



St. Thomas Fishermen's Association

Protecting our Natural Heritage and Culture

November 25, 2011

Hon. Rebecca M. Blank
Acting Secretary
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Secretary Blank;

We are writing to comment on ACLs passed by the Caribbean Fishery Management Council and their consequences for fishermen and citizens of the Island of St. Thomas, U.S. Virgin Islands.

We will begin our comment with some background regarding how the Council has arrived at the current measures.

Background

In 2005, when the CFMC passed its Sustainable Fisheries Act measures, it considered the entire area under its responsibility as a single management zone. In doing so, it designated species as being “overfished or undergoing overfishing” throughout the combined region when, in fact, overfishing was largely confined to specific areas. Specifically these incidents of overfishing were:

- Deep water snappers which were undergoing heavy fishing pressure off the west coast of Puerto Rico.
- Parrotfish and Conch resources, which were heavily exploited in St. Croix.
- A grouper spawning aggregation in St. Thomas.

Additionally, data were combined by family groups so that “overfishing” of a single species resulted in an entire family group being identified as being “overfished”.

During its 2009-2010 term, the CFMC determined to manage by island groups (St. Thomas/St. John, St. Croix and Puerto Rico) rather than as a single area. Following that decision, however, nothing was done to deal with the prior definitions of “overfished or undergoing overfishing” or with the impacts of actions taken under the 2005 SFA Amendment. These actions and actions taken by the Territory and Commonwealth tended to address overfishing and the species groups should have been reclassified because:

- Deep water snapper resources were addressed by CFMC/Commonwealth season and size limits. Southeast Fishery Science Center stock assessment has indicated recovery of these species. In St. Thomas/St. John, only a single fisherman fished for these resources and the seasonal closure reduced that effort by 25%.
- Conch resources were addressed by Commonwealth measures and the US Virgin Islands instituted a 50,000 lb quota for each of the island groups. This resulted nearly an 80% reduction in landings in St. Croix where overfishing was taking

place. The CFMC has since included this quota as a conch ACL for each Virgin Islands district.

- The Council instituted a permanent closure of the Yellowfin grouper spawning aggregation area as well as a 3 month seasonal closure for the species involved.

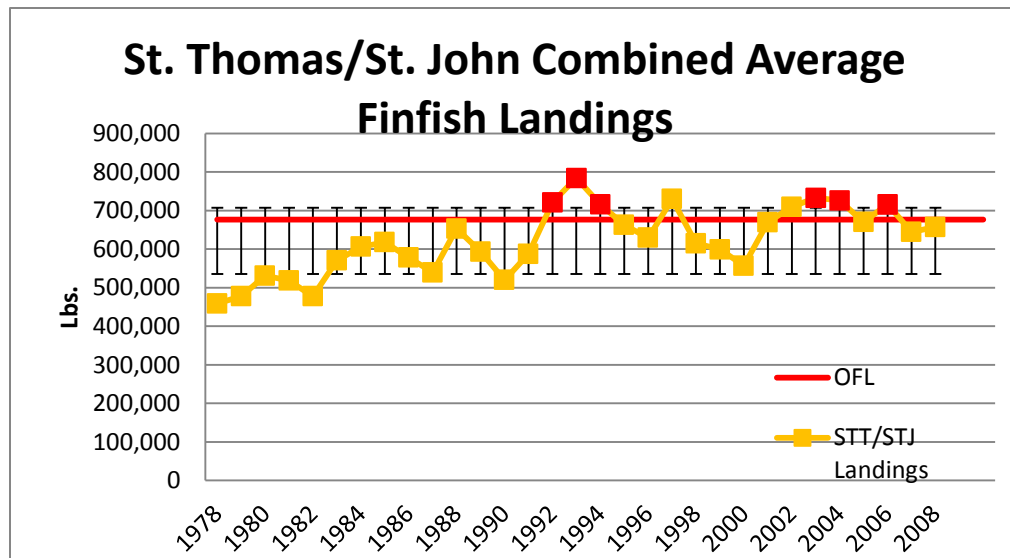
In fact, groupers as a family group are cannot possibly be considered as overfished. Yellowfin groupers constitute 14% of the grouper landings and their spawning aggregation is now protected and fishing effort has been reduced by 25% by the seasonal closure created during the SFA.

