1 of 12,254

August 31, 2009

Karla Gore
NOAA Fisheries Service
Southeast Regional Offices
Sustainable Fisheries Division
263 13th Avenue South
St. Petersburg, Fla. 33701

RE: Please Protect Deep-sea Corals

I am writing to express my support for NOAA's proposal to establish Deepwater Coral Habitat Areas of Particular Concern (HAPCs) off the South Atlantic coast of the United States.

This action would protect what is believed to be the largest contiguous distribution of pristine deepwater coral ecosystems in the world from destructive fishing methods, including bottom longlines, trawls and dredges.

Bottom trawl fishing is the most widespread human threat to deep-sea coral communities. Fishing vessels pull bottom trawl nets across the ocean floor to catch shrimp and fish, capturing many other untargeted fish, mammals, sea turtles, and deep-sea corals.

I think this proposal is especially strong because scientists teamed up with fishing industry representatives to draw boundaries that limit the impacts of bottom trawling for royal red shrimp while protecting deep sea corals and opportunities for golden crab trap fishing.

Deep-sea coral reefs in the Southeast provide homes for fish and support commercially valuable wreckfish populations as well as snapper and grouper.

Please help save these unique cold-water reefs, which include hundreds of pinnacles up to 500 feet tall that are America's answer to the Great Barrier Reef.

Thank you for your help on behalf of our irreplaceable oceans and marine life.

Respectfully,

J. Capozzelli
315 West 90th Street
New York, NY 10024

Dear Dr. Crabtree,

Deep sea coral reefs provide shelter where fish can feed, spawn, and grow. Thousands of species of marine life depend on these corals. Yet they are vulnerable to bottom trawl fishing, which is responsible for damaging or destroying 90% of the century-old deep sea coral reefs on Florida's Oculina Bank. This can not be allowed to happen again.

Now more than 23,000 square miles of known deep sea corals off the Carolinas, Georgia and Florida coasts are just one step away from protection, after five years of discussions and public review. The South Atlantic Fishery Management Council is poised to take action to protect this coral through the Comprehensive Ecosystem Based Amendment (CEBA1). While some deep sea fisheries threaten corals, this amendment will protect deep sea corals while providing support for healthy fisheries into the future.

Please finalize the Comprehensive Ecosystem Based Amendment. The reefs cannot wait any longer.

Thank you,
Name Nick Mallos
Address 316 Marine Pt. III
Beaufort, NC 28516
Email

Dr. Roy Crabtree
Regional Administrator
NOAA Fisheries Service
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

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Comprehensive Ecosystem Based Amendment -1

Comment On: NOAA-NMFS-2009-0158-0001
CE-BA 1 NOA for DEIS

Document: NOAA-NMFS-2009-0158-DRAFT-0004
Comment from Andrew Shepard

Submitter Information

Name: Andrew Shepard
Address: United States,
Organization: UNCW

General Comment

I support the following Action alternatives:
1-2 (all sub-alternatives): no action is not an option
2-2: VMS is critical part of this alternative
3-2: need to get best possible habitat maps and get them to crab fishermen; they do not want to lose traps
4-1: do not worry as much about crab fishery as towed bottom gear which must use VMS

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Ms. Karla Gore
NOAA Fisheries Service
Southeast Regional Office
Sustainable Fisheries Division
263 13th Avenue South
St. Petersburg, FL 33701-5505

Re: Comprehensive Ecosystem-Based Amendment 1

Dear Ms. Gore,

Oceana applauds the National Marine Fisheries Service (NOAA Fisheries) and South Atlantic Fishery Management Council for making concrete progress toward protection of the largest continuous stretch of known deep-sea coral ecosystems in the world. The preferred alternatives in Comprehensive Ecosystem-Based Amendment 1 represent a new standard in proactive management, and were carefully crafted with science, industry, and conservation considerations. It's time for some good news in fisheries management, and we urge NOAA Fisheries to finalize this amendment without further delay.

The Southeast leads the nation in deep-sea coral research and conservation
Beginning with the 1970s explorations of Oculina Banks by Avent and Reed, pioneering work in the Southeast led to the establishment of one of the first deep-sea coral protected areas in the nation in 1984. The South Atlantic Fishery Management Council was then in the lead again as the only council to proactively plan for essential fish habitat protection rather than waiting for the lawsuit in *American Oceans Campaign v. Evans*.

Later discovery of extensive *Lophelia* corals in deeper offshore waters prompted additional ground-breaking research and these reefs are now proposed for protection in this amendment. With a foundation of undisturbed limestone and a steady food supply carried by the Gulf Stream, generations of corals in this region have constructed entire reef ecosystems up to 500 feet tall during thousands of years of growth. We ask NOAA Fisheries to follow through on early leadership in the Southeast and protect these deep-sea ecosystems as Habitat Areas of Particular Concern (HAPCs).

Bottom trawling and dredging are the most widespread threats to deep-sea corals
When trawl nets are dragged across living seafloor, they can destroy corals, sponges, and associated ecosystems that take hundreds or thousands of years to develop. In the Southeast region, bottom trawls have damaged or destroyed more than 90% of the deep-sea coral reefs on Oculina Banks, and subsequent research has yet to identify significant signs of recovery. NOAA Fisheries must act now to prevent similar

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destruction of the *Lophelia* reefs by banning all bottom-damaging activities in the proposed HAPCs.

