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Taking Stock: The Magnuson-Stevens Act Revisited: Fisheries Science: A Bridge, Not a Divide

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U.S. Senate

Taking Stock: The Magnuson-Stevens Act Revisited

Fisheries Science:

A Bridge, Not a Divide

Senator Sheldon Whitehouse*

The New England ground fishery has weathered its first season under new catch limits and its first sector management

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* U.S. Senator Sheldon Whitehouse (D-R.I.) is a member of the Senate Environment and Public Works (EPW), Budget, Judiciary, and Health Education, Labor, and Pensions (HELP) Committees. Serving as Rhode Island's U.S. Attorney, in 1997 he led the investigation into the North Cape oil spill and secured more than nine million dollars in criminal penalties that was used for restoration of Narragansett Bay. Since his election in 2006, Whitehouse has continued his strong record on natural resource protection established during his time as U.S. Attorney and Rhode Island Attorney General. For the past two Congresses, he has introduced the National Endowment for the Oceans Act, to establish a dedicated funding source for ocean and coastal research and restoration efforts. Whitehouse consistently supports increased funding for fisheries science and cooperative fisheries research as well as efforts to improve transparency and efficiency in the fisheries management process. He is also active in protecting coastal and estuarine habitats, successfully fighting to reauthorize the Estuary Restoration Act (ERA) in 2007, and leading efforts to fund and reauthorize EPA's National Estuaries Program (NEP). As chair of the Environment and Public Works Oversight Subcommittee, Senator Whitehouse has examined the Administration's response to pressing environmental issues, such as the Gulf oil spill, climate change, and threats to native wildlife species.

plan. Depending on whom you talk to, the season marked a successful chapter in fisheries management, or proved to be the unmitigated disaster that some had feared. At first blush, it would seem there is no room for agreement on this topic.

Early numbers look promising – despite lower catch limits, revenue for groundfish vessels was twenty-four percent higher than in the previous season.[1] However, the effect of the transition to sector management has not been consistent across the fishery. Moreover, no matter what the numbers show, fishing is a tough livelihood, and adjusting to new fishing regulations creates additional challenges in an already difficult enterprise.

In this environment, it may seem impossible for proponents and opponents of catch limits and sector management to find common ground. However, based on my conversations with Rhode Island fishermen, I believe common ground does exist: most notably, there is a shared desire for more and better science to inform management decisions, and a recognition that agency decisions in this area need to be made more quickly and transparently. I would like to suggest a few ways to address those common concerns – because efforts to protect our fisheries and our oceans need the full participation and knowledge of our fishermen to be successful.

It is important to remember, however, that the fisheries management debate exists in the broader context of unprecedented threats to our oceans and coasts. We must also address these threats – whether it is ocean acidification, warming ocean temperatures, sea level rise from climate change, or nutrient and chemical pollution – and restore the health of our marine and coastal ecosystems, to truly help the fishing industry over the long term.

In the face of these threats, we must rethink our relationship to our oceans and coasts. We must build an ocean constituency, a critical mass of scientists, fishermen, young people, elected officials, coastal protection organizations, and marine industries, to move humans from being takers to caretakers of our seas and oceans. I am working to organize my peers around this issue in a

1. NE. REG'L OFFICE OF THE NAT'L OCEANIC AND ATMOSPHERIC ADMIN., TABLE 1: COMBINED SECTOR AND COMMON POOL VESSEL LANDINGS & REVENUE, 2009 & 2010 (2011), *available at* http://www.nero.noaa.gov/ro/fso/reports/Sector_monitoring/Table_1.pdf.

newly formed Senate Oceans Caucus.

We must also invest in our oceans and coasts. We need to adequately fund research, to improve catch assessments, analyze the life cycles of marine species, and monitor trends in water temperature and chemistry. We should expand coastal and marine spatial planning efforts to site uses appropriately, where they will produce the greatest benefit with the least environmental harm. Grover Fugate of the Rhode Island Coastal Resources Management Council and Jennifer McCann of URI's Coastal Resources Center have placed Rhode Island at the forefront of marine spatial planning efforts, and we need to replicate their success from coast to coast.

