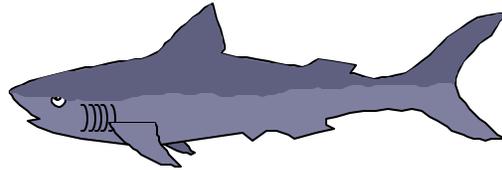


# FISH



# TALES

## America's Oceans in Crisis, says Pew Oceans Commission

On June 4th, the Pew Oceans Commission released its report on the first assessment of our nation's ocean resources in over 30 years.

"America's oceans are in crisis and the stakes could not be higher," the report begins. "The evidence that our oceans face a greater array of problems than ever before in our nation's history surrounds us. Marine life and vital coastal habitats are straining under the increas-

ing pressure of our use. We have reached a crossroads where the cumulative effect of what we take from, and put into, the ocean substantially reduces the ability of marine ecosystems to produce the economic and ecological goods and services that we desire and need."

The Commission was chaired by Leon Panetta, former White House chief of staff and eight-term con-

gressman. What is most impressive, however, is the breadth and depth of expertise represented on the Commission. Economists, scientists, fishermen, conservationists, public servants,

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## Protecting Essential Fish Habitat: Will the EIS Do it Right?

The Gulf of Mexico Fishery Management Council and NOAA Fisheries (formerly National Marine Fisheries Service) are preparing an Environmental Impact Statement (EIS) on the habitats of the Gulf of Mexico after a court found that the Council's analysis of how to prevent harm to essential fish habitats was deficient. Several GRN member groups filed a lawsuit under NEPA (the National Environmental Policy Act) making this victory possible. It is now up to all of us to ensure we don't squander this significant

conservation victory by staying engaged in this process.

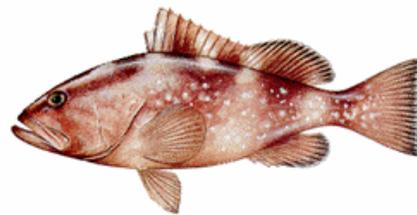
### Why This EIS is Important

When the Congress passed the Sustainable Fisheries Act in 1996, it introduced new habitat conservation provisions into the Magnuson Stevens Fisheries Act. Congress recognized that:

*"One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats."*

16 U.S.C. 1801(A)(9) *(Continued on page 2)*

## FISH OF THE SEASON Red Grouper



*Epinephelus morio*

*(Photo courtesy of Florida Fish and Wildlife Conservation Commission)*

### Red Grouper Management Update

Red Grouper was first identified as overfished and undergoing overfishing in 1999. The Gulf of Mexico Fishery Management Council (Gulf Council) had one year from that time to end overfishing and develop a rebuilding plan for the red grouper stock. When the Gulf Council failed to do so, the Sustainable Fisheries Act required that the National Marine Fisheries Service (now NOAA Fisheries) take over the process of ending overfishing and rebuilding the fishery. NOAA Fisheries was required to cut fishing by 40% and crafted regulations to achieve the needed re-

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## Impacts on EFH . . .

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These habitats, many of which are essential to fish during their life cycle, either for spawning, breeding, feeding, or growing up, are being subjected to impacts from our activities on the land and on the sea. Depending on the type of gear used, fishing, both commercial and recreational, can cause impacts to the various types of bottom habitats we have in the Gulf of Mexico.



For example, abandoned hooks and line promote harmful algal growth, preventing coral regrowth. Anchoring practices and retrieval of traps and pots can damage coral and sea grass. Trawls and dredges for capturing shrimp and oysters disturb the seafloor, harming sponges, disrupting the nutrient cycle and decreasing the diversity and number of species present.

While fishing may be the first thing that comes to mind, fish habitat is being degraded and lost due to a number of other human activities in the water, along the coastline and even inland. Everything from coastal development and navigation projects to ocean dumping and agriculture are affecting fish habitat.

### What the EIS Must Consider.

The questions are: how much does each activity harm essential fish habitat, how can we minimize that harm, and if we cannot, how can we make up for any unavoidable harm? Answering these questions is the purpose of the Essential Fish Habitat (EFH) EIS that the Council is currently drafting. Once completed, it will guide the Council as it makes specific changes to each of its fish management plans to ensure that they provide steps for, first, identifying, and second, minimizing and/or mitigating impacts on essential fish habitat as required by law.

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## Some Key Definitions . . .

*Essential Fish Habitat*— those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.

*HAPC*— Habitat Areas of Particular Concern are a subset of EFH that are considered areas of special importance that may require additional protection from adverse effects.

*EIS*— An Environmental Impact Statement is a document prepared to describe the effects for proposed activities on the environment. In the case of fisheries, the proposed activity is the implementation of fishery management plans.

