



THE NCMC

MARINE BULLETIN

Published By
NATIONAL COALITION FOR MARINE CONSERVATION
3 West Market Street, Leesburg, Virginia 20176

January-February 1999

No. 82

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THE NCMC OCEAN VIEW

END OF THE LINE

Isn't this the time now to follow what I know to be true? -

Jack Kerouac

Non-selective longlining has plagued the conservation of large pelagic fish for over two decades. Without some means of disarming these underwater minefields - multi-mile, multi-hook lines that remain in the water 12 hours or more, catching and killing indiscriminately - we cannot restore overfished swordfish, marlins and sharks to healthy, sustainable population levels.

Fishermen using longlines are regulated, but longlining has so far eluded any effective form of management. *Is the gear even manageable?* The inescapable truth is -- no. That's not just our opinion. Federal fishery managers agree, and produced a 1,500 page report that proves it.

We did our own study, Ocean Roulette, wherein we looked at every possible option for making longlines less lethal; by avoiding unwanted catch or, failing that, increasing the chances of survival for the unlucky, accidental victims. The National Marine Fisheries Service, in its draft Billfish and Highly Migratory Species Plans, undertook a similar exercise. But whereas we made good faith recommendations for bringing this pervasive problem under control, NMFS simply throws in the towel.

The fact that nowhere in this hefty document are there any substantive measures to minimize longline bycatch speaks volumes. Every option that would put a real dent in the wasteful killing of immature swordfish, marlins and pelagic sharks is summarily dismissed - because it won't work, needs more study, or would make fishing with longlines less profitable. Yes, longlining is unmanageable, NMFS seems to be saying, but we're willing to live with it.

Well, we're not. So where do we go from here? The plans aren't final yet. We did persuade NMFS to propose closing one (token) swordfish nursery area in the Florida Straits and deduct dead discards from commercial quotas. These measures amount to a band-aid on a gaping wound, but there is a chance we can get the agency to do more.

And if NMFS doesn't? Either way, we're at the end of the line. We've paid our dues, working through the system for 20 years. We worked to make it a requirement that all fishery plans minimize bycatch, and performed a comprehensive study showing how to do it for longlines. It's time, now. There is only one other option left. Legislation to prohibit the use of pelagic longlines in U.S. waters of the Atlantic. If that's what it takes, we will do all we can to make it happen. And we will not be alone.

Ken Hinman, President

NATIONAL COALITION FOR MARINE CONSERVATION

Founded in 1973

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The NATIONAL COALITION FOR MARINE CONSERVATION is a 501(c) non-profit organization dedicated to the following 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 coastal habitat and water quality.

THE NCMC MARINE BULLETIN

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COUNCIL PUTS SARGASSUM OFF LIMITS

*NO MORE "HARVESTING"
OF FISH HABITAT AFTER 2000*

To protect sargassum weed as essential habitat for a variety of fish and other sea life, or to manage it as a renewable resource in its own right - that was the unusual question before the South Atlantic Fishery Management Council at its December meeting. The Council's answer? End all commercial harvesting of sargassum. It's a decision the National Coalition for Marine Conservation supports and one that could help conserve many pelagic species.

Sargassum weed, a brown algae that forms "floating gardens" in the tropical western Atlantic, occurs in greatest abundance in an area of the mid-Atlantic Ocean as large as the United States mainland called the Sargasso Sea. Concentrations are also found on the continental shelf off the southeastern U.S., where the convergence of surface currents holds the seaweed in large aggregations until these eventually drift into the Gulf Stream or come ashore.

Sargassum weedlines are dynamic, always moving and changing, yet they provide structural habitat for a wide range of fish and other marine animals that depend on them for food and shelter in the otherwise inhospitable open sea. Sargassum may support as many as 100 species of fish, in addition to sea turtles and pelagic birds. Swordfish, dolphin-fish and wahoo feed on the myriad organisms living in fields of sargassum and may breed there, too. It acts as a nursery for the young, including eggs and larvae, of many fish and crustacean species, which cling to the floating weed cover for protection.

Commercial harvest of sargassum is not big business - yet. The Japanese are reportedly dragging nets in the Sargasso. Closer to home, at least one outfit, based in North Carolina, harvests sargassum in U.S. waters. Substances extracted from the weed are used in livestock feed. Although the current harvest is small, hundreds of conservationists and fishermen let the South Atlantic Council know of their concern that continued or increased harvest may threaten species that live in the sargassum - either by taking them as bycatch in the small mesh nets used to collect the weed, or by destroying their habitat.

Sargassum is "Essential Fish Habitat"

On December 2nd, the council, which has identified sargassum as "essential fish habitat" for several species of fish under its jurisdiction, voted to adopt a Sargassum

Fishery Management Plan to prohibit harvest of sargassum. Under the plan, a 50,000 pound (wet weight) harvest will be permitted by the single U.S. operation during the next two years. All waters south of the North Carolina/South Carolina border and within 100 miles of shore everywhere else will be closed to sargassum harvest effective this year. After January 1, 2001, absolutely no commercial harvest of sargassum in U.S. waters of the Atlantic will be permitted by anyone.

Although the NCCM had urged the council to prohibit all harvest immediately, we applaud the council for acting swiftly to head off any expansion of this "fishery" in the short-term while providing badly needed long-term protection. In our comments to the council, we emphasized the need for strong U.S. action to serve as a springboard for protecting sargassum as essential habitat on the high seas. This argument influenced the council's decision, according to council sources.

Without question, the biggest threat to this unique fish habitat is in the Sargasso Sea, where vessels can mine the weed in huge quantities with impunity. Reports of increasing harvests by foreign vessels on the high seas, although as yet unsubstantiated, are getting more frequent. Following on the new conservation initiative at home, the U.S. Commerce Department, after moving quickly to implement the Sargassum FMP, should begin working with the State Department to seek international support for making the Sargasso Sea a marine protected area, where no harvesting is permitted.

THE YEAR LOOKED GOOD ON PAPER

*Councils, NMFS Miss the Boat on SFA
Changes, Report Charges*

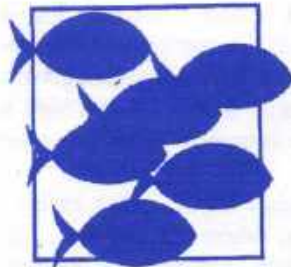
The Marine Fish Conservation Network, a coalition of over 80 leading environmental groups, recreational and commercial fishing associations, and marine scientists, has called on Secretary of Commerce William Daley to repair or reject fishery management plans (FMPs) which do not measure up to new mandates to conserve the nation's ocean fisheries.

According to a report released by the Network in January, virtually all the FMPs developed by the eight regional fishery management councils and, in the case of Atlantic billfish and tunas, the National Marine Fisheries Service, fail to fully satisfy the requirements of the 1996 Sustainable Fisheries Act (SFA), whose goals are: to stop overfishing immediately; rebuild overfished populations as rapidly as possible; minimize bycatch to the extent practicable; and protect essential fish habitat, including from destructive fishing gear.

The SFA gave the councils until October 1998 to rewrite the 39 existing FMPs and prepare new ones where

necessary. The Network evaluated those plans submitted by the deadline or shortly after.

"The SFA clearly called for a sea-change in the way our fisheries are managed," said Ken Hinman, NCMC President and a co-chair of the Network. "Instead, what we're getting is mostly business as usual. That's not what Congress intended, and it's not acceptable. If Secretary Daley accepts these plans as submitted, many of our fisheries and a majority of fishermen will continue to suffer - it's that simple."



The Marine Fish Conservation Network

The report, entitled "Missing the Boat" and published by the Network and the Center for Marine Conservation, recognizes and applauds progress made by the councils in some areas. But the report criticizes the eight regional councils and NMFS for 1) uniformly failing to develop plans to minimize bycatch; 2) failing to mitigate the harmful effects of fishing, such as bottom trawls, on marine habitat; and 3) in nearly every case, choosing the longest rebuilding periods permitted by law when faster recoveries are possible. In doing so, a number of plans allow overfishing to continue in the short-term.

Too often, the Network evaluation concludes, the councils and NMFS settled for incremental improvements where substantial changes are warranted. They responded by doing at best, the minimum they could get away with, and at worst, making little or no effort to meet the new requirements.

Secretary Daley must decide within 90 days from date of submission whether to accept these plans - in whole or in part - which were intended by Congress to serve as the roadmap for restoring the nation's marine fish.

"We're holding fishery managers to a high standard, because of the urgency of the problems facing our fisheries and the clear intent of the SFA to turn things around once and for all," said Hinman, who spoke for the Network at a January 13th press conference in Washington (page 9). "We expect Secretary Daley to do his job and demand that those plans or parts of FMPs which do not meet federal mandates be strengthened to comply with the law."

The Marine Fish Conservation Network united in 1992 to seek reform of America's fishery management laws, an effort that resulted in passage of the landmark SFA. The Network re-united in 1997 to ensure strong and effective implementation of the new law.

CAMPAIGN URGES PACIFIC BAN ON SHARK FINNING

Groups Unite Behind NCMC's Call for Action

Last November, the National Coalition for Marine Conservation asked the Western Pacific Fishery Management Council to head off the skyrocketing take of sharks in the tuna and swordfish longline fisheries based out of Hawaii. NCMC urged the council to implement a two-tiered precautionary plan: 1) establish conservative catch quotas for commercial and sport fishermen, set at 1993-94 levels, until the impact of increased fishing on Pacific sharks is better understood; and 2) outlaw the finning of sharks. Our request was quickly endorsed by the Ocean Wildlife Campaign and other environmental groups.

Sharks are fished for a variety of human purposes, including meat for protein, liver for rich oil used in cosmetics and medicine, cartilage as an alleged cure for cancer and arthritis, hide for "leather" goods, teeth and jaws as souvenirs and jewelry, eyes for experimental cornea transplants, and other parts for medical research. The most valuable part of the shark, however, is its fins.

"The lucrative trade in shark fins is one of the leading causes of shark overfishing and steep declines in shark populations all around the world," notes Christine Wilkins, who is spearheading an NCMC campaign to educate the public on the shark-finning threat (page 10).

Because a shark's fins are worth so much more than the meat and other parts, and sharks are typically caught accidentally in fisheries aimed at other species, fishermen often take only the fins to save freezer space for the carcasses of more valuable fish. Shark fins from the U.S.



are exported to the Asian market for use in shark fin soup, a delicacy that can fetch over US\$100 a bowl. "Finning" is the cruel and wasteful practice of cutting the fins off a shark, often a live one, and throwing the animal back in the water to die of suffocation, starvation or predation. The practice of finning is illegal in federal waters (3-200 miles

offshore) on the U.S. east and Gulf coasts. However, it is still permitted in some east coast state waters and off the U.S. west coast and Hawaii (except California).

Sharks Are Killed for their Fins Alone

The status of many shark populations in the Pacific is not widely known, but the NCMC is taking steps to prevent the devastating population declines caused by overfishing in the U.S. Atlantic from happening in the U.S. Pacific. Our request that the panel responsible for conserving sharks, the Western Pacific Council, act quickly to prevent overfishing, was seconded by other conservation organizations, including members of the Ocean Wildlife Campaign, as well as Salt Water Sportsman magazine. With the help of its allies, NCMC is pushing to get these precautionary measures adopted.

In addition, the Ocean Wildlife Campaign, of which NCMC is a partner, is organizing a scientific workshop to assess pelagic shark stocks in the Pacific.

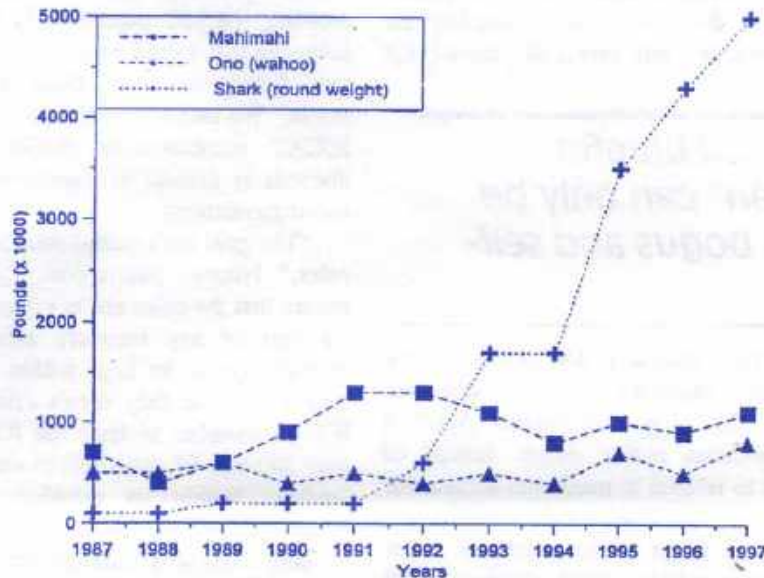
"As NCMC has requested, we urge the council to take action...to prohibit finning and adopt precautionary measures necessary to prevent overfishing of Pacific sharks," the conservation groups, among them the American Oceans Campaign, World Wildlife Fund, National Audubon Society and Center for Marine Conservation, wrote on December 1st. "We share NCMC's concern over the 22-fold increase in shark landings by Hawaii-based tuna and swordfish longliners from 1991 to 1996, as well as the report that ninety-nine percent of these sharks were landed for their fins alone. Fisheries statistics for 1998 reveal that longliners under your council's jurisdiction finned nearly 15,000 sharks from July through September alone and kept only 173 sharks of the more than 22,000 caught."

The majority of sharks caught as bycatch in the Hawaiian long-line fisheries are blue sharks, although other species - mako, thresher and white tip - are taken as well. Although there is no evidence of overfishing yet, NCMC believes the council cannot wait for that evidence to come in. Overfishing of sharks is certain to occur if demand remains high in the absence of any constraints on fishing.

"We reiterate NCMC's assertion that sharks (even the more prolific blue sharks) warrant a particularly cautious management approach," the environmental groups wrote. "Our organizations support this approach and echo NCMC's call for precautionary, conservative Pacific shark quotas."

NCMC commends the Western Pacific Council for its work to improve regional efforts at data collection and conservation throughout the western and eastern Pacific, where it shares jurisdiction of wide-ranging sharks with the Pacific (west coast) Council. Recently, the National Marine Fisheries Service proposed a new system for coordinating multi-council management of Pacific highly migratory species under the Magnuson Act. One of the recommendations that came out of the NCMC's 1996 symposium on Pacific fisheries

TRENDLINES - Hawaii Commercial Shark Landings (WesPac)



was for the councils and NMFS to work out a joint process for cooperative monitoring and management of shared fisheries. Such a collaborative effort would not only ensure timely action to protect these valuable resources throughout the U.S. exclusive economic zone, but also allow for more consistent and focused U.S. initiatives at the international level.

ICCAT ADOPTS BOGUS TUNA RECOVERY PLAN

U.S. Fails Swordfish, Too

The November 1998 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) has gotten decidedly mixed reviews. It was either a big success or a major setback, depending on how you look at it. In our view, the bad vastly outweighed the good.

The United State's top priority going into the meeting, which it achieved, was to get European members of ICCAT to agree to lower their catch of bluefin tuna and accept quota penalties to make up for past violations of fishing agreements. The U.S. government rightly describes the prospect of improved compliance in the eastern Atlantic as a

critical step in halting years of unrestrained overfishing by our European partners, even though catches will remain above sustainable levels for the foreseeable future.

At the same time, unfortunately, the U.S. government bought into a so-called "20-year recovery plan" for severely overfished bluefin in the western Atlantic that can only be described as bogus and self-defeating. Since 1981, when ICCAT instituted the first bluefin conservation measures, the commission identified the population level of the mid-1970s as its rebuilding goal. But the commission voted this year to lower that target by half; a cynical move designed to accommodate the U.S. and Japan's desire for an immediate quota increase. Canada, the third country sharing the western catch, initially resisted but eventually joined the charade.

ICCAT's so-called bluefin "recovery plan" can only be described as bogus and self- defeating.

Although U.S. assistant secretary for oceans Terry Garcia claims all this is "consistent with our domestic rebuilding objectives in the Magnuson-Stevens Act," it actually turns those objectives upside down. Instead of lowering catches in order to rebuild to maximum sustainable yield (MSY) within 20 years, the bluefin plan establishes a new, vastly lower MSY in order to keep catches about where they are. The action raises serious concerns about prospective rebuilding plans for swordfish and marlins, which ICCAT intends to adopt in 1999 and 2000, respectively.

U.S. Swordfish Bycatch Is A Compliance Issue

In another bit of cynical posturing by the U.S. delegation, we failed to seek an agreement to deduct dead discards of swordfish from country quotas. A major obstacle to stopping overfishing is the bycatch of fish below the ICCAT minimum size. Since 1992, the U.S. longline fishery has killed and discarded 30,000-40,000 juvenile swordfish each year, over and above what they are allowed to land. Without needed measures to reduce this wasteful bycatch, such as closing nursery areas and modifying fishing practices, the failure to count this additional source of mortality against the allowable catch will further stall the comeback of swordfish.

The U.S. Fishery Management Plan for Highly Migratory Species, drafted by the National Marine Fisheries Service, does propose addressing the swordfish bycatch problem by counting discards against landings quotas. The NCMC advocated such a policy as an incentive to reduce bycatch, since each pound of fish discarded would mean a pound that could not be landed and sold. But counting discards is *not* a substitute for measures to avoid longline

bycatch, such as area closures, or to reduce bycatch mortality, such as shorter lines and soak times. Moreover, to deduct discards from swordfish quotas, according to NMFS, the U.S. first must get ICCAT approval.

But the U.S. delegation declined to raise the issue at the recent meeting. Government spokesmen say it has to wait until 1999, when the ICCAT swordfish program will be reviewed. The 1998 agenda, they contend, was devoted to bluefin tuna and to improving compliance with existing regulations, namely excessive landings by other countries.

"Swordfish bykill is a compliance issue," counters NCMC president Ken Hinman. Before the November meeting, NCMC presented U.S. delegates with proposed language that would encourage all ICCAT members to keep total fishing mortality, from all sources, within set quota levels. We met with and explained to Garcia and head U.S. ICCAT commissioner Rollie Schmitt that reducing discards is critical to improving compliance with ICCAT recommendations.

"The goal isn't compliance for the sake of just following rules," Hinman points out. "Rather, the real goal is to ensure that the rules are as effective as they are meant to be. As part of any recovery effort, for any species, total mortality must be kept within the prescribed limits, i.e., quotas, or else they aren't effective. Whether or not an ICCAT member violates the ICCAT agreement and lands, say, 500 tons of swordfish in excess of its quota, or it keeps landings within its established quota but discards an additional 500 tons of dead swordfish, the result is the same - both seriously undermine the effectiveness of the conservation measures."

NAS GIVES GREEN LIGHT ON IFQs *But Let's Move Slowly on Exclusive Fishing Rights*

The National Academy of Sciences (NAS) has unequivocally recommended the U.S. lift its moratorium on using Individual Fishing Quotas to manage ocean fisheries. IFQs allocate exclusive shares of a fish catch to individual fishermen or vessel owners in a manner that bestows on them a form of ownership. Supporters of IFQs say having a tangible stake in a fishery provides an incentive for fishers to be better stewards of "their" resource. Critics counter that it's wrong to turn natural resources belonging to everyone over to a select few for private gain.

Because of the controversy and confusion over how drastically IFQs would change the fisheries landscape - for better or worse - Congress voted in 1996 to impose a four-year "time out" (several programs were already in place and they were allowed to continue). The esteemed NAS was called on to assemble a panel to evaluate the pros and cons

of the new approach. The Academy's long-awaited report, including recommendations for a national policy on implementing IFQs, was delivered to Congress in January.

The moratorium is slated to expire in October 2000 and, according to the law, any IFQ programs prepared from that point on must consider the Academy's recommendations. However, Congress could choose to extend the moratorium if it senses the public is still uneasy about the whole idea. Indeed, adopting the NAS report as national policy on privatizing marine fisheries is by no means automatic - the issue undoubtedly will be debated again during the next Magnuson Act reauthorization (beginning this year).

On the other hand, some members of Congress, on behalf of fishing industry constituents who would benefit from IFQs, are reportedly anxious to turn the NAS recommendation into a bill to end the moratorium right away. The most likely course of legislative action would be a "rider" attached to an omnibus appropriations bill this summer. We'll be watching for it.

Protect the Public Interest

Why should NCMC members care where this debate ends up? Think of it this way. Do you want members of regional management councils, many of whom are representatives of narrow fishing interests, deciding who gets exclusive rights, worth millions of dollars, to fish that belong to all of us? Despite the potential benefits of reducing overcrowding and derby-style fishing, the driving force behind IFQ systems is economics, pure and simple. Will the benefits to conservation merely be an afterthought?

Five years ago, in the midst of the last Magnuson Act reauthorization, the NCMC presented its own analysis of IFQs, entitled The Crowded Sea. We made several recommendations, beginning with a temporary moratorium until Congress establishes a national policy which, among other things, lays out specific guidelines for protecting the public interest in marine fisheries. The NAS report moves this process along, but we are not there yet. NCMC also recommended changes to the Act that must be part of any privatization scheme. First, we should eliminate conflicts of interest among regional council members with a financial stake in the fisheries they oversee. Second, Congress should give the Commerce Department authority to levy fees on fishermen to cover the costs of research, data collection and enforcement, including at-sea observers.

