

From: [Kim Iverson](#)
To: [Tech Staff Group](#)
Subject: FW: BSB Model
Date: Monday, September 19, 2011 12:30:28 PM

FYI

-----Original Message-----

From: fishnmore@cfl.rr.com [<mailto:fishnmore@cfl.rr.com>]
Sent: Monday, September 19, 2011 12:07 PM
To: mcurrin1@bellsouth.net; Kim Iverson; boylesr@dnr.sc.gov; palmettobooks@bellsouth.net; tom@swatzel.com; roy.crabtree@noaa.gov; tburgess@embarqmail.com; bhartig@bellsouth.net; jolleyjw@yahoo.com; Mark.Robson@myfwc.com; michelle.duval@ncdenr.gov; seageorg@bellsouth.net; Bob Mahood; Doug.Haymans@dnr.state.ga.us; ga_capt@yahoo.com; Gregg Waugh; jessica.mccawley@MyFWC.com
Cc: Dr. Ponwith
Subject: BSB Model

To: SA Council

According to the Sedar 25, bsb model in 2009, there were only around 1,500,000 black sea bass 12 inches or larger in the SA. In Sedar 19 for red grouper, in the same year there were over 400,000 red grouper over 20 inches long in the SA. This is a ratio of around 4 to 1 larger black sea bass over larger red grouper. In reality black sea bass of legal size outnumber red grouper of legal size at least 100 to 1 or more.

With over 2.3 million acres of hard bottom outside of 27 meters (Seamap) the notion that there are only 1.5 million black sea bass 12 inches or larger living in the entire SA is absurd. Something has to be done with this model that is being used, as it is not in the vicinity of reality in regards to black sea bass and many other stocks. This model is wrong and this Council should not accept any other assessments that are produced using it. The bsb assessment should be sent back until another model can be developed and used to find the true state of this stock.

Thank you,

D. Nelson

From: kquigley@caploggroup.com
To: [Kim Iverson](#); [Mike Collins](#)
Subject: Please disregard last email and use this revised email!
Date: Sunday, September 18, 2011 10:20:51 AM

Kim and/or Mike - Could you please see that all Council members receive the letter below from South Atlantic Fishermen's Association? Thanks!

Kate

Dear Council Members:

I am writing on behalf of black sea bass pot fishermen that are members of the South Atlantic Fishermen's Association with regard to Snapper Grouper Amendment 18A (Black Sea Bass).

At the last Council meeting, the Snapper Grouper Committee chose a new preferred under Action 2 to replace Action 3, Sub-Alternative 3E. Action 2 limits participation in the black sea bass pot fishery through an endorsement program. Alternative 2 limits endorsements based on a minimum amount of landings made in *average* over 13 years. Alternative 3 limits endorsements based on a minimum amount of landings made in *total* over 13 years. The Council changed their preferred alternative largely because they thought a smaller amount of endorsements than 44 (under Sub-Alternative 3E) was needed for the black sea bass fishery in order to make the season last longer.

We are writing to point out that the new preferred alternative discriminates against newer entrants. Incorporating new entrants into any new management program has been an important goal of the Council for golden tilefish, wreckfish, and golden crab. We believe it should also be an important goal for the black sea bass endorsement program. Under the new Action 2, Sub-Alternative 2F in Amendment 18A, a person that entered the black sea bass pot fishery in 2008 would need an average of **15,166 lbs each year** of black sea bass harvested from 2008-10 to qualify for an endorsement. Someone landing this amount would be considered a large producer in the black sea bass pot fishery. Under the old Action 2, Preferred Sub-Alternative 3E, a total of 10,000 lbs of black sea bass was required to receive an endorsement. A person that entered the fishery in 2008 would only need to land **3,300 pounds each year** to qualify. This change in preferred alternatives severely limits the number of newer entrants (especially smaller scale newer entrants) that will be allowed into the fishery under an endorsement program.

If the Council's goal is to support historical fishermen who have consistently (over 10-13 year) participated in the black sea bass fishery, then your new preferred alternative is appropriate. If the Council's goal is to support historical fishermen as well as

newer entrants and incorporate fishermen who have made major investments in this fishery in the last 3-4 years as other opportunities have dwindled, please change your preferred alternative. Using Boyle's Law could be an alternative that would more fairly allow historical and newer entrants into the fishery.

With regards to the bigger picture, compared to the endorsement program, a voluntary catch share would: 1) not eliminate anyone from participating in the fishery; 2) accomplish the goal of lengthening the season; and 3) eliminate the race to fish without trip limits that can be economically disadvantageous for many.

Thankyou for reading this email and thankyou for all of your hard work last week. We appreciate your time and committment to improving our fisheries and preserving them for the next generation!

Kate Quigley
South Atlantic Fishermen's Association
kquigley@southerncatch.com
www.southerncatch.com

From: Mike Able [<mailto:sales@haddrellspoint.com>]
Sent: Monday, November 21, 2011 2:01 PM
To: Kim Iverson
Subject: RE: Fishing trip on Sunday...

Kim,

Yes to all. I did send them because of my concerns that one hat fits all is holding us in a flight pattern until we run out of fuel. The example that a great number of fish are here that tighter limits would be better than closing a fishery. Please give Todd a call he would enjoy hearing from you I feel sure he would not mind but it would be best to check.

Our bottom fishing business is down some 40% plus. I would urge the council on black sea bass if no big change comes about for next year to consider a 2 day per week fishery or every other week so to not run consecutively and have it close in less time since the TAC will be less for next year. This would; at the very least allow folks on a pretty November day go in the ocean and retain a few black sea bass. Just my two cents worth. Hope you and your family have a great Thanksgiving!!!!

