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April 3, 2017

Leann Bosarge, Chair
Gulf of Mexico Fishery Management Council
2203 North Lois Avenue
Suite 1100
Tampa, Florida 33607

RE: Ocean Conservancy's Comments before the Gulf of Mexico Fishery Management Council's April, 2017 Meeting in Birmingham, Alabama

Dear Ms. Bosarge:

In anticipation of this week's Gulf of Mexico Fishery Management Council's (GMFMC) meeting in Birmingham, Alabama, where the council will be discussing the possibility of introducing carryovers of unused portions of the red snapper annual catch limit (ACL), **Ocean Conservancy¹ would like to highlight some of the new provisions regarding carry-overs that have been set down in the National Standard 1 Guideline (NS1) revisions that came out late last year.**

At the Birmingham meeting, staff will present a preliminary options paper that outlines the current alternatives that are under consideration for modifying or replacing the Annual Biological Catch (ABC) Control rule in a generic amendment. The action schedule notes that this will include "actions highlighted by the October 2016 revisions to the National Standard 1 guidelines including allowance for carry-over of unharvested quota. The carry-over provision can be separated from the generic amendment and continued as a separate action if the Council chooses to do so."²

Ocean Conservancy notes that the final rule specifies that the situations in which carry-overs may be used should be specified in advance in the Fishery Management Plan (FMP), and that Councils should consider whether the stock status is "poor or unknown" before using a carry-over. For stocks that are overfished and/or rebuilding, Councils are advised to "evaluate the appropriateness of using a carryover". I have included the relevant NS1 language below, and have highlighted relevant sections for emphasis for your convenience.

¹ Ocean Conservancy is working to protect the ocean from today's greatest global challenges. Together with our partners, we create science-based solutions for a healthy ocean and the wildlife communities that depend on it.

² Gulf of Mexico Fishery Management Council, *Sustainable Fisheries Committee Action Schedule*, http://gulfcouncil.org/council_meetings/BriefingMaterials/BB-04-2017/E%20-%203%20Sustainable%20Fisheries%20Action%20Guide%20and%20Next%20Steps%20April%202017.pdf (accessed March 31, 2017).

The ABC control rule must articulate how ABC will be set compared to the OFL based on the scientific knowledge about the stock or stock complex and taking into account scientific uncertainty...The ABC Control rule should consider reducing fishing mortality as stock size declines below Bmsy and as scientific uncertainty increases, and may establish a stock abundance level below which fishing would not be allowed. When scientific uncertainty cannot be directly calculated, such as when proxies are used, then a proxy for the uncertainty should be established based on the best scientific information, including comparison to other stocks. The control rule may be used in a tiered approach to address different levels of scientific uncertainty. Councils can develop ABC control rules that allow for changes in catch limits to be phased-in over time or to account for the carry-over of some of the unused portion of the ACL from one year to the next. **The Council must articulate within its FMP when the phase-in and/or carry-over provisions of the control rule can and cannot be used and how each provision prevents overfishing, based on a comprehensive analysis.**³

We would especially like to underscore the need for the “comprehensive analysis” as outlined in the NS1 guidelines, as it seems there could be very impactful repercussions in utilizing a carry-over for such an iconic stock as Gulf red snapper and it would be devastating from a conservation perspective as well as an economic perspective to do anything to impede rebuilding.

The NS1 guidelines also offer some more narrowly defined guidance on carry-overs that we think will be useful for the Council to keep in mind as it continues to work on this issue. Again, the NS1 language is excerpted below and emphasized for your convenience.

An ABC control rule may include provisions for the carry-over of some of the unused portion of an ACL (i.e., an ACL underage) from one year to increase the ABC for the next year, based on the increased stock abundance resulting from the fishery harvesting less than the full ACL. The resulting ABC recommended by the SSC must prevent overfishing and must consider scientific uncertainty consistent with the Council’s risk policy. Carry-over provisions could also allow an ACL to be adjusted upwards as long as the revised ACL does not exceed the specified ABC. **When considering whether to use a carry-over provision, Councils should consider the likely reason for the ACL underage.** ACL underages that result from management uncertainty (e.g., premature fishery closure) may be appropriate circumstances for considering a carry-over provision. ACL underages that occur as a result of poor or unknown stock status may not be appropriate to consider in a carry-over provision. In addition, the **Councils should evaluate the appropriateness of carry-over provisions for stocks that are overfished and/or rebuilding, as the overriding goal for such stocks is to rebuild them in as short a time as possible.**⁴

As above, we urge the Council to heed the analysis and evaluation requirements as work continues on carry-overs. By taking a precautionary and analytical approach, some of the inherent risk involved in the use of carry-overs, especially for vulnerable stocks that are overfished or that are already experiencing overfishing.

³ 50 C.F.R. 600.310(f)(2)(ii).

⁴ 50 C.F.R. 600.310(f)(2)(ii)(B).

We appreciate the opportunity to give comment on this issue and encourage you to contact the undersigned with any comments, questions, or concerns.

Best,

A handwritten signature in black ink that reads "J.P. Brooker". The signature is written in a cursive, flowing style.

Jon Paul "J.P." Brooker, Esq.

Policy Counsel, Fish Conservation Program

Ocean Conservancy

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cc: GMFMC Council Members
Doug Gregory, GMFMC Executive Director
GMFMC Staff
Mara Levy, NMFS SERO General Counsel