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## A Policy for Oceans

*Suddenly There Is Hope for Marine Fish*

**By Ted Williams**

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**"I still believe the cod fishery.** . . . and probably all the great sea-fisheries are inexhaustible; that is to say that nothing we can do seriously affects the number of fish." Thus wrote the eminent British marine biologist, Thomas Huxley. The year was 1883. Barely more than a decade later Atlantic halibut were commercially extinct in North American waters, and Eastern markets were importing Pacific halibut from the Northwest. The demise of other highly-sought species followed quickly. These days marine biology is a far more sophisticated enterprise; and no one believes Huxley. We just act like we do.

US oceans policy for state, federal and international waters-particularly as it pertains to the management of marine fish-makes the IRS tax code look as if it were dictated by Calvin Coolidge. At this writing, that policy is determined by six frequently squabbling departments representing different or conflicting interests in three geographical jurisdictions under 140 statutes. In those rare cases where commercial fish quotas are prudent and science-based they are set by federal judges in spite of managers. Basically, marine fish management in the United states (and most everywhere else, for that matter) is an oxymoron.

For readers of Fly Rod & Reel this is hardly news. What is news, however, is that the public is starting to ask why, and Congress and the private sectors are starting to provide answers. By the time you read this a US Commission on Ocean Policy, established and funded three years ago under the Oceans Act, will have sent a draft of its study to the governor of each state. The governors get 30 days to comment, then the final draft goes to the administration and Congress. The administration gets 90 days to formulate an oceans policy. Then it's up to Congress to hatch some laws that work.

Current laws don't work. Take the Magnuson Fishery Conservation and Management Act of 1976 that extended our territorial waters out to 200 miles and set up eight regional fisheries management councils. It succeeded in stopping foreign vessels from killing off the last of our mackerel, herring, billfish, sharks, tunas and groundfish. It also assured the continued depletion of these stocks by subsidizing the US commercial fleet, which doubled in size from 1977 to 1983, and by requiring the councils to be staffed largely by people who profit from commercial fishing. This system has been about as effective as asking 5th graders to write their scholastic curricula. On all three coasts the result has been entire school years of lunch and recess.

On June 4, 2003 the Pew Charitable Trusts primed the oceans policy process by releasing a lavish, four-color, 144-page report entitled America's Living Oceans, researched and written by 18 politically prominent but eminently qualified "ocean commissioners" over three years with a \$3.5 million Pew grant. The strategy was to provide governors, Congress, administration and public a cogent outline of what ails the oceans and what we need to do to make them healthy again. The hope is by the time they read the federal study they'll understand the issues. Especially impressive are the fisheries sections of the Pew report. Frankly, I was expecting popcorn; I got ribeye. You can read the report by logging onto [www.pewoceans.org](http://www.pewoceans.org).

A month earlier the Marine Conservation Biology Institute (MCBI) released another Pew-funded study

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called "Shifting Gears." This document, too, was valuable in pushing the nation toward an oceans policy process because it examined how we fish instead of just how many fish we extract from the sea. All but two percent of the 235,000 known sea animals live in or on the bottom. So it may be less hurtful to a fish stock to kill four times the quota with longlines than a quarter of the quota with bottom trawls that clearcut or crush habitat, leveling all structure including cobbles, rocks, corals, sponges, sea fans, mussels, seagrass and kelp. The report substantiated what recreational fishermen have been saying all along-that the gear most harmful to marine ecosystems are: bottom trawls, dredges, bottom gillnets and midwater gillnets, while some of the least harmful (except when used to excess) were midwater trawls, purse seines and hook-and-line.

The Pew Oceans Commission, which also addressed the issue of fishing gear, suggested a zoning program. Bottom trawls for squid over sand bottoms might be okay, for example. But they should be banned on bottoms with significant structure-i.e. most bottoms. While some areas escape trawls because they are relatively fishless, on average each square foot of the world's continental shelves gets razed by bottom trawls every two years. Clearcuts via bottom trawl have been estimated by MCBI's Dr. Elliott Norse (the guy who coined the word "biodiversity") to exceed the area of forest clearcuts by a factor of 150.

Both the commission and MCBI examine bycatch, or "bykill," as it is more accurately called. Currently about a quarter of all fish caught by commercial fishermen everywhere in the world are dumped at sea. There's virtually no live release when you haul fish up in a big, tight ball and they throw up their air bladders or when they soak three days on a longline with hooks in their gills and gullets.

While longlines are easy on habitat, they're murder on bykill. Marlin (especially whites) and sea turtles (especially Pacific leatherbacks) are being critically depressed by tuna and swordfish longlines. The Cape Cod Commercial Hook Fishermen's Association-which targets mostly groundfish and dogfish-doesn't destroy habitat and uses relatively short longlines easy on seabirds and turtles. Therefore it is gushed over by environmentalists. The association, along with groups like the Ocean Conservancy, is even a member of the Marine Conservation Network, and it is funded by many of the same environmental foundations, including the Pew Charitable Trusts. But last year dogfish bykill in the groundfish-directed hook fishery was about 40 times worse than for gillnetters.