Kindest regards,

--

Mike Able, President

Haddrell's Point Tackle & Supply
885 Ben Sawyer Blvd. Mount Pleasant, SC 29464
1-800-881-5201 www.haddrellspoint.com



From: Kim Iverson [<mailto:kim.iverson@safmc.net>]
Sent: Monday, November 21, 2011 1:37 PM
To: Mike Able
Subject: RE: Fishing trip on Sunday...

Thanks Mike. This speaks well of your tackle recommendations! It does look like they had a wonderful day. Hopefully, there will be many more good days – and the opportunity to take home more fish will increase as the stocks continue to rebuild.

Is it okay to share the information and photos with tech staff here in the office? If you like, I can share with Council members as well. Also, I would like to use these photos in the Council's newsletter. I'll be glad to contact Todd Kay to get permission, if that is okay with you.

Thanks again for thinking about me and for sharing.

Kim

Kim Iverson
Public Information Officer
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843/571-4366 or Toll Free 866/SAFMC-10
www.safmc.net

From: Mike Able [<mailto:sales@haddrellspoint.com>]
Sent: Monday, November 21, 2011 12:25 PM
To: Kim Iverson
Subject: FW: Fishing trip on Sunday...

Hey Kim, Thought I would share some good photo's. Looks like they caught a lot of fish and had a great time.
Kindest regards

--

Mike Able, President

Haddrell's Point Tackle & Supply
885 Ben Sawyer Blvd. Mount Pleasant, SC 29464
1-800-881-5201 www.haddrellspoint.com



From: Todd Kay [<mailto:toddkay@datai.com>]
Sent: Monday, November 21, 2011 10:36 AM
To: Mike Able
Subject: FW: Fishing trip on Sunday...

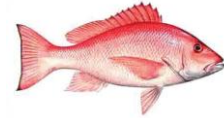
Mike, we used your bottom rigs, hooks, weights and bait. Unfortunately had to throw back 2/3rd of our catch with so much out of season.

100 + fish. 1 grouper, 25 red snapper, 25 trigger fish, 50+ black sea bass, 15 mutten snapper, 1 shark

Todd Kay
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SOUTHEASTERN FISHERIES ASSOCIATION (SFA)



EAST COAST FISHERIES SECTION (ECFS)

Bob Mahood, Executive Director
South Atlantic Fishery Management Council (SAFMC)
4055 Faber Place Drive; Suite 201
North Charleston, SC 29405

E-mail: SGAmend18APHcomment@safmc.net

Friday November 18, 2011

To Bob Mahood,

Thank you for this opportunity for the SFA East Coast Fisheries Section (ECFS) to comment about the draft Amendment 18A to the Snapper Grouper (SG) fishery management plan (FMP). We know a lot of work has gone into this management effort, but some more changes need to be accomplished before Amendment 18A becomes a final rule.

Our main concerns are with the recent overreaching effort to limit both participation and potential harvest. Now that the SouthEast Data, Assessment and Review (SEDAR 25) process for Black Sea bass (BSB) has been completed, and reviewed by the Scientific and Statistical Committee (SSC) last week, it appears that the previous rebuilding plan has been working, the BSB population in the SAFMC region is not overfished and is due to be rebuilt by May 31, 2016.

Most importantly, the SAFMC voting members need to keep as many currently active BSB pot fishermen fishing into the future, **not just the highliners**. It is the smaller BSB pot fishermen's livelihood and their families' welfare at stake. We agree that if a commercial fisherman had no BSB pot landings since January 01, 2008 that they could be viewed by the SAFMC and through the National Marine Fisheries Service (NMFS) appeals process as being currently inactive. The inactive fishermen represent a latent effort that could reactivate in the fishery in the near future and the proposed endorsement effort will control that potential growth.

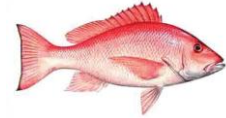
With Action 2 there is an arbitrary Preferred option for BSB pot landings to have an average of 3500 pounds whole weight (ww) landed across nearly a dozen years. That landings threshold currently preferred is entirely too high and is seen as a job killer for some active BSB pot fishermen from North Carolina south to Central Florida. In fact, the most active Florida BSB pot fisherman has an actual fishing history of 20 years using BSB pots to supply his fish house and restaurant. His twelve-year average is just over 3000 pounds ww.

ECFS endorses the solution offered to the SAFMC voting members on September 17, 2011 that if a state such as Florida has fishermen that purchased and used BSB pots in recent years, they should be viewed as actively fishing, and should be allowed to continue to make a living catching BSB with pots, as long as they had some BSB landings.

The future BSB fishing seasons will benefit from the requirements to bring the BSB pots home after the trip is completed, a daily trip limit and a 35-BSB pot limit on board the vessel when leaving out for a trip. This along with the endorsement program should lengthen the season and reduce any potential marketing gluts.

Action 1b has three options that all contain language to deny the annual catch limit (ACL) increases planned by using Frebuild if the total ACL has been overrun. This **"double jeopardy"** language needs to be removed and replaced with an ACL overage payback clause to deduct the excess landings from the next season and only for the sector responsible for the overage. It is not the fault of the stakeholders that the NMFS continues to fail in their ability to accurately monitor the commercial and recreational catch, particularly during 2011. Now the

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2012 season ACL increase is threatened by the NMFS failures with electronic dealer reporting and the delayed conversion of the Marine Recreational Fisheries Statistical Survey (MRFSS) into the new Marine Recreational Information Program (MRIP) that continues causing hardship to stakeholders.

