



July 16, 2010

Friends,

Several months ago, I sent a letter to many of the friends I made in the tackle industry during my time as Executive Editor of *The Fisherman Magazine*. The letter outlined efforts here at the Recreational Fishing Alliance (RFA) to infuse a bit of sensibility into our federal fisheries law in the form of the aptly named *Flexibility in Rebuilding American Fisheries Act*. Since that letter, a lot has happened to our industry, most of it not so good – though I'm happy to report there are some glimmers of hope.

On October 5, 2009, NOAA Fisheries (NMFS) fired a shot directly at every recreational fisherman and business dependent on recreational fishing when they used their "emergency" rulemaking authority to abruptly close the recreational black sea bass fishery for more than six months! RFA answered the call and immediately began working on a legal challenge in opposition to this hostile abuse of discretion perpetrated by the federal fisheries service.

Just one month after the closure, RFA and a coalition of allies in the for-hire sector filed suit in federal court arguing that the sea bass closure should be declared unlawful and set aside for being arbitrary, capricious, and otherwise not in accordance with law pursuant to the Administrative Procedure Act. The legal argument challenges NMFS with violating numerous provisions of the Magnuson-Stevens Act for closing a recreational fishery in reliance upon the fatally flawed Marine Recreational Fisheries Statistics Survey (MRFSS) and for failing to adequately assess the impacts the Emergency Rule would have on business entities like tackle manufacturers, the for-hire industry and our local bait and tackle shops.

The obvious question for the hundreds of thousands of East Coast anglers who target black sea bass each season is where was the *emergency*? NMFS scientists have said all along that black sea bass is a healthy stock – it's not overfished, no overfishing is occurring, and the most recent stock assessment places the spawning stock biomass at 103% of their rebuilding target. Yet, they shut down a recreational fishery with little or no warning during the most important part of the season for many of our fishermen!

The RFA legal team – which consists of two small-firm lawyers *very* familiar with the law and issues at hand – have presented a strong case against the U.S. Department of Justice lawyers defending NMFS as to why the closure should be overturned. Captains' groups, tackle shops, fishing clubs, locally owned manufacturers, boat owners and individual saltwater anglers have provided the financial support which carried this legal case for the last seven months.

***Over the last seven months, nearly \$40,000 has been raised for the RFA Legal Defense Fund for our efforts to overturn this closure and set a precedent to ensure that NMFS can't make similar midseason closures in other recreational fisheries.***

***Your tackle shops, captains associations and marina owners have gone to bat for you in this effort – the customers who buy the nationally manufactured products have footed most of the bill.  
The grassroots community is leading the charge.***

***The key source of revenue in this fight to reopen the black sea bass fishery and to ensure that NMFS never again shuts down a healthy fishery in any region has been the local angler.***

***We need YOU to step up and support this effort!***

After careful review of the Administrative Record filed by the government in this case (i.e., all the documents the Court will consider in making its decision) our legal team discovered that NMFS failed to submit the minutes of the December 2008 meeting of the Mid-Atlantic Fishery Management Council which are adverse to their defense of this case. The government would not consent to adding these materials to the Administrative Record so we filed a motion to supplement the record on April 23<sup>rd</sup> which we expect will be decided sometime after May 17<sup>th</sup>. Thirty days after we have a decision on this motion to supplement, we plan to file a motion for summary judgment and expect NMFS to file a cross motion for summary judgment after that. We expect this case will ultimately be decided on these cross motions for summary judgment which will require significant legal time and effort.

***NMFS is a federal agency out of control. Letter writing campaigns, Congressional hearings and fishing summits won't stop this agency – this lawsuit can!***

Individual anglers and local business owners from New England down through the Outer Banks have already committed to this action, and we've taken up the task on our own of raising the first \$30,000 towards fighting this federal indifference which now threatens our very livelihoods. Today it's a complete shutdown of a healthy black sea bass fishery, but what's next? A closure of the fluke season in the middle of the summer? How about striped bass or king mackerel? Amberjack and red snapper again? Where will it end?

***This case isn't just about sea bass; it's about putting an end to NMFS wanton disregard for our recreational fishermen and the industry they support.***

The members of our local fishing communities have dug into their pockets to start this legal fight – but now we need your support to see this through to the end. The RFA has worked tirelessly over the last seven months fighting for a reasonable 2010 black sea bass season and thanks in part to our heavy lobbying and the wide shadow of our lawsuit, we're happy to report that anglers will have a fairly robust 200-day season in 2010 instead of the scant two-month season that NMFS first recommended. This of course is tremendous news, but unless we can win this case, there's nothing stopping NMFS from shutting us down again in this or other fisheries using highly suspect MRFSS data.

I hope you will do your part and write a check to the *RFA Legal Defense Fund* today and mail it to us at our address below. Nothing is certain of course, but I truly believe that we can win this battle on behalf of the recreational fishing community. Mr. Dammrich, our individual anglers can't do this alone.

Please do not hesitate to give me a call at 888-564-6732 if you have any questions or comments about this or any other issues we're working on. Since leading the fishermen's rally on our nation's Capitol on February 24<sup>th</sup> (with 5,000 strong), our grassroots coalition of recreational fishermen has been getting stronger, each and every day. I would hope that NMMA can continue to support the RFA efforts on this fight, particularly being longtime NMMA members ourselves as an organization.

Best regards,



Jim Hutchinson, Jr.  
*Managing Director, Recreational Fishing Alliance*

On behalf of our fellow plaintiffs (United Boatmen, Capt. Victor M. Bunting, Jr., JJC Boats, Inc., Rudee Operations, LLC, Capt. Michael Abbaticchio, Ocean Power, Inc., Capt. H.D. Parsons, II, Spring Lake Freezer Company, Capt. John Sportfishing LLC, Old Inlet Bait And Tackle, RJ Fishing Corp.) and the donors from throughout the country, the RFA wishes to thank the following groups, individuals and businesses for their support of the RFA Legal Defense Fund!

Atlas Reels	Beach Haven Charter Fishing Association	Steven Scorzo
AFW/HI-SEAS	Golden Touch Charters	Frank Tiss
Bimini Bay Outfitters	Southeast Sport Fishing, June Bug Charters	Boris Kogelman
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Captree Princess	Sea Machine	Joseph Lewis
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