Smalltooth sawfish-a species that used to range from the Gulf of Mexico to New York-are now restricted to isolated areas in the Everglades and keys. Only a couple thousand survive, and on April 1, 2003 they became the first non-anadromous marine fish to be federally listed as endangered. They face extinction primarily because they've been caught in nets by accident; in fact, without Florida's gillnet ban they might already be extinct. Barndoor skates-nearly as big as their namesakes-and thorny skates aren't listed yet, but they face extinction, too. No one fishes for them; they're bottom-trawl bykill.

But why should flyrodders worry about things like sawfish, turtles, dogfish and skates? First, because the same managers who are allowing them to be erased from the planet preside over species like stripers, bluefish, salmon, steelhead, weakfish, mackerels, billfish and tunas. And second, because, as John Muir noted, "when you tug on a single thing in nature you find that it's connected to the rest of the world." I'm among the very few anglers who enjoyed fly-fishing for cod back when cod existed in reasonable numbers. That, of course, is not the point. Cod are not just a predator fish; they are a forage fish. Under natural conditions they are among the most abundant of all North Atlantic fishes. But ever since 1976 when we stopped the Soviet block from fishing them out, we've been fishing them out ourselves. In 1996 overfishing became illegal under the Sustainable Fisheries Act. Yet the National Marine Fisheries Service (NMFS) has allowed the New England Fisheries Management Council to kill up to four times as many cod as NMFS and council scientists say is sustainable. Three years ago the

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Conservation Law Foundation, the Ocean Conservancy, the National Audubon Society, and the Natural Resources Defense Council sued NMFS for violating the Sustainable Fisheries Act. They won impressively on April 26, 2002 when US District Judge Gladys Kessler ordered the prompt, draconian restrictions needed for the recovery of cod and 13 other species of Atlantic groundfish. But commercial fishermen complained to their legislators. Under fierce pressure from Congress, Kessler ordered more delays; and now restrictions are weaker than they were before the lawsuit.

What happens to, say, striped bass when the cod are gone? Well, they're opportunists; so they eat more of other things; and stripers were never obligate cod eaters to begin with. But other fish eat those other things, too. What happens to those fish? And what do the fish that the cod aren't controlling anymore eat? Juvenile stripers? Striper forage? And what do the sharks and seals, that used to eat cod, eat? Adult stripers? Americans fish managers don't know, but they need to start looking for answers to these kinds of questions. An intelligent, effective oceans policy must consider marine ecosystems; it cannot continue to deal with fish as single species.

According to the journal Nature, 90 percent of the world's top predator fish such as tuna, sharks and cod are missing at sea. As each trophic level is depleted relationships among species collapse, biodiversity diminishes, and marine ecosystems are driven toward microbes. The US is now exporting jellyfish to Japan where they are used in salads. In the Gulf of Maine fishermen who used to catch cod, haddock and flounder are now catching sea cucumbers.

A national oceans policy must set an international example so that we can leverage scientific management around the globe. Fish don't know about international boundaries or territorial waters. Outside our 200-mile limit "highly migratory species"-sharks, marlins, swordfish and tunas-are tended by the International Commission for the Conservation of Atlantic Tunas (ICCAT), about as competently as Lenny tended rodents in Steinbeck's *Of Mice and Men*.

"I despair with pelagics because as soon as the signatory nations to ICCAT see two more fish they try to catch them," declares Charlie Witek, chair of the Coastal Conservation Association's New York Fisheries Committee and former chair of CCA's Atlantic States Committee. "The European Union won't do what's necessary to control bluefin tuna harvest on their side. There's interchange with our stock. No one is saying let's do what's right for the resource. It's how can we catch more for our guys. More countries are joining ICCAT, and they all want tuna. The countries that have quotas don't want to give up any fish."

The Bush administration is doing better than its predecessor in trying to get ICCAT to do its job. For example, infuriated by a proposed ICCAT quota on bluefin tuna 6,000 metric tons over the 32,000-ton cap deemed safe by ICCAT's own scientists, ardent big-game angler Donald Evans, who as US Commerce secretary has charge of NMFS, fired off a blistering letter to Pascal Lamy, European Union commissioner for trade. "I am concerned," wrote Evans on April 25, 2003, "that over-fishing by EU member states is reducing stocks of ICCAT species below sustainable levels. The EU is a world leader in supporting protection of the global environment and the sustainable use of natural resources. In the case of Atlantic fish stocks, however, it appears that the actions and positions of the EU and its member states are at a variance with these goal. . . . I am urging you to take prompt action to improve EU compliance with existing ICCAT obligations and to re-consider accepting science-based conservation measures to guarantee a sustainable future for species like the Atlantic bluefin tuna and white marlin."

Evans' letter is certainly an encouraging sign that a decent US oceans policy is possible, and the Bush administration deserves a lot of credit for it. Buy why should the EU listen? No sooner had Evans offered his advice than NMFS (which manages highly migratory species inside our federal waters) was

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buying into a ruse by US commercial fishermen of the East Coast Tuna Association to short-circuit the recovery of bluefins. The Federal Register of June 5, 2003 carried a notice from NMFS of "a request for exempted fishing permits for tuna purse seine vessels to begin fishing prior to the traditional start date [July 15 rather than Aug. 15] in order to improve market conditions and to allow retention of all incidental catch of bluefin tuna between 73 and 81 inches."