Actions and Alternatives

Action 1. Modify Rebuilding Strategy, ABC, ACL's, and ACTs for Black Sea Bass

Action 1a. Modify Rebuilding Strategy and Set ABC for Black Sea Bass

Alternative 3. Define a rebuilding strategy for black sea bass that maintains a constant fishing mortality rate throughout the remaining years of the rebuilding timeframe.

Preferred Sub-Alternative 3b. F = Frebuild (by 2016)

SFA ECFS SUPPORTS ALTERNATIVE 3, SUB-ALTERNATIVE 3b to have F = Frebuild (by 2016).

Action 1b. Set an ACL for the Black Sea Bass Fishery

Preferred Alternative 2. Set ACL=ABC=OY. This results in sector ACLs based on the existing allocations.

SFA ECFS SUPPORTS ONLY THE PART OF ALTERNATIVE 2 TO SET ACL=ABC=OY AND MAINTAIN THE EXISTING SECTOR ALLOCATION PERCENTAGES OF 43% FOR COMMERCIAL AND 57% FOR RECREATIONAL FISHING SECTORS.

ACLs will not increase automatically in a subsequent year if the present year's projected catch has exceeded the total ACL.

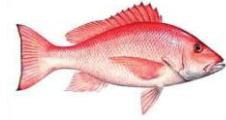
SFA ECFS TOTALLY REJECTS THE PREFERRED ALTERNATIVE 2 LANGUAGE TO DENY THE ACL INCREASES IN A SUBSEQUENT YEAR IF THE PRESENT YEAR'S PROJECTED CATCH HAS EXCEEDED THE TOTAL ACL. THIS PROPOSED ACTION DEFEATS THE BENEFITS TO THE BSB FISHERIES USING THE Frebuild CONCEPT. THE ACL LANGUAGE SHOULD BE REPLACED WITH A PAYBACK CLAUSE FOR THE SECTOR ACL WHERE THE OVERAGE OCCURRED.

Action 1c. Set Annual Catch Targets (ACTs) for the Commercial Black Sea Bass Fishery.

Preferred Alternative 1 (No action). Do not set an ACT for the commercial black sea bass fishery.

SFA ECFS SUPPORTS PREFERRED ALTERNATIVE 1 TO NOT SET AN ACT FOR THE COMMERCIAL BSB FISHERY. THE NMFS SHOULD FINISH IMPLEMENTING THE

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ELECTRONIC DEALER REPORTING AND INCREASE REPORTING FREQUENCY ONCE MORE THAN 50% OF THE COMMERCIAL ACL IS ESTIMATED TO BE LANDED.

Action 1d. Set Annual Catch Targets (ACTs) for the Recreational Black Sea Bass Fishery

Preferred Alternative 4. The ACT equals recreational $ACL \times (1 - PSE)$ or recreational $ACL \times 0.5$, whichever is greater.

SFA ECFS SUPPORTS PREFERRED ALTERNATIVE 4 WHERE THE ACT EQUALS RECREATIONAL $ACL \times (1 - PSE)$ OR RECREATIONAL $ACL \times 0.5$, WHICHEVER IS GREATER.

Action 2. Limit Participation in the Black Sea Bass Pot Fishery Through an Endorsement Program

Alternative 2. Limit endorsement and tag distribution to entities with a valid or renewable Unlimited Snapper Grouper Permit on the effective date of the final rule whose average annual black sea bass landings using black sea bass pot gear between 1/1/99 and 12/31/10 were at least:

Sub-Alternative 2b - 1,000 lbs whole weight. Exclude those with no reported commercial landings of black sea bass using black sea bass pot gear between January 1, 2008, and December 31, 2010.

Alternative 3. No South Atlantic state shall have less than two entities that qualify for black sea bass pot endorsements, provided that no entity qualifies whose minimum average landings are:

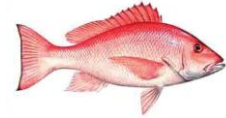
Sub-Alternative 3a - 1,000 lbs whole weight

*SFA ECFS SUPPORTS ALTERNATIVE 2, SUB-ALTERNATIVE 2c FOR ACTION 2 WHERE THE AVERAGE CATCHES BETWEEN 1/1/99 AND 12/31/2010 WAS AT LEAST 2,000 LBS WHOLE WEIGHT. SFA ECFS MOSTLY SUPPORTS ALTERNATIVE 3, SUB-ALTERNATIVE 3b ALSO, BUT FEELS THAT **AT LEAST FOUR ENTITIES**, NOT JUST TWO ENTITIES SHOULD BE THE MINIMUM AMOUNT OF ACTIVE BSB POT FISHERMEN TO QUALIFY FOR BSB ENDORSEMENTS FROM ANY STATE IN THE SAFMC REGION WHOSE MINIMUM AVERAGE MAY BE LOWER THAN WHAT WILL BE CHOSEN THROUGH ACTION 2.*

Action 3: Establishment of an Appeals Process for Fishermen Excluded From the Black Sea bass Pot Endorsement Program

Preferred Alternative 2. A period of 90 days will be set aside to accept appeals to the black sea bass endorsement program starting on the effective date of the final rule. The Regional Administrator (RA) will review, evaluate, and render final decisions on appeals. Hardship arguments will not be considered. The RA will determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA may use state landings records. Appellants must submit NMFS' logbooks or state landings records to support their appeal.

