

**TESTIMONY OF
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ON
INDIVIDUAL FISHING QUOTAS**

**BEFORE THE
HOUSE SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS
COMMITTEE ON RESOURCES**

**Washington, D.C.
February 13, 2002**

Thank you for the opportunity to testify today on reauthorization of the Magnuson-Stevens Act, and individual fishing quotas (IFQs)¹ in particular. I work for Environmental Defense in Austin, Texas. We are a public interest group dedicated to protecting the rights of all people to clean air and water, healthy food and flourishing ecosystems. We have more than 300,000 members worldwide, including 38,000 members living in states bordering the Gulf of Mexico.

I will use this opportunity to urge you to strengthen the Act by lifting the moratorium on implementation of new IFQ programs. Putting IFQs back in the federal fishery management tool box, so that they can be fairly considered and adopted where appropriate, is an important step in achieving the nation's fishery conservation and management goals.

I will support my recommendation by using experiences from the Gulf of Mexico reef fish fishery to demonstrate the need for IFQs and suggest ways of addressing legitimate concerns.

Introducing a system of secure and tradable IFQs in the reef fish fishery could deliver substantial economic returns. Conservative estimates point to higher dockside prices producing additional revenues of 46 percent for red snapper, and fleet harvest cost savings of 55 percent. By altering fishing practices and reducing bycatch waste, IFQs could also "save" 1.8 million fish each year to speed rebuilding of an overfished stock. These potential outcomes demonstrate that good fishery management really does benefit the economy and the environment.

End the legislative paradox

The Magnuson-Stevens Act holds the federal government, and eight regional councils, responsible for the conservation and management of publicly-owned fish stocks found in the Exclusive Economic Zone.

Major objectives of the Act – such as preventing overfishing, encouraging efficient use of resources, minimizing bycatch mortality, promoting safety at sea, and increasing benefits to the nation – have been set forth by the Congress in ten National Standards. The National Standards commit federal managers and regional councils to use the best scientific information available to achieve these and other broadly-accepted fishery conservation and management goals on behalf of all U.S. citizens.

Unfortunately, federal managers' efforts to satisfy the National Standards are impeded by a four-year moratorium that Congress placed on the adoption of new IFQ programs starting in 1996,² and subsequently extended to October 1, 2002.³ Without this important management tool, fishermen are forced to make decisions – often prompted by fishery regulations themselves – that exacerbate overfishing and bycatch waste and inevitably lead to inefficiency and financial hardship, increase risks at sea, and create inequities among fishermen and coastal communities in direct violation of the National Standards.

It is past time to end this legislative paradox. By lifting the moratorium, Congress will allow federal managers and regional councils to once again have the option of using IFQs in comprehensive fishery management plans designed to achieve the National Standards. Introducing new IFQ programs where they are needed, but are now prohibited, will contribute to the conservation and sustainable use of ocean fisheries. It will also provide fishermen and managers in these fisheries opportunities equal to those in three federal fisheries successfully using IFQ programs.

Finally, it is significant that the eight regional fishery management councils have each recommended to Congress that the IFQ moratorium be lifted;⁴ that the National Research Council, in its report on IFQs mandated by Congress, concluded that IFQs should be allowed as a fishery management option;⁵ and that President Bush while serving as Governor of Texas, asked Senator Hutchison and Congressman Ortiz to ensure that the moratorium expires. (Governor Bush's letter on this matter is attached to my testimony.) Recently, the President's FY2003 budget proposes that reauthorization of the Magnuson-Stevens Act include authority to establish transferable fishing quota systems.

Provide help where it is needed

The Gulf of Mexico reef fish fishery is a prime candidate for an IFQ program.

There is general consensus that a limited-entry program (based on vessel permits and licenses, annual quotas, long season closures, per-trip catch limits, and minimum size limits) has failed to achieve the goal of rebuilding depleted reef fish stocks and has created conflicts among fishermen, unfair conditions and economic hardship, and intractable problems for federal managers.

The Gulf of Mexico reef fish fishery is a complex of bottom-dwelling species consisting of snappers, groupers, triggerfish, amberjacks, and a host of others. Red snapper, the highest-value reef fish in the Gulf, were designated as overfished in 1988. Since then, federal authorities have listed six other reef fish species as overfished and/or undergoing overfishing.⁶

In recent years, commercial fishermen have landed about 4.7 million pounds of red snapper annually producing \$10.2 million in dockside revenue in 2000. About 430 commercial vessels participate in the red snapper fishery, but it is estimated that only one-fourth of the vessels accounts for 90% of the catch. Red snapper are also very popular with sport fishermen, who take more than 20 million trips each year and take home about 4.5 million pounds.

