

Captain Mark E. Brown
Owner/Operator of the "Teaser2"
Charter Head Boat Fishing Business
Charleston, SC

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Madam Chairwoman Bordallo and Members of the Subcommittee, My name is Mark Brown, I am the owner and operator of a recreational charter head boat and commercial fishing business in Charleston, SC. I am here today on behalf of many concerned recreational and commercial fishermen and not to exclude any of the marine, boat and tackle industry related jobs from North Carolina to Florida, in the Southeast Region of the Atlantic.

I appreciate the opportunity to appear before you today to discuss the Magnuson-Stevens Fishery Management Act (MSA), and the challenges in meeting its requirements as mandated by law, in order to meet and stay compliant with the rebuilding plans, statutory timeframes, and the unforeseen factors that have hindered the ability of this act to meet the rebuilding plans and goals it was originally designed for.

Today I plan on referencing the Snapper/Grouper Fishery which has come under so much scrutiny over the last 18 - 24 months due to the re-authorization of the MSA in 2006 in which the law along with the science has not produced the results that I believe Congress must have intended for it.

In particular I would like to discuss the mandated rebuilding requirements contained in the MSA and the scientific data collection process that is driving this proposed possibility of large ocean area closures to all bottom fishing and the proposed interim rule which sits with Secretary Locke to close the entire Red Snapper Fishery for up to 40 years for our region. These proposed actions are not only unnecessary, but they will have wide spread negative economic impacts on anglers and businesses from North Carolina to the Florida Keys.

In 2006, the re-writing of this law now requires that fisheries managers must implement measures to end all overfishing in the nation within a very inflexible 12 month deadline. Because this timeline is so aggressive, regulators are essentially held hostage, forced to conform to these laws, and execute decisions in an accelerated manner, even though these decisions are often based on inadequate scientific data or data that may not have been properly examined and/or reviewed. In many cases, this data is deemed as "incorrect" or "faulty" by independent scientists. However, this questionable data is the core of this "Best Unexplained Science" position which the management councils have accepted as their foundation to base all decisions and to process the shape of the laws around our nation's fisheries.

It is also important to note that even the fishery managers themselves have expressed grave concern over the lack of funding and solid scientific data which is used to drive these decisions, which have such a significant impact on our economy and a multi-billion dollar industry.

Many concerned members of the fishing community have hired independent scientists to review the science that drives this decision making process and, time and time again, the independent consensus is that the data is not only inadequate to determine fish stocks and measures of overfishing, but in many cases, full of faulty assumptions based on erroneous or questionable data. In certain cases, lawsuits have been filed to challenge this data in court, but the NMFS seems to have little concern about any findings brought to their attention by these independent efforts. The NMFS continues to move forward like a runaway train, processing unwarranted, draconian management measures for not only the Red Snapper Fishery, but for the entire Multi-Species Snapper/Grouper Complex of the Southeast Atlantic.

The data that has been collected by the Marine Recreational Fisheries Statistical Survey (MRFSS) has been proven to be “fatally flawed” by the National Research Council (NRC), yet it continues to be used to promote the shut down of specific fisheries. This act of basing such crucial decisions on science that has already been proven to be fatally flawed borders on the line of recklessness on the part of NOAA.

In 2006, Congress found that MRFSS was flawed and required NMFS to take very specific actions to correct it by January 1, 2009. These requirements you gave NMFS are in title 16 of the United States Code, Section 1881(D) , and it says, “The Secretary shall complete the program under this paragraph and implement the improved Marine Recreational Fishery Statistics Survey (MRFSS) not later than January 1, 2009”. There has been no improved MRFSS even after you told them it had to be done!

In regards to improving the data collected for accuracy to manage the recreational fisheries. I am currently participating in a pilot program of electronic reporting which should speed up any paper processing delay that is currently a problem.

Monitoring with the VMS on commercial vessels has been used for a few years now and has proven to work on some larger boats, but is still costly and not be as well suited or available for all size boats. Pilot programs and studies of this are currently being conducted to try and find some solutions.

There is no doubt that that the closure of such a massive fishery will produce an economic impact of equal magnitude, and create an incredible amount of financial hardship that will be felt by many businesses which thrive in this industry.

According to the National Marine Fisheries Service in 2006 the economic values of recreational saltwater fishing nationally and in the state of South Carolina attributed to 13.6 million recreational anglers on 87 million trips where 5.8B dollars was spent. Along

with this was 25.6B on durable fishing-related equipment which has in return created over 500,000 jobs.

At the completion of my testimony I would also like to submit additional economic data to the subcommittee for review at your convenience.

Again, these measures are due to the mandates of the rigid and inflexible time frames set forth within the MSA and are being forced upon the fishermen with out sound statistics and without a clear understanding of why fisheries managers are forced to accept scientific information that makes absolutely no sense. Therefore, I am here to ask for the support of and need to move the Flexibility bills that are in both houses. It is imperative to the future of our nation's fisheries that Congress adopts policies that strive to promote sound science to the fisheries management process as their primary driver, and not settle for legislation which creates emphasis on arbitrary deadlines based on a political agenda.

Congressman Micas' bill if amended to the MSA is a great first step in the right direction, because it allows fisheries councils much needed time to evaluate ALL of the "Best Available Science" when facing any potential closures of fisheries that are deemed as being overfished.

Ending overfishing in one year is virtually impossible to achieve because it takes at least 3-5 years to study the science and adequately implement sound plans to do so.

What is even more striking with the red snapper fishery in particular, is that the Scientific Statistical Committee's (SSC) own documents claim that the red snapper stock has been "stable but low for the past 30 plus years". They even go on to say that the population of red snapper has "doubled" since their last stock assessment. Eyewitness accounts from fishermen from the southern tip of Florida up through the Carolinas have confirmed this by reporting more red snapper than they have seen in the last decade and have also confirmed that they are catching more of the larger fish. Yet, NMFS is ready to shut down this multi-billion dollar fishery due to the simple letter of the law.

If anything, this proves the resiliency of this stock over the last three decades or more, and clearly shows that the mandate of an arbitrary 12 month decision making period is not needed to protect the future of this stock. Even if measurements need to be taken to address any management issues with the red snapper stock, it has already been proven that we have no need to blindly rush through this process, and that we do have adequate time to gather better data and push for sound science. Thus, it is very important to distinguish that this impending closure of the fishery is not what is necessarily needed to regulate this fishery, but merely a decision based on compliance of an arbitrary deadline set forth by the MSA.

Magnuson is clearly a broken instrument of the law that needs to be fixed to allow for more access, conservation, and rebuilding. All of these goals can be met without draconian measures that will certainly undermine sustainability.

To conclude my testimony I would like to add that the fishermen of the ocean love what they do and they care about the sea. They do not want to see any irreversible harm come to their place of employment anymore than any business owner would.

We are simple people with normal, everyday lives that would like to be able to continue living and supporting our families without the fear of losing our businesses, our vessels, our homes, our retirement and our credit, everything we have worked so hard for.

Thank you for your time and consideration of these issues.