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SFA ECFS SUPPORTS ALTERNATIVE 2 FOR ACTION 3, TO ESTABLISH AN APPEALS PROCESS.

Action 4: Allow for Transferability of Black Sea Bass Endorsements

Alternative 2. Black sea bass pot endorsements can be transferred between any two individuals or entities that hold a valid or renewable Unlimited Snapper Grouper Permit. The endorsement and associated landings history of black sea bass can be transferred regardless of whether or not the Unlimited Snapper Grouper Permit is transferred.

Sub-Alternative 2a. Transferability allowed upon program implementation.

SFA ECFS SUPPORTS ALTERNATIVE 2, SUB-ALTERNATIVE 2A FOR ACTION 4 TO ALLOW FOR TRANSFERABILITY OF BSB ENDORSEMENTS.

Action 5: Limit Effort in the Black Sea Bass Pot Fishery Each Permit Year

Preferred Alternative 5. Require that each black sea bass pot in the water or at sea on a vessel in the South Atlantic EEZ have an attached valid identification tag issued by NOAA Fisheries Service. Limit the black sea bass pot tags to 35 per vessel each permit year. NOAA Fisheries Service will issue new identification tags each fishing year that will replace the tags from the previous fishing year.

SFA ECFS SUPPORTS PREFERRED ALTERNATIVE 5, TO REQUIRE THAT EACH BSB POT IN THE WATER OR AT SEA IN THE SAFMC REGION HAVE AN ATTACHED VALID IDENTIFICATION TAG ISSUED BY NMFS AND LIMIT THE BSB POT TAGS TO 35 PER VESSEL EACH PERMIT YEAR.

Action 6: Implement Measures to Reduce Black Sea Bass Bycatch

Preferred Alternative 2. Black sea bass pots must be brought back to shore at the conclusion of each trip.

SFA ECFS SUPPORTS PREFERRED ALTERNATIVE 2, TO HAVE BSB POTS BROUGHT BACK TO SHORE AT THE CONCLUSION OF EACH TRIP.

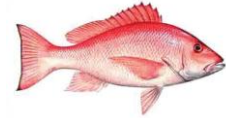
Action 7: Modify Accountability Measures for Black Sea Bass

Alternative 1 (No Action).

Commercial

If a commercial ACL is met or is projected to be met, all subsequent purchase and sale is prohibited and harvest and/or possession is limited to the bag limit for the species covered by that ACL.

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SFA ECFS SUPPORTS ALTERNATIVE 1, NO ACTION FOR COMMERCIAL AM's.

Alternative 2. Remove the three-year running average provision used to determine recreational ACL overages. The recreational AM would be: If black sea bass *is overfished* and the sector ACL is projected to be met, prohibit the harvest and retention of the species. If the sector ACL is exceeded, independent of stock status, the Regional Administrator shall publish a notice to reduce the sector ACL in the following season by the amount of the overage.

SFA ECFS SUPPORTS ALTERNATIVE 2, TO REMOVE THE THREE-YEAR RUNNING AVERAGE PROVISION USED TO DETERMINE RECREATIONAL ACL OVERAGES.

Action 8. Establish a Spawning Season Closure for Black Sea Bass

Alternative 2. Implement a March 1-April 30th spawning season closure for black sea bass; would apply to commercial and recreational sectors.

SFA ECFS SUPPORTS ALTERNATIVE 2, TO IMPLEMENT A MARCH 1-APRIL 30TH SPAWNING SEASON CLOSURE FOR BSB; AND WOULD APPLY TO COMMERCIAL AND RECREATIONAL SECTORS. AS A CAVEAT, THE SAFMC DID NOT PROVIDE A SPATIAL SEPARATION, BUT FUTURE CONSIDERATION SHOULD CONSIDER A MARCH SPAWNING SEASON CLOSURE FOR BOTH SECTORS SOUTH OF THE SOUTH CAROLINA AND GEORGIA STATE LINES, AND AN APRIL CLOSURE NORTH OF THE SAME LINE. SCIENCE SEEMS TO SHOW THAT SPAWNING BEGINS AND ENDS EARLIER SOUTH OF SAVANNAH, GEORGIA AS COMPARED TO NORTH OF THAT LINE.

Action 9. Establish a Commercial Trip Limit for Black Sea Bass

Alternative 6. Establish a 1,000 pounds gutted weight (1,180 pounds whole weight) trip limit; reduce to 500 pounds gutted weight (590 pounds whole weight) when 75% of the commercial ACL (quota) is met.

SFA ECFS SUPPORTS ALTERNATIVE 6, TO ESTABLISH A 1,180 POUNDS WHOLE WEIGHT TRIP LIMIT THAT REDUCES DOWN TO 590 POUNDS WHOLE WEIGHT TRIP LIMIT WHEN 75% OF THE COMMERCIAL ACL (QUOTA) IS MET.

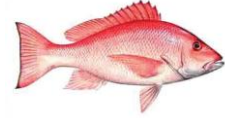
Action 10. Modify Commercial and/or Recreational Black Sea Bass Size Limits

Alternative 1 (No Action). Do not modify the current size limits of 12 inches total length (TL) for the recreational sector and 10 inches TL for the commercial sector.

SFA ECFS SUPPORTS ALTERNATIVE 1, NO ACTION, AND NOT MODIFY CURRENT SIZE LIMITS.

Action 11. Improvements to Commercial Data Reporting

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Preferred Alternative 3. Provide the option for fishermen to submit their logbook entries electronically via an electronic version of the logbook made available online.

