

FIXING MAGNUSON GAINS CONVERTS

Unfortunately Industry Leaders Are Backing the Wrong Legislation

■ by Gary Caputi

A recent press release from the American Sportfishing Association along with “a coalition of marine recreational fishing, boating and conservation organizations and businesses” lauded Senator Bill Nelson (D-FL) for introducing legislation designed to “safeguard the strong conservation standards of the Magnuson-Stevens Act while addressing a growing crisis within the federal marine fisheries management system.”

In the release they claim that “since the reauthorization of the MSA in 2006 it has become apparent that NOAA Fisheries was ill-prepared to implement new provisions to end overfishing by 2010 and 2011 without resorting to abrupt and precipitous fishery closures.” Well welcome to the party ladies and gentlemen, better late than never!

This self described “coalition” includes the American Sportfishing Association (ASA), The Billfish Foundation (TBF), the Center for Coastal Conservation (CCC), the Coastal Conservation Association (CCA), the Congressional Sportsmen’s Foundation (CSF), the International Game Fish Association (IGFA) and the National Marine Manufacturers Association (NMMA).

In a nutshell, all these organizations have finally come to recognize what the fisheries and legislative staff at the Recreational Fishing Alliance (RFA) recognized back in 2006 during the reauthorization process of the Magnuson Stevens Fishery Conservation and

Management Act (MSA); that NOAA did not have the ability to implement the provisions that most of these very same organizations supported at the time without doing grave and unnecessary harm to anglers and the recreational fishing industry. The RFA reached out, tried to convince them of the folly in the legislative language, asked for their support, but they declined – claimed they “knew better” and went on to support the legislation

even after being made aware of the ultimate impact of the bill. They didn’t have to take the RFA’s word for it, there were others who looked past the rhetoric coming out of the Pew sponsored environmental organization that were behind the language and to see what was coming.

Dr. William Hogarth, then head of the National Marine Fisheries Service with three decades of fisheries management experience at the state, regional and national

level, told an audience of fisheries managers and stakeholders that should these changes to MSA be implemented it would lead to a “management train wreck by 2010.” He explained that rigid, inflexible rebuilding deadlines combined with the use of annual catch limits and accountability measures left no room for a critically important component of the management process, the flexibility to make reasonable decisions in the face of lagging or inadequate stock assessment data and highly questionable recreational landings surveys. Dr. Hogarth’s crystal ball was spot on the money because the train wreck started in late 2009 with draconian management measures and “emergency closures” of a number of fisheries based on highly suspect, faulty or inadequate scientific data! Summer flounder, black sea bass, red snapper, the entire groundfish complex in areas of the South Atlantic have fallen into this management black hole and there are more to come unless Magnuson is revisited through the legislative process and fishery managers are granted the very flexibility that Dr. Hogarth saw as critical to the entire management process.

Congressman Frank Pallone (D-NJ) is a long serving member of the House Subcommittee on Fisheries who enjoys a 100% favorable rating by the League of Conservation Voters as recently as 2009. His knowledge and understanding of fisheries and fisheries management issues is second to none and he is not a politician

H.R. 1584: Flexibility in Rebuilding American Fisheries Act of 2009

111th Congress 2009-2010

To amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the authorized time period for rebuilding of certain overfished fisheries, and for other purposes.

Sponsor: Rep. Frank Pallone [D-NJ6]

Status: Introduced - Mar 18, 2009
Referred to Committee

This bill is in the first step in the legislative process. Introduced bills and resolutions first go to committees that deliberate, investigate, and revise them before they go to general debate. The majority of bills and resolutions never make it out of committee.

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Last Action: Mar 23, 2009: Referred to the Subcommittee on Insular Affairs, Oceans and Wildlife.

<http://www.govtrack.us/congress/bills/111/hr1584>

who would promote legislation capable of derailing the rebuilding of marine fisheries in US waters. Pallone was quick to recognize the impending collision of unnecessarily rigid regulatory language and inadequate scientific data in the MSA reauthorization and introduced legislation aimed at fixing it within weeks of the President placing his signature on the bill in 2007. His concern was over the very provisions in the bill that members of the "coalition" supported throughout 2006 during the run up to Congress passing MSA by "unanimous consent" rather than actually holding a floor debate and a vote on the bill. Members of the "coalition" lauded the President for signing the bill into law in 2007, while Pallone, along with legislative experts from the RFA, were crafting a bill to try and avoid the pending train wreck Hogarth predicted.