To support these efforts, I have introduced legislation with Senator Snowe of Maine to establish a National Endowment for the Oceans. The bill has a number of cosponsors, including Senator Rockefeller, Chairman of the Senate Commerce Committee, where this bill was referred, and Senator Inouye, Chairman of the Senate Appropriations Committee.[2]

Finally, we should act now to protect our marine and coastal resources, to ensure their long term viability. For instance, I have introduced legislation to re-authorize EPA's National Estuary Program. For 25 years, EPA's National Estuary Program has convened stakeholders to forge solutions to coastal pollution problems, and I want to see this valuable program, a legacy of the late Senator John Chafee, continue to thrive.

Building an oceans constituency, investing in ocean research, marine spatial planning programs, and protecting our oceans, coasts, and estuaries – these are absolutely necessary steps in a comprehensive, "all hands on deck" plan to protect our fisheries.

However, while we work to achieve these broader goals, our fishermen face very real economic distress. How to address their short term needs, while protecting the long term health of the fisheries, is a pressing challenge for fisheries management.

The U.S. commercial fishing industry is valued in the tens of billions of dollars. Our region represents a huge portion of that

2. For additional information regarding the National Endowment for the Oceans Act please visit: http://thomas.loc.gov/home/thomas.php (enter, in the "Search Bill Summary & Status" search box, "National Endowment for the Oceans" as a "Word/Phrase" search or "S.973" as a "Bill Number" search).

value – in 2009, New England commercial fisheries landed $782 million worth of fish, second only to the Pacific region (which includes Alaska).[3] Men and women have fished the western Atlantic for over 400 years, enriching our culture, our economy, and our history. Many families passed the vocation down through generations. Others joined the fleet late in the twentieth century. Members of both groups face economic hardship, amplified by the general economic downturn.

When you consider what is at stake, the value of this industry both economically and culturally, it comes as no surprise that passions run high around fisheries regulation and management. How we respond to this passion will dictate whether we are successful in protecting our fisheries *and* our fishing industry.

I believe that a successful response would bring regulators, scientists, and fishermen together, face-to-face, as often as possible. Moreover, I believe science can be the reason to come together. Having spoken with Rhode Island fishermen about the catch limits prescribed by Magnuson-Stevens and the Northeast Fisheries Management Council, I believe mistrust in the scientific basis for these numbers underlies most of the disagreements.

When they hear fishermen criticize the science of catch assessments, some scientists and regulators dismiss the criticism out of hand, believing it reflects an unwavering belief that all stocks are healthy. This is an unfortunate reaction. While scientists and regulators are right not to abandon their work because of criticism, neither should they ignore the fishermen's experience-rich perspective. We may need to reconsider the data used to inform our fisheries management decisions, the methods we are using to collect data, and – where data is missing – what assumptions we make in place of that data.

To strike the right balance, we must bridge the credibility gap between scientists and fishermen on fisheries science. Fishermen express little confidence in the scientific community's ability to perform stock assessments. "Research" tells scientists one thing; "experience" tells fishermen another.

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3. *Annual Commercial Landing Statistics*, NAT'L OCEANIC AND ATMOSPHERIC ADMIN., http://www.st.nmfs.noaa.gov/st1/commercial/ landings/ annual_landings.html (last visited Sept. 26, 2011) (Select "2009" in both of the "Year Range" boxes and select "New England" or "Pacific" in the "State/Area" box).

This problem is compounded by a long history of distrust between the fishing industry and government fisheries managers. Cries of foul play from fishermen long went unheeded, until a 2010 report by the Department of Commerce Inspector General revealed that New England fishermen have in fact been fined more heavily and more often than fishermen in any other region of the country.[4] More generally, some fishermen complain that Magnuson catch limits were set arbitrarily, and do not reflect reality.