*Reef Fish*— broadly defined these are the fish that we find associated with actual hard-coral formations as well as related habitats, such as sea-grass beds, sand flats, lagoons, and fringing mangrove forests. In the Gulf of Mexico these include a variety of snappers, groupers and amberjacks. Currently harvesting of goliath and Nassau grouper is prohibited because of their depleted state.

*Environment* — In the context of NEPA, environment includes land, water, air, structures, living organisms, environmental values at the site, and the social, cultural, and economic aspects of the proposed action.

## The NEPA Process: How the Law Works

The National Environmental Policy Act (NEPA) was enacted to make people aware of, and prevent further damage to the environment. To accomplish that NEPA requires (among other things) that government agencies consider the environmental impacts of any major federal action that could “significantly affect” the environment.

This is done through an environmental impact statement (EIS) that must be reviewed by the EPA. Because the purpose is to make sure that harm to the environment is avoided (where possible) and minimized or mitigated (where not), the EIS must include:

- ?a discussion of the proposed action and its purpose, and
- ?an analysis of all reasonable alternatives for achieving that purpose.

**An example from the Gulf of Mexico:** In the Sustainable Fisheries Act, Congress mandated that for species under management, the Gulf Council and NOAA Fisheries must identify ‘essential fish habitat’ (EFH), *and* identify measures to conserve and enhance the habitat necessary for fish through their life cycles. In this instance, the vehicle for “major federal action” is the fishery management plan. The proposed action is compliance with these EFH requirements, and its purpose is achieving EFH protection, conservation, and enhancement.

This is where NEPA requirements come in. In developing plans to reduce impact on essential fish habitat, the Gulf Council, must complete an EIS. In that EIS, all reasonable alternatives must be considered. This “no reasonable stone unturned” approach is the hallmark of NEPA, ensuring that even unpopular approaches have been considered.

## Essential Habitat . . .

*(Continued from page 2)*

Specifically, the Gulf Council must use the best science out there to establish a full range of alternatives for how to:

1. Identify what is essential habitat for each (managed) fish species.
2. Identify habitat areas of particular concern, and
3. Prevent, mitigate or minimize the adverse effects of fishing on EFH.

This work is more critical than ever: In 2000 The American Fisheries Society reported that 36 species of fish in the Gulf of Mexico are at risk of extinction, with **degradation to habitat** being the second most important factor contributing to the declines.

On June 5 –6, the Gulf Council met in

New Orleans to hear public testimony and revise the EIS. The GRN and other conservation groups commented that the current alternatives for lessening fishing impacts are too limited – focusing solely on changes to the gear used. The document does not look at the value of using of gear-restricted zones or marine protected areas in particularly important areas, such as areas where certain fish gather every year to spawn. In addition, the GRN provided more specific comments about the data used, and the way in which the consultants developed their “sensitivity index” which is used to identify the habitat areas that will receive protective measures.

### The Next Step:

Fortunately, another round of changes will be made this July 14th by the Gulf Council. This “mark-up” meeting is the last currently scheduled opportunity for

changes. The “final” draft EIS will then go to NOAA Fisheries for review, approval followed by a 45 day public comment period before the EPA.

### Three things you can do now:

#### **Get Informed**

Read the enclosed Action Alert.

#### **Inform Others**

Tell one or two people you know who care about how losses of habitat are causing declines in the fish of the Gulf of Mexico. Ask if they will comment.

#### **Take the Time to Act!**

Send a letter to the Gulf Council. The action alert provides additional details and a sample letter you are free to use as your template.

Letters to Council best sent by: July 10, 2003.

## Gulf Council Close to Deciding on Reserves

In our last issue of Fish Tales we told you about the extension of two marine protected areas located off the coast of Florida that were established after male gag grouper numbers were found to be drastically low. At its May meeting in Panama City Beach, Florida, the Gulf Council heard presentations on studies currently under way at the Madison-Swanson and Steamboat Lumps reserves. At its July 16th meeting, the Council will decide on whether to continue the reserves, and if so, whether they will be closed to **all** fishing, an option that GRN supports.

### May Council Meeting Highlights:

The good news, according to Dr. Felicia Coleman of Florida State University, is that the reserves seem to be protecting reef fish. Groupers appear to have site fidelity, tending stay in the protected area where they were tagged. And, the reserves appear to be protecting larger snappers and groupers, the size necessary for spawning.

