



St. Thomas Fishermen's Association

Protecting our Natural Heritage and Culture

May 7, 2009

Mr. Miguel Rolon, Executive Director
Caribbean Fishery Management Council
268 Muñoz Rivera Ave., Suite 1108
San Juan, Puerto Rico 00918-1920

Dear Miguel;

My name is David Olsen, I am the Chief Scientist for the St. Thomas Fishermen's Association.

Thank you for this opportunity to provide comments on the scoping Document for Amendment 2 to the Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands and Amendment to the Reef Fish Fishery Management Plan of Puerto Rico and the U.S. Virgin Islands (Including the Final Environmental Impact Statement, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis).

We wish to note that the STFAs has been working to develop a collaborative approach to management of Virgin Islands fishery resources since 2004 when the Association first became organized. Over this period we have carried out studies and supplied information that has never before been made available to the Council. We have done this in a cooperative spirit which we feel has been reciprocated by yourself, Council Staff and Members.

We want to make this very clear at the beginning, because even though it is the CFMC that is chairing this meeting, the document which is being aired for comment originates from the National Marine Fisheries Service Regional Director. We have carefully reviewed Council minutes and have been unable to find any evidence that the Council requested preparation of said document. It is therefore, a NMFS initiative which we feel violates both the spirit and the law embodied in the Magnusan-Stevens Act which clearly assigns responsibility for setting allowable catch limits to the Council itself.

The quotas and other requirement included in this document are supposed to come from a structured process which has been established in the Council record and the MSRA Guidelines. This process assigns responsibility as follows:

1. Overfishing Limits and Allowable Biological Catch by the are to be developed by the Scientific and Statistical Committee.
2. Establishing Allowable Catch Limits by the Council itself.

There is nowhere in the guidelines for this process that provides for a summary intervention by the NMFS Regional Director. Thus, we view this document as illegal and an attempt by the Regional Director to preempt the ACL process and place the Council in the position of rubber stamping his programs. It is a clear violation of the MSRA process. We call upon the Council to challenge him on this. By copy of these comments, we are asking the Secretary of Commerce to intervene and restore order.

In addition, the CFMC is allowing the Regional Office to force them into violations of at least several National Standards contained within the MSRA:

- National Standard 4 requires that fishery management actions not discriminate between states. Because of the geographic differences between Puerto Rico and Virgin Islands Territorial Sea boundaries, the proposed are closures affect Virgin Islands fisheries by a massive multiplier when compared to Puerto Rico's minimal proposed area closures.
- National Standard 8 requires that the effects of fishery management measures upon fishing communities be considered. At no point since the passage of the MSRA has there been any discussion of the impacts of the proposed quotas and closures upon the Virgin Islands fishing communities in any meeting of the CFMC except when the STFA has raised the issue.

In fact, a NMFS socio-economic study of the Virgin Islands fishing communities which recommends that the Virgin Islands be designated as fishing communities, has been suppressed by NMFS. No reports have been issued and the Principal Investigator has been told not to distribute his findings. This is nothing less than a conspiracy by NMFS to override the national standard requirements and to ignore the fact that fishing and local seafood are an integral component of Virgin Islands Culture.

The second point which we wish to make is that by and large none of the species under current consideration can be currently designated as being over fished and therefore, this first round of regulations should not be taking place.

As you well know, the current designations regarding overfishing were made in the total absence of data from the Virgin Islands. Such data are now available. Additionally, management actions taken by the Commonwealth of Puerto Rico have improved resource status there and moved some species from possible "overfishing" to the state where there is potential for expanded effort. For example:

- Deep water snappers.
 - Puerto Rico. Analysis by Dr. Gedamke of the SEFSC indicates a potential for a 20% expansion of fishing effort. It is therefore, not overfished in Puerto Rico in any sense of the word.
 - St. Thomas/St. John. Deepwater snappers are almost entirely unfished in St. Thomas with one fishermen fishing traps for 3 to 4 months each year. Clearly, these species are not overfished in St. Thomas.