Congress should not prematurely end the moratorium. The intent three years ago was to revisit this issue during the upcoming reauthorization. We do have a management system in place and, although it's not all it could be, we will lose little by moving cautiously on this issue. IFQs are not going to single handedly solve our most pressing problem -- overfishing. Privatizing public resources is serious business, and the country as a whole, through a full and open dialogue, should have the opportunity to decide if, and then how, it is to be done.

NOTES FROM UNDERWATER

BUY OUT, BAIL OUT, COP OUT

At a meeting last year of the NMFS highly migratory species advisors, the panel never got around to talking about ways to reduce longline bycatch. It was put at the end of the two-day agenda, following a long discussion on limited entry, and time ran out. This scheduling decision was a subtle but telling reminder that NMFS sees the longline industry's priorities as its own.

In the draft plan for Atlantic highly migratory species are proposals to limit entry in the commercial swordfish and shark fisheries. In addition to reducing excess fishing capacity by eliminating inactive boats, the plan is also setting the stage for a future government buy-out of vessels that can't, or don't want to, continue in these failing fisheries. The longline industry, which holds virtually all the swordfish and most of the shark permits, is already naming its price, according to internal memos obtained by NCMC, and it ain't cheap.

Some opponents of longlining feel the price is worth paying. If we can't manage the longliners, maybe we *should* pay them to go away. If you can't stop people from robbing banks, you could always give them the money and ask them to please do something else.

Vessel buy-backs, a form of economic aid, are legitimate in the event of environmental disasters or government malfeasance. But swordfish and shark fishermen brought their problems on themselves. They may think they're victims, but they're not.

On the other hand, we aren't naive. Commercial fishermen, like farmers, are treated differently than the rest of us when they make bad business decisions. Hog farmers got piggish and upped production anticipating continued high pork prices in 1998, then ate huge losses when the market slipped. The government recently bailed them out to the tune of \$50 million.

A longline buy-out would be a last resort, an admission of failure. Thus, it must be packaged as a final solution. Remove all the longliners, not just the marginal players who'd go under soon anyway. Retire the vessels, not just the permits. Recoup any taxpayers' costs from the fishery as it rebuilds. And make long-term management changes that will not allow a replay in the future, when the stocks return.

NMFS BANS DRIFT NETS

Bycatch Too High

The National Marine Fisheries Service announced on January 26th that the use of drift nets is now prohibited to catch North Atlantic swordfish. In making its decision, one long advocated by the NCMC, NMFS stated that the drift net fleet, though relatively small, catches an excessive amount of bycatch, notably marine mammals.

Large-scale drift nets, some stretching 40 miles or more, were banned worldwide by 1993 because of their extraordinary bycatch of marine mammals, seabirds, and non-target fish. Under international agreement, however, fishermen could continue to use nets up to 1 1/2 miles in length. Even though such small-scale drift nets exhibit bycatch rates per mile of net similar to the outlawed "walls of death," U.S. fishery managers have permitted their use to target swordfish and sharks on both the east and west coasts.

In 1998, the Atlantic swordfish fishery operated for only two weeks before it was shut down by NMFS due to high catches of marine mammals and sea turtles. In just 106 sets, 295 marine animals were reported entangled in the nets, which drift suspended into the water column to ensnare passing fish.

A 1996 task force made up of government officials, industry representatives and environmentalists had been charged with coming up with ways to avoid this bycatch. It submitted several recommendations to NMFS. But these were ultimately rejected as too costly to implement and of doubtful effectiveness. The conclusion: Drift nets are unmanageable.

What About the Pacific?

The U.S. drift net fishery off southern California targets thresher and short-fin mako sharks as well as swordfish. This fishery was spotlighted by the Ocean Wildlife Campaign and American Sportfishing Association at a joint press conference a year ago ("Ending the Senseless Slaughter At Sea," *Marine Bulletin* No. 80), when clandestine video taken aboard a drift net boat showed, among other things, numerous blue and striped marlin being caught and discarded at sea, along with dozens of unwanted sharks.

But like in the Atlantic fishery, bycatch of marine mammals, including dolphins and whales, has brought the most scrutiny to this California fishery, which is composed of about 100 vessels. One independent study of catch records showed that, from 1991-95, 2,261 dolphin and whales, 1,039 sea lions and seals, and 93 sea turtles were inadvertently ensnared and killed.

The drift net fishery occurs in federal waters, but the Pacific Fishery Management Council, which has jurisdiction over swordfish and other pelagic species off California, Oregon and Washington, has never put together a large pelagics management plan. NMFS, on the other hand, could step in to regulate this fishery, on the grounds that it impacts protected species (i.e., mammals).

A marine mammal take-reduction team's recommendation to put "pingers" in the nets to ward off



Artwork for NCMC by Suzanne Devall

whales and dolphins is being tried on an experimental basis, with some reduction in encounters, according to fishermen in California. Such devices, however, do not reduce entanglements with non-target sharks, marlin and other fish.

In the Pacific, there is a non-selective alternative to using drift nets: harpoons. The Pacific swordfish stocks are still fairly robust, with larger fish available, making the surface hunting technique used by harpooners viable in a way it no longer is off the east coast, where few large fish are found.



TURNING THE TIDE

NCMC News & Activities

NCMC WORKS TO BRING BACK THE BIG FISH!

In response to unbalanced and inadequate government proposals to restore populations of billfish, swordfish, sharks and tunas, and in particular the failure to effectively address longline bykill of these and other ocean fish, the NCMC has launched a major new campaign in 1999, entitled *Bring Back the Big Fish!*

We have already sent an NCMC Action Alert to our members, as well as fishing clubs and other groups of concerned anglers, to get as large a turnout as possible at public hearings during February and as many letters and phone calls as we can generate in support of stronger conservation plans.

BRING BACK THE BIG FISH!

The NCMC is submitting detailed written comments on the draft plans before the March 4th deadline for public comment. We are working with our allies in the Ocean Wildlife Campaign, the Marine Fish Conservation Network and the Give Swordfish A Break campaign to keep the issue in the press and in front of the public until the plans are finalized. We're informing members of Congress and the Administration about the need for strong U.S. rebuilding plans and helping environmental attorneys identify possible violations of Sustainable Fisheries Act requirements. We will be working with U.S. officials to pursue strong measures internationally, too. Thanks to every one of you who've made special contributions to this important effort!

CONSERVATION NETWORK CALLS ON DALEY TO DO HIS JOB

NCMC President Ken Hinman, a co-chair of the Marine Fish Conservation Network, was a principal speaker at the Network's press conference January 13th at the National Press Club. (page 3) The following is excerpted from his opening remarks.

"The Marine Fish Conservation Network came together in 1992 as an unprecedented alliance of fishermen and conservationists, scientists and educators, concerned citizens and consumers, with a single purpose: to protect something very precious to us all - our marine heritage, our sport and commercial fishing industries, our choices as consumers.

"Years of overfishing, habitat loss and short-sighted management have threatened to take all that away. The National Marine Fisheries Service recently reported that 90 species of fish are overfished and another 10 are approaching that condition - that's 1/3 of those populations whose status we know. The condition of another 544 species is unknown - 'accidents waiting to happen.'

"But in 1996, Congress responded to this threat by passing the Sustainable Fisheries Act, landmark reforms to our national fishing laws which called for no less than an about-face in the way we manage our ocean fisheries. Strict new standards were set: to end overfishing, rebuild collapsing fisheries, clean up wasteful fishing practices and preserve marine habitat. The result of these changes, if implemented, would be: more fish in the water, better fishing, more jobs and more fish available to the public.

"Unfortunately, we're here today, more than two years after passage of the Sustainable Fisheries Act, after the October 1998 deadline for re-writing all fishery management plans - 39 FMPs in all - has come and gone, to report that the sea-change called for by Congress and so desperately needed to save our fisheries for the future is not happening. Instead, what we're getting is too much business as usual. That's not what Congress intended and it's not acceptable.

"Members of the Marine Fish Conservation Network have carefully evaluated these fisheries plans. And while some progress has been made in some areas, overall, they do not measure up well. They allow overfishing to continue for too long. They uniformly fail to minimize bycatch or the effects of destructive fishing gear on essential habitat.

"If these plans and others are allowed to stand as submitted, these failures will have real consequences for real people - fishermen, coastal communities, consumers - consequences the SFA was meant to avoid.

"Today, we sent a letter to Secretary of Commerce William Daley calling on him to repair or reject fishery management plans that do not fully satisfy the new mandates to conserve America's fisheries. It is the Secretary's responsibility to hold these plans to a new and higher standard. There's too much at stake to do any less. We expect Sec'y Daley to do his job and demand that those plans or parts of plans that do not meet conservation mandates be strengthened to comply with the law.

"Here in the second week of a new year, already resolutions made with the best intentions are being abandoned, with much regret but rationalized with, well, we tried. Trying isn't good enough. We're here to urge the Secretary, and everyone else with a stake in the future of our ocean fisheries, to leave our regrets in the past, to keep our national resolution, made in 1996, to be well on the road to achieving sustainable fisheries beginning in 1999. That's where we should be right now, and that's where we should be going."

HINMAN NAMED TO DOLPHIN ADVISORY PANEL

The South Atlantic Fishery Management Council on December 3rd appointed NCMC president Ken Hinman to serve as the conservation representative on the council's new Dolphin/Wahoo Advisory Panel. The appointment comes in recognition of NCMC's role in promoting conservation of dolphin in the face of increasing fishing pressure. The panel is scheduled to meet in June to help the council develop options for a new Dolphin/Wahoo Fishery Management Plan.

NCMC SHARK POSTERS RAISE AWARENESS

As part of our efforts to raise awareness of the threat increased shark finning poses to the populations of these magnificent predators in the Pacific, the NCMC is offering three posters for sale, each featuring photographs from Doug Perrine's collection. All proceeds from sale of the posters go toward our programs to protect sharks. (Printing costs were covered by a generous grant from The Henry Foundation.) The posters are \$5 each for members (\$8 for non-members) and a set of three for \$15 (\$21 for non-members). Price includes shipping. You can view the posters on-line at <http://www.elasmo.org/finning.htm>, or in the January issue of *Ocean Realm* magazine.

COUNCIL ASKS FOR EMERGENCY HELP FOR DOGFISH

In the last *Marine Bulletin* we reported that the government had added spiny dogfish to the overfished list and that NCMC had joined other conservationists in urging fishery managers to move rapidly on a rebuilding plan for these vulnerable sharks. On February 3rd, at a meeting attended by NCMC, the Mid-Atlantic Council approved a plan designed to rebuild dogfish populations in 10 years – but only if it is implemented this year. There is risk of stock collapse, according to council scientists, if strong action isn't taken soon. In a move supported by NCMC, the council asked the Secretary of Commerce to make interim or emergency closures in the fishery this year, while the bureaucratic wheels grind out a final rule.

NCMC ATTENDS HMS POW WOW IN NJ

NCMC was invited to attend a strategy session on highly migratory species management hosted by the Jersey Coast Anglers Association December 3rd in Seaside, New Jersey. Ken Hinman spoke to the group on the implications of proposed federal regulations for billfish and swordfish. The meeting was attended by representatives of recreational fishing groups from the mid-Atlantic region. Congressman Jim Saxton (R-NJ), chair of the House Fisheries Subcommittee, spent the afternoon with the group discussing how Congress can help improve NMFS management of highly migratory species.

A GREAT BIG THANK YOU!

The NCMC wishes to thank all our members and supporters who gave generously in 1998. The following individuals, corporations and foundations merit a special mention for their generosity.

Grants

Curtis & Edith Munson Foundation. To conserve Atlantic highly migratory species.

Mostyn Foundation. To conserve billfish and other large pelagics.

The Pew Charitable Trusts. Participation in the Ocean Wildlife Campaign.

Henry Foundation. Posters on Shark Finning.

We also wish to thank the following foundations for their combined support of the Marine Fish Conservation Network: **The Homeland, Henry P. Kendall, Curtis & Edith Munson, David & Lucille Packard, Surdna and Turner Foundations, the Pew Charitable Trusts and the Rockefeller Brothers Fund.**

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THE NCMC

MARINE INDEX

WHAT'S UP, D.O.C? Need a reminder that the National Marine Fisheries Service is part of the Department of Commerce? Read the fishery management plans for Atlantic highly migratory species. Of all that is wrong with these plans, nothing is more mystifying and infuriating than the blatant bias in favor of commercial fishermen. The plans fall way short of what is needed to conserve swordfish, marlin, tunas and sharks, and of what the Sustainable Fisheries Act (SFA) requires. But NMFS/DOC compounds its disregard for conservation with a slap in the face to recreational fishermen. It's all the more galling since the mantra coming out of the agency - no, let's be blunt; the excuse for not more stringently regulating U.S. commercial fishermen - is fairness. We mustn't "disadvantage" our fishermen *vis a vis* the fleets of other nations by holding them to a higher standard, like that set out in the SFA. U.S. landings, they point out, are a small part of the total catch Atlantic-wide. So what does the agency do? Recommends tighter controls on sport fishing, which is a small part of the overall U.S. effort, with almost no new restrictions on commercial fishing (sharks being the lone exception). Fairness? It is, in the words of William Shakespeare, "Like a fair house built on another man's ground." If this sounds crazy, it is - like a fox. NMFS has created a straw man for angry sport fishermen to beat up on; measures it can withdraw, without having to deal with the real conservation issues, which would mean tougher limits on commercial fishing. Meanwhile, the agency moves one step closer to its goal -- putting management completely under the control of ICCAT, where NMFS can't be blamed for the management measures in place or criticized for not adopting tougher ones.

MARLINS



Anglers kill 5% of white marlin and 15% of blue marlin taken in U.S. waters. The rest are killed as bycatch by American longliners (page 12). NMFS would lower the rod-and-reel catch by another 30-40%, while doing absolutely nothing to reduce bykill. There's more. A 10-year rebuilding plan, which NMFS says it will seek through ICCAT, would require a further cut of 48% in white marlin landings, bringing the U.S. angling allowance down to a little over 1 ton (maybe 50 fish). Under the NMFS plan, the longline bykill of white marlin will remain unregulated; it was 69 tons in 1996.

SHARKS



Large coastal sharks are the only fish that would benefit from the NMFS plan, which makes big reductions in catch on both the sport and commercial sides. But what's with prohibiting anglers from keeping any large or small coastals, while allowing commercial fishermen to land and sell up to 1,282 tons a year? Sure, many sportfishing groups say they're prepared to go all catch-and-release to restore the stocks, but not so that commercial shark fishing, which caused the problem in the first place, can continue.

TUNA



Figure this one out. Throughout the HMS plan, NMFS frets about commercial effort shifting from swordfish and sharks to yellowfin, which is approaching an overfished condition. So what does NMFS do? Limits sportsmen to 3 yellowfin tuna per trip. Not unreasonable, maybe, until you discover there are absolutely zero limits on commercial fishermen, who land about half the U.S. tuna catch.

SWORDFISH

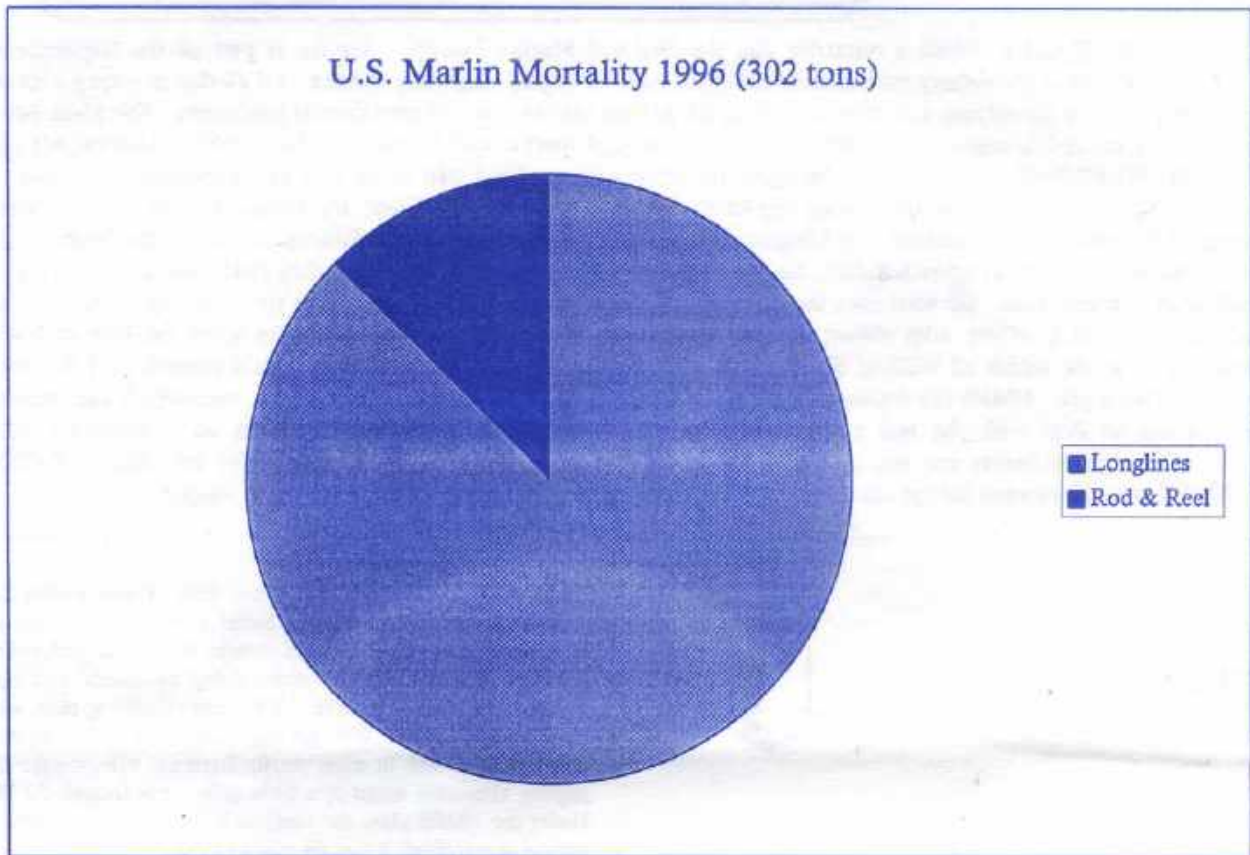


The only thing NMFS proposes doing to deal with the excessive bykill of juvenile swordfish is deduct dead discards from commercial quotas (page 6). To enforce such a rule, we'd need a lot more than the measly 4% observer coverage of the swordfish longline fleet. Oh, NMFS would require more observers, all right -- on charter boats. Arghh!!

CLEAR TOPPER

ONE PICTURE IS WORTH A THOUSAND WORDS

The purpose of Draft Amendment One to the Atlantic Billfish Fishery Management Plan is to help rebuild overfished populations of blue and white marlin and to minimize bycatch and discards. To accomplish these objectives, the National Marine Fisheries Service recommends a 30-40% cut in the recreational rod-and-reel catch of marlins. The agency proposes no measures to reduce the number of marlin that are killed as bycatch in the commercial longline fisheries.



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Leesburg, Virginia 20176

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THE NCMC

MARINE BULLETIN

Published By
NATIONAL COALITION FOR MARINE CONSERVATION
3 West Market Street, Leesburg, Virginia 20176

March-April 1999

No. 83

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THE NCMC OCEAN VIEW

THE THIN GREEN LINE

The NCMC occupies a special niche among fishing and environmental organizations. You might say we have the head of an environmentalist and the heart of a fisherman. We are the only national environmental group that deals exclusively with fish and does it with a decided fisherman's perspective. Founded and supported by recreational fishermen, we nevertheless represent the resource, not any particular fishing interests.

Anglers who want an organization that will always take their side on allocation issues find an advocate elsewhere. Likewise, environmentalists whose true hearts are with ocean animals other than fish, or for whatever reason are leery of aligning themselves with fishermen, find a friend in other organizations.

It's not surprising, then, that our primary base of support is conservation-minded fishermen. Our members are people who recognize the need for an organization that is not distracted from its sole mission - to conserve ocean fish - by a membership with mixed priorities; that chooses issues near and dear to fishermen and fishing, then takes positions based on science and what's best for the resource; that is singularly situated to ally itself with both environmentalists and fishermen and to serve as the honest broker to bring the two groups together.

Walking this thin green line is not always easy. We've parted ways with some sport fishermen over unjust re-allocations, such as game fish status for striped bass, and frustrated others by pushing to cut bluefin tuna quotas for sport and commercial fishermen. But we've also confounded our environmental allies by supporting the Florida net ban, or protesting the unfair treatment of recreational fishermen, when all they see are allocation issues.

Most environmental groups stay neutral on who gets the fish, and it's a good rule to follow. But there are exceptions we're willing to make. The Atlantic shark fishery is a case in point. When large coastal sharks began declining in the late 1980s, sport fishermen backed pro-active management, including bag limits for themselves. The commercial fishermen who were largely responsible for the decline resisted, even as things got worse. So we objected when NMFS proposed, as part of its recovery plan, closing the sport fishery and leaving the commercial fishery open.