The Gulf of Mexico Reef Fish Management Plan, adopted in 1984, relies heavily on an annual total allowable catch (allocated 51% to the commercial sector and 49% to the recreational sector) and season closures. Season closures create a destructive race-for-fish and market supply gluts that have cost commercial red snapper fishermen millions of dollars due to depressed prices. As profits fall, fishermen have few alternatives but to intensify the race which causes even the most experienced captain to inadvertently waste fish. Others are forced to lobby the Gulf Council and federal managers to boost the annual catch, even though they recognize that stocks are overfished.

The threat of shorter seasons and worsening market gluts caused fishery managers to implement ever-more complex rules – such as per-trip catch limits and 10-day mini-seasons during spring and fall months – to slow the race. But, instead, these rules have encouraged excess effort, which has driven up fleet harvesting costs and damaged fish stocks. In the recreational sector, rising minimum size limits used to extend the fishing season cause sportsmen to waste fish, while season closures during the lucrative winter months hurt coastal businesses that serve fishermen and families. Gulf fishery managers, succumbing to mounting pressure among dissatisfied commercial and recreational fishermen, have maintained a total allowable catch significantly higher than a biologically safe level recommended by scientists.

Captain Felix Cox, a 20-year veteran of the red snapper fishery, summarizes his experience in the derby -- "This all-out race is driving me to financial ruin, and causing me to waste more fish than I can count." In a few words, Captain Cox has described "a race to the bottom" driven by flawed regulations.

Loss of vessels and at-sea rescues of fishermen in hazardous weather are also linked to derby fishing and season closures. On April 2, 2001, the fishing vessel Wayne's Pain sank in bad weather, 85 miles off Marsh Island, Louisiana. Captain Wayne Werner and his crew spent nine hours adrift in a life raft in ten-foot seas before being rescued. According to Captain Werner, "I wouldn't have been out there, except the derby was on."

Fishermen, federal managers, and others recognize that the current limited-entry program has had dire economic and environmental consequences. The Gulf Council tried to respond. It proposed, and federal regulators approved, a transferable IFQ program for the commercial red snapper fishery to begin on April 1, 1996.⁷ However, this action was blocked when Congress imposed the moratorium on new IFQ programs. Since adoption of the moratorium, management problems caused by the race-for-fish and excess capacity have worsened for red snapper and similar problems have developed in other reef fish fisheries.

Economic benefits. Research by Drs. Quinn Weninger and James Waters, using 1993 data, finds that replacing the existing limited-entry program in the red snapper fishery with a

transferable IFQ program would have increased annual red snapper revenue by \$3.1 million (i.e., by eliminating market gluts caused by periodic season closures) and reduced annual fleet harvesting cost by \$3.2 million (i.e., by eliminating per trip catch limits and periodic season closures).⁸ These estimates imply a 46 percent gain in red snapper dockside revenue and a 56 percent reduction in fleet harvesting cost in 1993. The researchers conclude that revenue gains and cost savings of this magnitude were likely available throughout the duration of the limited entry program if fishermen had been granted IFQs.

Since derby management began in 1992, commercial fishermen have landed 36.1 million pounds of red snapper worth \$70.3 million. If an IFQ program had been used to allow fishermen to land their catch more evenly throughout the year, it is likely they could have earned additional revenues of at least \$38 million over the 10-year period.

Considering changes that have occurred in Pacific Northwest halibut and other IFQ fisheries managed with transferable fishing permits, these economic estimates are judged to be conservative because they do not account for new marketing and harvesting practices that will emerge under slower-paced fishing. Yet, they clearly support the claim that IFQ management deserves serious consideration in the Gulf of Mexico reef fish fishery.

Conservation benefits. Although generally thought of as an economic policy tool, transferable IFQs can also deliver important conservation benefits. Such benefits are tied to setting a sustainable total allowable catch, ending the race-for-fish, reducing excess fishing capacity, eliminating minimum size limits, and creating a positive stewardship incentive.

