



**Wild
Oceans**
For the future of fishing

Spring Newsletter 2015

The Horizon

INSIDE THIS ISSUE

- OCEAN VIEW: GO SLOW 2
- NOAA'S RIVER HERRING CONSERVATION PLAN FALLS SHORT 3
- SELECTIVE GEAR TO BE TESTED IN THE PACIFIC 4
- PACIFIC SARDINE FISHERY CLOSES 5
- GETTING PAST CUSTOMS 6
- STAFF TRAVEL LOG 7
- BILL BOYCE & COBIAN PAIR UP TO SUPPORT WILD OCEANS 8

PAST AND FUTURE LAY CLAIM TO MENHADEN

Tug of war

At its Spring Meeting in May, the Atlantic States Marine Fisheries Commission (ASMFC) had one foot in the past and one in the future.

At the same meeting where it approved a modest increase in the coast-wide quota based on an outmoded single-species stock assessment, the 15-state Menhaden Management Board voted unanimously to amend its Interstate Menhaden Fishery Management Plan with revised abundance targets and fishing limits, known as “ecological reference points,” to more fully protect this critical forage fish’s role in the Atlantic coastal ecosystem.

Faced with a new stock assessment showing menhaden are no longer “overfished” in terms of supporting a commercial fishery and under intense pressure from industry to relax catch restrictions, the ASMFC’s Menhaden Board agreed to raise the coast-wide quota by 10% for the 2015 and 2016 fishing seasons. But citing concerns that the single-species assessment does not account for the needs of a wide range of predators, along with recognition that advances have been made in science-based approaches to conserving forage species, the Board initiated Amendment 3 to establish ecosystem-based catch limits by the 2017 fishing season.

CONTINUED ON PAGE 3



Humpback whales are among the many predators that would benefit from ecosystem-based catch limits for Atlantic menhaden. Photo courtesy of NOAA Photo Library.

Our Mission

Wild Oceans was founded by anglers in 1973. Like the sportsmen before us who pioneered wildlife conservation on land, we are passionate protectors of fish and the wild world we share.

Our mission is to keep the oceans wild to preserve fishing opportunities for the future. To do this, we bring conservation-minded fishermen and pro-fishing environmentalists together to promote a broad, ecosystems approach to fisheries management that reflects our expanding circle of concern for all marine life and the future of fishing.

So much of what we love about the sea, about fish, about fishing, is in the wildness. But that wild world, and the future of fishing, now hangs in the balance. Everything we do, every decision we make, must be guided by a clear vision of the future we want for our oceans and of how the fishing public and responsible consumers will fit into that future.

Go slow

The Magnuson-Stevens Fishery Conservation and Management Act of 1976 has been a success. The number of overfished stocks has never been lower in the law's 40 year history. It's not perfect by any means, and Congress is reviewing the Act to consider changes, as it does every 10 years. In my view, there are ways to improve it – more protection for ocean ecosystems, for starters – and NOAA Fisheries and the regional councils could find better ways to implement it. But for the most part, it's working.

Past MSA reauthorizations were driven mostly by failure. I began working full-time on marine fisheries management in 1978, when it was just as young and inexperienced as I was. I got my feet wet working on the nation's first fishery management plans, learning along with everyone else. The MSA's shortcomings became evident as rapid development of U.S. fisheries was accompanied by rampant overfishing and the system seemed powerless to stop it.

The law's failures were indisputable

and the remedies obvious. Tough mandates were needed to compel fishery managers to stop overfishing and rebuild depleted fisheries, held accountable by firm timetables.

The issues are different today, some the consequence of recoveries underway. Are we fairly allocating the sacrifice among fishermen? Can we ease up on the speed of rebuilding as we near the finish line? Are the science and data good enough for micro-managing so many fisheries? How can we be more macro, more flexible in our rules, while still keeping our eyes on the prize?

There are problems which require changes in the law and those which could be addressed with more creative management. We need the wisdom, and the time, to understand the difference. All the previous overhauls of the MSA, even when change was urgently needed, were made after several years of careful deliberation involving all stakeholders. The risk now is acting too hastily, forgetting what we've learned from past failures, taking success for granted, and undoing the progress we've made.

