good data - good science - good management - good fishing

Fishing Rights Alliance
4604 49th Street N. #34
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April 19, 2009

NOAA Fisheries Service
Faxed to 727-823-5308
RE: South Atlantic Council Amendment 17A DEIS

Dear NOAA Fisheries Service;

The Fishing Rights Alliance has many members, including anglers, captains and fishing and boating industry officials, throughout the South Atlantic, as well as the Gulf and Mid Atlantic regions. Our members fear that the proposed actions of Amendment 17 A to the South Atlantic Council's Fishery Management Plan will cause them unnecessary loss of jobs, recreation, economic activity and community well-being.

The proposed actions will cost thousands of jobs and cost coastal community economies several billion dollars per year. These actions are ill-advised and result from an unreliable, highly uncertain stock assessment.

After analyzing the current data set from 2004 through 2008, the FRA finds that there are many issues with the estimations being used to justify this extreme action that should have been reflected in the DEIS:

1. The assumption that current stocks are approximately 35 times less than the stocks in the late 1960's is an unsupported statement. There is no data in existence using currently accepted methods that can lead any analyst to concur what the stocks were prior to the existence of NMFS and more importantly the existence of the Magnuson/Stevens Act (MSA). The level of stocks prior to the ability to accurately assess them is an unknowable variable. Management plans must be based on real and knowable data. To set target levels to some figure pulled out of thin air with no basis in science only complicates the management process and degrades confidence in the process.

2. Current estimation of effort and CPU are highly suspect. Any decisions, which include the "Fatally Flawed" (NRC panel review of MRFSS 2006) are highly suspect and as such any rule which uses Marine Recreational Statistical Survey (MRFSS) as a major component must use caution when the analysis leads regulators toward the consideration of a total closure of any fishery. Citing as evidence that the Current Assessment for SA Reef complex species is unduly influenced by MRFSS errors is the evidence in itself that the effort estimates in MRFSS maybe incredibly high:

    - Based on the 2006 US Census Bureau report on Fishing, Hunting and wildlife activity, it is estimated that 2.02 million people (residents and non-residents)

participate in recreational saltwater fishing in the state of Florida, taking a total of 17.6 million trips (MRFSS concludes in excess of 24 million). It also estimates based on an analysis of the 1996, 2001 and 2006 reports that since 2001 participation in recreational fishing is down by approximately 18% and that the decline is currently averaging about 2.2% per year. This declining participation is not reflected in the MRFSS models (in fact MRFSS uses a constant variable of participation).

- MRFSS estimate survey is based solely on Land Based phone service. The FCC estimates that the use of land based phone lines has declined since 2005 by 5.6%. Recent studies indicate that this trend is accelerating, due to the current economic conditions and skyrocketing home foreclosure rates. It also estimates that the use of cell phones since 2001 has increased by almost 30% and that approximately 82.5% of the population now uses cell phones, with approximately 32% choosing cells phones exclusively. The increase in cell phone use is increasing faster in urban areas, as the decline in land based phone lines is slower in rural areas. This leads to an oversampling of rural areas by MRFSS. It is highly likely that basing the MRFSS trip estimates on a survey that is over sampling rural areas, that (due to avidity of rural populations) that the MRFSS effort estimate is skewed by these results. The FRA contends that effort estimates for 2007 and 2008 are two times that of the real effort. This gross over-estimation will cause an estimate of landings to DOUBLE. The offshore effort should be paralleled by the general state of the economy, boat sales, tackle sales and charter trips. Sadly, none of these indicators parallels the trends of MRFSS effort estimates, giving rise to the concern that logic is being ignored while fatally flawed data drives economic and social destruction simply because it is the only available science. This is akin to boarding and flying on an airplane known to be fatally flawed. We would not board the plane, I assure you. Yet we are being forced to board this fatally flawed vehicle.