Ending the race-for-fish, extending fishing seasons, and eliminating minimum size limits can reduce the bycatch waste that occurs when red snapper are caught out-of-season or below the legal size limit. Current derby restrictions force fishermen to throw overboard huge numbers of fish even though a high proportion die as a result of being brought to the surface from great depths. National Marine Fisheries Service data conclude that about 50% of the recreational and 30% of the commercial red snapper caught (by number) have been released annually in recent years because they are below the minimum size limit. This means that the number of red snapper thrown overboard each year because they are too small could drop by 1.5 million fish or more under IFQ management. In addition, another 0.3 million red snapper that federal scientists estimate are thrown overboard annually during long closed seasons by recreational fishermen could be saved if seasons were extended.⁹

Closed seasons and excess fishing capacity places additional fishing pressure on other reef fish species. For example, greater amberjack have been driven to an overfished condition and vermilion snapper are headed in the same direction. Under IFQ management, ending long season closures will eliminate the incentive to apply intense pressure on other reef fish stocks when target species are off limits. Furthermore, with IFQs back in the toolbox, fishery managers can find ways to manage closely related reef fish species under a comprehensive quota-based program and avoid being forced to adopt regulations for individual stocks that will result in yet another race-for-fish.

Finally, a total allowable catch based on sound science is a strong conservation tool. A transferable IFQ program may strengthen the stewardship ethic of fishermen if they believe the value of their quota shares will rise as fish stocks recover. Thus, fishermen may support conservation measures including lowering the total allowable catch in the short-run if they anticipate long-run gains in the form of larger stocks and greater profits from fishing.

IFQ advisory panel. In an appropriations bill rider passed in December 2000, Congress gave the Gulf of Mexico Fishery Management Council the opportunity to "develop a biological, economic and social profile of any fishery under its jurisdiction that may be considered for management under a quota management system, including the benefits and consequences of the quota management system considered." Responding to this opportunity, the Gulf Council appointed a special ad hoc IFQ advisory panel for the reef fish fishery, and a first meeting of the panel is scheduled for March 18th. Motivated by a continuous decline in their fishery, several fishermen have already prepared a working paper on IFQ issues and options¹⁰ and requested that an expert IFQ consultant be hired by the Gulf Council to assist the panel.¹¹

Certainly, the panel will benefit from taking advantage of the work expended in developing the 1996 IFQ program for the commercial red snapper fishery. A lot of effort went into structuring a program – decisions were made on eligibility requirements, initial allocation of quota, transferability, duration of the program, and record-keeping – based on information obtained before the commercial fishery was distorted by extreme derby conditions. Capitalizing on this experience will help jump-start a new IFQ proposal, but this time it will need to be extended to other reef fish to avoid redirecting fishing effort and creating new derbies and perhaps to party and charter boats in the recreational fishery.

Respond to legitimate concerns

The legislative paradox discussed at the beginning of my testimony reflects the fact that IFQs – and other types of limited entry programs – evoke considerable concern due to the privileges they create, the possibility of providing windfall benefits to recipients, and the potential for decreasing employment and changing prevailing economic relationships with buyers and processors, input suppliers, and fishing communities.

In response to these concerns, Congress needs to develop a sound national policy on IFQs. Such a policy would provide maximum flexibility for the regional councils, but foster a deliberate strategy capable of introducing IFQ programs (to regulate fishing effort) and simultaneously addressing objectives for conservation, fishing businesses and communities, and a region's culture.

Fortunately, work on a national policy for IFQs is already well underway. The 1996 amendments to the Magnuson-Stevens Act provide a statutory definition stating that an IFQ is a federal permit and if it is revoked, or revised, such action will not give rise to a valid taking claim under the U.S. Constitution. This means that federal managers can consider and adopt a full range of conservation and management options without triggering a financial burden. It also preserves important characteristics of "property" that enables IFQs to be transferred and used as collateral. The Act also requires programs to ensure a fair initial allocation of quota, to prevent excessive consolidation of quota shares, and encourages regional councils to ensure that entry-

level fishermen, small vessel owners and crew members have an opportunity to purchase quota shares.

Congress should take the next step and complete the work on setting a national policy that will assure that new IFQ programs achieve the fishery conservation and management objectives in the National Standards. Amending the Magnuson-Stevens Act in three ways could do this.

