

WEEKLY UPDATE: 7/27/2015
NORTH CAROLINA FISHERIES ASSOCIATION
"Serving the Commercial Fishing Families of North Carolina since 1952"
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COURT DISMISSES TURTLE LAWSUIT

Judge James C. Dever III dismissed the association's lawsuit against several federal and state agencies over the Endangered Species Act last week. The dismissal was not based on merit, but on what the judge decided was a lack of standing.

We filed the suit on Aug. 5, 2014. Below are some quotes from the 19-page decision and some comments by me. Keep in mind that my comments are not based on a legal background, but as a layman.

(Note - NCFA is the North Carolina Fisheries Association and CCFA is the Carteret County Fishermen's Association.)

"Plaintiffs have not plausibly alleged either an economic or environmental injury sufficient to establishing standing in their own right."

"...plaintiffs have not alleged that either NCFA or CCFA, as institutional organizations, has personally suffered economic harm."

"...plaintiffs, which are associations of commercial fishermen, have not presented any facts supporting the notion that the alleged sea-turtle takings have caused environmental injury to the organizations."

"Plaintiffs fail to allege a special interest in sea turtles, let alone that NCFA and CCFA are being directly "affect(ed)... in a personal and individual way" by the sea-turtle takings."

"Plaintiffs have not alleged that they have an "aesthetic" or "recreational" interest in sea turtles or even a "desire to use or observe" sea turtles."

"Moreover, plaintiff's admission that, despite defendants conduct, "all sea turtle species within the Northwest Atlantic Distinct Population Segment have continued to experience significant population increases" dooms their claimed environmental injury."

"Aside from conclusory allegations of injury, plaintiffs have not plausibly alleged that the defendants' conduct injured them either economically or environmentally."

"Thus, plaintiffs have not plausibly alleged that their members have suffered an environmental injury-in-fact, and the court rejects their argument that the takings in and of themselves constitute a valid injury."

"Although plaintiff's alleged economic injuries are the result of regulations imposed by the defendants, they are not fairly traceable to the challenged conduct, namely defendant's alleged failure to regulate the recreational hook and line fishery's sea turtle takings."

"Because plaintiffs have failed to plausibly allege that either they or their members have standing to sue in their own right, the court does not have constitutional authority to adjudicate this suit. Thus, the court grants the motions to dismiss for lack of subject-matter jurisdiction."

We are still sifting through the court's opinion to decide what action, if any, will be taken as a result of the court's dismissal of our suit. In the meantime, it is quite interesting to look over the above quotes by the court. For example, because we allege that all sea turtle species are experiencing significant increases in population, it dooms our claim for environmental injury!

I encourage you to read the [entire order](#).

-Jerry

SAFMC SNAPPER-GROUPER VISIONING PROJECT PUBLIC HEARINGS

This week the council will hold three meetings in North Carolina to hear public input on its draft snapper-grouper visioning project. At a hearing in Murrell's Inlet, S.C. WPDE-TV reported the project was "blasted by local fishermen," who said the "proposed regulations would put them out of business and make the fishing economy obsolete on the Grand Strand."

The plan uses phrases such as "sector share management system," "community-based quota management," "individual quota management system," and others which appear to be code words for catch shares. Also, it proposes electronic monitoring for all vessels - commercial, recreational and for-hire - and expanded area closures with additional restrictions. See the [fact sheet](#) for more information. It is urgent that snapper-grouper fishery stakeholders in North Carolina attend these hearings.

Tuesday, July 28:

UNC Wilmington Center for Marine Science, 5600 Marvin K. Moss Lane, Wilmington

Wednesday, July 29:

NC Division of Marine Fisheries, 5285 Highway 70 West, Morehead City

Thursday, July 30:

UNC Coastal Studies Institute, 850 NC Highway 345, Wanchese

NCFA BOARD OF DIRECTORS MEETING

The board will meet 2 p.m. next Monday at the Washington Civic Center located at 110 Gladden St. in Washington, N.C.

REGULATION AND RULE CHANGES:

-Bycatch Reduction Methodology [Final Rule](#) Effective July 30

-[Coral Amendment 8](#) in the South Atlantic Effective Aug. 17

-USCG Mandatory Dockside Inspections Required Effective Oct. 15

DEADLINES:

July 31 - SAFMC [AP Applications](#)

Aug. 4 - MAFMC Northeast Trawl Survey [AP Applications](#)

Sept. 1 - [SAFMC Snapper-Grouper Draft Vision Blueprint](#) Comments

Sept. 14 - [NMFS Generic Amendment to Snapper-Grouper, Golden Crab and Dolphin-Wahoo FMPs](#) Comments

MEETINGS:

If you are aware of ANY meetings that should be of interest to commercial fishing that is not on this list, please contact us so we can include it here.

July 13 at 6 p.m. - Oyster and Hard Clam Fishery Management Plan Advisory Committee Meeting, DMF Central District Office, 5285 Hwy 70 W, Morehead City

July 28 - SAFMC Snapper-Grouper Vision Blueprint Comment Meeting - Wilmington

July 29 - SAFMC Snapper-Grouper Vision Blueprint Comment Meeting - Morehead City

July 30 - SAFMC Snapper-Grouper Vision Blueprint Comment Meeting - Wanchese

Aug. 3 at 2 p.m. - NCFA Board of Directors Meeting

Aug. 4-6 - Atlantic States Marine Fisheries Commission Meeting

Aug. 11-13 - Mid-Atlantic Fisheries Management Council Meeting

Aug. 12 - SAFMC Snapper-Grouper Amendment 16 Public Hearing, Jacksonville, NC

Aug. 13 - SAFMC Snapper-Grouper Amendment 26 Public Hearing, Morehead City

Aug. 19-21 - Marine Fisheries Commission Meeting, Raleigh

Aug. 31-Sept.1 - ASMFC Menhaden Ecosystem Management Workshop

PROCLAMATIONS:

[RULE SUSPENSION - GILL NET RESTRICTIONS: INTERNAL COASTAL WATERS](#)

[CRAB TRAWLING AND TAKING SHRIMP WITH NETS \(OPENING: BRUNSWICK COUNTY\)](#)