SFA ECFS SUPPORTS PREFERRED ALTERNATIVE 3, TO PROVIDE THE OPTION FOR FISHERMEN TO SUBMIT ELECTRONICALLY VIAN AN ELECTRONIC VERSION OF THE LOGBOOK MADE AVAILABLE ONLINE.

Action 12. Improvements to For-Hire Data Reporting

Preferred Alternative 2. Require *selected* vessels with a Federal For-Hire Permit to report electronically; NOAA Fisheries Service is authorized to require weekly or daily reporting as required.

SFA ECFS SUPPORTS PREFERRED ALTERNATIVE 2, TO REQUIRE SELECTED VESSELS WITH A FEDERAL FOR-HIRE PERMIT TO REPORT ELECTRONICALLY; AND HAVE NMFS AUTHORIZED TO REQUIRE WEEKLY OR DAILY REPORTING AS REQUIRED.

Jimmy Hull, Chairman, rhh
SFA ECFS

Please include as part of the public comment for Amendment 18A. During the public hearings last week we received several inquiries regarding data collection, specifically regarding the tracking of recreational landings for black sea bass. Mr. Kalakauskis was one of the fishermen with specific questions.

From: Ed Kalakauskis [<mailto:uskalkis@aol.com>]

Sent: Monday, November 21, 2011 7:41 AM

To: Kim Iverson; Gregg Waugh

Subject: 15 NOV 2011 JACKSONVILLE,FL

This is a copy of an e-mail that I addressed Sen. Rubio.

Sir,

On 15 November 2011 in Jacksonville Florida I attended a meeting that was being held by the South Atlantic Fishery Management Council, on the subject of black sea bass quota issues.

The the South Atlantic Fishery Management Council had their representatives explaining the reason that they were considering black sea bass quota as well as having a public hearing about the subject matter.

The main question that was asked by many of the participants was how the black sea bass recreational closure was determined by the NOAA management fishery service SERO the following analysis.

Since no one from NMFS(NOAA management Fisheries Service) was present at this meeting and it was my understanding they were invited to attend and they declined. The question that was at hand could not be adequately explained.

Sir I addressed in a earlier e-mail to your office that I was trying to find who has the oversight of NMFS, and currently I'm waiting on the reply from your office.

The economical impact to our community and closures of some of our fisheries is having a devastating effect on our local community. I would hope that our government agencies would have people to address the issues to make us understand why they are putting some of our community people out of business.

I would appreciate your office into looking into this matter not just for me but the community of Jacksonville Florida.

Thank you again for your time and and if I can be any assistance in the future please do not hesitate to contact me.

I got your 6
Ed K alakauskis
Artificial Reef Builder
1207 Aruba Court
Jacksonville Florida
area code 904 – 923-5994

From: Allston Leland [<mailto:allstonl@aol.com>]
Sent: Tuesday, November 22, 2011 8:01 AM
To: SGAmend18APHcomment
Cc: Kim Iverson
Subject: Re: Amendment 18A: Black Sea Bass

Morning Mr. Mahood,

I know I'm a day late on official submission. I sent it a while back and Ms. Kim Iverson said she would send it on to you and the other council members. Just wanted to follow. Hope it will be included in the public comments. I know it's a tough job y'all have but being on the ocean for so long I feel a strong need to try to stay involved. The pot fishery has always been a part of being a fisherman in McClellanville. Now, with all the strain on the commercial fisherman it is more important than ever to have it as a part of our abilities. The prices on shrimp has come back up with a great increase in demand for local seafood. I was hoping to have the ability to include blackfish in this trend.

Best Regards,

Allston Leland
843-822-6674
allstonL@aol.com

From: Chris McCaffity [<mailto:freefish7@hotmail.com>]

Sent: Sunday, November 20, 2011 6:44 AM

To: Kim Iverson; Kim Iverson

Subject: Please submit these comments to the public record and forward them to the council. Thank you.

Public Comments Regarding Amendment 18A

My name is Chris McCaffity. I am a commercial fisherman who has been offering common sense solutions to mitigate the severe negative impacts associated with the laws passed by the multiple layers of fishery bureaucracy that fail to follow many of the requirements in the Magnuson-Stevens Act. I would like to start by saying that I have ZERO confidence in the South Atlantic Fishery Management Council's ability to properly manage ANYTHING. The minions of environmental "charities" like Pew and EDF and their puppets in the council have proven themselves to either be grossly incompetent or they are maliciously mismanaging our fisheries in an attempt to advance other agendas. The truth is that the mismanagement is likely due to a healthy dose of both. God help us if all government bureaucracies are as bad as the SAFMC, NMFS, and NOAA. The resources, country, and freedom He gave us are all threatened by the unelected bureaucrats that rule us with an iron fist and the full weight of the federal government behind them. They are slowly killing our SWEET LADY LIBERTY by the death of a 1,000 cuts! Bureaucrats do things like give themselves the power to use "unspecified drastic action" against American citizens to stop us from catching a fish. Can the well armed Marine Patrol Officers SHOOT people to keep them from catching an "illegal" fish? Is this what Congress intended when they set up the fishery bureaucracies and passed the Magnuson-Stevens Act?

According to their own stock assessments, the multiple layers of fishery bureaucracy have GROSSLY MISMANAGED almost every stock under their jurisdiction for decades. Fishermen have been forced through the barrel of a gun and threats of fines, seizures, or even imprisonment too follow all of the convoluted laws that just keep piling up. Our obedience is rewarded with lower quotas and MORE regulations based on admittedly FLAWED data. The bureaucracy's gross incompetence is rewarded with MORE MONEY and POWER!