Allocation? No. Everything we stand for is undermined by decisions that reward those who resist conservation and punish those who support it. By standing with conservation-minded fishermen, we stand against those who abuse the resource, whether they do it for profit or sport.

Ken Hinman, President

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Founded in 1973

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The NATIONAL COALITION FOR MARINE CONSERVATION is a 501(c) non-profit organization dedicated to the following 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 coastal habitat and water quality.

THE NCMC MARINE BULLETIN

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THE BIG PICTURE

PANEL RECOMMENDS FISHERIES ECOSYSTEM PLANS

A groundbreaking new report recommends that fishery managers and scientists expand traditional single-species management to include fishing's impacts on ecosystems, including relationships between key predator and prey species. "Too often, we learn about ecological consequences after the fact, because we do not consider them in our decision-making," says the report, commissioned by Congress when it passed the Sustainable Fisheries Act in 1996. Entitled "Ecosystem-Based Fishery Management" and released in April, the report provides "an incremental strategy" for beginning to manage fisheries with an eye on the big picture.

Ecosystem management, while gaining increased interest and attention in recent years, is now applied inconsistently and sporadically, without the benefit of established principles or guidance as to how to apply ecosystem principles to fishery management decisions. The report offers "a practical combination of principles and actions that we believe will propel management onto ecologically sustainable pathways," says Dave Fluharty, chair of the Ecosystems Principles Advisory Panel that wrote the report.

"So-called ecosystem management is a simple concept that is difficult to apprehend," adds National Coalition for Marine Conservation president Ken Hinman, a member of the panel, which was made up of selected experts from industry, academia, conservation organizations and fishery management agencies. "In essence, it means managing human activities with an understanding of, appreciation for and attention to the interactions and interdependencies among all living marine resources. What we need, and what this report gives us for the first time, is a practical framework for doing this."

FMPs for Ecosystems

The panel's primary recommendation is that each Regional Fishery Management Council develop a Fisheries Ecosystem Plan (FEP) for major ecosystems under its jurisdiction. The FEP would be the "mechanism for incorporating ecosystem principles and policies into the present fishery management structure." It would be an umbrella document which would include information on the structure and function of the environment that fishing activities are occurring in, so

that fishery managers are aware of the potential impacts of fishing on the ecosystem as well as how changes in the environment may effect fishing. All fishery-specific management plans (FMPs) should be consistent with the FEPs, says the panel, which would include specific recommendations for implementing ecosystem principles and goals through existing FMPs.

Recognizing that Congress must amend federal law to mandate FEPs during the upcoming reauthorization of the Magnuson-Stevens Act, the panel calls on NMFS and the councils to take steps right now, under existing authority, to advance ecosystem management. Particular emphasis is put on setting catch limits conservatively to preserve critical predator-prey relationships, minimizing the effects of bycatch on associated species, and protecting essential fish



habitat from the adverse impacts of fishing operations, for instance by establishing marine protected areas.

For those fishing interests tempted to view a broader approach to marine ecosystems as downplaying the need to regulate fishing, the report has this to say: "The ecological consequences of overfishing often are undocumented and

"(T)he key to an effective ecosystem approach is to fish more conservatively," says ecosystem advisory panel.

may be poorly known or overlooked...(W)hen the effects of fishing on either the target fish population, associated species, or the ecosystem are poorly known, fishery managers should not expand existing fisheries by increasing allowable catch levels or permitting the introduction of new effort and should not promote or develop new fisheries for so-called 'underutilized species'.....We strongly believe that the key to an effective ecosystem approach is to fish more conservatively."

Ecosystem-based management is meant to complement existing approaches, the panel cautions, not replace them. It is not a panacea. "Ecosystem-based management cannot resolve all of the underlying problems of the existing fisheries management regime," says the report. "Absent the political will to stop overfishing, protect habitat, and support expanded research and monitoring programs, an ecosystem-based approach cannot be effective."

Start Now By Conserving Predators and Prey

The panel acknowledges the daunting task of attempting to consider relationships between target species and their competitors, predators and prey; the effects of climatic changes in fisheries; and the complex interactions between fish and their habitat, and recommends an ambitious research agenda. But the report makes it clear that uncertainties and insufficient information "are not acceptable excuses to delay implementing an ecosystem-based management strategy."

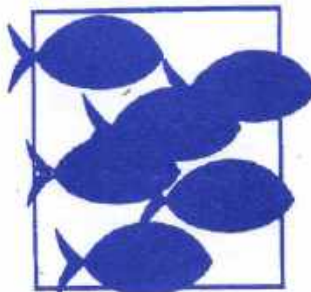
"The approach need not be endlessly complicated," say the authors. "An initial step may require only that managers consider how the harvesting of one species might impact other species in the ecosystem. Fishery management decisions made at this level of understanding can prevent significant and potentially irreversible changes in marine ecosystems caused by fishing."

The report recommends all existing fishery management plans consider how fishing impacts predator-prey dynamics. For example, how does harvesting a forage species impact fish and other animals that feed on it? The setting of optimum yields in all fisheries should factor in the effects of fishing on interspecies relationships in order to prevent "ecosystem overfishing."

FISH NETWORK SAYS NMFS IGNORES BYCATCH

HMS Plans Violate the Law

The Marine Fish Conservation Network wrote the following letter to NMFS HMS chief Rebecca Lent, criticizing the agency for ignoring its mandate to minimize bycatch in the large pelagic fisheries. The national Network of fishing and conservation groups, largely responsible for the 1996 law requiring all fishery management plans to minimize bycatch, has been monitoring its implementation by the Regional Councils. But the coalition is especially concerned about NMFS itself setting a low standard for judging all FMPs. Attornies working with the Network are looking at the HMS and Billfish Plans for a possible lawsuit.



**The
Marine
Fish
Conservation
Network**

Dear Dr. Lent:

The Marine Fish Conservation Network (Network), a coalition of over 80 fishing, conservation and science-based organizations across the United States, appreciates the opportunity to comment on the National Marine Fisheries Service's (NMFS) draft fishery management plan (FMP) for Atlantic Tunas, Swordfish and Sharks, noticed in the Federal Register on October 26, 1998 and Amendment 1 to the Atlantic Billfish FMP, noticed in the Federal Register on October 9, 1998.

The Network first came together to advocate reform of the Magnuson-Stevens Fishery Conservation and Management Act, a broad-based effort that resulted in passage of the Sustainable Fisheries Act (SFA) in 1996. These landmark amendments to the Magnuson-Stevens Act, among other things, called for the first-ever recovery plans for all overfished stocks and made reduction of bycatch a principal objective of every FMP. For the past two years, the Network has been monitoring implementation of the SFA's new provisions by both NMFS and the Regional Fishery Management Councils. In January, we released a report, "Missing the Boat: An evaluation of fishery management council response to the Sustainable Fisheries Act," in which we expressed our concern that, in too many cases, fishery managers are making only perfunctory attempts to comply with the statute.

We are especially concerned about the draft FMP and amendment being developed by NMFS. As the only FMPs under the direct authority of the Secretary of Commerce, the highly migratory species (HMS) plans may be viewed as showing, by example, the Secretary's interpretation of the new federal obligations under the SFA. In other words, the conservation and management standards the agency sets for itself in these FMPs cannot help but reflect the standards it will hold the councils to as it reviews the plans they submit.

In our review of the draft HMS FMP and Billfish amendment, we are extremely troubled, above all else, by the lack of any substantive measures to minimize bycatch, as required by the SFA. A substantial amount of fishing mortality in the pelagic fisheries is due to bycatch on non-selective fishing gear. For some species - billfish and sharks - many more fish are taken as unwanted or prohibited bycatch than are landed in the directed fisheries. According to NMFS's own data, 9 out of 10 marlin are killed as bycatch on pelagic longline gear (95% of white marlin and 85% of blue marlin). Over 30% of the annual swordfish catch is undersize juveniles that are discarded dead. Sharks are a ubiquitous bycatch in the pelagic longline fisheries, where most sharks are unwanted and discarded. In addition, thousands of large coastal sharks, the most severely

The HMS and Billfish FMPs, severely lacking in measures to minimize bycatch, violate the law. - Fish Network

overfished group, are taken in the menhaden net fishery. Yet the draft HMS FMP and Billfish amendment propose no new measures to minimize bycatch. With the exception of a single time/area closure that NMFS's own estimates indicate will protect an insignificant number of immature swordfish, the only measure proposed to address bycatch is deducting dead discards of swordfish and sharks from commercial quotas. While we support counting all sources of mortality against quotas, we note in the case of swordfish that NMFS does not intend to implement this provision unless it is first adopted internationally.

The SFA's National Standard 9, and the National Standard Guidelines, make clear that NMFS must give priority to measures that avoid bycatch, followed by measures that will minimize mortality associated with unavoidable bycatch. The HMS FMP and Billfish amendment are severely lacking in measures to accomplish either of these objectives and therefore they violate the law.

Because bycatch accounts for such a high proportion of fishing mortality for swordfish, billfish and sharks, the rebuilding plans proposed in the HMS FMP and Billfish amendment cannot succeed without accounting for and minimizing all sources of bycatch mortality.

The Network strongly recommends that NMFS revise these FMPs to include measures to minimize bycatch. A number of proposals have been made, by Network member

organizations and the Ocean Wildlife Campaign, to use time/area closures and changes in longline fishing methods to accomplish this goal. We urge NMFS to include such conservation measures in the final plans.

NO LEASH ON DOGFISHING

*NMFS Tells Council, Wait
Until Next Year*

The Mid-Atlantic Fishery Management Council tried to do its job, but the National Marine Fisheries Service stood in its way. The council, in conjunction with its New England counterpart, earlier this year agreed on a rebuilding plan for overfished spiny dogfish. Dogfish are a type of shark and share with other sharks an innate vulnerability to sudden population collapse from overfishing. Recognizing that the lengthy bureaucratic process would prevent any limits on fishing before the end of the year, the Mid-Atlantic Council asked NMFS to implement interim measures from May through October. The agency, however, rejected the request, ignoring the risks that heavy fishing this year would set back recovery efforts.

The National Coalition for Marine Conservation wrote Commerce Secretary William Daley urging immediate action to implement the interim measures recommended by the council. We pointed out that we have supported the council's efforts to prepare a rebuilding plan since before the government listed Atlantic spiny dogfish as an overfished species a year ago and supported the plan throughout its development. In fact, commercial and recreational members of the council worked together, along with environmentalists - special credit goes to the Center for Marine Conservation - to prepare a rebuilding plan as quickly as bureaucratically feasible. That plan was submitted to the Secretary in March of this year.

The council recognized, however, that fishing pressure must be cut back immediately (in 1999), not only to meet its proposed 10-year rebuilding schedule, but most importantly, to ensure against irrecoverable damage to the stock in the short term. NCMC staff were present at the February 2nd meeting at which the council, knowing that its recovery plan probably would not take effect until next year, voted to request Secretarial action to implement closures in the fishery this year. We supported that decision.

The NMFS action is the opposite of risk-averse. The science supports the need for immediate action. The council's rebuilding plan conforms to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act that overfished stocks be rebuilt within 10 years or less. But if measures to constrain the catch of dogfish are not implemented this fishing season, that goal could be jeopardized. The council's request for secretarial action was an essential first step forward in dogfish recovery. Thanks to NMFS, that recovery just took one step backward.

CHANGING OF THE GUARD

Rollie Schmitt left his post as head of the National Marine Fisheries Service in April and was replaced by Penny Dalton, a former senior staffer for the Senate Commerce Committee. The change comes at a crucial juncture for the fisheries agency. NMFS is wrestling with tough new mandates to rebuild all overfished U.S. fisheries and clean up bycatch, while at the same time expanding traditional fisheries conservation to include protecting essential habitats and marine ecosystems.

We can only guess at what kind of leader Dalton will be. Although she has many years of experience working on fisheries issues for the Congress, running a federal bureaucracy is a completely different animal. Her first weeks on the job offer no clues, since they were spent getting situated, meeting with staff as well as anxious constituents. Her first public actions were explaining and defending decisions made before she arrived.

Dalton deserves the benefit of the doubt. It's not an easy job, a fact all her predecessors will attest to. Schmitt was rewarded with a promotion, to Assistant Secretary for International Affairs (a Commerce Department post that will keep him as U.S. government commissioner to ICCAT). His predecessor Bill Fox, on the other hand, ended up working for Schmitt when Schmitt took his place in 1993. Fox's aggressive stance in favor of conservation made him too many political enemies.

"The Little Agency That Could," But Didn't

In a farewell memo to NMFS staff, Schmitt fondly called NMFS "the little agency that could," referring to its small size and immense responsibilities. Satisfaction with the agency's accomplishments, however, is harder to find outside of its headquarters in Silver Spring.

A recent editorial in National Fisherman described Schmitt's tenure as marked by "lost opportunities" and a deaf ear to the commercial industry's needs. That last criticism probably comes as a big surprise to sport fishermen and environmentalists who think the agency listens far too much to commercial lobbyists.

One might argue that making everyone equally unhappy is the hallmark of success when there are so many competing interests. But Schmitt, who saw himself as a consensus builder, would not agree. His vision lives on in the NMFS press release for its inadequate highly migratory species plans, which proudly labels them an attempt to fairly balance constituent's wishes and requirements to protect the resource. But as that plan shows, balance in and of itself does nothing, for either the future of our fisheries or the resources they depend on. If Dalton can bring a new vision to NMFS, one that gives priority to the health of the resource, her job won't be any easier, but we believe the nation's fisheries will be better off.

March-April 1999

NOTES FROM UNDERWATER

THE LAW AND INTENDED CONSEQUENCES

Let us consider the reason of the case. For nothing is law that is not reason. - Sir John Powell

NMFS attorneys tell us that the U.S. cannot count swordfish thrown away dead by longline fishermen towards their quota because it would violate a provision of the Atlantic Tunas Convention Act (ATCA), namely a self-imposed prohibition on lowering a quota allocated to our fishermen by ICCAT. But we say this defeatist attitude is an example of viewing the law as restrictive rather than prescriptive. The intent of ATCA is not merely to tell us what we shouldn't do, but also what we *should* do - ensure that U.S. regulations implementing ICCAT recommendations do not undermine their intent.

We believe NMFS is approaching the ATCA "problem" from the wrong direction. The provision in question, read in its entirety, says the U.S. cannot promulgate a regulation that has the effect of *increasing or decreasing an allocation, quota of fish or fishing mortality level agreed to under ICCAT.*

We are in violation of ATCA right now. By not taking appropriate action to avoid a substantial dead discard of undersize swordfish - that is, by not following the ICCAT agreement's longstanding recommendation that contracting parties "take other appropriate measures [other than the minimum size limit] within their national jurisdictions to protect small fish, including, but not limited to, the establishment of time and area closures" - or by not at least deducting the discards from our "landings" quota, the U.S. is in fact managing the fishery in a manner which has the effect of *increasing a fishing mortality level agreed to under ICCAT*, since quotas are established as total allowable catch.

NMFS and the fishing industry read ATCA's sole purpose as to keep the U.S. from being more conservative than ICCAT. But its real purpose is to keep the U.S. in compliance, i.e., to prevent us from being less conservative. Because we allow longliners to kill and discard 30,000 - 40,000 immature swordfish every year, we routinely exceed the total allowable catch allocated to us by ICCAT. For government attorneys to pretend that the law doesn't forbid this, but actually requires it, is beyond reason.

EVERYTHING WE KNOW IS WRONG

New Questions About Bluefin

Editor's Note: The one thing everyone should be able to agree on about Atlantic bluefin tuna is that none of us know as much as we think we do. And lately, the more we learn about this incredible fish's behavior, the less we seem able to act rationally. In this, the first of two articles on recent developments in bluefin management, we look at new questions about bluefin behavior. In the second, "Everything We Do Is Wrong" (May-June issue), we will look at our own behavior in the face of uncertainty.

A breakthrough in tagging technology being applied to giant tunas in the western Atlantic Ocean is shedding some new light on the murky world of bluefin behavior. But despite the fact that some observers are jumping to premature conclusions, what the new research is telling us about the migratory and spawning habits of *Thunnus thynnus* isn't yet clear. In fact, it's raising not only new questions, but also new concerns about the true condition of this severely overexploited fish.

The new technology is pop-off or pop-up satellite tags. These cigar-sized cylinders are attached to giant bluefin tuna, caught and tagged on feeding grounds off the New England and North Carolina coasts in fall and late winter, respectively. Mini-computers gather data, such as water temperature, depth and position, continuously for

up to nine months. The tags are programmed to jettison after a set period of time and rise to the surface, where they transmit the data to satellites. Teams led by Dr. Barbara Block of Stanford's Tuna Research and Conservation Center and Dr. Molly Lutcavage of the New England Aquarium are conducting the studies.

Tags returned to date in both studies show a pattern of movement eastward after release; in some cases, a considerable distance. Of 17 tags returned from the New England fishery, for example, five popped up just across the 45 degree west longitude line, technically on the turf of the eastern Atlantic stock. The international tuna commission divides the eastern and western stocks along that line for management purposes.

These preliminary findings seem to lend credence to the theory that there is substantially more mixing between the resident eastern and western stocks than previously supposed. Unfortunately, it will be years and many more tags before scientists can give us mixing rates precise enough to include in stock assessments. Nevertheless, some U.S. tuna fishermen, citing the early tag results, are ready to abandon our current approach of managing the stocks separately in favor of a single-stock approach. Where we're likely to end up, however, is somewhere in the middle.

New Questions, New Concerns

Actually, the two stocks are not managed in isolation. The same management body, the International Commission for the Conservation of Atlantic Tunas, governs fishing on each. But fishing is subject to different rules, respecting the relative size of the stocks, condition of the stocks and allegiance to spawning sites. The western stock, the more severely depleted of the two, is thought to spawn in the Gulf of Mexico. The Mediterranean Sea, according to ICCAT, is the source of fish caught in the east.

But adult fish tagged with pop-ups off Hatteras in the late winter and early spring did not head for the Gulf of Mexico, even though the bluefin breeding season there was underway. Likewise, fish tagged off New England in the fall swam due east when, if they were going to spawn in the

gulf, they should have gone south.

Where fish spawn and whether their progeny are faithful to those areas is the most important question of all. These preliminary results have prompted speculation that many of the fish



ATLANTIC BLUEFIN TUNA

caught off the U.S. east coast are the products of a third spawning area in the center of the ocean. Fish originating in this area may travel to both sides of the Atlantic. In fact, Frank Mather, the father of conventional tuna tagging, wondered if this might be the case years ago.

If tuna fishing in the west is supported by fish not from the gulf but originating elsewhere, should it lessen our concerns that the gulf stock, according to nearly every biological indicator, is disappearing? Or does it merely alter the basis of our concerns? We know that the total population of Atlantic bluefin is at an alarmingly low level. If we are to restore this magnificent fish, we need to both define the stocks and give each the protection it needs. We need more information, but until we get it, we should fish conservatively wherever bluefin are found.



TURNING THE TIDE

NCMC News & Activities

NMFS INDECISION ON LONGLINES SPURS RENEWED EFFORTS

The draft regulations the National Marine Fisheries Service came up with last fall to conserve marlin, swordfish, sharks and tunas outraged a lot of people for a lot of reasons, but no one more than us. In response, the National Coalition for Marine Conservation launched a campaign to *Bring Back the Big Fish!*, aimed first at NMFS and improving its fishery management plans.

Early this year, with support from NCMC members and numerous sport fishing clubs, as well as the IGFA, we alerted concerned anglers along the east coast that the new rules were biased against recreational fishers and lacked measures to tame the use of drift longlines, the number one source of unmanaged mortality for pelagic species. In February and March, we helped generate a larger-than-ever turnout at public hearings, and an unprecedented number of letters and e-mails, demanding that government officials not weaken the conservation measures in the draft plans and add a number of things needed to strengthen them, especially measures to curtail indiscriminate longlining, chiefly through closed areas and limited soak times.



BRING BACK THE BIG FISH!

We definitely made an impact, but the jury is still out on several key elements of the recovery plans (see Marine Index, p. 9). As far as the longline fishery goes, NMFS removed the one small band-aid it had proposed for this festering wound - a three-month no-longlining zone in the Florida Straits - announcing it will consider larger, more effective area closures later this summer.

The good news is the areas being looked at are the Charleston Bump, Florida east coast and northern Gulf of Mexico, areas the NCMC first proposed closing in 1996 and argued strongly for throughout development of the FMPs. The bad news is that the U.S. longline industry is trying to tie any closures to a government sponsored buy-out of the vessels effected, an approach our sources say NMFS likes. Linking badly needed conservation to financial compensation for those who've resisted those measures for many years would be a disastrous precedent. Moreover, linkage would likely delay regulations on longlining, since a buy-out was not part of the plans that went out for public comment.

March-April 1999

NCMC will continue to work through the summer to persuade NMFS to choose and implement the most effective area closures possible. A *Bring Back the Big Fish!* update will be mailed out shortly, giving further details on our activities in this and other arenas, including Congress, the courts and ICCAT. Stay tuned.