I see several ways to overcome this tension and rebuild trust. First, we should require a rapid common-sense review of stock assessments when they are challenged. Sometimes the agency itself engages in reassessments – for instance last year, when the National Marine Fisheries Service exercised its emergency authorities under Magnuson and increased the pollock catch limit based on new data. However, it is intensely frustrating for a fisherman who thinks a stock assessment is just wrong, and founded in bad sampling, to have no means of relief as the season slips away. Without this rapid response, it cements a view in the fishing industry that catch limits are numbers made up by bureaucrats and frozen in stone, long after the situation demands a change.

Second, we need to get scientists and fishermen speaking the same language, and embracing the same data collection methods. Each group has something to teach the other, so working together can only improve fisheries management science. Cooperative fisheries research can reduce the conflict between research and experience by calling on both in data collection methods.

Early results from cooperative research are encouraging. Fishermen and scientists are gathering fisheries data together on working fishing boats, using the same gear as NOAA research boats. The premise is that research and experience, working together, makes for more solid outcomes – and it seems to be working. Last fall, I spent a day on the *Darana R*, with Captain Jimmy Ruhle. Captain Ruhle fishes with his son and another

4. OFFICE OF INSPECTOR GEN., U.S. DEP'T OF COMMERCE, OIG-19887, REVIEW OF NOAA FISHERIES ENFORCEMENT PROGRAMS AND OPERATIONS 13-14 (2010), *available at* http://www.oig.doc.gov/Pages/ReviewofNOAAFisheries EnforcementProgramsandOperationsOIG-19887.aspx.

crewman for scallops and groundfish. His family is well regarded in the Atlantic groundfishing community. For a month each spring and fall, he takes scientists out on his boat to gather juvenile and adult samples of species along the North Atlantic coast. The data is then fed into the Northeast Area Monitoring and Assessment Program, or NEAMAP.[5]

Jim Gartland of the Virginia Institute of Marine Science was the lead scientist on board. He spoke highly of Captain Ruhle and his experience with the gear and collection methods. Captain Ruhle in return told me he was impressed by the hard work and earnestness of "his" young scientists. This kind of collaboration does not guarantee that collection gear and methods will never be questioned in the future, but it makes it more likely that the nature of the questioning will be more productive than accusatory.

Third, we need more and better data. We will never have the perfect data set, and we cannot wait to act until we do. Acting on imperfect information is the stuff of governance. However, we can certainly do a better job of gathering information, using the latest technology and planning tools.

For instance, Coastal and Marine Spatial Planning (CMSP) can map important fishing grounds and protect them from conflicting uses. CMSP can also identify critical habitats for commercial species of fish at all stages of life.

There is also work just under way using GPS positioning technology for catch assessments. I recently met Steve Arnold, a Rhode Island commercial fisherman, who is participating in a GPS study with the Northeast Fisheries Science Center. Participants use an electronic log, integrated with GPS, depth sounders, and temperature sensors, to log each trawl made. In addition, the boat logs the bycatch and landings of each voyage. On-board observers compare this data to estimates made by the captain. These programs marry the latest technology with centuries-old fishing wisdom, resulting in accurate, industry-relevant data to inform stock assessments.

We have entered a new era in the New England fisheries: the post 2006-Magnuson era of catch limits. To prevent catch limits from deepening the divide between fishermen and fisheries

5. For additional information regarding the Northeast Area Monitoring and Assessment Program, please visit: http://www.neamap.net.

managers, we must make sure regulators can and will nimbly respond to new catch assessments and other data.

The advent of new technology can promote efficiencies in gear and fishing methods; scientists and fishermen working together can rebuild confidence in the data underlying management decisions; speeding up the bureaucracy can keep catch data current and policies relevant. These measures can go a long way to bridging the unproductive divide between stakeholders on fisheries management issues. As the New England groundfishery navigates new catch limits and sector management, it can help lead the way for fisheries throughout the region, by highlighting issues likely to be faced in any new sector. In each fishery, stakeholders must look past their differences and work together, to bring our fisheries and the fishing industry back to full health as quickly as possible.