

TIME TO SEPARATE FISHERY SCIENCE FROM ALLOCATION

A modest proposal to make conservation more science-based, less political

By Ken Hinman

All truths are half-truths," said philosopher Alfred North Whitehead. "It is trying to treat them as whole truths that plays the devil." Some of our closely held but half-true notions about fishermen, I'd say, are playing the devil with the future of fishing. A pair of national commissions studying ocean policy agree.

Take, for instance, the idea that fishermen know best how to manage fisheries. It's the basic assumption underlying our regional council system, wherein working fishermen and their representatives make the rules for most ocean fishing. But knowing what's best and doing it are two different things. And best for whom? The fish or the fishermen? Today's anglers or tomorrow's?

Then there is the oft-heard axiom that no one cares more about conservation than those whose livelihood depends on it. Right - but only half right. Yes, no one has more at stake, when determining how many fish can be sustainably harvested, than those who feed their families with what they catch. But this fact merely deepens the conflict between immediate self-interest and the broader, long-range interests of other stakeholders.

And lastly we have the presumption that fishermen, by virtue of being out on the water interacting with the fish on a regular basis, know as well or better than anyone how many fish are really out there. It's the standard response from fishermen to any stock assessment they don't agree with. But just as our experience as fishermen educates us, it can also give us a false sense of authority and thus reinforce our most deeply felt opinions – even if they may be wrong.

All of which is to say that fishermen need to be fully involved in fisheries management – probably much more so than they are now - to make sure that everyone else knows what they know, which is a lot. But should they be making the final decisions as to how many fish should be caught? Or how fast we should rebuild a depleted stock? Or when there are enough fish to go around? No. But they do, all the

time. And it's a problem, one that's not going to go away until we make some fundamental changes in our fishery management system.

Fox in the Hen House

Ever since the Magnuson-Stevens Fishery Conservation and Management Act set up the regional council system nearly three decades ago (1976), conflict of interest among council members has been a nagging problem. It's the proverbial fox in the hen house. Fishermen regulating themselves (albeit within certain guidelines), even when those regulations affect their income. Or that of their peers.

Here's the dilemma. Councils are responsible for setting the total allowable catch for each fishery and for divvying it up among the participants. As far as most fishermen are concerned, allocation is where management hits the water. When overall quotas are tightened up – to stop overfishing or speed recovery – the shares allotted to different sectors of the commercial fishery shrink. So do recreational bag limits. People get unhappy. Pressure builds to ease the pain. Fishermen on the councils, feeling their own pain or the pain of others, want to help.

“One of the easiest ways to reduce the pain of allocating a catch is to raise the size of the catch – to the detriment of conservation,” says Josh Eagle, Director of the Stanford Fisheries Policy Project. He's co-author of the 2003 study, “Taking Stock of the Regional Fishery Management Councils.” (<http://www.pewscienceseries.org>) He found that at least four out of five appointed council members represent fishing interests and nearly two-thirds have a direct financial stake in the fisheries they manage and regulate. He doesn't think it's a coincidence that a third of our fish stocks are currently depleted and overfishing is still going on in half of these fisheries, despite legal mandates to revive them as quickly as possible.

Neither does the United States Commission on Ocean Policy, which recently concluded that letting managers decide how many fish may be caught *and* who may catch them is a recipe for overfishing. “Social, economic and political considerations have often led the councils to downplay the best available scientific information, resulting in overfishing and the slow recovery of overfished stocks.”

The USCOP released its findings in a 500-page report in April (<http://oceancommission.gov>) Among the federal commission's 200 recommendations, covering all aspects of how we use and manage our oceans, is what I consider the most significant and achievable fisheries reform put forth – insulating science-based conservation decisions (how many fish are caught) from allocation-based fishery management decisions (who catches them where, when and how).

It's really a quite simple and straightforward way of dealing with conflict of interest on the councils. If you can't take the fox out of the hen house, remove the chickens!

The Time Has Come

The Pew Oceans Commission, whose own comprehensive report on reforming ocean policy came out a year before the U.S. Commission's, made a similar proposal. (<http://www.pewoceans.org>) Declaring that ecological sustainability must take precedence over short-term economic or political considerations, the POC called for separating conservation decisions from the councils' other management responsibilities.

People have tried to reform the councils before and failed. The industry-dominated bodies remain essentially what Congress created in 1976. Because of our politicians' love affair with the notion of councils made up of fishermen, every serious proposal for dealing with conflict of interest – even a modest rule requiring council members to sit out votes that impact their own pocketbook – has been rebuffed. But this one's different.

Two very distinct, and distinguished, panels – the Pew Commission is a privately-funded task force with strong ties to the environmental community, the U.S. Commission was mandated by an act of Congress (the Oceans Act of 2000) and assembled by the Bush Administration – are making basically the same demand for reform. That not only gives the idea of separation credibility, it means the political climate is finally right to actively pursue this change in the system.

