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State of the Fisheries 2011: Getting America's Oldest Industry Moving Again

By Zeke Grader

"Salmon" was its most memorable word. So it went with the President's State of the Union address in late January when he used the salmon fishery to illustrate effects of the numerous and overlapping agencies and conflicting regulations of government over the economy. The statement was not intended so much for accuracy, but for a laugh line and to make a larger point.

The President's shout-out for this fish was appreciated by many of us – just the fact that our fisheries are not completely off the Beltway radar screen – even if he missed the mark on identifying the problem facing this fishery, much less the nation's fisheries. Thank you Mr. President for the mention, and for an opening to discuss the real problems facing salmon and our other fisheries. While each fishery has its own set of unique challenges, there are issues that cut across a multitude of fisheries regionally and nationally. Here then is our State of the Fisheries report for 2011.

At the outset, it should be noted that progress has been made in ending the overfishing that plagued some major fisheries. In most instances, stock rebuilding is moving ahead. The US is moving forward, regulating fishing so that it is sustainable and protective of

the marine ecosystem. That is the good news. Keeping on that course, overfishing, massive bycatch and habitat harm from certain fishing gears will be a thing of the past.

What remains now, however, is the far more daunting task of addressing a myriad of non-fishing activities that threaten the sustainability of our fish stocks. What remains, too, is the task of protecting our highly vulnerable fishing communities so that they also are sustainable – that we provide, from the available fish for harvest, the maximum number of jobs and employ as many of our vessels as possible and as is economically viable.

Sadly, the state of our fisheries is little changed from where it was in 2008, 2004 or even 2001. From the perspective of the fish stocks, overfishing – where it existed – is ending or has ended; stock rebuilding is taking place through catch restrictions – sometime draconian; and bycatch and habitat impacts from fishing are being reduced. However, the overall state of our fisheries – not just the fish stocks – has continued to decline.

These problems and the solutions to them are not new. They've been the subject of countless *Fishermen's News* articles in the past. What is different now is the growing urgency to confront and

resolve these chronic problems plaguing us before it is too late.

Change

The President was right in his State of the Union address to point to the grief caused at the hands of government regulatory agencies. However, the problem for the salmon fishery and the problem for most other fisheries, frankly, is not confusing or conflicting regulation from a myriad of agencies. The problem is the agencies themselves.

Regulatory Background. As FN readers know, most of our nation's fisheries are managed under federal "fishery management plans (FMPs)," developed by the regional fishery councils and implemented by the National Marine Fisheries Service. The states retain jurisdiction over some fisheries, such as Alaskan salmon, or jointly manage them with NMFS. Tribal governments are involved in management of certain fisheries they retained rights to harvest and use – mostly by treaty. On the eastern seaboard, the Atlantic States Marine Fisheries Commission has authority over some of the fisheries that overlap state boundaries, but are not under federal plans; striped bass is one such example.

Before passage of the Fishery Conservation & Management Act in 1976



(the “Magnuson-Stevens Act”), the federal government had no direct regulatory role over fishing. All that changed in 1976, when the five-year old National Marine Fisheries Service was thrust into a new fishery management role, supporting the newly-created regional fishery councils, approving and implementing council FMPs within a new fishery conservation zone (renamed the Exclusive Economic Zone in 1983) for waters extending from 3 to 200 miles offshore.

The US Fish & Wildlife Service – where the old Bureau of Commercial Fisheries and Bureau of Sport Fisheries were housed in the Department of Interior prior to the Nixon reorganization in the early 1970’s – retains authority for most federally-managed inland fisheries, protection of freshwater fish, and still operates some of the salmon and other hatcheries built to mitigate dam construction and operation.

Since the 1870’s, the nation’s fishery program, initially independent, has bounced back and forth between Interior and Commerce. Following on the Stratton Commission Report of the late 1960’s, President Nixon created the “wet NASA” putting ocean fisheries (including most salmon) into a new National Marine Fisheries Service, and then housing it with other “orphan” federal ocean-related activities, and the National Weather Service, together forming the National Oceanic & Atmospheric Administration (NOAA). NOAA was headed for Interior and would have been under that department but for Nixon’s pique with his then-Secre-

tary of Interior (and former Alaska governor) Wally Hickel. Instead, NOAA ended up in Commerce where it has remained for the past 40 years.

