



# **St. Thomas Fishermen's Association**

## **Protecting our Natural Heritage and Culture**

**Julian Magras, Chairman of the Board  
St. Thomas Fishermen's Association**

### **Written Testimony on Implementation of Allowable Catch Limits As Required Under the Magnusan-Stevens Reauthorization Act in the Caribbean Region"**

For the  
**COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON INSULAR AFFAIRS, OCEANS, AND WILDLIFE  
U.S. HOUSE OF REPRESENTATIVES**

**OCTOBER 27, 2009**

Madame Chairwoman, Members of the Subcommittee, I greatly appreciate the opportunity to testify before you today about the implementation of Allowable Catch limits by the National Marine Fisheries Service (NMFS) and the Caribbean Fishery Management Council. (CFMC). The manner in which these actions are being taken show a significant disregard for the Virgin Islands culture and community, disregard for facts on the ground, and are attempting to build justification for draconian catch reductions based upon the failure of these very organizations to carry out their responsibilities over the past three decades.

#### **St. Thomas Fishermen's Association**

The St. Thomas Fishermen's Association is an entirely volunteer not-for-profit corporation organized in 2005 under Virgin Islands law. It was established for the purpose of involving Virgin Islands fishermen in the management process and creating greater understanding by fishermen on the matter of fishery management and by fishery managers of Virgin Islands fisheries. In addition, the STFA has carried out a number of federally funded studies addressing bycatch and trap fishing as a means to involve our member fishermen in all aspects of the management process, including data acquisition, development of management recommendations from study data and involvement of those recommendations in the management process.

We raise funds to support member attendance at fishery management meetings by holding raffles, dances and our annual "Fishermen's Funday" event. The STFA is not an opposition organization but one seeking intelligent and sustainable management of Virgin Islands fishery resources.

The STFA has broad community support. A petition circulated prior to the 2005 SFA Public Hearing was signed by over 6000 Virgin Islands citizens. Our Delegate to Congress Donna M. Christiansen, Governor John P. deJongh Jr. and local Senators regularly act in support of the issues facing the Association and our efforts have been covered by both local and national media. Actions taken by the STFA and by our supporters can be found at <http://www.stfavi.org/CurrentIssues.html> .

Until about nine months ago, our relationship with the CFMC and NMFS had been one of collaboration and cooperation. However as the 2010 Magnusan deadline for ACL establishment began to approach, NMFS and the Council became less interested in a collaborative relationship and began a unilateral effort to impose their uninformed view of Virgin Islands fisheries. For our part, we began an active effort to resist such an approach and return to the climate of productive cooperation which existed in the past.

## **Overfishing**

We dispute the process whereby NMFS and the CFMC determined certain species and species groups to be “overfished” or “showing signs of overfishing” as being unscientific, subjective and inappropriate once the CFMC determined to manage by fishing areas rather than as a single region.

The Magnusan Act reauthorization seeks to address overfishing of US fishery resources. In the Virgin Islands “overfishing” was determined by NMFS and the CFMC during its 2005 Sustainable Fisheries Act Amendment. Virgin Islands data was not employed in that effort and status determinations were made on the basis of “informed judgement” and data from Puerto Rico.

Overfishing status was made primarily on the basis of assumptions about specific issues, spawning aggregation fisheries, a specific net fishery in St. Croix, and perceived over harvest of the Conch resource in St. Croix and Puerto Rico.

Despite this issue-specific basis, overfishing was considered to be uniform throughout the CFMC area. The CFMC implemented management actions, fishery closures, seasonal closures in order to address these issues. The Territories also implemented “compatible regulations”.

Following the 2005 SFA amendment, Virgin Islands data became available for the past 35 years and the CFMC has decided to manage separately by fishing area (Puerto Rico, St. Thomas/St. John and St. Croix). The CFMC and NMFS, however, considered the SFA Amendment a “done deal” and never revisited its conclusions regarding overfishing or recognized that “overfishing” was largely local to a specific fishing issue in nature..

The impact of the SFA management actions which were implemented in 2005 has largely been ignored by the CFMC even though most of them clearly had an immediate effect of eliminating the fishing effort that led to supposed overfishing. The NMFS position on this is that in the absence of “acceptable data” that the determinations cannot be changed. In other words, status determined in the absence of data cannot be overturned even if the impacts of the CFMC management actions in reducing fishing pressure are obvious.

Additionally the Virgin Islands implemented a 50,000 lb. quota for the St. Croix conch fishery that resulted in reducing harvest to approximately 25% of its 2005 level. The CFMC took no action to address Conch overfishing in St. Croix’s Federal waters and in 2009 when the Territorial quota was harvested, the fishery remained open in Federal waters while the Territory closed the fishery.

## **Data**

NMFS' double standard in determining data acceptability is a major issue for the STFA. There is no dealer sector in the Virgin Islands and fisheries data must come from the fishermen themselves or sampling by government. Since 1974, Virgin Islands fishermen have been providing landings reports and submitting to government port sampling. Both of these programs were funded through NMFS' Southeast Fisheries Science Center (SEFSC). Annual reports were submitted by the Virgin Islands and approved by the SEFSC throughout this entire period. Fishermen, operating in good faith, believed that the data they were submitting could be used in managing their fishery resources.

