



August 13, 2010

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Commission**

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Dr. Bob Shipp, Chairman
Gulf of Mexico Fishery Management Council
2203 N Lois Avenue, Suite 1100
Tampa, Florida 33607

RE: Repeal or delegation of federal management plans

Dear Dr. Shipp:

Thank you for your letter requesting that the State of Florida consider taking over the management of several co-managed marine species including spiny lobster, stone crab, yellowtail snapper, mutton snapper, Nassau grouper, and octocorals. The Florida Fish and Wildlife Conservation Commission (Commission) reviewed this issue and heard public testimony during its June, 2010 meeting. While there are varying levels of concern about state management of federal fisheries in Florida, stakeholder support has generally increased. At the June Commission meeting public support for state management of what are now federally managed species was strong. This is in part due to species such as lobster and stone crab being harvested almost exclusively in Florida. More importantly, changes to federal management subsequent to the reauthorization of the Magnuson Stevens Fishery Conservation and Management Act (Act) have weakened support for federal management of certain fisheries.

For all of these species, if a federal Fishery Management Plan (FMP) is repealed entirely, Florida regulations could apply in both state waters and in federal waters off of Florida's coastline. Blue crab, permit and snook are current examples of such an arrangement. However, we recognize that in such cases our regulations could only apply to vessels registered in Florida or to out-of-state vessels landing their catch in Florida. It would be possible for a vessel registered in another state to fish in federal waters off of Florida, return to its state of origin and land the catch without being subject to Florida regulations or enforcement. This could be an issue for harvest of finfish such as yellowtail and mutton snapper. However, we do not envision this being a management concern for the commercial trap fisheries because of the constraints on transporting traps over long distances. With regard to the specific fisheries being considered, we offer the following comments and recommendations:

SPINY LOBSTER

The spiny lobster fishery is jointly managed by the South Atlantic Fishery Management Council (SAFMC), the Gulf of Mexico Fishery Management Council (GMFMC), NOAA Fisheries Service (NOAA), and the State of Florida. Currently the federal FMP mirrors the regulations established by Florida, with minor exceptions. The FMP extends Florida's lobster regulations into federal waters throughout the range of the fishery, i.e., North Carolina to Texas. The Councils and NOAA originally considered repealing the federal FMP for spiny lobster. Such repeal would mean that Florida regulations could apply in state and federal waters off of Florida's coast. Management of the fishery would no longer be subject to the Act. However there is a minimum size limit restriction in the federal FMP that applies to the entire country and helps control the importation of undersized spiny lobster from the Caribbean. If the FMP was repealed federal managers

believe this restriction would no longer exist and Florida would not have the ability to enforce lobster minimum size limits in other states. Subsequently the proposal has been modified to consider delegating certain management aspects of the fishery to Florida without repealing the federal plan. These could include bag limits, size limits, closed areas, annual catch limits (ACL's), accountability measures (AM's), and gear restrictions. The proposal would maintain most of Florida's current regulatory role, but would potentially add new responsibilities and deadlines for adhering to management restrictions imposed by the Act.

At this time we are advised that the federal FMP for spiny lobster cannot be repealed without jeopardizing import controls. However if further evaluation by NOAA determines that import controls could be achieved without a federal FMP, the Commission recommends that Florida assume all management responsibility for spiny lobster. Commission staff does not recommend that Florida assume partial delegation of management. At the joint meeting of the GMFMC and SAFMC spiny lobster committees in Orlando on June 7, 2010, Commission staff requested that NOAA re-evaluate eliminating the federal FMP for lobster in the South Atlantic and Gulf of Mexico in a manner that might still afford protection against the import of undersized lobsters. We are advised that NOAA will explore any available options and report back to the SAFMC at the September meeting.

STONE CRAB

Currently there is a federal FMP for stone crab in the Gulf of Mexico only. The GMFMC has expressed interest in withdrawing its federal FMP. For the most part, federal management strategies mirror those already in place in Florida and most stone crabs are harvested from state waters. After considering staff information and public input during the June meeting, the Commission directed staff to support the repeal of the FMP for stone crab. The Commission is prepared to manage this fishery in state and federal waters and believes that it can fully protect the resource and the interests of fishermen through appropriate regulations.

OCTOCORAL

Presently both Councils include octocorals in their federal FMPs. Octocorals are carefully managed by the Commission under its Marine Life program. Species in this group are harvested for the aquarium trade. At the most recent SAFMC meeting there was considerable public support for withdrawing the federal plans, and allowing the State of Florida to manage the fishery in state and federal waters. The SAFMC delayed action to withdraw octocorals from its plan pending resolution of concerns about other forms of coral that might need continued protection under a federal FMP. Most of the octocoral harvest for the marine life trade is taken from state waters of Florida and is already subject to state regulations and enforcement protection. The Commission is prepared to manage this fishery in state and federal waters and believes that it can fully protect the resource and the interests of fishermen through appropriate regulations.

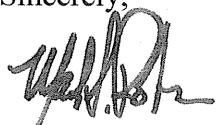
REEF FISH

The GMFMC has also expressed interest in repealing federal management plans for yellowtail and mutton snapper. Both species are also included in management plans of the SAFMC however that council has not yet established a position regarding whether to assume all federal responsibility on behalf of the GMFMC or to withdraw these species

from its own federal FMP. Harvest of yellowtail and mutton snapper occurs in both federal and state waters, almost exclusively around the southern tip of Florida. The same situation applies to Nassau grouper; however harvest of Nassau grouper in federal or state waters of the Gulf and Atlantic is currently prohibited. The Commission also supports careful evaluation of repealing federal FMPs for these three species. More analysis is needed to ensure adequate enforcement of state regulations in federal waters would be possible in the absence of a federal FMP. This would include a very necessary assurance that Nassau grouper would remain fully protected, as populations are still depleted throughout Florida state and federal waters.

The Commission welcomes the opportunity to work with the Gulf of Mexico Fishery Management Council, and also with our partners in the South Atlantic Fishery Management Council and NOAA Fisheries Service, to act on these important fishery management issues. Please feel free to contact me or Mr. William Teehan if you have any questions or concerns that we may address. I can be reached at 850-251-2970 or by email at Mark.Robson@myFWC.com.

Sincerely,



Mark Robson
Division Director

mr/jm/mc

cc: Jim Brown
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