USFWS – or what was left after extracting the Bureau of Commercial Fisheries and ocean recreational fishing from it to create NMFS – remained in Interior and has had a non-voting seat on the regional fishery councils. We’re unaware of any significant conflict, if any at all, that has existed, or exists today, between USFWS and NMFS in the management of our commercial fisheries – certainly none that would rate as a substantive problem.

Fisheries are subject, as well, to regulation by the Coast Guard – mostly related to fishing vessel operations, but also some fishery enforcement where USCG has agreements with NMFS or the states. Health inspection of seafood is conducted by the US Food & Drug Administration, including smoked salmon. FDA authority was promoted by the fishing industry for their health inspection role, when industry developed the HACCP program for seafood safety. Recordkeeping of fishery statistics, including fish imports, is carried out by Commerce, along some import/export inspections. Finally, the US Department of Agriculture is responsible for enforcement of food labeling, and has an inland aquaculture program (along with USFWS).

Although this fishery management chart may appear messy to a novice, in practice it’s worked out. Fisheries, by and large, are not troubled with conflicting

regulations between agencies and inter-agency squabbles. The problem, rather, is *intra*-agency.

Here, the irony of President’s speech was not missed by us. He, after all, promised change. That’s why many fishermen voted for him – tired of the anti-fishing policies of the Bush Administration. However, with the exception of NMFS’ Southwest Region’s work on salmon, what we got, instead, has been a continuation of the failed old Bush policies.

Catch Shares and NOAA’s Religious Zealotry. NOAA, rather than NMFS – our nation’s fishery agency – has become the motivating force for putting the nation’s fisheries under catch shares, a term that has come to embrace individual fishing quotas (IFQs), sector allocation, even community fishing associations. NOAA, despite its claim to being a science agency, is almost messianic in its push for catch shares, the moniker they’ve put on the Bush Administration’s fostering (e.g., the deal cut between a NMFS Director and the former Chair of the Pacific Council for groundfish) of individual fishing quotas as a means of privatizing public fishery resources.

Under questioning about catch shares, NOAA will admit that “catch shares are not a panacea,” that “they’re not for every fishery” and that they have to be carefully designed. That’s good, except that after the questioning they’re right back to making statements calling catch shares an “innovative new system for managing fisheries” that will “end overfishing.” NOAA promotes catch shares without distinguish-

ing where they may or may not be appropriate. And, no effort has been undertaken so far by NOAA to design these systems carefully.

Despite the disclaimers, NOAA and its NGO partner the Environmental Defense Fund (formerly one of the nation’s top environmental organizations that’s now pushing a form of neo-liberal dogma for “market-based solutions,” such as water marketing and IFQs, for natural resource conservation), still promote catch shares as indeed some sort of fishery management panacea.

NOAA and EDF may be adept at proselytizing for catch shares, but NOAA’s work to date – leastwise that by the regional councils and approved by NOAA – on development of catch shares has been sloppy and haphazard, kicking the can down the street on issues such as community fishing associations (CFAs), quota ownership and enforcement of quota caps. Indeed, many of these programs have arbitrarily selected window periods and qualifiers to favor certain participants and larger operators. The Pacific Council, for example, may have taken six years – working mostly in a back room – to develop its groundfish trawl “rationalization” plan, but it’s still crudely crafted, and intended to hand the bulk of the resource over to a handful of large trawl operators at the expense of the rest of the fishing community. As one fisherman remarked, “the PFMC could have spent 30 years developing the plan, but they still wouldn’t get it right.”

The President needs to change all of this now. First, a full-scale review is needed



of all current IFQ/catch share programs to assess among other things: a) whether they are achieving conservation and whether other methods of stock protection may be more effective; b) who now owns/controls the quotas and the degree of concentration of ownership/control in that fishery; c) the cost of entry into the fishery, and; d) the impact on coastal fishing communities, including jobs and employment of vessels.

Second, he needs to order a moratorium on all new IFQ/catch share programs and call for an independent review to determine whether a program: a) is supported by a majority of the participants (i.e., a referendum) – in other words, those who will have to live with it; b) promotes conservation and is preferable to alternative conservation measures; c) retains control of quotas within the fishing community (e.g., those fishing on-board, CFAs); d) protects employment and vessel utilization to the maximum extent possible, and; e) protects the interest of a fishing community interest in the harvest and utilization of fish stocks from a community's nearby and traditional fishing grounds.