Sixty percent of the grouper landings are Red Hind. A long term study of the Hind Bank MCD published by Dr. Niemeth of the University of the Virgin Islands has shown that the number of fish on the spawning on the bank has increased from 7,000 during the 1990s to 96,000 in 2008. The average size has increased from 27cm in 1976 to over 40cm. Red hinds are doing just fine and are not overfished in St. Thomas thus “groupers” are not being overfished here.

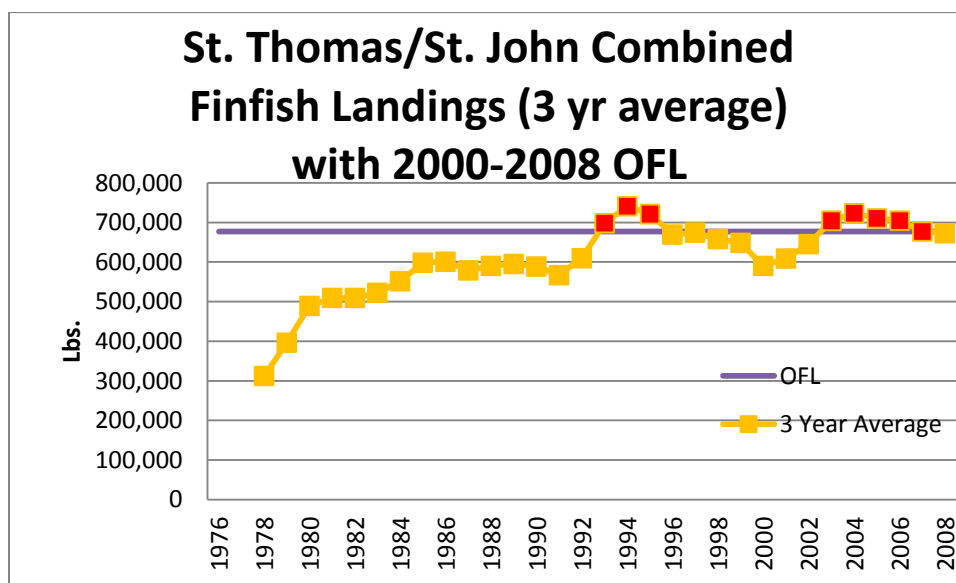
Consequences of separate island management.

Another problem facing the ACLs is the failure of the Scientific and Statistical Committee to adequately consider the consequences of the Council’s decision to manage each island group separately. Each island group’s fisheries are undergoing different trends:

- Puerto Rico reef fish landings have been in continuous decline for decades. This is well documented in numerous publications.
- St. Croix landings have been undergoing increase since the 1990s and there is reason to be concerned that this is not sustainable.
- St. Thomas landings have been nearly constant since 1980 and have varied little. The coefficient of variation is 12.3%. Landings have only fallen above one Standard Deviation (Red Points) 6 times in the 40 year history of the catch report program.