Freeze the footprint of deep-sea fisheries
The allowable areas proposed in Action 2, Alternatives 1 and 2 allow for continuation of the royal red shrimp fishery while at the same time protecting the deep sea coral ecosystems within the HAPC. Expansion of bottom trawling into the deep sea would threaten the potential for more selective fisheries such as golden crab trapping. With the loss of ancient coral reefs, we also risk losing the golden crabs and other commercially valuable species that depend on these reefs for food and shelter. Bottom trawls have one of the highest rates of bycatch of all fishing gears, leading to dead discards of fish that could otherwise be caught with more selective gear. Trap fisheries for golden crab need separate areas where mobile gear, such as bottom trawls and dredges, is prohibited in order to prevent damage to their traps. NOAA Fisheries should freeze the footprint of bottom trawls and dredges to protect more selective fisheries and the species they target. To avoid inadvertent harm to corals from the golden crab trap fishery, Oceana also supports limiting trap fishing to the allowable areas proposed in this amendment.

Recent research reinforces the value of the proposed areas
The same scientists who presented these deep-sea coral ecosystems to the South Atlantic Council for protection in 2004 returned to the proposed areas this August. New high-resolution mapping, video documentation, and biological sampling confirm the ecological value and vulnerability of this living habitat. Scientists riding in the Johnson Sea-Link submersible witnessed large numbers of sharks, commercially valuable golden crabs, and wreckfish living among the structures built by *Lophelia pertusa*, *Enallopsammia profunda* and *Madrepora oculata* corals along with sponges, bamboo corals, octocorals, hydrozoans, black corals and other animals. The presence of sharks on the deep reefs suggests they may rely on these areas as hunting grounds.

Threats from deep-sea fishing and energy development are growing rapidly
In the five years of delay since these deep-sea corals were first proposed for protection in 2004, the threats that face them have grown more numerous. The pressure to expand fishing in the deep sea has become almost overwhelming as traditional nearshore fisheries in the region are overfished.

Energy development for oil, natural gas, and renewables has also threatened these corals with increasing frequency during repeated delays of this amendment. Core areas of the proposed HAPCs, including the Miami Terrace and areas off South Carolina, have been targeted for pipelines, drilling, and other severe disturbances. NOAA Fisheries must finalize HAPC designation as soon as possible, to explicitly identify these vulnerable areas for other agencies that are already moving forward with other plans for ocean resources.

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Climate change makes protecting coral ecosystems even more important
While international negotiators battle over carbon emissions, the ocean has already become warmer and more acidic. Deep-sea corals are especially vulnerable to acidification, which can dissolve reefs and make it more difficult for corals, lobsters, shellfish, and other animals to form shells. Larval fish spawned in deep-sea coral nurseries are also susceptible to dissolving in increasingly acid oceans, reducing the productivity of fish populations and their resilience to climate change.

Prepare for an uncertain future in fisheries with responsible action now
The best hope for ecosystem-based management is to be proactive in addressing fisheries impacts and to prepare for non-fishing activities sharing the same ocean. NOAA Fisheries is on track to meet this challenge in the Southeast with Comprehensive Ecosystem-Based Amendment 1. Oceana submits the following specific comments on the proposed actions in Appendix 1 of this letter, and asks emphatically that this amendment move forward without delay.

Very truly yours,

Michael F. Hirshfield, Ph.D.
Senior Vice President, North America and Chief Scientist
Oceana

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APPENDIX 1: SPECIFIC RECOMMENDATIONS ON COMPREHENSIVE ECOSYSTEM-BASED AMENDMENT 1.

Oceana approves of the Draft Environmental Impact Statement as a whole and encourages NOAA Fisheries to finalize the Comprehensive Ecosystem-Based Amendment 1 as soon as possible.

Action 1, Adopt Preferred Alternative 2:
Establish deepwater coral HAPCs, prohibit all bottom-damaging gear, and prohibit possession of coral in all five proposed areas.

Action 2, Reject Alternative 3:
Adopt preferred Alternative 2 establishing the Shrimp Fishery Access Area within the proposed Stetson-Miami Terrace HAPC boundaries or Alternative 1 (no action). Alternative 3 is unacceptable because it would expose large areas of known deep-sea corals to severe harm and create gear conflict between bottom trawls and golden crab traps.

Action 3, Adopt Preferred Alternative 2:
Create allowable golden crab fishing areas within the proposed Stetson-Miami Terrace and Pourtales Terrace HAPC boundaries.

Action 4, Defer action:
NOAA needs to develop vessel monitoring systems appropriate to the golden crab fishery. Golden crab fishermen currently monitor the location of their gear, demonstrating that it would be feasible to establish a more formal monitoring system. The DEIS inappropriately dismisses the need for monitoring and the value of collecting information on vessel locations for both research and enforcement of the HAPCs.