New England Groundfish – It's Not Rational, It's A Mess. We're not here to excuse overfishing nor call for waiving or delaying rebuilding plans, but NOAA's handling of the groundfish fishery of New England and to the south along the Atlantic has been ham-fisted, to put it mildly.

Rather than listen and work with fishermen to try to help them through a difficult period, the agency has had a tin ear, listening only to

groups such as EDF – funded to promote a particular type of management – or one fishing group (e.g., the hook-and-line fleet from the Cape), and then assuming what was best for all the others. Exacerbating the situation has been the agency's slowness to react to an egregious case of abusive behavior by its enforcement agents. Even after it acted, those same agents are still on the payroll and Commerce has refused to broaden its review of enforcement abuse.

NOAA's justification of its actions here, as in other parts of the country – claiming it was acting at the behest of the regional council – doesn't wash. Remember, many of the members of the regional fishery councils were appointed by NOAA (technically the Secretary of Commerce), and council operations and staff are paid for from NMFS' budget. The councils don't even have independent legal counsel; they have to rely, instead, on attorneys from NOAA for advice. The fact is, the regional fishery councils are advisory – not independent entities – and when crunch time comes they will bow to the will of NOAA, doing what the agency wants.

The President needs to be firm that fishery management will be science-based and overfishing will not be tolerated, but beyond that his administration needs to work with the various parties in New England's and the Atlantic Seaboard's fishing community (this does not include EDF) and with their Congressional delegation (most are from his own party) to achieve a solution that will be good for the stocks and

good for the communities. What is occurring right now in New England is like a cancer that could spread to other regions across the nation if it is not dealt with quickly.

Pacific Salmon – A Tale of Two Regions. If there is an example of change – and change for the better – within the agency, it has been in NMFS' Southwest Region where the scientists have finally been freed from political interference, at least for now, and allowed to develop biological opinions that will actually help recover ESA-listed salmon species. And, after nearly two decades in the case of winter-run salmon, the agency now has in place, or is aggressively developing, recovery plans.

Compare this to a few years ago, when Vice-President Cheney and White House advisor Karl Rove were injecting themselves into Klamath water allocations; the resulting diversion of flows from the river caused a massive salmon kill. Or compare it to the situation in 2004 when political hacks within NMFS overruled its own scientists on the impact of massive new Sacramento-San Joaquin Delta pumping on salmon to make a "no jeopardy" determination (word is that water agency staff ended up writing the "no jeopardy" opinion and NMFS just put its stamp on it). True, the lawsuit led by PCFFA successfully challenging that "no jeopardy" opinion helped, but the change in the Southwest Region – mostly letting their professional staff work unhindered by political interference – is welcomed.

In the Northwest Region, however, it's just more of

the same. Federal salmon recovery efforts in the Northwest failed during the Bush administration, and are failing now during the Obama administration as a result of poor decision-making by federal agencies leading the effort.

Two years into the new administration, the agencies responsible for recovering imperiled salmon in the Northwest have failed to deliver on the President's promise for change and have fallen short on his inaugural call to "restore science to its rightful place." NOAA/NMFS, the Bonneville Power Administration, and the U.S. Army Corps of Engineers are perpetuating a failed *status quo*, sidelining science and protecting special interests at the expense of the public interest.

This spring, a federal judge is poised to rule on the lawfulness of the 2010 federal salmon plan for the Columbia Basin. The Obama administration inherited this plan from the previous administration and then chose – over strenuous objections from people up and down the coast whose livelihoods depend on healthy salmon runs – to adopt it as its own. Slightly retooling the President's main message last week, we cannot win the future for salmon and the communities that rely upon them with a government and its policies fixed in the past.

President Obama has said, rightly, that the test for the government he leads is not words but deeds. We ask the President to heed his own advice. Regardless of the impending court decision, a successful path forward for our salmon and our commu-



nities demands science and innovation, rather than politics and procrastination.