The House of Representatives, as I write this, is rushing a bill (HR 1335) to a floor vote, splitting the House along party lines, sharply dividing fishermen, alarming environmentalists and prompting a veto threat from the Administration. Its numerous exemptions from rebuilding mandates not fully vetted or widely understood, it can't help but be treated as suspicious as to intent and ambiguous as to effect.

In the Senate, Sen. Marco Rubio (FL), chair of the Oceans Subcommittee, recently urged his colleagues, in both houses on both sides of the aisle, to take a step back and come together. "Movement forward on any issue related to fisheries requires both bipartisan and bicameral agreement," Rubio told a May hearing. "Support by all stakeholders, in both parties, in both chambers, will be required for any legislation regarding fisheries to move forward and be signed into law."

We agree. The only way to get that kind of consensus is to slow things down. Learn from our successes. After all, we'll be living, and fishing, with the result for the next 10 years.

– Ken Hinman, President

For the Future of Fishing

Wild Oceans is a 501(c)(3) non-profit organization dedicated to keeping the oceans wild to preserve fishing opportunities for the future.

Our Goals:

- preventing overfishing and restoring depleted fish populations to healthy levels
- promoting sustainable use policies that balance commercial, recreational and ecological values
- modifying or eliminating wasteful fishing practices
- improving our understanding of fish and their role in the marine environment
- preserving fish habitat and water quality

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NOAA's river herring conservation plan falls short

In 2013, after finding that a petition to list river herring (alewife and blueback herring) under the Endangered Species Act was not warranted, NOAA Fisheries Greater Atlantic Regional Office (GARFO) responded to public outcry by committing to the creation of a coastwide river herring conservation plan. A Technical Expert Working Group (TEWG) of scientists, fishermen, conservationists, tribal leaders and government officials was formed to identify priority issues and actions.

In May, the draft plan was released to the public. Residing within the NOAA website, the plan is intended as a living document, to be continually monitored, evaluated and updated as needed. Subgroups of the TEWG developed plan components, including stock status, habitat, climate change, fisheries, species interactions and genetics. An ecosystem integration committee was charged with applying an ecosystem approach by synthesizing information across subgroups to inform federal and state conservation strategies.

High priority research needs were flagged, and it is not surprising that issues pertaining to ocean bycatch rise to the top. With river herring

fisheries prohibited in nearly all the Atlantic states because of severely depleted runs, bycatch events in federally-managed industrial trawl fisheries for Atlantic mackerel and sea herring contribute significantly to fishing mortality, but the overall impact of these events on river herring populations is poorly understood. Data gaps and challenges described by the TEWG Fisheries Subgroup include:

- The inability to associate ocean/coastal catch to natal rivers;
- Inadequate current levels of observer/port sampling for accurately and precisely estimating river herring catch; and
- Uncertainty about the continuation of portside sampling programs given current funding sources.

While the creation of the river herring conservation plan provided an important forum for the discussion and coordination of issues essential to conservation, the plan lacks metrics for measuring success, including a time frame for stock rebuilding. Also absent is a binding agreement between state and federal partners to adhere

to plan recommendations. While an impressive quarter million dollars in grant money was awarded for river herring research in 2015, no dedicated funding source is identified to support the plan for the long-term.

Rather than a guidance document for conservation, *Wild Oceans* believes river herring, which are absolutely essential to the Atlantic's forage base and have tremendous potential economic value to coastal communities, require a *holistic management framework* – one that integrates federal management with the current state waters plan overseen by the ASMFC. Federal management would afford river herring the conservation standards of the Magnuson-Stevens Act, standards that include biologically-based catch limits and firm rebuilding goals.

In 2016, the Mid-Atlantic Fishery Management Council will evaluate whether river herring are recovering and whether or not federal management actions, such as the current river herring cap in the mackerel fishery, have been effective. The results of the review will be used to consider whether or not to include river herring in a federal fishery management plan. ■

TUF OF WAR (CONT'D FROM PAGE 1)

Over the past several months, *Wild Oceans* urged the commission to stay with the catch limits implemented under Amendment 2 three years ago while initiating Amendment 3 to develop and adopt ecological reference points (ERPs). We submitted an analysis of the 2015 stock assessment with regard to menhaden's role as forage and a critique of an ASMFC working group's report on ERPs.