Doug Morris
Group Director
Upstream and Industry Operations

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www.api.org

September 8, 2009

Mr. Roy E. Crabtree, PhD
Regional Administrator
NOAA Fisheries Service

Comments Electronically Transmitted to: karla.gore@noaa.gov, and www.regulations.gov

RE: EIS 20090247, Draft EIS, NOAA 00, Comprehensive Ecosystem-Based Amendment 1 (CE-BA 1) for the South Atlantic Region, Implementation

These comments are submitted on behalf of the American Petroleum Institute (API). API represents nearly 400 companies that are involved in all aspects of the oil and natural gas industry. API member companies include the principal industry stakeholders in decisions made by government agencies that relate to exploration and production of offshore oil and natural gas resources. We appreciate this opportunity to provide comment on the Comprehensive Ecosystem-Based Amendment 1 (CE-BA 1).

The CE-BA 1 is a proposed regulatory action that focuses on deepwater coral ecosystems along the deepwater edges of the continental slopes of Florida and the east coast of the United States. The stated purpose for this action "is to protect deepwater coral ecosystems in the Council's jurisdiction, which are currently thought to be in pristine condition, from future activities." The CE-BA 1 identifies oil and natural gas activities as among future activities that could allegedly harm deepwater coral ecosystems. API disagrees with this assessment.

The oil and natural gas industry recognizes the importance and uniqueness of coral, and other hard bottom areas as part of the seafloor landscape. They play an important role in the overall marine ecosystem. For many decades, the industry has been carefully regulated to either avoid, or to mitigate activities in order to protect these important areas. Industry has proven that it can operate safely within sensitive marine environments. The success of the Flower Garden Banks is a prime example.

API supports the continued protection of important ecosystems in the marine environment, but only through the appropriate regulatory mechanisms. First, this CE-BA 1 is not an appropriate mechanism for regulating the alleged potential future harm of oil and natural gas activities in the

geographic area in question. This proposed action inappropriately appears to indirectly regulate future oil and natural gas activities based on speculative assumptions about the potential future impact of industry activities. Regulation of oil and natural gas activities is outside the authority of the fisheries management council (FMC). Second, the expansiveness of the geographic areas covered in the proposal, and the assertion that a definitive contiguous habitat exists that covers the entire geographic area do not appear to be supported by adequate data.

Although FMCs are the main general regulatory body representing stakeholders and the respective government agencies on fishery activities, the councils do not understand the oil and natural gas industry, and do not have authority to regulate it. As such, any recommendations made by the FMC and any subsequent regulations should be limited to fisheries. While the proposed action is targeted at identifying potential future harm to the coral, a proper assessment of whether oil and natural gas activities pose such a threat should be made by agencies with the experience to understand the oil and natural gas industry and who have the proper regulatory authority to do so. Secondly, Essential Fish Habitat (EFH) provisions are managed by the National Marine Fisheries Service. Therefore it is inappropriate for the FMC to suggest that new restrictions be placed on other industries in areas deemed to be sensitive by the FMC through the EFH provisions. Mechanisms are already in place requiring all other offshore federal activities (e.g. the oil and natural gas industry), regardless of the regulatory agency involved, to get an EFH review done and receive approval from NMFS. This is similar to a Section 7 consultation under the Endangered Species Act.

Over the years, the fishing industry and oil and gas industry have had a good working relationship. Misuse of the FMC's authority by attempting to indirectly manage offshore oil and natural gas activities could threaten this cooperative relationship. If stakeholders do not coordinate up front, unnecessary conflict could arise in the future that may jeopardize positive long term relationships. Lack of initial coordination by all parties could also force the government to rush forward into marine spatial planning (MSP) to resolve these potential conflicts.

Though some Federal agencies have been practicing marine spatial planning principles for some time, it is a relatively new concept for most agencies with ocean governance. The newness of MSP to the government as a whole necessitates a well coordinated, well thought out, comprehensive process that is executed in a systematic way. This cannot be accomplished if individual agencies and sub-sections of agencies rush forward with MSP type activities without a complete understanding of what MSP is, how to implement it, and how individual agency activities fit within and may impact the entire system of ocean governance.

This CE-BA1 misleadingly proposes deepwater Coral Habitat Areas of Particular Concern (CHAP) that cover large geographic areas. The proposal, as written, suggests that the "entire" area is carpeted by coral communities. This is misleading and false. With such broad areas deemed CHAP as outlined in the CE-BA 1's figures (see Fig. 1a, p. 1-13), the result could be unnecessary restrictions on oil and natural gas activity where oil and natural gas equipment might

be laid on the seafloor, or where future pipelines may come up the slope and onto the continental shelf. Again, even if such restrictions would be necessary, MMS would generally make this determination in the pre-lease analyses, biological stipulations, and pre-drilling activity shallow hazard surveys (similar to what is currently done to detect chemosynthetic communities in the Gulf of Mexico).

API agrees that coral communities are high value benthic habitats, and justify protection where feasible. However, with the exception of a few unique areas, the coral coverage is not continuous, and other bottom activities in the area could be allowed. These site specific areas should be defined by further, detailed, MMS studies. The CE-BA 1 acknowledges a lack of comprehensive data on these coral communities in the introduction on page 1-18: "Despite a series of exploratory expeditions during the last decade, only a few deepwater coral ecosystems in this region have been mapped in detail, observed directly, or have had their benthic and fish assemblages examined." With this admitted limitation on the available data for the broad area defined in this document, it would be careless for the FMC to recommend regulations that affect other industries, with potentially costly consequences, and based on limited information.