In 2009, the SEFSC announced that none of these data could be used in setting ACLs. The STFA maintains that Surplus Production Analysis can be used and that it indicates that the St. Thomas trap fishery, for example, has been stable at MSY levels for the past 30 years. The NMFS Regional Office is proposing ACLs at current fishing levels. Since the fishery has been steady for 30 years at a level which STFA maintains is MSY, we accept this alternative.

The SEFSC, holding these data to a completely different standard than anywhere else maintains that it cannot be used for setting ACLs and that reductions from ACL values of between 25 and 75% will have to be made in order to account for "data uncertainty". Remember, this is data which they have been approving on an annual basis for the past 35 years. Uncertainty reduction of this magnitude would devastate the fishery and the community which depends upon the local fishery.

The SEFSC position is not that these resources are overfished but rather that the data (which they were responsible for over seeing) cannot be used to make this determination. Thus, they propose to punish our fishermen for their own failures.

## **Data "Uncertainty" Offsets**

Basically the SEFSC is proposing to punish Virgin Islands fishermen for their (SEFSC) own failures to exercise review and oversight of the Islands' data programs for more than 3 decades. We maintain that if there is any responsibility for data uncertainty, it lies with the SEFSC and the Territorial government rather than the fishermen themselves.

Additionally, there are geographic and seasonal closures which have been implemented which should be considered as "offsets" to this assumption of data uncertainty. These are actual areas and times where fishing effort has been reduced to zero and which have had a real rather than assumed impact upon the local fishing industry. In our opinion, these impacts more than compensate for this imagined data uncertainty proposed by the SEFSC which is in fact a creation of their own failures.

## **Discrimination**

The STFA maintains that the entire Council process is discriminatory and its impacts are disproportionately felt by Virgin Islands fishermen.

National Standard 4 of the Magnusan Act states that “Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.(104-297)”.

Eighty nine percent of the shelf area under CFMC jurisdiction lies in the Virgin Islands fishery area. Eighty four percent is in the St. Thomas/St. John fishery area and five percent in St. Croix. This disparity results from the fact that Puerto Rico has a 9 mile Territorial Sea while the Virgin Islands have a 3 mile limit. In management terms this means that any management measure proposed by the Council will impact Virgin Island fishermen fishing areas by a factor of nearly 9 to 1. This is clearly discriminatory.

Additionally, throughout its 35 year history, the CFMC has only employed 2 Virgin Islanders as staff. Thus, the many discussions and interactions which lead to Council action are not even witnessed by Virgin Islanders as they occur within the CFMC office in San Juan. Recently the CFMC has taken to preventing Virgin Islands participation in important committees, further restricting Virgin Islands participation in the Council process.

The CFMC, then, is largely a Puerto Rican entity that makes rules which mainly affect Virgin Islands fishermen. This, too, is discriminatory.

## **Arbitrary Management**

There are abundant supplementary data which indicate the health of the St. Thomas/St. John fishery such as:

1. Constant landings over the past 30 years.
2. Abundant large individuals of all species.
3. Absence of species shifts.
4. Fishing practices which release small pre-reproductive species.
5. Adjustments to trap mesh size which release most of the bycatch.
6. Long term constancy in spiny lobster size frequency distributions.

All of these points have been raised with NMFS, CFMC and the SEFSC and subsequently ignored. In fact, NMFS seems to be determined to manage Virgin Islands fisheries by remote control with as little input from the Territory as possible.

In the past year alone, STFA members have spent around 7 man months attending various NMFS and CFMC meetings, mostly at our own expense. At no point, has any of our input been considered or affected any decision coming from the meetings. In large part, NMFS and SEFSC participants come to these meetings with their conclusions already determined. Recently the SEFSC Director said that they were moving forward “with their partners in the Region (including the STFA)”. Our attendance at these meetings has been used to imply our agreement despite the fact that we have repeatedly stated our disagreement at these very meetings.

In conclusion, we would like to say that we feel that NMFS and the SEFSC have co-opted the Council process and are basically determining the agenda with little or no input from the CFMC, let alone the stake holders.

The Virgin Islands is fortunate that our Delegate Donna M. Christiansen and Governor John P. deJongh Jr. have taken an active and advocative interest in our situation. The Delegate has attended many of the CFMC meetings and spent time with the fishermen on all of the Virgin Islands. Recently she applied for designation of the Virgin Islands as “Fishing Communities” under the Magnusan Act. Such designation would provide a requirement that the CFMC consider community and socio-economic impacts fully when implementing management measures. This would be a small step, but a significant one in requiring that our concerns be considered.

We know from reading the fishing press and from discussions with friends in other Council areas that we are not alone in being bullied by NMFS and the SEFSC. Before his recent passing, Senator Edward Kennedy pointed out to the NOAA Administrator, that relations between NMFS and the fishing industry were at an “all time low” and efforts need to be made to reverse that trend. The STFA is hoping that this hearing will be a step in that direction.

It is our hope in providing this testimony; that NMFS can begin to realize that government should serve the public and the resource users not simply impose its will through setting arbitrary standards for inconvenient data sets. The best management decisions will come from collaboration between fishery managers and stakeholders.

We seek ACL values that are set at current fishing levels with no reduction for “uncertainty”. It is our position that the numerous seasonal and area closures should be considered as offsets for any “uncertainty”. We also seek a return to the prior climate of cooperation which, in our opinion was both more productive and reflective of the actual facts within Virgin Islands fisheries than this current climate of confrontation.

Thank you for this opportunity to address the Committee today.