PART 1 OF 2

By Jim Hutchinson, Jr.

Summer flounder are a mainstay of the summertime open boat fishery, and many people feel they are being over-managed to the point of crippling the industry.

SUMMER FLOUNDER MADNESS:

HOW DID WE GET HERE?

The first in a two-part series on summer flounder and the fight for flexibility in fisheries management.

In the summer and fall of 2006, *The Fisherman* stayed on top of two key fisheries issues of critical interest to readers and advertisers alike in the Northeast and Mid-Atlantic states - the reauthorization of the federal Magnuson-Stevens Fishery Conservation and Management Act and the continued cutbacks to the coast-wide harvest of summer flounder.

There are numerous ways to summarize and condense the issue of *past* and *future* as it relates to Magnuson-Stevens and the summer flounder, but before doing so it might be helpful to share with readers what we do know at *present*.

COUNTING ALL THE FISH IN THE OCEAN

According to scientists, the total weight of spawning class summer flounder (called *spawning stock biomass)* is estimated today to be somewhere in the neighborhood of 93 million pounds. While that's the highest *spawning stock biomass* (SSB) in the recorded history of fisheries statistical analysis, it's not high enough. In fact, 93 million pounds is actually below the 98.6-million-pound mark, which is where scientists believe we should be at this time of the rebuilding timeline. According to the Magnuson-Stevens Act, the primary law governing marine fisheries manage-

ment in United States federal waters, the summer flounder is a species that is subject to overfishing, and more specifically is defined currently as being overfished. By definition, summer flounder don't have to be depleted or close to extinction to be considered "overfished," but if there's active harvest of a species whose biomass isn't above the threshold defined by science and management, then by default that species is considered "overfished."

In the case of fluke, federal law requires that a rebuilding target and timeframe be strictly endorsed, enforced and adhered to, with the spawning stock biomass target set at 197 million pounds. That number, by law, was to be achieved within a 10-year timeframe that began in 2000. Essentially, per the language of the Magnuson-Stevens federal fisheries law, the total number of reproductive-age summer flounder had to more than double from 93 million in 2006 to 197 million pounds by the year 2010.

A confusing aspect is in dabbling with various numbers - perhaps the genesis of our problems with this summer flounder fishery to begin with. These multiple and ever-changing numbers, compounded by scientific language and confusing acronyms, tend to create even further confusion.

Take the rebuilding target as an example, which as John DePersenaire of the Recreational Fishing Alliance (RFA) explains, "Is a straight forward calculation that multiplies the number of fish of reproductive age by the yield per recruit by the mean (from 1982-2005) recruitment per year."

"It basically is a level of biomass a stock should be able to achieve under ideal conditions," DePersenaire explained.

Currently, the target is 197 million pounds of *spawning stock biomass*. During the editorial debates in *The Fisherman* in 2006, the target was 204 million pounds of *total biomass*.

Pushed by various groups, scientists at the National Marine Fisheries Service (NMFS) reexamined the 204-million-pound target and in October 2006 announced the 197-million-pound target. However, the fine print of the Federal Register announcement referred to it as 197 million pounds of spawning stock biomass, a number that sounded lower but in reality meant the target had increased - that's because 197 million pounds of SSB translates to a total biomass of 214 million pounds.

Still scratching your head? You're not alone, especially when you look at where these target numbers come from, and the actual models used to count all those fish in the ocean to arrive at these targets.

In the past 18 months, debates have been waged regarding scientists' use of figures and population models from the 1930s as a guide to figuring out what the true biomass of summer flounder should be. To be more specific, the 1930s aren't actually being used as a frame of reference for what the stock should be; but instead it's the science of the 1930s that's being used to determine how many summer flounder should exist in the world today.

According to DePersenaire, the 1930s argument can be traced directly back to the 2005 Summer Flounder Stock Assessment document explaining how a scientific model designed to study Pacific halibut in the early 20th century has been used in estimating the total stock biomass of summer flounder on the East Coast.

"The reference to the 1930s comes from the yield per recruit model that was developed in a paper by Thompson and Bell in 1934," DePersenaire said. "Basically, we are using a 72-year-old model for a fish that does not even live in the Atlantic to establish our rebuilding target for summer flounder."

Since you can't count all the fish in the sea, scientists at the federal level claim to have come up with the rebuilding target for summer flounder by wedging various data points into commonly accepted mathematical stock assessment models – in this case, the same models developed in the 1930s to study Pacific halibut.

More than 30 years of fisheries management is used as X and Y inputs into a statistical model to come up with a best-case scenario of what the fluke stock could be under ideal conditions.

THE TWO-YEAR FIGHT FOR FLEXIBILITY

Back in the fall of 2006, the Magnuson-Stevens Act was being reauthorized in both the House and Senate, with a hard-fought battle over certain language written into the final bill. The RFA had provided readers of *The Fisherman* with letters to "sign, rip & send" to Reps. James Saxton (R-NJ) and Wayne Gilchrest (R-MD), urging these lawmakers to support a "manager's amendment" to the Magnuson-Stevens bill of 2006. The amendment, it was hoped, would allow for more flexibility in the 10-year rebuilding requirement for recovered stocks; while also removing language that requires that overfishing be ended in two years.

At the same time, the Marine Fish Conservation Network (the Network) had put the full-court press on Saxton and Gilchrest to insert rigid "overfishing" language into the final bill, leaving almost no flexibility for fisheries managers to anticipate and react to the real-world impacts of fisheries management.

