

# Southeastern Fisheries Association, Inc.

*Proudly serving the Commercial Fishing Industry for over 50 years!*



## Hotlines Online Edition



**August 2002**

### **SEAFOOD IN THE OCEAN BELONGS TO THE PUBLIC AND SHOULD BE MANAGED AND HARVESTED ON A SUSTAINABLE BASIS**

Few people would disagree with the above statement. The disagreement arises when spokesmen for saltwater sport fishermen identify themselves as the “only” public and if the public wishes a share of the resource, then buy a boat, motor, trailer and equipment and take time off to harvest their share of their public resource.



This flawed creed is ingrained from early years and millions of people believe it. However, non-boaters are also the public. They have just as much “right” to a share of the fish as yacht and boat owners. You don’t hear much from this largest of all sectors for they are not organized into a special interest

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SFA is a non-profit association founded in 1952, charged with maintaining a viable seafood industry in the Southeast.

Robert P. Jones, Editor

money machine lobbying to have all the fish allocated to them. This was brought out again this week when a radical outdoor writer for the Newark-Star Ledger wrote “The commercial interests will get 12 million pounds of scup, BUT THE PUBLIC WILL ONLY GET 4 MILLION POUNDS.” What kind of logic and statement is that? The commercial harvest ALWAYS goes to the public. It does not go to the fisherman’s house. The commercial harvest is ALWAYS for public consumption. Why can’t managers and politicians accept that fact and not pit a handful of commercial fishermen against the might and power of the yacht owners, as is the case in New Jersey. “Most everyone likes to eat seafood but they don’t want commercial fishermen to harvest it.” An oxymoron for the ages.

### **ATTORNEY GENERAL CANDIDATE RESURRECTS HATE CAMPAIGN**

Charlie Crist, who is running for Attorney General, has resurrected the “Hate Campaign” waged by Florida Sportsman magazine and the Coastal Conservation Association during the net ban debacle. His television ad campaign claims he was the leader to ban most net fishing. The fish belong to ALL the people, not just those with boats and time to catch their own seafood. The only access the millions of non-boaters in Florida have to THEIR resource is

through the honest labor of the commercial fishermen. Crist is trying to capitalize on the cultural genocide of seafood producers. The Attorney General candidates should be there to serve all the people, not just their friends, contributors and special interests.

### **NATIONAL FISHERMAN MAGAZINE EDITORIAL**

Editor in Chief Jerry Fraser of the National Fisherman magazine penned an editorial concerning the US Commerce Departments’ decision to remove all shrimp representation from the Gulf of Mexico Fishery Management Council. A copy of Mr. Fraser’s editorial has been inserted for your perusal. NMFS head William Hogarth thumbed his nose at Congress and gave a preview of what the Council will look like from now on. If the Commerce Department removes Karen Bell and Kay Williams and replaces them with two more CCA approved representatives, then the Council meetings will be nothing more than a monthly gathering of CCA disciples who can shut down all commercial harvest in the Gulf thereby reserving the fish for their members and customers. *(Editors note: Whatever happened to the rule of law and stakeholders participation in government? Hogarth confirms aquaculture and recreational fishing is his special interest. rpj)*

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## **NO PROGRESS IN STOPPING RECREATIONAL SALE OF FISH IN FLORIDA**

Another month passes and still there is no activity by either the National Marine Fisheries Service or the Florida Fish & Wildlife Commission to stop the sale of fish by non-licensed recreational anglers. Its as though both law enforcement agencies have a blind eye when it comes to enforcing any laws pertaining to illegal sale of fish by recreational anglers. There are 40 species of reef fish caught in the Gulf of Mexico including all snappers, groupers, amberjack and tilefish that cannot be sold if caught in federal waters without a federal permit AND, these 40 species of reef fish can only be sold to a dealer who has a federal permit. If a charter boat patron catches reef fish in federal waters, these fish CANNOT be sold even if they are given to the charter boat captain or crew. If an angler on a sport fishing boat catches reef fish in federal waters they cannot be sold. (50CFR 622.45 (c) (2) (3))

Restaurants that buy reef fish from non-federally licensed persons are in violation of the law and subject to federal fines. Under Florida Statute 370.07 (8) it reads: It is unlawful for any licensed retail dealer or any restaurant licensed by the Division of Hotels and Restaurants or the Department of Business and Professional Regulation to buy saltwater products from any person other than a licensed wholesale or retail dealer. For purposes of this subsection, any saltwater products received by a retail dealer or a restaurant are presumed to have been purchased. When will law enforcement stop this illegal black market that relies on poaching of fish as its basis of operation?