- Failure to include fishery independent data (economic and weather to name a few) has allowed MRFSS to ignore falling participation, high fuel prices, bad weather and a declining economy's influence on recreational fishing. Recreational fishing (especially for the species of Grouper and Red Snapper) is mostly a discretionary activity. This means that during times of economic hardship, rising fuel prices or bad weather, that these activities will be the first to be eliminated. MRFSS shows no decline in effort, especially in 2008 (the first half of the worst economic downturn since the Great Depression) nor in 2007 a period that gave us record fuel prices. Not to mention the period 2004 to 2005 which was the most active hurricane season in 40 years, with the region being impacted by 8 severe storms.

The above listed failures in MRFSS data to include extremely relevant data, should dictate that NMFS use extreme caution in relying on this data to make rules which will impact millions of people, thousands of jobs and over a billion dollars in spending for the state of Florida alone. While protection of the stocks is of paramount importance and NMFS should, "when reasonable" err on the side of caution for the fishery, there is no indication that at this time that urgent action is required by MRFSS.

3. Anecdotal evidence from across the Gulf of Mexico and up and down the East Coast from North Carolina to Florida indicate that red snapper and grouper in both these regions are in a strong rebound and that each year class is stronger as the most recent round of regulations is just beginning to have its impact. On many reef complexes, it is almost impossible to get a baited hook past the Red Snapper, making it extremely difficult to catch other species. A complete closure might have the unintended consequence of increased by-catch mortality of these species.

4. We have seen the affects of an assessment process gone bad. In 2004/2005 NMFS moved to close all grouper fishing, based on its belief that Red Grouper were in real big trouble. The closure of Red Grouper in the Gulf of Mexico unnecessarily cost the state's economy some $200 million. It has since been found that the conclusions regarding Red Grouper in 2004 and 2005 were completely wrong. Did NMFS try to show good faith with the recreational fishing community by admitting its error and restoring at least some of our 5 fish bag limit? No, instead they went onto the next species and tried to employ some untested "Red Tide Assessment" model that is highly questionable and since red tide occurs almost every year in one region or another, should be included every assessment's NATURAL MORTALITY estimates. Yet another example of NMFS attempting to restrain recreational angling.

5. In 2004/2005 during the now infamous Red Grouper debacle perpetrated by NMFS/SERO, the FRA promoted a NO GROUPER, NO DATA protest, urging anglers to protest by refusing to participate in dockside or telephone MRFSS interviews. The FRA was labeled extremist and a rogue. At the public hearing in Madeira Beach, FL, Dr. Crabtree stated that if we boycott data collection, then NMFS would not have the data they need to properly manage the fishery. The FRA would like to know how NMFS is going to manage the fishery, in light of this self-imposed data boycott. If the fishery is closed, then there will effectively be no recreational data to collect. We have already seen the catastrophic effects on data, when NMFS chooses to use data collected from other sources and attempt to infer it to recreational fishing.

6. During the above mentioned Red Grouper Debacle; Judge Steele ruled in 2005 that NMFS cannot close down an entire complex just to protect a single species. The FRA will consider this total ban as unconstitutional and will seek relief from the courts if, in fact, logic is ignored and legislative actions are unsuccessful.

Fishery Closures are not a management tool. In fact they show a failure to employ proper management tools and techniques. At this time I would conclude that if the entire reef complex is to be closed for any period beyond a seasonal closure, that this indicates a complete failure of management. The FRA looks for ACCOUNTABILITY and ACCOUNTABILITY MEASURES to be applied to NMFS and the Council. In corporate America, such mismanagement would be rewarded by re-education, demotion and/or dismissal. What accountability measures can we expect to insure that NMFS and the Council will experience consequences for their actions? The Southeast Regional Office (SERO), which oversees the GMFMC and SAFMC, has imposed limits on recreational fishing of the reef fish complex almost to the complete minimum. They are now at the point of diminishing returns. Further closures will only degrade any authority

NMFS has at this point. It will begin to cause more and more anglers to further distrust the process and may, in fact, have a negative impact on any further management of the fisheries.

The FRA urges the NOAA Fisheries Service to take no action on Amendment 17 A until such time as recreational landings and effort estimates are reliable and the stock assessments reflect the reliable data. Until then, the FRA opposed the loss of thousands of jobs and billions of dollars in economic value and expenditures.

Sincerely,

Dennis O'Hern
Executive Director
Fishing Rights Alliance