First, to strengthen the stewardship incentive, Congress should allow IFQ holders to bring civil action against private individuals whose unlawful actions harm the value of quota shares. Fishermen need to have assurances that their quota shares are secure and defensible from damage by individuals. Otherwise, a positive incentive to conserve stocks and manage the asset value of the fishery is undermined.

Second, to help IFQ programs achieve their objectives, Congress should remove the three percent cap on fees collected from fishermen to help cover the costs of monitoring and enforcement. Under an effective IFQ program, fishermen can realize greater returns from fishing, but good enforcement and data collection are necessary for successful management. For example, the Gulf Council estimated that net economic benefits of its 1996 IFQ program for red snapper would be 22 percent higher under a “high enforcement” versus a “minimum enforcement” scenario. In addition, high quality biological, economic, and social data help managers make better decisions and ensure that stocks achieve their optimum yield. Because enforcement and data collection are key components of successful management, it makes sense that fishermen should help cover these costs. Such a cost recovery requirement might be phased-in as IFQs give fishermen a chance to escape the low prices and depressed earnings of derby fishing.

Third, to make sure that IFQ programs (and all other management programs) are achieving their objectives, Congress should require regional councils to regularly review and evaluate the benefits and costs of their programs. This will provide information needed to identify and improve regulations that are working and eliminate harmful ones. In addition, Congress should also require a periodic review and rigorous evaluation of council programs by an independent body.

After watching the derby develop in the red snapper fishery, the Gulf Council devoted three years to sponsoring workshops, developing options papers, and holding public hearings before ultimately submitting an IFQ program to the Secretary of Commerce for approval and implementation. The experience gained debating and drafting the program leads many people to believe that most concerns related to IFQs (and other fishery management tools) are best addressed at the fishery and regional level and with broad regional stakeholder participation. Here in the Gulf of Mexico, there is a hope that Congress will continue to support decentralized planning and decision-making, giving the regional councils and federal managers the authority and flexibility needed to do the job.

Endnotes

- ¹ IFQs are a fishery management tool that allocates a certain portion of the total allowable catch to individual fishermen, vessels, or other eligible recipients based on initial qualifying criteria.
- ² Section 303(d)(1)(A) states that: "A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program."
- ³ P.L. 106-554, Appropriations Act of 2001.
- ⁴ See recommendations from the council chair's meeting on Magnuon-Stevens Fishery Conservation and Management Act Reauthorization Issues, Key West, FL, May 22-23, 2001. As a highest priority issue, the council chairs unanimously recommended "rescinding the Congressional prohibitions on IFQs and ITQs."
- ⁵ National Research Council, *Sharing the Fish: Toward a National Policy on Individual Fishing Quotas* (National Academy Press, Washington, D.C. 1999), p. 5.
- ⁶ Additional Gulf of Mexico reef fish classified by the National Marine Fisheries Service as "overfished" are red grouper, Nassau grouper, Goliath grouper, and greater amberjack. Vermilion snapper and gag grouper are classified as "undergoing overfishing." According to the National Standards, "overfished" means that the stock size is sufficiently small that a change in management practices is required in order to achieve an appropriate level and rate of rebuilding. And, "overfishing" indicates the stock is subjected to a rate or level of fishing mortality that jeopardizes the capacity of a stock to produce the maximum sustainable yield on a continuing basis.
- ⁷ See Amendment 8 to the Gulf of Mexico Reef Fish Management Plan.
- ⁸ Weninger, Q. and J.R. Waters. *Economic Benefits of Management Reform in the Northern Gulf of Mexico Reef Fish Fishery*, submitted to the Journal of Environmental Economics and Management. (December 2001).
- ⁹ Federal scientists do not have an estimate of red snapper releases and discards in the commercial sector during the nine to ten month closed season each year.
- ¹⁰ A copy of the working paper can be obtained from Captain Felix Cox, 2211 A-1 Hill Road, Aransas Pass, Texas 78336.
- ¹¹ Letter to Dr. William Hogarth, Assistant Administrator for Fisheries, from Captains Wayne Werner, Felix Cox, and Mark Friudenberg regarding the Gulf of Mexico ad hoc red snapper ITQ advisory panel, January 4, 2002.

Attachment

Letter of the Honorable George W. Bush, Governor, State of Texas, to the Honorable Kay Bailey Hutchison, U.S. Senate, and the Honorable Solomon Ortiz, U.S. House of Representatives, April 28, 2000.