



FISHERMEN'S NEWS

February 2012

The Advocate for the Independent Fisherman

\$2.00



Pacific Coast Federation of Fishermen's Associations

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No Time for Retreat

By Zeke Grader and Kalla Hirschbein

American fishermen should be proud. Compared to other fisheries in the world, where rampant overfishing, bycatch and habitat destruction threaten wildlife and ecosystems alike, and illegal and unreported fisheries are commonplace, our fisheries are, or soon will be, sustainable.

US fishermen are now leaders in sustainable food production. But, unlike our fisheries, much of the nation's and world's agriculture is not currently sustainable, and that also holds true for most aquaculture. Sorry folks, but acres of monoculture crops heavily doused with pesticides and herbicides, fields, orchards and vineyards massively irrigated with little regard for shrinking aquifers or fish-bearing streams, rivers and estuaries, or livestock raised in the foul stench and closed confines of giant feed lots, are not sustainable. Nor can tinkering with an organism's genetics to increase its herbicide tolerance, or to excrete poison, or grow faster be considered sustainable.

Likewise, fish rearing in open-water cages that pollute and spread disease and parasites to wild fish, and that are prone to large and frequent escapes, is not sustainable. Nor is aquaculture that requires wild fish for feed, or produces less protein than it consumes, or relies

on large doses of antibiotics and pesticides to fight disease and parasites sustainably.

US-caught fish, along with USDA-certified (as long as the agency doesn't begin weakening its standards) organic produce and meat, now accounts for most of the nation's sustainably produced food.

It has not been easy. Tough restrictions have been placed on many fisheries to avoid overfishing and begin rebuilding stocks. Many fisheries still remain under severe limits. Fishing gear standards have been modified to reduce bycatch and protect habitat.

Many of the changes that put US fisheries on the road to sustainability came from the leadership of commercial fishermen and their organizations, some from enlightened recreational angler organizations, and some from recreational/commercial partnerships. In other instances, the path to sustainability has come from the prodding of conservation groups or scientists through legislation or litigation.

In particular, West Coast fishermen have been at the forefront in the effort to make fisheries sustainable. The past collapse of the sardine and salmon fisheries taught us the tough lesson that stocks are not inexhaustible. True, salmon declines

resulted as much or more from rapacious mining and logging operations, hydro-power development, and water diversions than from fishing. In the case of sardines, it is likely the collapse in the late 1940's and early 1950's was the result of a change in ocean regimes; fishing pressure merely exacerbated the decline. Nevertheless, the lesson was clear to many fishermen that the resources they relied on for their livelihoods were finite; their fortunes were directly tied to that of the fish.

On the West Coast we have witnessed more than a century and a half of effort to protect fish stocks and achieve sustainable levels of fishing. Consider the licensing of commercial and sport fishermen, the regulation of the salmon fishery, the creation of the International Pacific Halibut Commission and the decades-long closure of the sardine fishery.

Nationally, real progress was made in the last decade in achieving sustainable levels of fishing. The 1976 Fishery Conservation & Management Act (FCMA) was established – in addition to creating a federal fishery management regime and extending U.S. fishery jurisdiction to 200 miles offshore – to prevent overfishing. But that prohibition was unevenly applied, particularly in mixed



stock fisheries and under some perverse interpretations of “optimum yield.” As a result, Congress in the 1996 Sustainable Fisheries Act, amended the Magnuson-Stevens Act (the renamed FCMA) with explicit prohibitions against overfishing, and again in the 2006 MSA reauthorization, requiring science-based annual catch limits.

The 2006 Magnuson-Stevens Fishery Conservation & Management Act (MSA) included a requirement that the regional fishery councils establish science-based annual catch limits and accountability measures that prevent and end overfishing for all federally-managed ocean fish populations. Congress recognized that management without limits doesn’t work and rejected past practices that allowed data limitations to justify poorly regulated catch – and too often, overfishing. That system left the nation with a legacy of depleted fish populations and lost fishing jobs. Under current law, regional scientific committees set catch levels based on the best available information, and it is working.

In the latest publication on the status of US fish stocks, the National Marine Fisheries Service found a decline in the number of stocks considered “overfished,” with many now rebuilding. Progress is being made.

Yes, there are still problems. The definition of “overfishing” in the current law is overly broad by applying to any stock in decline, even where fishing did not cause the decline – such as with those many West Coast salmon stocks currently at risk. Annual catch limits, or quotas, do not work in every fishery, such as in some salmon fisheries or the state-managed Dungeness crab fisheries where a combination of seasons, gear restrictions, area closures and size limits are most effective in protecting stocks. And, federal managers fixated on “catch shares” have been blind to the harmful effect that poorly-crafted schemes can have on fish conservation, or the protection of fishing communities and the public interest.