In conclusion, API supports the protection of sensitive marine environments such as deepwater coral. However, the proposed action under this CE-BA 1 is inadequately supported by data, appears to exceed the regulatory authority of the FMCs as to the oil and natural gas industry, and is the inappropriate mechanism for regulating any potential future oil and natural gas activities within the coral's habitat.

Respectfully submitted,

Doug Morris
Group Director
Upstream and Industry Operations

CENTER *for* BIOLOGICAL DIVERSITY

Via Federal eRulemaking Portal

September 8, 2009

Karla Gore
NOAA Fisheries Service
Southeast Regional Office
Sustainable Fisheries Division
263 13th Avenue South
St. Petersburg, Florida 33701-5505

Subj.: Comments on Proposal to Protect South Atlantic Deep Water Coral Ecosystems

Dear Ms. Gore,

The Center for Biological Diversity supports the proposal to establish Habitat Areas of Particular Concern ("HAPCs") for Cape Lookout Lophelia Banks, Cape Fear Lophelia Banks, Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace (Stetson-Miami Terrace), Pourtales Terrace, and Blake Ridge Diapir Methane Seep, and to prohibit the use of bottom-damaging gear in these areas, as well as the possession of coral species. These unique deep water coral ecosystems are extremely valuable for both benthic and pelagic species. They are also extremely fragile. The proposed HAPCs represent a vital, forward-looking step towards ensuring the future of these important areas.

As noted by the DEIS, bottom-tending fishing gear, such as trawl, dredge, pot, trap, and bottom longline gear, causes significant damage to corals. This damage ranges from outright crushing of live coral to lesions that leave the coral vulnerable to disease and other stresses. We encourage National Marine Fisheries Service ("NMFS") to maintain the proposed gear prohibitions. We also urge NMFS to ensure that the proposed continuation of existing golden crab and deepwater shrimp fisheries will not cause harm to deep water corals or their ecosystems. These fisheries must be regulated to ensure that gear is not set, intentionally or unintentionally, on deep water corals. NMFS should monitor these areas and the fisheries closely and, if monitoring reveals the deep water corals are being harmed, discontinue the allowable fishing area exceptions until such time as a mechanism for preventing gear damage is found.

The proposed HAPCs are also very important for maintaining the resiliency of deep water corals in the face of climate change and ocean acidification. Ocean acidification decreases the calcification of corals, including cold-water corals found in the Atlantic Ocean. Calcification rates of reef-building corals are expected to decrease 30-40 percent with a doubling of atmospheric carbon dioxide (Kleypas et al. 2006; Hoegh-Guldberg et al. 2007; Guinotte and Fabry 2008). Scientists predict that ocean acidification, coupled with increasing ocean

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temperatures, will destroy the world's reefs by mid-century (Hoegh-Guldberg et al. 2007). Within the past decade, scientists have observed a significant decrease in the saturation state of a calcium carbonate mineral, aragonite, in the greater Caribbean region (Gledhill et al. 2008). Cold water corals may be even more sensitive than other types of coral to reduced carbonate saturation because they already live in conditions less favorable to calcification, and 70 percent of scleractinian cold water corals could be in water undersaturated with respect to aragonite by the end of the century (Royal Society 2005; Guinotte & Fabry 2008). While the proposed HAPCs obviously do not affect the acidification process, maintaining undisturbed, intact ecosystems will support the health of deep water corals and make them more resistant to stresses brought on by climate change, ocean acidification, and secondary effects like disease.

Thank you for your consideration.

Sincerely,
/s/
Andrea A. Treece

08 September 2009

Karla Gore
NOAA Fisheries Service
Southeast Regional Office
Sustainable Fisheries Division
263 13th Avenue South
St. Petersburg, FL 33701

RE: Proposal to Protect South Atlantic Deepwater Coral Ecosystems

Dear Ms. Gore,

On behalf of Environmental Defense Fund and its more than 30,000 members in the southeastern United States, we respectfully submit for your consideration these comments on the Draft Environmental Impact Statement (DEIS) for the Comprehensive Ecosystem-Based Amendment 1 (CE-BA 1) evaluating the South Atlantic Fishery Management Council's (Council) proposal to establish deepwater Coral Habitat Areas of Particular Concern (CHAPCs) in the South Atlantic. Our staff previously submitted both written and oral comments to the SAFMC on its proposed CE-BA 1 during public hearings earlier this year and throughout the public input process for this amendment.

We commend the National Marine Fisheries Service (NMFS) and the Council for its leadership in protecting the nearly 23,000 square miles of one of the largest continuous deepwater coral habitats in the world. We continue to strongly support the selection of all areas of this key habitat for protection, especially for the establishment of the five deepwater coral CHAPCs, including the region's only documented deepwater methane seep. We also support the decision to preclude bottom-disturbing fishing gears throughout these zones. These actions will protect this unique and pristine habitat and its associated species from destructive fishing practices, which have damaged similar reefs around the world, as well as most non-fishing threats, through the essential fish habitat elevation process.