TOP TAGGERS GET NCMC TROPHIES

The NCMC promotes catch-and-release fishing by sponsoring annual awards to fishermen who tag and release the most blue marlin. The 1998 NCMC Captain's Trophy went to Captain Dave Noling for tagging 148 blue marlin and the Angler's Trophy went to Ralph G. Christiansen for tagging 43 blues. "The information on growth and movement obtained from recaptured tags provides data helpful to understanding and protecting marine fish," says NCMC Director of Communications Christine Snovell. "We're proud to do our part in this effort."

COALITION BACKS HAWAII SHARK BILL

On March 10th, we lent our support to a bill (HB 1706) in the Hawaii state legislature that would ban the possession, sale or trade of shark fins unless taken from a shark landed whole. The state action came in response to the alarming and unchecked increase in shark landings and the slow response of the Western Pacific Fishery Management Council. At press time, the bill was still alive but time was running out on this year's legislative session.

GRANTS FOR PREDATOR-PREY WORK

The NCMC has received funding from several foundations to sponsor a Workshop on Integrating Management of Related Predator and Prey Species under interstate and federal fishery management programs. We gratefully acknowledge the generous support of the Curtis & Edith Munson Foundation, The Slavik Family Foundation and the Yamaha Miami Billfish Tournament.

NETWORK SETS AGENDA FOR 2000

The NCMC and other members of the Marine Fish Conservation Network have begun work putting together an agenda for reauthorizing the Magnuson Fishery Conservation and Management Act in Congress this year and next. The Network's positions and recommendations will be finalized at a conference in June.

IN THE PRESS

The NCMC's Ken Hinman dissected the NMFS HMS plans in his April "Fisheries Front" column in *Salt Water Sportsman* magazine....The NCMC's rebuttal to NMFS director Rollie Schmitten's claims his agency is effectively managing swordfish was printed in the February 24th edition of *The Washington Post*....NCMC efforts to preserve the southeastern dolphin fishery are featured in Hinman's article, "The Dolphin Dilemma," in the April issue of *Sport Fishing*.

THE NCMC

MARINE INDEX

HMS PLANS ARE FINAL - ALMOST. The draft management plans for swordfish, marlins, tunas and sharks the National Marine Fisheries Service showed us last fall were deeply flawed. So when the agency asked for public comment, it heard from over 5,000 people and organizations, many of them upset that the proposals, with a few exceptions, didn't do nearly enough to conserve these overfished populations. On April 26th, NMFS released its final Fishery Management Plan for Highly Migratory Species (tunas, swordfish and sharks) and Amendment One to the Atlantic Billfish FMP. What we got are plans that are better in some ways, worse in others, but overall grossly inadequate to fulfill the government's mandate under the Magnuson-Stevens Act. Large coastal sharks, alone among the overfished large pelagics NMFS is responsible for, received what we believe are solid new protections. And some of the most flagrant inequities in the draft FMPs, unjustifiably targeting recreational fishermen in fisheries where they aren't the biggest threat to recovery, were corrected. But NMFS completely missed the target on the longline fishery, letting longline bykill, the largest source of mortality for swordfish, marlins and pelagic sharks, go unchecked. But it's not over yet. Although NMFS postponed any decision on time/area closures to protect juvenile swordfish and billfish from indiscriminate longlining, ostensibly because of the public outcry over its failure to adequately deal with bycatch, it promised to do some new analyses and implement larger, more effective closures by September 1st. What it chooses to do this summer will reveal whether NMFS really did listen to the public, or if this was just another empty promise to deal with a problem that's plagued these fisheries for decades.

BILLFISH



NMFS got rid of the onerous bag limit, nixed mandatory observers on charter boats and removed catch-and-release angling from its definition of bycatch. But that shouldn't appease sport fishermen. It did nothing to save the thousands of blue marlin, white marlin and sailfish killed on longlines. Because billfish are a bycatch throughout the Atlantic, the plan's 10-year rebuilding goal, even if adopted by ICCAT next year, will require getting this gear out of the water.

SWORDFISH



If billfish get any protection, it will come from the longline area closure(s) NMFS chooses for swordfish - and as far as that goes, all we've got is a promise. We've also got a pledge to seek sizable catch reductions at ICCAT this November. As it stands now, the plan does not save a single swordfish.

LARGE COASTAL SHARKS



Instead of closing the sport fishery while allowing commercial fishing, as proposed, NMFS gives anglers one shark (coastal or pelagic) per boat per trip with a minimum size. By doing so, it restored equity without hurting recovery, although restoring these threatened predators is still going to be a long road.

PELAGIC SHARKS



Pelagic sharks are not yet listed as overfished, but NMFS isn't doing much to prevent it. Most of these sharks are taken as unwanted longline bycatch, with blue sharks the biggest casualty. An additional discard quota for blues (273 tons) was supposed to discourage bycatch, since any overage would be deducted from the pelagics landings quota. But then NMFS changes the discard quota to include landings, too, which means what they really did was raise the pelagics quota by 50%!

TUNA

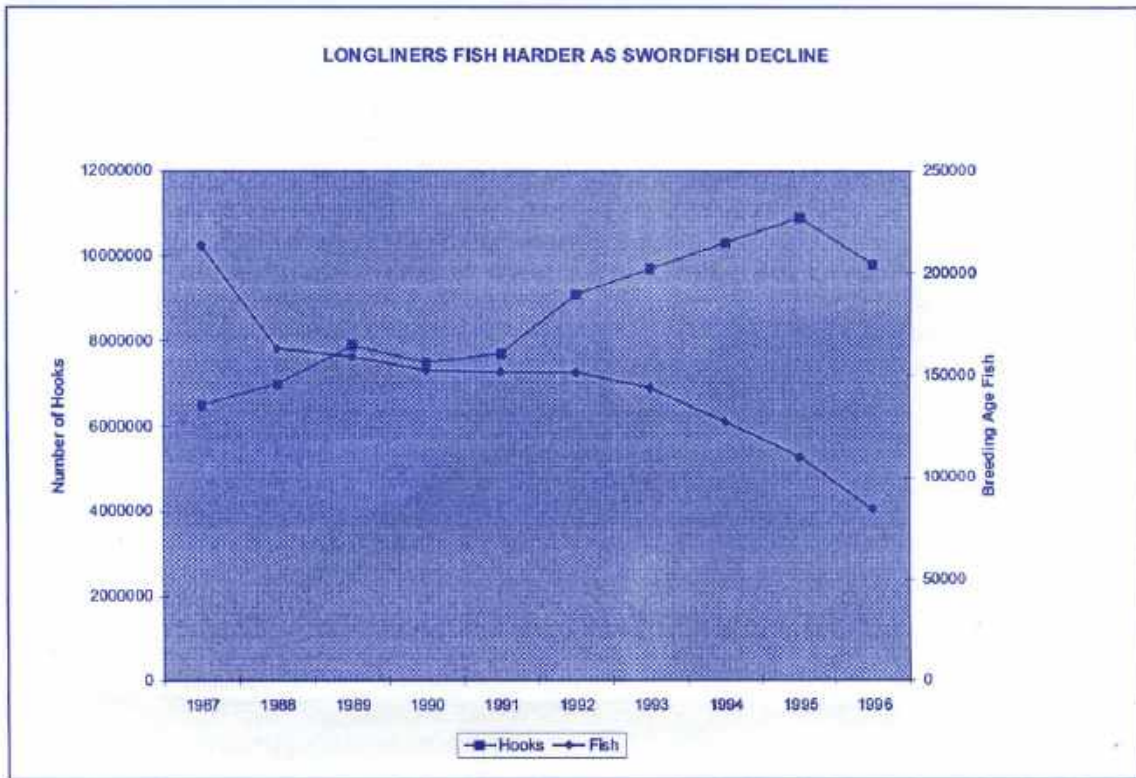


The plan not only formalizes the bogus bluefin recovery plan adopted at ICCAT, it tries to pass it off as meeting Magnuson Act rebuilding requirements. Nice try. A proposed time/area closure to reduce longline discards stayed in, but got smaller. And to give commercial fishermen the tuna hat trick, NMFS stuck with a 3-fish bag limit for recreational fishermen but imposed no catch limits whatsoever on the commercial side.

CLEAR TOPPER

EVERY PICTURE TELLS A STORY

The lines on the graph begin to diverge in 1990. Fishing effort skyrockets as the swordfish population heads into a free fall. In 1991, the year the first international conservation measures take effect, U.S. longliners start laying millions more hooks to increase the catch of legal-size swordfish and other marketable species. As a result, hook-ups with immature swordfish, supposedly protected by a minimum size limit, stay high, causing the dead discard of between 30,000 and 40,000 juvenile broadbill, along with tens of thousands of other non-target fish, each year.



NATIONAL COALITION FOR MARINE CONSERVATION

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Leesburg, Virginia 20176

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LEESBURG, VA
PERMIT NO. 43



THE NCMC

MARINE BULLETIN

Published By
NATIONAL COALITION FOR MARINE CONSERVATION
3 West Market Street, Leesburg, Virginia 20176

May-June 1999

No. 84

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BIG FISH! SPECIAL ISSUE**

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THE NCMC OCEAN VIEW

BUYER BEWARE

Imagine the timber industry is cutting trees on national forest lands without compensation to the public. Loggers clear-cut and remove only what they want, leaving behind the trunks and stumps of the trees they don't want or can't take. Imagine the government has been asking the industry to use selective harvesting, or at least keep out of the most sensitive areas, but the loggers stubbornly refuse and block any such rules. Finally, they do agree to halt some of their destructive practices, but only if the government will pay them millions to stop. How would you feel about that?

Well, maybe you'll feel the same way about this. The U.S. longline fishing industry, faced with the prospect of time and area closures to keep them away from small swordfish and other unwanted and prohibited fish - closures they've resisted for years - is now demanding the government compensate it for any adverse economic impacts. In fact, longliners are lobbying members of Congress and the Administration to make any closed areas contingent on making restitution to vessel owners.

Fishermen refusing to accept badly needed conservation measures, measures required by law, until the government meets their price for going along. That's extortion. Some believe it may be the only way to get the baby (swordfish) back. But the FBI advises against paying ransom, for two good reasons. It rarely has any bearing on the fate of the hostage. And it only encourages others to try it, too.

While the NCMC's unparalleled efforts to rein in bycatch are responsible for forcing the longliners to the table, we are not eager to play Let's Make A Deal with the devil. We are not unalterably opposed to a buy-out. Buying up the entire fleet would be an attractive proposition. But we *are* opposed to linking conservation measures to compensation as a *quid pro quo*.

Our paramount interest is the resource and that must come first. If some sort of compensation deal is a by-product of a comprehensive bycatch reduction plan, then so be it. But accepting only as much conservation as the longline industry is willing to "sell" is too high a price to pay for subverting the fishery management process, setting a dangerous precedent, and guaranteeing it will be even harder to get something out of them next time.

What we want is to take enough longline gear out of the water to help rebuild our depleted offshore fisheries. We'll do what it takes to accomplish that. By keeping a single-minded focus on conservation, we are making sure that, when the deal is done, it will be one that provides significant new benefits to the fish and other fishermen, not just longliners.

Ken Hinman, President

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Founded in 1973

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- ♦ 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 coastal habitat and water quality.

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Ken Hinman, *Editor*

NCMC SUES NMFS OVER HMS PLAN LEGAL ACTION SEEKS TO FORCE THE AGENCY TO REDUCE LONGLINE BYKILL

The National Coalition for Marine Conservation, National Audubon Society and Natural Resources Defense Council have filed joint suit against the National Marine Fisheries Service, charging the agency with failure to curtail bycatch in the Atlantic longline fisheries, as required by federal law.

The Magnuson-Stevens Act amendments of 1996 explicitly require that all federal fishery management plans include measures to minimize bycatch and bycatch mortality. The Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks and Amendment 1 to the Atlantic Billfish Fishery Management Plan, both released in



late May, contain no measures to directly reduce the longline bykill of overfished swordfish, marlins and pelagic sharks.

The lawsuit, filed in federal court on June 24th on behalf of the NCMC, Audubon and NRDC by attorneys with the Ocean Law Project, asks the court to order NMFS to set a speedy timetable for implementing bycatch reduction measures, including area closures and other restrictions on longlining, necessary to rebuild overfished swordfish and marlin populations within 10 years or less.

Much is at Stake

The NCMC has rarely, in its 25-year history, taken our fight to conserve marine fish into court (although we have assisted others in such challenges). In this case, however, we felt compelled to seek legal redress. Under the Magnuson Act, NMFS is responsible for enforcing all federal fisheries laws, including those the regional fishery management councils are required to prepare. When the agency so plainly fails to enforce the rules in the fisheries it has direct authority over (Atlantic highly migratory species), it not only violates the law but also informs the councils that they, too, will be held to the lowest possible standard.

"In terms of legal precedent," says NCMC president Ken Hinman, "we view this case as absolutely critical to the implementation of all aspects of the Magnuson Act."

The complaint alleges that the NMFS plans are illegal because they violate the Magnuson Act's "clearly articulated, plainly applicable statutory requirements" to (1)

evaluate conservation and management measures that could minimize highly migratory species bycatch; (2) implement such bycatch reduction measures; (3) establish an adequate bycatch reporting methodology; (4) establish measures to rebuild the blue and white marlin fisheries, wherein bycatch is the largest source of fishing mortality; and (5) establish measures that have an adequate likelihood of rebuilding the Atlantic swordfish fishery, wherein a significant portion of U.S. fishing mortality is due to bycatch and discard of undersized fish."

STATES MOVE TO CLOSE LOOPHOLE IN SHARK CONSERVATION

Conservationists Praise Action

On the heels of new federal action to protect sharks, Atlantic state fisheries representatives voted unanimously at their May meeting to begin developing complementary measures to conserve sharks in state waters. The National Coalition for Marine Conservation and the Ocean Wildlife Campaign (OWC) applauded the states' decision to move forward with a coast-wide plan for Atlantic sharks, as well as one for spiny dogfish sharks. Such action is essential to the recovery of imperiled sharks due to their migrations along the coast and dependence on nearshore habitat.



The ASMFC's decision represents a big step toward closing major loopholes and creating seamless coast-wide Atlantic shark management. "Despite strides in recent years, Atlantic state shark conservation remains a problematic patchwork of inconsistent measures. ASMFC cooperation is critical to enhancing rather than undermining federal recovery efforts for seriously overfished sharks," says Sonja Fordham of the Center for Marine Conservation, an OWC partner. "We are especially pleased that most Atlantic states have recognized the urgent need to conserve intensely fished, but virtually unprotected, dogfish."

The OWC has long been urging the states to adopt shark conservation measures that complement those of the federal government. Such measures must include protection of sharks on their near shore nursery grounds, conservationist say. "Many species of sharks bear live young in coastal

waters and inshore bays and most of this essential shark habitat is within state waters," comments NCMC present Ken Hinman, who attended the May ASMFC meeting to argue in favor of interstate action. "Protecting juvenile sharks where they are most vulnerable—on their pupping grounds—is absolutely critical to the success of the overall recovery effort."

OVER 80 GROUPS ENDORSE RESOLUTION AGAINST LONGLINING

The National Coalition for Marine Conservation recently joined with the Recreational Fishing Alliance to petition the U.S. government to phase out the use of drift longlines, first in U.S. waters and then by exerting U.S. leadership abroad to curtail the use of non-selective gear in primary spawning, nursery and feeding areas of large pelagics worldwide.

In a joint statement in support of a resolution calling for an end to longlining, NCMC president Ken Hinman and RFA executive director Jim Donofrio said: "The collective efforts of fishing and conservation groups working for years 'within the system' have produced only marginal gains on behalf of the conservation of these threatened fish, which have been driven to their lowest known population levels. Regulations to limit commercial catches have not been effective, mainly because longline operators are not capable of controlling what they kill or in what numbers.

"When NMFS recently put together new fishery management plans for swordfish, marlins and sharks, measures to limit where, when and how longlines are fished - measures that would have at least afforded some protection to these fish - were advocated with the unanimous support of environmental and recreational fishing groups and even some commercial fishing associations. And yet NMFS - as it has so many times before - elected to do nothing to reduce longline bykill."

The NCMC and RFA, along with the over 80 other fishing and conservation groups that have already endorsed the resolution below, are united in the belief that the recovery of severely overfished swordfish, billfish and sharks cannot be achieved without removing the multi-mile, multi-hook longlines from the water. "We come to this conclusion reluctantly," Hinman and Donofrio point out, "but only after trying for two decades to find less drastic approaches to save these species from continued, indiscriminate slaughter."

RESOLVED

We, the undersigned fishing, conservation and environmental groups, recognizing the longstanding failure of fishery managers to effectively address the well-documented, serious and persistent threats to the recovery of

large pelagic fish populations and associated fisheries caused by the widespread use of indiscriminate drift or pelagic longline fishing gear, call on the United States Government to prohibit the use of drift or pelagic longline gear in all waters of the U.S. exclusive economic zone (EEZ), and further, that the U.S. seek, through international agreements, to restrict fishing with drift or pelagic longlines in the primary spawning, nursery and feeding areas of tunas, billfishes (including swordfish) and oceanic sharks worldwide.

National Coalition for Marine Conservation, Recreational Fishing Alliance, American Oceans Campaign, Sea Turtle Restoration Project/Earth Island Institute, International Game Fish Association, National Marine Manufacturers Association, Biodiversity Legal Foundation, National Marine Trades Council, Fish Forever, Surfrider Foundation, Fish Unlimited, Commercial Anglers Association, Marine Retailers Association of America, National Fishing Association, Salt Water Sportsman Magazine, Marlin Magazine, Sport Fishing Magazine, The Fisherman Magazine, Florida Sportsman Magazine, Stripers Unlimited, Penn Reel Tackle Company, Rupp Marine Inc., Angling Trade Association (UK), Coastal Conservation Association of North Carolina, Cape Cod Charter Boat Association, Massachusetts Wildlife Federation, Oregon Wildlife Federation, Virginia Angler's Club, Ocean City Marlin & Tuna Club, Freeport Tuna Club, West Palm Beach Fishing Club, Juneau Alaska Billfish Association, Great Egg Harbor Marlin & Tuna Club, New York Marine Trades Association, Beach Haven Marlin & Tuna Club, Concerned Citizens of Montauk, Marine Industry Assn. of South Florida, Coastal Research & Education, Inc., Fort Walton Beach Sailfish Club, Central Florida Offshore Anglers, Alaska Sportfishing Association, Imperial Sportsmen Club, South Coast Sportfishing, Jupiter Marine International, Bay Head Outfitters, Boating Assn. of Ohio, Jacksonville Marine Association, Newport Marine Fishing Club, HMY Yacht Sales, Inc., Staten Island Boat Sales, Inc., Granddad's Refinishing, Snug Harbor Marina, Abalone and Marine Resources Council, North Forty Rod & Gun Club, The Fisherman's Edge, Alaska Sportfish Council, Village Harbor Fishing Club, Greater Point Pleasant Charter Boat Assn., Blue Water Fishing Club, Fish Hawks, Manasquan Fishing Club, Salt Water Anglers of Bergen County, Massachusetts Striped Bass Association, Rio Fishing Club, Jamestown Striper Club, Forked River Tuna Club, Keasbey Outboard Boating Club, Newport Marina Sportfishing Club, Ocean City Fishing Club, Spring Lake Live Liner Fishing Club, Verrazano Rod & Gun Club, Malecumbe Anglers, Grand Strand Salt Water Anglers Association, Ft. Pierce Sportfishing Club, Port St. Lucie Anglers Club, Square Circle Sportsmen, South Florida Fishing Club, Cape Coral Tarpon Hunters Club.

EVERYTHING WE DO IS WRONG

Bluefin Management is Even More Baffling than the Science

We never see the lies that we believe.

- Elvis Costello

For all the hubbub over Atlantic bluefin tuna stock structure, and emerging evidence that bluefin movements are a lot more complex than we thought (MB No. 83, "Everything We Know Is Wrong"), the "stock question" was all but ignored when a long-range recovery plan was agreed to at last year's meeting of the International Commission for the Conservation of Atlantic Tunas. It turns out the advocates of more liberal western catch quotas, who'd staked their case on the one-stock theory, didn't need it after all. They found another theory with the imprimatur of "new science" that gave them everything they wanted.

When the U.S. ICCAT delegation returned from Spain last November with the ink just dry on a 20-year bluefin tuna recovery plan, government officials and commercial and recreational delegates celebrated the achievement of what we all say we want - an international rebuilding program with a hard target and timetable.

Not joining in the celebration was the lone environmentalist on the delegation, who labeled what happened "disastrous." Can you never please these people? Or was he at the wrong party? The answer to that question is in the answer to another: Why was everyone suddenly so quiet about bluefin stock structure?

The Mountain Comes to Mohammed

As the 1998 ICCAT meeting approached, the National Marine Fisheries Service was in the midst of preparing draft rebuilding plans for bluefin tuna and other overfished Atlantic highly migratory species, as required by the U.S. Sustainable Fisheries Act. Based on the 1997 ICCAT stock assessment, which assumed separate eastern and western stocks, the western fishery would have to be shut down to rebuild to maximum sustainable yield (MSY) within 20 years. In a pre-draft document distributed to its advisory panel, NMFS' "preferred option" was a 35-year recovery schedule, which would still require a sizable cutback in catches from current levels.