“We are very disappointed the commission did not maintain current catch levels. In the big picture, however, the modest increase in quota for two years is less important than the Board finally committing to a definite process and timeline for adopting ecological refer-

ence points,” says *Wild Oceans* president Ken Hinman, a conservation representative on the Board's advisory panel. “I view the catch increase as the final act under the old rules, one last nod to the past before we step into the future, where we will take care of the needs of menhaden's predators first, before we allocate to the fishery. That future is closer now than ever before.”

Amendment 3, which will be developed over the next two years with plenty of opportunity for public input, will not only address how menhaden are allocated between the fishery and the ecosystem, the priority for the vast majority of the ASMFC's consti-

tuents from Maine to Florida, but will also revisit allocation between the reduction and bait fisheries and among the states. Currently, one industry, Omega Protein, receives 80% of the quota and one state, Virginia, 85% of the total. ■



Menhaden, *Brevoortia tyrannus*
© Brian Gratwicke

Selective gear to be tested in the Pacific

In March, the Pacific Fishery Management Council took a necessary first step towards transitioning the Pacific swordfish fishery to more ecologically and environmentally sustainable gear.

The Council recommended that the National Marine Fisheries Service issue Exempted Fishing Permits (EFP) for deep-set buoy gear (DSBG) to target swordfish in federal waters off California. That's good news for marine mammals, sea turtles and the thousands of finfish that get caught, killed, and discarded in the drift nets currently used by swordfish fishermen.

For the better part of a year, the Pacific Council has been laboring over whether and how to restrict drift net fishing off California. Options range from prohibiting drift nets to setting hard caps on protected species encountered by drift nets to expanding drift net fishing into the Pacific Leatherback Conservation Area. Globally, drift nets are on the way out. But, the Council has proven reluctant to follow the lead of the international community without providing California fishermen with an alternative swordfish gear. That's where DSBG comes into the picture.

Although fishermen in the Atlantic have successfully used buoy gear to target swordfish, DSBG is not yet an allowable gear in the Pacific. For the past three years, the Pflieger Institute of Environmental Research (PIER) has tested and modified the gear and has confirmed that (1) swordfish can be selectively targeted at depth, (2) non-target catch of species of concern is minimal, and (3) swordfish caught on DSBG are of high quality and received by southern California markets at a premium price. In stark contrast to California drift nets, which have high

rates of bycatch, averaging 47 percent over the past 5 years, and longlines, DSBG catch composition is 94 percent target catch consisting primarily of swordfish and opah.

The deep set buoy gear EFP applications received overwhelming support from recreational, commercial, and conservation interests alike, bolstering *Wild Oceans'* position that consumers want fish caught with more ecologically and environmentally sustainable fishing gear.

The Council denied a proposal to test new, innovative deep-set shortlines and shallow-set shortlines which can be pulled quickly, with less soak time, in an effort to reduce bycatch and increase survival rate. Fortunately, PIER sees promise and is beginning a research program to test them.

While looking forward towards adopting innovative gear, the council unfortunately also looked back, and approved a single EFP to use longline gear. Although both DSBG and longlines use baited hooks, the similarity ends there. Unlike longlines, DSBG is actively tended. The crew detects strikes immediately and retrieves the catch within minutes giving the fishermen the option to release any non-target catch. The fresh fish is quickly dressed, fetching a higher price at market.

In June, we'll ask the Pacific Fishery Management Council to add deep-set buoy gear to the list of allowable gear. Then, we can begin transitioning fishermen away from drift nets. Finally, as consumers we'll have an opportunity to purchase freshly caught California swordfish from a sustainable high-yield fishery and close the market on unsustainable gear. ■

It's about time...

The Pacific Council, looking for alternatives to drift nets but still looking for ways to keep this harmful gear in the water, doesn't seem to understand that the issue with indiscriminate gears is not just about **bycatch**.

Or it is, but bycatch is not just about the **dozens of species caught and killed incidentally** – protected species like turtles and whales, vulnerable fish like sharks, striped marlin and bluefin tuna. It's also about other fishermen and **lost fishing opportunities** due to the **waste**. It's about **money**; millions of dollars wasted on a costly, complicated, ultimately futile maze of regulations.