The scientific community is only beginning to realize just how unusual these ancient and largely unexplored reefs are. A veritable wonderland of marine life, these reefs are among the most important areas in the world for marine species and for exploration for biopharmaceuticals. New species continue to be discovered every time the reefs are visited, and the importance in protecting them becomes more and more evident as research and exploration of these areas continues. This deepwater coral ecosystem is a national treasure and is worthy of this protection. Taken together, we believe the actions in the CE-BA 1 achieve this protection.

In addition, we would like to again commend the commercial fishermen who participate in the golden crab and royal red shrimp fisheries for their collaboration throughout the process, particularly with respect to the delineation of the CHAPCs and the allowable

gear zones within the CHAPC areas, which we also endorse. The CE-BA 1 will ensure that fishermen have access to fishing areas encompassing traditional fishing grounds, while avoiding other than de minimis fishing activity in areas in need of protection. We believe this sets an important example of co-management – consistent with the best available science – that can be replicated in other fisheries in the future.

Collaboration between the Council and stakeholders becomes even more important in light of recently proposed Amendments to the Snapper Grouper Fishery (such as 17A and 17B) that include large closed areas, the end result of which if implemented would prohibit the harvest of all snapper-grouper species in large areas for an indeterminate period of time. These can be expected to have the negative consequences including shifting tremendous effort to open areas, harming additional fish populations and habitats having a negative impact on businesses. Therefore it is unlikely that these actions would contribute to the overall reduction in total mortality.

Any closed area used as a fishery management tool should be designed based on science to improve the health of fish populations and benefit the environment, industry, and society over the long-term through the proper Council process involving any stakeholders and the review of appropriate Advisory Panels (AP). The process of designing the CHAPCs and allowable gear areas with representatives from the affected fisheries, such as the golden crab fishermen, should be viewed as a successful model to follow.

In addition, the Golden Crab AP is currently moving forward with its proposal to implement a catch share program for their fishery. Market-based programs such as catch shares work by allocating a specific percentage of the Total Allowable Catch to an individual fisherman. We believe linking protected areas (like the CHAPCs) with a catch share program provides the only long-term hope for sustainable fisheries in the region that can also prevent detrimental season closures, rebuild stocks, and preserve fishing jobs. A Vessel Monitoring System (VMS) is a useful tool when addressing spatial and temporal regulations in a fisheries management plan and essential in any well-monitored catch share program. Because of strong oceanic currents, it is expected that a golden crab fishing vessel may venture into and out of a CHAPC while the actual traps are located on the seafloor outside of the CHAPC. Therefore, VMS may not be an accurate tool for determining where fishing activity is occurring during trap deployment and retrieval functions of the golden crab fishery. We again commend the crabbers and encourage them to continue their active involvement in researching alternative enforcement methods that would effectively monitor the location of their traps within the allowable gear zones.

In summary, we fully support creation of the five deepwater coral CHAPCs as set forth in the preferred alternatives in the CE-BA 1. In light of the Fishery Ecosystem Plan, we also look forward to continuing our work with the Council and NMFS in efforts to transition from single-species to performance-based and ecosystem-based fisheries management.

Thank you for your consideration of our views on this important issue. Feel free to contact us at 919-881-2601 if you have any questions or wish to discuss any aspect of our recommendations.

Sincerely,

Heather Paffe
Director, Gulf and Southeast Oceans Program

Sarah Hagedorn Bowman
Marine Scientist

Cc: Roger Pugliese, SAFMC Senior Fishery Biologist
Cc: Gregg Waugh, SAFMC Deputy Executive Director
Cc: Duane Harris, SAFMC Chairman
Cc: Myra Brouwer, SAFMC Biologist

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2009 AUG 19 PM 12:23

August 17, 2009

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Comments on NOAA DEIS for "Comprehensive Ecosystem-Based Amendment 1 [CE-BA 1] for the South Atlantic Region; NC, SC, GA and Eastern FL; CEQ# 20090247; ERP# NOA-E91027-00

Dear Dr. Crabtree:

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's / National Marine Fisheries Service's (NOAA/NMFS) Draft Environmental Impact Statement (DEIS) for the subject "CE-BA 1" or "Amendment 1" for the South Atlantic Region.

The CE-BA 1 is relevant for federal waters up to the 200 nautical mile (nm) limit in the Atlantic Ocean offshore North Carolina, South Carolina, Georgia and eastern Florida to Key West. Deepwater coral habitat is generally found at water depths up to 1,000 meters. The four actions in Amendment 1 are (excerpted from page 1-1):

- Amend the Coral, Coral Reefs, and Live-Hardbottom Habitat FMP to establish Deepwater Coral Habitat Areas of Particular Concern (CHAPCs) and prohibit the use of bottom damaging fishing gear.
- Create a "Fishery Access Area" (SFAA) within the proposed CHAPCs.
- Create "Allowable Golden Crab Fishing Areas" [AGAs] within the proposed CHAPCs.
- Amend and Golden Crab FMP to require vessel monitoring.

CE-BA 1 also amends several FMPs to include Essential Fish Habitat (EFH) spatial information. These FMPs are the Coral, Coastal Migratory Pelagics, Shrimp, Golden Crab, Spiny Lobster, Dolphin Wahoo, and Snapper Group FMPs.