The last thing U.S. tuna fishermen wanted was for NMFS to release a draft document supporting a quota reduction, for fear it would obligate the U.S. to support such a "radical" recovery goal at ICCAT. They argued that the western stock has already recovered to historic levels of abundance under existing management measures; that the fish just aren't showing up in the assessments. Or, they admitted the western stock is overfished, but blamed it on unregulated catches in the eastern Atlantic, so that's where more the restrictions are needed. Besides, they said, with ICCAT about to do a new assessment at its upcoming meeting, NMFS should wait and see what it says before recommending a rebuilding plan.

This last argument made the most sense and was the official reason given when NMFS left the draft plan's bluefin rebuilding page blank. The international scientific committee performed its updated assessment. And the results were unbelievable, even by ICCAT standards. Western bluefin numbers are still near historic lows, but miraculously, the stock is recovered.

Managers Abuse the Science - Again

As in the past, assessments were done separately for the east and west stocks. What was different was the use

of a new population model. It showed that recruitment into the fishery would not increase even if the spawning stock were restored to the levels of the mid-1970s, always considered the bluefin's MSY



ATLANTIC BLUEFIN TUNA

years. Why? Environmental conditions have changed, lowering the Atlantic's carrying capacity for tuna.

This new and untested theory - it's drawn a lot of skepticism from independent scientists - puts MSY slightly above current levels. The established population model still showed it possible to increase the population and get a sustained yield of twice as many fish as we're catching now. But it requires reducing present catches. The new model does not. The scientists presented the results of both without prejudice. Guess which one the commission used.

At the time, NCMC described the ICCAT recovery plan as "bogus and self-defeating," lowering MSY by half to allow catches to remain at current levels and still call it rebuilding. It is a disastrous management decision. In that it continues the abuse of uncertainties about bluefin to achieve fishing goals, its impact on the science may be even more devastating.



TURNING THE TIDE

NCMC News & Activities

WWW.SAVETHEFISH.ORG

NCMC members and others surfing the Internet can now visit our new web site at www.savethefish.org. It's packed with news and activities, press releases, a publications page, and a gallery featuring merchandise for sale, including posters and marine art, with all proceeds helping to conserve fish. Most importantly, the site features ways to get involved through regular action alerts, an address/phone/internet listing of government agencies, and upcoming meetings to attend. Let us know what you think through our special feedback page.

LEMASTER JOINS FISHERY COUNCIL

In June, Commerce Secretary William Daley appointed NCMC board member Edward B. LeMaster III to a 3-year term on the South Atlantic Fishery Management Council. Ebbie, a life-long resident of Florida, has fished the waters of the southeast extensively while demonstrating a strong commitment to conserving the fish stocks that support the region's fisheries. We are confident he will make a valuable contribution to the work of the council.

DOLPHIN PLAN MOVES AHEAD

NCMC president Ken Hinman, a member of the South Atlantic Council's new dolphin advisory panel, met with council members and advisors at a meeting June 16th in Key West, FL. The advisory panel is recommending proactive measures to preserve the south Atlantic dolphin fishery in a healthy condition, including maintaining the historical recreational and commercial catch shares while preventing expansion of the pelagic longline fishery. Various options for doing this will be taken to public hearings in September for inclusion in a new Fishery Management Plan for Dolphin and Wahoo to be prepared jointly with the Gulf of Mexico and Caribbean Councils.

FOUNDATIONS BOOST NCMC ACTIVITIES

The Pew Charitable Trusts and David & Lucile Packard Foundation recently awarded generous grants to the NCMC to support our participation in the Ocean Wildlife Campaign. In addition, the Surdna Foundation awarded us a multi-year grant to increase our staff and enable us to increase our involvement and effectiveness in fisheries issues.

SHARK WORKSHOP PLANNED

Despite concern among shark scientists and fishermen that some populations of pelagic sharks (blue, thresher, mako, et al) are declining, little information exists about

trends in abundance or how much fishing pressure these migratory sharks can withstand. The Ocean Wildlife Campaign will hold an International Workshop on Pelagic Sharks in February 2000 in Monterey, CA. The workshop will include participants from all the major pelagic shark fishing countries and begin compiling the information and expertise necessary for more effective shark management in the Atlantic and Pacific Oceans. For information contact: OWC Shark Workshop, 1901 Pennsylvania Ave., N.W., #1100, Washington, DC 20006.

HINMAN RE-ELECTED NETWORK CO-CHAIR

The Marine Fish Conservation Network re-elected the NCMC's Ken Hinman as co-chairman at its June Advisory Board meeting in Washington, DC. The next year is a critical one for the Network, an alliance of 80+ fishing and conservation groups working to strengthen federal fisheries policy and law. At the same meeting, the Network's Advisory Board finalized its agenda for the upcoming reauthorization of the Magnuson Act.

SHARKS RIDE A REGULATORY ROLLERCOASTER

Of all the over-exploited fish targeted for relief from overfishing in the government's new Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks, only large coastal sharks gained any significant new protections. While far from perfect, the shark provisions we worked hard to attain were a bright spot in an otherwise gloomy affair. Things looked even brighter a few weeks later, after we traveled to a meeting of the Atlantic States Marine Fisheries Commission and helped persuade the commission to begin developing a coastwide shark plan of its own to extend conservation into state waters from Maine to Florida. (see p. 3)

Meanwhile, we kept the pressure on in the Pacific, where sharks remain unprotected in federal waters. An effort to get Hawaii to outlaw finning of sharks caught as bycatch sailed through the house but died in the state senate. Attention shifted to the Western Pacific Council, whose reluctance to stop finning prompted the state initiative. At its June meeting, however, the council stubbornly refused to act. A week later, the Pacific Council reversed its opposition to developing its own plan for sharks and other pelagic fish, including billfish and tunas. The council will begin that process soon.

But back on the east coast, a federal judge was busy undoing what NMFS had just done for Atlantic sharks. In a ruling that further endangers already severely depleted large coastals, a U.S. District Court in Florida enjoined NMFS from imposing its brand new shark rebuilding and management measures on commercial fishers. As a result of the court order, commercial shark fishers were able to take more than double their new quota of endangered sharks this summer.

THE NCMC

MARINE INDEX

TELL IT TO THE JUDGE. In the draft version of the government's Fishery Management Plan for Atlantic Swordfish, Billfish, Tunas and Sharks, the National Marine Fisheries Service brazenly claimed that one tiny area closure, projected to have a negligible impact on bycatch in the pelagic longline fisheries, "meets the requirements of NS 9 to reduce bycatch and bycatch mortality." National Standard 9 is the Magnuson-Stevens Act's mandate to minimize bycatch in all fisheries. We got ready to sue. NMFS was smart enough to drop that ridiculous claim from the final FMP, but it also deleted the closure. So we sued (see p. 3). The agency still clings to the fiction that its plan minimizes bycatch. Exhibit A, of course, is its promise that a larger and longer time and area closure will be implemented in the future. But how many fish will a promise save? So what has NMFS actually done? Below, as a preview of its defense, we consider the list of actions cited by NMFS as meeting its requirement to reduce bycatch (as published in the Federal Register on May 28th).

GEAR MODIFICATIONS



The plan neither proposes nor requires any gear changes to reduce bycatch. While NMFS rejects the "no gear modifications" option, the only modification it is proposing is gear marking, which has nothing to do with bycatch. Its "pursuit" of gear modifications to reduce bycatch is limited to "non-regulatory measures," that is, the voluntary use of circle hooks.

BLUEFIN AREA CLOSURE



Not to minimize the importance of this measure - it is, after all, the only true bycatch reduction measure of any substance in the plan - but bluefin is the least of all the bycatch problems impacting overfished HMS species, which includes juvenile swordfish, blue and white marlin and numerous sharks. In this case, NMFS is likely responding more to a 1996 ICCAT recommendation to reduce tuna discards than any need to comply with the Magnuson Act.

REDUCED QUOTAS IN DIRECTED FISHERIES



The only HMS fishery for which quotas are reduced by the NMFS plan is the directed fishery for large coastal sharks. This fishery primarily employs bottom longline gear, which typically has a much lower bycatch rate than drift or pelagic longlines. By far the majority of shark bycatch occurs in the drift longline fisheries for tuna and swordfish.

LIMITED ENTRY TO SHARK & SWORDFISH FISHERIES



Nice try, but the NMFS limited entry plan doesn't reduce effort in the swordfish and shark fisheries. What it does is cap effort at current level, which might keep bycatch from *increasing*.

HOLDING EDUCATIONAL WORKSHOPS



Whoop de-do. NMFS acknowledges that longline fishermen have been unable to voluntarily reduce bycatch. The NMFS plan reveals it doesn't have a clue as to how to fish more selectively, either. So what is the great revelation supposed to come out of these workshops?

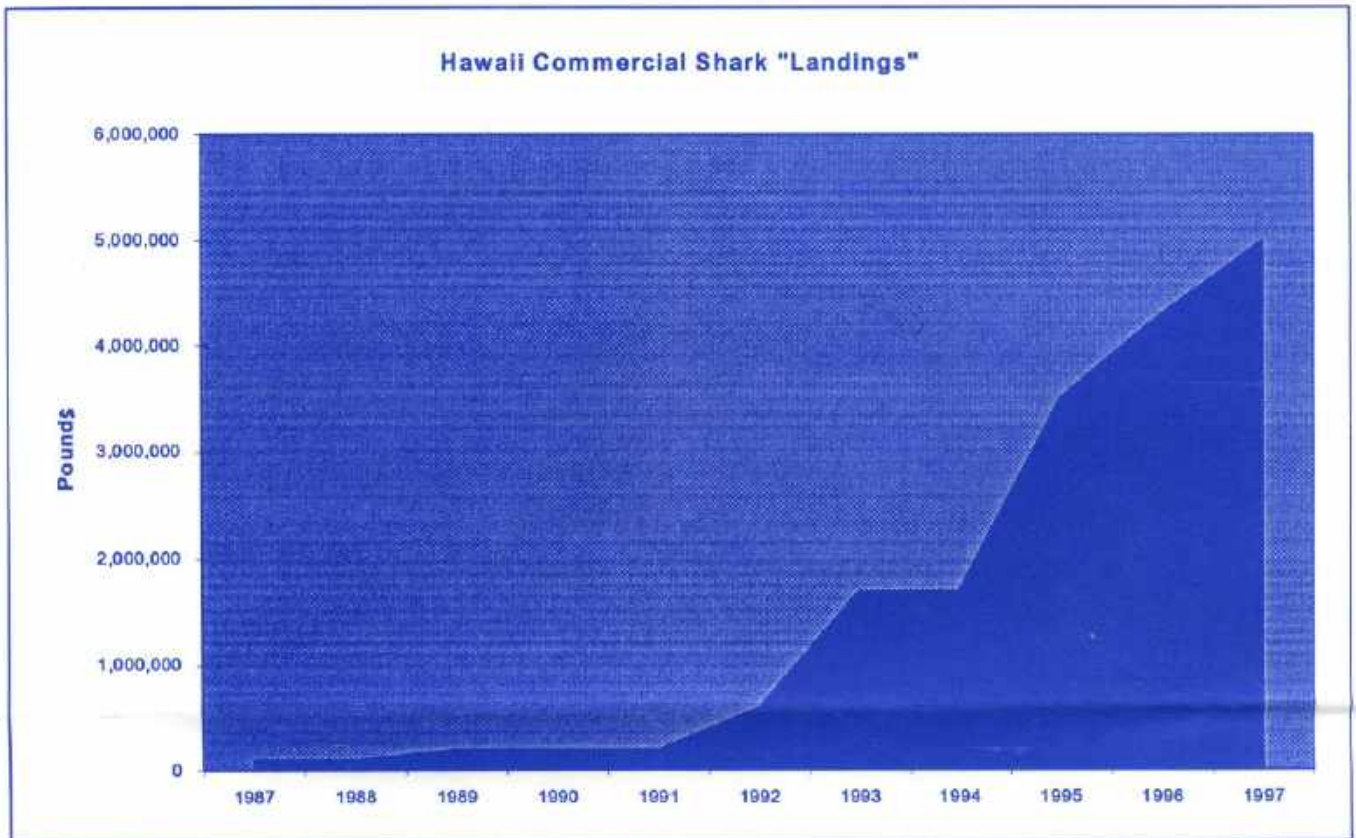
COUNTING DEAD DISCARDS AGAINST QUOTAS



This will only be done for swordfish if approved by ICCAT, which may require it and may not. But counting discards does not *avoid* bycatch or its mortality, which is the priority under the Magnuson Act. It is uncertain whether or not this will be an incentive for longliners to stay out of swordfish nursery grounds - areas where the size limit was supposed to provide a disincentive to fish, but didn't.

EVERY PICTURE TELLS A STORY

Because it is cruel, wasteful and a major cause of overfishing, shark finning on the U.S. Atlantic coast was outlawed in 1993. But around that same time, finning took off in Hawaii in a big, big way to help fill the insatiable Asian demand for fins – a bowl of shark-fin soup can fetch as much as \$100 in Hong Kong. The explosive rise in commercial shark landings since 1991 (see chart below) is not really “landings” at all but estimates of whole weight, since many of the sharks are simply relieved of their fins and discarded at sea, often while still alive.



NATIONAL COALITION FOR MARINE CONSERVATION

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THE NCMC

MARINE BULLETIN

Published By
NATIONAL COALITION FOR MARINE CONSERVATION
3 West Market Street, Leesburg, Virginia 20176

July-August 1999

No. 85

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"Let us face in time the fact that the ocean can be destroyed." - Thor Heyerdahl

THE NCMC OCEAN VIEW

FISH WEED

Here's one for the list of changes to make in the Magnuson Act when it's renewed next year - the definition of "fish." As the law now reads, "(t)he term 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and *plant life* other than marine mammals and birds." The emphasis is added because sargassum, the floating brown weed that forms pelagic habitats for a myriad of sea creatures in the tropical western Atlantic, is defined as a "fish."

The South Atlantic Fishery Management Council began work on a Sargassum Fishery Management Plan (FMP) years ago; long before Congress passed the Sustainable Fisheries Act in 1996. But that law added a new requirement for FMPs - identify and protect "essential fish habitat," defined as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity."

Sargassum weed provides habitat for at least 100 species of fish, including snapper-grouper, king mackerel and dolphin, over 145 invertebrates, 5 species of sea turtles and many marine birds. The council proceeded to designate sargassum as "essential fish habitat" in its Comprehensive Habitat Plan. Its Sargassum FMP was submitted to the National Marine Fisheries Service, establishing an allowable take of zero, with all harvest to be phased out.

Now NMFS is giving the council grief, threatening to disapprove the Sargassum FMP. Why? Because the agency interprets the law to require that all FMPs for all fisheries, even for a "fish" designated as "essential fish habitat," must establish a sustainable catch level and permit fishing as long as it prevents overfishing. Without setting a maximum sustainable yield and defining overfishing in fishery management terms, rather than habitat protection terms, the council cannot justify prohibiting any harvest.

This is another example of bureaucrats hiding behind technicalities in the law to disapprove a management measure when it serves their purpose - in this case, to allow continued harvest of sargassum - when so often they are more than willing to bend the rules to allow council actions they clearly should not (see lead story, p. 3).

We would never suggest that NMFS should be anything less than vigilant in enforcing the legal requirements for FMPs. They are essential to preventing overfishing. But so is sargassum essential habitat for numerous species of fish - *real* fish - that real fishermen depend on. We believe that if NMFS re-reads the law, it will see that the Magnuson Act gives it the discretion to choose sargassum as protected habitat for fish over sargassum as a fishery that must be fished.

Ken Hinman, President

NATIONAL COALITION FOR MARINE CONSERVATION

Founded in 1973

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The NATIONAL COALITION FOR MARINE CONSERVATION is a 501(c) non-profit organization dedicated to the following 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 coastal habitat and water quality.

THE NCMC MARINE BULLETIN

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OPPORTUNITIES LOST AT SEA

NMFS COMES UP SHORT ON NEW MANDATES TO RESTORE MARINE FISHERIES

The National Marine Fisheries Service (NMFS) has failed to display the bold leadership necessary to restore the nation's precious fishery resources, charges the Marine Fish Conservation Network in a newly released review of the government's implementation of the Sustainable Fisheries Act (SFA). The Network, which worked with Congress to gain passage in 1996 of the SFA's new overfishing, bycatch and habitat standards, finds the agency's performance in upholding these standards inconsistent and inadequate, and is suggesting a series of changes needed to enforce higher conservation principles for managing the nation's fisheries.

"Many of the improvements in fisheries management anticipated by Congress when it passed the SFA are not being realized," concludes the coalition of over 80 environmental and fishing organizations in its report entitled **LOST AT SEA**. "While the SFA's mandates seemed clear, implementation of the Act by the fishery management councils and NMFS indicates that they were not clear enough."

The Network's evaluation is a follow-up to **MISSING THE BOAT**, released last January, which catalogued numerous deficiencies in the fishery management plans and amendments prepared and submitted to NMFS by the councils in order to meet the Act's new requirements. NMFS responded to the Network's criticism by calling it premature and promising the agency would reject inadequate plans and amendments and return them to the councils for "necessary modifications."

But since then, according to **LOST AT SEA**, NMFS has reviewed 62 SFA implementation amendments or plans the Network found deficient in at least one important aspect and, contrary to its earlier assertions, the agency approved 24 of these in their entirety. Thirty were partially disapproved and 8 are still under review.

"The most common flaws are practically no new reduction in bycatch or bycatch mortality, the designation of essential fish habitat without any real protection of it, and rebuilding plans that are too long and too risky, making it likely that many overfished fisheries will remain in that condition for another decade or more," says Ken Hinman, president of the National Coalition for Marine Conservation and Network co-chair. Hinman testified at a July Senate hearing looking into how well the SFA is working.

Because NMFS has approved so many fishery management plans that fail to satisfy the requirements of the law, the promise and intent of the SFA remains largely unfulfilled. Further legislative changes are necessary to restore the nation's marine fish to their full economic and ecological potential, according to the Network. The Network's agenda for reform during the upcoming reauthorization of the federal fisheries act will be featured in the September/October issue of the NCMC *Marine Bulletin*.

HMS: SUPERLATIVES AND EXCESS

The following is excerpted from NCMC president Ken Hinman's remarks at a symposium on Atlantic highly migratory species hosted by the American Fisheries Society on September 1st. Hinman was invited by AFS to introduce the symposium and moderate a panel discussion on ways to improve HMS management.

The Atlantic's "highly migratory species" - both the fish and the fisheries - are marked by superlatives and excess. This group includes fish that commonly weigh hundreds of pounds; that can grow to over 1,000 pounds, although there are precious few of those around today. Fish that can swim over 50 miles per hour. Fish that may travel thousands of miles in a season.

It includes fish that are turned into sushi and soup and sold for up to \$100 a serving. Fish that many consumers refuse to buy because they are overfished. Fish that fishermen spend thousands of dollars to catch a single one, only to let it go.

It includes a fish that is among the most depleted - the bluefin tuna. A fish that may be the fastest disappearing fish in the Atlantic - the swordfish. Fish that, because they reproduce so slowly, may take decades to recover even if all fishing for them were to cease - large coastal sharks, like the dusky and sandbar.

HMS Dominate the "Overfished" List

When the National Marine Fisheries Service submitted its Report to Congress on the Status of U.S. Fisheries last October, 90 species of marine fish were designated as "overfished." Of these, 28 - nearly one-third of the total - are Atlantic highly migratory species: bluefin tuna, bigeye tuna, swordfish, blue marlin, white marlin, sailfish, and 22 species of shark. Or, looking at it another way, of the 50 species of Atlantic HMS currently under U.S. management, over half are overfished. Any way you look at it, these fisheries are in bad shape.

In 1996, Congress passed the Sustainable Fisheries Act, requiring adoption of rebuilding plans for all overfished species and measures to minimize bycatch in all fisheries. In May of this year, NMFS completed a new Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks

and an amended FMP for Atlantic Billfish. These plans, however, are anything but finished.

The recovery plans for overfished tunas, swordfish and marlins were deferred to ICCAT, the international body that sets Atlantic-wide catch limits, as was a recommendation to deduct dead discards of juvenile swordfish against the quota. Action to reduce bycatch on drift longlines was postponed, pending development of more effective time-and-area closures than what was proposed in the draft FMPs. Measures for rebuilding large coastal sharks - easily the strongest conservation measures in the HMS FMP - were subsequently vacated by a federal judge still reviewing a lawsuit over 1997 quota cuts in the commercial fisheries.

Which leaves little of substance left in the plans as of today. And much of what remains, or of what is missing, is the object of nine lawsuits filed by various constituent groups - commercial, recreational and environmental.

Changing Course

The recommended rebuilding schedules for swordfish and billfish are commendable - 10 years. But leaving implementation of the plans, including the U.S. share of our conservation responsibility, up to ICCAT causes some trepidation. ICCAT's conservation record is scary enough. But what happened last year, when ICCAT adopted a recovery plan for bluefin tuna, is downright terrifying.

What happened was the mountain came to Mohammed. The rebuilding goal established for nearly 20 years was deemed too hard to attain - so ICCAT moved it within reach. Based on dubious science, ICCAT, with U.S. complicity, lowered the goal to where current catch levels will restore the stock in 20 years - catch levels that have kept the population depleted for the past 20 years.

