

IF YOU REALLY WANT TO UNDERSTAND WHAT IS GOING ON WITH RED SNAPPER PLEASE READ ALL OF THIS!

I know the system can be very confusing. I am still learning after 10 years. Mike Rowell gave an excellent analogy to me this morning. Imagine a house is burning and someone has been fighting the fire for 10 hours and then you walk in, look around and say they need to be using the hose! What you don't know is they have tried the hose for several hours, it didn't work but shoveling sand seemed to be doing the job. Not knowing what they have been doing for 10 hours you think they are stupid for not using the hose, however if you had been beside them for the last 10 hours you would know they had already tried that among another 100 things before you got there!

HOW THE SYSTEM WORKS FROM THE BOTTOM UP

Recreational charter boats and anglers

Have the opportunity to testify before Advisory Panels and the Council on issues that concerns them. They can also write letters and send emails with their comments.

Advisory Panels

Appointed by the council to give advice on new regulations; they meet only when the council is considering regulations on the fishery that their committee is established for. The council pays for their expenses, hotel, flight and/or mileage, and gives them a per diem to eat on.

Gulf of Mexico Fishery Management Council

The council has 17 voting members. Each Gulf State has 1 State Employee, each Gulf State gets 1 obligatory seat, NMFS gets 1 seat and there are 6 at large seats that are scattered throughout the Gulf. The 11 constituent seats are appointed by the U.S. Secretary of Commerce who receives nominations from all Gulf States.

Is it political? **You betcha!**

Is the recreational community on the winning end right now? **NOT EVEN CLOSE!** This group is the closest to the constituents; they develop with NMFS, strong arm fishery management plans that are required to comply with the LAW. They can ask questions make some minor assumptions, but they don't really have the power to push anything through the system unless it is legal and NMFS wants it. However they are required to abide by the LAW.

National Marine Fisheries Service (NMFS)

The NMFS controls the fisheries, most of the time, unless the Secretary of Commerce gets heat from a significant number of important congressional members. They own all the models and perform the stock assessments at their Southeast Science Center; however they are required to abide by the LAW.

Secretary of Commerce

The Buck Stops Here! The person in this position decides whether or not a regulation is implemented. He can approve, partially approve or deny a fishery management plan that has been given to him by NMFS.

Here Is the Problem

Congress passed the reauthorization of the Magnuson/Stevens Act recently and it **REQUIRES** all overfishing to cease in ALL fisheries by 2010! This is the LAW and no one

from the Secretary of Commerce down has the authority to ignore the LAW. The only way to fix our situation is to change the LAW. The best chance we have at doing that is to make the law specific to the Gulf of Mexico only; then we just have to get the Gulf delegation convinced it's the right thing to do, **to place people before fish.**

The data is bad, everyone knows that, but unfortunately it is the only data available and it is very limited. For instance less than **0.1%** of the private recreational sector is intercepted to collect numbers and size of fish caught.

Their data is then extrapolated among a percentage of coastal households to determine recreational catch. The National Research Council told the National Marine Fisheries Service on two occasions that the MRFSS system, which is used to measure recreational catch, was fatally flawed. Congress was made aware of this before passing the new LAW, it didn't make a difference! In 1996 when congress passed the Sustainable Fisheries Act it **REQUIRED** the recreational red snapper fishery be closed when NMFS estimated their quota had been reached. Congress was told that there was no mechanism to accurately estimate the recreational harvest and guess what? They did it anyway.

The new reauthorization requires NMFS to develop a recreational registry to identify **ALL** recreational anglers. They are in the process of developing that now. One of the major problems has been, not every state requires licensing and those that do have exceptions like no license required for under 16 or over 65. When you have exceptions statistics don't work well and they have to use correction factors to account for those exceptions and those factors generally kill us. Some commercial representatives go to great lengths to insist that we identify the private recreational anglers because they believe these folks are killing fish at the rate our anglers are on our boats. If you have ever watched some of these private boats unload, you will understand that this is a severely misguided perception. Yes there are hundreds of thousands of them, but most don't catch many fish, if any, and they fish inland and not offshore. Commercial representatives will influence you to go against the private recreational anglers and look out for only yourself and just worry about getting yours. Well, you may think that these commercial representatives have gotten everything they wanted, but pull the string all the way out. We are fixing to go after 50% or more of the commercial quota in a reallocation fight, what will they have then? With NMFS agreement the commercial IFQ can be taken away with a vote of the council.