I publicly call for Congress to pass a bill that will allow permit holders in a federal fishery to have final approval of all Amendments with a 2/3 majority vote. We should have access to all documents available to the councils and come up with alternative management plans using the existing Total Allowable Catches while following ALL of the mandates in the Magnuson-Stevens Act. Congress should set up a peer review panel to insure all management plans submitted by the regional councils and the permit holders comply with the MSA. All existing regulations

should be reviewed by the panel and allow the permit holders to offer alternatives for the regulations that fail to comply with the MSA.

The comments below will address each management measure in Amendment 18A.

1. I OPPOSE any endorsement program to limit participation in the Black Sea Bass pot fishery. Our federal snapper/grouper permits allow us to participate in that fishery. The council is trying to change the rules after they grossly mismanaged the quotas for the past two years. This council used flawed data to set annual quotas unnecessarily low and REFUSED to properly manage the low quotas with split seasons and Trip Poundage Limits (TPL). The TPL should be set at 1,000 pounds until 90% of the seasonal quota has been filled and then shut down the bass pot fishery. The TPL should then be set at 100 pounds for the hook and line fishery until the seasonal quota is filled.
2. The number of pots should be limited to how many a boat can bring home after a trip.
3. The council should establish commercial trip limits or TPLs in conjunction with split seasons as laid out previously.
4. I cannot believe this council is really going to increase the size limit AGAIN! ALL size limits are nothing more than government mandated pre-meditated fish abuse. Many of the discarded fish slowly die from stress, infection, and decompression damage. The circle hooks the SAFMC in all their collective infinite wisdom and compassion decided to force fishermen to use, often break the fish's jaw when they are not removed properly. Those poor fish slowly starve to death unless infection ends their suffering first. The size limit should be removed and all new bass pots should have 2" mesh.
5. I OPPOSE spawning season closures. It should not matter when we harvest the fish as long as we do not exceed the quota.
6. The quota should be adjusted with updated stock assessments and increased as the waste associated with size limits ends when they are finally removed.
7. Recreational fishermen should ask for a bottom fish permit that requires electronic reporting on all trips and uses any fees for independent data collection.

These suggestions would limit most of the waste associated with Regulatory Discards. The stock of Black Sea Bass and every other fish that lives in the same areas could be helped greatly with an aggressive Artificial Reef program. Artificial Reefs are the perfect union of aquaculture and commercially harvested wild fish. We should be enhancing the resource rather than restricting access to it. Please contact me if anyone has any questions.

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Via Email (SGAmend18APHcomment@safmc.net) and U.S. Mail

November 17, 2011

Bob Mahood, Executive Director,
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
N. Charleston, SC 29405

Re: Comments on the Public Hearing Draft of Amendment 18A

Dear Mr. Mahood,

Please accept the following comments by the Natural Resources Defense Council (NRDC) on the South Atlantic Fishery Management Council's (SAFMC's or Council's) public hearing draft for Amendment 18A. We appreciate the opportunity to comment on this important management action intended to rebuild the South Atlantic stock of black sea bass. We believe the draft Amendment contains many positive measures, including those that would reduce fishing effort, implement a spawning season closure, and improve data collection. However, we are concerned that the draft Amendment proposes changes to the stock's annual catch limit (ACL)-setting mechanism and rebuilding plan that do not comply with applicable legal requirements.

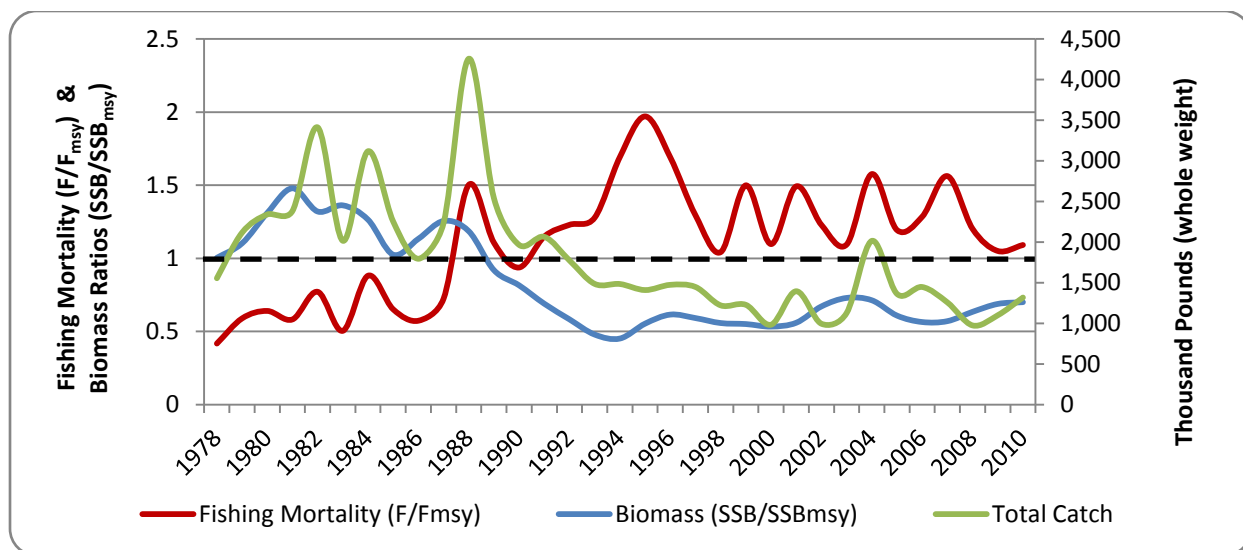
South Atlantic black sea bass is now midway through its third rebuilding plan over the past 20 years. The most recent stock assessment, SEDAR 25, concludes that the stock is currently at 70% of its target biomass level (spawning stock biomass at maximum sustainable yield, or SSB_{msy}), yet still undergoing overfishing ($F/F_{msy} > 1$), as it has unabated for the past two decades (see Chart 1).¹ The current plan is scheduled to rebuild the species by 2016, although catch has exceeded the prescribed fishing mortality level ($F_{rebuild}$) for each of the plan's first five years (see Chart 2).