And, finally, it's about **time**. Time spent in conference rooms in an endless series of meetings. The precious time of citizens - fishermen, scientists, academics, environmentalists – and public servants – NMFS and council members, who often complain there isn't enough time and resources to attend to other threats to the future of the oceans and fishing brought before the council.

It's about time the Council set a deadline for phasing out the drift net fishery while phasing in fisheries that can sustain a healthy west coast swordfish fishery, for the benefit of all concerned, long into the future.

PROTECTING UNFISHED FORAGE TAKES ON NEW IMPORTANCE

Pacific sardine fishery closes



In April, when the Southwest Fisheries Science Center reported a historic decline in the Pacific sardine population, the Pacific Fishery Management Council followed its sardine management plan and shut down the commercial fishery.

Once Pacific sardine supported the largest fishery in North America, undergoing a dramatic rise and fall in the first half of the 20th century, peaking at just over 700,000 metric tons annually. Excessive fishing pressure during periods of low recruitment exacerbated natural declines. As a result, the sardine population crashed in the late 1940s, crippling the recovery and productivity of the stock for the long-term. The fishery's collapse devastated the fishing communities that inspired Steinbeck's famous novel [Cannery Row](#) set in Monterey, California.

When the sardine population finally recovered in the 1990s, the Pacific Council, seeking to prevent future stock collapses, incorporated a buffer to prevent the stock from becoming overfished and to aid rebuilding: directed commercial fishing of Pacific sardine is only allowed if the population exceeds 150,000 metric tons. The recent stock assessment concluded that the sardine population has fallen to under 97,000 metric tons, triggering the fishery closure.

Set in a single-species context, the

Council's sardine buffer has proven inadequate for providing sufficient forage to dependent predators. Sardine are the dominant prey species in the California Current ecosystem, and the paucity of sardines is directly impacting brown pelican and California sea lion populations. For the past three years, reports of starving sea lion pups have fueled the argument that sardine management does not account for predator needs. At the same time, the number of breeding pairs of nesting brown pelicans has dipped from thousands of thousands to hundreds, and in some traditional nesting areas, to zero.

These accounts of predators struggling to find food remind us that it's time to move away, once and for all, from ecologically-harmful policies that manage each species to maximize yields to fisheries, without regard for the impact on other species in the food web or the ecological community as a whole. Ecosystem-based fishery management of forage fish is critical because of their strong interconnections with so many other species.

Forage species occupy a key and irreplaceable position in marine food webs, linking the energy produced by plankton to large-bodied fishes, birds and mammals. But they also account for over a third of all marine fish landed globally. The pursuit of forage fish has increased exponentially in the last century, to more than 31 mil-

lion tons a year. Because forage fish play such a central role in marine food webs, even minor removals of a forage species may cause ripple effects, especially to highly dependent predators.

Recognizing the vital role that forage fish play in the California Current ecosystem, the Pacific Council, at its March meeting, completed a 2-year initiative to protect unmanaged and unfished forage fish, safeguarding seven previously unprotected categories of forage from the threat of commercial harvest. *Wild Oceans* West Coast Fisheries Project Director Theresa Labriola attended the Council meeting to support the forage initiative. "The Council's preemptive action is a significant step in advancing ecosystems approaches because the action acknowledges the overall forage base as the heart of a healthy ecosystem," said Labriola.

Protecting unfished forage species from exploitation takes on new urgency and importance in light of the sardine population crash and fishery closure. Sand lance, saury, smelt and other species included in the Council's plan will be safeguarded from shifting fishing effort and allowed to fulfill their ecological roles as critical components of the prey base. ■

[Above image:](#) Emaciated sea lion pups recover at the Pacific Marine Mammal Center © Pacific Marine Mammal Center

Getting past customs

Since passage of The Billfish Conservation Act of 2012, foreign imports of marlin and other billfish, estimated at up to 30,000 fish a year pre-BCA, have come to a halt, making it one more triumph in our ongoing efforts to protect these marvelous fish. One unresolved issue remains, however, affecting implementation of the law.

Although top officials at NOAA Fisheries originally told us the law's exemption for Hawaiian-caught billfish would be enforced as sales-for-island-markets-only until final regulations are promulgated, they changed their minds. In 2013 the agency put out an Advance Notice of Proposed Rulemaking (ANPR), asking the public for input on what restrictions, if any, should be placed on transportation and sale of fish caught under the exemption, which covers the State of Hawaii and Pacific island territories including Guam, Samoa and the Marianas. A Proposed Rule will be published in the Federal Register, with opportunity for public comment, sometime later this year, according to NOAA.