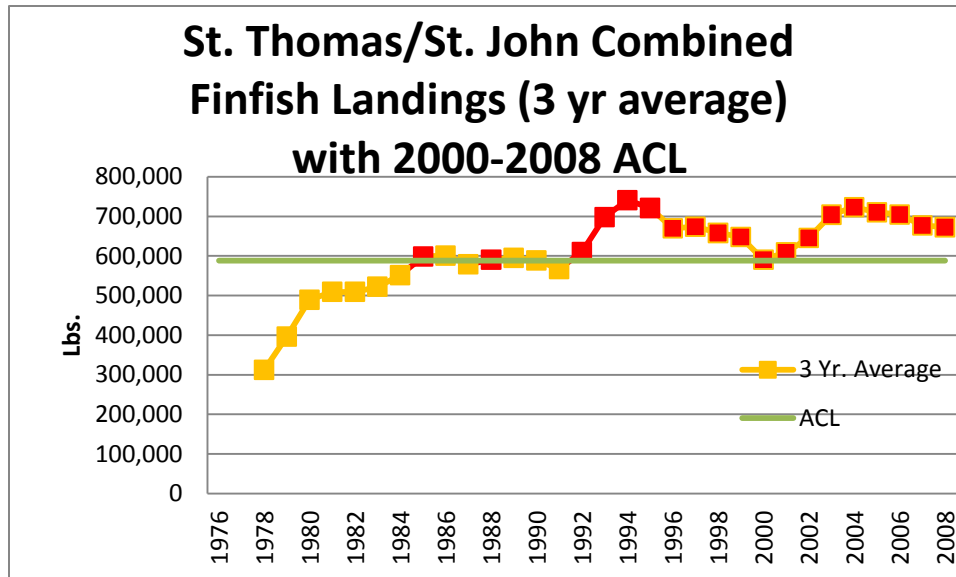


- The SSC’s decision to use average landings as the basis for setting overfishing limits (and consequently ACLs) does nothing to address the situations in Puerto Rico and St. Croix and punishes St. Thomas/St. John fishermen for a statistical truism (that half of all the years being used to calculate any average will be above that value).
- The Council has determined that accountability measures will be invoked when a three year average of landings exceeds the Allowable Catch Limit. This would seem reasonable if the ACL equaled the Overfishing Limit (see figure below). Years when landings were above the OFL are only slightly above and could probably have been addressed and eliminated by in-season adjustments if notification was provided by the SEFSC.



However, the introduction of the ACL “buffer” to protect against overfishing leads to a situation where the fishery is being perpetually designated as being overfished when, in fact, overfishing is a relatively rare event. In St. Thomas, the 3 year landings average exceeds the combined ACL 19 times during the same period where it exceeds the OFL only 8 times.

We recognize that the Council is constrained by the MSA and must implement ACLs which are below the OFL but **we doubt that it was the intention of the Act to create “overfishing” where none exists.** Thus, the MSA has failed in this case by creating requirements which are inappropriate to actual facts.



Spiny Lobster.

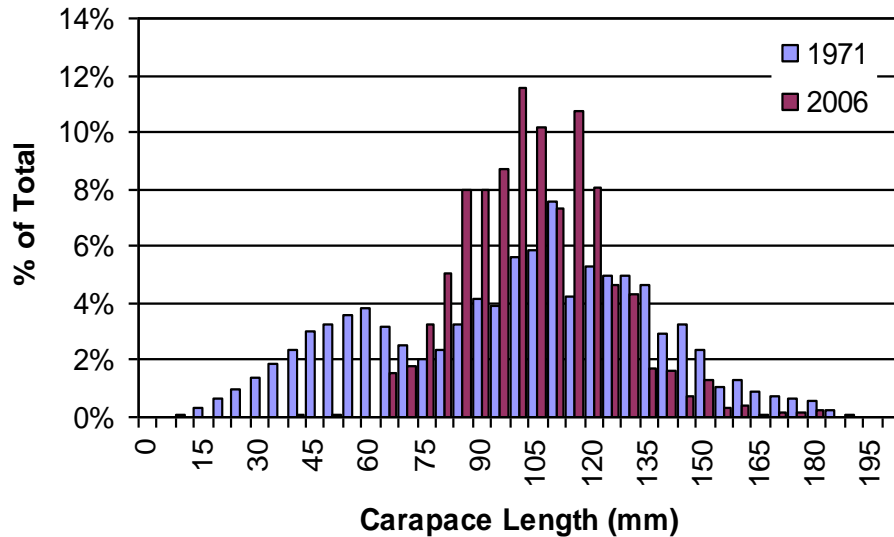
Early in its life the CFMC instituted a requirements that spiny lobsters not be harvested until their carapace length was 3.5 inches or greater. This corresponds to maximum yield-per-recruit. St. Thomas lobster landings have risen from 7000 lbs in the 1970s to 135,000 lbs in 2006. Despite this nearly 20 fold increase in landings, the size frequency distribution in 2006 was nearly identical to the results of a fishery independent study carried out in 1971¹. This would not have happened if the size limit protections were not sufficient for management of the resource.

Since landings have been increasing, the use of an average in this fishery results in a loss of 20,000 lbs before any ACL reduction is considered.

The imposition of an ACL based on an average when the fishery has been undergoing four decades of consistent growth will again, create a situation of constant “overfishing” when none exists. Again, this will lead to opposition rather than collaboration in management of the St. Thomas/St. John resources which is in no one’s interest.

¹ Olsen, D.A., and I.G. Koblick, 1975, The Ecology and Behavior of *Panulirus argus* in St. John, USVI: (2) Population Dynamics and Growth, *Bull. So. Calif. Acad. Sci.*, 20:17-29. The 1971 CRP study study (CRP award number NA05NMF4540042) included juveniles and the 2006 study included discarded bycatch.