NOAA Fisheries scientist, Dr. Andy David’s study was more controversial. His study was conducted in settlement of a lawsuit brought by a recreational charter fishing group. The group felt that trolling for large migratory species, found nearer the surface, should be allowed in these protected areas because it does not impact the deeper-dwelling groupers. Dr. David’s preliminary findings were, however, that it was relatively easy to catch reef fish while trolling, and that it was virtually impossible for enforcement officials to tell whether a boat moving slowly through

the reserve was trolling at the surface, or targeting protected reef fish further down. In addition, Dr. David reported that using trolling gear did impact the habitat, pulling up sea fans from the limestone areas along the ridges that run through the reserves.

### Marine Protected Areas as a Management Tool:

Identified by the just-released Pew Oceans Report as a key to our worldwide problem with fish stock depletion, marine protected areas like the Madison-Swanson and Steamboat Lumps reserves could provide significant improvements to the health of Gulf of Mexico fisheries. Studies abound on the benefits a network of such reserve areas can bring. GRN strongly believes that these two reserves should be extended, not only to continue to protect male gag grouper, but to allow time for scientific study of the other benefits that these reserves are bringing.

To voice your opinion on these reserves, write to:

James Fensom  
Chair, Gulf of Mexico Fisheries Management Council,  
The Commons at Rivergate  
3018 U.S. Highway 301 North, Suite 1000  
Tampa, FL 33619-2266.



Gulf Restoration Network  
338 Baronne St., Suite 200  
New Orleans, LA 70112



## Red Grouper . . .

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duction. However, in 2002 NOAA Fisheries delayed final action on the proposed regulations pending completion of a new red grouper stock assessment.

Although the new stock assessment does reflect some improvement in the stock, the Gulf Council's own Reef Fish Stock Assessment Panel advised that NOAA Fisheries and the Gulf Council should manage red grouper conservatively and set the total allowable catch between 5.67 to 6.17 pounds for the year 2003. Instead, NOAA Fisheries and the Gulf Council have proposed a 2003 total allowable catch of 6.55 million pounds. The GRN has made clear through letters and public testimony that any total allowable catch over 6 million pounds is unacceptable. Our concern is that the apparent "improvement" of the stock may just represent a couple of good years of survival of red grouper and not really reflect the overall health of the stock.

The GRN has additional management concerns. The rebuilding plan will be three years in the making, well beyond the timeframe allowed by law. Also, there are no interim rules in place to end overfishing for the current fishing season. Finally, the GRN is concerned that NOAA Fisheries currently has no program for monitoring recreational landings in "real-time." This could allow the number of red grouper caught by the recreational sector to exceed their total allowable catch months before NOAA Fisheries receives the landings information. Even with "real-time" recreation landings data it is still unclear if NOAA Fisheries and the Gulf Council have the will to close a fishery when it reaches its total allowable catch.

NOAA Fisheries is still reviewing the final draft of the rebuilding plan and must again make it available for public comment in the next couple of months. As a result, regulations to end overfishing of red grouper may not be in place until early 2004. The GRN will need your help to urge NOAA Fisheries to address the problems with the red grouper rebuilding plan when it is opened up for public comment. Check out our September issue of Fish Tales for updates on red grouper and how you can help.

## Pew's solutions . . .

*(Continued from page 1)*

business persons, and philanthropists worked together for three years, reviewing information, conducting focus groups, and analyzing information with one mission in mind:

"To identify policies and practices necessary to restore and protect living marine resources in the United States and the ocean and coastal habitats on which they depend."

While the picture painted by the report, *America's Living Oceans: Chartering a Course for Sea Change*, was troubling, Pew lays out a clear and feasible, though ambitious road map for improvement.

The GRN was pleased to see the report recommend an ecosystem-based approach to managing our fisheries, and the use of marine protected areas to restore our depleted fisheries. The report also recommends that conservation decisions be separated from decisions about how fish landings are to be allocated between recreational and commercial fishers. The report also calls for more regulation of fishing gear that destroys habitat, and would make reporting and reducing bycatch (unintended catch) a condition of fishing, rather than an afterthought.

The report comes on the heels of a number of news-making releases, all of which should serve as a wake-up call to citizens and our representatives in Congress: Now is the time to fix our oceans.

### **Other Reports of Interest:**

*Shifting Gears*, a national report on gear impacts by the Marine Conservation Biology Institute. [www.mcbi.org](http://www.mcbi.org)  
*Horrors of the Deep*, report on mismanagement of America's ocean resources. [www.conservefish.org](http://www.conservefish.org)  
*2002 Report to Congress*, provides current official status of our nation's fish stocks. [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)

Editor: Sallie E. Davis  
[sedavis@gulfrestorationnetwork.org](mailto:sedavis@gulfrestorationnetwork.org)

Tel: (504) 525-1528  
Fax: (504) 525-0833