Struggles with the "Hawaii exemption" are holding up the final regs. The issue is, can billfish caught and landed by Pacific islanders be sold on the U.S. mainland, where markets are otherwise closed to everyone else? A NOAA spokesman recently described the challenge as crafting regulations which "reflect statutory language and Congressional intent, improve the public's understanding of the BCA's provisions, facilitate enforcement, and ensure consistent implementation of the BCA nationally."

In 2012, the bill's sponsors stated, on the record, their intent to exempt billfish from the Act's general prohibition on sales "as long as the billfish were only sold in Hawaii or a Pacific Insular area," and the public

overwhelmingly supports that intent. Unfortunately, the language itself is silent on the matter, leaving room to argue otherwise on a plain reading of the statute. On the other hand, allowing mainland sales from a small subset of U.S. fisheries would not only create enforcement problems, it would likely expose the Administration to serious legal and trade ramifications by giving exclusive access for Hawaii fishermen to a mainland market closed to all other fishermen, domestic and foreign. Moreover, an unrestricted flow of Hawaiian fish into the mainland market to fill the void left by banned imports would undercut the law's conservation benefits.

.....
"When it comes to billfish, what happens in Hawaii should stay in Hawaii."

Of the 291 organizations and individuals who filed comments on the 2013 ANPR, only one endorsed mainland sales; the Western Pacific Fishery Management Council, based in Honolulu. WesPac, as it is known, devotes a single sentence to the matter: "(T)he small amount of billfish sold in the continental US markets from US vessels operating out of Hawaii and US Pacific Island Territories is important to maintain as it supports intrastate commerce in highly monitored, US-produced seafood products." The bulk of the 3-page letter is a defense of Hawaii's commercial uses of billfish coupled with a criticism of the non-exploitative philosophy that prevails on the mainland.

Six of the 7 other regional councils (5 on the Atlantic coast along with the Pacific Council) long ago reserved billfish for recreational use, citing higher economic value from a fishery that is almost entirely catch-and-release. The BCA reinforces the de-

commercialization of billfish on the mainland with a ban on fish coming in from outside, while bending over backwards to accommodate the Western Pacific's traditional fisheries and local customs and deferring to WesPac's regional management authority.

Although the council says the islands' billfish catch is "highly monitored," that's clearly not the case and part of the problem. During Congressional deliberations on the BCA, no one, not WesPac, not NOAA Fisheries, could provide data on how much billfish is being shipped to mainland retailers and restaurants. Is it a "small amount" or something significant, and what's the trend?


We do have good data on what the U.S. longline fleet based out of Hawaii is landing, and that's a big reason the first version of the BCA (2010) offered no exceptions to its national ban on billfish sales. In 2009, 20,807 billfish were reported landed in Hawaii by commercial longliners: 4,241 blue marlin; 8,722 shortbill spearfish; and 7,844 striped marlin, mostly juveniles. It's an unconstrained bycatch fishery; the longliners hook billfish chasing other, more valuable species.

So, the law already makes huge concessions to the Hawaiian fisheries, the type of compromise necessary to make national legislation happen. But the BCA's authors and supporters never intended to reserve the mainland market for Hawaii's commercial fishermen, thus compromising the BCA and its badly needed conservation benefits.


All the Billfish Conservation Act asks of Hawaii (and neighboring islanders) is that it take a cue from the successful Las Vegas marketing campaign. When it comes to selling billfish, what happens in Hawaii should stay in Hawaii. ■

Staff travel log


Our recent travels to fight for the future of fishing...