Who Is In Charge? Under the Bush administration, NOAA leadership acted more like a NASCAR sponsor than a science agency – slapping its name all over the fishery agency like it was a race car. NOAA leadership in the Obama administration has carried on the Bush administration policy of marginalizing fisheries by taking away NMFS' identity and giving it the status of a piece of property – not the agency with trustee responsibility for the nation's fisheries.

Now NOAA has taken it one step further by involving itself directly in fishery management decisions – from catch shares, to New England's groundfish fishery, to Northwest salmon, to determining the safety of seafood from Gulf waters inundated by the BP well blow-out. The lack of expertise in fisheries (not simply fish) by the ocean and atmospheric science agency is glaring.

In his review of the role and responsibilities of the nation's bureaucracy, the President needs to put in place strong and independent leadership in NMFS; leadership that will adhere to the best science, promote getting better science, and work closely with our nation's fishing communities to achieve the optimum benefits from our nation's fisheries in terms of high quality food production and employment.

In addition to fixing a dysfunctional fishery bureaucracy, the administration will also need to address some long-standing issues confronting the nation's fisheries; issues that we have raised

numerous times here before. Those, summarized briefly below, include:

Research and Data Collection

The underpinning for science-based fishery management is the possession and utilization of comprehensive information on the stocks and their habitat, together with an understanding of the fish and their ecosystems. That information and understanding is derived from research and on-going data collection. The latter, whose value is sometimes overlooked, is absolutely essential for monitoring changes in fish populations and their habitats. To have value, data collection requires regularity and continuity. Ongoing data collection on fish and their habitats will become even more important in future years to monitor the impact of climate change on fish populations.

Moreover, with increased emphasis on a precautionary approach and ecosystem-based management, it is imperative that the information that management decisions are based on be extensive, comprehensive and current. Having our fisheries grind to a halt because of insufficient information, due to inadequate research and data collection, is not an option. Nor is the conduct of extensive fisheries in the absence of good information an option either.

NOAA's decision last year to transfer funds from research to catch share implementation was foolish at best, and inexcusable coming from what is supposed to be a science agency. The attempt to blame the Office of Management & Budget for this cut in research was not credible, given the fact the cut in

research dollars almost mirrored the amount of new money being targeted for catch share programs.

The President and his administration need to make clear to Congress the importance of continuous funding for fishery data collection and the need to expand on fishery research. At stake are jobs, the economic vitality of coastal communities, and a significant part of the nation's food security. Further, to avoid duplicative research, to better catalog and make available research that has been conducted, to better identify research/data gaps, and to foster an understanding of the meaning of the research conducted and data collected, it's time the nation established an ocean ecosystem resource information system to aid and improve the conservation and management of our fisheries.

Technological Assistance

We're not looking for a "Sputnik moment," but certainly if our fisheries are to move ahead technical assistance and the opportunity to test new techniques or technologies is needed. This ranges from development of: a) cleaner fishing gear for those fisheries where bycatch remains a problem or the gear has an unacceptable impact on habitat; b) improving the quality of fish landed; c) improving safety at sea, and; d) improving vessel fuel efficiency and moving toward renewable fuel sources.

Marketing, Promotion and Fair Trade

Fish sales are hardly a problem for many of the nation's fisheries, where fishermen can sell everything they catch – when they're

allowed to fish. For places such as Alaska, where most fisheries are healthy, or the Gulf of Mexico where fishermen are struggling to recapture their markets and consumer confidence, marketing is an issue.

Here, a nationwide seafood marketing and promotion program is badly needed. The good news here is that a broad coalition of fishermen and processors around the nation have come together in support of a National Seafood Marketing Council, akin somewhat to the marketing programs for agricultural commodities through the USDA.

A well-funded and well-run national marketing program will enhance the value of the fish taken from the nation's waters, helping to maintain and expand the job base and generate additional revenue – and tax base – for many coastal communities. Saltonstall-Kennedy Act funds have been identified as the potential funding source for such a marketing and promotion effort. S-K funds, derived from a tariff on fish-related imports, are an appropriate source given the purpose for which the Act was passed in 1954. Unlike what happened in the 1980's, when S-K dollars were used to underwrite the activities of the regional fishery development foundations, this marketing effort must include some industry dollars if it is to be sustainable for the long run, particularly given past raids on S-K funds and the eventual phase-out of tariffs with more free trade agreements.