Complicating matters is the fact that the HMS fisheries are dominated by a fishing method the longline industry insists is "environmentally friendly," but environmentalists call "an underwater minefield." What critics term indiscriminate and haphazard slaughter, the industry calls a multispecies fishery with a "diversified portfolio."

Tens of thousands of undersized, juvenile swordfish are killed and discarded on drift longlines every year. Thousands of marlin, too. Untold numbers of pelagic sharks. How the bycatch problem will be resolved remains to be seen. We have a promise from NMFS to reduce bycatch through time-and-area closures - measures the longline industry continues to resist; *unless* it is done on their terms, and they are compensated with cash.

What NMFS will ultimately do remains to be seen. Indeed, much remains to be done. But despite the somber tone of my introduction, we are about to change course. There are things happening right now, opportunities here and now to turn things around - domestically and internationally. I believe that will happen - as long as we are willing to give up the excess in order to make these fisheries superlative once again.

NOTES FROM UNDERWATER

FRIENDLY FIRE

When the sponsors of a resolution calling on the U.S. government to end pelagic longlining recently tallied up the endorsements - 94 organizations by August 31 - several national recreational fishing groups who'd publicly called for a longline ban were conspicuous by their absence. This curiosity turned into something more sinister when one of them openly and viciously attacked the resolution and its backers.

In the July/August issue of *Tide*, the mouthpiece of the Coastal Conservation Association, editor Doug Pike ridiculed the efforts of the NCMC and Recreational Fishing Alliance, deliberately misrepresented what we are trying to achieve, and discouraged any support we might get from CCA members.

The effort initiated by NCMC and RFA - now joined by IGFA - aims to phase-out drift longlining in U.S. waters while working for international area closures on the high seas. It is no different from what Pike says is CCA's objective: "elimination of longlines for domestically managed species ...imposition of open-ocean [high seas] closed areas."

So what would make an organization turn on its allies and undermine a common objective - a longline ban - they've been touting in their fundraising letters all year? Could it be that's really not their goal?

As it turns out, CCA, The Billfish Foundation (another group that's publicly demanded an end to longlining) and the American Sportfishing Association have made a pact with the U.S. longline industry. On the surface, it's about legislation to buy out longline boats in exchange for area closures. But there's much more to it than that - much the public doesn't know.

According to the agreement between the four groups, CCA, TBF and ASA will not seek elimination of the U.S. longline fleet, but instead join with them in an alliance of "unity and mutual respect;" they will work to stop NMFS from implementing its proposed rule to reduce longline bycatch; and they will defer all future regulation of U.S. longlining to ICCAT.

We are certain at least one of the four parties involved knows what it's doing. This agreement would leave the longline industry stronger, economically and politically, while dividing and weakening their opposition. The three recreational groups would be advised to ask their members if this is what they really want - and ask themselves who their friends really are.



TURNING THE TIDE

NCMC News & Activities

SHARK WEEK ON DISCOVERY

For the third straight year, the Discovery Channel teamed with the Ocean Wildlife Campaign during the cable network's annual Shark Week broadcast. Throughout the week, Discovery ran an OWC public service announcement



alerting viewers to the plight of sharks and the need for strong conservation. As a result, the campaign and its member organizations, including the NCMC, received numerous requests for information on how people can help.

NCMC TESTIFIES FOR FISH NETWORK

The Senate Subcommittee on Oceans and Fisheries held an oversight hearing July 29th on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. Subcommittee chair Olympia Snowe (R-ME) invited NCMC president Ken Hinman to testify on behalf of the Marine Fish Conservation Network, the primary advocate of the conservation reforms passed by Congress during the last reauthorization (the Sustainable Fisheries Act). Hinman serves as Network co-chair.

LAWSUIT UPDATE

National Coalition for Marine Conservation et al v. Commerce Secretary Daley, the lawsuit filed in June by NCMC, National Audubon Society and Natural Resources Defense Council, seeks to compel the National Marine Fisheries Service to move forward with proposed regulations to minimize the bycatch of swordfish and billfish in the U.S. pelagic longline fishery. We are in the process of negotiating a briefing schedule with the Justice Department and our attorneys are holding a status conference with the judge in the case on September 21.

NCMC TO ADD STAFF

Thanks to a multi-year grant from the Surdna Foundation, NCMC will be hiring a new Fisheries Project Director to help advance our fish conservation programs beginning in 2000. This new position will enable us to expand our reach and effectiveness in the fisheries policy

arena. The Fisheries Project Director will be responsible for taking on new conservation projects, representing NCMC at public meetings, and working with the regional councils. And since our staff is growing, so must our office space. Look for our new address in the coming months.

HELP THE FISH AND NCMC WHILE YOU FISH WITH ARTMARINA

Artmarina, a charter fishing operation based in Miami, is currently running a promotion where any angler who books a charter with them to fish in Guatemala or Brazil receives a complimentary one-year membership in the NCMC. In addition, the company is offering a free 4th day of fishing on all 3-day trips, in exchange for a tax-deductible contribution to the NCMC. To learn more about Artmarina, a loyal and generous supporter of NCMC, visit their web site at www.artmarina.com or call them at 305-663-3553.



BRING BACK THE BIG FISH!

IN THE PRESS

We wish to thank the following publications for helping the NCMC *Bring Back the Big Fish!* by giving press coverage to the campaign and our efforts to conserve billfishes, sharks and tunas: The Fisherman, Saltwater Fly Fishing, Sport Fishing and Salt Water Sportsman. By helping us reach thousands of salt water anglers, we've had an unprecedented number of new members join and/or support the campaign.

FOR THE DEFENSE

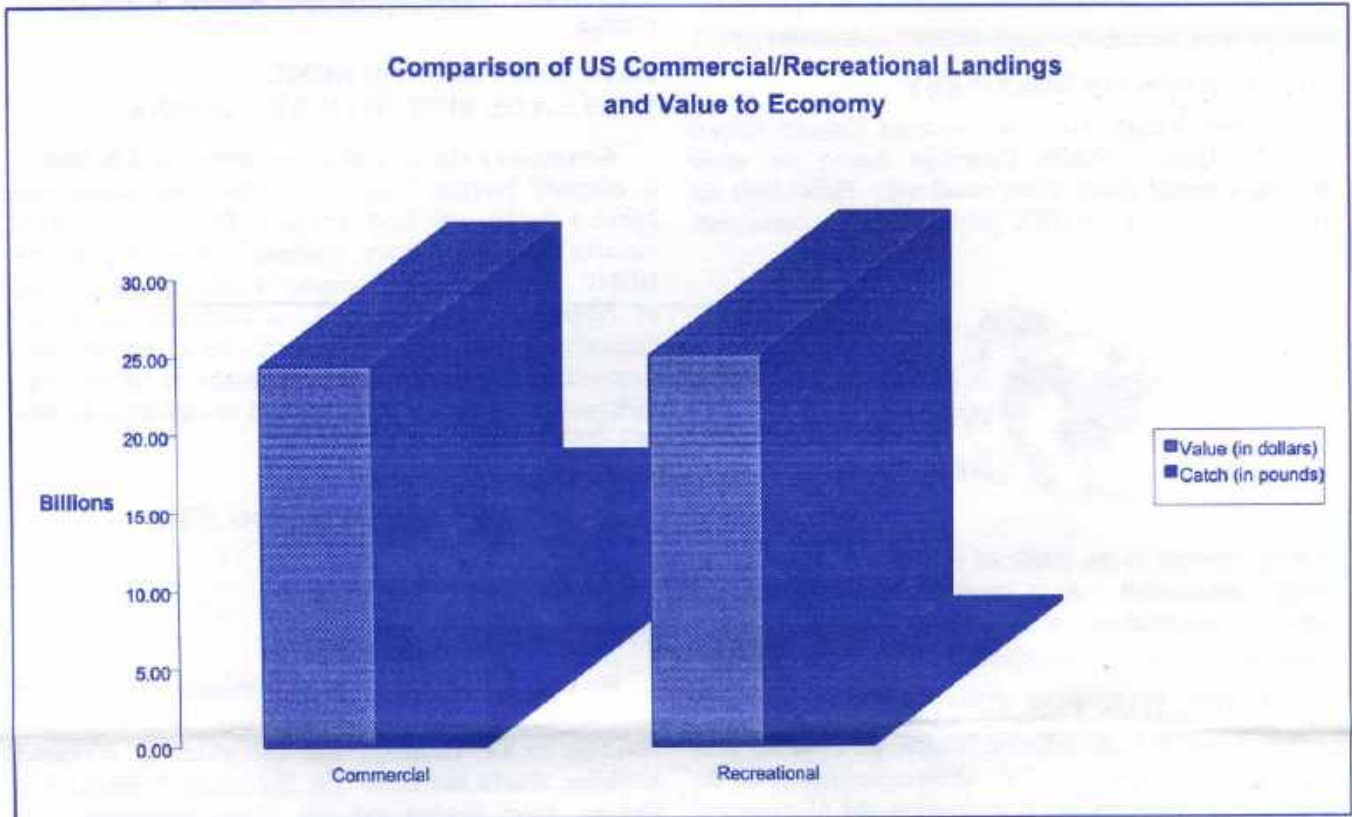
The City of Charleston, SC voted two years ago to deny an out-of-state group representing 20 longline vessels permission to occupy space at the city's new marina. City officials determined that leasing the space to the longliners would increase longline fishing effort off the coast of South Carolina and therefore would not be in the best interests of the marine resources offshore or the state's fishermen. The city's attorneys asked the NCMC's Ken Hinman to serve as an expert witness on the detrimental effects of longlining, and he gave a deposition in the case on August 20th.

MEMBER SURVEY REMINDER

By now you should have received a survey from us regarding how we can improve the services we provide our members. We need your responses so we can give you what you expect from us, and so we can do it in the most efficient and cost-effective manner. Your input is very important, so please remember to fill the survey out and return it to us as soon as possible. Thank you!

EVERY PICTURE TELLS A STORY

According to a new study by the Congressional Research Service, the commercial and recreational fishing industries of the United States make roughly equal contributions to the national economy, however, the commercial fish landings are roughly 40 times (by weight) the total recreational landings.



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THE NCMC

MARINE BULLETIN

Published By
NATIONAL COALITION FOR MARINE CONSERVATION
3 North King St., Leesburg, VA 20176

September - December 1999

No. 86

SWORDFISH REBUILDING BEGINS BUT ICCAT CHOOSES 'RISKY' RECOVERY PLAN

The Atlantic swordfish is trying to come back and making some encouraging progress, according to the most recent report from scientists studying the fishery. After a decade of progressively bleaker stock assessments showing the north Atlantic population in a virtual free fall, the news in late 1999 was welcome: an increase in swordfish biomass from 58% to 63% of the optimum level.

In other words the broadbill, while still severely depleted, has responded to recent, modest reductions in fishing pressure and reminded us we can bring it back, and fairly quickly - if we're willing to make the necessary sacrifices.

A united and determined U.S. delegation, willing to do its part, went to Rio de Janeiro, Brazil in November for the annual meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The U.S. representatives, with the support of both our fishing industry and environmentalists, fought hard for an Atlantic-wide agreement to rebuild swordfish within 10 years. And that's what we got - sort of.

Unfortunately, other members of ICCAT, not wanting to give up any more than they already have, conspired to postpone most of the necessary catch cuts until after the next stock assessment in 2002. Until then, the odds of actually rebuilding in 10 years are less than 50/50.

Risky Start-Up

Three of the elements the National Coalition for Marine Conservation sought in an international swordfish recovery program were adopted by ICCAT:

- ✓ An agreed upon goal of rebuilding the overfished north Atlantic swordfish population within 10 years;

- ✓ Dead discards of juvenile swords counted against the total catch allowance; and,
- ✓ A formal request that ICCAT scientists examine the potential use of time and area closures and longline gear changes to reduce bycatch of juvenile swordfish.

The agreement sets a goal of rebuilding swordfish to a population size capable of producing its maximum sustainable yield (MSY) by 2009, with a greater than 50% probability. The total allowable catch (TAC) - landings and discards - will be reduced to 10,600 metric tons in 2000; 10,500 tons in 2001; and 10,400 tons in 2002. The TAC in 1999 was 10,700 tons plus approximately 500 tons in dead discards on top of that. (There was also an overage of about 1,100 tons, attributable mostly to swordfish bycatch in the Japanese tuna fishery.) Catch levels were not established beyond 2002. A new stock assessment will be performed that year and limits will be determined based on new information and progress toward the rebuilding goal.

The U.S. delegation, to its credit, pushed for a TAC of less than 10,000 tons, following advice from ICCAT
(continued page 3)

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"Let us face in time the fact that the ocean can be destroyed." - Thor Heyerdahl

THE NCMC
OCEAN VIEW

WE'VE COME A LONG WAY

To paraphrase T.S. Eliot, this is the way 1999 ended, not with a whimper but a bang. True, a year that started with universal anger at the National Marine Fisheries Service for not coming up with a plan to reduce longline bycatch of swordfish and billfish, as the law requires, had by mid-year degenerated into a discordant clash among fishermen and conservationists over what to do next and how.

But remarkably, by the twelfth month, we found ourselves with something few would have predicted: virtually unanimous agreement among all concerned that very large areas of our coastal waters should be closed to pelagic longlining.

Proposals to rid longlines from hundreds of thousands of square miles of ocean are now endorsed by nearly everyone; not just environmentalists and non-longline fishermen, but the leadership of NMFS, key members of Congress, and the longline industry itself. The only thing these groups disagree on is the method of implementing the closures. (see page 4)

We don't want to underestimate the challenge of overcoming the remaining obstacles, but the significance of arriving at this point cannot be overstated. For years, we have harangued the government about the need to rein in the indiscriminate use of pelagic longlines because of their excessive bykill of non-target and protected species. We've demanded meaningful action to directly address the problem with innovative measures.

Two years ago we released the results of an NCMC study of how to manage the longline fisheries. In Ocean Roulette, we recommended: specific time and area closures covering known swordfish nursery grounds and regions of high billfish and shark bycatch; transponders on all vessels to enforce the closures; an international agreement to close areas on the high seas; counting dead discards against quotas; phasing down the number of longliners; and research into more selective ways of fishing.

As we enter the year 2000, each of these recommendations has either been adopted or is part of a proposed regulation and/or legislation. Our relentless pursuit of conservation - by strengthening the laws, building public pressure to see them implemented, using the courts to hold officials accountable - is paying off. We've come a long way. But we're not there yet.

Ken Hinman, President

NATIONAL COALITION FOR MARINE CONSERVATION

Founded in 1973

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The NATIONAL COALITION FOR MARINE CONSERVATION is a 501(c) non-profit organization dedicated to the following 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 coastal habitat and water quality.

THE NCMC MARINE BULLETIN

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SWORDFISH REBUILDING BEGINS - SORT OF

(CONTINUED FROM PAGE ONE)

scientists that fishing mortality should be below that figure to provide *at least* a 50% chance of rebuilding in 10 years, as set out in the ICCAT agreement. But the European Union (chiefly Spain) and Japan wouldn't budge off the higher levels. As a result, catches will be too high in the first three years of the "recovery" program to have a better than even chance of staying on the agreed upon rebuilding trajectory, although some rebuilding should occur.

Critical decisions will be made in 2002, i.e., whether a sharp course correction is taken, if needed based on the next assessment, or ICCAT is willing to stay at 10,400 tons even if it means rebuilding to MSY will take as long as 15 years. The language of the agreement leaves ICCAT the flexibility to opt for the latter.

"Without question, getting ICCAT to agree to a goal of rebuilding swordfish in 10 years was a major achievement," says NCMC president Ken Hinman. "But the recovery plan has a very risky start-up, with quotas for the next 3 years set higher than they should be and no guarantee they'll be adjusted later on. If they aren't, the recovery could take much longer.

"Let's not forget that, because the ICCAT conservation program actually began in 1990, it will have taken 20 years to rebuild swordfish *even if* we stick to the new schedule. It took ICCAT the first 10 years just to arrest the decline, because countries, *including* the U.S., were unwilling to cut back enough. To allow rebuilding to stretch out beyond *another* 10 years would be inexcusable."

Attention Shifts Homeward

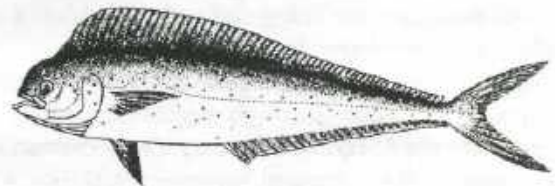
The agreement to deduct discards off the top of the TAC (before divvying it up among the fishing fleets) was a significant accomplishment. For the first time, quotas will account for all sources of mortality. In addition, it provides a badly needed incentive for fishermen to avoid concentrations of small fish. The burden will gradually be shifted to individual countries with high discards, i.e., each year a larger percentage of the total discards will be deducted from responsible country quotas rather than taken off the top.

ICCAT, at the request of the U.S., asked its scientific panel to study the use of time and area closures to protect juvenile swordfish. It was NCMC that first proposed this idea to U.S. officials. It was done in a

way, as we urged, that does not inhibit the U.S. from moving ahead domestically with its own closures in home waters.

In fact, the swordfish agreement bolsters the case for domestic area closures. Because of the risks involved in the slow start on the rebuilding path as described above (plus the risk of continued overages), stock recovery within the 10-year time frame would benefit substantially from additional protection of juvenile swordfish (avoiding mortality altogether, not simply counting it against quotas). There's been some strong year-classes in the population of late, and action that gives more of these fish a chance to survive and mature would offset some of the risks involved with the high TACs in the early years of rebuilding.

Shortly after the ICCAT meeting concluded, time and area closures to reduce bycatch in the U.S. pelagic longline fisheries were proposed by both the National Marine Fisheries Service and members of Congress. Among the areas included in both proposals are known swordfish nursery grounds. Protecting new recruits to the fishery would greatly enhance chances for a more speedy recovery. (See "A Time and A Place for Conservation," page 4)



PRO-ACTIVE DOLPHIN PLAN MOVES FORWARD

Federal fishery managers approved a draft plan to conserve dolphin and wahoo and will take it to public hearings this spring. The goal of the new plan, according to the South Atlantic Fishery Management Council (which manages offshore fishing from North Carolina to the Florida Keys), is "to take a precautionary and risk-averse approach" to protecting the southeast's dolphin fishery.

Recreational bag limits, size limits and commercial trip limits are proposed to prevent an increase in fishing mortality and to preserve the traditional recreational share of the dolphin catch at near 90%. Measures to prevent the use of pelagic longlines to target dolphin are also being considered.

"The dolphin/wahoo plan will be a rare exception in fisheries management - preventive action to keep a

healthy and productive fishery from falling victim to overfishing," says the NCMC's Ken Hinman, a member of the council's Dolphin Advisory Panel and an early proponent of action to protect dolphin from increasing commercial fishing pressure. The Gulf of Mexico Council is considering complementary measures for the gulf's fisheries.

A TIME AND A PLACE FOR CONSERVATION

NMFS to Close 200,000 Square Miles of Ocean to Longlining; Legislation Also Introduced

Area closures to reduce bycatch in the pelagic longline fisheries are now being proposed by both the National Marine Fisheries Service and members of Congress. The National Coalition for Marine Conservation, which has long advocated extensive longline area closures to protect undersize swordfish, billfish and oceanic sharks, is pleased and encouraged that such measures are being seriously considered and are likely to be implemented in the near future.

Unfortunately, differing approaches to instituting the closures - either through regulatory action by NMFS under the Magnuson Fishery Conservation and Management Act or through separate legislation - are dividing the attention of the fishing and environmental communities. Although the area closures proposed by NMFS and featured in bills before Congress are similar in size and duration, Congressional intervention carries with it two controversial changes in the management of large pelagic fish: it effectively transfers authority for managing the Atlantic pelagic longline fishery - now and in the future - from NMFS to Congress; and it links implementation of conservation measures in this fishery - now and in the future - to financial compensation on the industry's terms.

Failure to resolve critical differences between the two approaches and unite the fishing and conservation communities in common purpose could undermine the conservation benefits that ultimately derive from either proposal; or, in the worst case, stall action on each indefinitely, thereby short-changing the resource and the fishermen who look forward to the benefits of recovered stocks. The NCMC has carefully examined the current proposals to enact time and area closures for the U.S. pelagic longline fishery and recommends a course of action we believe meets the interests and concerns of all involved.

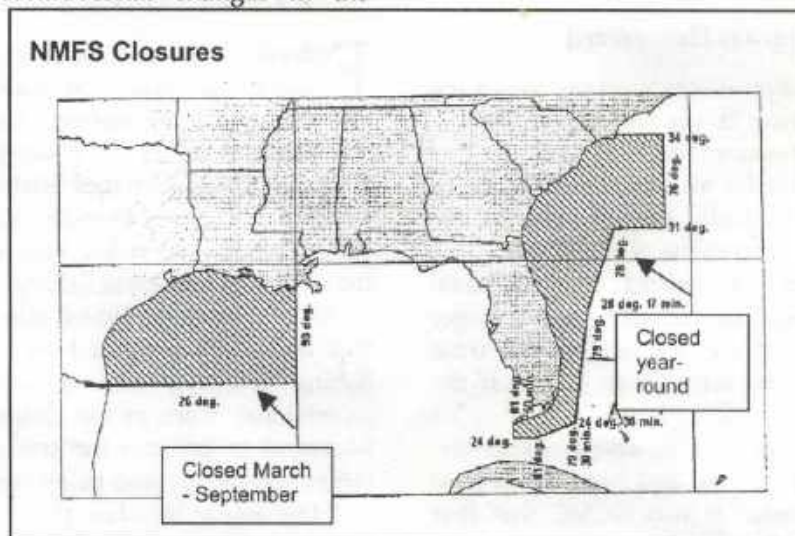
The NMFS Proposed Rule

On December 15, 1999, NMFS issued a Proposed Rule announcing its intent to prohibit pelagic longline fishing at certain times of the year and in certain areas within the Exclusive Economic Zone (EEZ) of the Atlantic Ocean off the southeastern U.S. and in the Gulf of Mexico. These proposed area closures, according to NMFS, are "necessary to address pelagic longline bycatch and incidental catch of overfished and protected species."

