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Fishermen taking snapper ban fight to Washington

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Because of new laws, small businesses are reeling, the federal government is being sued and a legislative fight is entering round two. And this isn't about health care or Wall Street bailouts.

It's about fishing, another multi-billion dollar player in the U.S. economy.

Disputes between fishermen and federal fisheries managers over how fishing is managed are nothing new, but in the past year and a half, this argument has become so contentious it's now headed to the steps of the U.S. Capitol.

On Wednesday a protest group called "United We Fish" expects several thousand people at the capital, including about 25 from Volusia County.

The owner of Hull's Seafood in Ormond Beach, Jimmy Hull, and the owner of King's Seafood in Port Orange, John Polston, as well as local fishing captains David Grubbs, Chris Endicott and Paul Nelson plan to attend.

About a dozen congressmen are expected to show up, including Rep. Barney Frank, D-Mass.; Sen. George LeMieux, R-Fla.; Rep. John Mica, R-Fla.; and the entire congressional delegation of South Carolina.

The national organizer of the rally, Jim Donofrio, executive director of the Recreational Fishing Alliance, called Wednesday's event "the most important day in fishing history."

The rally is a response to a series of government fisheries closures imposed over the last several months.

In the Gulf of Mexico, amberjack fishing was closed. In the North Atlantic, fluke and scallop limits are in dispute and the black sea bass fishery was subjected to an emergency closure.

And in the South Atlantic, seasonal closures for 11 grouper species and vermilion snapper were enacted. Red snapper fishing was banned. And a vote is

expected in March on an indefinite closure for 73 of the South Atlantic's 88 managed species.

FISHERIES CRITICISM GROWS

Fisheries managers say these measures are required by law to stop overfishing and based on "the best available science." Critics say that science is suspect.

That criticism has been persuasive enough that in 2009, Mica and 10 co-signers introduced legislation calling for a review of the data supporting the red snapper ban. That bill never made it before committee.

When the ban was passed in December, Mica said his staff "looked for any kind of administrative appeal route" and ran "into stone walls."

A lawsuit over the red snapper ban filed by the Recreational Fishing Alliance against the National Marine Fisheries Service echoes that sentiment, charging that the fisheries service "is inherently flawed in that it is a designed closed system," with everything from research interpretation to regulation enforcement controlled in-house.

The agency's law enforcement also came under scrutiny recently from the inspector general of the U.S. Department of Commerce.

The report raised concerns about overly complex fishing laws, the fairness of its penalties, and the oversight, transparency and focus of its law enforcement.

In a press release about that report, Sen. Olympia Snowe, R-Maine, described the agency as "running roughshod over hardworking fishermen."

LOBBYISTS' ROLE

Amidst this ever-mounting morass of controversies, the special interest groups involved are dialing up their rhetoric.

The alliance called the recent fisheries closures a result of lobbying efforts and influence over the fisheries service that amounts to "ideological warfare . . . funded by The Pew Charitable Trusts."

In response to the alliance's claim, a statement from a Pew spokesperson obtained by e-mail said, "It's hard to believe our participation in this public process alone led to the temporary closures to restore fish populations that managers deemed necessary based upon the best available scientific information."

Asked whether Pew lobbies to influence fishery management, a Pew spokesperson said, "Like other concerned organizations, we submit public comment letters, attend council meetings, and talk with fishermen, council members and agency staff."

Opensecret.org, "The Center for Responsive Politics," reports that Pew spent \$840,000 on lobbying in the past three years but does not specify what issues were pursued.

Donofrio points to the fact that the new administrator of the fisheries service "and her entire staff" are former Pew employees.

And in December, Rep. Frank called for a congressional caucus to review fishery management, citing influence by "some of the more rigid environmentalists."

Mica said he was told "flat out" that his legislation calling for data reviews was blocked by environmental lobbyists.