According to the most recent data, the commercial and recreational sectors of the fishery have exceeded their annual catch limits (ACLs) for the 2011-2012 fishing season despite early closures of both sectors, with recreational landings totaling 520,951 pounds (whole weight) compared with an annual catch limit of 482,526 pounds and commercial landings totaling

¹ NOAA SEFSC, SEDAR 25, "Stock Assessment Report: South Atlantic Black Sea Bass" (October 2011) (concluding that $F_{2010}/F_{msy} = 109\%$).

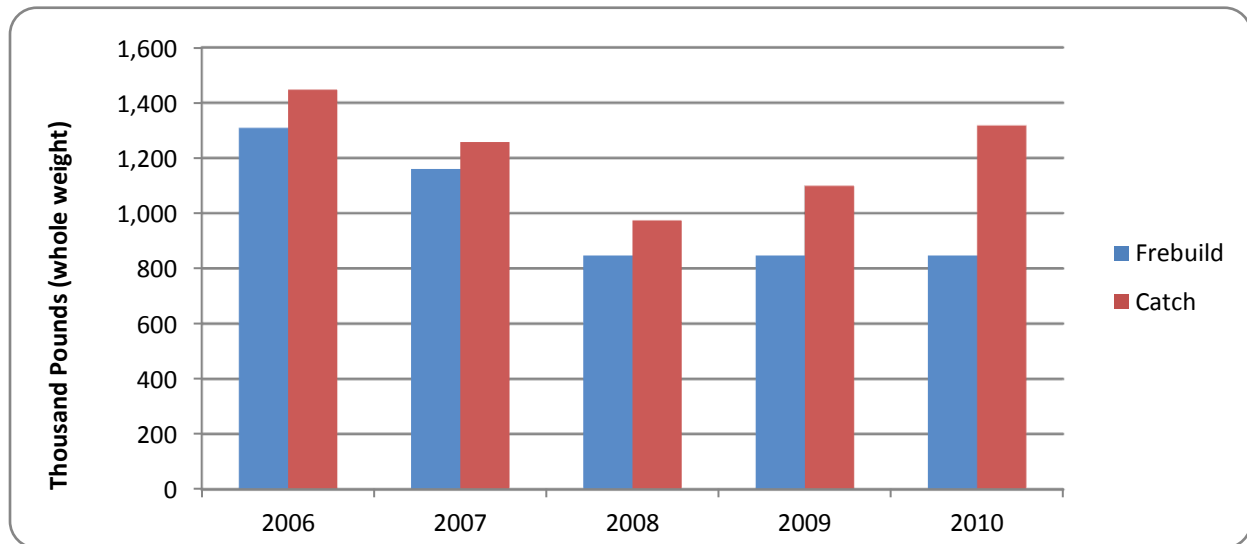
400,201 pounds compared with a commercial ACL of 364,464 pounds.² Because of these overages, overfishing may still be occurring, although that is not clear because the overfishing limit (OFL) is not provided in terms of an annual amount of catch.

Chart 1: Black Sea Bass Fishing Mortality, Biomass, and Catch 1978-2010³



² SERO, NMFS, "South Atlantic Snapper Grouper Commercial Landings," available at <http://sero.nmfs.noaa.gov/quotas/southatlantic/saq.htm>, accessed Nov. 15, 2011; NMFS, Marine Recreational Fisheries Statistic Survey (MRFSS), "Time Series Query," available at <http://www.st.nmfs.noaa.gov/st1/recreational/queries/index.html>, accessed Nov. 15, 2011; SAFMC, *Snapper-Grouper FMP, Amendment 17B* (2010).

³ SEDAR 25.

Chart 2: Black Sea Bass Rebuilding Fishing Mortality Level vs. Catch 2006-2010⁴

Amendment 18A proposes to change the rebuilding plan and related ACL-setting mechanism for black sea bass from a “constant catch” strategy to a “constant F” strategy, based on a 50% probability of rebuilding by 2016 (T_{max}), the most risk-prone approach considered, and no buffer between the ACL and $F_{rebuild}$ ($ACL = F_{rebuild}$).⁵ As discussed below, these proposed changes do not comply with important legal and conservation requirements, including that ACLs not exceed the catch level recommendations of the Council’s Scientific and Statistical Committee (SSC) and that stocks be rebuilt in as short as time as possible.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires that the Council “develop annual catch limits...that may not exceed the fishing level recommendations of its scientific and statistical committee...”⁶ The South Atlantic ABC Control rule, as described by the SSC in Appendix Q of the South Atlantic Comprehensive ACL Amendment, calls for using the same adjustment factor used to derive a probability of overfishing (P^*) as the basis for the probability of rebuilding success. The SSC explains its catch level recommendation as follows:

“The adjustment factor for stocks achieving the lowest scores across all dimension would be 0, resulting in a P^* of 50% which would lead to recommendation of a rebuilding schedule with a 50% (100-50) probability of success by the end of the rebuilding period (T_{max}), consistent with most current rebuilding schedules. The adjustment factor for stocks receiving the highest scores across all dimensions would be 40%, resulting in a critical P^* of 10% (50 baseline – 40 for buffer adjustment) and compelling a recommendation for

⁴ Combined rebuilding mortality limit ($F_{rebuild}$) from SAFMC, *Snapper-Grouper FMP, Amendment 13C* (2006) and *Amendment 15A*, converted from gutted weight (gw) to whole weight (ww) using ratio from of 718,000 lbs. gw = 847,000 lbs. ww contained in *Amendment 17B* (2010); Catch data from SEDAR 25.

⁵ SAFMC, *Public Hearing Draft, Amendment 18A*, at 93 (November 2011).

⁶ 16 U.S.C. § 1852(h)(6).

rebuilding projections based on 90% probability of success by the end of the rebuilding period.”⁷

The SSC’s recommended P^* for black sea bass, reflecting scientific uncertainty regarding stock status, is 35%, based on a score of 15 across all dimensions. This equates to a recommended 65% probability of rebuilding by the target rebuilding date, not the 50% proposed by the Council. The draft Amendment should be revised to be consistent with the SSC’s catch level recommendation for black sea bass.

The selection of a rebuilding plan that provides only a 50% probability of rebuilding within T_{\max} – with no buffer to account for scientific and management uncertainty – also violates the MSA’s requirement to prioritize conservation and long-term economic benefits and to “specify a time period for rebuilding the fishery that shall be as short as possible.”⁸ The courts have interpreted this provision of the MSA as follows:

“The purpose of the Act is clearly to give conservation of fisheries priority over short-term economic interests. *See NRDC v. Daley*, 209 F.3d 747, 753 (D.C. Cir. 2000) (‘[U]nder the [Act], the [Agency] must give priority to conservation measures.’). The Act sets this priority in part because the longer-term economic interests of fishing communities are aligned with the conservation goals set forth in the Act. Without immediate efforts at rebuilding depleted fisheries, the very long-term survival of those fishing communities is in doubt.”⁹

The South Atlantic black sea bass fishery is clearly subject to significant scientific and management uncertainty. One measure of its scientific uncertainty is the above-discussed SSC’s recommendation to use P^* of 35% in setting catch levels for black sea bass. The fishery’s significant management uncertainty is manifest in its recent history: following two failed rebuilding plans, managers have failed to constrain landings within catch limits in each of the first five years of the third and current rebuilding plan (see Charts 1 and 2).

We recommend that the Council establish a buffer between ABC and ACL and/or an ACT be established for both the commercial and recreational sectors, consistent with the Council’s own advice:

“Setting a buffer between the ACL and ABC would be appropriate in situations where there is uncertainty in whether or not management measures are constraining fishing mortality to target levels. ACTs, which are not required, can also be set below the ACLs to account for management uncertainty and provide greater assurance overfishing does not occur.”¹⁰

⁷ SAFMC, *South Atlantic Comprehensive ACL Amendment*, Appendix Q, “Proposed South Atlantic Council ABC Control Rule, Report of the SAFMC SSC September 2009 Revised August 2010” (October 2011).

⁸ 16 U.S.C. § 1854(e)(4).

⁹ *NRDC v. NMFS*, 421 F.3d 872, 879 (9th Cir. 2005).

¹⁰ *Public Hearing Draft, Amendment 18A*, at 102.

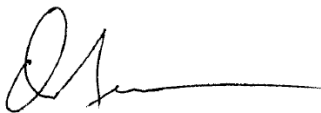
We recognize that the Amendment proposes a number of measures to reduce effort and capacity in the fishery. Until such management measures are adopted and demonstrated to work sufficiently, however, an adequate management uncertainty buffer is needed.

In this regard, while we support the proposal for a recreational ACT contained in Action 1.d, it would be arbitrary to fail to include a similar measure for the commercial sector when both sectors continue to exceed their target catch limits. It is unreasonable for the Council to conclude as it has done to date that “a commercial ACT for black sea bass was not needed because commercial sector landings are closely tracked in-season through a quota monitoring system and project when the ACL is going to be met in order to close the fishery before the ACL is exceeded.” This statement ignores the fact that commercial catch limits for black seas bass have been exceeded each of the previous three fishing seasons, despite early closures. It is also arbitrary to include a post-season overage deduction for the recreational sector without a similar provision for the commercial sector.

Finally, we note that the failure to even consider using a more precautionary approach for black sea bass rebuilding fails to comport with the requirement under the National Environmental Policy Act (NEPA) to consider a reasonable range of alternatives. At least three of the projections contained in SEDAR 25 provide for the stock rebuilding in a shorter time period than T_{max} , or, conversely, rebuilding with a higher than 50% probability of success within T_{max} .¹¹ At the very least, these faster rebuilding times must be considered in the FMP Amendment and associated NEPA analysis.

Overall, we believe the Council has an opportunity to take advantage of a growing population of black sea bass to quickly rebuild the population to sustainable levels that enable greater catch than has been realized in many years. To accomplish this, however, the rebuilding plan and associated ACLs and AMs must finally end overfishing and include a greater degree of precaution than would be provided under the currently proposed Amendment.

Very Truly Yours,



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cc: SAFMC members

¹¹ SEDAR 25, at 46-48.