EPA clearly supports the protection of seafloor habitats from bottom-tending fishing gear such as trawls, as well as designating these areas as "no-anchor" areas. Since commercial trawling activities are typically repeated along fishing grounds,

they could have severe environmental impacts to deepwater coral and other relief areas. Gear damage to such deepwater habitats has consequences beyond habitat destruction since once impacted, cold water habitats require longer restoration times than warmer/shallower habitats. Furthermore, we understand that the deepwater coral habitats of concern are still pristine and can therefore still be protected from impacts to avoid any need for such longer-termed restoration. The proposed actions of Amendment 1 are therefore precautionary in nature since current fishing gear used in these areas is either acceptable (e.g., hook-and-line gear) or is not expected to be damaging (e.g., gear used for harvesting wreckfish, which is also scheduled for impact verification studies).

Since several species are involved for Amendment 1, EPA is pleased that NOAA/NMFS is embracing an ecosystem-based approach to protect deepwater corals and to amend associated FMPs for several fishery species. Although considerably more complicated, it is clear that ecosystem-based studies are much more beneficial to an affected ecosystem when compared to only regulating a target fishery species within that ecosystem without regard to interactive effects, such as harvest effects on predator-prey relationships and gear conflicts.

EPA offers the following comments on the DEIS for consideration by NOAA/NMFS in the development of the Final EIS (FEIS). We have emphasized the alternatives considered for the four actions presented.

Action 1 (***Amend the Coral, Coral Reefs, and Live/Hardbottom Habitat FMP to establish Deepwater Coral Habitat Areas of Particular Concern (CHAPCs)***).

- Alternative 1 (*No Action*) – EPA does not recommend the No Action Alternative for Action 1, i.e., that CHAPCs would not be established. Although current fishing techniques for golden crab, rock shrimp, royal red shrimp and wreckfish do not or apparently do not damage deepwater coral habitat, the establishment of CHAPCs would benefit deepwater coral habitat by prohibiting, as a precaution, possession of all bottom damaging gear within the designated CHAPCs. Other gear such as hook and line would not be prohibited. Continued use of gear currently used to harvest wreckfish in the area would also be allowed. Gear-effects are expected to be acceptable but are unknown, and therefore would be verified by separate amendment.[1] It is noted that bottom longline gear is already prohibited for the wreckfish fishery.

- Alternative 2 (*Preferred by NOAA/NMFS*) – This alternative would establish one or more deepwater coral CHAPCs under sub-alternatives 2a, 2b, 2c, 2d and/or 2e. EPA supports the DEIS-preferred creation of CHAPCs, but will defer to the

[1] The FEIS should discuss when such studies and amendment are expected. It would have been preferable for such studies to already have been completed so that their results could have been incorporated in the present Amendment 1 rather than potentially requiring a subsequent modification of the Amendment 1, should the current wreckfish harvesting technique be determined to be damaging to deepwater coral habitat.

expertise of NOAA/NMFS as to their specific locations along the western Atlantic coastline (pg. 2-2). We believe, however, that these locations should maximize the protection of quality deepwater coral and other seafloor habitats such as hardbottom mounds. Based on Table 2-1, all five subalternative sites are currently preferred by NOAA/NMFS.

Action 2 (***Create a "Shrimp Fishery Access Area" (SFAA) within the proposed Stetson Reefs, Savannah and East Florida Lithoherms, and Miami Terrace (Stetson-Miami Terrace) CHAPC boundaries***)).

- Alternative 1 (*No Action*) – The no action alternative would not establish an SFAA site with certain CHAPCs designed to help offset social and economic impacts to shrimpers that would no longer be allowed to fish in designated CHAPC deepwater coral areas per the above preferred Alternative 2 of Action 1. EPA does not oppose limited CHAPC access areas if NOAA/NMFS finds societal hardships would be significant to shrimp fishers affected by the designation of CHAPCs as long as the location of the SFAA would not substantively impact deepwater coral habitat intended for protection by Amendment 1. Under those conditions, EPA would not oppose selection of an action alternative over the no action alternative for Action 2.

- Alternative 2 (*Preferred by NOAA/NMFS*) – This alternative would designate an SFAA within the Stetson-Miami Terrace CHAPCs to allow the continuance of rock (and unregulated royal red) shrimp fishing in traditional fishing grounds. Alternative 2 appears to be a compromise alternative requested by the shrimp industry (pg. 2-11). While continued shrimping in "traditional areas" would be beneficial to the industry and still may be acceptable for the purposes of Amendment 1, the FEIS should further discuss any long-termed bottom impacts to these traditional shrimping grounds from past/current shrimp trawling. If there are no substantive impacts to the seafloor – especially relief areas – such an offset could be helpful to affected shrimpers. Overall, however, it appears that the rock shrimp fishery is small such that societal impacts would correspondingly also be small, even though economic and any Environmental Justice (EJ)[2] effects on fishers should be considered by NOAA/NMFS.

- Alternative 3 (*SFAA Areal Expansion*) – Alternative 3 would extend the area of the SFAA to the east, which includes known and "highly probable low- and high-relief deepwater coral habitats", and would allow expansion of the royal red shrimp fishery into non-traditional areas. EPA does not support Alternative 3 since it would encroach into vulnerable coral habitat. Moreover, it is unclear why such an action alternative is offered in an amendment intended to establish CHAPCs to protect deepwater coral habitat, i.e., is this alternative "reasonable and feasible" and consistent with amendment purpose and need (pg. 1-17)?