## **POSSIBLE LEGAL CLAIM REGARDING COMPOSITION OF GULF COUNCIL**

Southeastern Fisheries Association is

investigating the possibility of filing litigation against the US Secretary of Commerce for violation of the Administrative Procedure Act and the Magnuson-Stevens Fishery Conservation and Management Act. The basis for such action is the complete recreational fishing dominance of the Gulf Council, through secretarial appointments. Secretary Evans totally removed all input from the domestic shrimp industry operating in the Gulf of Mexico. SFA knows it can show where its members have been injured from actions taken by the "out of balance" Council. However, prevailing in federal court where the "presumption of correctness" doctrine gives federal agencies too much power will be a challenge. Whether or not the association files litigation is being discussed and will be decided by the affected members. What we have in this instance is a classic example of the "Rule of Law" being superceded by the "rule of man." NMFS can ignore Southeastern Fisheries Association and other groups that challenge them, but even Big NMFS can't ignore the Rule of Law forever.

## **CLASS ACTION LAW SUIT AGAINST FLORIDA GAINS MOMENTUM**

The Wakulla Fisherman's Association has retained Charles D. McClure, a retired Circuit Judge, to initiate and litigate a class action lawsuit against the state of Florida. This litigation is in addition to formal complaints made to the Office of Civil Rights. The basis of all these complaints is Florida treating commercial fishermen as second-class citizens and the fishermen are right not to accept that from their government. There is a newspaper clipping showing a poster-sized reproduction of Ron Crum's Florida drivers license displayed in law-enforcement offices, with the caption "troublemaker." WOW! Are we still in America?

The 500 square foot net with a little

bigger mesh is what this issue is all about. The FWC should work with the Florida commercial fishermen and solve the problem now. What the fishermen are asking for is fair and could be easily granted by FWC rule if there wasn't such mutual hostile animosity. Allowing the fishermen to continue to make a living while at the same time sustaining the health of the marine resource should be the goal of FWC instead of mean-spirited law enforcement that includes low flying helicopters and a boatload of armed agents making sure a mullet is not caught with a net that has a mesh bigger than two inches. It's no wonder the fishermen resent this selective law enforcement when they see so much backdoor sale of fish by recreational anglers that is clearly against state and federal law and no effort is made to stop it.

## **MANAGING FISHERIES BY DEFAULT**

*"In a real sense, the fisheries management system is in disarray. Management is increasingly exercised by the courts through litigation, by Congress through its annual appropriations and reports, and by constituencies that seek redress through these forums. The regional councils and NMFS, which were assigned this mission by statute, are being driven to management-by-crisis due to a range of problems: litigation related workload, court ordered on sanctioned deadlines, process deficiencies, policy mandates, regulatory delays, inadequate resources, deficiencies in data, analyses and science, and strained relationships between the system's managerial partners and their constituencies."*

This direct quote is not from a fisherman but found on page xi of the Executive Summary from a Report to Congress and NMFS by the *National Academy of Public Administration* (July 2002). Federal management of the fisheries is in disarray and selective

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law enforcement is rampant as can be seen in the difference in the amount of the fine for a commercial fishing violation versus the amount of a fine for a recreational fishing violation. The commercial fishing industry in the southeast has been removed from the federal management process in which they were supposed to share on an equitable basis at the Council tables.