- St. Croix. The small line fishery cannot possibly be overfishing the resource.
- Conch.
 - Puerto Rico. PRDNER studies are clearly indicating resource recovery of the conch resource there. Therefore prior overfishing is not currently taking place.
 - St. Thomas/St. John. There is virtually no fishery for conch. Prior studies contained in the CFMC conch management plan indicate potential yield over 200,000 lbs. Recent yields have been less than 10,000 lbs. Clearly there is no overfishing.
 - St. Croix. St. Croix was overharvesting its conch resources due to the negligence of DPNR in carrying out its management responsibilities. However in 2008, when I was Director of Fish and Wildlife, a 50,000 lb quota was established and the closed season expanded. On April 8, 2009 DPNR announced that the quota had been exceeded and that the season would be closed until next November. Current Territorial rules are sufficient to regulate conch fishing which occurs primarily within Territorial waters.
- Parrotfish.
 - Puerto Rico. One of the NMFS proposals is to set the ACL at 80,000 lbs (current landings levels). By definition, the ACL is less than the overfishing level. Therefore Parrotfish in Puerto Rico (by the MSRA definition) are not over fished.
 - St. Thomas/St. John. One of the NMFS proposals is to set the ACL at 50,000 lbs (current landings levels). By definition, the ACL is less than the overfishing level. Therefore Parrotfish in St. Thomas/St. John are not over fished.
 - St. Croix. In April 2008, DNER closed the primary fishing technique for Parrotfish in St. Croix which was accounting for as much as 90% of the parrotfish landings. This clearly should address claims of overfishing.
- Grouper Unit 4.
 - Puerto Rico. One of the NMFS proposals is to set the ACL at 10,000 lbs (current landings levels). By definition, the ACL is less than the overfishing level. Therefore Grouper Unit 4 in Puerto Rico is not overfished.
 - St. Thomas/St. John. One of the NMFS proposals is to set the ACL at 61,000 lbs as part of a single grouper unit (current landings levels). By definition, the ACL is less than the overfishing level. In addition, the primary spawning aggregation for yellowfin groupers was closed in 2005 and the Hind Bank MCD has been shown to be highly effective in enhancing red hind average sizes and numbers. Many of the remaining

species are Ciguatoxic and are simply not harvested. Therefore Grouper Unit 4 in St. Thomas/St. John are not overfished.

- St. Croix. One of the NMFS proposals is to set the ACL at 32,000 lbs as part of a single grouper unit (current landings levels). By definition, the ACL is less than the overfishing level. Therefore Grouper Unit 4 in St. St. Croix are not overfished.

Thus, it is our position that none of the species listed above is overfished, thus, it is neither appropriate nor necessary to take action at this time and we recommend the no-action alternative in every case.

- Nassau Grouper. Throughout their range in the CFMC Region, Nassau Grouper have been protected for nearly 20 years. STFA members are reporting that they are becoming relatively common elements in the trap bycatch. We encourage the CFMC to initiate a pilot study in order to assess the actual status of Nassau Grouper.

Additionally, the idea that NMFS can once again threaten us with large area closures as a proxy for ACLs is our line in the sand. We totally oppose such an action. It would decimate our fishery and force all fishing effort into Territorial waters. We can guarantee that any DPNR Commissioner, or Governor who would propose compatible regulations within our waters would meet the strongest opposition within the Territory if we do not feel that our view and concerns have been given a fair hearing, which they have not.

Compatible regulations are the key to any successful management regime. We had felt that we were working within the Council system in a manner which communication and cooperation were replacing confrontation and opposition. We still recognize that it is not the Council which is putting these proposals forward. It is NMFS who are disrespecting the Virgin Islands in the most egregious manner. They behaved in an absolutely insulting manner when our Governor addressed the Council in St. Croix, they have disrespected STFA proposals for management, they have prevented the SSC from achieving its Congressionally-mandated responsibilities and are generally treating the Virgin Islands like some colony of St. Petersburg.

We call upon the Council to stand up and say no! There is still time for us to work collaboratively to meet the requirements of the MSRA but time is fast slipping away. We cannot afford to allow NMFS dictatorial and confrontational approach to waste any more of that time in argument and disrespect.

Thank you;

A handwritten signature in black ink, appearing to read 'David A. Olsen', with a stylized flourish at the end.

David A. Olsen, Chief Scientist
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Cc: Hon Gary Lock, Secretary, US Dept. Commerce
Hon. John deJongh, Governor
Hon. Donna Christian-Christiansen, Delegate to Congress
Hon. Louis Patrick-Hill, President Virgin Islands Legislature
Jerry Fraser, National Fisherman