The Proposed Rule, which could be approved and implemented by the Secretary of Commerce as early as May, would put nearly 200,000 square miles of U.S. coastal waters off limits to fishing for tunas, swordfish and sharks with pelagic longlines (see map below). Pelagic or drift longlines, the predominant fishing gear in the commercial fisheries for these species, consist of a mainline between 20 and 40 miles in length, floated from the surface, from which hundreds and even thousands of baited hooks are suspended into the water column. Thousands of non-target and prohibited species, including marlins, sailfish, sharks, undersize swordfish, bluefin tuna, sea turtles and

seabirds, are ensnared on the hooks, causing excessive and uncontrollable amounts of mortality and wasteful discards, while undermining efforts to rebuild overfished populations.

The NMFS Proposed Rule would amend the recently completed Fishery Management Plan for



Atlantic Tunas, Swordfish and Sharks and Amendment 1 to the Atlantic Billfish Fishery Management Plan. These FMPs were revised in May of 1999 to conform to new requirements of the Sustainable Fisheries Act (1996 amendments to the Magnuson Act), including a mandate to minimize bycatch in all fisheries. The Final FMPs, however, deferred adoption of longline bycatch reduction measures, promising future regulatory action.

In June, the NCMC, joined by the National Audubon Society and Natural Resources Defense Council, filed a lawsuit against the Secretary of Commerce (National Coalition for Marine Conservation et al v. Daley), charging the government with violating the Magnuson Act's mandate requiring all FMPs to include measures to minimize bycatch. In a negotiated stay of the case, NMFS agreed to produce a Proposed Rule to address bycatch of billfish and undersized swordfish no later than December 15th.

NMFS estimates the closed areas in its Proposed Rule could reduce bycatch by the following amounts:

Species	Bycatch Reduction (%)
Swordfish	40
Blue Marlin	22
White Marlin	20
Sailfish	40
Bluefin Tuna	60
Large Coastal Sharks	46
Sea Turtles	5

These estimates assume no redistribution of fishing effort; in other words, they assume that fishing effort currently within the areas during the time of closure would not be transferred to areas left open to longlining. The size and duration of the closures are likely to result in a substantial reduction in fishing effort overall, although NMFS correctly expects that some redistribution of fishing effort may occur. The extent of redistribution and the effect on the bycatch reduction projections is unknown, however. Effort would not be redistributed randomly, since many of the vessels currently fishing out of home ports in southern coastal areas are generally of a smaller size and therefore are

probably incapable of traveling to the open Caribbean, southwest Atlantic, mid-Atlantic region or Grand Banks, where longline fishing effort is currently moderate to heavy.

NMFS proposes to continue assessing alternative closed areas/sizes/times along with other strategies (e.g., gear modification) in order to achieve bycatch reduction and minimize vessel displacement and/or its effects on bycatch of various species. Still, the agency's proposal already has been criticized for not directly reducing effort in the pelagic longline fishery. Some of these critics are backing legislation that would close similar areas to longlining, as well as offer to "buy-out" up to 70 vessels in the fishery, although the legislative proposals are not intended or designed to reduce capacity but rather to provide economic relief for those who wish it.

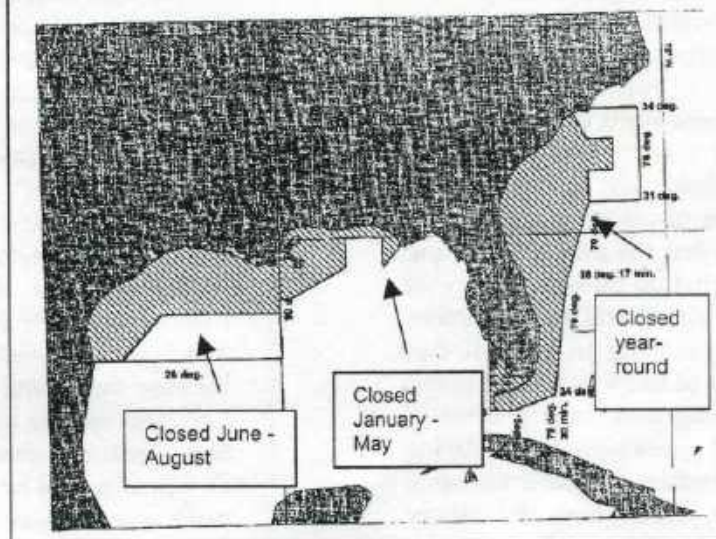
Proposed Legislation

As long ago as last spring, when NMFS first announced its intention to pursue "large and effective" time and area closures to reduce longline bycatch, the longline industry (represented by the Blue Water Fisherman's Association) made it clear it would not accept a closed area of any size unless the government compensated effected vessel owners. In private negotiations outside the NMFS plan development process, BWFA reached a *quid pro quo* agreement with three recreational fishing groups (American Sportfishing Association, Coastal Conservation Association and The Billfish Foundation), offering support for area closures in return for a government-sponsored buy-out of certain longline fishermen. Central to the agreement was for the four groups to jointly draft and support legislation

as a substitute for regulatory action by NMFS, which they would actively oppose.

Several bills to implement the area closure *cum* buy-out in the longline fishery were introduced in Congress in December, right before the NMFS rule was due to come out. Senator John Breaux (LA) introduced S. 1911, the Atlantic Highly Migratory Species Conservation Act, and Reps. Billy Tauzin (LA) and Porter

Legislative Closures



Goss (FL) sponsored a companion bill in the House, H.R. 3390. Rep. Jim Saxton (NJ) is the author of a similar bill, H.R. 3331. In addition, a bill to prohibit all pelagic longlining in U.S. waters (H.R. 3516) was introduced by Rep. Rick Sanford (SC).

The buy-out bills would close approximately 160,000 square miles of offshore waters to longlining (see map) to reduce bycatch of swordfish and billfish. Vessels claiming to be impacted by the closures would be offered financial compensation - \$125,000 plus an additional amount up to \$325,000 per vessel depending on the value of recent landings - for which the vessels would have to surrender their fishing permits and not allow the vessels to be used again for commercial fishing. The "buy-out" could cost up to \$20 million and would be paid for by taxpayers (1/2), consumers through a tax on the sale of swordfish (1/4), and recreational fishermen through a license to fish for billfish and tunas in the closed areas (1/4). (The longline industry would bear none of the cost.)

The text of the bill does not indicate the anticipated reduction in bycatch resulting from the closures and, although it is assumed some number of vessel owners will accept the buy-out (it is voluntary, not mandatory), it is unknown how many would take the money and leave the fishery or how many would elect not to and move their operations into other areas.

The attachment of a buy-out to the closures is touted by its sponsors as a preferable approach to the NMFS proposal because a) it would remove effort from the fishery, thus decreasing the likelihood of increased bycatch rates in the areas left open to longlining, and b) it has the support of the longline industry, which makes it more likely to be adopted.

As with the NMFS proposal, the size and duration of the closures alone should reduce overall longline effort substantially. Any added reduction in effort due to the buy-out offer is uncertain, mainly because its purpose is not effort reduction *per se* but economic relief.

It is possible that only those boats too small or too attached to their home port to move to other regions, or those that are struggling financially (in other words, the effort that would not be displaced in any event), will take the buy-out offer; that the more mobile and financially solvent vessels (that do threaten continued bycatch through redirected effort) will remain active. More importantly, there is nothing in the bill that would prevent the hundreds of boats remaining active in the fishery from increasing their fishing effort in terms of number of sets and hooks and thus replacing the bought-out effort. According to NMFS statistics, the removal of 70 longline vessels from the fishery

NOTES FROM UNDERWATER

JUST DOING THEIR JOB

"In my opinion, NMFS did this without letting us (the coalition designing his bill) know what they were doing," Sen. John Breaux complained to the New Orleans Times-Picayune about the agency's proposed longline regulations. "They were just responding to the people that sued them, and that's not the way we work in Washington...I think they got the message loud and clear that we were displeased."

Excuse us, Senator. While we certainly agree that NCMC's lawsuit prompted NMFS to issue its rule on longline area closures in December, to imply that the agency's action was merely a response to our suit is disingenuous, to say the least. To claim that NMFS produced the rule without advance notice is preposterous. And to say that this isn't "the way we work in Washington" is to put your finger on the problem.

What did NMFS think it was doing when it proposed time and area closures? Its job. It was complying with the mandates set out by Congress in the Sustainable Fisheries Act. Lawsuits don't get you anything unless they are based in the law. Ours was. NMFS knew it, and reacted accordingly.

The rule was no surprise to anyone. NMFS announced its intent to implement "large and effective time and area closures" last May. Possible closed areas were reviewed in June at a public meeting attended by one of Sen. Breaux's aides. Our lawsuit was public knowledge and members of the "coalition" supporting Breaux's bill (which wasn't introduced until December) were closely monitoring its progress.

Members of Congress shouldn't be chastising NMFS for doing what the laws they pass require the agency to do, just because they think they know better. Yes, Congress has the authority to intervene. As Sen. Breaux correctly states, "An act of Congress would be the last word." But let's make sure that word isn't "cynicism."

would leave 128 vessels permitted to target swordfish and another 218 vessels with permits to take swordfish as an incidental catch in the tuna and shark fisheries. In fact, an increase in effort is likely since the remaining vessels would end up with a larger share of the available landings quotas for swordfish, tunas and sharks.

The legislation's compensation provision is justified as economic relief for vessels that would, because of the closures, suffer "substantial adverse economic impacts." If that is true, many of these vessels would likely be forced out of the fishery by large area closures. Indeed, that would seem to be the underlying rationale for the buy-out legislation. It is insincere, then, for the critics of the NMFS proposal to argue, as they do, that this effort would simply be displaced to other areas.

Finally, nowhere in the bill is "substantial adverse economic impact" defined or demonstrated for the vessels eligible for the buy-out. The criteria for eligibility are so liberal as to include fishing vessels that may not have been fishing in the closed areas for over 5 years! Without strict criteria based on demonstrably severe economic impacts resulting from the closures, it is impossible to predict which vessels eligible for the buy-out might leave the fishery and which might remain and shift their effort to other areas, if they haven't done so already.

A Comparison of the Two Approaches

If we assume that the conservation benefits to be gained from the area closures in the NMFS proposal and the legislative proposals are substantial in both instances - after all, enormous areas of the U.S. EEZ would be closed to longlining for long periods of the year (in the gulf) or permanently (in the south Atlantic) - and that assumptions about the effects of displaced effort are uncertain under both scenarios, we must examine other elements of the two approaches and their implications for conservation and management to determine which is the most desirable outcome.

Critical to the success of any bycatch reduction plan based on time and area closures will be follow-up action. It is a fact that longline area closures are experimental in nature and monitoring, evaluation and adjustment through subsequent action will be necessary to meet bycatch reduction goals. Because it is proposed as part of a Fishery Management Plan under the Magnuson Act, the NMFS action can be modified through a regulatory amendment if changes - alternative closures, gear modification and capacity reduction - are needed to achieve conservation objectives.

The proposed legislation, on the other hand, would preclude any follow-up action to regulate longlining until at least 2004, and then only by an act of Congress. A provision of the bill stipulates that NMFS may not propose, approve or implement any area closures different from those in the bill for at least 4 years after its passage. The bill contains a laudable research program to study possible gear modifications to reduce bycatch of billfish, but NMFS is to report the results (again after 4 years) to Congress with

The Breaux/Tauzin bills offer to buy-out 17% of the U.S. longline fleet, then give the remaining vessels immunity from future regulation.

recommendations for "legislation." There is also an otherwise laudable provision for monitoring effort shifts into the mid-Atlantic region, however, once again, NMFS must report to Congress with any recommendations for action.

The effect of these provisions, and the unmistakable intent of the legislation, is to take management authority for the U.S. pelagic longline fleet away from NMFS and give it to Congress. Recall that it was the BWFA that persuaded Congress in 1990 to take management authority for highly migratory species away from the Atlantic regional fishery management councils and give it to NMFS, because the longliners didn't like swordfish conservation rules being recommended by the councils. Now the longliners, unhappy with NMFS, are seeking to take management of their fishery out of the agency's hands.

Even if these provisions were removed, the very fact of Congress pre-empting NMFS when it is on the verge of doing its job as Congress intended when it amended the Magnuson Act - as opposed to intervening because the agency is not doing its job - makes it probable that further regulation of this fishery would require another act of Congress and be contingent upon additional compensation to the longline fleet.

Changes to the Existing Proposals

The National Coalition for Marine Conservation is currently studying the NMFS Proposed Rule and will be submitting detailed comments, including recommendations for how the proposal can be strengthened, during the public comment period that ends March 1, 2000 (extended from an original deadline of February 11th).

We are skeptical that the flaws in the legislative approach can be corrected through alterations to the bills currently before Congress, if for no other reason than that the likelihood of the longline industry supporting a bill modified to satisfy our concerns may be slim to none. (The longliners blasted Rep. Saxton because his bill was slightly different from Breaux's.)

Legislation is *not* necessary to implement the time and area closures and achieve the conservation benefits that would derive from them. That can and should be done through the regulatory process established by Congress under the Magnuson Act, and with which NMFS is complying. Notwithstanding, the NCMC cannot even consider supporting the current bills without the following substantive changes:

1. **Remove any and all language restricting future regulation of the U.S. longline fishery by the National Marine Fisheries Service.** Responsible fishery managers must retain the discretion - indeed, they have the legal obligation - to evaluate the effectiveness of time and area closures in reducing longline bycatch and to take additional domestic actions in the future, including alternative closures and gear modifications, as part of the regulatory framework established under the FMPs for billfish, tunas, swordfish and sharks.
2. **Include a bycatch reduction target and timetable for reducing bycatch of overfished species** (blue marlin, white marlin, sailfish, swordfish, bluefin tuna and large coastal sharks), against which the effectiveness of the initial time and area closures, and the need for future action, can be assessed. NMFS has rejected demands by NCMC that its regulations feature a target and timetable, but we will continue to urge the agency to adopt such essential features. We believe linking a costly and precedent-setting buy-out program to time and area closures argues even more strongly that a specific bycatch reduction goal be established to ensure that the anticipated conservation benefits are actually achieved.
3. **Require vessel monitoring systems (VMS) on all active pelagic longline vessels,** to be installed and operated at the vessel owner's expense. The VMS requirement is essential to effective enforcement of any area closures and the requirement that they be in use by the entire longline fleet should not be dependent on the uncertain appropriation of adequate federal funds.
4. **Revise the criteria to determine the eligibility of vessels for the buy-out based on demonstrable adverse economic impact resulting directly from the closures.** The liberal eligibility criteria in the

proposed bills could be interpreted to establish longlining as a compensable property right where, in the future, conservation can only be purchased at the industry's asking price. It must be made clear that the funds are not "compensation" for the impact of fishery regulations, so as to avoid establishing fishing as a compensable right and thereby link compensation to future conservation measures in this and all other U.S. fisheries. OR ALTERNATIVELY,

5. **Define the purpose of and construct the buy-out as effort reduction, instead of economic relief, with the goal of enhancing the effectiveness of the closures.** Include measures to prevent vessels remaining in the fishery from increasing effort and/or capacity and thus replacing the effort being removed, in part or in whole. (Effort reduction does not require legislation, however. See below.)

NCMC's Preferred Course of Action

Our preferred course of action is to support NMFS in its Proposed Rule, with modifications and improvements, and to ask Congress to support a strong Final Rule in accordance with the requirements of the Magnuson Act.

The closed areas are practicable bycatch reduction measures with or without buy-outs. NMFS is not required to provide economic relief for its conservation and management measures, nor does it have the authority or the funding capacity to do so. The law does not permit NMFS to abdicate its obligations to rebuild overfished stocks and minimize bycatch to assure that there are no adverse economic impacts on fishermen. If Congress deems it necessary, for political reasons, it could follow implementation of the regulations with legislation to provide relief to those vessels that can demonstrate substantial adverse economic impacts as a direct result of the regulations.

If NMFS should determine, at a future date as it monitors the effectiveness of the time and area closures, that it is necessary to reduce capacity in the longline fishery in order to achieve the conservation and bycatch reduction objectives it has established, the agency may act under authority of the Magnuson Act. According to Section 312(b), the Secretary may conduct a Fishery Capacity Reduction Program for a fishery if he determines that such a program "is necessary to...achieve measurable and significant improvements in the conservation and management of the fishery." Under such a program, the Secretary would be authorized to offer payment to a vessel owner in return for either scrapping the vessel, or surrender of the vessel's permits to "permanently prohibit and

effectively prevent its use in fishing." Payments may come from either the Saltonstall-Kennedy Fund, appropriations under the Magnuson Act, an industry fee system or other public or private sources. Since the remaining longline fleet would benefit economically from the removal of competing vessels, leaving them larger shares of the allowable catch, an industry fee system would be the most appropriate.

This approach - fishery management by NMFS under the Magnuson Act and economic relief provided by Congress as a complementary action, if it so chooses - should be acceptable to all interested parties. The longline industry has already endorsed area closures similar to those in the NMFS proposal, agreeing that they are critical to the recovery of swordfish and billfish. Longliners cannot argue against closed areas on conservation grounds. Their request for a buy-out, which they've justified solely on the basis of anticipated adverse economic impacts on certain vessels caused by the closures, is not necessary to achieving the conservation goals of the Magnuson Act, but could be addressed by urging Congress to deal with that issue in turn.

This approach would give the backers of the proposed legislation everything they say they want: conservation *and* economic relief. It would preserve the viability and effectiveness of the management process established by Congress, instead of scrapping it. Most importantly, by upholding NMFS in its implementation of the provisions of the Magnuson Act, Congress would advance that process significantly.

CONGRESS TO WESPAC: "STOP FINNING NOW" *Refusal to Protect Sharks Prompts Rebuke from Lawmakers*

In the waning days of the 1999 session of Congress, the House of Representatives unanimously endorsed a total ban on the finning of sharks in all waters of the United States. The non-binding resolution, introduced by Rep. Randy Cunningham (CA), calls on federal fishery managers to end shark finning in the Central and Western Pacific Ocean.

Shark finning is the practice of removing the fins of a shark and dumping its carcass, sometimes still living, back into the ocean. "This distasteful and wasteful practice is intolerable and unsportsmanlike," noted Cunningham. "That is why the American Sportfishing Association and the Recreational Fishing Alliance strongly support this resolution. However, this

practice is also hurting our environment, which is why the Ocean Wildlife Campaign and its members support this resolution."

High demand for shark fin soup has driven a dramatic surge in shark finning by the Hawaiian tuna and swordfish longline fleet, the Ocean Wildlife Campaign points out. Off Hawaii, the number of sharks killed and brought to the dock has increased by more than 2500 percent, skyrocketing from just 2,289 sharks in 1991 to 60,857 sharks in 1998. In 1998, over 98 percent of these sharks were killed solely for their fins.

This finning fiasco is occurring within the jurisdiction of the Western Pacific Fishery Management Council (WesPac) based in Honolulu. But despite requests for a ban on finning by national environmental organizations - The Ocean Wildlife Campaign is an alliance of six groups: National Coalition for Marine Conservation, National Audubon Society, Center for Marine Conservation, World Wildlife Fund, Wildlife Conservation Society and Natural Resources Defense Council - along with local Hawaiian environmental and fishing groups, shark scientists and the National Marine Fisheries Service (which years ago outlawed finning on the east coast), the council has steadfastly refused to take action to control finning or limit shark mortality to precautionary levels.



Hawaiians tried to get a law against finning passed through their state legislature in 1999 and will no doubt try again this year. The U.S. Congress may take up the issue, too, with bills to halt the practice. Some groups have asked NMFS to intercede on behalf of the sharks. Meanwhile, all eyes are on WesPac, where the real responsibility lies. Stay tuned.

NCMC URGES COUNCIL TO STAND FIRM ON PROTECTING



SARGASSUM

NMFS Tries to Force Harvest of Essential Fish Habitat

Sargassum weed is a home and a nursery to hundreds of fish and invertebrates as well as marine mammals and turtles. The South Atlantic Fishery Management Council last year designated these floating gardens as "essential fish habitat" and drew up rules to phase out all commercial harvest of sargassum by 2001.