[2] In its social and economic effects discussions, the DEIS does not appear to address any potential EJ effects on fishers that may be impacted by CHAPC designations. The FEIS should address this based on disclosed fisher EJ information.

Action 3 (***Create "Allowable Golden Crab Fishing Areas" [AGAs] within the proposed Stetson Reefs, Savannah and East Florida Lithoherms, and Miami Terrace (Stetson-Miami Terrace) CHAPC and Pourtales Terrace CHAPC boundaries***).

- Alternative 1 (*No Action*) – Similar to Action 2, the establishment of AGAs could be helpful to golden crab fishers if NOAA/NMFS finds societal hardships would be significant to fishers affected by the designation of CHAPCs and if the location of the crab fishing grounds would not substantively impact deepwater coral habitat proposed for protection by Amendment 1. Under these conditions, EPA would not oppose an action alternative over the no action alternative for Action 3.

- Alternative 2 (*Preferred by NOAA/NMFS*) – This alternative would establish one or more AGAs within designated CHAPCs under sub-alternatives 2a, 2b and 2c. Although EPA believes the AGAs – like the proposed SFAA – would be beneficial to the industry, since continued commercial crabbing in the area would be allowed there, and could still potentially be manageable within the purposes of Amendment 1, we will defer to the expertise of NOAA/NMFS as to the specific locations of the AGAs. However, these AGA sites should still avoid quality deepwater coral and other habitats such as hardbottom mounds consistent with the intent of Amendment 1. All three subalternative sites are currently preferred by NOAA/NMFS (pg. 2-12).

  Since the harvest of the golden crab is currently not regulated (pg. 1-9), the FEIS should further discuss the status of the golden crab stock in terms of its optimum yield (OY). That is, should AGAs be established for a fishery that is potentially without a recent stock assessment or that may already be over-exploited? Moreover, from an ecosystem perspective, what is the role of the golden crab in the deepwater ecosystem and how would its continued harvest or exploitation impact its predator-prey relationships?

- Alternative 3 (*AGA Areal Expansion*) – This alternative would expand the AGAs into traditional shrimping grounds. The FEIS should discuss if there is "reason to believe" that harvestable stocks of golden crab would coexist on the shrimping ground habitat. Accordingly, we understand that this expansion would not necessarily be meaningful to the golden crab fishery since golden crabs are typically found in deeper waters than the shrimping grounds in the proposed AGA expansions. Crab and shrimp fishery gear conflicts could also result if their fishing grounds were to overlap. The FEIS should further discuss the value of this alternative from a NEPA, fishery, and deepwater coral habitat protection perspective.

Action 4 **(Amend the Golden Crab FMP to require vessel monitoring).**

- Alternative 1 (*No Action*) – The no action alternative would not require a Vessel Monitoring System (VMS) for the surveillance of fishing vessels owned by permitted golden crab fishers – specifically to ensure that all crabbing is limited to

the AGA access areas and outside deepwater coral habitat. The DEIS offers that the VMS approach would not provide information on the effects of gear on deepwater coral habitat, that it would not have any positive or negative effects on the golden crab resource, that VMS alone is not a good enforcement tool for this resource, and that VMS would not prevent damage to deepwater coral habitat. We agree that requiring VMS alone would not ensure that deepwater coral habitat would not be impacted. However, it would monitor the locations of vessels specifically permitted to fish for golden crabs within the AGAs (Alt. 2) and/or any vessel with a limited access golden crab permit (Alt. 3), to help prevent gear damage to this still pristine deepwater coral habitat.

For Action 4, we recommend that the NOAA/NMFS decisionmaking process regarding a VMS requirement should consider several factors. These are: 1) is there "reason to believe" that violations outside the AGAs would occur, 2) past success of VMSs in other fisheries, 3) cost and funding for VMS, 4) fisher and fishery impacts, 5) number/type of permitted vessels required to install VMS, and notably 6) that potential damage to deepwater corals (damage that may be avoidable by VMS) would only be restored slowly due to the cold water environment such that current protection is paramount.

- Alternative 2 (*VMS for AGA Vessels*) – Alternative 2 would require a VMS for all vessels holding permits for golden crab fishing within the designated AGAs using approved crustacean traps. As such, this alternative would require a VMS for only the subset of vessels that are permitted to fish for golden crab within AGAs.

- Alternative 3 (*VMS for All Vessels*) – Alternative 3 is broader than 2 since it also requires a VMS for all vessels permitted for limited access fishing of golden crab. This option has the advantage of more fully monitoring all vessels permitted for harvesting golden crabs within the South Atlantic Fishery Management Council's jurisdiction. It should be noted, however, that even if all permitted vessels were required to have a VMS, unpermitted vessels (which also would not be monitored by VMS) could potentially still illegally fish deepwater coral habitat and potentially impact it – despite the fact that all permitted and VMS-equipped vessels were being monitored. Nevertheless, requiring VMS on permitted vessels under Alternatives 2 or 3 would reduce the probability of fishing outside the AGAs and in deepwater coral habitat impacts, and therefore its potential impacts. Alternative 3 would minimize the probability of non-compliance.