And the alliance's suit, which claims the snapper ban involves "abuse of discretion" and numerous scientific errors, also requests a discovery process "regarding the claim that (the fisheries service) was predisposed to close . . . red snapper regardless of the state of the fishery."

In its response to the suit, the fisheries service attorneys denied allegations made by the alliance. And due to the "open litigation," fisheries service staff declined to comment on the alliance's lawsuit.

LOCALS LEAD FIGHT

Local fishermen are among those who've been instrumental in laying the groundwork for such claims, the alliance's attorney David Heil said.

Capt. David Nelson of Port Orange has taken a lead role in fishermen's analysis of the fisheries service's red snapper stock assessment, a document more than 500 pages long. He claims that document uses biased computer models and when data didn't fit those models the government threw it out.

Nelson said the government increased recreational catch data for some years by more than 2,000 percent. That increase was based on reports and surveys as much as half a century older than the current survey system -- a system that was called "fatally flawed" by the National Research Council.

Nelson said there are obvious errors in the assessment, for instance for 2007, the surveys cited indicate more red snapper under 20 inches were released than the assessment says exist.

Fisheries managers would not comment on Nelson's data manipulation claims, but have said in the past no matter what data they use, their model still shows red snapper are overfished, and that's a sign of how bad the state of the fishery is.

Heil said something is wrong with a formula that yields the same results no matter what data is used. Fisheries managers have said their model is peer reviewed.

In the lives of local fishermen, the result of closures has not been so difficult to understand.

Bill Ahrens of New Smyrna Beach, owner of one of the most successful charter boats in Ponce Inlet, the Lady J, said his crew informs clients about new fishing rules and that's hurt business.

During Speed Weeks his boat is normally booked for two weeks straight. This year they received about 30 inquiries, but booked only one trip.

"We normally book 20 out of that," Ahrens said. "As sportsmen, why would you go out? It's like being a deer hunter and going out into the field and shooting a deer and just leaving it there. It makes no sense."

'A TOTAL MESS'

Nearly all of the recent fisheries closures are the result of actions fishery managers say they're legally bound to pass to protect overfished natural resources.

When the Magnuson-Stevens Act governing fisheries management was updated in 2006, flexible timeframes for rebuilding fisheries were omitted.

The "United We Fish" rally at the capital is meant to support the "Flexibility in Rebuilding American Fisheries Act" (H.R. 1584) introduced by Mica and Rep. Frank Pallone, D-N.Y., in the House and Sen. Charles Schumer, D-N.Y., in the Senate (S. 1225).

"All we're asking for is transparency, honest science and flexibility," said Hull, who is helping organize Florida's participation in the rally.

And last Tuesday, Sen. Snowe and Rep. Frank opened another route seeking changes in the law. They wrote a letter to the fisheries service administrator requesting the agency provide an independent assessment on the use of "arbitrary" rebuilding timelines and, among other things, how to account for the impacts of climate change and pollution in fishery management.

"The whole law is a total mess right now," Donofrio said. "The process has been hijacked."

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By the numbers

1,151 Number of public comments officially submitted to fisheries managers regarding the red snapper ban (22 of which were discarded as irrelevant).

1,102 Comments opposed to the ban, including one with more than 24,000 signatures.

27 Comments expressing general support of the ban, including one with 808 signatures.

653 Number of comments about economic impacts, including letters from state officials concerned the ban would cause negative consequences on tourism.

1 year Time the government has to end overfishing once it knows a stock is overfished, therefore legally requiring action.

381 Number of comments questioning the data used to assess red snapper populations, 184 of which stated red snapper catches have improved since size and bag limits were implemented in 1992.

2 Factor by which catches increased from 2007 to 2008, which fisheries managers say is small compared to catch reductions occurring prior to 1992.

70 Number of comments stating commercial fishermen are responsible for overfishing, so recreational anglers shouldn't be restricted.

25 Percentage of red snapper catch the government says is from commercial anglers.

SOURCE: News-Journal research; National Oceanic and Atmospheric Administration