NMFS also seems to be buying into a ruse by swordfishermen to plunder juvenile fish that have reappeared in big numbers after a 1999 lawsuit by the Ocean Conservancy, Natural Resources Defense Council and National Audubon Society forced the agency to close large areas to longlining. Today there are few mature fish, but the stock has recovered to 94 percent of the level scientists proclaim to be "healthy." The presence of all those mini swords just beyond legal fishing range is more than commercial swordfishermen can bear. The two proposals for re-opening closed areas are said by those doing the proposing to be scientific experiments." Our swordfishermen sound like the Japanese who keep gathering all this "scientific data" on minke, Bryde's and sperm whales by slaughtering them for their commercial market.

Americans are setting an even worse example with sharks, especially the spiny dogfish-the world's most abundant and best-studied one. If you want to wipe out a species-especially a species like spiny dogfish which bears dog-sized litters of live "pups" after two-year gestations-target the mature females. At the urging of state and federal managers who touted dogfish as "an underutilized species," that's just what commercial fishermen have done. Mature females-which school together and are bigger than mature males-are now reduced by three quarters; and virtually no new pups have been born since 1995. Still, on June 10, 2003 the Atlantic States Marine Fisheries Commission (which manages fish out to three miles) rejected the advice of its own scientists and voted to increase the annual dogfish quota from 4 million pounds to 8.8 million.

Even as they were sponsoring the unsustainable slaughter of dogfish, U.S. fish managers were flitting from one international meeting to the other, lecturing the world about the vulnerability of sharks. The Canadians-who are depleting their own dogfish, along with ours because the populations mixed-responded to our new quota by announcing that they wanted to double theirs, too.

Because shark-fin soup is increasingly popular in Asia the practice of "finning"-slicing off the fins and dumping the rest of the animal, frequently when it's still alive-has become de rigueur with shark fishermen on the high seas. For Americans, finning is at last proscribed by law. But countries like Japan, South Korea, Taiwan, Portugal and Spain, catching sharks as bykill on marlin and swordfish longlines, have more than taken up the slack. At this writing, the European Union is debating finning regulations; but, led by Spain, the nations doing the finning have watered down the regs to the point that there might as well not be any.

Meanwhile, in the Atlantic and Gulf of Mexico NMFS is allowing slow-growing, slow-reproducing coastal sharks to be fished out. Five years ago, after hearing detailed advice from scientists, NMFS wrote a plan for the recovery of 22 large coastal shark species. This elicited a barrage of lobbying and lawsuits from the shark-fishing industry; so, NMFS never implemented the reduced quotas or size limits. Scientists then determined that quota cuts of at least 50 percent were needed. Nevertheless, on Dec. 27, 2002 NMFS hiked the quota by 33 percent and deep-sixed a minimum-size limit that would have protected juveniles. Accordingly, the Ocean Conservancy and National Audubon Society have filed suit.

It's important for fish advocates not to give the impression that the condition of earth's oceans is hopeless, and that "the tragedy of the commons"-whereby scientists are shoved aside in a feeding frenzy-has doomed marine fish stocks forever. "I think the problems in the ocean are very fixable," says Mike Nussman, president and CEO of the American Sportfishing Association. "We've not dammed

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the oceans. We've not paved the oceans. We've done some things that are pretty significant, and there are problems we need to solve. But I think we know what most of them are. The question is can we come up with solutions that make sense-not only for a developed nation like the US but for developing nations."

In formulating a US oceans policy it's necessary to look at the successes as well as the failures so that we can understand why both happen. The New England council, for example, has traditionally rejected quotas of any kind, opting instead for painless alternatives that never work, like trip limits. The Mid-Atlantic council, on the other hand, is occasionally willing to swallow effective, bad-tasting medicine. That is why anglers are starting to catch a fair amount of big weakfish in New York and New England. The species has been gone so long we've forgotten that this is its natural range-that's why it's called "northern weakfish." This happy state of affairs is the result of a moratorium on big bottom-scouring flynets off Hatteras, where most of the weakfish on the coast spend the winter. (As I write, commercial fishermen are trying to get it lifted.) Before the moratorium weakfish the size of ground-down pencils were being sold as pet food. "We're seeing weakfish in Great South Bay up to ten pounds," reports CCA's Witek. "We haven't seen that in years. "Red drum are back down south. Goliath grouper [formerly jewfish] are hanging out under docks again. Red snapper and king mackerel are doing well in the Gulf."

Actually, Huxley was half right. The oceans really are "inexhaustible"-provided humans implement a sea change in which commercial fishing is transformed from profit-driven extraction to science-based husbandry. If it happens, it will happen first in America.

Note: It's usually a waste of time to write your governor. But now that the governors are participating in drafting a policy for the oceans, you need to make yourself heard. Governors, especially in states where commercial fishermen wield political clout, are in desperate need of education. Have at it.