***Panulirus argus* Size Change 1971-2006**



Consistency with National Standards

National Standard 1 requires that Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. As we have discussed before, the CFMC ACLs are creating artificial limitations for St. Thomas fishermen which are not required as the fishery has been stable throughout the past four decades. Management to an artificial ACL “buffer” is unnecessary when variability in the landings is small and as a result of normal year-to-year variations in weather and the natural environment.

National Standard 2 requires that Conservation and management measures shall be based upon the best scientific information available. The current ACLs are based upon reported landings within species categories. It has been repeatedly demonstrated to the Council that these are unreliable and that species detail should come from port sampling information. The Southeast Fisheries Science Center was forced to acknowledge this recently when revising data forms for the St. Thomas/St. John district and yet port sampling data have not been used in formulating ACLs.

National Standard 4 requires that “Conservation and management measures shall not discriminate between residents of different States.” Because the Council SSC has attempted to utilize a “one size” fits all definition of Overfishing Limits as the average recent landings it has totally failed to address the fact that each island group is undergoing different trends within their landings.

Thus, while St. Thomas/St. John landings have been nearly constant for four decades, landings in St. Croix have steadily increased since 1995 and Puerto Rican reef fish landings have been in decline for several decades due to well documented overfishing. The ACL regimes being put forward require severe catch reductions for Virgin Islands

Fishermen. On the other hand, since Puerto Rican landings have been in decline, fishermen there can increase landings without exceeding ACLs.

This is blatant discrimination which should, in and of itself be reason not to approve the ACL regime but rather require the SSC to act responsibly and develop ACL approaches specific to each Island group's fishery.

National Standard 6 requires that Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. Variability within the St. Thomas/St. John fishery is low and almost entirely due to exogenous factors. These cannot be regulated as an element of the fishery but should be considered in establishing a management regime for the District.

National Standard 8. Consideration of fishery management measures' impact upon fishing communities is clearly required under the terms of National Standard 8 of the MSRA " (104-297, 109-479 (8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities."

At its 136th meeting the Caribbean Fishery Management Council voted unanimously to designate the Virgin Islands and certain Puerto Rican fishing villages as "Fishing Communities" under the terms of the MSRA.

Thus, passage of recent ACLs in 2010 and 2011 should have been accompanied by in-depth analysis of the impacts of those actions upon the Virgin Islands fishing communities. We have attended every CFMC meeting since 2005 and at no point has there been any such analysis presented. In our opinion, no ACLs should be approved until such analyses is completed and reviewed by experts competent to consider its implications.

Conclusion.

It is our position that the ACL regime being proposed by the CFMC is unnecessary in the case of the St. Thomas/St. John fishery. The landings from this fishery have been constant for nearly four decades and have shown little variability that cannot be attributed to natural exogenous forces.

The ACL management regime being proposed requires significant reductions in landings with significant and unconsidered impacts upon the community. These deny fishermen and dependent elements of the community access to available resources and limit their economic well-being.

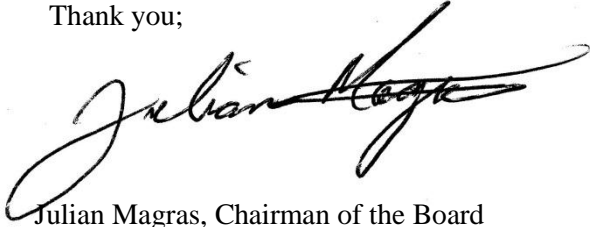
The ACL regime runs counter to National Standard requirements contained within the Act itself. These inconsistencies need to be resolved before entering into a prolonged period of conflict with local fishermen.

Additionally, despite repeated requests that the Southeast Fishery Science Center supply local fishermen with in-season status reports, we have had these requests rebuffed.

St. Thomas/St. John fishermen are more than willing to enter into a collaborative effort to sustainably manage our resources. We attend all CFMC meetings at our own expense and are carrying out a number of studies geared towards reducing by catch and creating greater understanding of our fisheries. In our opinion, the CFMC and its staff are willing to enter into such collaboration but are hamstrung by NMFS inability to reconcile MSA requirements with local realities.

Thank you for your consideration of our comments.

Thank you;

A handwritten signature in black ink, appearing to read "Julian Magras". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Julian Magras, Chairman of the Board
St. Thomas Fishermen's Association
8168 Crown Bay Marina, Ste. 310, PMB 379
St. Thomas, USVI 00802

cc. Hon. Donna Christensen
Hon. Alicia Barnes, Commissioner DPNR
Miguel Rolon, Executive Director CFMC