LAWSUIT

I know that many of you still want to sue and at one time I was right there with you, but you need to understand the process and pull the string all the way out to identify all possibilities.

If we had sued over the interim rule we had a chance of winning, however you had to step back and look at what we would have won. If we had been able to keep the 9.12 million pound TAC for this year, law would have forced the Secretary of Commerce to take it off of future quota. For instance, instead of a 5 million pound TAC for 2008-2009 we would have to take reduce the proposed 5 million pound TAC for these years by half (3.12 million for each year), which would make TACs for these two years 3.44 million pounds! The recreational sector receives 49% of that quota so instead of our usual 4.47 million pounds we would have to survive on 1.68 million pounds that is about a 63% reduction in TAC for 2 years and a far cry from 2.45 million pounds, which we get from a

5 million pound TAC! To make this point clearer a 1.68 million pound recreational TAC equates to about a 16" size limit 2 fish bag limit and a season of August 1-September 15 (46 days)! However, if we had gone to a 13" size limit that season is reduced to 31 days.

There are no grounds to sue on! The stock assessment has complied with the LAW; we had the assessment reviewed by a scientist outside of the U.S. to find areas that we could sue over. Based on his findings we didn't have anything! He was amazed at the job that was done considering the limited data and intercepts NMFS had. The Gulf Council went out on a limb, **because of your testimony**, by attempting to postpone action to leave everything status quo for this year. What we did unfortunately did not comply with the law, which was why NMFS published and implemented an interim rule.

What is known as the CCA lawsuit, which also included the Ocean Conservancy and Gulf Restoration Network, (environmental organizations) as plaintiffs, made things worse when the Judge ordered a rebuilding plan be implemented by the Secretary of Commerce no later than December 12, 2007 (9 months). This order further strengthens the LAW where congress said all overfishing must stop by 2010! The judge further orders there has to be a better than 50% chance of the plan succeeding, which means management restrictions have to be tougher to assure success. It removes any wiggle room that might have existed.

Lawsuits are expensive, George Maninna, our attorney was willing to reduce his rates to approximately \$175,000 for a suit. It was reported to me that CCA paid \$250,000 to their attorney and the whole damn thing backfired on us and them. There is absolutely NO POINT in putting your hard earned money into a lawsuit when you have NOTHING to win. If you want to put money somewhere let's start a Co-op where we can purchase quota. That would be a worthwhile expenditure, however we are going to need about \$250,000 to get the co-op developed and approved through Washington DC. Can you help me raise that much money? That is where we could make a difference because members of the co-op would share the quota that is purchased. Government loans are available to co-ops with low interest and long-term paybacks.

Excerpts from the lawsuit

*Because the red snapper has been actively fished for at least a century, it is difficult to gauge its optimum stock size. No one contests, however, **that the red snapper is severely overfished.** Amendment 22 reflects current population at about seven percent of historic abundance. 4 Amendment 22 at 22. Other studies indicate that red snapper populations are closer to three percent of historic abundance. See SEDAR 7 Report issued April 2005 (AR Vol. 2 at 619, 646).*

The three main sources of red snapper mortality are the commercial red snapper fishery, the recreational red snapper fishery, and the Gulf of Mexico shrimp fishery. Of these, the shrimp fishery is believed to be the most lethal, accounting for approximately 90% of red snapper mortality. Amendment 22 at 36 (citing Schirripa and Legault, 1999). New information, however, indicates that these proportions might be incorrect and that more red snapper than previously believed die in the commercial and recreational fisheries. AR Vol. 19 at 9123-34 (Feb. 2004 MacAllister study).

The Service bears the burden of articulating a "rational connection between the facts found and the choice made." Baltimore Gas & Elec. Co. v. Natural Res. Def. Council, 462 U.S. 87 88 (1983). In this case, if the Service adopted a plan that rebuilt red snapper

stocks in less than the maximum amount of time permitted under law, it could have argued that the resulting cushion made success at least fifty percent likely, but the Service and the Gulf Council did not choose this path.