When the National Marine Fisheries Service threatened to turn down the South Atlantic Council's Pelagic Sargassum FMP (see *Marine Bulletin* No. 85) and asked for public comment, the NCMC gave its strong and unequivocal support for the council's objective of full protection for sargassum. We attended the council's September meeting in Charleston, SC and testified in front of the NMFS Southeast Regional Director. In an October 22nd letter to NMFS, we challenged the agency's grounds for disapproval, arguing that the council was in compliance with the habitat protection provisions of the Magnuson Act and

the agency was merely substituting its judgement for that of the council.

But NMFS was not deterred, and subsequently returned the plan to the council to be revised and re-submitted. To gain approval, the council was told, the plan would have to allow some amount of sargassum to be taken.

NCMC is urging the council to resubmit its plan with a strengthened rationale for why allowing even a small harvest of sargassum is contrary to the goals of the Magnuson Act. In a recent letter to council executive director Bob Mahood, we cited the dangerous precedent of directly harvesting essential fish habitat and the need for U.S. leadership in protecting the Sargasso Sea, a vast expanse of seaweed that provides refuge and sustenance for marine wildlife throughout the Atlantic.

"Halting the harvest of sargassum is of the utmost importance, and we believe the original action of the Council recommending a phase out of the harvest was entirely appropriate," says NCMC Fisheries Project Director Tim Hobbs. NCMC staff will be at the council's March meeting, when the decision on what to do next will be made.

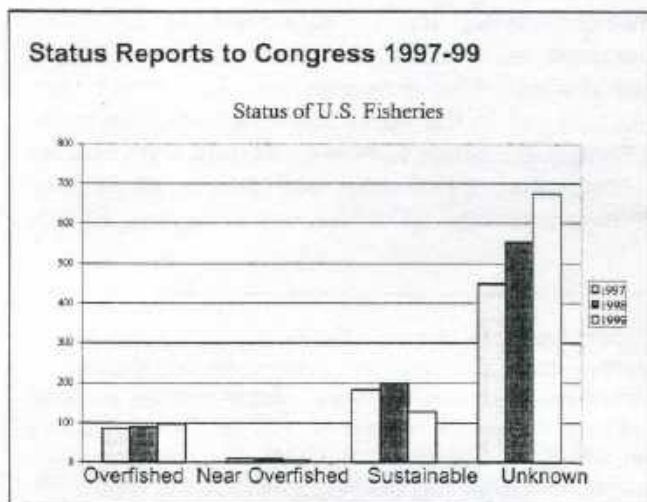
COMMERCE REPORT FINDS OVERFISHING AT RECORD HIGH

Number of "Unknown" Species Raises Concerns, Too

In a report released to Congress in October, the Department of Commerce finds overfishing levels in the United States are the highest ever recorded. According to the report, the number of overfished species has increased from 90 to 98. As a result, over 40% of the fish stocks whose status is known are classified as overfished. Among the new species now classified as overfished are Georges Bank cod, Bering Sea snow crab, yellowtail flounder and Gulf of Maine haddock.

In addition to the number of overfished species, Commerce now concludes that the status of 674 species is unknown - up 130 from last year. Nearly 75% of the stocks listed in the 1999 report are classified as "unknown." These stocks are accidents waiting to happen. In fact, there are good reasons to believe that some stocks of unknown status are already overfished, yet they will receive no protection until they are properly assessed.

Perhaps more troubling than these numbers is the fact that the National Marine Fisheries Service has the tools - and the directive - to aggressively address these problems. Yet in most cases, NMFS and the councils continue to take incremental steps forward rather than displaying the bold leadership necessary to restore our precious fisheries resources, according to the Marine Fish Conservation Network, an alliance of more than 80 environmental and fishing organizations monitoring implementation of the Sustainable Fisheries Act.



When Congress passed the Sustainable Fisheries Act (SFA) in 1996, it enacted strict new mandates to prevent overfishing, rebuild overfished stocks, minimize bycatch and protect essential fish habitat. At that time, the measure was hailed by its Congressional sponsors as the "hallmark of conservation of fisheries throughout the world." While NMFS has taken some steps to implement the reforms of the SFA, this most recent report on overfishing makes clear that more aggressive steps are needed if the Congressional mandate to stop overfishing and rebuild overfished stocks is to be realized.

Will Future Overfished Lists Be Longer or Shorter?

Under the SFA, the Secretary of Commerce is required to make an annual report to Congress on the state of the nation's fisheries. This report is intended to inform Congress of the progress NMFS (which is under Commerce) is making in implementing the Act. Prior to SFA, NMFS was not required to conduct an overall assessment of U.S. fish stocks, making it difficult, if not impossible, to know the number of fished species and their status.

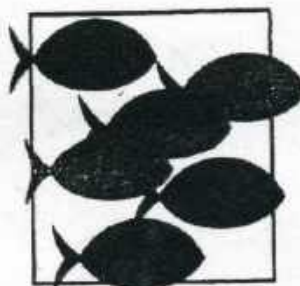
This year's report is the first to consider the new SFA overfishing definition, which defines a fishery as

overfished if fish are caught faster than the stock can replenish itself, or if the stock size is too small to be fished at current rates sustainably. Prior to the SFA, some overfished stocks were not categorized as such. The SFA ended the risky practice of fishing at high rates on depleted fish stocks. This report is significant because it provides the clearest picture of the precarious state of the nation's fisheries we've seen to date.

Under SFA, NMFS is required to work with regional fishery management councils to develop new management plans that meet SFA standards and hold fishery managers responsible for meeting these mandates. These plans, which were to be in place by October 1998, were to include a rebuilding plan for overfished stocks and a timetable for reaching recovery as well as measures for avoiding bycatch and identifying and protecting essential fish habitat.

Last September, the Marine Fish Conservation Network released a report on NMFS implementation of the SFA, entitled "Lost at Sea." (See *Marine Bulletin* No. 85; the full report is available on the Network's website at www.conservefish.org.) The Network's evaluation found that NMFS is failing to adequately enforce or comply with SFA requirements and is instead approving measures that do not satisfy the new requirements. This failure is allowing the decline of important U.S. fish populations to continue and/or forestalling their recovery. Without more aggressive action to stop overfishing and rebuild overfished stocks, it is likely that NMFS will be reporting long lists of overfished species for years to come.

Marine fish are a precious natural resource of enormous ecological, economic and social importance that can contribute to the national prosperity and enhance our quality of life. We can no longer stand by,



**The
Marine
Fish
Conservation
Network**

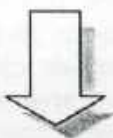
watching these stocks decline while the government doesn't do enough to correct the problem. We asked for tough new fishing laws, and Congress responded by passing the SFA in 1996. But, unless NMFS and the councils vigorously implement the laws, we are at risk of continuing to add more fish to the overfished list, instead of removing those already on it.

THE NCMC MARINE INDEX

Nothing ensures an angler's return to the same water as a near miss. - Joseph Monninger, Home Waters

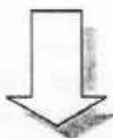
It was nearly 4 years ago that Congress thoroughly revamped the Magnuson Act to include tough new requirements to restore our ailing marine fisheries to healthy and sustainable levels. As the nation's lawmakers begin their first assessment of the impact of those changes, and whether more are needed, the burden of proof is shared: first, by those responsible for fully implementing the reforms laid out in the 1996 amendments known as the Sustainable Fisheries Act (SFA); and second, by those advocating further reforms. The Marine Fish Conservation Network has scrupulously studied the performance of the fishery management councils and National Marine Fisheries Service over the last 3 years and the results are contained in a pair of reports, "Missing the Boat" and "Lost at Sea." The Network found serious problems, not just in what fishery managers have done, or not done, but also flaws in the law itself. "These problems should be considered in the upcoming reauthorization of the Magnuson Act," announced the Network in unveiling its new "National Agenda to Protect, Restore and Conserve Marine Fisheries." "Amendments are necessary to make conservation the number one priority of fisheries management" - to tighten up the SFA, and to move forward in new directions. (The Network's complete Agenda can be seen at www.conservefish.org.)

REBUILDING OVERFISHED STOCKS



Fishery managers are resorting to an old tried-and-failed policy: using the short-term demands of fishermen to stretch out rebuilding periods as long as possible and to set catch limits too high to get even a 50/50 chance of staying on schedule. The Network wants to replace such risk-prone management with a more precautionary approach to reduce the risk of continued overfishing. Prolonging recovery only prolongs suffering and postpones the economic and ecological benefits of rebuilt stocks.

REDUCING BYCATCH



The directive to "minimize bycatch" is as soft as the old mandate to prevent overfishing. Without any more prescriptive requirements, the councils can get away with doing nothing. The Network wants more emphasis put on avoiding non-target species rather than simply reducing discards; catch incentives favoring more selective gear; and, most importantly, specific requirements, such as targets and timetables, to hold managers accountable.

INDIVIDUAL FISHING QUOTAS



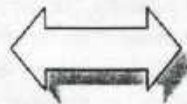
A 1996 moratorium on IFQs - the controversial practice of granting fishermen ownership of a share of the catch - expires this year. The Network wants it extended, *until and unless* specific conservation standards are adopted to govern all IFQ programs and protect the public interest.

CONSERVING ECOSYSTEMS



A 1999 report commissioned by Congress calls for moving toward a broader ecosystems approach. The first step is requiring all FMPs to consider predator-prey interactions and establish conservation measures to prevent "ecosystem overfishing," such as allowing forage species to be fished down without considering the effect on key predators.

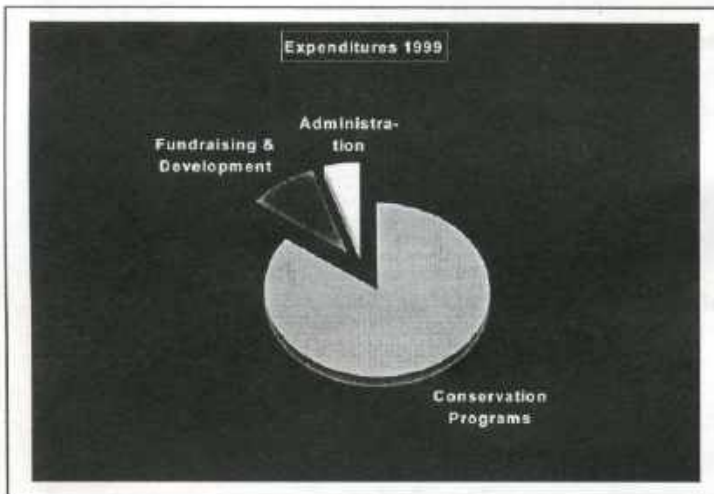
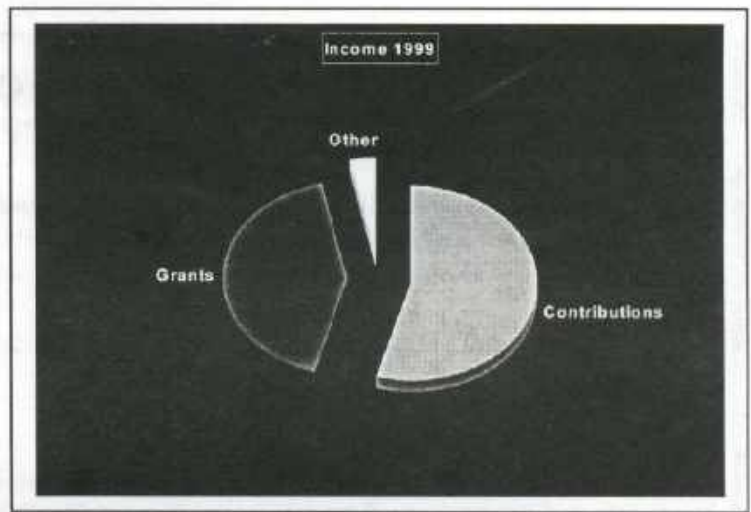
COUNCIL REFORM



Regional council members from outside the fishing industry as still the exception. The Network believes membership more broadly representative of the public interest will ensure decisions that benefit all Americans, not just special interests.

FINANCIAL SUMMARY 1999

Each year, one of the National Coalition for Marine Conservation's primary financial goals is to put as much as possible of every dollar received directly into programs to conserve marine fish. The three charts on this page (a) break down NCMC income during the past year, showing share of funds received from contributing members and supporting foundations (right); (b) how the



funds were spent, divided among conservation programs, development and administration (left); and (c) how funds were allocated among our various conservation programs (below).

NCMC members who would like to receive a more detailed report on income and expenditures may write and request a copy of our 1999 Annual Report, which will be available after January 31, 2000.

The NCMC's conservation activities focus on five main program areas:

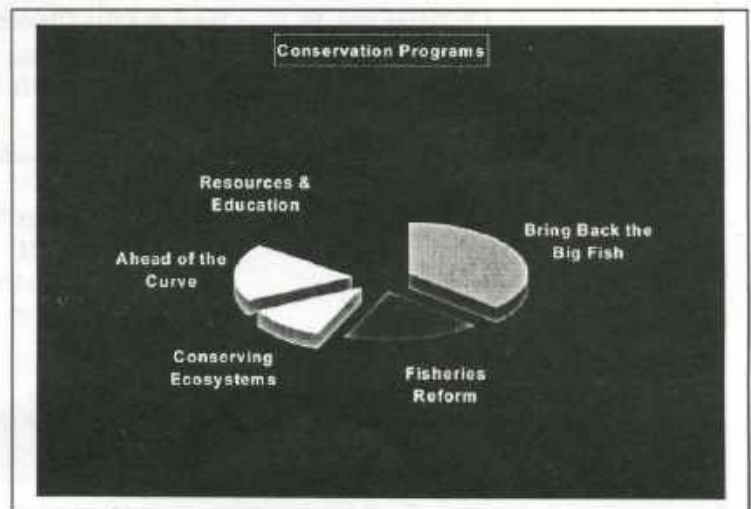
Bring Back the Big Fish. Conserving billfish, swordfish, tunas and sharks in the Atlantic & Pacific.

Fisheries Reform. Participation in the Marine Fish Conservation Network and promoting positive changes in fisheries law and policy.

Conserving Marine Ecosystems. Advancing an ecosystems approach to management, emphasizing conservation of key predator and prey species.

Ahead of the Curve. Identifying and promoting pro-active measures, such as to conserve healthy dolphin stocks, protect sargassum habitat, and prevent overfishing of Pacific sharks.

Resources & Education. Publications, newsletters, action alerts, posters, brochures and issue papers.



THANK YOU FOR YOUR SUPPORT!

We like to say that, with your help, we're making sure there will always be plenty of fish in the sea. It's not just a slogan. Each NCMC member and every contributor, large and small, makes every single thing we do possible. We're proud that we were able to achieve many of our objectives this past year, and for that, we thank you.

The following individuals, clubs, companies and foundations merit special mention for their generosity during 1999.

Project Grants

The **Surdna Foundation** ...For a grant to add a new Fisheries Project Director to our professional staff.

The **Curtis & Edith Munson Foundation**, the **Donald Slavik Family Foundation** and **The Greater Miami Billfish Tournament**...For funding to conduct and prepare a report on a workshop to integrate management of predator and prey species.

The **Pew Charitable Trusts** and the **David & Lucile Packard Foundation**...For their support of the Ocean Wildlife Campaign's efforts to protect the ocean's giant fish.

The **Mostyn Foundation**...For an unrestricted grant to conserve billfish and other large pelagics.

Unrestricted Grants

Grants of general support were received from the **Louis & Helen Meyer Foundation**, the **Tara Foundation**, the **Evan M. Frankel Foundation**, and the **A.P. Kirby, Jr. Foundation**.

A great big thank you to every member who responded to our *Bring Back the Big Fish!* appeal for special contributions to advance our efforts to rebuild Atlantic swordfish and marlins.

Sponsors (Members contributing \$250 or more)

AFTCO Mfg. Co.	William D. Akin	Stanley J. Arkin
ArtMarina, Inc.	Pete Barrett	Perry R. Bass
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Richard Reagan	Nathaniel P. Reed	America
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Harvey Silverman	Eddie Smith, Jr.	Nick Smith
Sandy & Karen Smith	South Florida Fishing Club	Richard H. Stroud
John C. Walton	Dick Weber	Rick Weber
Christopher M. Weld	Karl Wickstrom	Arne S. Youngberg, MD



TURNING THE TIDE

NCMC News & Activities

NCMC MARINE BULLETIN 15

NCMC HOSTS PREDATOR-PREY WORKSHOP

Although the ocean is a fish-eat-fish world, traditional fisheries management doesn't account for interactions between key predators and their prey. Interdependent species - e.g., striped bass and menhaden, tunas and herring, codfish and dogfish - are often managed under separate fishery management plans and by different agencies. Management goals, including allowable catch levels, are established for individual species without consideration of how they impact associated species.

Expanding traditional fisheries planning to consider related predators and prey - a first step toward a broader ecosystems-based approach - was the topic of a two-day workshop held by the National Coalition for Marine Conservation (NCMC) November 11-12 in Annapolis, Maryland. The purpose of the workshop, attended by a select group of fishery scientists, managers and conservationists, was to develop a framework model for integrated management, providing guidance as to what predator-prey information is needed and, most importantly, how it should be used in the practical world of making fisheries management decisions, in particular the setting of catch levels in related fisheries.

The NCMC has been invited to present its recommendations on Applying Ecosystem Principles to Multi-species Management during a February 7th conference sponsored by the Chesapeake Bay Program, a state/federal partnership developing a master plan - Chesapeake 2000 - for restoring the nation's largest estuary.

SCIENTIFIC FORUM SIGNALS WORLDWIDE CONCERN FOR PELAGIC SHARKS

Driven by growing concern over the decline of shark populations throughout the world's oceans, including some pelagic (open-ocean) species, more than 150 fishery scientists and managers are gathering on Feb. 14-17 in Pacific Grove, CA for an unprecedented meeting. The international scientific workshop is sponsored by the Ocean Wildlife

Campaign, a coalition of six major environmental groups, including the NCMC.

Catch rates for blue and mako sharks are estimated to have declined by 75% since the late 1970s in the U.S. Atlantic, according to data from NMFS. In the U.S. Pacific, it is reported that mako, thresher and blue shark have all been depleted in waters off California since the 1970s, based on average size caught. At a time when demand for sharks and shark products are increasing, scientists say there is a disturbing lack of data on the status of most shark populations or their ability to withstand fishing pressure.

The OWC workshop will bring together experts to compile the scientific information necessary for effective domestic and international management and conservation of pelagic sharks in the Atlantic and Pacific Oceans. For more information, contact Christine Snovell at (703) 777-0037.

HINMAN BRIEFS SENATE ON MAGNUSON ACT REFORMS

NCMC president Ken Hinman and Lee Crockett, executive director of the Marine Fish Conservation Network, were invited to Capitol Hill on October 20th to brief legislative aides to the Senate Commerce Committee on the Network's agenda for reauthorization of the Magnuson Fishery Conservation and Management Act. (see Marine Index, p. 12)

NCMC ADDS STAFF, MOVES TO BIGGER DIGS

The NCMC is pleased to announce the hiring of J. Tim Hobbs, Jr. as its new Fisheries Project Director. "While growing up, I was fortunate enough to experience many fishing expeditions, targeting everything from bluefish in the North Carolina surf to king salmon off Alaska," says Tim, by way of introduction. "About 8 years ago, I started fishing the canyons off Virginia, and I was immediately confronted with many problems of our fisheries first hand. My exposure to these problems and the management debacle that created them have driven my academic and professional life ever since." Tim will be assisting NCMC in a wide range of activities at the interstate, council and federal levels, helping the organization increase its scope and effectiveness. To accommodate our growing staff, NCMC moved to a new headquarters in December. We are still in Leesburg, Virginia, outside Washington, DC, and our telephone and fax numbers remain the same. Our new mailing address is: 3 North King Street, Leesburg, Virginia 20176.

(next page)

MEMBER SURVEY RESULTS

By Christine Snovell, Director of Development

Thanks to all of you who returned your member survey. Your input is important for improving our member services. In some cases, you told us what we expected, but there were some surprises! Most of you said you give to the NCMC to see results, not to receive merchandise. You give both according to your financial ability and your satisfaction with our performance. Some of your suggestions have prompted us to change our policies. One is, for contributions over \$30, we are now including the dollar amount donated on thank you letters to make it easier for tax purposes. Also, many of you told us you'd like to know exactly how your dollars are being used. From now on, we will include pie charts in the year-end newsletter (see page 13) to show you where our money comes from and where it goes. We listen to our members, and greatly appreciate your suggestions!

NCMC SUPPORTS HABITAT PROTECTIONS

NCMC submitted written comments December 23rd when NMFS delayed implementation of its Interim Final Rule on Essential Fish Habitat to re-open public comment. The agency is under pressure from developmental interests to weaken its rules. "We believe the regulations, as written, provide important

guidance for the agency and the regional councils in identifying and protecting EFH," we wrote. "Delaying them makes us question the agency's commitment to implementing the habitat protection provisions of the Sustainable Fisheries Act. These regulations should be finalized in their current form as soon as possible, with the following improvement. The NCMC believes the Final Rule should emphasize that all elements of a managed fish's ecosystem, including significant prey species and their habitat, should be considered and reviewed as possible EFH. NMFS and the councils should begin taking a broader, ecosystem-based approach to managing and conserving marine fisheries, and understanding the inter-relationships of marine species and their respective habitats is critical to conserving all of our fisheries at healthy and sustainable levels."



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