 From March 6-11, *Wild Oceans* West Coast Fisheries Project Director Theresa Labriola attended the Pacific Fishery Management Council Meeting in **Vancouver, Washington**. She testified in support of two Council actions to advance the Fishery Ecosystem Plan (FEP), both of which the Council adopted. First, the Council took a final vote to bring listed unfished forage into each of the four Pacific Fishery Management Plans as Ecosystem Component species and prevent the commercial catch of these species, and second, they agreed to develop ecosystem indicators as Initiative 2 to the FEP. She also testified on two issues concerning the management of highly migratory species. She submitted testimony on five Exempted Fishing Permit applications and asked the Council to consider the permits based on the ability of the proposed gear to target select species and minimize bycatch. (See *One Step Forward* p.4.) She also testified in support of the Swordfish Management and Monitoring Plan and hard caps as an interim step in a transition from drift nets to cleaner, actively-tended gear that reduces bycatch and brings more target fish to market. Final action is expected in September.


While in Vancouver, Theresa participated in ancillary meetings including the Science and Statistical Committee meeting, Highly Migratory Species Management Team meeting, and Ecosystem Advisory Subpanel meeting.

 *Wild Oceans* Executive Director Pam Lyons Gromen testified during the New England Fishery Management Council's April 6th hearing on Amendment 8 to the Fishery Management Plan for Atlantic Herring. During the webinar hearing, hosted from the Council's office in


Newburyport, Massachusetts, Pam recommended goals and objectives for managing sea herring in an ecosystem context to protect its role as forage.

 On April 14 & 15, Pam was in **Long Branch, New Jersey** where the Mid-Atlantic Fishery Management Council discussed options for protecting unmanaged and unfished forage species. The Council decided that input from the Atlantic States Marine Fisheries Commission (ASMFC) would be helpful for determining a species list and a specific course of action. Council members also requested more information about the Pacific Council's recent action to protect unmanaged forage fish. The issue will be revisited at the June full council meeting.


 As a member of the Mid-Atlantic Council's Ecosystem and Ocean Planning Advisory Panel, Pam attended a 2-day workshop in **Baltimore, Maryland** on April 29 & 30. The purpose of this workshop was for advisors (e.g., commercial fishermen, anglers, environmentalists and scientists) to review and refine discrete coral protection zones for the Deep Sea Corals Amendment. Prior to the meeting *Wild Oceans* joined with eight other groups in developing alternative discrete zone boundaries that afforded strong protection to corals while allowing for important fishing grounds to remain accessible. These alternative boundaries helped shape the final protection zones developed by workshop participants.

 *Wild Oceans* president Ken Hinman attended the May 5th meeting of the ASMFC's Menhaden Management Board in **Alexandria, Virginia**. In written statements distributed to the board prior to the meeting, he urged them to keep the catch limits

implemented under Amendment 2 (2012) in place while initiating Amendment 3 to develop and adopt ecological reference points (ERPs). For Ken's report on the outcome of the meeting, see *Tug of War* p. 1.

 Ken traveled to **Silver Spring, Maryland** on May 7th and met with Eileen Soback, NOAA's Assistant Administrator for Fisheries, to discuss the status of a Proposed Rule to implement the Billfish Conservation Act's exemption for traditional Pacific island fisheries. Also present were Sam Rauch, Deputy Assistant Administrator for Regulatory Programs and Alan Risenhoover, Director of the Office of Sustainable Fisheries. The agency continues to struggle with how to regulate a limited Hawaiian market within the law's general prohibition on foreign imports and sales on the mainland. See *Getting Passes Customs*, p. 6.



 Theresa attended the Highly Migratory Management Team Meeting in **La Jolla, California** on May 13-14. The Management Team discussed the Pacific Fishery Management Council's questions about how best to implement and monitor hard caps on the Pacific driftnet fishery. The Team will present their report to the Pacific Council in June, and the Council will choose their preferred alternative in September. ■



MAKING STRIDES FOR CONSERVATION

Bill Boyce & Cobian pair up to support wild oceans

Bill Boyce, renowned fisheries biologist, photo-journalist, fishing show host and angler (and proud *Wild Oceans* Board Member!) has partnered with Cobian Footwear to create a line of rugged, water-friendly sandals that feature Bill's colorful ocean wildlife photography on the soles. As part of their ongoing commitment to conservation, Bill and Cobian are donating \$0.50 to *Wild Oceans* for every pair of Bill Boyce signature sandals sold in the USA. Current designs feature durado and tuna, but more styles are on the way. Look for Cobian's Bill Boyce collection at your favorite outdoor sporting goods store.



Photo Right: Bill Boyce poses beside a display of his signature sandals.

Your mailing label includes your membership renewal date.

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