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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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December 4, 2014

Secretary Penny Pritzker  
U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, D.C. 20230

Dear Secretary Pritzker,

As you may know, the Gulf of Mexico Fishery Management Council (Gulf Council) recently voted in favor of submitting the highly controversial Amendment 40 to the Department of Commerce (DoC) for final review and implementation. I am writing to urge you to deny the council's request to approve this Amendment.

Amendment 40 would make an unnecessary legal distinction between private anglers and charter for hire through the creation of an entirely new sector. This move clearly lacks the required analysis, and goes beyond the scope of the Gulf Council's authority.

Despite the fact that Amendment 40 is not supported by the vast majority of fishermen in the Gulf, my primary concern with the amendment is that it creates a new sector that is not recognized by Congress. The Magnuson-Stevens Act (Magnuson) recognizes two sectors: the recreational sector and the commercial sector. In order to create a third, federally permitted, for-hire sector, managed separately from the two authorized sectors, Congressional approval is required. Clearly, the Council's attempt to establish a new sector through Amendment 40 is in direct conflict with their authority granted under the Magnuson Act.

Secondly, Amendment 40 discriminates economically against local, recreational fishermen and associated businesses, which make up the clear majority of anglers in the Gulf Region. By reallocating portions of the federally mandated annual catch limits (ACL) for the recreational sector into a new sector comprised of for-hire license holders, Amendment 40 severely diminishes private anglers' access to the red snapper. The economic analysis within Amendment 40 highlights the economic benefit of the for-hire licenses only, failing to touch upon the impact of the larger population of local fishermen, tackle shops, boat retailers, and the communities that depend on them. The Gulf Council's proposal lacks meaningful discussion on any conservation or resource management outcomes that would accompany the theoretical economic benefits of a new sector. Without providing such information, any move to enforce the creation of this new sector is likely illegal under current law, and will result in a myriad of lawsuits against the Gulf Council and federal government.

This is supported by the requirement, set forth in Magnuson, that the Gulf Council include a fishery impact statement for its Amendments, specifically stating the impact statement shall:

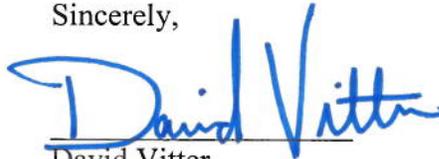
*Assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for participants in the fisheries and fishing communities affected by the plan or amendment; participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery. 16 U.S.C. 5 1853(a)(9).*

Currently, the Gulf Council has not submitted a full fishery impact statement that takes into consideration the effects of the proposal on all participants involved.

The DoC is legally obligated to ensure that all recommendations coming out of the Regional Councils are compliant with the provisions of Magnuson and federal law. Please give your utmost attention to the shortcomings of the Amendment 40 proposal as you and your staff evaluate potential implementation.

In closing, I would also like to bring to your attention the failure of Regional Administrator Dr. Roy Crabtree to respond to a letter I wrote to him on October 22, 2014 regarding these issues. His leadership failures on the Council warrant further investigation.

Sincerely,



David Vitter

Ranking Member

Environment and Public Works Committee