The original Magnuson reauthorization bill (HR 5018) sponsored by Reps. Richard Pombo of California, Barney Frank of Massachusetts and Don Young of Alaska initially had the stamp of approval from a diverse group of representatives and organizations, from recreational fishing groups like RFA, the Maryland Saltwater Sportfishing Association and Coastal Conservation Association, to commercial organizations like the Long Island Commercial Fishing Association, the Garden State Seafood Association, and the Federation of Independent Seafood Harvesters. Even environmental groups like the Marine Conservation Alliance and Theodore Roosevelt Conservation Partnership threw in their support with tackle and trade groups like the American Sportfishing Association and American Fly Fishing Trade Association.

However, a handful of environmental organizations vehemently disagreed with the flexibility included in the Pombo bill, most notably the Network, which in the summer of 2006 said, "The Pombo bill, garnished with the misnomer of the 'American Fisheries Management and Marine Life Enhancement Act,' grants the councils chronological 'flexibility' as they rebuild stocks. In other words, there

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would no longer be a fixed deadline for fishery managers as they guide the recovery of fish stocks."

Calling the Pombo bill a "poison bill," the Network continued to fight attempts to add flexibility to the federal fisheries bill.

In September 2006, Jo Knight, media specialist for the Network, was calling for "intense editorial pressure and public outcry," in order to stop the Pombo bill, saying that he was "jeopardizing the future of fish populations and fishermen around the country," – this while thousands of *Fisherman* readers and advertisers alike were fighting from the other side for the flexibility required to keep fishing.

Formed in 1992 by the Center for Marine Conservation (The Ocean Conservancy), Greenpeace, National Audubon Society, National Coalition for Marine Conservation, and World Wildlife Fund, the Network was ultimately able to influence legislators and some representative environmental groups away from the Pombo bill, lobbying instead for the more hard-line, strict conservationist Senate version.

"The Network is working with House legislators to try to strengthen Pombo's bill so that it will more closely resemble the more respectable Senate version of the MSA reauthorization that contains no rollbacks to current law, championed by Senator Ted Stevens (R-AK) and passed unanimously in the Senate on June 19," the Network stated in their press releases and email blasts to supporters. "Representative Tom Allen (D-ME) has fashioned a comprehensive amendment that addresses the rollbacks in the House bill and aims at helping fishermen across the country by ensuring that fish populations remain healthy," the Network further claimed.

Support for the original Magnuson bill quickly quieted down, and it seemed as if battle lines had been drawn between those loudly opposed to flexibility and those passionately in favor.

On the sidelines quietly sat several groups and organizations that had originally supported Pombo's HR 5018, but now perhaps privately questioned where the fate of our fisheries would turn.

A CONGRESSIONAL STAY OF EXECUTION

By September of 2006, it appeared the sides were at an uncompromising stalemate. With the November 2006 election looming and Pombo and others fighting for their political future, very little was moving on the Magnuson front.

"There will be no resolution of the 2007 summer flounder problem through changes in the marine conservation act," wrote *Fisherman* Conservation editor Al Ristori in our September 14, 2006, edition.

Without congressional intervention, it appeared certain that the Atlantic States Marine Fisheries Commission (ASMFC) would be cutting the total allowable landings for summer flounder from 23.6 million pounds in 2006, to a number set anywhere between 5.2 million and 19.9 million pounds for 2007, but more likely at the lower end of the spectrum.

In the October 5, 2006 edition of *The Fisherman*, an article (Magnuson Stalls, More Summer Flounder Questions) highlighted the status of this federal fisheries legislation, explaining, "With Saxton and Gilchrest's help to modify language to allow extension of the 10-year rebuilding period to fish stocks exhibiting a continuing growth trend in biomass (as is the case with summer flounder), if we can get Congress to prioritize HR 5018, everyone – sport and commercial fishermen alike – will be better off in the future."

On the other side of the line, the Network's then-executive director, Lee Crockett, said, "Hopefully, as the House returns to finish its work this fall, it will revisit this amendment and truly fix the bill," adding, "a good place to look in developing this fix is the Senate's bill that strengthens existing law."

The good news is that beyond everyone's wildest dreams, Congress did in fact prioritize the Magnuson-Stevens bill. The bad news was that instead of going with the more fisherman-friendly bill sponsored by Pombo (who was ultimately defeated in the election of November 2006), the Senate version of the Magnuson-Stevens bill pushed by the Network was the one amended for a late Congressional vote on December 9, 2006.

The sole salvation for East Coast fishermen was a three-year extension of the summer flounder rebuilding timeframe, pushing the deadline back from 2010 to 2013. While the recreational fishing community was initially excited about the "extension" (it pushed our *total allowable landings* or TAL for 2007 from the proposed 5.2 million pounds to 17.11 million pounds), it became more like a stay of execution.

Despite a short extension of that 10-year timeframe required by Magnuson-Stevens and the highest biomass of summer flounder ever recorded, the inability to reach the rebuilding target by 2013 puts coastal fisheries managers in a legal predicament, where states now seem destined to see a moratorium on summer flounder in the near future.

In order to keep in line with the rebuilding timeframe and target, the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fisheries Management Council (MAFMC) on December 13, 2007, voted to cut the total allowable landings for summer flounder in 2008 to 15.77 million pounds, an 8 percent reduction overall from 2007.

With each state on the Eastern seaboard getting a different allotment of that overall quota, this cut means different things to different segments of our readership. While most *Fisherman* readers and advertisers might feel it's too much, there are others claiming it's not enough.

Next week, Part II of our two-part story on Summer Flounder Madness looks at the legal battle by environmental business leaders to shut down our summer flounder fishery, and what some fishing groups are doing to combat it.