Worse, while Congress mandated science-based management of the fisheries – which is a good thing – it failed to

provide a funding mechanism that was reliable and sufficient to fund the necessary science. As a result, fishery research and data collection goes wanting. In too many instances, fisheries are considered “data poor,” or stock assessments are outdated and/or not comprehensive. Especially troubling right now is trying to understand the population level of octopus – a bycatch in the North Pacific trap fisheries – or the true status of cod in the Gulf of Maine.

Unfortunately the response by some is to retreat from the progress that is being made. Proposed legislation to create “flexibility” in the MSA would back away from the law’s prohibition on overfishing and establishing strict timelines for rebuilding. All this does is “kick the can” down the street on halting overfishing or the timely rebuilding of stocks. The momentary reprieve some seek will only make matters worse for the future, and certainly for future generations of fishing men and women.

In response to the dearth of science in some fisheries, this past year two bills were introduced in both houses of Congress, H.R. 2304 and S.1916, euphemistically called the “Fishery Science Improvement Act.” These bills, generated primarily by recreational fishing groups in the Gulf of Mexico and South Atlantic, do nothing for fishery science except choose to ignore it.

These bills would change the way managers set catch limits, for fish populations with little information, by exempting them from the catch limit setting process. Specifically, the bills exempt fishery managers from setting science-based catch limits for fish populations that have not been assessed in the past six years, even if the populations are depleted. This exemption could risk overfishing on a minimum of 48 species, including many commercially and recreationally important, yet vulnerable, species of rockfish, snapper and grouper; and potentially many more in the future if their assessments become more than 6 years old.

This goes against everything we have learned, and creates a disincentive to gathering information on these species because managers will focus

resources where the catch limit requirement remains. Less fisheries science will lead to less certain management, which will hurt fishermen and fishing communities that rely on stable, sustainable, quotas to run their businesses.

Instead of creating a level playing field, these bills cater to a few in the recreational fishing industry who don’t want to play by the same rules that will continue to govern commercial fishermen.

H.R. 2304 and S. 1916 do nothing to improve fisheries science and actually create a disincentive for additional scientific research. The catch limit requirement has been a major driver for improvements in scientific research for fish species that have historically lacked assessments because they are not commercially valuable or are landed in small numbers. These bills take away this incentive and, as a result, managers will likely shift their limited monitoring and research budgets to other fish populations where the catch limit requirement remains. The number of fish species covered by the exemption will also likely increase – more stock assessments will become more than six years-old as managers and others seeking to avoid limits postpone assessments, creating a negative feedback loop of poorly informed management.

Moreover, these two bills create an expansive loophole by removing the annual catch limit and accountability measure requirement on fish populations identified by the Secretary of Commerce as an “ecosystem component stock.”

The irony, of course, is that now many of those recreational fishing groups that clamored for this legislation are complaining that it “does not go far enough.” In his December 16th New York Post column, Ken Moran reported, “Atlantic coastal fishermen who have read the legislation agree the bills promoted by the national sporting media and their industry lobbyists do nothing to actually fix the science, nor will they truly keep important recreational fisheries open to coastal anglers.”

“According to the Recreational Fishing Alliance (RFA), the two-page H.R.



2304 is structured primarily to delay deadlines for annual catch limits (ACL) and accountability measures in those fisheries in which a peer-reviewed stock survey and stock assessment has not been performed within the past five years, and only if the Commerce Secretary determines that overfishing is not occurring, severely restricting the number of fisheries in which fishermen could apply for management relief," reported Moran. "Because it has science in its title and is being promoted by lobbyists at the boating and fishing trade groups, many industry members and sportswriters believe it can actually help anglers. "

A better response to the problem to the scarcity of fishery science is to do the science. Rather than retreat, it is time to advance. By that we mean doing exactly what was proposed in this column more than eight years ago: develop a stable, independent and sufficient funding source to support the science good fishery management requires.

In 2006, Senators Boxer and Stevens inserted language in the MSA reauthorization for the creation of a fishery trust fund that could provide the funding needed for fishery science. The language, however, did not include a funding source or sources for such a trust fund – that was to be decided upon later. Well, now is the time.

Massachusetts Senator John Kerry has proposed using Saltonstall-Kennedy Act funds as the source for funding fishery research. That would be a good start to support the type of research and data collection our fisheries badly need now and for the future. That would be real progress.

We have much to be proud of in our fisheries. We've tackled overfishing, excessive bycatch and habitat destruction. While it's too early to declare victory, we're on the right road. We're certainly much closer to sustainable production with our ocean fisheries than either agriculture or aquaculture.

In this New Year, it's not time to retreat. It's time to finally press for fishery science funding. And it's time to work for real improvements to the MSA, whether it be better defining "overfishing," addressing non-fishing impacts on fish stocks, developing equivalents for annual catch limits where ACLs do not work, and, finally, getting Congress to put in place the standards and guidelines for IFQs and catch shares that NMFS has so far refused to address. 🐟

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