Another aspect of the marketing issue is cheap foreign imports. American



fishermen are under strict regulations to prevent over-fishing, minimizing by-catch and damage to the habitat. They are subject to stringent Coast Guard regulations on vessel operation and safety, along with environmental regulations to protect against oil discharges, etc. We're not quibbling here with those regulations – most are necessary and supported by fishermen. The problem is that they increase the cost of operations.

It is not unreasonable therefore to ask that other nations seeking to export their fish into US markets be held to the same standards as American fishermen. This would create a level playing field as well as stimulate better fishing practices and improved environmental protection internationally, not just in the US.

The administration should work closely with the fishing industry in the development of a marketing program – it will help protect or create jobs and increase the value of the nation's fish landings. Moreover, the involvement of the U.S. Trade Representative is needed. The trade office needs to be in regular contact with fishermen's organizations, not just fish importers, when it comes to setting trade rules for US fish imports.

Aquaculture

The prospect for any significant increase in fish production – to satisfy a growing world appetite for seafood – is unlikely. Indeed, with climate change we may be struggling just to maintain current levels of production. That leaves aquaculture to fill that gap

between what our wild fisheries can produce and growing seafood demand.

The US is at a crossroads with respect to aquaculture development. On the one hand, it can follow the lead of other nations that have permitted, even promoted, non-sustainable forms of aquaculture that actually reduce the supply of protein for human consumption. These non-sustainable forms of aquaculture include farmed salmon, "ranching" tuna, and most types of shrimp and finfish farming, much of it conducted in net pens in coastal or ocean waters that pollute, spread disease to the wild and are plagued with escape problems.

On the other hand, the US could choose to be an innovator in aquaculture development with a focus on fish products to satisfy mid- and lower-range markets, targeted at institutions and the lower middle and working classes. These are the types of fish, including catfish and carp, barramundi and tilapia that can be grown in contained facilities on-shore, including converted problem farm acreage (e.g., west side of California's San Joaquin Valley) or within urban areas.

The selection of species of fish for aquaculture must be for those that will not require inputs of wild fish, or soy for that matter, and are grown near the markets they will serve. Transitioning aquaculture development in this direction will do a better job of meeting the increased demand for fish, along with minimizing transportation costs for getting that fish to

market.

President Obama should act now to change the direction of the nation's aquaculture policy – set by the Bush administration to promote open-ocean aquaculture systems – towards the development of sustainable on-shore operations that will increase the net production of edible protein.

Where's the Money?

Finally, talk is cheap. Fixing many of the maladies facing our fisheries will require an investment. We know in this fiscal climate there will be no increases in federal appropriations for fisheries. We will be lucky if fisheries escape the budget axe relatively unscathed – but don't count on it.

There is an alternative, however, to the Congressional appropriations process for funding fishery programs, and that is through the creation of a fishery trust fund, paid for from fees, to augment funding for current programs along with paying for new or expanded programs.

It's been seven and a half years since a national fisheries trust fund was first proposed by PCFFA in this column. The need since that time for such a fund is now greater than ever. It's time the administration, Congress and the fishing industry recognize that there's no more Santa Claus on Senate Appropriations or some private benefactor willing to pay to fix the problems we're confronted with.

In the 2006 reauthorization of the Magnuson-Stevens Act, Senators Ted Stevens and Barbara Boxer inserted language into the bill to allow for the creation of a fish-

ery trust fund. Although the language did not specify a source of substantive funding for the trust, nevertheless the language is there for us to act upon.

We call upon the administration and Congress in the preparation of the federal budget to consider such an option for funding many of our nation's fishery programs. A well-designed trust fund should not be a burden on the fishing industry to generate the necessary fees and, at the same time, will allow us to maintain, and expand where necessary, essential programs aimed at addressing the issues above and get our fishing moving again.

Conclusion

Mr. President thanks for the mention. Although you didn't get it quite right describing the problem facing salmon fishing, we've taken the time here to set the record straight and tell you what really needs fixing. These are our thoughts on the state of the fisheries.

Our nation's working fishing men and women are willing to work with you, your administration and the Congress to improve the lot of America's oldest industry. Let's not leave it now at just a shout-out and a memory. 🐟

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