Summary

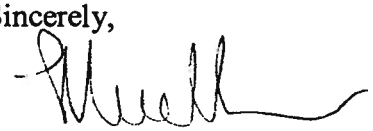
EPA fully supports protection of deepwater coral habitat and the application of the ecosystem-based approach to fishery management. We therefore fully support CE-BA 1 and rate the DEIS as "LO" (Lack of Objection). Overall, we concur with the establishment of CHAPCs to protect the currently pristine deepwater coral habitat along the east coast and defer to the expertise of NOAA/NMFS as to where best these closed areas should be located to maximize protection. Within the CHAPCs, however, the

designation of SAAF and AGA sites for continued shrimping and crabbing on traditional fishing grounds as access areas may be reasonable to offset fisher societal (economic and potential EJ) impacts relative to CHAPC designations. Nevertheless, we believe that the FEIS should verify that past and continued fishing in these traditional areas has or is not expected to cause impacts to coral or other seafloor relief areas, and that the continued or increased harvest of the target shrimp/crab species at these sites is sustainable in terms of their OY. However, potential areal expansions into seafloor relief areas by the SAAF (Alt. 3/ Act. 2) and/or overlapping crabbing in traditional shrimping grounds by the AGAs (Alt. 3/Act. 3) – with apparently minimal benefit to crabbers – is not recommended by EPA without additional FEIS information. In regard to possibly requiring a VMS (Act. 4) for vessels fishing for golden crabs, we recommend that NOAA/NMFS consider several factors. These are: 1) is there "reason to believe" that violations outside the AGAs would occur, 2) past success of VMSs in other fisheries, 3) cost and funding for VMS, 4) fisher and fishery impacts, 5) number/type of permitted vessels that would need to install VMSs, and notably 6) that potential damage to deepwater corals (damage that may be avoidable by VMS) would only be restored slowly due to the cold water environment such that current protection is paramount.

Accordingly, EPA agrees with Alternative 2 for Action 1 and Alternative 2 for Actions 2 and 3 if impacts to coral and other seafloor habitat are avoided in the SAAF and AGA sites, fisher societal issues warrant establishment of such access areas, and shrimp and crab stocks are sustainable and can allow such fishing. EPA's preferences are consistent with the preferred alternatives selected by NOAA/NMFS in the DEIS; moreover, EPA will defer to the expertise of NOAA/NMFS regarding their DEIS-selected preferred locations for the SAAF and AGA sites. With regard to Action 4, we believe that a VMS requirement would increase the protection of deepwater corals if there is reason to believe that there is a need (i.e., that golden crab fishers will try to illegally fish outside the AGAs) and if, to a lesser degree, it is cost-effective (i.e., NOAA would be willing to fund the VMSs for the permitted vessels to reduce fisher economic impacts). However, a VMS requirement would not necessarily prevent all deepwater coral impacts since unmonitored/unpermitted vessels could still illegally fish in deepwater coral habitat.

We appreciate the opportunity to review the DEIS. Should you have questions regarding these comments, feel free to contact Chris Hoberg of my staff at 404/562-9619 or hoberg.chris@epa.gov.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc: Dr. Paul N. Doremus – NEPA Coordinator (NOAA): Silver Spring, MD

United States Department of the Interior

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September 1, 2009

2009 SEP -4 AM 11:49

Roy E. Crabtree, Ph.D.
NOAA Fisheries Service, Southeast Region
263 13th Avenue South
St. Petersburg, FL 33701

Re: Review of Draft Environmental Impact Statement (DEIS) for the Comprehensive Ecosystem-Based Amendment 1 for the South Atlantic Region

Dear Mr. Crabtree:

The Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement (DEIS) for the Comprehensive Ecosystem-Based Amendment 1 for the South Atlantic Region. At this time, we have no comment.

Let me know if you have questions or concerns. I can be reached on (404) 331-4524 or emailed at gregory_hogue@ios.doi.gov.

Sincerely,

Gregory Hogue
Regional Environmental Officer

cc:
FWS, R4
OEPC, Wash

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Ms. Karla Gore
NOAA Fisheries Service
Southeast Regional Office
Sustainable Fisheries Division
263 13th Avenue South
St. Petersburg. FL 33701-5505

Re: Comprehensive Ecosystem-Based Amendment 1

Dear Ms. Gore.

Greenpeace USA applauds the National Marine Fisheries Service (NOAA Fisheries) and South Atlantic Fishery Management Council for working through the complex scientific issues and stakeholder concerns to craft this amendment for the protection of the largest continuous stretch of known deep-sea coral ecosystems in the world. The preferred alternatives in Comprehensive Ecosystem-Based Amendment 1 represent a new standard in proactive management. and were carefully crafted with science. industry. and conservation considerations. Greenpeace urges NOAA Fisheries to finalize this amendment without delay. This comprehensive ecosystem-based amendment sets a precedent for other Regional Fishery Management Councils that are struggling with how to approach EBM.

Sincerely.

Phil Kline. Senior Ocean Campaigner
Greenpeace USA