At the heart of both proposals is letting appointed science bodies decide how many fish may be caught, leaving the eight regional councils to divide the catch among users, establish seasons and size limits, restrict gears, etc. The POC suggests giving the conservation decision to the National Marine Fisheries Service (NMFS), while the USCOP's plan would utilize re-configured versions of the councils' Scientific and Statistical Committees (SSCs). In either case, the councils would not be permitted to increase allowable catches above the level set by the scientific body (although they could be more conservative). Both commissions are urging Congress to codify this separation of responsibilities in the upcoming reauthorization of the Magnuson Act. (Congress has put any amendments to the Magnuson Act on hold until it has a chance to review the two commissions' reports.)

Separating conservation from allocation is not a new idea. It was first recommended in a 1986 NOAA Fishery Management Study. Like the Pew Commission, the NOAA Study recommended having NMFS establish allowable biological catches. At the time, my organization, the National Coalition for Marine Conservation (NCMC), proclaimed that "separating conservation and allocation decisions...if successful, could be the single most important achievement in the history of marine resource management."

Two NCMC board members served on that panel, Gerry Bemiss and Hal Lyman (then-publisher of *Salt Water Sportsman*). But that didn't prevent us from saying then that it wasn't such a good idea to give the conservation decision to NMFS. And we haven't changed our minds. The problem with having NMFS set catch limits is that the

agency is also charged with approving, implementing and enforcing all regulations based on that decision. There may not be an economic conflict, but the political conflict is obvious. If you don't believe me, consider the agency's record as judge, jury and executioner in managing Atlantic highly migratory species (tunas, sharks and billfish).

In fact, our original thinking on the appropriate science body was picked up by the USCOP. In August 1986, we urged "more thorough consideration to other possible arrangements for assuring that conservation based on scientific principle is given top priority in the setting of acceptable catch levels. For instance, the Councils own scientific advisory committees (the SSCs), which incorporate the expertise of the NMFS research centers, state and university biologists, and Council staff, could be formalized as the conservation decision-makers and their recommendations on acceptable biological catches made binding on the Councils."

But precisely how best to insulate biological decisions from politics is a fair subject for debate. I'd say if we can get Congress past the point of accepting the idea of separating conservation from allocation, and then on to debating the best process for ensuring the integrity of the science, then we're halfway home already.

Far-Reaching Benefits

The case for separation is compelling because it could have far-reaching benefits, now and in the future. First, it addresses the age-old conflict between sustaining fish populations and maintaining catches, in the following ways:

- It would protect the quality and credibility of peer-reviewed scientific decisions by removing social and economic considerations from the process of setting of allowable catches.
- It would minimize conflicts of interest on the regional councils - at least as they relate to setting total allowable catch, the most critical conservation decision - without substantially revamping council membership.
- It uses existing management bodies, instead of creating new layers of bureaucracy, since it means a shifting of responsibilities within the current structure.
- It streamlines the decision-making process, making it simpler and more efficient at both ends. With the fish taken care of first, the councils can take care of the business of "managing" fishermen.

Protecting science from politics is also vital to meeting the challenges of the future, namely the incremental move into ecosystem-based fisheries management and planning to create more sustainable and manageable fisheries as we restore our fish stocks to healthy levels.

The need to insulate science-based decisions from allocation pressures is, if anything, even more pronounced as we try to balance the needs of predators and prey (e.g., cod & herring, striped bass & menhaden), which is by its very nature more complex, more uncertain, and more dependent on sound scientific advice founded in

the precautionary approach. The trade-offs that must be considered, and thus the potential for conflicts of interest, will involve not just fishermen competing within the same fishery, but all those fishermen competing for fish within the same food web!

A council member, skeptical of the whole separation thing, asked me, If you remove quota setting, what will we (the councils) do? As if council members really are foxes in a hen house, and they're only in there to get all the chickens they can. As if deciding what our fisheries will look like in the future; who will fish and how; and to what purpose; isn't just as important as making sure the fish are there to sustain us.

I've always opposed suggestions of scrapping the council system, in favor of some supposedly non-conflicted government regulatory body. The truth is, fishermen *can* make good managers. Some councils are significantly more conservation-oriented than others. And some fishing representatives on some councils can be counted on to support conservation. You can't characterize whether a council member is good or bad for the fisheries based on what he or she does for a living. You just can't.

I guess that's why the commissions' solution appeals to me. It recognizes what's not true about our notions of fishermen as fishery managers, while preserving what is. Managing fishing and fisheries (as opposed to conserving fish) is a task well suited to regional councils that have the active participation of recreational and commercial fishing interests as well as other members of the public. We just need a much better balance of interests, is all.

The US Commission on Ocean Policy agrees, so I'll give them the last word. "The role of scientific information should be as strong as possible in fishery management," they stress, "and subject to the least possible political influence." Still, "while determining the allowable biological catch is a scientific question, it must be informed and guided by long-term objectives set by managers for both the fishery and the ecosystem."