**“ENVIRONMENTAL GROUPS THREATEN SPORT FISHING”**

The above headline was for the editorial in the most current issue of *Sport Fishing magazine* and was written by Mike Nussman, President & CEO of American Sport fishing Association. The editorial was aimed at what Nussman calls the “environmental radicals” who support Marine Protected Areas. Nussman says, *“It’s just a matter of time before these well-organized and richly financed groups tell you that you’re no longer welcome in your public water.”* Does that sound familiar? When they were pushing the net ban and longline ban THEY were the well organized and richly financed groups and now they are on the receiving end. They do not want anyone to tell them they can’t fish when and where they please regardless of conservation or fair allocation of commonly owned resources. Nussman says fishing is a right, when everyone knows it is a privilege, as has been determined by numerous courts of competent jurisdiction.

Nussman savages the commercial fishermen claiming commercial exploitation and factory trawlers are the real culprits not those yachts and boats that belong to his members. Has anyone

ever seen a factory trawler in Florida catching Snook, redfish, trout, reef fish, mullet or any species? Has there ever been a factory trawler in Florida? Of course the answer is no but that doesn’t make any difference to radicals when they get ready to ban another form of commercial fishing. The editorial had an insert that said, *“No Fishing Zone Next 25 miles by Government Order. Why? Some misled extremists want to take away your family’s freedom to fish.”* It is hard to figure out who the extremist is in this editorial.

**SHRIMPERS WIVES STAGE PROTEST**

A group of shrimper’s wives in Bayou La Batre, Alabama staged a protest over low shrimp prices recently and said even an inquiry into shrimp imports by Senator Shelby might not be in time to help the shrimpers out of their situation.

Pond raised shrimp, primarily from China, have caused the price of shrimp to drop to levels of the 1970s. While that might seem good in the short run for the US consumer it is devastating to the domestic commercial shrimp industry and could cause long-term problems for the US economy. As more and more pond raised shrimp reach the US market, American shrimpers will suffer and the infrastructure so necessary in providing food domestically will be further weakened. Much of the pond-raised shrimp flooding the

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On your next order for business checks from your bank have printed just above the signature line **“Commercial Fishing makes this payment possible”**

US market is packed under adequate safeguards, but illegal antibiotics have been found in some shrimp causing many consumers to stay away from all shrimp. FDA and state agencies must continue to monitor all chemicals used in shrimp ponds and make sure only authorized chemicals and additives are used and that they are used according to the manufacturer’s specification. This is required under federal and state HACCP laws.

**WINTER SFA CONFERENCE PLANNED**

Southeastern Fisheries Association will hold it Winter Meeting in early December. Location and exact dates are being negotiated as we go to press. Important presentations will be made including a Board of Directors meeting, methyl mercury, chloramphenicol, HACCP changes, Seafood Security Task Force Report, Essential Fish Habitat, Fishery Councils imbalance, new Reef Fish and Shrimp proposed regulations . Hopefully a Buyers Panel similar to the one held in Jacksonville in June can also be coordinated with this gathering. Watch the Hotlines and special announcement on this in the

We invite anyone receiving this newsletter, who is not already a member of SFA to join us and become an activist for your business. We are here to respond to your business needs in the state capital and around the Southeast Region. We can help you only if we know you and correspond with you regularly.....We would look forward to serving you and your company!

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near future.

### **NMFS REORGANIZES ITS SCIENCE CENTER AWAY FROM REGIONAL CONTROL TO NATIONAL CONTROL**

The National Marine Fisheries Service has appointed Dr. Mike Sissenwine as the new Chief Scientist or Director of Research of NMFS. The Regional Science Center Directors will answer directly to the new chief who will answer directly to Bill Hogarth. This new system will at least identify where the final decisions are made and might make NMFS more organized and efficient. A possible downside is the chief scientist will be under more pressure from the national angler organizations who will have easier access to him, rather than the industry being able to meet with the Science Center Directors in different parts of the country to discuss their

issues. There could be a possibility for better science, but if NMFS can do things like setting a 22 inch size limit on red grouper without any analysis or even input from the sector most heavily impacted, then the change will be meaningless and it will be politics as usual.

### **COULD NEPA BE A THING OF THE PAST?**

The Bush Administration is going to court arguing the National Environmental Policy Act of 1969 is not applicable beyond the territorial waters into the EEZ. NEPA is the major law many environmental groups have used to sue the federal government. If it is ruled that it does not apply in the EEZ, it might make it easier for those who want to remove commercial fishing from the EEZ as well.

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