*By adopting a plan that projected rebuilt red snapper stocks in close to the longest period permitted under law, the Gulf Council placed a premium on the accuracy of its predictions. The Gulf Council's own graphs reflect that even if the economic analyses are spot on, red snapper stocks will not be rebuilt within the required period. See Amendment 22 at 49. Accordingly, the court will remand Amendment 22 to the Service for promulgation of a rule within the next nine months that has, at least, a fifty percent chance of succeeding. **This order demands no wiggle room for the Secretary or Council.***

OUR ONLY PRAYER LEGISLATION

Now I get down to the bottom line. We are on our last legs as far as red snapper are concerned unless we get the law changed. The only way to do that is to beat on politician's doors until they listen and act. We need every Senator and Congressman representing Gulf constituents to support the legislation below and to not only sign on as a co-sponsor but to also push it through this summer!

Notwithstanding any other provision of law, the reef fish fisheries in the Gulf of Mexico shall not be required to be rebuilt by a specific date provided that the annual level of fishing does not exceed the net reproduction rate for that fishery such that the fishery is rebuilding each year. If the objective set forth in this section is not met for any of the Gulf of Mexico reef fish fisheries in one year, and the Secretary of Commerce shall adjust the fishing rate in that specific fishery in subsequent years to compensate for any overage.

The best way to achieve this would be to hold a constituent meeting or meetings throughout the Gulf with these officials and get our local chambers and cities to go with us and plead our case. If we can't get constituent meetings then everyone is going to have to use everyone they know to call and/or write their Gulf officials and tell them how important this legislation is and encourage them to sign on to it. This is our last chance to fix the situation. If congress won't fix it we had all better get used to what we get because congress has implemented time limits for recovery of all overfished stocks and it is the LAW.

Regarding key members for meetings in the Senate we should target Senator Lott, Cochran, Nelson, Hutchison, Landrieu and Shelby. In the House, we should target Congressman Ortiz, Jindal, Bonner, Aderholt, Cramer, and Wicker to start with. However, before it is over with we will have to get all Gulf federal Senators and Congressman to support this legislation.

If you want to make a difference contact the office and we will either email you or you can pick up a list of all Gulf representatives for all 5 Gulf States and the legislation to pass out to your friends and customers so they can contact their officials for support. Time is very important we need to get this done NOW so that they will vote on it this summer! If we don't hear from you I will assume that you don't care.

For those of you that have emails you received the attached email to the Council from a commercial lobbyist. Reallocation is here and we are all going to have to work to

accomplish this or it won't happen. We are developing a FACT SHEET that we will get to you as soon as possible for you to use when you write letters, speak to the press, your customers, and your family and friends.

Best Regards,
Bobbi Walker

From: BOBFISH@aol.com [mailto:BOBFISH@aol.com]

Sent: Thursday, May 24, 2007 10:03 AM

To: Wayne Swingle

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Subject: Reallocation of Reef Fish in Gulf of Mexico

May 24, 2007

Wayne Swingle, Executive Director
Gulf of Mexico Fishery Management Council
Tampa, Florida

Dear Wayne:

Southeastern Fisheries Association, as well as the Seafood Restaurant Coalition, understand efforts are being made to reallocate Gulf of Mexico reef fish species away from the consumers and given to charter boats, particularly in Alabama. We also understand several scientific models for determining social and economic impacts are under scrutiny and whatever model is approved will be used to develop either a Scoping document or Draft Public Hearing document.

The Council surely wishes to discuss and debate this very controversial issue using all available information and facts as required by Congress. We strongly urge the Council not to be lulled into using just the dockside value of the commercial harvest as the value of the products that end up on customers plates, either in restaurants and hotels or are available in retail markets such as Publix, Winn-Dixie, Kroger etc.

One of the ways the real value of the commercial harvest is reflected is in the amount of sales tax for instance, that diners pay at the thousands of seafood restaurants in Florida. This is very significant. The consumers want fresh Florida or Gulf Seafood and they should be able to have access to at least the historical level of seafood products harvested in the federal waters. There are competent scientists who can address the social costs to our communities if we are further denied access to fishery resources.

We will be providing more information and testimony on this subject but wanted to make sure the value of seafood consumption in our harvesting/processing/distributing/hospitality industry is not forgotten and that no single interest group manipulates the data to be simply a case between the charter boats and the commercial fishermen.

We are not looking for a fight with the charter boat folks who are our friends but neither are we going to sit on the sideline and watch the share of fish available to the public be taken away. The purpose of Magnuson is to provide seafood to the nation and recreational activities. The purpose is not to provide recreation and any fish left over from that pursuit can be consumed by the consumers.

Sincerely yours,

Bob Jones, Executive Director
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