Senator Chuck Schumer, NY

Pallone called his legislation the Flexibility in Rebuilding American Fisheries Act and it has been reintroduced each year since 2007 while some members of the "coalition" actively worked to derail the bill. It currently has 33 co-signers and supporters in Congress from both parties. A companion bill was introduced in the Senate in 2009 by Senator Charles Schumer (D-NY) - who also has the same 100% favorable rating as Rep. Pallone - and which is co-sponsored by Senator Nelson's colleague from the Sunshine State, Senator George Le Mieux (R-FL).



Dr. William Hogarth

The Flexibility Act is the legislation the RFA has been lobbying for since 2007 in the face of direct opposition by some members of the "coalition" which now publicly recognize MSA must be fixed legislatively. They spent all that time and used their member's dues and donations to work against the very legislative initiative that could have

prevented the unnecessary closures and the socioeconomic devastation that occurred as a result and now they are railing against it. Worse yet, these groups are now criticizing the very same language that they'd publicly claimed to support for over 3-1/2 years. How disingenuous can you get?

Unfortunately, the "coalition," like the gang who couldn't shoot straight, is backing the wrong horse in this legislative race. The Pallone/Schumer bill already has significant Congressional support and a three year head start over the fledgling Nelson bill.

It was written to address the exact problems that must be corrected if unnecessary closures are to be avoided in the future and it is carefully crafted to apply to only those fisheries that are rebuilt or on a strong rebuilding

trajectory to maintain maximum protection for those deemed most in need. Senator Nelson's legislation, the Fishery Conservation Transition Act (S.3594) has no cosponsors and no companion bill in the House as of late July. An initial review of the current wording

indicates it does not provide adequate regulatory flexibility to prevent further closures. The main thrust of the bill seems to address some form of government provided compensation for parties affected after closures are implemented, which is sure

to be a sticking point with an ever more spending-conscious Congress.

The problem we are dealing with is most of the closures and draconian regulatory measures being put in place as a result of the current MSA didn't need to be imposed in the first place and were the result of the use of scientific data that was old, outdated, inaccurate or simply didn't exist! Even worse, the Nelson



Congressman Frank Pallone, NJ

bill seems to allow the current tenuous situation to fester because in Section 4 (Authority to Act) it appears to give NOAA Fisheries even wider latitude in closing fisheries in the future.

If the "coalition" is serious about fixing the problems with MSA,

preventing unnecessary closures and bringing a halt to the economic devastation sweeping the recreational fishing industry, the vehicle to do so already exists. It is the Flexibility in Rebuilding American Fisheries Act (H.R.1584 - S.1255). Working together we can get it passed while continuing to protect the important conservation

achievements made to date and encourage more successes in the future. If the "coalition" insists on going in their own direction in spite of the apparent inadequacies of the Nelson Bill and the obvious benefits of the Pallone/Schumer Bill it will be to the detriment of the companies they claim to represent

in the fishing tackle and marine industries in the case of the two trade organizations and to the detriment of the fishermen who make up the membership of the conservation organizations in the coalition.

I have been involved in the fishing tackle industry for over 30 years, in fisher-

ies management issues for 25 including holding a state obligatory seat on one of the eight regional fisheries councils for three terms (nine years). I have never had much positive to say about how the industry trade organizations have handled saltwater fisheries issues. They have always struck me as being outside their area of expertise and frequently on the wrong side of critical debates. I have had serious differences of opinion with a number of conservation organizations that I felt were too quick to submit

recreational fishermen to regulatory actions that provided little or no conservation benefits outside of the appearance that they cared about the fish. I care about the fish as passionately as anyone, but I also care about the future of the

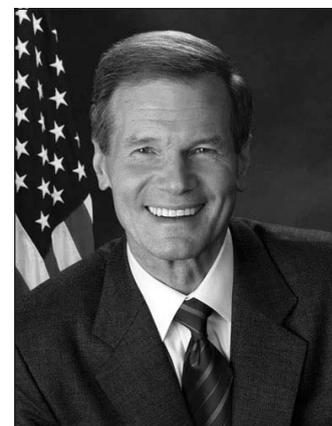


Senator George Le Mieux, FL

sport that instilled in me my passion for the fish. It was that passion that led me to volunteer so much of my time over the years to conservation and management issues. That said I have never been more concerned

about the positions being taken by some of these organizations and I honestly feel it is time that the companies in the industry and fishermen as a whole take a long, hard look at who they have running these organizations, balanced their successes against their failures, and make changes accordingly.

The future of recreational fishing in saltwater is literally hanging by a thread and if the members of the vaunted coalition cannot work with the organization that has had it right from the beginning they are not acting in the best interests of their constituents. ■



Senator Bill Nelson, FL