rebuilding schedule should be “as short as possible”¹² and in a time frame not to exceed 10 years, although the MSA does provide the councils with the flexibility to extend the timeline to $T_{min} +$ one generation time, which would equal 35 years for red snapper.

Though the Council's preferred alternative for the red snapper rebuilding schedule relies on the longest allowable rebuilding timeline, the Council also prefers, in the next section of the amendment, a strategy that would rebuild the red snapper population significantly faster than 35 years. This seems to be an internal inconsistency, and we encourage the Council to adopt a rebuilding schedule closer to T_{mid} , or 25 years. This would much more closely align with the projected timeline of 25-26 years for the Council's preferred rebuilding strategy.

NS1 guidance states that the timeline must take into account:

“the status and biology of any overfished stock, the needs of the fishing communities, and interaction of the stock within the marine ecosystem.”

Numerous scientific and economic studies have found that rebuilding quickly has enormous benefits both for the marine ecosystem and the economies that rely on it.¹³

Red Snapper Rebuilding Strategy

We support Alternative 5, or Alternative 4 with the caveat that the accountability measures must be strengthened to account for the management uncertainty. The Council's preferred Alternative 4 for the rebuilding strategy sets fishing mortality at 75% F_{MSY} , and has a 70 percent chance of successful rebuilding, which is consistent with the SSC's recommendation. However, in order for the measures in Alternative 4 to achieve the required 87% reduction in fishing mortality, both

¹¹ CFR Section 600.310 (1)(e)(4)

¹² Department of Commerce. (2008). *CFR Section 600 MSA*.

¹³ e.g. Sumaila, U. R., & Suatoni, E. (2005). *Fish Economics: The Benefits of Rebuilding US Ocean Fish Populations*. Vancouver: University of British Columbia.

a 92% compliance rate with the closed areas and very high recruitment are assumed.¹⁴ We are very concerned that these overly optimistic assumptions could compromise the effectiveness of this amendment and do not account for management uncertainty as required in the MSA. Alternative 5 uses 65% F_{MSY} and thus better accounts for this management uncertainty as required by law.

We appreciate the recent addition of three new AMs to the document. However, the first two are only to track biomass and catch per unit effort (CPUE). Although these are necessary and important steps, without clear parameters for these numbers or consequences for overages, they do not fit the definition of accountability measures. The third AM listed states that:

“The Council would evaluate the size of the area closures when the discards are estimated to exceed the ACL. CPUE would be evaluated every three years and adjustments would be made by the framework action being developed in Amendment 17B.”¹⁵

We support the addition of this critical AM, and urge the council to be more explicit in its description of what will trigger the AMs and the types of adjustments that will result. The Council should evaluate the size of area closures and CPUE each year for the first several years, and adjustments should be made to the ACL, the size of the area closure, and/or exceptions to the closure in response to changes in biomass and CPUE.

Red Snapper Management Measures

We support Alternative 6, the closure of grids 2880, 2980, 3080, 3179, 3180, 3278, and 3279 to bottom-fishing, with the addition of the accountability measures outlined below. Although Alternative 6 is the largest closure analyzed in the document, it is also the smallest area closure that can end overfishing. To end overfishing of red snapper, an 86.92% reduction in red snapper mortality is required. For Alternative 6 to achieve this level of reduction, two very optimistic assumptions must be made.¹⁶ The first is that recruitment has been unusually high in the past few years, and that increased fishing pressure has not negated the effects of this recruitment. The second is that there will be a 92% compliance rate with the closed area by resource users, and that they will report perfectly.

A 92% compliance rate is highly optimistic under any circumstances and this uncertainty is precisely what a buffer for management uncertainty is intended to address.¹⁷ Studies clearly show that gear and species restrictions create imperfect compliance.¹⁸ In order to account for imperfect management, an annual catch target is appropriate. In the case of red snapper, where almost all of the alternatives include an end to the directed fishery, we recommend that the

¹⁴ Red snapper model, SERO

¹⁵ SAFMC Public hearing document posted at <http://www.safmc.net/Portals/6/Meetings/PublicHearings/17A/17APHdoc101709.pdf>

¹⁶ Red snapper model, SERO

¹⁷ King, D.M., Sutinen, J.G. Rational Noncompliance and the Liquidation of Northeast Groundfish Resources. Marine Policy. June, 2009.

¹⁸ Ibid.

Council adopt additional accountability measures as an alternative to an annual catch target. NOAA's technical guidance states that:

*"If an ACL was exceeded, AMs must be triggered and implemented as soon as possible to correct the operational issue that caused the ACL overage as well as any biological consequences to the stock or stock complex resulting from the overage when it is known."*¹⁹

We propose that additional grid square closures be adopted as accountability measures if red snapper mortality remains too high after one year in spite of the new regulations. This would create a positive incentive for anglers to comply with the closed area.

Alternatives 7-10 are exceptions to the closed area (e.g. for black sea bass pots) designed to allow fishing activities that will have a negligible effect on red snapper. We are not opposed to the inclusion of these options, but must emphasize that each of these alternatives will decrease the overall compliance rate with the closed area.²⁰ Thus, the closed area must be larger to compensate for this decrease in compliance.

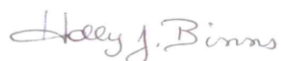
In addition, we are supportive of the monitoring ideas proposed in the document, and remind the Council that research set-asides must be accounted for in the catch limit.

Finally, although the science on circle hooks remains preliminary, we support the mandatory use of circle hooks north of 28 degrees north latitude. This allows the sustainable yellowtail snapper fishery to continue, while transferring some conservation benefit to the snapper grouper fishery, particularly north of 28 degrees where the majority of red snapper live and breed.

Conclusion

Thank you for the opportunity to share these comments and recommendations with you. Please feel free to contact either of us directly if you have any questions or wish to discuss this further. We look forward to working with you and the Council to end overfishing and restore healthy fish populations in the South Atlantic region.

Sincerely,



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¹⁹ CFR Section 600.310 (7)(g)(3)

²⁰ Ibid.